



Indonesia Tax Info October 2021

Draft Law on Harmonization of Tax Regulations passed by the DPR

On 7 October 2021, the Indonesian People's Representative Council (*Dewan Perwakilan Rakyat* (DPR)) passed the Draft Law on Harmonization of Tax Regulations (*Rancangan Undang-Undang Harmonisasi Peraturan Perpajakan* (RUU HPP)). The bill is part of the government's strategy to encourage continuous economic growth and to expedite the national economic recovery by reducing the state budget deficit and improving the national tax-to-GDP ratio through tax reforms.

RUU HPP harmonizes various fiscal laws and regulations, including the:

- Income Tax Law;
- Value Added Tax (VAT) Law;
- General Taxation Provision and Procedures Law; and
- Excise Law.

RUU HPP also introduces a new carbon tax and voluntary disclosure program (*Program Pengungkapan Sukarela* (VDP)).

This article provides a high-level analysis of the key features of RUU HPP based on the 29 September 2021 version of the draft law (225 pages). Reference ultimately should be made to the final law, which will be issued shortly by the government. The bill is awaiting the president's signature and it is possible that some amendments may still be made.

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Income tax

RUU HPP contains the following key income tax changes:

| Topic | Current Income Tax Law | RUU HPP | | | | | | | | | | | | | | | | | | | | | | |
|--|--|---|------|----------------------|----|--|-----|---|-----|---------------------------|-----|--|----------------|------|----------------------|----|--|-----|---|-----|---|-----|-------------------------|-----|
| Updated income tax rates | <p>Individual income tax (IIT)</p> <table border="1"> <thead> <tr> <th>Taxable income</th> <th>Rate</th> </tr> </thead> <tbody> <tr> <td>Up to IDR 50 million</td> <td>5%</td> </tr> <tr> <td>More than IDR 50 million but not exceeding IDR 250 million</td> <td>15%</td> </tr> <tr> <td>More than IDR 250 million but not exceeding IDR 500 million</td> <td>25%</td> </tr> <tr> <td>More than IDR 500 million</td> <td>30%</td> </tr> </tbody> </table> <p>Corporate income tax (CIT)</p> <p>Law Number 2 of 2020, issued on 16 May 2020 (UU-2), provides for a CIT rate of 20% as from fiscal year 2022.</p> | Taxable income | Rate | Up to IDR 50 million | 5% | More than IDR 50 million but not exceeding IDR 250 million | 15% | More than IDR 250 million but not exceeding IDR 500 million | 25% | More than IDR 500 million | 30% | <p>IIT</p> <table border="1"> <thead> <tr> <th>Taxable income</th> <th>Rate</th> </tr> </thead> <tbody> <tr> <td>Up to IDR 60 million</td> <td>5%</td> </tr> <tr> <td>More than IDR 60 million but not exceeding IDR 250 million</td> <td>15%</td> </tr> <tr> <td>More than IDR 250 million but not exceeding IDR 500 million</td> <td>25%</td> </tr> <tr> <td>More than IDR 500 million but not exceeding IDR 5 billion</td> <td>30%</td> </tr> <tr> <td>More than IDR 5 billion</td> <td>35%</td> </tr> </tbody> </table> <p>CIT</p> <p>Through RUU HPP, the government intends to maintain the CIT rate at 22% (as for fiscal year 2021) for fiscal year 2022 and the subsequent years.</p> | Taxable income | Rate | Up to IDR 60 million | 5% | More than IDR 60 million but not exceeding IDR 250 million | 15% | More than IDR 250 million but not exceeding IDR 500 million | 25% | More than IDR 500 million but not exceeding IDR 5 billion | 30% | More than IDR 5 billion | 35% |
| Taxable income | Rate | | | | | | | | | | | | | | | | | | | | | | | |
| Up to IDR 50 million | 5% | | | | | | | | | | | | | | | | | | | | | | | |
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| More than IDR 5 billion | 35% | | | | | | | | | | | | | | | | | | | | | | | |
| Rearrangement of benefits-in-kind (BIK) | <p>In principle, BIK are nontax deductible for employers and nontaxable for employees receiving the BIK.</p> <p>BIK that are tax deductible for employers and nontaxable for employees are limited to:</p> <ul style="list-style-type: none"> Meals provided to all employees; Benefits provided in certain qualifying remote areas; and BIK necessary to carry out work assignments. | <p>In principle, BIK related to the activities of earning, collecting, or maintaining income would be tax deductible for employers and taxable for employees.</p> <p>BIK that are not taxable for employees would be limited to:</p> <ul style="list-style-type: none"> Food and beverages provided to all employees; BIK in certain remote areas; BIK necessary to carry out work assignments; Certain BIK funded from state budget, regional state budget, or village budget; and Certain BIK subject to specific limitations. | | | | | | | | | | | | | | | | | | | | | | |
| Calculation of deductible provision for loan loss provisions for banks and multi-finance companies | <ul style="list-style-type: none"> The calculation of deductible provision for banks is regulated by the Minister of Finance (MoF) regulations that prescribe certain formulas and rates, ranging from 1% to 100%. The calculation of deductible provision for multi-finance companies is regulated by the MoF regulations with certain formulas and rates, ranging from 2.5% to 5%. | <p>The calculation of deductible provision will follow the prevailing Financial Accounting Standards (<i>Standar Akuntansi Keuangan</i>), with certain limitations after coordination with the Financial Services Authority (<i>Otoritas Jasa Keuangan</i>).</p> | | | | | | | | | | | | | | | | | | | | | | |
| Methods to determine the deductibility of borrowing costs | <p>The MoF is authorized to issue decision on the debt-to-equity ratio (DER) for income tax purposes.</p> <p>The current acceptable DER for tax purposes is 4:1. The proportion of borrowing costs relating to borrowings in excess of this ratio is nondeductible.</p> | <p>The MoF would be authorized to specify the limitation on deductible borrowing costs based on internationally accepted methods, such as DER, borrowing costs compared to EBITDA (earnings before interest, taxes, depreciation, and amortization), or other methods.</p> | | | | | | | | | | | | | | | | | | | | | | |

