



Indonesia Tax Alert April 2020

New State Financial Policies Announced in Response to COVID-19

In view of the urgent need to preserve the health of the national economy during the COVID-19 outbreak, the President of the Republic of Indonesia on 31 March 2020 took an emergency measure by issuing Government Regulation in Lieu of Law Number 1 ("PERPU-1").

PERPU-1, which has immediate effect, covers national income policy (including taxation), state spending policies (including regional finance), financing policies, and other measures to manage issues being faced by financial institutions that might otherwise endanger the national economy and/or the stability of the financial system.

The policies related to taxation are the:

1. Reduction of the corporate income tax ("CIT") rate for domestic corporate taxpayers and permanent establishments ("PEs");
2. Introduction of tax treatments on trades through electronic system (*Perdagangan Melalui Sistem Elektronik* ("PMSE"));
3. Extension of the deadlines for certain tax administrative procedures; and
4. Delegation of authority to the Minister of Finance ("MoF") to determine goods eligible for import duty exemption or reduction.

1. Reduction of the CIT rate for Domestic Corporate Taxpayers and PEs

The CIT rate for domestic corporate taxpayers and PEs is reduced from 25% to:

- a. 22% for fiscal years (“FY”) 2020 and 2021; and
- b. 20% for FY 2022 and subsequent years.

For publicly listed corporates with a minimum of 40% of the shares held by public investors, that meet certain other criteria, the applicable CIT rate is 3% lower than the regular rate. The specific criteria will be set out in a further Government Regulation (“GR”).

While this is a very welcome measure, there is an implementation issue that corporate taxpayers must consider. The Article 25 Income Tax (“monthly tax installments”) payable by corporate taxpayers in 2020 are calculated based on the 2019 CIT return, except for certain business sectors that are subject to special calculation of monthly tax installments, e.g., banks, financial institutions, and publicly listed companies, etc.. However, businesses may have been affected by COVID-19 from the beginning of 2020 and the situation may continue to worsen over the course of the outbreak. Previous government measures only provided reliefs for monthly tax installments payable by companies in certain manufacturing sectors (please refer to [Tax Alert March 2020 2nd edition](#)). As a result, it is possible that corporate taxpayers who do not qualify for the relief will continue to suffer cash flow issues in paying the monthly tax installments, and face potential tax overpayments in their 2020 CIT returns.

As there is a separate regulation governing the reduction of monthly tax installments, taxpayers may wish to consider it in such case.

2. Introduction of Tax Treatments on PMSE

The Government is at the same time using this opportunity to introduce tax treatments on foreign traders, offshore service providers, or e-trading providers (“PPMSEs”). In summary, the tax treatment on PMSE can be summarized as follows:

Tax Procedure	New Treatment Under PERPU-1	Previous Tax Treatment
Collection and payment of value added tax (“VAT”) on the utilization of offshore intangible goods and/or offshore services	VAT is to be collected, paid, and reported by the foreign traders, offshore service providers, foreign PPMSEs, and/or local PPMSEs (appointed by the MoF).	VAT is collected by the local consumers who utilize the offshore intangible goods and/or offshore services via the tax payment slip (i.e., self-assessed VAT mechanism).
Taxation of a non-resident without a physical presence in Indonesia on the income arising from their e-transaction businesses	A foreign trader, foreign service provider, and/or offshore PPMSE that meets the significant economic presence (“SEP”) condition may be treated as having a PE in Indonesia and hence subject to income tax. The SEP condition may be met by exceeding specified thresholds for: 1. Group consolidated gross turnover; 2. Sales in Indonesia; and/or 3. Active digital media users in Indonesia.	Not taxed
Introduction of new electronic transaction tax	Where the Indonesian Tax Authority (“ITA”) is unable to determine the existence of a PE based on the SEP approach due to the application of a tax treaty with another jurisdiction, a foreign trader, foreign service provider, and/or offshore PPMSE that meets the SEP condition is subject to “electronic transaction tax”.	Not regulated

