

April 2018

- MoF Regulation No. 35/PMK.010/2018



Tax Holiday

MoF Regulation No. 35/PMK.010/2018

Minister of Finance Regulation No. 35/PMK.010/2018 (“MoF-35”) offers a tax holiday with fewer restrictions to a wider range of pioneer industries than was previously provided. Eligible taxpayers will now enjoy a 100% reduction of corporate income tax (“CIT”) for 5-20 years on a new investment of at least IDR 500 billion (± USD 36 million).

Requirements

A new investment, by a new or existing taxpayer, which meets the following requirements may be granted the tax holiday:

- A pioneer industry
- A new investment plan of at least IDR 500 billion
- The taxpayer is incorporated in Indonesia
- No previous tax holiday has been granted or rejected
- The MoF debt to equity ratio is met
- The Indonesian shareholder obtains a tax clearance letter from the Director General of Tax (“DGT”)

The application for the tax holiday must be submitted to the Investment Coordinating Board (“BKPM”) before the start of commercial production, but no later than one year after the investment approval was issued. After BKPM has reviewed the application, BKPM will provide the proposed CIT reduction (*Usulan Pengurangan Pajak Penghasilan Badan*) to the MoF, which has five business days to approve or reject the application.

Note that the facility under MoF-35 can be granted for a proposal submitted within five years of the effective date of MoF-35.

Pioneer industry

As before, a “pioneer industry” is defined as having a wide range of connections, provides high added value and externality, introduces new technology, and has strategic value for the national economy. The 17 approved business sectors are:

- Integrated upstream base metal
- Integrated oil and gas refining
- Integrated petrochemicals from oil, gas or coal
- Integrated inorganic base chemicals
- Integrated organic base chemicals from agriculture, plantation or forestry products
- Integrated pharmaceutical raw materials

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7. Semi-conductor and other main components of computers which are integrated into the manufacturing of computers
8. Main components of communication equipment which are integrated into the manufacturing of smartphones
9. Main components of health equipment which are integrated into the manufacturing of irradiation, electromedical, or electrotherapy equipment
10. Main components of industrial machinery which are integrated into the manufacturing of machinery
11. Main components of machinery which are integrated into the manufacturing of motor vehicles
12. Robotic components which are integrated into the manufacturing industry for machinery
13. Main components of ships which are integrated into the manufacturing of ships
14. Main components of aircraft which are integrated into the manufacturing of aircraft
15. Main components of trains which are integrated into the manufacturing of trains
16. Power plant machinery
17. Economic infrastructure

Further details of the scope of each industry and type of production will be stipulated by BKPM in a future regulation.

Capital investment

The required capital investment has been reduced from IDR 1 trillion (\pm USD 72 million) to IDR 500 billion (\pm USD 36 million). As before, the taxpayer must comply with the debt to equity ratio as stipulated by the MoF. However, although the investment must be new, the company does not have to be newly established. In addition, there is no longer a requirement to place any amount of the investment in a local bank account.

Tax holiday facility

Under the previous regulation, the tax holiday provided a 10%-100% reduction for 5-15 years. Under MoF-35, a taxpayer can now enjoy a 100% reduction of CIT for 5-20 years, depending on the value of the investment:

Investment value (IDR)	Tax holiday period
500 billion - 1 trillion	5 years
1 trillion - 5 trillion	7 years
5 trillion - 15 trillion	10 years
15 trillion - 30 trillion	15 years
> 30 trillion	20 years

In addition, the taxpayer enjoys a 50% CIT reduction for two years after the initial period expires.

The facility can be utilized from the year commercial production starts. The taxpayer is required to apply for a determination of the year commercial production starts. The DGT will then issue the decision based on a field audit.

If a taxpayer has multiple business activities, separate records must be kept for the activity granted the tax holiday.

Post approval

The tax holiday approval may be revoked if any of the following are discovered:

- The realization value is below IDR 500 billion;
- There is a failure to meet the realization of the initial main business activity plan;
- There are used capital goods imported or purchased, with certain exceptions;
- The main business conducted is not in accordance with the initial main business activity plan;
- Assets are transferred during the facility period, with certain exceptions; or
- The new investment is relocated to another country.

If the approval is revoked, the entire reduction must be repaid, plus a sanction in accordance with the prevailing law and regulations. Note that where the realization of the investment plan is less than the minimum threshold of the investment plan which was the basis for determining the tax holiday period, but the realization is in line with the initial main business activity plan, the taxpayer may be granted the income tax facility for capital investment with an adjustment to the tax holiday period.

A taxpayer granted the tax holiday must submit a report to the DGT within 30 days of the end of each tax year.

Transitional provisions

- A tax holiday which was granted under the old regulation will continue in effect until the end of the facility period.
- A proposal for a CIT reduction which was pending when MoF-35 was issued will be decided based on MoF-35.
- A taxpayer which obtained a BKPM investment license between 16 August 2015 and 3 April 2018 can submit an application for the tax holiday to BKPM based on MoF-35 provided it:
 - Meets the criteria and requirements stipulated in MoF-35;
 - The application is submitted before commercial production begins; and
 - The application is submitted by 3 April 2019.

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