| Topic | Current Income Tax Law | RUU HPP |
|---|---|--|
| More flexibility in determining the useful life for depreciation and amortization of certain fixed assets | <p>A permanent building with a useful life of more than 20 years must be depreciated in equal monthly amounts over a 20-year period.</p> <p>In practice, an intangible asset with a useful life of more than 20 years is amortized over 20 years, which is the longest useful life permitted under the current tax law.</p> | <p>A permanent building with a useful life of more than 20 years would be depreciated in equal monthly amounts over:</p> <ul style="list-style-type: none"> • 20 years; or • The useful life used to calculate the depreciation for accounting purposes. <p>Under RUU HPP, an intangible asset with a useful life of more than 20 years would be amortized using the straight line method or the double declining method over:</p> <ul style="list-style-type: none"> • 20 years; or • The useful life used to calculate the amortization for accounting purposes. |
| Tax relief for individual taxpayer doing business as a small or medium-sized enterprise (SME) | <p>The final income tax regime for individual taxpayer who is an SME is not specifically regulated under the current Income Tax Law. Instead, it is regulated by Government Regulation Number 23 of 2018 (PP-23) under which all income earned or received by such an SME taxpayer (with annual turnover of a maximum of IDR 4.8 billion) is subject to a 0.5% final income tax.</p> <p>The final income tax regime applies only for certain fiscal years, after which period the individual SME taxpayer must revert to the regular income tax regime.</p> | <p>RUU HPP retains the final income tax regime for individual SME taxpayers.</p> <p>RUU HPP also provides that the first IDR 500 million of gross revenue of an individual SME taxpayer would not be subject to tax. A 0.5% final income tax rate will be imposed on the gross revenue exceeding IDR 500 million.</p> <p>The IDR 500 million threshold would be adjustable by the MoF after consultation with the DPR.</p> |

In addition to the above, RUU HPP proposes the following changes:

- The personal tax reliefs (*penghasilan tidak kena pajak* (PTKP)) for individual taxpayers would be updated using the latest PTKP amount stated in MoF Regulation Number 101/PMK.010/2016.
- The reduction in the CIT rate applicable for public companies meeting certain criteria would be adjusted from 5% to 3%, in line with the change made by UU-2.
- The following actions would be considered as tax evasion in a transaction involving related parties:
 - a. Understatement of income;
 - b. Overstatement of expenses;
 - c. Reporting a business profit lower than that of other comparable taxpayers in the same industry; or
 - d. Reporting an abnormal business loss despite having commercial sales for five years.