Tax Procedure	New Treatment Under PERPU-1	Previous Tax Treatment
Penalties for noncompliance by a foreign trader, foreign service provider, and/or offshore PPMSE	<p>A foreign trader, foreign service provider, and/or offshore PPMSE that does not comply with VAT, income tax and/or electronic transaction tax obligations is subject to administrative penalties as stipulated under the Law of General Procedures and Provisions for Taxation (“KUP Law”).</p> <p>Noncompliance also may be penalized by having access to the Indonesian market disconnected where a warning is ignored. This will be carried out in coordination with Ministry of Communication and Informatics.</p>	Not regulated

Foreign trader, foreign service provider, and/or offshore PPMSE may appoint an Indonesian domiciled representative to collect, pay, and report the VAT, and/or carry out the obligations on the income tax or electronic transaction tax on their behalf.

The tax rate, tax base, and method of calculation of the income tax and electronic transaction tax will be further prescribed by a GR.

A more detailed guidance also will be provided by the MoF on the:

- a. Procedure for appointment, collection, settlement, and reporting of VAT;
- b. SEP condition, tax settlement mechanism, and reporting of income tax and electronic transaction tax;
- c. Procedure for appointment of a representative;
- d. Procedure for warning a noncompliant foreign trader, foreign service provider, and/or offshore PPMSE; and
- e. Procedures to request to the Ministry of Communication and Informatics to disconnect access to Indonesian market.

Although the implementing GRs and MoF regulations have not yet been issued, taxpayers affected by the provisions may wish to consider making the necessary preparations in anticipation of the implementing regulations.

3. Extension of the Deadlines for Certain Tax Administrative Procedures

On 20 March 2020, the Directorate General of Taxation issued Decision Number KEP-156/PJ/2020 (“KEP-156”) that defines the period between 14 March 2020 and 30 April 2020 as a “force majeure” period for tax purposes (please refer to [Tax Alert March 2020 2nd edition](#)). PERPU-1 states that the force majeure period for certain tax procedures will follow the period stipulated by the National Disaster Management Agency (*Badan Nasional Penanggulangan Bencana*). PERPU-1 takes priority over KEP-156, and for the procedures listed in the table below, the force majeure period follows PERPU-1:

Arrangements under Previous Regulation on COVID-19		Arrangements under PERPU-1
Procedure	Reference	
Application for objection, where deadline falls between 15 March to 30 April 2020, is extended until 31 May 2020.	KEP-156 (point number 8)	Application for objection, where deadline falls during BNPB determined force majeure period, is extended for a maximum of six months.
Overpaid tax will be refunded within one month of the taxpayer’s request for a refund (following the issuance of overpayment decision letters by the ITA).	KUP Law (Article 11 (2))	The refund deadline is extended to two months.

Arrangements under Previous Regulation on COVID-19		Arrangements under PERPU-1
Procedure	Reference	
Deadline for the issuance of decision letters for: <ol style="list-style-type: none"> 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, 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))	The deadline for the issuance of the assessment or decision letter is extended for a maximum of six months.

PERPU-1 does not provide examples or clear guidance on how to calculate the deadline extension, but it could be assumed that the extension would be calculated from the original deadline.

Taxpayers who plan to submit requests or for whom the deadline for the tax procedures above are approaching should monitor the changes in the deadlines.

4. Delegation of Authority to the MoF to Determine Goods Eligible for Import Duty Exemption or Reduction

The goods eligible for an import duty exemption or reduction are specified in articles 25(1) and 26(1) of the Customs Law. To improve the effectiveness in issuing policies related to imports during the COVID-19 outbreak, and to help maintain the stability of the state fiscal and financial system, the MoF is given the authority to update the list of eligible goods.

5. Closing Remarks

The application of some of the tax provisions in PERPU-1 require further implementing regulations, which, given the urgency of the situation, we expect to be issued very soon. We will provide further updates once these regulations are issued.

Contact Persons

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