April 2020

Tax Alert

Tax policies changes in response to COVID-19 outbreak

Executive summary

On 31 March 2020, the Indonesian Government issued Government Regulation in lieu of Law[1] No 1/ 2020 ("PERPPU-1") to manage the economic impact of the COVID-19 global pandemic, which impacts the Indonesian state's budget, finances, tax policies, and financing policies. PERPPU-1 is effective on the issuance date.

The changes in tax policies include:

1. Corporate income tax ("CIT") rate reduction;
2. Changes to taxation of cross-border trading through Electronic System ("PMSE") or "e-commerce";
3. Extension of time to conduct various tax rights and obligations; and
4. The granting of authority to the Minister of Finance ("MoF") to provide exemptions or relief on import duty for certain imported goods.

This Alert summarizes the key changes, which include bringing forward some measures previously proposed as part of the Tax Omnibus law, and some new items.

1 Under Article 22 of the Constitution, in case of an emergency such as force majeure, the President is empowered to issue Government Regulation in Lieu of Laws (PERPPU). To have a permanent force in law, such PERPPU must be submitted at the next seating of the House of Representative to be either accepted by it or rejected. If accepted PERPPU becomes permanent Law, if rejected it is annulled and void

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1. Reduction in the CIT rate

   a) The current income tax rate for a corporate taxpayer or permanent establishment (PE) of 25% will be decreased to 22% for fiscal years 2020 and 2021; and further decreased to 20% starting the fiscal year 2022;

   b) For a domestic corporate taxpayer with public company status, where at least 40% of its total shares are traded on the Indonesia Stock Exchange (IDX), there is a further decrease in the corporate income tax rate of 3%, so that its corporate income tax rate is 19% for fiscal years 2020 and 2021; and 17% starting fiscal year 2022.

2. PMSE or e-commerce tax treatments

   The measures previously proposed as part of the Tax Omnibus law have been included in PERPPU-1. It will be necessary to see the relevant implementing regulations before the full impact of these measures is understood.

   Value Added Tax (VAT)

   a) Income tax and VAT imposition on Trading Through Electronic System ("PMSE") conducted by domestic taxpayer will continue to follow the normal provisions of the Income Tax Law and the VAT Law.

   b) VAT will now be imposed on the utilization of intangible taxable goods and/ or taxable services from outside of Indonesia Customs Area ("ICA") within ICA, where this is done through PMSE. The application of VAT will follow the principles of the VAT Law.

   c) Such VAT on sales from outside Indonesia is to be collected, paid and reported by offshore seller, offshore service provider, offshore Trading Organizer Through Electronic System ("PPMSE"), and/ or local PPMSE, appointed by the Minister.

   Deemed Permanent Establishment or Electronic Transaction Tax

   d) An offshore seller, offshore service provider and/ or offshore PPMSE meeting the significant economic presence criteria, can be treated as a permanent establishment ("PE") and subject to income tax.

   e) Significant economic presence will be defined in subsequent regulations with reference to:

      - Consolidated business group turnover of a certain amount;
      - Sales in Indonesia of a certain amount; and/or
      - Active users of digital media in Indonesia of a certain number.

   f) In case that income tax cannot be imposed due to the application of tax treaty, the offshore seller, offshore service provider, and/or offshore PPMSE meeting the significant economic presence criteria will be imposed with Electronic Transaction Tax ("ETT").

   g) ETT is imposed on the sale of goods and/or services from outside Indonesia through PMSE to the buyer or the user in Indonesia, which is conducted by an offshore taxpayer, whether directly or via offshore PPMSE.

   h) An offshore seller, offshore service provider, and/or offshore PPMSE can appoint an agent/ representative residing in Indonesia to collect, pay and report the VAT and/or to fulfill its income tax or ETT obligations.

i) The amount of rate, tax base and the procedure to calculate income tax and ETT will be further regulated by Government Regulation.

j) The provisions regarding the procedures to appoint, collect, pay and report the VAT; significant economic presence criteria, procedures on how to pay and report the income tax or ETT, as well as the procedures to appoint an agent will be further regulated by the Minister of Finance Regulation.

k) Offshore seller, offshore service provider, offshore PPMSE and/or local PPMSE that do not implement the above regulations, are subject to tax administrative sanctions according to the prevailing tax laws and regulations. Other than tax sanctions, they can also be subject to sanction from Communication and Informatics Ministry in the form of access disconnection.

3. **Extension of time for tax rights and obligations**

Extended timeline for tax refund process, tax objection letter submission, tax objection process, administrative penalty relief:

a) Extension of time given to the taxpayer for submitting tax objection application from the original three months upon the date of tax assessment letter to nine months;

b) Extension of time given to Directorate General of Taxation ("DGT") to:

- Process tax refunds due to overpayment of tax position by way of tax audit from a maximum of 12 months upon the request of tax overpayment refund, to be 18 months;
- Process tax objection from a maximum of 12 months upon the receipt of tax objection letter submission, to be 18 months;
- Issue decision letter on reduction or revocation of tax administrative penalty from a maximum of six months upon the receipt of request letter, to be 12 months;
- Issue a decision to reduce or cancel tax assessment as a result of tax audit from a maximum of six months upon the receipt of request letter, to be 12 months; and
- Process payment of tax refund due to tax overpayment from a maximum of one month upon the receipt of documents, to be two months.

The extension of time as above will apply if the original due date falls within the force majeure period due to COVID-19. The force majeure period refers to the assessment issued by the National Disaster Management Agency (*Badan Nasional Penanggulangan Bencana – "BNPB"*). At this moment, the force majeure period covers a period between 28 January to 29 May 2020.

4. **MoF is granted with authority to provide import duty exemption or relief**

The Minister of Finance is authorized to make regulations to provide relief or exemption from import duty on certain imported goods stipulated in the Customs Law, including redetermining the types of goods eligible for such relief/exemption stated in Articles 25 and 26 of the Customs Law.

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- People with energy, enthusiasm and the courage to lead.
- People who build relationships based on doing the right thing.

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- Insurance
- Power & utilities
- Mining & metal
- Oil & gas
- Media & entertainment
- Telecommunications
- Technology
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- Transportation
- Real estate
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- Pharmaceuticals
- Plantation
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