

May 2018

- MoF Regulation No. 39/PMK.03/2018



Advance Tax Refund

MoF Regulation No.
39/PMK.03/2018

An advance tax refund is one which allows certain taxpayers to request an early refund when filing their tax return. Minister of Finance Regulation No. 39/PMK.03/2018 (“MoF-39”) amends, consolidates and revokes several previous regulations concerning advance tax refund procedures.

ELIGIBLE TAXPAYERS

There are three categories of taxpayers which may be granted an advance refund:

1. Taxpayers which meet certain criteria (*wajib pajak kriteria tertentu*), i.e., golden taxpayers
2. Taxpayers which meet certain requirements (*wajib pajak persyaratan tertentu*), essentially those with a small refund request (“taxpayer with small refund”)
3. Low-risk VATable taxpayers

1. Golden taxpayer

A golden taxpayer may request an advance refund of income tax and VAT. To qualify, the taxpayer must meet the following criteria:

- Submits timely tax returns
- Has no tax arrears, other than those permitted to be paid in installments or which have been postponed
- Has audited financial statements with an unqualified opinion for three consecutive years
- Has not been convicted of a tax crime in the last five years

To qualify as a golden taxpayer, an application must be submitted to the tax office where registered by January 10. The tax office must issue a decision within one month.

2. Taxpayer with small refund

A taxpayer can apply for an advance refund of income tax and VAT, without needing to apply to qualify as an eligible taxpayer, if the taxpayer meets one of the following criteria:

- An individual with no business or freelance activities who applies for an income tax refund in his/her annual tax return
- An individual with business or freelance activities who applies for an income tax refund in his/her annual tax return of no more than IDR 100 million (previously IDR 10 million)

- A company that applies for an income tax refund of no more than IDR 1 billion (previously IDR 100 million)
- A VATable taxpayer that applies for a VAT refund of no more than IDR 1 billion (previously IDR 100 million)

3. Low-risk VATable taxpayer

A low-risk VATable taxpayer can request an advance refund of VAT only. These taxpayers engage in export of VATable goods or services, deliver VATable goods or services to a VAT collector, or deliver VATable goods or services for which VAT is not collected. The company cannot be undergoing a preliminary evidence audit or tax investigation and must not have been convicted of a tax crime in the last five years. In addition, one of the following conditions must be met:

- The company's shares are traded on the Indonesia stock exchange
- The central or regional government is a majority shareholder of the company
- The company has Priority Partner of Customs status
- The company has Authorized Economic Operator status
- The company is a manufacturer or producer, not covered by the above, that engages in production activities and has submitted timely VAT returns for the last 12 months
- The company applied for a VAT refund of no more than IDR 1 billion (previously IDR 100 million)

To qualify as a low-risk VATable taxpayer, an application can be submitted to the tax office where registered at any time. The tax office must issue a decision within 15 business days.

A taxpayer does not need to submit an application to qualify for status as a low-risk VATable taxpayer if it meets all of the following criteria:

1. VAT refund is no more than IDR 1 billion
2. It is not in the process of a preliminary evidence audit or tax investigation
3. It has not been convicted of a tax crime within the last 5 five years

A taxpayer whose status has been revoked can resubmit the application to the tax office.

REVOCATION OF STATUS

A golden taxpayer or low-risk VATable taxpayer retains such status until the decision is revoked, which can be done for the following reasons:

Golden taxpayer

- Late submission of the annual income tax return
- Late submission of one type of monthly tax return for two consecutive tax periods
- Late submission of one type of monthly tax return for three tax periods within one calendar year
- In the process of a preliminary evidence audit or tax investigation

Low-risk VATable taxpayer

- In the process of a preliminary evidence audit or tax investigation
- Convicted of a tax crime
- No longer meets the criteria for a low-risk VATable taxpayer

APPLICATION FOR REFUND

In order to request an advance refund, the taxpayer must tick the appropriate advance refund box in the relevant tax return. If the approved tax refund amount is different from the amount requested, the taxpayer can reapply for a refund of the discrepancy through a separate letter. If the taxpayer does not reapply, the relevant tax return must be amended.

