



## Indonesia Tax Alert April 2020

### New Implementing Regulation on Tax Incentives during COVID-19 Outbreak

Following the issuance of Minister of Finance (“MoF”) Regulation Number 23/PMK.03/2020 (“PMK-23”), which introduces a number of tax incentives designed to support businesses and individuals during COVID-19 outbreak (please refer to [Tax Alert March 2020 – 2<sup>nd</sup> edition](#)), the Directorate General of Taxation (“DGT”) has issued Circular Letter Number 19/PJ/2020 (“SE-19”). SE-19, which came into force on 1 April 2020, was issued to function as the operational implementing guidance of PMK-23 and provides practical guidance for taxpayers to access the incentives with ease.

The additional guidance from SE-19 for each of tax-related incentives stipulated in PMK-23 is summarized below:

1. Article 21 Employee Income Tax (“EIT”) Borne by the Government
  - a. This facility is accessible for taxpayers who fulfil the criteria as stipulated in PMK-23, including branch offices.
  - b. The submission of the notification letter to apply for this facility has to be performed through online channel via DGT’s portal. The taxpayer will receive a confirmation or rejection on the submission of notification letter from the system.
  - c. The tax payment slip (*Surat Setoran Pajak* (“SSP”)) that needs to be enclosed with the realization report is also to be submitted through the DGT online system before the reporting deadline.
  - d. The incentive is applicable from the tax period when the notification is submitted until September 2020, or until the fiscal period when the KITE facility (i.e. facility for relaxation of conditions for import of goods for export purposes) is revoked during the incentive utilization period (for KITE companies).

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## 2. Exemption for Article 22 Income Tax on Imports

- a. The application of tax exemption letter (*Surat Keterangan Bebas* ("SKB")) has to be submitted online through the DGT online system.
- b. If the KITE facility for a KITE company is revoked by the Directorate General of Customs and Excise (DGCE), the DGT will revoke the SKB, and the taxpayer shall no longer eligible to utilize the incentive from the date of the revocation of KITE facility. However, the Article 22 Income Tax on Import that has already been exempted prior to the revocation is not required to be repaid to the DGT.
- c. The incentive is applicable from the issuance date of SKB until September 2020, or until the KITE facility expires/is revoked (for KITE companies) if this event occurred during the incentive utilization period.
- d. The tax incentive utilization report has to be submitted through the DGT online system using the prescribed format that can be downloaded from the system before the reporting deadline.

## 3. 30% Reduction of Article 25 Income Tax ("monthly tax installments")

- a. The reduction of monthly tax installment of 30% is applicable to:
  - (i) Calculation of monthly tax installment based on Fiscal Year ("FY") 2019 Corporate Income Tax Return ("CITR");
  - (ii) Monthly tax installment using the corresponding amount to December 2019 in case the FY2019 CITR has not been submitted;
  - (iii) Calculation of monthly tax installment based on DGT's Decision Letter for reduction of monthly tax installment due to weakening business condition; or
  - (iv) Calculation of monthly tax installment based on MoF regulation for certain taxpayers.
- b. The incentive is applicable from the tax period when the notification is submitted to the DGT online system until September 2020, or until the fiscal period when the KITE facility is revoked (for KITE companies) if this event occurred during the incentive utilization period.
- c. The tax incentive utilization report has to be submitted through the DGT online system using the format downloaded from the system before the reporting deadline.

## 4. Business Classification (*Klasifikasi Lapangan Usaha* ("KLU")) Issues

PMK-23 left some uncertainties around the KLU that are eligible for the incentives. In order to address this issue, SE-19 provides the following clarification:

Taxpayer's Condition	Taxpayer's/DGT's Action
If the taxpayer's KLU is included in Appendices A or F of PMK-23, yet the KLU number indicated in its FY2018 CITR is incorrect or FY2018 CITR has not been submitted	The taxpayer should submit or revise its FY2018 CITR accordingly in order to be qualified for the incentives.
If the FY2018 CITR has been or being audited by the tax office yet the KLU number reported in the taxpayer's Masterfile is incorrect	The taxpayer can request to update the KLU information in Masterfile to the tax office.
If the KLU reported in FY2018 CITR is different from Tax Registration Certificate ( <i>Surat Keterangan Terdaftar</i> ("SKT")) or Masterfile, but the taxpayer is still eligible for the incentives	<p>DGT will update the information in SKT and Masterfile to match the information reported in FY2018 CITR.</p> <p>If the tax office discovers that based on the KLU or actual business, a taxpayer should not be eligible for the incentives later after utilization, the tax office will issue a Request for Explanation of Data and/or Information (<i>Surat Permintaan Penjelasan atas Data dan/atau Keterangan</i> ("SP2DK")) urging the taxpayer to revise the tax returns and to settle the outstanding payment.</p> <p>If the taxpayer ignores the SP2DK, the DGT may issue tax collection letter (<i>Surat Tagihan Pajak</i> ("STP")) to collect the outstanding taxes (and the associated tax penalties).</p>

