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- DGT Circular No. SE-24/PJ/2018
- MoF Regulation No. 150/PMK.010/2018



Tax Treatment of Purchase Incentives

DGT Circular No. SE-24/PJ/2018

Director General of Taxation (“DGT”) Circular Letter No. 24/PJ/2018 (“SE-24”) provides guidance on the tax treatment of certain incentives/benefits for purchases.

A seller is defined as a party which sells products and includes producers, distributors and agents. A buyer is a party who purchases products from a seller, for resale purposes, and includes distributors, agents and retailers. A buyer may be given an incentive in the form of money, goods or a reduction of liabilities for the following:

- achieving certain conditions
- providing space (land/building) or other assets
- any compensation that may arise from a transaction

Details are provided below.

Achieving certain conditions

Achieving certain conditions can be in the form of reaching a certain amount of sales or purchases, or paying within a certain time. These are considered as (i) an award/bonus, or (ii) compensation for management services if there is a contract for services for which there is recognition of service fee or invoice for services. The tax treatment is as follows:

INCOME TAX TREATMENT	VAT TREATMENT
<p>Article 21: If the buyer is an individual, the usual progressive tax is applicable.</p> <p>Article 23: If the buyer is a corporate entity, permanent establishment ("PE"), or head office of a PE, the following tariffs are applicable:</p> <ul style="list-style-type: none"> - 15% for awards - 2% for management services <p>Article 26: If the buyer is an overseas taxpayer (with no PE) or a head office of a PE, a tariff of 20%, or lower treaty rate, is applicable.</p> <p>The tax base for incentives in the form of goods is:</p> <ul style="list-style-type: none"> - based on agreed value - calculated based on market value, if not on agreed value 	<p>If the award is in the form of <i>taxable goods</i>:</p> <ol style="list-style-type: none"> a. If the seller and buyer are within the customs area, the award is subject to VAT (collect, issue tax invoice, pay and report VAT) b. If the seller is within the customs area and the buyer is overseas, VAT on exports is applicable. <p>If the incentive is in the form of <i>management services</i>:</p> <ol style="list-style-type: none"> a. If the seller and buyer are within the customs area, the incentive is subject to VAT. b. If the seller is within the customs area and the buyer is overseas, the following treatment applies: <ul style="list-style-type: none"> ▪ VAT is not applicable to management services executed overseas ▪ VAT on export is applicable if the service fee is paid in the form of taxable goods. <p><i>If the award is given in the form of money or deduction of liability, VAT does not apply.</i></p>

Providing space or other assets

A seller may provide an incentive if a buyer provides space or equipment for the seller's interest. This could include floor or display shelves to support the seller's marketing activities. If space is provided, it is treated as rental of land and building; if equipment is provided, it is treated as rental of assets. The treatment is as follows:

	INCOME TAX TREATMENT	VAT TREATMENT
Compensation on rental of land/building	<p>Article 4 (2): Tariff of 10% if the recipient of compensation is an Indonesia tax resident.</p> <p>Article 26: If the recipient is an overseas taxpayer, the treatment of tax should refer to the relevant provisions in the tax treaty.</p>	<p>a. If the seller and buyer are in the customs area, the compensation is subject to VAT.</p> <p>b. If the seller is within the customs area, but the buyer is an overseas taxpayer (rental outside of the customs area), VAT is not applicable. If the incentive is given in the form of taxable goods, then regulations on export of taxable goods apply.</p>
Compensation on rental of assets	<p>Article 23: Tariff of 2% if the recipient of compensation is an Indonesia tax resident.</p> <p>Article 26: If the recipient is an overseas taxpayer, the treatment of tax should refer to the relevant provisions in the tax treaty.</p>	

Compensation from a transaction

A seller may compensate a buyer for (i) protection against price fluctuations, (ii) delays in delivery, or (iii) reimbursement of expenses for a seller-ordered sales program (e.g. 0% interest to final buyer). In each of these three situations, the tax treatment is as follows:

	INCOME TAX TREATMENT	VAT TREATMENT
Compensation to Indonesia taxpayer	<p>Articles 21 and 23 are not applicable to this transaction. However, the compensation must be reported in the tax return and is subject to corporate income tax.</p>	<p>a. If the seller and buyer are in the customs area, the compensation is subject to VAT.</p> <p>b. If the seller is within the customs area, but the buyer is an overseas taxpayer (rental outside of the customs area), VAT is not applicable. If the incentive is given in the form of taxable goods, then regulations on export of taxable goods apply.</p>
Compensation to overseas taxpayer	<p>Article 26 is not applicable.</p>	<p><i>If the award is given in the form of money or deduction of liability, VAT does not apply.</i></p>

Note that incentives arising from the above transactions are not a discount and cannot be claimed as such in the commercial invoice or tax invoice.

Tax Holiday

MoF Regulation No.
150/PMK.010/2018

Minister of Finance Regulation No. 150/PMK.010/2018 (“MoF-150”) is part of the government’s 16th economic policy package and offers a tax holiday to a wider range of industries with a minimum investment of IDR 100 billion (± USD 7 million). MoF-150 revokes MoF Regulation No. 35/PMK.010/2018 (“MoF-35”) and took effect 27 November 2018. (For a discussion of MoF-35, see our April 2018 News Alert.) The most significant changes in MoF-150 are discussed below.

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 100 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 DGT

Pioneer industry

Two additional sectors have been added which now qualify as “pioneer industry” and several sectors have been modified. The 18 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 main pharmaceutical raw materials
- Manufacturing of main components of electronics or telematics
- Manufacturing of irradiation, electromedical, or electrotherapy equipment
- Manufacturing of machinery and main components
- Manufacturing of motor vehicles and main components
- Manufacturing of robotic components which support the manufacturing industry for machinery
- Manufacturing of main components of ships
- Manufacturing of main components of aircraft and aerospace industry supporting activities
- Manufacturing of main components of trains
- Manufacturing of power plant machinery
- Economic infrastructure
- Agricultural, plantation or forestry-based manufacturing industry that produces pulp (**new**)
- Digital economy (**new**)

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

Tax holiday facility

MoF-35 granted a 100% reduction of corporate income tax ("CIT") for 5-20 years, depending on the value of the investment. Under MoF-150, the tax holiday granted is:

INVESTMENT AMOUNT	CIT REDUCTION	PERIOD	ADDITIONAL PERIOD
IDR 100 billion - IDR 500 billion	50%	5 years	25% CIT reduction for an additional 2 years after the initial period expires
IDR 500 billion - IDR 1 trillion	100%	5 years	50% CIT reduction for an additional 2 years after the initial period expires
IDR 1 trillion - IDR 5 trillion	100%	7 years	
IDR 5 trillion - IDR 15 trillion	100%	10 years	
IDR 15 trillion - IDR 30 trillion	100%	15 years	
IDR 30 trillion and above	100%	20 years	

Application procedure

The application is to be made at the time of registration for a business identification number for a new taxpayer, or no later than one year after the investment approval was issued.

Based on MoF-150, when an application for a new investment is submitted through the OSS system, the taxpayer will be notified automatically if it has met the criteria for a tax holiday or not. If the criteria are met, the taxpayer must submit the following documents prior to commercial production:

- Details of fixed assets listed in the investment plan and information on the debt-to-equity ratio (softcopy)
- Tax clearance letter of the Indonesian shareholders (softcopy)

Transitional provisions

A tax holiday which was granted under the old regulation will continue in effect until the end of the facility period.

A tax holiday application which was submitted between 4 April 2018 and 26 November 2018 will be decided based on MoF-35.

A taxpayer which obtained a BKPM investment license between 16 August 2015 and 26 November 2018 can apply for a tax holiday under MoF-150, but the classification of pioneer industry will be based on MoF-35.

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