Both a formal and a material examination will be conducted on a golden taxpayer or low-risk VATable taxpayer. Only a material examination will be conducted on a taxpayer with small refund. A formal examination will include, among others, confirming the relevant criteria are met, no preliminary evidence audit is in process, and the tax returns have been filed on a timely basis (for a golden taxpayer). A material examination will include, among others, confirming the tax calculation is correct and that credited input VAT was reported by the seller.

After the examinations are conducted, the tax office will issue a decision on the refund within the following time periods:

- Golden taxpayer: Three months for income tax and one month for VAT
- Taxpayer with small refund: 15 business days for individuals and one month for companies
- Low-risk VATable taxpayer: One month

OTHER

If a taxpayer is a golden taxpayer or a taxpayer with small refund, who also meets the criteria for a low-risk VATable taxpayer, the rules relating to a refund for a low-risk VATable taxpayer will apply.

A taxpayer who qualifies for an advance refund must tick the box requesting an advance refund in the tax return. Note that the tax office can conduct a tax audit on the year or period that has been granted an advance refund. If the audit results in a tax underpayment position, the following administrative sanctions will apply:

- Golden taxpayer: 100% of the underpaid tax
- Taxpayer with small refund: 100% of the underpaid tax
- Low-risk VATable taxpayer: interest of 2% per month, up to 24 months

If the taxpayer ticked the box for a normal refund (12 months), normal penalties would apply.

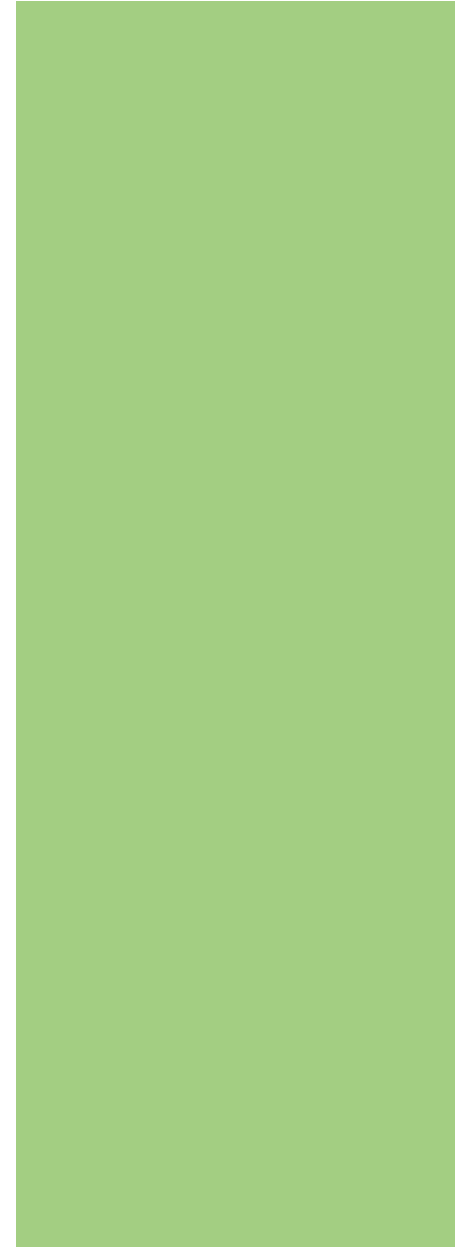
TRANSITIONAL PROVISIONS

A taxpayer eligible for golden taxpayer status has three months from 12 April 2018 to apply for such status.

Taxpayers who have already been appointed as a golden taxpayer or low-risk VATable taxpayer will be reappointed as such by the tax office within one month from 12 April 2018.

Outstanding advance tax refunds will be processed under the former regulations, i.e., MoF Regulation No. 71/PMK.03/2010 (“MoF-71”), MoF No. 74/PMK.03/2012 (“MoF-74”) and MoF No.198/PMK.03/2013 (“MoF-198”).

The existing implementing regulations for MoF-71, MoF-74 and MoF-198 remain in effect provided they are not contrary to the provisions set out in MoF-39.



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