

Covid-19 and Tax

Income tax rate cut to 22% for fiscal year 2020, further down to 20% from 2022

Corporate income taxpayers and permanent establishments (PE) will see their income tax rates cut to 22% for fiscal year 2020 and further down to 20% from 2022. Those with at least 40% of their shares traded on the Indonesian Stock Exchange will still get an extra reduction of 3% from the general tax rates. This measure has been taken by the Government as part of its state treasury and financial system stability policy set out in Government Regulation in Lieu of Law No. 1/2020 ("PERPU 1") issued on 31 March 2020 in response to the severity of Covid 19 outbreak.

Other tax changes include the extension of the time provided for the performance of certain tax rights and obligations, not only for the interest of taxpayers but also the Director General of Taxation (DGT), and the introduction of tax rules applicable for e-commerce business.

Time extension

Referring to the State of Certain Emergency Disaster (SCED) period spanning from 28 January to 29 May 2020 as established by the National Agency for Disaster Prevention (BNPB), PERPU 1 extends the time provided for the performance of the following tax rights and obligations which otherwise would hit the deadline in the SCED period for a maximum of six months:

- Submission of tax objection letter
- Issuance of the DGT decision letter on a tax refund request in accordance with Article 17B of the Tax Administration Law ("KUP Law")
- Issuance of the DGT tax assessment letter, DGT decision letter on a tax objection; and
- Issuance of the DGT decision letter on an application for administration penalty write off, reduction or cancellation of an incorrect tax assessment, and cancellation of tax audit results as meant by Article 36(1) of the Tax Administration Law.

With respect to an application for a preliminary refund ("*Pengembalian Pendahuluan*") which otherwise the DGT should have decided in the SCED period, PERPU 1 gives the DGT an extension of the time to process the application for a maximum of one month. Taxpayers may therefore see a delay in the issuance of the DGT decision on their application.

It should be noted that the time extension only applies to the specified tax affairs which otherwise would hit the deadline in in the SCED period. PERPU 1 suggests that similar tax

affairs which fall due before or after the SCED period still have the standard times as specified in the Tax Administration Law ("UU KUP").

E-commerce business

PERPU 1 sets out new rules specifically aimed at the taxation of e-commerce business which otherwise is beyond the reach of the prevailing tax law, namely:

- VAT is due on the use or consumption in Indonesia of intangible taxable goods and/or taxable services originated from outside Indonesia transacted through an Electronic Trading System (e-commerce system);
- Foreign tax subjects with a significant economic presence (SEP) in Indonesia through their e-commerce business operations in Indonesia are deemed as having a permanent establishment (PE) in Indonesia and on that basis are held liable for Indonesian income tax in respect of their business income attributable to the PE;
- Where a tax treaty is in force a mere SEP of a foreign tax subject may not give rise to a PE. Electronic transaction tax (ETT) is applicable for foreign tax subjects with a SEP through their e-commerce business operations in Indonesia but cannot be deemed as having a PE in Indonesia.
- The SEP of a foreign tax subject is to be determined on the basis of its group's consolidated turnover, its sales in Indonesia, and/or the number of active users of its digital media in Indonesia.

B2B transactions involving the use or consumption in Indonesia of intangible taxable goods or taxable services originated from outside Indonesia have long seen the imposition of VAT through the self-assessed mechanism, i.e., the Indonesian users or buyers are held responsible for paying the VAT (on behalf of the foreign vendors).

The new rule is apparently targeting BTC transactions where the self-assessed mechanism is unlikely to work. PERPU 1 therefore asserts that it is the foreign vendors or the foreign service providers, not the Indonesian users or consumers, who are held responsible for the collection, payment, and reporting of the VAT. Subject to further provisions in a Minister of Finance (MoF) regulation, the VAT collection, payment, and reporting may be shifted to a foreign e-commerce system provider or a domestic e-commerce system provider appointed by the MoF. Alternatively, the foreign vendor or service provider may appoint a representative based in Indonesia to carry out the VAT obligations.

PERPU 1 is silent on the procedure for the imposition of income tax and ETT. Details about it, including the tax rate, the tax base, tax calculation procedure, and how to pay the tax will be provided in a government regulation and a MoF regulation.

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