In respect of c. and d., a benchmarking study may be carried out to determine the tax payable.
- New methods for determining arm's-length transactions would be permitted, i.e., comparable uncontrolled transaction method, tangible and intangible asset valuation, and business valuation.
- RUU HPP also confirms that discrepancies from transfer pricing adjustments would be considered as taxable dividends in accordance with the prevailing tax laws and regulations.

- The authority to enter into fiscal-related cooperation with other tax jurisdictions would be widened to include bilateral and multilateral cooperation related to the avoidance of double taxation and the prevention of tax evasion, base erosion and profit shifting (BEPS), exchange of information, assistance in tax collection, and other tax cooperation.

Comments

- Individual taxpayers earning an annual income of more than IDR 5 billion would have an increased tax liability.
- Since the reduction in the CIT rate as included in UU-2 would be annulled, corporate taxpayers affected by the change would need to update their financial forecast accordingly using the existing 22% CIT rate.
- Making BIK tax deductible for employers and taxable for employees would shift the tax burden from employers to employees receiving BIK.
- Several measures included in the previous version of the draft law (*Rancangan Undang-Undang tentang Perubahan Kelima Undang-Undang Nomor 6 Tahun 1983 tentang Ketentuan Umum dan Tata Cara Perpajakan* (RUU KUP)), such as the alternative minimum tax and a general anti avoidance rule (GAAR), are no longer covered in RUU HPP.
- Under the current Income Tax Law, most of the implementing regulations are in the form of MoF regulations. Under RUU HPP, some of the implementing regulations would be changed to government regulations. Hence, Deloitte Indonesia's expectation is that a significant number of new implementing regulations would be issued following the promulgation of RUU HPP. It is possible that the new government regulations would replace the current MoF regulations so that they are aligned with the promulgated RUU HPP.

VAT

RUU HPP proposes the following key VAT changes:

| Topic | Current VAT Law | RUU HPP |
|---|--|--|
| Change in VAT rate | The standard VAT rate is 10% | <ul style="list-style-type: none"> • As from 1 April 2022, the standard VAT rate would increase to 11%; and • The standard VAT rate would rise to 12% by 1 January 2025, at the latest. |
| Changes in VAT exemption and facilities | <p>All goods and services are subject to VAT, except for four groups of goods and 17 groups of services.</p> <p>Delivery of certain goods and/or services subject to VAT are granted with a VAT exemption (<i>PPN dibebaskan</i>) or a VAT not-collected (<i>PPN tidak dipungut</i>) facility.</p> | <p>All goods and services would be subject to VAT, except:</p> <ul style="list-style-type: none"> • Items that are already subject to regional tax (i.e., food and beverages served at a restaurant or hotel or for catering, art and entertainment services, hotel services, and parking services); • Money, gold bars (representing Indonesia's state gold reserves), and securities; • Religious services; and • Government administrative services that cannot be provided by other parties. |

| Topic | Current VAT Law | RUU HPP |
|-------------------------------------|-----------------|--|
| | | <p>The following goods and services, currently outside the scope of VAT, would become taxable but eligible for the VAT exemption facility (<i>PPN dibebaskan</i>):</p> <ul style="list-style-type: none"> • Basic commodities; • Medical/health services; • Social services; • Financial services; • Insurance services; • Educational services; • Certain public transport services on land and on water, and certain domestic air transport services; and • Labor services. <p>The VAT not-collected facility would be more selectively applied.</p> |
| Introduction of final VAT mechanism | N/A | <p>VAT entrepreneurs (<i>pengusaha kena pajak (PKP)</i>) within any of the following categories would be subject to the final VAT mechanism to replace the input VAT crediting mechanism:</p> <ul style="list-style-type: none"> • Have gross revenue of up to a specified maximum amount; • Carry out certain business activities; and/or • Deliver certain taxable goods and/or taxable services. <p>The criteria above would be further regulated by the MoF.</p> |

RUU HPP also proposes the following changes related to VAT:

- Input VAT related to the purchase of taxable goods and/or taxable services in which the VAT is calculated using a special VAT imposition base would be creditable.
- Input VAT related to the purchase and maintenance of sedan vehicles and station wagons would be creditable.
- RUU HPP would revoke some items in the current list of goods eligible for VAT exemption or VAT not-collected facility (e.g., national water, land and air transportation fleet, clean water, and electricity); however, the revised treatment of such goods has not yet been confirmed.

