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HARSONO STRATEGIC CONSULTING

NEWS ALERT
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- MoF Regulation No. 192/PMK.03/2018
- DGT Regulation No. PER-02/PJ/2019

Update on Foreign Tax Credit Rules

MoF Regulation No. 192/PMK.03/2018

Minister of Finance ("MoF") Regulation No. 192/PMK.03/2018 ("MoF-192") concerning foreign tax credit ("FTC") rules was issued on 31 December 2018. Although MoF-192 revokes MoF Decree No. 164/KMK.03/2002 ("MoF-164"), the overall FTC concept is essentially the same. MoF-192 provides more guidance or clarification of certain issues, mainly relating to:

- Calculation of taxable income
- Conversion rate for FTC
- Documents required to claim FTC

These and other issues are discussed below.

Calculating taxable income

A domestic taxpayer is taxed on worldwide income. However, tax due on income which was earned in another country can be credited against income tax payable in Indonesia.

MoF-192 specifies the types and sources of foreign income that can be credited against Indonesian income tax. A domestic taxpayer must combine its foreign income with its Indonesia-earned income (excluding that which is subject to final tax) to determine total taxable income. The foreign income which can be combined with Indonesia-earned income is as follows:

Type of foreign income	Income to be consolidated	Timing of consolidation
Income from a permanent establishment	Net income earned	In that fiscal year
Other foreign income	Net income received	In that fiscal year
Income from a foreign Trust	Net income or portion of net income	- If taxed at the Trust level: the fiscal year the income is earned - If not taxed at the Trust level: the fiscal year when the income is earned or received, whichever is earlier

General offshore business losses or business losses from an offshore branch cannot be considered when calculating taxable income, except for losses arising from an asset or activity that is effectively connected to the branch.

The amount of foreign income tax that can be credited against Indonesian tax payable is the smallest of:

a) The amount of tax that should be payable, paid or withheld according to the tax treaty ***(new)***;

b) The amount of foreign income tax actually paid or withheld; or

c) The amount calculated based on the ratio of foreign income to total taxable income multiplied by the income tax payable (proportionate amount), but no higher than the foreign income tax itself.

In addition:

- If total taxable income is less than the amount eligible for FTC, the maximum amount of FTC is the amount of income tax payable on the taxable income.
- If the applicable tax treaty states that the income is only taxable in Indonesia, the offshore income that was taxed cannot be credited.
- If the foreign taxed income is higher than the amount eligible for FTC, the excess cannot be credited, expensed, or refunded.
- If any foreign income tax that was credited has been reduced or refunded, the income tax payable in Indonesia is added to the refunded amount in the period the refund was made.

Conversion rate for foreign income tax

To calculate the amount of FTC, the amount of tax paid in foreign currency must be converted to IDR using the MoF-stipulated exchange rate. If the local taxpayer maintains bookkeeping in English and USD, the amount of the FTC must be converted to USD (using the BI middle rate or, if not available, the daily foreign exchange spot rate). The conversion to IDR or USD should be done based on when the foreign income tax is payable, paid or withheld. In practice, to simplify the treatment, the conversion date used refers to the date of payment or the withholding tax slip.

Documents required to claim FTC

As before, the domestic taxpayer must provide proof of payment of foreign income tax when the annual income tax return is filed in order to claim the FTC. This can be a copy of the foreign income tax payment or withholding slip, or other document that shows the foreign income tax payment or withholding was made, which states the name of the Indonesian taxpayer and the amount of foreign income tax.

A financial statement and copy of the overseas tax return are no longer required.

Other provisions

- MoF-192 imposes tax on income earned by a Trust. A Trust is defined as a scheme or arrangement, based on a written agreement, between a person or entity acting as a founder and a person or entity acting as an owner of an asset with the obligation to manage the asset for the interest of a beneficiary.
- FTC on dividends covered by the CFC rule are regulated separately under MoF No. 107/PMK.03/2017.
- MoF-192 applies from fiscal year 2018 onward.

Regulation on Procedure for the Submission. Receipt and Processing of Tax Returns

DGT Regulation No. PER-02/PJ/2019

The Director General of Taxation ("DGT") issued Regulation No. PER-02/PJ/2019 ("DGT-02") which specifies the administrative procedures for submission, receipt and processing of tax returns. DGT-02 came into effect on 23 January 2019. E-filing submission for various tax returns is now required for:

- Periodic and annual income tax returns (SPT) submitted by taxpayers registered at the Medium Taxpayer Tax Office (*KPP Madya*), Special Jakarta Regional Tax Office (*KPP Jakarta Khusus*), or Large Taxpayer Tax Office (*KPP Wajib Pajak Besar*)
- VAT returns

In addition, the DGT revised the previously published DGT-02 and clarifies that the transfer pricing documents to be submitted with the corporate income tax return are a one-page summary of the master file and local file, and the receipt of either the country-by-country report ("CbCR") notification or CbCR submission to the DGT online system.

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