

July 2020

Tax Alert

Extension of tax incentives in response to COVID-19 crisis

The Minister of Finance ("MoF") issued MoF Regulation No 86/PMK.03/2020 ("PMK-86"), dated 16 July 2020, to replace MoF Regulation No 44/PMK.03/2020 ("PMK-44") regarding the tax incentives given to taxpayers impacted by the COVID-19 crisis.

The Minister of Finance issued PMK-86 to expand the eligible business sectors (other than manufacturing) that can obtain the tax incentives, including Small Medium Enterprise ("SME") businesses that have been impacted by COVID-19 crisis. PMK-86 is effective on the date of issue and also extends the tax incentives period by three months, from 30 September 2020 to 31 December 2020.

Taxpayers should review the full list of eligible industry codes, to determine whether they are now eligible for incentives, under the second expansion of business sectors.

A. Tax incentives given under PMK-86

The tax incentives given under PMK-86 are basically the same as tax incentives given by PMK-44¹, which are:

1. Article 21 income tax (withholding from salaries etc.) that is 100% borne by the Government ("DTP");
2. Exemption on Article 22 withholding tax ("WHT") on imports;
3. 30% reduction on Article 25 monthly income tax installments; and
4. Accelerated preliminary refund for overpaid VAT, which is deemed as a low risk VAT-able Entrepreneur.
5. Final income tax based on Government Regulation No 23/ 2018 ("GR-23) borne by the Government ("Final income tax DTP").

B. Eligible taxpayers to obtain the tax incentives

1. For Article 21 income tax DTP

Article 21 income tax DTP is given to an employee with the following criteria:

- a) Who receives or earns income from the employer that has an industry sector classification for tax purposes (*Klasifikasi Lapangan Usaha - "KLU"*) listed in attachment A of PMK-86. There are 1,189 KLUs (compared to 1,062 KLUs under PMK-44) that are now eligible for this incentive. The complete list of eligible KLUs can be found at: <https://jdih.kemenkeu.go.id/api/AppMediaCatalogs/Download/85b434e7-345f-4c3b-9cbf-1e6fbf833b00>
- b) The employer has received an Incentive for Import Processing for Export Purposes (*Kemudahan Impor Tujuan Ekspor - "KITE"*) taxpayer status; or
- c) The employer has received a license as a Bonded Zone Organizer, a Bonded Zone Entrepreneur, or a license as an Entrepreneur in a Bonded Zone and concurrently act as an Organizer in a Bonded Zone (*Pengusaha di Kawasan Berikat merangkap Penyelenggara di Kawasan Berikat - "PDKB"*)²;
- d) The employee has a Tax ID Number ("NPWP"); and
- e) During the tax incentive period, the employee receives or earns fixed and regular annual gross income of not more than IDR 200 million.

The KLUs stated in 1(a) above is the KLU that is stated in the employer's 2018 annual income tax return; or according to data in the tax Masterfile of a taxpayer with head office status for a taxpayer that has branches but not yet or do not have any obligation to submit annual income tax return for 2018 fiscal year.

1 Please kindly refer to our tax alert: Update on tax incentives in response to COVID-19 crisis distributed on May 5th, 2020.

2 PDKB is a legal entity that carries out bonded zone management activities that located in a bonded zone owned by a Bonded Zone Organizer with different legal entity status.

2. For Article 22 WHT on imports

An exemption on Article 22 WHT on imports is given to a taxpayer with the following criteria:

- a) A taxpayer with the KLU as stated in attachment H of PMK-86. There are 721 KLUs (compared to 431 KLUs under PMK-44) that are now eligible for this incentive. The complete list of the taxpayers' KLU can be found at: <https://jdih.kemenkeu.go.id/api/AppMediaCatalogs/Download/85b434e7-345f-4c3b-9cbf-1e6fbf833b00> ;
- b) A taxpayer with KITE status; or
- c) A taxpayer with a Bonded Zone Organizer, a Bonded Zone Entrepreneur, or a PDKB license, when releasing the goods from a bonded zone to Other Places Within Indonesia Customs Area (*Tempat Lain Dalam Daerah Pabean – “TLDDP”*).

3. For Article 25 monthly income tax installments

30% reduction of Article 25 monthly tax installments is given to a taxpayer with the following criteria:

- a) A taxpayer with the KLU as stated in attachment M of PMK-86. There are 1,013 KLUs (compared to 846 KLUs under PMK-44) that are now eligible for this incentive. The complete list of the taxpayers' KLU can be found at: <https://jdih.kemenkeu.go.id/api/AppMediaCatalogs/Download/85b434e7-345f-4c3b-9cbf-1e6fbf833b00> ;
- b) A taxpayer with KITE status; or
- c) A taxpayer with a Bonded Zone Organizer, a Bonded Zone Entrepreneur, or a PDKB license.

