

Indonesia update



Speaker



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General Update

- The tax audit process within 5 (five) months.
- The tax audit period may be extended for up to 4 (four) months for **taxpayers within a group or those indicated to be involved in transfer pricing or other engineered financial transactions.**
- Apart from tax refund requests, tax audits are generally initiated through an SP2DK and escalated when issues remain unresolved.

Industry Issue per FS Sector

Banking

- CIT—Accrue Interest on NPL portfolio
- CIT—Overseas Branches IT Charges
- CIT—Financing Provision on the Shariah Products with the new Sharia Accounting Standard in 2026 for early adoption or 2027 (staging vs individual assessment)
- VAT—VAT Invoice on the VAT exemptions services

Investment Management

- CIT—Management Fee calculation using maximum fee
- CIT—Joint Cost Allocation

Securities

- CIT—Brokerage fee to Related Party
- CIT—Joint Cost Allocation
- VAT—Levy Income

Potential Areas of Scrutiny by the ITA for Companies in the Banking Industries from a Business Tax Perspective

Accrue Interest on NPL portfolio

- The Tax Office refers to a tax regulation issued in 2002, which should not be applicable for recent accounting standard
- For tax purposes, the cessation of interest accrual on non-performing loans (NPL) is permitted, provided the required documentation is available (e.g., nominative list and addendum agreement)
- The challenge is that creating an addendum agreement is not feasible due to commercial considerations.
- Most of the Tax Court precedents in similar cases have generally been favorable to taxpayers.

Overseas Branches IT Charges

- Tax office has differing opinions on the deductibility of mark-up on top of service fees charged to branches, which is highly dependent on the double taxation treaty clauses on this matter
- Tax office highly focuses on evidence of services delivered as part of assessment of IT service charge deductibility. However, there is no quantitative threshold in the regulation. Therefore, there is subjectivity (lack of clarity) on the volume of evidence deemed as sufficient to prove existence.
- Tax office also focuses on basis of charges and allocation. Increase trends show that tax office inclined to ask for independent party statement (financial auditor's agreed upon procedure, fiscal memorandum, etc.) to validate the charges issued by the foreign/outbound service provider.
- Tax office inclined to deem qualitative explanation of benefit as insufficient to justify service payments. Now tax office is inclined to request proof of quantitative assessment of impact and benefit received from services provided to the branch as beneficiary. Hence companies would need to develop benefit measurement metrics going forward.

Other matters

- **Types of Audits Process**
 - **Comprehensive Audit:**
Full Tax Audit covering all tax aspect
 - **Focused/Specific Audit:**
Targeted at specific items, often for VAT or specific tax years.
- **Increased Enforcement & Digitalisation:** The Indonesian Tax Authority uses Coretax and CRM to strengthen audit selection and monitor taxpayer compliance.
- **Some Key Focus Areas:** industry issues, related party transactions and cross-border transactions are top priorities for 2026.
- **Audit Resolution process:**
 - The Tax Officer will issue preliminary findings for the taxpayer's response. **(new procedure starting 2025)**
 - Subsequently, the tax officer will issue a Notification of Audit Findings (SPHP), which must be responded to within five working days. **(previously 7 working days + 3 working days – additional)**
 - The Taxpayer will be invited to attend the final discussion.
- **Voluntary Disclosure:** Taxpayers can use voluntary disclosure to amend some errors before a SPHP is issued, potentially reducing penalties.

Increasing Scrutiny from the Indonesian Tax Authority (ITA) for Companies in Securities Industry from Transfer Pricing Perspective

Arm's length nature of brokerage commission fee

- **Lower commission rate** applied to affiliated entity than the rate applied to third party customers always triggers challenges from the ITA
- **Application of CUP analysis by the ITA**—direct comparison between taxpayer's brokerage commission from affiliated entity and the commission from third party customers or commission rates published in Indonesian Stock Exchange website without further analysis on the non-comparable factors
- **Netting approach** in recording the securities brokerage revenue or expense accounts is subject to challenge and adjustment by the ITA
- Taxpayer needs to **properly justify the differences in the function performed, asset owned or used, and risk assumed** in transactions with affiliated customer, i.e. **execution-only** activities or "**Low-Touch**" and third-party customers, i.e. **full services** from sales, research, and execution activities or "**High-Touch**".
- Taxpayer needs to **identify certain exceptions or special conditions** that may apply in certain transactions, for example: basket order, cross selling, as it significantly affects the brokerage commission rate

Arm's length nature of intragroup services

- Exhaustive supporting evidence to **justify the existence and benefits of the services, cost base and key allocation** applied in the intragroup service transactions, particularly after the implementation of preliminary stage analysis in PMK-172

Potential Areas of Scrutiny by the ITA for Companies in the Securities Industry from a Business Tax Perspective—**Joint Cost Calculation**

Proportion of expenses attributable to interest income from time deposits that is subject to final income tax

