23 December 2016
November & December 2016 edition

Indonesian Tax Info

In this issue:

Agreement on Exemption of VAT on Certain Aircraft Operations in International Traffic

The Government of the Republic of Indonesia and the Government of the People's Republic of China have signed an agreement on protocol of the Indonesia-China Double Tax Avoidance Agreement (DTA). The protocol to the aforementioned agreement has agreed to exempt Value Added Tax (VAT) or similar taxes in relation to operation of aircraft in international traffic in the other Contracting State, i.e., profits from the operation of aircraft in international traffic shall be taxable only in the Contracting State of which the enterprise operating the aircraft is a resident.

This protocol was signed in Beijing on 26 March 2015 and ratified by the Government of the Republic of Indonesia on 8 January 2016 and effectively applicable in the tax year starting on or after 1 January 2017. This provision is announced through Director General of Tax ("DGT") Circular number 41/PJ/2016 dated 9 September 2016.

Update on Tax Amnesty

The DGT has issued more regulations to further update or clarify Law Number 11 of 2016 concerning Tax Amnesty and its implementing regulations. The regulations covered in this Edition are:

a. Procedures for issuance and conveyance of Tax Amnesty approval letter as stipulated in DGT regulation number PER-20/PJ/2016 ("PER-20").
b. Procedure for revocation of Assets Declaration Form in the context of Tax Amnesty as stipulated in DGT regulation number PER-21/PJ/2016 ("PER-21").

1. Procedures for Issuance and Conveyance of Tax Amnesty Approval Letter

As stipulated in the Tax Amnesty Law No. 11 of 2016, the DGT shall issue the Certificate of Tax Amnesty within 10 days from the submission of an Assets Declaration Form. The Certificate of Tax Amnesty should be affixed with either original or electronic signatures and will be delivered to the taxpayer by postal courier or freight forwarding services. If the time period of 10 days following the submission of the Assets Declaration Form has elapsed and the DGT has not issued the Certificate of Tax Amnesty, it will be considered that the Tax Amnesty has been granted.

PER-20 adds an additional provision that in the event that the taxpayer has not received any Certificate of Tax Amnesty after 30 working days after the submission of the Assets Declaration Form, the taxpayer may directly obtain the certificate from the tax office where it is registered. The collection of the certificate shall be done by filing a request to the Head of the Regional Tax Office using the template provided in PER-20. The collection request can only be filed one time.

This regulation was issued and came into effect on 21 October 2016.

2. Procedure for Revocation of Assets Declaration Form in the Context of Tax Amnesty

Announced on 21 October 2016, PER-21 is an implementation guideline for the provisions set out in Minister of Finance ("MoF") regulation number 118/PMK.03/2016 which was amended by MoF regulation number 141/PMK.03/2016 ("PMK-141").

Under PMK-141, revocation of an asset declaration form may be submitted if certain conditions are met *(please refer to our October 2016 Tax Info Edition)*. PER-21 further regulates that in the event that the taxpayer has not received the Certificate of Tax Amnesty within the period as referred to in PMK-141, the revocation of assets declaration shall be submitted no later than 30 days after the Certificate of Tax Amnesty is then received by the taxpayer.

The taxpayer must use the prescribed format of statement of revocation of assets declaration form as stipulated in PER-21, and submit it either directly or indirectly through mail or courier service to the tax office where the taxpayer is registered.

The Notification Letter granting the revocation of assets declaration form shall be issued by the respective tax office no later than 10 working days since the properly completed revocation letter is received by the tax office. The Certificate of Tax Amnesty will become invalid after such Notification Letter is issued.

Article 21 Income Tax Treatment on Employees' Income from Certain Employers

In order to enhance the competitiveness of export-oriented industries, the Government of Indonesia has specifically regulated the Article 21 withholding tax rates of employees of corporate taxpayers that operate in:

1. the footwear, and/or
2. textile and textile products sectors,

through the issuance of regulation number 41 of 2016 (PP-41") dated 17 October 2016.

The applicable withholding income tax rate for the employees' annual taxable income that does not exceed IDR 50 million is 2.5% and it is a final tax. Such taxable income threshold shall be determined from the employee list attached to the employer's July 2016 monthly tax returns, and from the employee list attached to the employer's January 2017 Article 21 monthly tax returns. This tariff shall be applied from July 2016 to December 2017 tax periods.

In the event that the actual annual taxable income has exceeded IDR 50 million, the applicable income tax rate in excess of IDR 50 million is 15% (final tax) for up to December of the relevant year. For the subsequent year, the income tax rate shall follow the normal progressive tax rates as stipulated under Article 17 of Indonesian Income Tax Law number 36 of 2008.

Taxpayers engaged in the above-mentioned sectors must meet all the criteria below in order to apply this Article 21 income tax treatment:

- employs at least 2,000 employees backed with employment agreement;
- bears the employees' income tax;
- exports at least 50% of the previous year's annual sales;
- registers its employees in BPJS Kesehatan and BPJS Ketenagakerjaan programs; and
- currently has not been granted or utilized certain income tax facilities.

