



Indonesian Tax Info May 2015 edition

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Income Tax Facility for Investment in Certain Industries and/or in Certain Regions

The Government has issued Regulation number 18 of 2015 ("PP-18"), the long-awaited revision of the Income Tax Facility regulation. PP-18 revokes Government Regulation number 1 of 2007 as most recently amended by Government Regulation number 52 of 2011 ("PP-52"), as these previous Regulations stipulated that the Government Regulation concerning the Income Tax Facility should be reevaluated every two years.

PP-18 stipulates three additional qualitative criteria for taxpayers applying for these income tax facilities, i.e., those with:

- high investment value or export oriented;
- high labor absorption; or
- high local content.

Changes made with regard to the facilities are as follows:

- a. The requirement of having a capital investment plan for at least Rp 1 trillion has been eliminated.

- b. Clarification on the amount of investment used as the base for calculating the facility of reduction of net income by up to 30% that is to be spread equally over 6 years (i.e., 5% per year) starting from the company's start of commercial production. Under PP-18, the amount of investment is further clarified as the capital investment in the form of tangible fixed assets, including land used in the primary business activity.
- c. Clarification on accelerated amortization of intangible assets; previously the regulation only mentioned accelerated depreciation on tangible assets, and no treatment was mentioned on how the facility is applied to intangible assets.
- d. The facility of extension of loss carry forward for up to 10 years (normally five years) can be enjoyed for a certain period subject to meeting the following conditions (additional to those stipulated previously):
 - 1. Additional two years if the investment is an expansion of an existing business in certain business sector and/or certain region, where the fund is sourced from the profit after tax derived in the fiscal year before the year the business expansion permit is issued.
 - 2. Additional two years if the taxpayer has exported at least 30% of the total sales value for investment within certain business sectors located outside a bonded zone area.
 - 3. Additional two years if the company employs at least 1,000 Indonesian workers for five consecutive years. In PP-52, there is only a one-year additional period of loss

carry forward for employing 500 Indonesian workers for five consecutive years.

- 4. Additional two years if the taxpayer disburses 5% of the investment value for research in relation to product development or production efficiency within 5 years; the previous regulation only accommodated an additional one year of tax loss compensation in this category.

PP-18 accommodates 66 types of certain lines of business as well as 77 types of certain lines of business conducted in certain regions. For more detailed information, please contact your Deloitte team.

Taxpayers that have already obtained the tax facility under Government Regulation No. 20/2000 in conjunction with Government Regulation No. 147/2000 concerning Integrated Economic Development Zones (Kawasan Pengembangan Ekonomi Terpadu/KAPET) or the tax facility under Government Regulation No. 94/2010 concerning Tax Holiday cannot receive this facility. Taxpayers that obtain the tax incentive facility under this regulation also can no longer be subject to final income tax as stipulated by Government Regulation No. 46/2013 concerning Income Tax on Income from Business Received or Earned by Taxpayers with Certain Gross Income.

The implementation of this regulation will be evaluated within two years by a team established by the Coordinating Minister for the Economy.

In the transitional period, PP-18 stipulates as follows:

- a. Taxpayers that obtained the tax facility under the previous regulation can continue to enjoy the facility until it expires.
- b. Tax facility recommendations that have been issued under the previous regulation and have been submitted to the Head of BKPM will be processed using the guidance under the previous regulation.
- c. A taxpayer whose principle permit for investment or for investment expansion was issued by the Head of BKPM since the time the old regulation came into force can be processed for a recommendation under PP-18 as long it meets the following requirements:
 - The principle permit for investment or investment expansion has never been issued a decision on approval or rejection based on the previous regulation;
 - The requirements for line of business, business classification, product coverage, requirements and location comply with the attachments to PP-18;
 - Has not started commercial production at the time PP-18 comes into force;
 - The recommendation for the tax facility is received within 1 year after PP-18 comes into force.

PP-18 is effective within 30 days after 6 April 2015.

Further implementing regulations issued after PP-18 are:

- 89/PMK.010/2015 issued by the Ministry of Finance; and
- Head of BKPM Regulation number 8 of 2015 issued by the Indonesian Investment Coordination Board (“BKPM”).

New Tax Incentive on Oil Fuel Deliveries for Foreign Carriers

Government Regulation number 15 of 2015 (“PP-15”) was recently issued to provide a new incentive for Foreign Carriers, in that VAT will not be imposed on oil fuel deliveries made to foreign carriers. Foreign carrier is defined as sea transport activities conducted by a marine transport company, from a port or special terminal open to foreign trade to a foreign port, or from a foreign port to a port or special terminal in Indonesia that is open to foreign trade, which is conducted by a marine transport company.

PP-15 is specifically issued for certain oil fuels, i.e., Marine Fuel Oil (MFO) 380 and Marine Gas Oil (MGO) as per ISO 8217 specification or other similar specification that has been stipulated by the Ministry in charge for the oil and gas sector. This incentive is available as long the taxable entrepreneur providing such delivery has a storage facility and processes these specific products in Indonesia.

Tax invoices will still need to be issued and stamped or explained that “VAT Not Collected in accordance with this Government Regulation”. The claw-back clause in PP-15 governs that if there is improper use of this facility or transfer of the fuel to parties other than a foreign carrier, the Non-VAT collected amounts should be paid back to the Government within 1 month; otherwise, the Directorate General of Taxation (“DGT”) will issue a tax underpayment assessment letter along with sanction in accordance with the prevailing tax law.

PP-15 is effective from 12 March 2015.

Changes on Other VAT Base Value

The Minister of Finance ("MoF") has issued Regulation number 56/PMK.03/2015 to update the list of other VAT base values used as VAT imposition base for certain services subject to VAT that was previously stipulated in MoF Regulation number 38/PMK.011/2013.

The main changes are:

1. Delivery of gold jewelry services including repair and modification services is no longer subject to this rule; hence, these services are subject to the normal VAT Imposition Base (i.e., 10% effective VAT rate); and
2. Deliveries made by travel or tourism bureau are further clarified as in the table below.

MoF No. 38/PMK.011/2013	MoF No. 56/PMK.03/2015
Other value used as VAT Imposition Base for travel bureau or tourism bureau services is 10% (ten percent) of the total invoice or amount that should be collected	Other value used as VAT Imposition Base for travel bureau or tourism bureau services in the form of tourism package, transportation reservation and accommodation reservation for which deliveries were not based on commission/fee on sales agency is 10% (ten percent) of the total invoice or amount that should be collected

Hence, deliveries that are based on commission/fee are categorized as agency fee, which is subject to 10% VAT.

PMK-56 is effective from 19 March 2015.

Further Clarification on the Use of Tax Invoice Serial Numbers

The DGT has issued a Circular letter number SE-26/PJ/2015 ("SE-26"), as a follow-up on the e-tax invoicing system recently launched by the tax office. Based on SE-26, the tax invoice serial numbers given by the DGT can only be used for tax invoices issued on or after the date of the letter issued by the tax office to the taxpayer stipulating the tax invoice serial numbers.

Tax invoices that fail to comply with this requirement, i.e., which are dated before the date of the above-mentioned letter, will be deemed as incomplete tax invoices pursuant to Article 13(5) of the VAT Law. Taxpayers are allowed to correct these dates by cancelling the incorrect VAT invoice and issuing a correct invoice, however in case that the issuance of the correct invoice is late, it will be subject to a penalty for late issuance. If the correct invoice is issued more than three months after the due date of issuance of VAT invoice, the tax invoice will be deemed to have never been issued by the taxable entrepreneur.

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