

# Indonesian Tax Info

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## Waiver of Administration Sanctions for Certain Late Tax Payments

The Director General of Taxation (“DGT”) has issued Regulation number KEP-56/PJ/2016 which provides waiver of the administrative sanctions for certain late payments. Specifically, this applies for tax payment or remittance made by taxpayers on 15 October 2015 that could only be executed on 16 October 2015 (please refer to State Revenues Transaction Number (NTPN) dated 16 October 2015) due to the disruption in DGT network devices on 15 October 2015.

For any Tax Collection Letter which had been issued on the grounds that such payments were considered late, the Tax Authority will automatically nullify the Tax Collection Letter ex officio.

Taxpayers should observe further guidelines for the refund procedure if the amount payable under such a Tax Collection Letter has already been paid.

## Application for Termination of Investigation of Criminal Act in Taxation

The Ministry of Finance (“MoF”) has issued Regulation number 55/PMK.03/2016 (“PMK-55”) in order to revoke MoF Regulation number 129/PMK.03/2012 (“PMK-129”). PMK-129 and PMK-55 stipulate the procedures for filing an application or request for termination of investigation of a tax crime.

PMK-55 provides further clarification on which taxpayers can submit the request letter, i.e.:

- a. Individual taxpayer that committed a criminal act in the field of taxation;
- b. Proxy of entity taxpayer that committed a criminal act in the field of taxation; and/or
- c. Proxy or employee of taxpayer who ordered, participated, advised, or assisted a criminal act in the field of taxation.

The significant changes are summarized below:

- Under PMK-55, the taxpayer now has to settle the unpaid/ underpaid tax or tax that should not be refunded, plus a penalty of 400% of such amount before filing the application letter (under PMK-129, the taxpayer that requested termination of a tax crime investigation was only required to enclose a written statement containing admission of guilt, accompanied by written evidence on the submission of settlement guarantee in the form of an escrow account). The unpaid/ underpaid tax or tax that should not be refunded and the penalty must be based on written information provided by the tax authority. In the event that the MoF rejects the request for the termination of investigation, the tax that has been settled can be requested for refund.

- PMK-55 now clearly stipulates the requirements for filing the application letter:
  1. Must be written in Indonesian language with a statement of admission of guilt and settlement of taxes unpaid or tax underpaid or tax that should not be refunded plus the 400% administrative sanction.
  2. Must be signed by the Taxpayer itself and cannot be delegated to another party.
  3. Must enclose the tax payment slips as evidence of settlement of taxes unpaid or tax underpaid or tax that should not be refunded plus the administrative sanction.

PMK-55 is effective from 8 April 2016. Any request or application for termination of tax crime investigation whose settlement is still in process prior to PMK-55's effective date shall still be regulated under PMK-129.

## Tax Treaty with the Republic of India

The President of the Republic of Indonesia has ratified the Double Taxation Avoidance (“DTA”) Agreement between the Governments of the Republic of Indonesia and the Republic of India through issuance of Presidential Regulation number 6 of 2016.

The withholding tax rates on dividend, interest, royalties, technical service, and the Permanent Establishment (“PE”) time test of the DTA are summarized below:

	Dividend		Interest	Royalty	Technical Service	Branch Profit Tax	PE Time Test		
	Substantial Holding	Portfolio					Construction	Drilling rig/working ship	Service
Current Treaty	10%	15%	10%	15%	-	10%	183 days	-	91 days
New Treaty	10%	10%	10%	10%	10%	15%	183 days	183 days	91 days

One of the significant changes in the new DTA is that technical services will be subject to 10% withholding tax; this provision is included in the Royalty provision under Article 12.

The provisions of the new DTA shall have effect on or after 1 January 2017.

## Electronic Tax Reporting for Taxable Entrepreneurs Who Use E-VAT Invoices

The DGT has released Announcement number PENG-04/PJ.09/2016, which requires Taxable Entrepreneurs who have used e-VAT Invoices to prepare and submit their annual corporate income tax returns and VAT Returns electronically (i.e., e-SPT and e-Filing) effective from 27 April 2016.