- Securities companies are **required to place time deposits**, as mandated by the Financial Services Authority (OJK), in order to maintain the minimum Adjusted Working Capital (MKBD) requirement.
- Interest income derived from time deposit placements is subject to **final income tax**, whereas commission income and underwriting fees earned by securities companies are subject to the **normal corporate income tax regime**.
- Most securities companies **have not maintained separate bookkeeping** for expenses attributable to interest income. In the absence of such segregation, the ITA has applied a **proportional allocation of joint costs**.
- Under prevailing tax regulations, securities companies **do not generally conduct mixed activities involving final and non-final income**. The interest income subject to final tax arises incidentally from regulatory requirements and is **not part of their core business**. Therefore, the application of a joint cost allocation approach by the ITA may merit further consideration, as **no specific expenses are directly attributable to such interest income**.
- During the appeal process, the Tax Court Judges **granted the securities companies' appeal**, noting that the placement of time deposits was carried out to maintain adequate MKBD levels and comply with OJK regulations, thereby avoiding sanctions and supporting the continuity of their business operations.

Potential Areas of Scrutiny by the ITA for Companies in the Securities Industry from a Business Tax Perspective—**Value Added Tax (VAT) on Levy Income**

The imposition of VAT on Levy Income (before 2023)

- Levy income recorded under “Commission Income” by securities companies arises from brokerage transactions but **actually represents customers’ levy expenses**. Since the levy is recorded under commission income, the ITA imposed VAT on it.
- Levy is invoiced by the Indonesian Stock Exchange (IDX) to investors through securities companies (**pass-through mechanism**). Levy represents IDX’s income, so VAT should be collected by IDX, not the securities companies.
- Securities companies earn **only commission income**, and no VAT was claimed on levy-related Input VAT.
- There is no specific tax regulation on levy, therefore, securities companies applied the PAPE Principle (Pass-Through or Receivable-Payable).
- The Tax Court **granted the securities companies’ appeal**, noting that imposing VAT on levy would result in double taxation and contradict tax regulations. The Supreme Court upheld a similar view after the ITA filed a Judicial Review.

Recent Development regarding VAT on Levy (2023 onwards)

- Levy VAT issued by IDX under securities companies’ name **to be treated as Input VAT**.
- Securities companies **must collect VAT on both Commission and Levy**.

Indonesia update

Investment Management Company

Potential Areas of Scrutiny by the ITA for Companies in the Investment Management (IM) Industries from a Business Tax Perspective—**Maximalise the Management Fee rate**

The imposition of Maximum Rate for Management Fee

- The management fee will be charged by the IM Company at the **agreed rate** to the Fund (CIC Fund) in Indonesia for the management services provided by the IM to the Fund.
- In several audit cases, the audit team conducts a detailed review of management fee income and requests data related to the applicable fee rates. Documents that can demonstrate this include the prospectus and the fund fact sheet (publicly available). However, in the prospectus or fund factsheet, the fees are presented as the maximum or highest rate and do not reflect the actual fee rate for business reasons.
- In several audit processes, the audit team makes adjustments to the amount of management fee that should have been earned by the IM Company by applying the maximum rate stated in the publicly available documents. This results in a significant difference in the recognition of management fee on the IM Company's side.

Recent Development regarding Management Fee Cases

- The imposition of the maximum management fee rate is essentially due to the audit team's limited understanding of the management fee income concept in the IM Company and due to the limited availability of documentation that can demonstrate the agreed management fee percentage.
- In current practice, the audit team is able to accept the position when the IM Company provides detailed daily management fee calculations, the corresponding monthly invoice, and a reconciliation of the management fee amounts in the financial statements between the IM Company (as income) and the Fund (as expense).

Indonesia update

Investment Management Company

Potential Areas of Scrutiny by the ITA for Companies in the Investment Management (IM) Industries from a Business Tax Perspective—**Joint Cost Allocation (to proportionate the expense)**

Recalculation of Joint Cost

- IM Company generally **earns income subject to non-final income tax (e.g., Management fee), as well as income subject to final income tax (e.g., interest from time deposits) and non-taxable income (e.g., dividends)**. If there are expenses related to such incomes and they are not separately identified in detail, a **Joint Cost Allocation calculation** is required.
- In practice, the tax office tends to be overly rigid by relying solely on the joint cost allocation calculation example provided in the tax regulations, which merely compares the amount of final/non-taxable income to total income. After obtaining the percentage ratio of the final/non-taxable income, the audit team directly applies a correction to the expenses based on that ratio, as they assume that all expenses are related to the final/non-taxable income.
- The process is carried out by the audit team without considering whether the proportionally allocated expenses are actually related to the income subject to final tax/non-taxable income.

Recent Development regarding Management Fee

- In the tax audit process, there are tax audit teams that are still overly conservative in applying the joint cost allocation calculation, such that the joint cost allocation dispute can only be resolved at the Tax Appeal stage.
- The IM Company needs to be able to identify which expenses are related to income subject to final tax/non-taxable income, such as salary expenses for personnel specifically handling final-tax income, rental expenses, maintenance expenses, and other costs that are directly correlated with such income.



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