The MoF will further issue a regulation to implement PP-41.

Updated Procedure for the Reimbursement of VAT or VAT and LGST on the Acquisition of Taxable Goods and/or Taxable Services for Contractors in Upstream Oil and Gas Business Activities

The MoF has issued regulation number 158/PMK.02/2016 ("PMK-158") as an amendment to MoF regulation number 218/PMK.02/2014 ("PMK-218") regarding the procedures for the reimbursement of VAT or Luxury Goods Sales Tax ("LGST") on the acquisition of taxable goods and/or taxable services for contractors in upstream oil and gas business activities.

This new amendment has favorable implications for the Upstream Oil and Gas industry because PMK-218 previously stipulated that the Government Share excluded the Government's FTP portion for VAT Reimbursement purposes. PMK-158 stipulates that the limit of the VAT Reimbursement could be both the equity and FTP received by the government (unless the PSC contract stipulates otherwise), resulting in a higher limit of the VAT reimbursement that Contractors can make.

PMK-158 came into effect as of 25 October 2016.

Land and Building Tax Reduction Facility for Geothermal Exploration Activity

As an effort to attract more exploration activity in the geothermal business, the MoF has issued regulation Number 172/PMK.010/2016 ("PMK-172") to provide a facility of reduction of Subsurface Land and Building Tax payable for geothermal business entities that are still in the exploration phase.

In order to be eligible for this facility, a business entity must satisfy certain conditions, as follows:

1. holds a Geothermal License ("*Izin Panas Bumi*") which was issued after issuance of Law Number 21 of 2014 regarding Geothermal.
2. has submitted the Land and Building Tax Object Notification Letter ("*Surat Pemberitahuan Objek Pajak*").
3. obtains a recommendation letter from the Ministry of Energy and Mineral Resources ("MoEMR") confirming that the entity is currently in the exploration stage.

Upon approval from the Tax Office, the business entity would be entitled for 100% reduction of the Subsurface Land and Building Tax liability. This facility may be granted every year for up to five (5) years since the Geothermal License is granted, and may further be extended for another two (2) years with recommendation from the MoEMR that the project is still in exploration.

This facility is available for the Subsurface Land and Building Tax which is due for year 2017 and onwards.

Customs and Tax Facilities for Small and Medium Industries

The MoF has issued regulation number 177/PMK.04/2016 ("PMK-177") to provide customs and VAT/LGST facilities for small and medium industries ("SMI") that carry out export activity, or commonly referred as Import Facilities for Export Purpose ("KITE"). This facility is intended to enhance competitiveness of the local businesses and export of products by the small and medium-scale industries. These facilities can be applied by SMI with certain criteria, a business entity formed by several SMIs, a SMI which is appointed by several SMIs in one (1) SMI center, or Cooperative.

The KITE facility includes:

a) Exemption of customs duty and VAT/LGST not-collected on importation of goods or materials to be processed, assembled, or installed on other goods intended for export and/or delivery by the SMI; and

b) Exemption of customs duty and VAT/LGST not-collected on importation of machineries, with the following conditions:
   i. to be used in development of the industry in the form of expansion (diversification) of products, modernization, rehabilitation, for the purpose of enhancing production capacity of the existing company or factory; and
   ii. the machinery must be utilized in the production process for a minimum of two (2) years.

PMK-177 sets out details of requirements that must be fulfilled by the SMI, as well as the procedures for the application and approval. The application letter can be submitted to the Head of the Customs Office that oversees the location of the factory or business activity.

If the facility is granted, the SMI must comply with certain reporting to the customs authority. Local delivery is allowed but subject to certain limitations. The customs office may conduct audits periodically and any incompliance may result in an obligation to repay the customs duty and VAT/LGST which were not settled in the initial importation and also be subject to penalties.

PMK-177 shall come into effect sixty (60) days after it was promulgated on 18 November 2016.

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Correction

In our Tax Info October 2016 edition, there was an error on page 2 concerning **Update on Tax Amnesty**, section a. Revision to the Implementation of the Tax Amnesty, point 3 as follows:

As originally published	Correct information
3. Under PMK-141 and PER-17, certain taxpayers who declare the following in their list of assets and liabilities can submit such list **in the electronic format**. The certain taxpayers are: • taxpayers which submit additional assets and liabilities relevant to additional assets declared with a maximum of 10 lines, and • the total assets and liabilities, including those that have been reported in last tax return, are a maximum of 20 lines.	3. Under PMK-141 and PER-17, certain taxpayers who declare the following in their list of assets and liabilities can submit such list **in the hardcopy format only**. The certain taxpayers are: • taxpayers which submit additional assets and liabilities relevant to additional assets declared with a maximum of 10 lines, and • the total assets and liabilities, including those that have been reported in last tax return, are a maximum of 20 lines.

We apologise for any confusion caused by this error.

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