



July 2020

Tax Alert

Income tax facilities to control COVID-19 crisis

On 10 June 2020, the Indonesian Government issued Regulation No 29/ 2020 (“GR-29”) to provide a legal basis for income tax facilities given to taxpayers, including individuals and businesses, that have contributed to controlling the COVID-19 crisis in Indonesia. Such public contributions could be in the form of donation and provision of human resources in the medical field. The income tax facility is also to stimulate medical equipment and/ or household health supplies industry as well as to maintain capital market stability in Indonesia.

GR-29 is effective on the date of issue.

A. Income tax facility coverage

The Indonesian Government will provide income tax facilities consisting of:

1. Additional reduction on net income for producers of medical equipment;
2. Tax deductible donations;
3. Tax concessions for additional income earned or received by the Human Resources in the Medical Field¹;
4. Tax concessions for income in the form of compensation and reimbursement on the use of assets; and
5. Certain relief so that a share buy-back undertaken in the Indonesian stock exchange may not cause a public listed company to lose the 3% corporate income tax rate discount available to certain listed companies.

B. Detail of income tax facility

1. Additional reduction on net income
 - a) Domestic taxpayers that produce Medical Equipment² and/ or Household Health Supplies³ for the purpose of controlling COVID-19 in Indonesia can be given a 30% additional net income reduction on the expenses incurred - i.e. a bonus deduction - to be calculated:
 - (i) Based on the expenses to produce the Medical Equipment and/ or Household Health Supplies needed to control COVID-19 that are incurred up to 30 September 2020; and
 - (ii) Charged all at once on the fiscal year when the expenses are incurred.
 - b) In case there are common expenses for the taxpayers that cannot be separated when calculating their taxable income, the expenses should be apportioned.
 - c) Medical Equipment and/ or Household Health Supplies production that is eligible for the income tax facility are:
 - (i) N95 surgery mask and respirators;
 - (ii) Personal protective suits in the form of medical coverall, one-time suits, heavy duty apron, cap, shoe cover, goggles, face shield, and waterproof boots;
 - (iii) Surgery gloves;
 - (iv) Examination gloves;
 - (v) Ventilators;
 - (vi) Reagent diagnostic test for COVID-19;
 - (vii) Antiseptic hand sanitizer; and
 - (viii) Disinfectant.

In certain cases, Minister of Finance can change the above list of products based on the recommendation from the Minister of Health. Any changes shall be stipulated in the Minister of Finance regulation.

¹ Human Resources in the Medical Field is the medical personnel and medical support personnel who are involved and work as well as devote themselves in the medical efforts and management.

² Medical Equipment is an instrument, apparatus, machine and/ or implant that does not contain medicine used to prevent, diagnose, heal, and relieve illness, caring for the sick, recover human health, and/ or to form structure and improve bodily functions.

³ Household Health Supplies is equipment, material or mixed of material for maintenance and care of human health that are used in households and public facility.

- d) Taxpayers that have utilized the additional net income reduction must submit an online report on the expenses incurred to produce the Medical Equipment and/ or Household Medical Supplies for COVID-19 to the Director General of Tax ("DGT") through the DGT system in the prescribed format as stated in Attachment A of GR-29. If online system is not yet available, taxpayers can provide an offline report to the DGT through the Head of Tax Office where the taxpayers are registered. The report must be submitted at the latest along with the annual income tax return submission for the relevant fiscal year. Failure to submit the report or late submission will result in the taxpayers becoming ineligible for the 30% additional net income reduction.
- e) The additional net income reduction is valid until 30 September 2020. However, if needed, the validity period can be extended by the Minister of Finance.

2. Tax deductible donations

- a) Donations provided by taxpayers to certain donation collector organizers to control COVID-19 crisis can be deducted from the gross revenue (i.e. tax deductible). Certain donation collector organizers are:
 - (i) National Disaster Management Agency (Badan Nasional Penanggulangan Bencana - "BNPB");
 - (ii) Regional Disaster Management Agency (Badan Penanggulangan Bencana Daerah - "BNBD");
 - (iii) Ministry of Health;
 - (iv) Ministry of Social Welfare; or
 - (v) Donation Collector Organizer Institution⁴ (Lembaga Penyelenggara Pengumpulan Sumbangan - "LPPS")
- b) Donations that are tax deductible must meet the following conditions:
 - (i) Supported by proof of donations receipt, which must at least contain the following information:
 - Name, address and Tax ID Number of the donors;
 - Name, address, and Tax ID Number of the donation collector organizer;
 - Date of contribution;
 - Donation form; and
 - Donation value
 - (ii) Donations received by donation collector organizers as stated in 2 (a) that have a Tax ID Number.

⁴ Donation Collector Organizer Institution is an institution that has received an organizer license to collect donations from the Central Government or Regional Government in accordance with the prevailing law.