Comments

- Since the VAT rate is to be increased, it can be expected that this would be passed on to consumers as an increase in the price of goods and services.
- Unlike RUU KUP that proposed the abolition of VAT exemption facility, RUU HPP would retain the exemption but seek to limit the items eligible for the exemption facility.
- The VAT exemption or VAT not-collected facility currently applicable for certain taxable goods and/or taxable services may be revoked. Whether the goods and services would be eligible for other VAT reliefs or simply become taxable items is currently unknown.

General Taxation Provision and Procedures Law

RUU HPP proposes the following key changes related to tax administration and sanctions:

| Topic | Current General Tax Provisions and Procedures Law | RUU HPP |
|--|--|---|
| Use of national identification number (<i>Nomor Induk Kependudukan</i> (NIK)) as tax identification number (<i>Nomor Pokok Wajib Pajak</i> (NPWP)) | An individual or entity meeting certain criteria must register for an NPWP. An NPWP is separate from an NIK. | <p>NIKs would replace NPWPs for individual taxpayers. Data from the Ministry of Home Affairs would be integrated with data from the Directorate General of Taxation (DGT).</p> <p>Further details are to be regulated by government and MoF regulations.</p> |
| Assistance with global tax collection | N/A | <p>The DGT would be able to assist another country to collect tax, and vice versa; provided that the authority to do so is included in the relevant international agreement. The treatment must be reciprocal.</p> <p>The tax collection process would follow the Indonesian tax collection process; however, it would be adjusted to reflect the other country's tax collection procedure where required. For example, if the other country's tax collection process applies only to the level of the issuance of the equivalent of a distress warrant (i.e., a warrant authorizing the seizure of assets to meet an outstanding tax liability), Indonesia would assist with the tax collection only up to that point.</p> |
| Reduction of various tax penalties | <p><u>Underpaid Tax Assessment Letter (<i>Surat Ketetapan Pajak Kurang Bayar (SKPKB)</i>)</u></p> <p>For SKPKB, depending on the circumstances, the underpaid amount is subject to a surcharge penalty of the reference interest rate (<i>Suku Bunga Acuan</i> (SBA)) plus an uplift of 15%, divided by 12 months, for a maximum of 24 months; or a surcharge of 50% or 100%, depending on the case.</p> <p><u>Objection</u></p> <p>If the objection request is rejected or partially approved, an additional tax surcharge of 50% is imposed.</p> <p><u>Appeal</u></p> <p>If the appeal request is rejected or partially approved, an additional tax surcharge of 100% is imposed.</p> | <p><u>SKPKB</u></p> <p>For SKPKB, depending on the circumstances, the underpaid amount would be subject to a surcharge penalty of the SBA plus an uplift of 15% or 20%, divided by 12 months, for a maximum of 24 months; or a surcharge of 75%, depending on the case.</p> <p><u>Objection</u></p> <p>The tax surcharge would be reduced to 30%.</p> <p><u>Appeal</u></p> <p>The tax surcharge would be reduced to 60%.</p> <p>For the purpose of submitting an appeal, RUU HPP would impose a one-month deadline for the DGT to respond to the taxpayer's request for information regarding the basis for the issuance of a Tax Objection Decision Letter (<i>Surat Keputusan Keberatan</i>).</p> |

