Indonesia Tax Alert July 2019

New Updates on Indonesian Controlled Foreign Corporation Rules

The Ministry of Finance ("MoF") issued Regulation Number PMK-93/PMK.03/2019 ("PMK-93") on 26 June 2019 to update the implementation of the Controlled Foreign Corporation ("CFC") rules in Indonesia. PMK-93 amends some provisions of previous MoF Regulation, i.e. Number PMK-107/PMK.03/2017 ("PMK-107"). The amendments shall effectively come into force starting from Fiscal Year 2019.

Notable changes in PMK-93 includes the introduction of certain income and formula to determine the deemed dividend as basis to calculate income tax.

Determination of Deemed Dividend Income

PMK-93 introduces significant updates on determination of deemed dividend from non-listed CFC. In contrast with PMK-107, which stipulated that deemed dividend constitutes all incomes from both direct and indirect CFCs irrespective of their nature, i.e., active or passive income, PMK-93 limits it to passive income.

PMK-93 determines only the following types of income to be regarded as deemed dividend:

a. Dividend[1];
b. Interest[2];
c. Rent from land and/or building;
d. Rent from other assets[3];
e. Royalty; and
f. Gain on sale or transfer of assets.

Notes:
1. Dividend received and/or earned from other CFC(s) shall be excluded from deemed dividend;
2. Interest received by CFC that is owned by an Indonesian tax resident that has a banking license shall be excluded from deemed dividend. However, the exception does not apply to interest income received by CFC from Indonesian tax resident related parties;
3. Rental income received by CFC from non-related party shall be excluded from deemed dividend.

Deemed Dividend Calculation

The basis of deemed dividend calculation is net income after tax, i.e. gross income from certain passive income as explained in the previous section, deducted with the following items:

a. expenses incurred to obtain, maintain, and collect the income; and
b. income tax due, paid, or withheld from the income received by the CFC (if any).

There are expectations that these new CFC rules will accommodate the needs of Indonesian businesses to expand overseas. The exclusion of active business income from the deemed dividend coverage means that the Indonesian holding company may decide to reinvest the net active business profit of its offshore subsidiary without additional Indonesian tax costs.

Contact Persons

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