

February 2019

- MoF Regulation No. 205/PMK.010/2018
- MoF Regulation No. 167/PMK.03/2018



Amendment to use tax book value on transfer of assets in a business expansion

MoF Regulation No. 205/PMK.010/2018

Minister of Finance (“MoF”) Regulation No. 205/PMK.010/2018, issued 31 December 2018, amends MoF Regulation No. 52/PMK.010/2017 (“MoF-52”) concerning the use of tax book value on a transfer and acquisition of assets in the context of a merger, consolidation, expansion, or business acquisition. The amendment is intended to promote foreign direct investment and support the government’s program to establish state-owned enterprise holding companies.

Two additional types of domestic taxpayers can now use tax book value for a transfer of assets in an expansion. These taxpayers, and the supplemental documents to be attached to their application, are:

| | DOMESTIC TAXPAYER | ADDITIONAL DOCUMENT TO SUBMIT |
|---|--|--|
| 1 | A corporate entity that resulted from a business expansion and received a minimum of IDR 500 billion of additional capital from a foreign investor | Deed of establishment or amendment of the Indonesian company resulting from the business expansion which states the amount of the new investment by the foreign investor |
| 2 | A state-owned enterprise that received capital from the government to establish a holding company | A letter of recommendation from the Minister of State-Owned Enterprises |

Other procedures and requirements regarding the use of tax book value on transfer of assets remain the same as before. (For a discussion of MoF-52, see our May 2017 News Alert).

Clarification on deductibility of certain benefits-in-kind

MoF Regulation No. 167/PMK.03/2018

MoF Regulation No. 167/PMK.03/2018 (“MoF-167”) revokes MoF Regulation No. 83/PMK.03/2009 (“MoF-83”) and amends the deductibility by employers of certain benefits-in-kind (“BIK”) provided to their employees. Below we summarize the main changes to BIK that qualify as being tax deductible for the employer. These BIK are provided by:

- employers in general, or
- employers located in certain remote areas.

| DESCRIPTION | CHANGE OR ADDITIONAL REQUIREMENT PER MOF-167 |
|---|--|
| Provided by employers in general | <ol style="list-style-type: none"> 1. Clarifies that vouchers for food and beverages which are provided to employees outside the workplace can be deducted from the employer's gross income, provided the voucher value per employee is not more than that provided to employees at the workplace. 2. Clarifies that "necessary for work performance" relates to worker security or safety as required by government agencies in charge of manpower. |
| Provided by employers located in remote areas | <ol style="list-style-type: none"> 1. Clarifies: <ul style="list-style-type: none"> - family members are entitled to healthcare and worship benefits - transportation only covers relocation costs at the beginning and end of the assignment |

Regarding deductibility of BIK provided by employers in remote areas, MoF-167 also states:

- An approval that the area qualifies as a remote area is granted for a 5-year period, with a possible 5-year extension. However, the period is extended to 10 years (+10) for a holder of an IUPK-OP (Production Operation Special Mining Business Permit) whose contract was initially a contract of work (CoW) or coal mining CoW which stated the treatment of BIK.
- The decision that an area qualifies as a remote area applies from the month the decision was issued. This was previously from the tax year the decision was issued.

Transitional provisions

Approvals that a company operates in a remote area based on MoF-83 remain applicable up to the end of their validity period. Applications to qualify as a remote area which were pending when MoF-167 was issued will be decided based on MoF-167.

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