

Implementing regulation for tax incentives in response to COVID-19



On 31 March 2020, the Directorate General of Tax ("DGT") issued Circular Letter No. SE-19/ PJ/2020 ("SE-19") as the implementing regulation for the Minister of Finance ("MoF") Regulation No. 23/PMK.03/2020 ("PMK-23") regarding the tax incentives given to taxpayers affected by COVID-19 crisis. SE-19 is effective on 1 April 2020.

SE-19 is issued by DGT for the purpose to provide guidance on the implementation of PMK-23 in relation to the procedures on the tax incentive provisions, supervision on the utilization and reporting on the realization of the tax incentive utilization. This is also to provide simplicity, fairness and legal certainty on the implementation of PMK-23.

A. Procedures on the provision of Article 21 income tax borne by the Government ("DTP") incentive

1. Article 21 income tax DTP is given to an employee with the following criteria:
 - a) 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-23. The complete list of eligible KLUs can be found at: <http://www.jdih.kemenkeu.go.id/fullText/2020/23~PMK.03~2020Per.pdf>; and/ or
 - b) The employer has received an Incentive for Inward Processing for Export Purpose (*Kemudahan Impor Tujuan Ekspor - "KITE"*) taxpayer status; and
 - c) The employee has a Tax ID Number ("NPWP"); and
 - d) During the tax incentive period, the employee receives or earns fixed and regular annual gross income of not more than IDR 200 million.



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2. Procedures to submit a notification by the employer to utilize the Article 21 income tax DTP incentive are as follows:
 - a) The employer, both at the central (head office) and at the branches levels, must submit a notification to utilize the Article 21 income tax DTP through DGT Online;
 - b) Based on DGT Online application checking, if the employer is entitled to utilize Article 21 income tax DTP incentive, DGT Online application system will provide a notification that the employer succeeds in submitting the notification. However, if the employer is not entitled to the incentive, DGT Online will issue a notification that the employer is not entitled to utilize the incentive.
3. Procedures to prepare tax payment slip ("SSP") for Article 21 income tax DTP and billing code print out:
 - a) The employer, both the central (head office) and at the branches levels, that has submitted a notification must prepare SSP or billing code print out stamped or written with statement "Article 21 income tax borne by the Government according to PMK No 23/ PMK.03/2020" on the Article 21 income tax DTP.
 - b) In case the employer has used Article 21 income tax electronic tax return ("e-SPT") to submit its tax return, the process to prepare SSP or billing code print out is changed to the recording of State Revenue Transaction Number (*Nomor Transaksi Penerimaan Negara - "NTPN"*) code electronically on the e-SPT application.
4. Article 21 income tax DTP incentive is given from the tax period when the notification is submitted up to September 2020.
5. In case MoF Decree on KITE facility for a company with KITE taxpayer status is revoked, Article 21 income tax DTP incentive is terminated in the tax period when the KITE facility is revoked.
6. In case the employee receiving Article 21 income tax DTP submits an overpaid Annual Individual Income Tax Return for fiscal year 2020, the overpaid tax resulted from Article 21 income tax DTP cannot be refunded.

B. Procedures on exemption of Article 22 withholding tax ("WHT") on import

1. 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 F of PMK-23. The complete list of the taxpayers' KLU can be found at: <http://www.jdih.kemenkeu.go.id/fullText/2020/23~PMK.03~2020Per.pdf>; and/or
 - b) Taxpayers with KITE status.
2. An exemption on Article 22 WHT on imports is given by way of Tax Exemption Letter ("SKB") on Article 22 WHT on imports. The procedures to apply for the SKB are:
 - a) Taxpayer submits an online application for SKB of Article 22 WHT on imports through the "SKB application on the collection of Article 22 WHT on imports" menu via DGT Online.
 - b) On the taxpayer's application of SKB of Article 22 WHT on imports, DGT issues the SKB of Article 22 WHT on imports, if the taxpayer meets the criteria; or a rejection letter, if the taxpayer does not meet the criteria.
 - c) SKB of Article 22 WHT on imports is issued immediately after the taxpayer filled in the "SKB application on the collection of Article 22 WHT on imports" menu at DGT Online website.

3. Procedures to revoke SKB on Article 22 WHT on imports are:

- a) In case the MoF Decree on KITE facility ("KITE Decree") for taxpayer with KITE status is revoked by the Directorate General of Customs and Excise ("DGCE"), DGCE send the data and/or information on the revocation of the KITE Decree and the taxpayer with KITE status to DGT.
- b) Based on the data from DGCE, DGT will revoke the SKB of Article 22 WHT on imports ex-officio via DGT Online.
- c) When SKB of Article 22 WHT on imports is revoked:
 - ▶ Taxpayer is no longer entitled to the exemption on Article 22 WHT on imports starting from the date of the revocation of KITE Decree is issued; and
 - ▶ Article 22 WHT on imports, that have been exempted from the date SKB of Article 22 WHT on imports is issued up to before the date of the revocation of KITE Decree is issued, shall not be collected by the DGT.

