



Indonesia Tax Alert December 2019

Updates on Tax Allowance Facility

The Indonesian Government issued Regulation Number 78 Year 2019 ("GR-78") regarding Income Tax Facility for Capital Investment in Certain Business and/or Certain Region, which was previously regulated under Government Regulation Number 18 Year 2015 as amended by Government Regulation Number 9 Year 2016 ("GR-18"). GR-78 was issued on 13 November 2019 and is effective from 13 December 2019.

GR-78 is issued by the Government with the aim to encourage and increase direct investment activities, which will enhance economic growth and business sector development. The salient points of GR-78 are summarized as follows:

1. Eligibility for Tax Allowances

This tax facility is provided for Domestic Taxpayers having investment in its primary business activity, either as new investment or expansion of existing business, in several specific sectors or specific sectors in certain regions as listed in the attachments of GR-78.

The number of specific certain sectors eligible for this facility increases significantly from previously 71 to 166 categories, while the number of specific sectors in certain regions eligible for this facility decreases from 74 to 17 categories, as highlighted below:

- GR-78 includes additional categories on certain specific sectors, such as agriculture for herbs, aromatics, and drugs, agriculture for plant farming, while several categories have been removed, such as oil/gas refinery or processing industry, etc.
- Several categories that were previously mentioned under GR-18 as certain sectors in certain regions have now been reclassified to certain specific sectors only.

- Several changes related to product coverage, region, and requirements have been made under GR-78, for example, requirements for beef cattle breeding category, i.e. in partnership with breeder in cattle husbandry business with minimum cage capacity of 10%.

Primary business activities represent business field and type of activity/service stated in the Request Letter for Tax Facility. The expansion of existing business does not include replacement and/or addition of machines and/or equipment carried out in production lines that are already in commercial production.

Taxpayers that operate in Integrated Economic Development Zone (*Kawasan Pengembangan Ekonomi Terpadu*) with its associated tax facilities and taxpayers that obtain the tax holiday and labor-intensive "Super Deduction" facility (*please refer to our [Tax Alert July 2019 2nd Edition](#) and [Tax Info September 2019](#)*) are not eligible for this tax allowance facility.

In addition to meeting the business sectors criteria and/or region requirements, the taxpayers will need to fulfill one of the following criteria:

- Having high investment value or designated for export purposes
- Having high employment rate, or
- Having high local content.

2. Tax Allowance Facility

The key features of the tax facilities provided for the entrepreneurs under GR-78 remain the same as those stipulated under GR-18, and reiterated as follows:

- Taxable income reduction with amount equal to 30 % (thirty percent) of tangible fixed assets investment, including land used for primary business activities, during a period of 6 (six) years with the rate of 5 % (five percent) per year.
- Accelerated depreciation of tangible assets and accelerated amortization of intangible assets obtained in the context of new capital investment and/or business expansion.
- Withholding tax on dividend declared to foreign taxpayers other than permanent establishments in Indonesia shall be imposed at 10% (ten percent) rate, or lower rate based on the applicable double taxation avoidance agreement.
- Tax Loss Carried Forward for up to 10 years (maximum) with several requirements (i.e. maximum extension of five years as the standard tax loss carry forward period is five years).

2.1. Updates on Tax Facility for Tax Loss Carried Forward

The provision regarding additional Tax Loss Carried Forward period are now as follows:

Additional Tax Loss Carry Forward Period (maximum total period of 5 years)	Criteria
1 year	Investment in certain industries or certain industries in certain areas (as listed in Attachments 1 and 2 of GR-78 ⁽¹⁾)
1 year	New investment in industrial zone or bonded zone ⁽¹⁾
1 year	Investment in new and renewable energy sector ⁽²⁾
1 year	Economic and/or social infrastructure spending of minimum IDR 10 billion ⁽²⁾
1 year	Use of domestic raw material of minimum 70% by the second year of commercial production ⁽²⁾

Additional Tax Loss Carry Forward Period (maximum total period of 5 years)	Criteria
1 or 2 years	Additional number of Indonesian employees of at least 300 people or 600 people respectively for at least four consecutive years ⁽²⁾
2 years	R&D expense to improve production efficiency of minimum 5% of investment value within 5-year period ⁽²⁾
2 years	Minimum export of 30% of total sales for business activities outside of bonded zone. ⁽²⁾

Note:

- 1) *Automatic extension and are only applicable from the year the tax allowance facility is approved up to the third year of commercial production*
- 2) *These are only applicable for the first six years of commencement of commercial operation and approval is required for each fiscal year*

2.2 Tax Facility for Tangible Fixed Assets Including Land

The criteria for tangible fixed assets including land eligible for the facility are:

- a. Acquired by taxpayers in new condition, except for relocation of an integrated investment from another country;
- b. Included in initial approval, investment permit, and investment registration, which are issued by the relevant Government authority, which is used as the basis for tax facility approval;
- c. Owned and used for primary business activities; and
- d. In respect of tangible fixed assets (excluding land), the asset is acquired after issuance of certain licenses specified under GR-78.

The tangible fixed assets including land subject to such facility must be used in accordance with its intended purpose and shall not be transferred (except if replaced with new tangible asset) within six years since commercial operation or tangible asset useful life specified under GR-78, whichever is longer.

3. Application of Tax Allowance Facility

The application of Tax Allowance Facility request should be submitted through the OSS online system (while previously under GR-18, request should be submitted manually in accordance with BKPM regulation). GR-78 emphasizes that the application must be submitted prior to the commencement of commercial operation.

The submission of application through OSS must be made under the following guidelines:

- a. Along with the application of business registration number for new taxpayers; or
- b. For investment and/ or expansion activities, submission must be filed no later than 1 (one) year after the business registration number is issued.

The Minister of Finance ("MoF") approves the Tax Allowance Facility based on complete and valid application. Detail of the requirements for the application will be further governed under the MoF Regulation.

4. Transitional Provisions

GR-78 includes specific transitional provisions that should be observed by taxpayers, including:

- a. Taxpayers who have been granted with tax allowance facilities under GR-18, can continue to enjoy the facility until the expiration date.
- b. Applications that have been submitted before GR-78 is issued will be processed in accordance with GR-78 requirements, subject to certain conditions.

The implementing regulations of GR-18 are still valid, as long as there are no conflicting provisions with GR-78.



Contact Persons

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