Taxpayer's Condition	Taxpayer's/DGT's Action
	However, the STP will not be issued if the taxpayer recalculates the EIT in the December 2020 EIT Return or the FY2020 CIT and settle the taxes that may otherwise should have been due.
If the taxpayer is registered for taxation purposes after FY2018	The KLU shall follow the information stated in the SKT.

#### 5. Preliminary Refund of Value Added Tax ("VAT") Overpayment

Further guidance related to VAT incentives under PMK-23 shall include the following:

- a. VAT entrepreneur (*Pengusaha Kena Pajak* ("PKP")) requests for preliminary refund of VAT overpayment through submission of VAT return or submit a request for preliminary refund letter to the tax office where the PKP is registered.
- b. The tax office where the PKP is registered will process the refund request. The tax office will check the formal and material requirements fulfilment of the request.
- c. The formal requirements shall include the information whether:
  - (i) The taxpayer fulfils the KLU or KITE company requirements;
  - (ii) Amount of accumulated overpayment in VAT return is maximum IDR 5 billion;
  - (iii) Tax period when the refund is requested falls between April and September 2020;
  - (iv) The refund request is submitted on 31 October 2020 at the latest;
  - (v) No preliminary investigation for tax crime has been conducted;
  - (vi) The taxpayer is not undergoing an audit for tax crime; and
  - (vii) The taxpayer has never been arrested for tax crime for the last five years.
- d. The material requirements shall include the information whether:
  - (i) The listing and calculation of tax information are correct;
  - (ii) The input VAT and self-paid VAT reported in the VAT return are correct; and
  - (iii) The input VAT has been reported by both the PKP who requests for refund and the PKP who issues the VAT invoice.
- e. The tax office will only review the input VAT for the month the refund is requested and issue a Decision Letter on the Preliminary Refund of Tax Overpayment (*Surat Keputusan Pengembalian Pendahuluan Kelebihan Pajak* ("SKPPKP")) or a refund rejection letter within one month after the request is submitted in complete.
- f. After the SKPPKP is issued, the tax office may carry out an audit to verify the VAT overpayment reported in the VAT returns prior to the refund request.
- g. If the PKP fails to fulfil the formal or material requirements, the refund may be processed following the regular refund procedures (12-month refund process).
- h. SE-19 also provides procedures that tax office has to follow in order to process the refund request.

#### 6. Comments

Considering that PMK-23 and SE-19 are in effect now, taxpayers who wish to utilize incentives under PMK-23 should start assessing their eligibility for the incentives and act accordingly.

#### Extension of COVID-19 Prevention Period in the DGT

On 15 March 2020, the DGT has issued Circular Letter Number SE-13/PJ/2020 to govern the implementation of the DGT's service during the COVID-19 prevention period (i.e. starting from 15 March until 5 April 2020). However, to further prevent and manage the COVID-19 outbreak, the DGT issued Circular Letter Number SE-21/PJ/2020 to extend the prevention period to 21 April 2020.

During this prevention period, the services available in tax office that require direct contact will continue to be limited (please refer to [Tax Alert March 2020](#) for the list of tax office services affected by the prevention measure).

## Extension of COVID-19 Prevention Period in the Tax Court

Similarly, the Tax Court has also issued Circular Letter Number SE-03/PP/2020 (“SE-PP-03”) to extend the COVID-19 prevention period in tax court initially from 17 March to 3 April 2020 (please refer to [Tax Alert March 2020](#)) to 21 April 2020.

### 1. Tax Court Hearings

Tax court hearings that were initially scheduled during the prevention period will be postponed. The new tax court hearings will be scheduled after the prevention period has passed.

### 2. Application for Tax Appeal

For tax appeal that will be applied directly to the tax court reception desk and the deadline to submit the appeal letter falls during the prevention period, the deadline will be deferred with corresponding number of days relative to the prevention period. Under SE-PP-03, the number of total maximum deferred days is 36 days (17 March to 21 April 2020). SE PP-03 provides example on how to calculate the extension of the deadline.