| Topic | Current General Tax Provisions and Procedures Law | RUU HPP |
|--|---|--|
| | | <p>Judicial review</p> <p>If a judicial review results in an increased amount of tax payable, the additional amount over the tax settled prior to the submission of the objection request would be subject to a tax surcharge of 60%.</p> |
| Timing of the submission of a voluntary disclosure by a taxpayer after the DGT has commenced a tax audit | The taxpayer may voluntarily disclose an incorrect tax return before the DGT issues the tax assessment letter (<i>Surat Ketetapan Pajak (SKP)</i>). | <p>The taxpayer would be able to voluntarily disclose an incorrect tax return before the DGT delivers the notification of tax audit findings (<i>Surat Pemberitahuan Hasil Pemeriksaan (SPHP)</i>) to the taxpayer.</p> <p>Submission of a voluntary disclosure would be able to stop a tax investigation.</p> |
| Increased certainty on the process of mutual agreement procedure (MAP) | The DGT's current practice is to cease the MAP process upon issuance of the tax appeal decision by the tax court. | <p>The MAP process would be able to be conducted alongside an objection, appeal, or request for reduction or cancelation of an incorrect SKP.</p> <p>If a tax appeal decision or judicial review decision is issued, the DGT would be able to either:</p> <ul style="list-style-type: none"> • Continue with the MAP negotiation, if the matter decided by the tax court is not the matter negotiated in the MAP; or • Use the decision or verdict as the basis for the MAP negotiation or to cease the MAP negotiation process, if the matter decided by the tax court is the same as the matter negotiated in the MAP. |
| Appointment of another party to withhold income tax, VAT, and e-commerce tax | N/A | <p>The MoF would be allowed to appoint a domestic party or a foreign party that is directly involved in or facilitates a transaction to withhold the tax.</p> <p>If the appointed tax withholder is an electronic system organizer (<i>penyelenggara sistem elektronik</i>), noncompliance with its obligations as a tax withholder may result in tax penalties as well as the Ministry of Communication and Information Technology blocking access to its electronic system.</p> <p>The provisions regarding tax assessment, collection, legal action, and the imposition of penalties would be extended to a foreign party appointed as a tax withholder by the MoF.</p> |
| Law enforcement related to tax crime focusing on <i>ultimum remedium</i> | <p>Currently, a tax investigator's powers include, but are not limited to, the following:</p> <ul style="list-style-type: none"> • Search, collect, review, and confiscate documents; • Search and collect information related to a tax criminal; and • Request for assistance from experts. <p>However, the authority does not include confiscating assets.</p> | The authority given to a tax investigator would be extended to include blocking or confiscating a tax criminal's assets. The assets that may be confiscated would include assets owned by the taxpayer, the tax bearer, and other parties (i.e., parties that give instructions in respect of, participate in, provide advice in connection with, or assist with the tax crime). The confiscation of assets requires an approval from the local court. |

| Topic | Current General Tax Provisions and Procedures Law | RUU HPP |
|-------|--|---|
| | <p>The surcharge penalty arising from settlement of tax and penalty by taxpayer undergoing a tax crime investigation which cause the investigation to cease, is three times the amount of underpaid tax.</p> | <p>The amount of the surcharge penalty arising from the cessation of a tax crime investigation due to settlement of tax and penalty by taxpayer, would range from one to four times the amount of unpaid tax, depending on the circumstances. However, if the case has reached the court and the tax plus the appropriate penalty have been settled, a prison sentence may be considered to not be imposed. If the tax and penalty have not been settled, it would be possible to impose both a penalty and a prison sentence.</p> <p>In certain cases, the penalty would have to be paid and cannot be replaced by a prison sentence. If the tax criminal did not settle the penalty by the deadline, the criminal's assets could be seized and auctioned for settlement. If the assets seized were insufficient to cover the penalty, it would be possible to impose a prison sentence in place of the penalty.</p> |

In addition, RUU HPP proposes the following changes:

- The DGT would be able to issue a tax collection notice if a taxpayer that has obtained approval to defer its tax payment or to settle its tax in installments fails to fulfill its payment obligation in time.
- A party that acts as a proxy for the taxpayer would be required to have a certain level of competency in taxation, with some exceptions. Such competency can be obtained either through education, certification, or training by the MoF.

Comments

- An Indonesian resident who has reached a certain age will automatically be provided with an NIK, even though they may not necessarily meet the criteria as a taxpayer. The introduction of using an NIK as an NPWP would likely create an uncertainty among the public, although the extent of the impact cannot be understood until the details on how the change would be implemented are issued.
- Following the introduction of assistance with global tax collection, the DGT would be able to collect tax payable from Indonesian taxpayers situated overseas and assist tax officials from other (selected) jurisdictions with similar collection activities.
- Reduced administrative sanctions would lessen the cash flow burden of taxpayers.
- Taxpayers involved in the digital economy, such as marketplace and peer-to-peer (P2P) lending platform providers likely would be appointed as tax withholders. These taxpayers may wish to prepare for the proposed changes by investigating the implementation of tax withholding and collection on transactions via their platforms.

