



Indonesia Tax Info

Updated Regulation on Preliminary Tax Refund

The Minister of Finance (“MoF”) has issued Regulation number 39/PMK.03/2018 (“PMK-39”) on the procedure for preliminary tax refund for taxpayers with certain criteria (Golden Taxpayers), taxpayers with low refund value, and low-risk Value Added Tax-able entrepreneurs (“PKP”). Each of these facilities was previously governed under separate regulations. Through PMK-39, the MoF broadens the coverage of taxpayers eligible for some of the facilities and streamlines the procedures, with the aim to promote economic growth, improve liquidity of taxpayers which engage in certain activities, and support the Government’s program to improve ease of doing business. This tax info discusses the salient points of PMK-39.

- *Eligible Taxpayers*

In order to be eligible for these facilities, there are certain criteria and/or requirements that must be fulfilled, as summarized below:

Description	Golden Taxpayers	Taxpayers with Low Refund Value	Low-risk PKP
Criteria / eligible taxpayers	A taxpayer that fulfils the following criteria: <ol style="list-style-type: none"> submits tax returns in timely manner; has no tax arrears; Financial statement audited with unqualified opinion for three consecutive years; and never convicted for a tax crime in the past five (5) years. 	<ol style="list-style-type: none"> Individual who does not have any business/freelance activities (no limit on refund amount); Individual who has business/freelance activities and refund claim of maximum of IDR 100 million in the annual tax return; Corporate taxpayer with maximum refund claim of 	PKP that conducts the following activities: <ol style="list-style-type: none"> export activities; delivering VAT-able goods and/or services to a VAT Collector; and/or delivering VAT-able goods and/or services for which VAT is not collected.

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Description	Golden Taxpayers	Taxpayers with Low Refund Value	Low-risk PKP
		IDR 1 billion in the annual tax return; or d) PKP with a maximum refund claim of IDR 1 billion in a monthly Value Added Tax ("VAT") Return.	This low-risk PKP must fall under the following conditions: a) listed in the stock exchange in Indonesia; b) State-owned or regional government-owned enterprises; c) Customs Priority Partner (MITA); d) Authorized Economic Operator (AEO); e) Manufacturer or producer that has submitted the VAT Returns for the past 12 months on time; or f) PKP with maximum VAT refund claim of IDR 1 billion in a monthly VAT return. The PKP must also not be under an ongoing tax audit for preliminary evidence and/or investigation of tax crime and never have been convicted of a tax crime in the past five years.
Appointment as eligible taxpayer	Application should be submitted to the tax office where it is registered no later than 10 January. The tax office shall issue a decision within 1 month.	Appointment is not required.	Application can be submitted anytime. The tax office shall issue a decision no longer than 15 working days.
Validity & revocation of appointment status	No specific validity period. The appointment may be revoked in the event of: 1) late submission of annual income tax return; 2) late submission of one type of Monthly Tax Return (MTR) for two consecutive tax periods; 3) late submission of one type of MTR for three tax periods within one calendar year; or 4) in the process of tax audit for preliminary evidence of a tax crime/investigation.	Not applicable.	No specific validity period. The appointment may be revoked if the PKP: 1) is in the process of tax audit on preliminary evidence of a tax crime and/or tax investigation; 2) is convicted of a tax crime; or 3) no longer meet the requirements as a low-risk PKP as outlined above.

- *Preliminary Tax Refund Process*

Preliminary tax refund is requested by way of ticking the relevant refund box in the tax return. The Indonesia Tax Office ("ITO") will conduct certain formal and material examination on the refund request, and it must issue a Decision for Preliminary Tax Refund (SKPPKP) within the following deadline:

- a) Golden Taxpayers: three months for Income Tax and one month for VAT;
- b) Taxpayers with low refund value: fifteen working days for individual and one month for corporate income tax and VAT;
- c) Low-risk PKPs: one month.

If the approved refund amount is less than the request, the taxpayer may submit another refund request for the rejected amount through a separate letter.

