



Indonesia Tax Alert May 2020

Additional Business Sectors Eligible for Tax Incentives during COVID-19 Outbreak

On 21 March 2020, the Minister of Finance (“MoF”) issued Regulation Number 23/PMK.03/2020 (“PMK-23”), after which the implementing Circular Letter of the Director General of Taxation (“DGT”) Number 19/PJ/2020 (“SE-19”) was issued. Both regulations introduced a number of tax incentives designed to support businesses and individuals in certain manufacturing sectors (please refer to [Tax Alert March 2020 – 2nd edition](#) and [Tax Alert April 2020 – 2nd edition](#)).

Considering the development of COVID-19 outbreak, the MoF has decided to expand the tax incentives to other business sectors, including small and medium enterprises (“SMEs”). As such, on 27 April 2020, MoF issued Regulation Number 44/PMK.03/2020 (“PMK-44”), which is followed by DGT Circular Letter Number SE-29/PJ/2020 (“SE-29”). PMK-44 revokes PMK-23.

PMK-44 provides the following tax incentives to certain sectors:

1. Article 21 Employee Income Tax (“EIT”) borne by the Government;
2. 0.5% Final Tax for SMEs borne by the Government;
3. Exemption of Article 22 Income Tax on Import;
4. 30% reduction of Article 25 Income Tax (“monthly tax installments”); and
5. Preliminary refund of Value Added Tax (“VAT”) overpayment.

PMK-44 expands the business sectors eligible for the tax incentives, includes businesses in Bonded Zone to be eligible for the incentives, and provide income tax relief to SMEs.

1. EIT Borne by the Government

Under PMK-44, EIT will be borne by the Government on income received by employees who fulfil the following criteria:

- a. The income is received from:
 - (i) An employer (including branches) whose Business Classification (*Klasifikasi Lapangan Usaha* ("KLU")) is included in the list provided in Attachment A of PMK-44 and the KLU was reported in employer's fiscal year ("FY") 2018 Corporate Income Tax Return ("CITR"). For taxpayer that is registered for taxation purpose after FY2018 or government institution, the KLU will be based on tax office's Masterfile data. Under PMK-23, there were 440 KLUs for processing industries, whereas under PMK-44, the list has been expanded to 1,062 KLUs, covering various business sectors;
 - (ii) An employer that is a KITE company (i.e., a company who is entitled to relaxation of conditions for importation of goods for export purposes); or
 - (iii) An employer that has obtained Bonded Zone (*Kawasan Berikat*) license; and
- b. The employee has a tax identification number; and
- c. The annualized fixed and regular gross employment income for the month is not more than IDR 200 million.

The amount of EIT borne by the Government must be paid to the employee, and is not regarded as part of the employee's taxable income. The tax relief covers the fiscal periods stated in the notification letter, for which the earliest is April 2020, until September 2020 (or until the fiscal period when the KITE facility or bonded zone license is revoked during the incentive utilization period).

In order to be eligible for the facility, the employer has to submit a notification letter to the DGT through online channel. The taxpayer will receive a confirmation or rejection on the submission of notification letter from the system. Tax incentive for April 2020 fiscal period requires the notification to be submitted by 20 May 2020.

The employer must submit the realization report of EIT borne by the Government, enclosed with the tax payment slip (*Surat Setoran Pajak* ("SSP")) or billing code print-out stamped/written with "*PPh PASAL 21 DITANGGUNG PEMERINTAH EKS PMK NOMOR 44/PMK.03/2020*". The report must be submitted through DGT's online channel on the 20th day of the following month.

PMK-44 expands the KLU eligible for EIT borne by the Government from 440 KLUs to 1,062 KLUs.

Businesses in Bonded Zone are also eligible for this EIT incentive.

2. Final Tax Borne by the Government

Under Government Regulation Number 23/2018 ("PP-23"), certain enterprises with gross turnover of not more than IDR 4.8 billion (i.e. SMEs) are subject to Final Tax at a rate of 0.5% from turnover. Final Tax is settled through:

- a. Self-settlement by the taxpayer; or
- b. Withholding tax settlement by the transaction counterparty that is a tax withholder ("WHT mechanism").

PMK-44 provides tax relief in the form of Final Tax borne by the Government.