C. Procedures on the reduction of Article 25 monthly tax installments

1. Reduction of Article 25 monthly tax installments is given to a taxpayer with the same criteria as the taxpayer receiving incentive on Article 22 WHT on imports stated in item B.1 above.
2. The 30% reduction on the Article 25 monthly tax installments payable for each tax period is based on:
 - a) The calculation of Article 25 monthly tax installments according to 2019 annual income tax return;
 - b) The Article 25 monthly tax installment amount for December 2019 if the taxpayer has not yet filed its 2019 annual income tax return;
 - c) The decree on the reduction of Article 25 monthly tax installments in case the taxpayer apply for the reduction of Article 25 monthly tax installments due to the decrease of its business; or
 - d) The calculation of Article 25 monthly tax installments according to MoF Regulation regarding income tax installments during the current tax year for new taxpayers, banks, State owned Companies, Regional Government owned Companies, listed companies or other taxpayers that are obligated to prepare periodical financial statements and certain individual entrepreneur taxpayers.
3. Procedures to submit a notification to utilize the Article 25 monthly tax installments incentive:
 - a) The taxpayer submits a notification to utilize the Article 25 monthly tax installments incentive through DGT Online;
 - b) Based on DGT Online application checking, if the taxpayer is entitled to utilize Article 25 monthly tax installments incentive, DGT Online application system will provide a notification that the taxpayer succeeds in submitting the notification. However, if the taxpayer is not entitled to the incentive, DGT Online will issue a notification that the taxpayer is not entitled to utilize the incentive.
4. Article 25 monthly tax installments incentive is given from the tax period when the notification is submitted to September 2020.

5. In case KITE Decree for a company with KITE taxpayer status is revoked, the reduction on Article 25 monthly tax installments is terminated in the tax period when KITE facility is revoked.

D. Procedures to submit realization reports

Procedures to submit realization report for the utilization of Article 21 income tax DTP, exemption on Article 22 WHT on imports and/or reduction of Article 25 monthly tax installments are:

1. The employer and/ or taxpayer downloads the format and realization report type for:
 - a) The utilization of Article 21 income tax DTP;
 - b) The exemption on Article 22 WHT on imports; and/ or
 - c) The reduction of Article 25 monthly tax installments;on DGT Online website;
2. The file on the realization report for the incentives stated in D.1 that have been completely and accurately filled in must be uploaded through DGT Online by:
 - a) 20 July 2020, for tax periods of April up to June 2020; and
 - b) 20 October 2020, for tax periods of July up to September 2020.

E. Procedures on preliminary refund of overpaid VAT

1. The tax office where the VAT-able Entrepreneur is registered/ administered shall process the preliminary refund application for low risk VAT-able Entrepreneur that have been received based on:
 - a) Its VAT returns, if the VAT-able Entrepreneur filled in the column "Preliminary refund" in the VAT returns; or
 - b) An application letter in the format prescribed in Attachment F of PMK-23 to apply for a preliminary refund on the balance of overpaid tax that has not yet been refunded in the Tax Refund Decree (*Surat Keputusan Pengembalian Kelebihan Pajak* - "SKPPKP") that has been issued previously, provided the VAT-able Entrepreneur is not yet audited in the tax period that the preliminary refund is applied for.
2. One application letter should be submitted for each tax period.
3. If the VAT-able Entrepreneur files a preliminary refund application as a low risk VAT-able Entrepreneur that:
 - a) meets the same criteria as the taxpayers receiving Article 22 WHT on imports incentive stated in item B.1 above;
 - b) filed overpaid monthly VAT returns with the amount of tax refunds of no more than IDR 5 billion;
 - c) preliminary tax refund is filed for tax periods of April to September 2020;
 - d) the application for preliminary tax refund is submitted by 31 October 2020;the preliminary VAT refund shall be followed up with the preliminary tax refund procedures for low risk VAT-able Entrepreneur.