Excise duty

- RUU HPP would introduce excise duty on e-cigarettes.
- The government would be authorized to add items to or remove items from the list of goods subject to excise after submitting its proposals to the DPR, to be discussed and decided during the drafting of state budget.

Comments

The government would have greater control and flexibility over the determination of goods that are subject to excise duty.

Carbon tax

The Indonesian government is committed to reducing greenhouse gas emissions by 29% by 2030. Meeting this goal requires significant funds and therefore, the government has proposed for the introduction of carbon tax in RUU HPP to raise revenue and help mitigate the effects of climate change. Carbon tax is defined as a tax levied on carbon dioxide emissions resulting from burning fuel.

The government has proposed a roadmap for a phased introduction of carbon tax as follows:

| Year | Milestone |
|------|--|
| 2021 | <ul style="list-style-type: none"> • Introduction of carbon tax in RUU HPP • Finalization of Carbon Economic Value Presidential Regulation • Development of technical mechanism for carbon tax and carbon market/bourse • Piloting of carbon trading in power generation sector with an average price of IDR 30 per kilogram of carbon dioxide equivalent (IDR 30/kg CO₂e) |
| 2022 | <ul style="list-style-type: none"> • Determination of the cap for the coal-fired power generation sector by the Ministry of Energy and Mineral Resources (MEMR) • Implementation of carbon tax (cap and tax) limited to coal-fired power plants with a tariff of IDR 30/kg CO₂e by 1 April 2022 • The cap (ceiling on emissions) to be used would be the cap applicable in the power generation carbon trading pilot |
| 2025 | <ul style="list-style-type: none"> • Full implementation of carbon trading through carbon market/bourse • Gradual expansion of carbon tax to other sectors, in line with each sector's readiness • Implementation of regulation of carbon tax procedures (cap and tax) in other sectors |

A carbon tax subject would be an individual or entity that buys goods containing carbon or producing carbon emissions; whereas a carbon tax object would be a purchase of goods containing carbon or an activity that emits a certain quantity of carbon within a certain period. RUU HPP would provide for the lowest carbon tax rate of IDR 30/kg CO₂e or equivalent unit.

Carbon tax would be due at:

- The time of the purchase of goods containing carbon;
- The end of the calendar year in which the activities result in a certain amount of carbon emissions; or
- Another time as specified by a government regulation.

Further details regarding carbon tax would be regulated by MoF and government regulations.

Comments

- Carbon tax would affect all businesses that emit significant amounts of carbon (coal-fired power plants, transportation, agriculture, etc.).
- The implementation of carbon tax on coal-fired power plants as from April 2022 would affect the state-owned electricity company (PLN) and independent power producers (IPPs), which, in turn, may increase the electricity generation cost and the price of electricity to end-users. The extent of the impact would also depend on the emission cap to be determined by the MEMR.
- Developments in this area should be monitored by these taxpayers since the proposed rules are new and subject to various implementing regulations.

VDP (Voluntary Disclosure Program)

Based on data obtained by the DGT (e.g., from exchange of information (EOI), institutions, government bodies, associations, other parties, etc.), some taxpayers have not fully disclosed their assets when participating in the tax amnesty (TA) program. As such, RUU HPP proposes the introduction of VDP to provide an opportunity for these taxpayers to disclose assets that have not yet been disclosed.

There would be two VDP schemes, as summarized below:

| Topic | Scheme 1 | Scheme 2 |
|--|--|---|
| Type of participants | TA program participants (individuals and corporates) that have not fully disclosed their assets acquired between 1 January 1985 and 31 December 2015 in the Asset Declaration Letters (<i>Surat Pengungkapan Harta (SPH)</i>). | Certain individual taxpayers with net assets acquired between 1 January 2016 and 31 December 2020 that have not yet been reported in the 2020 annual income tax return. |
| Final tax rate: | | |
| <ul style="list-style-type: none"> • Asset is located in Indonesia and would be invested in certain investment instruments | 6% | 12% |
| <ul style="list-style-type: none"> • Asset is located in Indonesia but would not be invested in certain investment instruments | 8% | 14% |
| <ul style="list-style-type: none"> • Asset is located outside Indonesia but would be repatriated to Indonesia and invested in certain investment instruments | 6% | 12% |
| <ul style="list-style-type: none"> • Asset is located outside Indonesia and would be repatriated to Indonesia but would not be invested in certain investment instruments | 8% | 14% |
| <ul style="list-style-type: none"> • Asset is located outside Indonesia and would not be repatriated to Indonesia | 11% | 18% |
| Definition of certain investment instruments | <ul style="list-style-type: none"> • Natural resources processing and renewable energy sectors; and/or • State securities (i.e., government bonds and government/state sharia securities). | |
| Disclosure period | 1 January to 30 June 2022 | |
| Deadline to repatriate assets located outside Indonesia | 30 September 2022 | |