In general, the procedures to apply for the tax relief are as follows:

- a. The taxpayer submits an application for statement letter to the DGT through online channel. The taxpayer will receive a confirmation or rejection on the application letter from the system. SMEs who already have statement letters before PMK-44 will need to re-apply for this statement letter in order to qualify for this tax incentive. The statement letter shall continue to be valid after 30 September 2020 for PP-23 purpose. However, the Final Tax borne by the Government facility ends at September 2020 fiscal period.
- b. The taxpayer provides a copy of the statement letter when:
 - (i) Performing a transaction subject to WHT with a party that is a tax withholder; or
 - (ii) Performing an importation, in which the statement letter will be considered as a tax exemption letter (*Surat Keterangan Bebas* ("SKB")) and the Directorate General of Customs and Excise ("DGCE") will not collect Article 22 Income Tax on Import.
- c. The tax withholder will check the validity of the statement letter through certain DGT's channels. The WHT treatment will depend on the result of the checking as follow:
 - (i) If the statement letter is confirmed to be valid, the tax withholder will not withhold the Final Tax but they will provide an SSP to the taxpayer stamped/written with "*PPh FINAL DITANGGUNG PEMERINTAH EKS PMK NOMOR 44/PMK.03/2020*". Final Tax borne by Government is not regarded as part of the taxpayer's taxable income; or
 - (ii) If the statement letter is not confirmed to be valid, the tax withholder will have to withhold income tax pursuant to the regular WHT regime.
- d. The taxpayer must submit realization report of Final Tax borne by the Government, enclosed with the SSPs from the tax withholder. The report must be submitted through DGT's online channel on the 20th day of the following month. The realization report will be regarded as monthly tax report required for submission under PP-23.

The tax relief is applicable as long as the statement letter is provided to the tax withholder before the realization report is submitted. The taxpayer can request for a tax refund or overbooking for tax overpayment resulted from this incentive.

The 0.5% Final Income Tax for SME taxpayers will be borne by the Government for fiscal periods April to September 2020, subject to the application of a statement letter to the DGT.

3. Exemption from Article 22 Income Tax on Import

The exemption facility from Article 22 Income Tax on Import will be available to taxpayers that fulfil the following criteria:

- a. The taxpayer whose KLU is included in the list provided in Attachment I of PMK-44 and the KLU was reported in employer's FY2018 CITR. For taxpayer that is registered for tax purpose after FY2018, the KLU will be based on tax office's Masterfile data. Under PMK-23, there were 102 KLUs for processing industries, whereas under PMK-44, the list has been expanded to 431 KLUs, covering the following business sectors:
 - (i) Agriculture, forestry, and fishery;
 - (ii) Mining and excavation
 - (iii) Processing industries;
 - (iv) Procurement of electricity, gas, steam/hot water and cold air energy;
 - (v) Water supply, waste and recycling management, waste and waste disposal, and cleaning construction;
 - (vi) Wholesale and retail trade; car and motorcycle repair and maintenance;
 - (vii) Transportation and warehousing; and
 - (viii) Real estate;
- b. A KITE company; or
- c. A company that has obtained bonded zone license.

In order to enjoy the facility, the taxpayer must submit a request letter for tax exemption letter (SKB) through DGT's online channel, and the tax office will issue a decision to grant or reject the provision of the exemption facility. PMK-44 is silent on how long the tax office must issue the decision letter. Under PMK-23, the decision letter must be issued within three working days.

The exemption facility shall apply starting from the date of issuance of the SKB until 30 September 2020. If the KITE facility or bonded zone license is revoked by the DGCE, the DGT will revoke the SKB, and the taxpayer shall be no longer eligible to utilize the incentive from the date of the revocation of KITE facility or bonded zone license.

The taxpayer must submit a realization report of import through DGT's online channel quarterly by the following dates:

- a. 20 July 2020, for April to June 2020 fiscal periods; and
- b. 20 October 2020, for July to September 2020 fiscal periods.

4. 30% Reduction of Monthly Tax Installments

A 30% reduction of monthly tax installments for taxpayers that fulfil the following criteria:

- a. The taxpayer whose KLU is included in the list provided in Attachment N of PMK-44 and the KLU was reported in employer's FY2018 CITR. For taxpayer that is registered for tax purpose after FY2018, the KLU will be based on tax office's Masterfile data. Under PMK-23, there were 102 KLUs for processing industries, whereas under PMK-44, the list has been expanded to 846 KLUs, covering various business sectors;
- b. A KITE company; or
- c. A company that has obtained bonded zone license.

