

# Income Tax Incentive for Labor Intensive Industry

On 9 March 2020, the Minister of Finance ("MoF") issued Regulation No 16/ PMK.010/ 2020 ("PMK-16") as one of the implementing regulations of Article 30(b) of the Government Regulation No 94/ 2010 ("GR-94") as amended by GR No 45/2019 ("GR-45") regarding the calculation of taxable income and payment of income tax for the current fiscal year.

PMK-16 provides a reduction of net revenue (therefore reducing taxable income), spread over six years, for new capital investment or business expansion in labor-intensive industry sectors. **PMK-16 is effective from the date of issuance.**

## **A. Important definitions under PMK-16**

Important definitions under PMK-16 are as follows:

1. Capital Investment is defined as any form of capital investment activities, both by local and foreign investors, to carry out business in Indonesia.
2. Starting of Commercial Production is the first-time production results or services from the Main Business Activity are sold or delivered, or for own use to be further processed.
3. Main Business Activity is defined as business sector and production type at the time a taxpayer files an application for income tax facility, as stated in its principle license, investment license, Capital Investment registration issued by the Capital Investment Coordination Board ("BKPM") and other approvals.

## **B. Eligible taxpayer**

An eligible taxpayer that can obtain income tax facility under PMK-16 is a taxpayer that carries out Capital Investment in labor-intensive industry sectors, which should meet the following conditions:

1. A domestic corporate taxpayer;
2. Carry out the Main Business Activity under the 2017 Indonesia Standard Industrial Sector (*Klasifikasi Baku Lapangan Usaha Indonesia - "KBLI"*), own certain product coverage, located in certain regions as well as meeting certain requirements, as stated in Attachment A of PMK-16. For example, KBLI No 10615 - cereal food industry, with product coverage is cereal food manufacturing, the facility is available for all regions in Indonesia. While KBLI No. 10761 - coffee manufacturing industry, with product coverage of coffee powder, roasted coffee, coffee extract, instant coffee and/ or coffee juice, the facility is available for all regions in Indonesia except DKI Jakarta; and
3. Employ local manpower of at least 300 persons for the Capital Investment that obtains the income tax facility. The manpower number is calculated as the average number of local manpower within one fiscal year.

## **C. Detail of income tax facility**

The income tax facility provided to the qualified taxpayer by PMK-16 is an investment allowance of 60% (on top of normal tax depreciation) of the amount invested in tangible fixed assets including land, which are used in the Main Business Activity. This allowance may be claimed at the rate of 10% each year over six years period since the fiscal year on the Starting of Commercial Production.

## **D. Conditions for the tangible fixed assets to obtain income tax facility**

Income tax facility (investment allowance) is provided for tangible fixed assets, including land that meet the following conditions:

1. Acquired by the taxpayer in a new state, except if it is an overall relocation as one packet of Capital Investment from another country;
2. Stated in the principle license, investment license, capital investment registration issued by the BKPM/ Provincial Capital Investment Agency and One-Stop Integrated Service and other documents, which is the base to provide the income tax facility; and
3. They are owned and used for the Main Business Activity.

An additional condition for non-land tangible fixed assets is that the fixed assets must be obtained after the issuance of the principle license, investment license, capital investment registration, and/ or business license issued by the OSS Institution.

## **E. Procedures to obtain income tax facility**

The procedures to obtain income tax facility are as follows:

1. The Online Single Submission (OSS) system shall determine on whether the Capital Investment made by the taxpayer meets the criteria of certain business sectors, and in certain regions, as well as meeting the condition on employing local manpower as required by PMK-16;
2. In case the taxpayer's Capital Investment:
  - a) meets the said criteria, the OSS system shall notify the taxpayer that its Capital Investment meets the criteria to obtain income tax facility; or

- b) if it does not meet the criteria, the OSS system shall notify the taxpayer that the Capital Investment does not meet the criteria to obtain income tax facility.
- 3. Taxpayer that has received a notification for 2 (a) above from the OSS system is deemed to have submitted its application to obtain income tax facility if the taxpayer has submitted, through OSS online system, the required supporting documents in the form of:
  - a) Digital copy of detail fixed assets in the Capital Investment value plan; and
  - b) Digital copy of the shareholders' Fiscal Statement Letters ("*Surat Keterangan Fiskal - SKF*").
- 4. The online submission of the income tax facility application shall be conducted before the Starting of Commercial Production, which should be conducted:
  - a) Along with the registration to obtain Business Identification Number (*Nomor Induk Berusaha - "NIB"*) for a new taxpayer; or
  - b) Within one year after the issuance of a business license by OSS Institution for the Capital Investment.
- 5. The application to obtain the income tax facility that has been completely received, will be forwarded by OSS system to the MoF via the Director General of Taxation ("*DGT*") as a recommendation to obtain the income tax facility; and the OSS system will notify the taxpayer that the application has been forwarded to the MoF.
- 6. In case the OSS system is not available, the determination on whether the taxpayer meets the criteria and the application, can be submitted off-line to DGT via the Head of BKPM by meeting the time frame stated in point E.4.
- 7. The procedures to submit an off-line application shall be further determined by a BKPM regulation.
- 8. The approval on the application to obtain income tax facility shall be given by the MoF after receiving the recommendation to provide an income tax facility. However, the decision on whether the taxpayer can obtain the income tax facility shall be issued by DGT for and on behalf of the MoF.
- 9. The decision letter on whether the taxpayer can obtain the income tax facility shall be issued within five business days after the online recommendation or the offline application is completely received.