- *Consequences following Tax Refund*

The ITO can still perform an audit on the tax year or period that has been granted the preliminary tax refund within the 5-year statute of limitations. If the tax audit results in a tax underpayment position, the ITO would impose the following sanctions:

- a) Golden Taxpayers: 100% increase of the underpaid tax;
- b) Taxpayers with low refund value: 100% increase of the underpaid tax;
- c) Low-risk PKPs: monthly 2% interest for a maximum of 48%.

However, if the Golden Taxpayer or taxpayer with low refund value is also appointed as a low-risk PKP, only the monthly 2% interest sanctions (maximum 48%) would be imposed on the underpaid tax.

- *Transitional Provisions*

PMK-39 sets out the following transitional rules:

1. An eligible taxpayer that has not been appointed as a Golden Taxpayer may submit the application within three months since 12 April 2018. The ITO will issue the decision within one month after receiving the complete application.
2. The ITO will re-appoint existing taxpayers with valid Golden Taxpayer or low-risk PKP status within one month since 12 April 2018.
3. The ongoing preliminary tax refund requests will continue to be processed based on the previous regulations.
4. Existing implementing regulations of the previous preliminary tax refund facilities remain valid as long as they are not contrary to the provisions in PMK-39.

PMK-39 is effective from 12 April 2018 and revokes the following provisions/regulations:

1. MoF Regulation number 71/PMK.03/2010 on Low-risk VAT-able Entrepreneurs eligible for preliminary VAT refund;
2. Articles 5 to 7 of MoF Regulation number 72/PMK.03/2010 on Procedures for preliminary VAT refund;
3. Article 18A of MoF Regulation number 147/PMK.04/2011 on Bonded Zone and its amendments;
4. MoF Regulation number 74/PMK.03/2012 on Procedures for appointment and revocation of Golden Taxpayers for preliminary tax refund; and
5. MoF Regulation number 198/PMK.03/2013 on Preliminary tax refund for taxpayers that fulfil certain requirements.

Guidelines for Joint Audits on Upstream Oil and Gas Contractors

In order to enhance effectiveness and provide legal certainty to the upstream oil and gas contractors which enter into a Production Sharing Contract (PSC) with the government, the MoF has issued Regulation number 34/PMK.03/2018 ("PMK-34") to provide formal guidelines for audits conducted jointly by the ITO, the Financial and Development Supervisory Agency (BPKP), and the Special Task Force for Upstream Oil and Gas Business Activities (SKK Migas).

In summary, PMK-34 sets out procedures of a joint audit by these authorities, including planning stage, auditing standards, and audit procedures. However, the ITO would still be able to conduct a standalone tax audit if the contractor:

- a) Submits an overpaid annual tax return – the ITO would have 12 months to complete the audit and issue an assessment;
- b) Submits an annual tax return annual tax return but the reported oil and gas income tax liability differ from those stated in the 4th quarter Financial Quarterly Report; and/or
- c) Does not submit an annual tax return.

In addition, the ITO may also perform tax audit on other tax obligations (i.e. withholding tax, VAT, LGST, land and building tax) in line with the prevailing regulations. A standalone tax audit would be conducted in line with prevailing tax regulations on audit procedures.

PMK-34 is effective from 4 April 2018.

Procedures for Granting Facility of VAT or LGST not Collected on Delivery of Taxable Goods into Sabang Free Trade Zone and Free Port

The MoF has issued Regulation number 41/PMK.03/2018 (“PMK-41”) to provide certainty on procedures for granting the facility of VAT or Luxury Goods Sales Tax (LGST) not collected from other customs area into the Sabang Free Trade Zone and Free Port. Such delivery can be granted this facility if the Customs Notification (PPFTZ-03) has been endorsed by an authorized ITO officer. The following documents (photocopy) must also be submitted to the ITO for endorsement process:

1. Tax Invoice;
2. Bill of Lading, Airway Bill, or Delivery Order; and
3. Sales invoice.

In the absence of a valid endorsement, VAT or LGST due on the delivery would remain payable.

PMK-41 is effective from 16 April 2018.

Contact Persons

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