4. If the VAT-able Entrepreneur does not meet the criteria in E.3 above, the application of preliminary VAT refund will be followed up with the preliminary refund procedures as regulated in DGT Circular Letter No. SE-10/PJ/2018 regarding guiding procedures for preliminary refund of overpaid tax for taxpayers with certain criteria, taxpayers that meet certain conditions, and low risk VAT-able Entrepreneurs as stated in Attachment A of SE-19.
5. The VAT-able Entrepreneur stated in E.3 above covers both a VAT-able Entrepreneur that has been determined as a low risk VAT-able Entrepreneur and a VAT-able Entrepreneur that has not yet been determined as a low risk VAT-able Entrepreneur.
6. The Head of Tax Office issues SKPPKP based on an administrative examination, which covers formal obligations examination and material examination for preliminary refund of overpaid tax for low risk VAT-able Entrepreneurs.

F. Provisions in relation to KLU codes to obtain Article 21 income tax DTP, exemption on Article 22 WHT on imports, reduction on Article 25 monthly tax installments, and preliminary refund on overpaid VAT incentives ("tax incentives")

1. For taxpayers that have the obligations to file 2018 annual income tax returns, the KLU codes that are used are the ones that are stated and reported in the 2018 annual income tax returns, both for 2018 annual income tax returns with normal status; or the ones with amendment status, which have been submitted before or after the enactment of PMK-23.
2. For taxpayers that have been registered after 2018, the KLU codes that are used are the ones stated in the Tax Registration Letter (*Surat Keterangan Terdaftar* - "SKT") issued by the tax office where the taxpayers are registered.
3. In case there is an inconsistency between the taxpayers' KLU codes, so that their KLUs are not included in PMK-23 attachments, whereas they should have been included, because of several reasons, which among others are:
 - a) The taxpayers did not write their KLU codes in their 2018 annual income tax returns; or
 - b) The taxpayers have not yet filed their 2018 annual income tax returns; or
 - c) The taxpayers incorrectly stated their KLU codes in their 2018 annual income tax returns;

the taxpayers can file an amendment on the KLU by filing their 2018 annual income tax returns, both with normal or amendment status, provided the DGT has not yet conducted an audit on the taxpayers' 2018 annual income tax returns.

4. In case the DGT has audited or is currently conducting an audit on the taxpayers' 2018 annual income tax returns, the KLU codes that are used are the KLU codes as stated in the taxpayers' Masterfile where the taxpayers can amend the KLU codes by applying for data amendment if the KLU codes are not in accordance with the correct ones.
5. In case taxpayers stated the KLU codes in their 2018 annual income tax returns, both with normal or amendment status, where the KLU codes are included in PMK-23 attachments but the stated KLU codes are different with the ones stated in the taxpayers' SKT or taxpayers' Masterfile, these taxpayers are still entitled to obtain the tax incentives, and on the difference in KLU codes, this will be followed up by way of a change on KLU codes in the taxpayers' Masterfile by the DGT ex-officio.
6. In case the employer taxpayers have utilized the Article 21 income tax DTP incentive, but subsequently, based on the data and/ or information it is discovered that those taxpayers' KLU are not included in the PMK-23 attachments or are not entitled to obtain Article 21 income tax DTP incentive, the DGT will issue Explanation on Data and/ or Information

Request Letter (*Surat Permintaan Penjelasan atas Data dan/ atau Keterangan* - "SP2DK") requesting the employers amend their Article 21 monthly income tax returns and pay the Article 21 income tax payable that should have been withheld. If the employers did not amend their Article 21 monthly income tax returns, the DGT will issue Tax Collection Letter ("STP") to collect the underpaid Article 21 income tax. However, the STP shall not be issued by the DGT if the employers have calculated and paid the underpaid Article 21 income tax, which should not have been eligible for Article 21 income tax DTP incentive, in the Article 21 income tax payable for the December tax period.

7. In case the taxpayers have utilized the exemption on Article 22 WHT on imports and reduction on Article 25 monthly income tax installments incentives, but based on the data and/ or information it is discovered that those taxpayers' KLU are not included in the PMK-23 attachments; or are not included as companies with KITE status, the DGT will then issue SP2DK so that the taxpayers pay the Article 22 WHT on imports and Article 25 monthly income tax payable. If the taxpayers did not amend their tax returns, the DGT will issue STP to collect the underpaid Article 22 WHT on imports or Article 25 income tax payable. However, the STP shall not be issued by the DGT if the taxpayers have filed their 2020 annual income tax returns.
8. In case for a VAT-able Entrepreneur that has already issued a SKPPKP but based on the data and/or information it is shown that the taxpayer's KLU code is not included in the PMK-23 attachments; or it is not included as a company that can have preliminary refund, the DGT will recommend conducting an audit for the tax period when the SKPPKP is issued.
9. For a company with KITE status that has obtained the tax incentives, when filing a notification/ an application, it must be attached with the KITE Decree. The KITE Decrees are both the ones that are issued before or after the enactment of PMK-23.

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