4. For accelerated preliminary VAT refund

The accelerated preliminary VAT refund is given to a taxpayer deemed as a low risk VAT-able Entrepreneur in accordance to Article 9(4c) of the VAT Law. The VAT-able Entrepreneur that can be given this tax incentive must meet the following criteria:

- a) A taxpayer with the KLU as stated in attachment P of PMK-86. There are 716 KLUs that are eligible for this incentive. The complete list of the taxpayers' KLU can be found at: <https://jdih.kemenkeu.go.id/api/AppMediaCatalogs/Download/85b434e7-345f-4c3b-9cbf-1e6fbf833b00> ;
- b) A taxpayer with KITE status; or
- c) A taxpayer with a Bonded Zone Organizer, a Bonded Zone Entrepreneur, or a PDKB license;

and filed overpaid monthly VAT returns where the amount of tax refunds is no more than IDR 5 billion.

The KLUs as stated above is applicable for both taxpayer with a head office and branches status.

5. For final income tax DTP

Under GR-23, SME businesses are subject to final income tax at the rate of 0.5% of their total gross turnover. The incentive given is by way of the Government bearing 100% of the final income tax ("Final income tax DTP").

C. Tax incentives period

Under PMK-86, all of the tax incentives in item A above are given for nine months from April to December 2020. However, the utilization period of the tax incentives will depend on when the taxpayer submits a notification or an application to obtain such tax incentive up to 31 December 2020.

D. Procedures to obtain the tax incentives under PMK-86

1. The procedures to obtain the tax incentives in item A points 1 to 4 above are the same as the procedures under PMK-44 (please kindly refer to our tax alert: Update on tax incentives in response to COVID-19 of May 5th, 2020). In short, the notification and/ or the application to obtain the tax incentives should be filed online by using prescribed formats as attached to PMK-86 through www.pajak.go.id.
2. For Article 21 income tax DTP, in case the employer is a head office and has branches, the notification to utilize the tax incentive for head office and branches must be submitted by the taxpayer with a head office status.
3. For final income tax DTP, the tax incentive is given based on the monthly realization report submitted by the eligible taxpayer. In case the taxpayer is carrying out transactions with a tax withholder or a tax collector, to implement this tax incentive, the eligible taxpayer must provide the tax withholder or the tax collector with a copy of its Statement Letter, which authenticity must be confirmed in the DGT's information system. The submission of monthly realization report by the eligible taxpayer that has not yet have a Statement Letter can be treated as an application to obtain a Statement Letter and to that taxpayer the Statement Letter can be issued provided the taxpayer meets the requirements stipulated in GR-23 and its implementing regulations.
4. For the accelerated VAT refund incentive, the VAT-able Entrepreneur must choose the preliminary overpaid tax refund based on Article 9(4c) of the VAT Law in its monthly VAT returns to obtain this tax incentive. The VAT returns that can be given this tax incentive is for tax periods of April 2020 to December 2020, which are submitted no later than 31 January 2021. To be included in the preliminary tax refund is overpaid tax that is compensated from the previous tax periods that are calculated in the VAT returns requesting for the preliminary tax refund.

E. Obligation to submit a realization report

1. As was the case with PMK-44, a taxpayer that utilizes the tax incentives must submit monthly realization report. The monthly realization report must be submitted by the 20th of the following month after the end of the tax period through certain channel in DGT's website: www.pajak.go.id. However, different from PMK-44, a tax payment slip, or billing code print out prepared by the taxpayer is not required to be attached to the realization report.
2. All of the realization reports must use the relevant prescribed formats as attached to PMK-86.

F. Transitional provisions

At the time PMK-86 is enacted:

1. An employer or a taxpayer that has submitted a notification to utilize the Article 21 income tax DTP and/ or a reduction on Article 25 monthly income tax installments and/ or has submitted an application to obtain an SKB on Article 22 WHT on imports; and or a Statement Letter based on Minister of Finance Regulation No 23/ PMK.03/2020 ("PMK-23") and/ or PMK-44 is not required to re-submit a notification and/ or an application based on PMK-86.
2. An employer or a taxpayer that has been approved to utilize the Article 21 income tax DTP, final income tax DTP, an exemption on Article 22 WHT on imports, a reduction on Article 25 income tax installments, and/ or preliminary refund on overpaid VAT based on PMK-23 and/ or PMK-44 can still utilize the tax incentives until December 2020.
3. The submission on the realization reports for the utilization of an exemption on Article 22 WHT on imports, and/ or a reduction on Article 25 income tax installments for tax periods of April to June 2020 for a taxpayer that has been approved to utilize the tax incentives shall be carried out based on PMK-44.
4. The issuance of Statement Letter for final income tax DTP based on PMK-44 is still valid to obtain the final income tax DTP incentive.
5. PMK-44 is revoked and is no longer valid.

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