| Topic | Scheme 1 | Scheme 2 |
|--|---|--|
| Deadline for investment | 30 September 2023 | |
| Minimum investment holding period | Five years | |
| Sanction for taxpayers that participate in VDP but do not comply | The net assets would be treated as income for fiscal year 2022 and would be subject to (additional) final income tax at rates ranging from 3% to 7.5%, depending on the case. | <ul style="list-style-type: none"> The net assets would be treated as income for fiscal year 2022 and would be subject to (additional) final income tax at rates ranging from 3% to 8.5%, depending on the case. If the DGT discovers assets that have not been disclosed in the VDP program, the net assets would be treated as income for fiscal year 2022 and would be subject to final income tax at a rate of 30%, plus the administrative sanction of SBA, plus an uplift of 15% divided by 12 months, for a maximum of 24 months. |

Further details related to VDP would be regulated by MoF regulations.

Comments

VDP would provide an opportunity for taxpayers to disclose their assets that have not previously been disclosed and offer a more lenient penalty regime compared to when the assets are discovered during an audit.

Implementation

When RUU HPP comes into effect:

- Implementing regulations of Law Number 11 of 2016 regarding TA would become invalid, provided that the disclosure is made between 1 January and 30 June 2022;
- All existing implementing regulations would remain valid provided that they do not contradict with RUU HPP or have not been replaced in accordance with RUU HPP; and
- Articles in UU-2 related to the CIT rate would be revoked as from fiscal year 2022.

Once promulgated, the provisions in RUU HPP would come into effect in accordance with the following schedule:

- Income tax provisions: as from fiscal year 2022;
- VAT provisions: as from 1 April 2022;
- Carbon tax provisions: as from 1 April 2022 to coal-fired power plants with a tariff of IDR 30/kg CO₂e; and
- Other provisions: as from the date of promulgation.

Taxpayers would be advised to familiarize themselves with the proposed changes to be introduced by RUU HPP and perform a further in-depth analysis to determine the potential implications on their business and identify any necessary preemptive actions.

Customs Focus

Imposition of import duty tariffs based on the Comprehensive Economic Partnership between Indonesia and the European Free Trade Association (EFTA) countries

To support the acceleration of economic recovery and improve comprehensive economic cooperation between Indonesia and EFTA countries that consist of Iceland, Liechtenstein, Norway, and Switzerland, the Indonesian government, through the MoF has issued Regulation Number 122/PMK.04/2002 (MoF-122) regulating the procedures for imposition of import duty tariffs based on the trade agreements between Indonesia and EFTA countries.

The Indonesian importers and/or exporters shall have trading leniency with the EFTA countries.

Salient points to note in connection with MoF-122 are as follows:

1. Parties allowed to receive preferential tariffs

Preferential tariffs are allowed for the import of goods-for-use that utilizes import customs declaration (PIB) to other places in the Customs Area (TLDDP), including from outside the customs area, Bonded Storage Places (TPB), Bonded Logistics Centers (PLB), Free Zones, and Special Economic Zones (SEZs), in which, at the time of entry, uses preferential tariffs.