PMK-44 expands the KLU eligible for Article 22 Income Tax on Import exemption from 102 KLUs to 431 KLUs.

Businesses in Bonded Zone are also eligible for this incentive when delivering goods to Indonesian customs area.

PMK-44 expands the KLU eligible for 30% reduction of monthly tax installment to 846 KLUs.

Businesses in Bonded Zone are also eligible for this incentive.

30% reduction of monthly tax installment is applicable to:

- a. Calculation of monthly tax installment based on FY2019 CITR;
- b. Monthly tax installment using the corresponding amount to December 2019 in case the FY2019 CITR has not been submitted;
- c. Calculation of monthly tax installment based on DGT's Decision Letter for reduction of monthly tax installment due to weakening business condition; or
- d. Calculation of monthly tax installment based on MoF regulation for certain taxpayers.

In order to be eligible for the facility, the taxpayer has to submit a notification letter to the tax office through DGT's online channel. The taxpayer will receive a confirmation or rejection on the submission of notification letter from the system. Tax incentive for April 2020 fiscal period requires the notification to be submitted by 15 May 2020.

The tax relief covers the fiscal period stated in the notification letter, for which the earliest is April 2020, until September 2020 (or until the fiscal period when the KITE facility or bonded zone license is revoked during the incentive utilization period). The taxpayer can request for a tax refund or overbooking for tax overpayment resulted from this incentive.

The taxpayer must submit the realization report of monthly tax installment reduction facility through DGT's online channel quarterly by the following dates:

- a. 20 July 2020, for April to June 2020 fiscal periods; and
- b. 20 October 2020, for July to September 2020 fiscal periods.

5. Preliminary Refund of VAT Overpayment

Preliminary VAT refund shall follow low-risk VAT entrepreneur ("PKP") procedures (i.e., one-month refund process), provided the PKP fulfils the following criteria (including branches):

- a. The KLU criteria is the same as KLU criteria applicable for exemption facility from Article 22 Income Tax on Import mentioned above;
- b. A KITE company; or
- c. A company that has obtained bonded zone license.

The maximum amount of VAT overpayment stated in the VAT return, for which preliminary VAT refund may be made, is IDR 5 billion and applicable for VAT returns for April 2020 to September 2020 fiscal periods. The refund request must be submitted by 31 October 2020 through submission of VAT return or a request letter for preliminary refund to the tax office where the PKP is registered.

SE-29 provides guidance for the refund process, which is similar to SE-19.

PMK-44 expands the KLU eligible for VAT refund incentive to 431 KLUs.

Businesses in Bonded Zone are also eligible for this incentive.

6. Transitional Provision

When PMK-44 comes into effect:

- a. Employers and taxpayers who have submitted the notification letters for tax relief of EIT and monthly tax installments under PMK-23 are not required to re-submit notification letters pursuant to PMK-44;
- b. Taxpayers who have applied or issued with SKB of exemption from Article 22 Income Tax on Import under PMK-23 are not required to re-submit notification letters pursuant to PMK-44;
- c. Employers and taxpayers who have been granted with tax incentives under PMK-23 can still enjoy those facilities; and
- d. Realization reports for employers and taxpayers who enjoy tax incentives under PMK-23 have to follow the prescribed formats under PMK-44.

7. Comments

PMK-44 also provides examples on how to apply the incentives, as well as templates of various notification letters and realization report. Furthermore, SE-29 provides clarification on taxpayers/DGT's actions for various taxpayer's conditions related to KLU. Most of the procedures stipulated in SE-29 are similar to SE-19.

Taxpayers have been waiting for expanded tax incentives to ease the financial burden created by COVID-19, for which PMK-44 and SE-29 are the answer.

Taxpayers should review its KLU and determine their eligibility for these incentives.

Taxpayers must notify the DGT on the utilization of Article 21 EIT and 30% monthly tax installment reduction incentives for the fiscal period of April 2020 by 15 May 2020 and 20 May 2020, respectively.

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