NEWS ALERT

No. 3/2020

*April 2020*

- Government Regulation in Lieu of Law No. 1/2020
- Director General of Tax Circular Letter SE-22/PJ/2020


Government Regulation in Lieu of Law No. 1/2020 *and* Director General of Tax Circular Letter SE-22/PJ/2020

To further help alleviate the economic impact of the COVID-19 pandemic, the government issued Government Regulation in Lieu of Law No. 1/2020 ("PERPU-1") on 31 March 2020.

Changes to tax policies under PERPU-1 include:

1. Reduction in the corporate income tax ("CIT") rate
2. Tax on cross-border e-commerce
3. Extension of time to submit various tax filings
4. Customs facilities for certain goods

Numbers 1 and 2 above represent the changes proposed under the Draft Omnibus Tax Law (see our News Alert No. 7/2019).

Implementing regulation DGT Circular Letter SE- 22/PJ/2020 was issued on 9 April 2020 and provides details concerning the extension of certain tax deadlines.

**Reduction in CIT rate**

The CIT rate for domestic corporate taxpayers and permanent establishments is changed. The new rates are the same as those provided in the draft omnibus tax bill, but the timing has been advanced. The rates are as follows:

- 22% for tax years 2020-21
- 20% from tax year 2022

For listed companies with at least 40% of their shares listed on the Indonesia stock exchange, the rates are reduced by an additional 3% (19% in 2020-21; 17% from 2022).

**Tax on Cross-border e-commerce**

PERPU-1 defines an offshore trader or service provider is an individual or company who resides outside Indonesia and conducts electronic transactions with buyers in Indonesia. An organizer of trade through electronic systems (*Penyelenggara Perdagangan Melalui Sistem Elektronik*/"PPMSE") is a business which provides electronic communication facilities which are used for trading transactions. Offshore traders, offshore service providers, and offshore PPMSE are collectively referred to here as "offshore e-commerce traders."

*Value Added Tax ( VAT)*

VAT will apply to offshore intangible goods and services which are utilized in the Indonesia customs area where these activities are conducted through e-commerce. VAT is be collected, paid, and reported by offshore e-commerce traders, as well as domestic PPMSE appointed by the Minister of Finance ("MoF").

*Electronic Transaction Tax*

An offshore e-commerce trader that has a significant economic presence in Indonesia can be treated as a permanent establishment and will be subject to income tax in Indonesia.

A "significant economic presence" will be found if any of the following exceed a certain threshold (to be determined by the MoF):

- Gross consolidated group turnover
- Sales in Indonesia
- Active users of digital media in Indonesia

If, based on the relevant tax treaty, the offshore e-commerce trader cannot be deemed as a permanent establishment, an electronic transaction tax will be imposed. The electronic transaction tax will be imposed on sales to a buyer or user in Indonesia, whether these are conducted directly or through an offshore PPMSE. An offshore e-commerce trader can appoint an agent in Indonesia to collect, pay, and report VAT and/or fulfill its income tax obligations.

Offshore e-commerce traders and domestic PPMSE who fail to meet their tax obligations will be subject to administrative sanctions. In addition, after a warning, the MoF and Ministry of Communication and Informatics can disconnect access to the Indonesian market.

Further details on the tax rate, tax base and method of calculation will be provided through a Government Regulation. Details on various procedures, including payment and reporting of VAT and electronic transaction tax and appointment of an agent, will be provided by the MoF.

**Extension of time to submit certain tax filings**

The government has extended the force majeure period from 29 February to 29 May 2020. As a result, certain rights and obligations that fall within this period will receive an extension of time. These extensions include the following:

| Description | Normal Period | Extension (max) | New deadline |
|---|---|---|---|
| Deadline to file a tax objection letter (Art. 25.3 of KUP Law)<br><br>(Note: This does not apply to an objection to Land and Building Tax/PBB.) | 3 months | 6 months | **9 months** from delivery of tax assessment letter (SKP) or date of tax withholding/collection |
| Deadline for DGT to issue decree to refund tax payment (SKPKPP) (Art. 11.2 of KUP Law) | 1 month | 1 month | **2 months** from issuance of tax overpayment assessment letter (SKPLB) or certain other decisions, such as preliminary tax refund, tax objection, and receipt of tax appeal verdict |
| Deadline for DGT to issue a tax assessment letter (SKP) in connection with a request for a tax refund (Art. 17B(1) of KUP Law) | 12 months | 6 months | **18 months** from date of annual return noting tax overpayment |
| Deadline for tax audit – if notification of tax audit findings (SPHP) has not been issued | Field audit: 6 months<br><br>Office audit: 4 months | Field audit: 4 months<br><br>Office audit: 4 months | Field audit: **10 months**<br><br>Office audit: **8 months** |

| Description | Normal Period | Extension (max) | New deadline |
|---|---|---|---|
| Deadline for closing discussion on tax audit – if SPHP has been issued with a tax overpayment or underpayment and taxpayer either disagrees with the findings or has not yet responded | 2 months | 2 months | **4 months** from date SPHP was delivered to taxpayer |
| Deadline for issuance of an objection decision by the DGT<br>(Art. 26.1 of KUP law) | 12 months | 6 months | **18 months** from date the application was received |
| Deadline for decision on requests for:<br>• reduction/elimination of administrative sanctions<br>• reduction/cancellation of incorrect SKP<br>• reduction/cancellation of incorrect tax collection letter (STP)<br>• cancellation of tax audit result<br>(Art. 36.1 of KUP law) | 6 months | 6 months | **12 months** from date application was received |

### Customs facilities for certain goods

To help maintain economic stability, the MoF is authorized to expand the list of goods which can be provided an exemption from or reduction to import duties. The list of such goods will be provided in a further MoF regulation.

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