#### **F. Utilization of the income tax facility**

The utilization of income tax facility are as follows:

- 1. The income tax facility can be utilized starting in the fiscal year when the taxpayer Started its Commercial Production up to the sixth fiscal year after the Starting of Commercial Production, which shall be determined by DGT through a field audit.
- 2. The application to utilize the income tax facility shall be submitted by the taxpayer through OSS online system supported by:
  - a) Fixed assets realization along with their layout drawing;
  - b) The taxpayer's SKF; and
  - c) Documents related to first-time sales transactions of the production result to market, e.g. tax invoice or commercial invoice; or for a first-time the production result is for own used to be further processed, e.g. a report of own used product.
- 3. The field audit shall be conducted by DGT after the application to utilize the income tax facility is received through OSS online system.

4. The field audit shall be conducted for a maximum period of 45 business days after the tax audit notification letter is delivered to the taxpayer or its representatives (including the taxpayer's employee).
5. The field audit by DGT will cover the following:
  - a) To determine when the Starting of Commercial Production will be;
  - b) To calculate the amount of new Capital Investment realization value up to the time of Starting of Commercial Production;
  - c) To test whether the production results correspond with the business sectors according to the KBLI of the Main Business Activity; and
  - d) To test how many local persons are employed.
6. The procedures of field audit shall be conducted in accordance to the MoF Regulation on tax audit procedures.

#### **G. Limitation on fixed assets utilization**

There are limitations on the use of fixed assets that have been given income tax facility, which are as follows:

1. Tangible fixed assets that have obtained income tax facility are not allowed to be used other than for the purpose given under the incentive, or to be transferred, before the end of the sixth year since the income tax facility is utilized, except where they are replaced by new tangible fixed assets.
2. There are particular requirements if the taxpayer replaces the tangible fixed assets.
3. The taxpayer should provide written notification to DGT before replacing the tangible fixed assets.

#### **H. Obligation to report**

1. Taxpayer that has received an approval to obtain an income tax facility must submit an annual report on the Capital Investment realization and local manpower realization number by using the prescribed form attached in PMK-16.
2. The annual report must be submitted to the DGT's Tax Audit and Collection Director and the Head of Tax Office of where the taxpayer is registered within 30 days after the end of the fiscal year within the period of:
  - a) The issuance of the approval letter to obtain income tax facility up to the issuance of the Starting of Commercial Production decision, for the Capital Investment realization amount; and
  - b) The issuance of the Starting of Commercial Production decision up to the end of the income tax facility period, for local manpower realization number.

## **I. Non-utilization of income tax facility**

1. If the taxpayer that has obtained Income tax facility no longer meets the criteria and conditions in obtaining income tax facility under PMK-16, the taxpayer:
  - a) is imposed with tax and tax penalties under the prevailing tax regulations;
  - b) can no longer utilize the income tax facility for the following fiscal year; and
  - c) can no longer obtain the income tax facility under PMK-16.
2. For the taxpayer that has obtained income tax facility but during the facility period cannot meet the local manpower requirement number:
  - a) The income tax payable must be repaid;
  - b) The taxpayer is imposed with tax and tax penalties under the prevailing tax regulations;
  - c) The taxpayer can utilize once more the income tax facility for the following fiscal year if a minimal local manpower requirement can be met again; and
  - d) The taxpayer is not given an additional period to utilize the income tax facility.

## **J. Income tax facility vs other tax incentives**

Income tax facility under PMK-16 can no longer be given to a taxpayer that has obtained:

1. Tax allowance incentive;
2. Tax holiday incentive; and/or
3. Tax incentives for Special Economic Zone (SEZ).

## **K. Transitional provision**

At the time PMK-16 is enacted:

For a taxpayer that the principle license, investment license, Capital Investment registration has been issued by BKPM/ other Government institutions, or business license issued by OSS Institution, before the enactment of PMK-16, can be given the income tax facility based on PMK-16 provided:

- a) the principle license, investment license and Capital Investment registration issued by BKPM/ other Government institutions, or business license issued by OSS Institution, has never received an approval or a rejection decision letter to obtain tax allowance incentive, tax holiday incentive or tax incentives for SEZ;
- b) The business sectors are in accordance with the ones stated in the attachment of PMK-16;
- c) Meeting the criteria of eligible taxpayer required by PMK-16;
- d) The application is submitted before the Starting of Commercial Production; and
- e) The application is submitted within one year after the enactment of PMK-16.

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