



Indonesia Tax Info

Updates on Tax Amnesty

The Minister of Finance ("MoF") has issued Regulation number 165/PMK.03/2017 ("PMK-165") dated 17 November 2017 regarding implementation of the Tax Amnesty program. PMK-165 is effectively in force since 20 November 2017 and amends the previously issued regulation, MoF Regulation number PMK-118/PMK.03/2016 ("PMK-118") as most recently amended through MoF Regulation number 141/PMK.03/2016.

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The main updates are:

a. Income tax exemption letter

PMK-165 provides an alternative document to claim the income tax exemption in relation to transfer of land and/or building. Under PMK-118, the taxpayer is required to obtain a tax exemption letter ("*Surat Keterangan Bebas*" or "SKB") to claim the tax exemption provided under the Tax Amnesty program. PMK-165 allows the taxpayer to use a copy of the Tax Amnesty certificate as the basis to claim the tax exemption.

b. Tax amnesty annual reporting requirement

Under PMK-118, a taxpayer that fails to fulfil the annual reporting requirements will be considered as violating its obligations to repatriate offshore assets to Indonesia or maintain onshore assets in Indonesia. The DGT will impose a tax assessment on this violation.

However, PMK-165 indicates that the tax assessment can only be issued if the DGT has confirmed that such violation actually occurred.

c. Voluntary declaration

a. Eligibility

Through this PMK-165, a taxpayer can voluntarily disclose his undeclared assets, as long as the Directorate General of Taxation ("DGT") has not discovered the undeclared assets. These undeclared assets include the following:

1. Under-declared assets disclosed in the Tax Amnesty declaration letter ("*Surat Pernyataan Kepemilikan Harta*") for taxpayers who participated in the Tax Amnesty program; or
2. Under-declared assets disclosed in the Annual tax return for taxpayers who did not participate in the Tax Amnesty program

These under-declared assets will be treated as taxable income for the period when the taxpayer submits the additional declaration, and subject to the following applicable final tax rates:

1. 25% for corporate taxpayers
2. 30% for individual taxpayers; or
3. 12.5% for certain other taxpayers

b. Determining the value of asset

The tax base for calculating the final tax is categorized based on the asset qualification, as follows:

Type of asset	Tax base	Reference
Cash and cash equivalent	Nominal value	-
Land and/or building	Sale value (NJOP)	Government
Motor vehicles	Sale value (NJKP)	Government
Gold and silver bullion	Sale value	PT Aneka Tambang Tbk
Listed company's shares and warrants	Shares/ warrant price	PT Bursa Efek Indonesia
Government or Corporate bonds	Bonds price	PT Penilai Harga Efek Indonesia

In the situation where there is no reference for the asset's value, a taxpayer may opt for the following alternatives:

- Using value determined by a registered independent appraiser
- Request DGT to perform a valuation

c. Reporting procedures

The taxpayer should submit the voluntary declaration using an Article 4(2) Final Withholding Tax return, accompanied by a tax payment slip (Tax code: 411128, payment code: 422). The submission period should refer to the period when the taxpayer makes the declaration. The DGT will issue further implementing regulations to accommodate this matter.

d. Tax dispute mechanism

The new regulation stipulates a new dispute resolution mechanism for disputes on tax assessment letters issued in connection with the provisions contained in PMK-165. Such tax assessment letters should be processed according to the prevailing general tax administration regulations.

Calculation of Income Tax on First Tranche Petroleum

The DGT has finally stipulated the Income Tax Calculation on First Tranche Petroleum for the upstream oil and gas business through DGT Regulation number PER-20/PJ/2017 ("PER-20"). Previously, it was only stipulated in DGT Regulation number PER-05/PJ/2014 ("PER-05") regarding the form of Corporate Income Tax Return for oil and gas upstream business, in which income tax on such FTP is deferred until the block reaches equity to be split. PER-05 also requires a specific declaration of the balance of the un-taxed FTP in the annual tax return.

Unlike PER-05, in PER-20 the Income Tax on FTP ("FTP Tax") may not necessarily be due only after there is equity to be split in the particular month. FTP Tax would be payable when the accumulated FTP consisting of prior and current month's FTP already exceeds the balance of accumulated unrecovered costs even if there is still no equity to be split in the current month. This refers to the example provided in PER-20.

FTP Tax is not payable on the entire FTP immediately, but rather gradually after deduction of the balance of accumulated unrecovered costs. Also, FTP movement would need to be observed on a monthly basis, as the regulation requires the FTP Tax (if payable) to be settled monthly. In addition, similar to the previous regulation, the FTP Tax obligations should be resumed by the new contractor if there is a transfer of PSC interest; this needs to be considered for any acquisition transaction.

Application for 0% Land and Building Title Transfer Duty Facility for DKI Jakarta

Further to the issuance of Governor Regulation number 193 of 2016 concerning the 0% Land and Building Title Transfer Duty ("*Bea Perolehan Hak atas Tanah dan Bangunan*")/BPHTB) for the first acquisition of title with maximum value of IDR 2 billion, the Governor of DKI Jakarta has issued Regulation number 126 of 2017 ("Pergub-126").

Pergub-126 provides details on the administrative procedures and documents required for applying for this 0% BPHTB facility.

In order to be eligible for this facility, the following requirements must be fulfilled:

1. The applicant must be an individual taxpayer who is domiciled in Jakarta for at least 2 years;
2. The transaction must be the first acquisition of title to land and/or building in Jakarta; and
3. The maximum value of the object is IDR 2 billion.

The application letter must be submitted to the Head of the DKI Jakarta Regional Tax and User Fee Agency.

Indirect Tax and Customs Focus

Extension of Safeguard Import Duty on Imports of Flat-Rolled Products of Iron or Non-Alloy Steel

Based on the result of investigation of the current market, there continues to be a serious threat of loss to the domestic industry because of the sharp increase in imports of flat-rolled products of iron or non-alloy steel. The MoF has therefore issued MoF Regulation number 130/PMK.010/2017 ("PMK-130") to extend the validity period of the safeguard import duty on imports of flat-rolled products of iron or non-alloy steel for two years from the effective date of the regulation, 4 October 2017. The safeguard import duty tariff applied for the first year is Rp2,891,858 per ton, and for the second year, Rp2,186,030 per ton.

The specifications of the flat-rolled products from iron or non-alloy steel covered in the regulation are as follows: width of 600 mm or more, plated or coated with aluminium-zinc alloys, containing by weight less than 0.6% of carbon, with thickness up to 0.7 mm, as included in tariff line ex. 7210.61.11.

The attachment to PMK-130 also mentions a list of 121 countries that are exempted from the imposition of this import duty.

Contact Persons

Questions concerning any of the subjects or issues contained in this newsletter should be directed to your usual contact in our firm, or any of the following Tax Partners:

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