Tax appeal application letter that are submitted by post must remain following the prevailing regulations.

### 3. Application for tax lawsuit

If the lawsuit is to be applied directly to the tax court reception desk and the deadline to submit the lawsuit falls during the prevention period, the deadline is extended to 14 days after the prevention period ends (i.e. 5 May 2020).

Tax lawsuit application letter that are submitted by post must remain following the prevailing regulations.

### 4. Period for Preparation and Implementation of Tax Court Hearings

The period for preparation and implementation for tax court hearings as referred to in Article 48 of Tax Court Law is not extended. Similarly, the period of court hearing procedures until the issuance of court verdicts as referred to in Articles 81 and 82 of Tax Court Law is also not extended.

### 5. Helpdesk Services

Application of appeal, lawsuit, or judicial review that is submitted directly through helpdesk service will be temporarily suspended. Information service and direct submission of letters through helpdesk are also temporarily suspended.

### 6. Other Matters

Other arrangements under SE-01/PP/2020 and SE-02/PP/2020 shall remain valid as long as they do not contradict SE PP-03.

## Implementing Guidance for Certain Administrative Procedures under PERPU-1

On 31 March 2020, the President of the Republic of Indonesia issued Government Regulation in Lieu of Law Number 1 (“PERPU-1”, please refer to [Tax Alert April 2020](#)). One of the key matters that PERPU-1 covers is the extension of deadlines for certain tax administrative procedures.

The deadline extension arrangements under PERPU-1 has only high-level nature. To provide a uniformed guidance and procedures in implementing these extension arrangements, the DGT issued Circular Letter Number 22/PJ/2020 (“SE-22”) on 9 April 2020.

SE-22 confirms that the “force majeure” period for certain tax procedures shall follow the period stipulated by the National Disaster Management Agency (*Badan Nasional Penanggulangan Bencana* (“BNPB”)). Currently, the force majeure period is set from 29 February to 29 May 2020 (please refer to Head of BNPB’s decision letters Number 9.A and Number 13.A Year 2020). Hence, the force majeure period for certain tax procedures will continue if BNPB decides to extend the force majeure period.

SE-22 provides examples and detailed guidance on how to calculate the deadline extension, which can be summarized as follows:

Arrangements under Previous Regulation on COVID-19		Arrangements under PERPU-1 and SE-22
Procedures	Reference	
Application for objection, whose deadline falls between 15 March and 30 April 2020, is extended until 31 May 2020.	KEP-156 <sup>1</sup> (point number 8)  KUP Law <sup>2</sup> Article 25(3)	Application for objection, whose deadline falls during BNPB’s stipulated force majeure period (i.e. 29 February to 29 May 2020), is extended for a maximum of six months, i.e. nine months since the issuance date of the tax assessment letter ( <i>Surat Ketetapan Pajak</i> (“SKP”) or the date of tax withholding.
Overpaid tax will be refunded within one month of the taxpayer’s request for a refund (following the issuance of overpayment decision letter by the ITA).	KUP Law (Article 11 (2))	If the refund deadline falls between 29 February 2020 and 29 May 2020, the deadline is extended to two months.
Deadline for the issuance of decision letters for: 1. Audit for tax restitution: maximum 12 months from the date the completed restitution request is received; 2. Tax objection: maximum 12 months from the date the tax objection letter is received; and 3. Request for reduction or annulment of administrative sanctions, reduction or cancellation of incorrect tax assessment letter (including land and building tax), or cancellation of audit findings: Maximum six months from the date the request letter is received.	KUP Law (Article 17B (1))  KUP Law (Article 26(1))  KUP Law (Article 36(1))	If the deadline for the issuance of the assessment or decision letter falls between 29 February 2020 and 29 May 2020, the deadline is extended for six months, i.e., 18 months in total (or 12 months in total for request related to land and building tax).  Since the deadline for the issuance of the tax assessment or decision letter is extended, the timeline for the relevant procedures is also adjusted. SE-22 also provides detailed guidance on the adjusted timeline of the procedures.

SE-22 comes into force as of 9 April 2020. It is suggested that taxpayers who plan to submit requests or for whom the deadline for the tax procedures above are approaching should review the changes in the timeline under PERPU-1 and SE-22.

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<sup>1</sup> “KEP-156” refers to DGT Decision Letter Number KEP-156/PJ/2020.

<sup>2</sup> “KUP Law” refers to the Law of General Procedures and Provisions for Taxation.

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