The regulation does not stipulate whether the above requirements applies to the 2015 annual corporate income tax return. Based on our recent experience, some Tax Offices still accepted manual filing of the 2015 annual corporate income tax return.

PENG-04 was issued on 27 April 2016.

## Updated Regulation on Income Tax Facilities

The Government has updated the list of certain industries and/or industries in certain regions that are eligible for Income Tax facilities as regulated under Government Regulation number 18 of 2015 (“PP-18”). This update is stipulated through the issuance of Government Regulation number 9 of 2016 (“PP-9”).

The additional eligible industries under PP-9 that can apply for income tax facilities are:

- Industry of apparel which includes textile and leather; and
- Leather shoes industries (includes daily footwear, sport footwear and industrial shoes). Under PP-18, only those located in certain regions were eligible to apply for the income tax facility.

The purpose of the income tax facilities is to increase direct investment activities, which will in turn encourage economic growth.

PP-9 is effective 15 days after the stipulation date of 22 April 2016.

## Update on VAT Not Collected Treatment for Certain Strategic Taxable Goods

The MoF has issued Regulation number 56/PMK.03/2016 (“PMK-56”) to implement Government Regulation number 106 of 2015, which was issued late last year (“PP-106”; please refer to our Tax Info February 2016 Edition). These regulations covers the delivery of Anode Slime as one of the strategic taxable goods on which Value Added Tax is not collected.

PMK-56 further regulates the VAT claw-back payment and reporting procedures if the Anode Slime obtained under this VAT not collected facility was not used to produce gold bars and/or was transferred to other parties whether in part or entirely.

This regulation became effective on 8 April 2016.



# Customs Focus

## Extension of Regulation on Anti-Dumping Import Duties on Certain Imports of Products from the People's Republic of China, Singapore, and Ukraine

The Ministry of Finance ("MoF") has issued Regulation number 50/PMK.010/2016 ("PMK-50") as a follow-up on the Indonesian Anti-Dumping Committee's sunset review. The sunset review was carried out on account of the expiration of 150/PMK.011/2012 ("PMK-150") as amended by 68/PMK.011/2013 ("PMK-68") on 1 April 2016.

The Indonesian Anti-Dumping Committee re-evaluated the anti-dumping policy and the possibility of losses from imports of the following products from the People's Republic of China, Singapore, and Ukraine:

1. Slab rolled products made from iron or non-alloy steel, with width 600 mm or more, hot rolled, not wrapped, not coated or plated, not in rolls, with no further process other than hot rolling, with thickness more than 10 mm, as intended in tariff post 7208.51.00.00; and
2. Slab rolled products made from iron or non-alloy steel, with width 600 mm or more, hot rolled, not wrapped, not coated or plated, not in rolls, no with further process other than hot rolling, with thickness 4.7 mm or more but not more than 10 mm, as intended in tariff post 7208.52.00.00.

The anti-dumping import duty tariffs stipulated in PMK-50 are the same as those previously stipulated in PMK-150 as amended by PMK-68, i.e.:

Country of Origin	Anti-Dumping Import Duty Tariff (%)
People's Republic of China	10.47
Singapore	12.50
Ukraine	12.33

There are no significant changes between PMK-50 and PMK-150 (as amended by PMK-68). However, PMK-50 provides further clarification concerning which import duty base should be used to add on this additional anti-dumping import duty – an issue that frequently created disputes between customs officers and importers, that is, when to use the normal tariff import duty as stipulated in the Indonesian Most Favored Nation (MFN) scheme and when to use the reduced import duty as stipulated in the Common Effective Preferential Tariff scheme (CEPT). In the event the import is made from a country that is not eligible to enjoy the reduced customs duty under CEPT, or is covered but does not meet the certain requirements, the anti-dumping import duty will be added onto the MFN import duty.

PMK-50 is effective from 2 April 2016 and valid for three years from the enactment date.

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