2. Requirements for origin of goods to receive preferential tariffs

| Origin criteria ¹ | Consignment criteria ² |
|---|--|
| <p>a. Origin criteria include:</p> <ul style="list-style-type: none"> (i) Goods that are wholly obtained or produced in one member country (wholly obtained/produced); (ii) Goods that are not wholly obtained or produced in one member country (not wholly obtained/produced), in which the non-originating goods used have undergone processing in a member country and are included in the list of Product Specific Rules (PSR); or (iii) Goods that are produced in member countries using only materials originating from one or more member countries (produced exclusively). | <p>a. Consignment criteria include:</p> <ul style="list-style-type: none"> (i) Imported goods delivered directly from member countries, which have entered into the Declaration of Goods Origin for the Comprehensive Economic Partnership Agreement between Indonesia and EFTA Countries (DAB IE-CEPA), to the customs area; (ii) Imported goods that are delivered through member countries other than exporting member countries and importing member countries; or (iii) Imported goods that are delivered through countries other than member countries. |

¹ The criteria of goods to be exported/imported.

² The shipment process of goods criteria.

| Origin criteria ¹ | Consignment criteria ² |
|--|--|
| <p>b. Specific for goods originating from Liechtenstein, the goods are considered as originating from Liechtenstein and Switzerland.</p> | <p>b. In the event that the delivery of imported goods undergoes a transit or transshipment process, the delivery can be made under the following conditions:</p> <ul style="list-style-type: none"> (i) It is solely for geographical reasons; (ii) It is not traded or consumed in the transit destination country; (iii) It does not undergo a production process; and (iv) It is still under the supervision of customs authorities. <p>In the transshipment activity, the importer must submit the Bill of Lading document to the Customs and Excise Officer.</p> |

There are procedural provisions to receive preferential tariffs, i.e., the importer has to prepare the DAB IE-CEPA based on the following conditions:

- a. It is prepared by an exporter domiciled in the territory of a member country;
- b. It is prepared in English;
- c. It is prepared in invoices or other commercial documents;
- d. It contains the exporter's statement with a written mark/stamp that is in line with the stipulated format;
- e. It contains clear and detailed description of goods, original signature and name of exporter, authorization number, and place and date of preparation of DAB IE-CEPA;
- f. It is used only for one-time import; and
- g. It is valid for 12 months after the date of preparation.

The DAB IE-CEPA can be made before or after the date of shipment or the date of exportation.

3. Submission, review, and imposition of preferential tariffs

- a. In order to receive preferential tariffs, aside from complying with the provisions on the origin of goods, an importer is required to:
 - (i) Submit the original DAB IE-CEPA document or printout of the DAB IE-CEPA;
 - (ii) Include the facility code on the notification of import of goods correctly; and
 - (iii) Include the exporter's authorization number or reference number from the invoice or other commercial document as well as the date of preparation of the DAB IE-CEPA on the notification of import of goods correctly.
- b. If the results of review by the Customs and Excise Officer show that the provisions on the origin of goods are not satisfied, the DAB IE-CEPA will be rejected and the imported goods will be subject to generally accepted import duty rates (Most Favored Nation/MFN).
- c. If the DAB IE-CEPA consists of several types of goods, the rejection of one type of goods does not cancel the imposition of preferential tariffs on other types of goods that satisfy the provisions on the origin of goods.
- d. The DAB IE-CEPA remains valid if there are minor differences, such as:
 - (i) Typing or spelling errors in the DAB IE-CEPA;
 - (ii) Differences in units of measurement; and
 - (iii) Error in writing the description of goods.

4. Other provisions

- a. Imported goods originating from member countries with a Free-on-Board (FOB) value not exceeding USD 200 (two hundred United States Dollars) may be subject to preferential tariffs without having to attach the DAB IE-CEPA and without using PIB documents, provided that the importation has complied with the following conditions:
 - (i) It is not part of one or more other imports aimed at avoiding the obligation to submit the DAB IE-CEPA; and
 - (ii) It is proven by the exporter's statement explaining that the goods originate from the exporting member country.
- b. Preferential tariffs may be given to goods delivered for exhibition purposes in other member countries and sold at or after the exhibition. The DAB IE-CEPA used must include the name of the exhibition and the address in which the exhibition will be held.
- c. In the event of a force majeure event, the MoF may determine the procedures for imposition of preferential tariffs.

5. Transition terms

For imported goods of which the customs notification has obtained a registration number and date before this MoF-122 takes effect, and have not been released from TPB, PLB, Free Zones, or SEZs to TLDDP, the preferential tariffs may be given provided that the original DAB IE-CEPA document are submitted no later than four months after the effective date of this regulation.

MoF-122 has come into force as of 13 October 2021.

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