- c) Tax deductible donations shall be in the actual donations amount incurred, where the donations can be in the form of:
 - (i) Money;
 - (ii) Goods;
 - (iii) Service; and/ or
 - (iv) Use of assets without compensation.
- d) Donation value in the form of goods shall be determined based on:
 - (i) Acquisition value, if the goods donated have not been depreciated;
 - (ii) Tax book value, if the goods donated have been depreciated; or
 - (iii) Cost of goods sold, if the goods donated were produced by the donor.
- e) Donations value in the form of service and/ or use of assets without compensations shall be determined based on cost of service provided and/ or the use of assets.
- f) Donor taxpayers must submit an online donation nominative list through the DGT system by using a prescribed format as attached in Attachment B of GR-29 at the latest along with the submission of their annual income tax returns for the relevant fiscal year. If online DGT system is not yet available, taxpayers can provide an offline nominative list through the tax office where the taxpayers are registered. Failure to submit the nominative list or late submission of the list will result in the donations given by the taxpayers being non-tax deductible.
- g) Such donations are tax deductible up to 30 September 2020. However, if needed, the validity period can be extended by the Minister of Finance.
- h) LPPS must submit a report for donation collector organizer in the prescribed format as attached in Attachment C of GR-29. The report must be submitted to the Minister of Finance through the DGT at the latest by the end of the fiscal year when the donations are received. The online report shall be submitted through the DGT system; or if online system is not yet available, LPPS can submit an offline report to the Minister of Finance through the DGT.
- i) Donations given to control COVID-19 crisis that are already tax deductible under GR No 93/2010 can no longer be tax deductible under GR-29 or vice versa.

3. Additional income earned or received by the Human Resources in the Medical Field

- a) Additional income provided by the Government in the form of honorarium or other compensation earned or received by individual taxpayers, who are part of Human Resources in the Medical Field as medical personnel and medical support personnel; and receiving assignments, who provide medical services to manage COVID-19 in the medical service facility and medical institutions, including compensation from the Government received by their heir is an income tax object.
- b) However, the income tax object as stated in 3 (a) is subject to Article 21 final income tax at the rate of 0%, thus, effectively tax free. This Article 21 final income tax is valid until 30 September 2020. However, if needed, the validity period can be extended by the Minister of Finance.
- c) The Article 21 final income tax shall be withheld by the Government at the end of the month, at the earlier of, when the payment is made or when such income become payable (noting, however, that there is no tax to pay).
- d) This Article 21 income tax withholding is also applicable to taxpayers as stated in 3(a) above who are State officials, Government employees, members of the Indonesian National Army, members of the Indonesian State Police and their pensioners.

4. Tax concessions for income in the form of compensation and reimbursement on the use of assets
 - a) Compensation or reimbursement earned or received by taxpayers from the Government, in whatever name or form, for rental of land and/ or building; and/ or rental and other income on the utilization of assets other than land and/ or buildings to manage COVID-19 crisis is an income tax object.
 - b) The income tax object as stated in 4 (a) is subject to Article 4(2) final income tax at the rate of 0%. This Article 4(2) final income tax is valid until 30 September 2020. However, if needed, the validity period can be extended by the Minister of Finance.
 - c) The Article 4(2) final income tax shall be withheld by the Government at the end of the month, at the earlier of, when the payment is made or when such payment become due.
 - d) The Government shall prepare a withholding tax slip in the prescribed format as attached in Attachment D and/ or Attachment E of GR-29. This withholding tax slip must be reported by the taxpayers in their monthly Article 4(2) final income tax returns.
 - e) All expenses incurred to earn, collect and maintain the rental compensation are not tax deductible.
 - f) In case the rental or the utilization of assets is performed before the enactment of GR-29 up to 30 September 2020; or at the time GR-29 is enacted up to after 30 September 2020, on the compensation or reimbursement received by the taxpayers during the rental period between the time GR-29 is enacted (i.e. 10 June 2020) up to 30 September 2020, the zero rated Article 4(2) final income tax is applicable and shall be calculated proportionally. If the validity period is extended by the Minister of Finance to be after 30 September 2020, the proportional calculation on the rental income is still applicable noting the extension regulation issued by the Minister of Finance.

5. Share buy-backs on the Indonesian stock exchange - preserving access to the 3% CIT rate reduction
 - a) GR-29 sets out general requirements to access the 3% corporate income tax rate reduction for Indonesian listed companies. This appears to mirror GR-30 which specifically covers those requirements. A domestic taxpayer:
 - (i) In the form of a publicly listed company;
 - (ii) With at least 40% of its paid-up capital traded in the Indonesia Stock Exchange ("IDX"); and
 - (iii) Meeting certain conditions, can obtain a corporate income tax rate of 3% less than the applicable corporate income tax rate⁵.
 - b) The following are the certain conditions stated in 5 (a)(iii) above:
 - (i) The minimum 40% paid-up shares traded on the IDX must be owned by at least 300 parties;
 - (ii) Each party as stated in b(i) can only own less than 5% of the listed company's fully paid up shares;
 - (iii) Conditions stated in 5(a)(ii) and 5(b)(i) and (ii) must be met in at least 183 calendar days within the one fiscal year; and
 - (iv) Public listed company that meets the conditions stated in 5(a)(ii) and 5(b)(i), (ii) and (iii) above must submit a report to the DGT.

⁵ As stated in Article 5(1)(a) and (b) of Law No 2/ 2020

- c) Parties as stated in 5(b)(i) and (ii) above do not include (i.e. do not count towards the shareholder tests):
 - (i) The public listed company that carries out the share buy-back (i.e. is holding its own shares); and
 - (ii) A party that has a special relationship with the public listed company.
- d) The concession provided for in GR-29 is to set out an exception in certain circumstances where the share buy-back might otherwise cause a listed company to fail one of the shareholding tests above. In case there is a policy from the Central Government or the Financial Services Authority ("OJK") to control market condition from significant fluctuations, the public listed company that carry out share buy-back based on the policy from the Central Government or OJK is considered to have still met the conditions stated in 5(b)(i) and (ii) above. The policy from the Central Government or OJK is issued in the form of appointment letter or approval letter. This share buy-back shall be carried out no later than 30 September 2020.
- e) The shares that are bought back can only be controlled by the public listed company up to 30 September 2022.
- f) If after 30 September 2022, the public listed company no longer meets the conditions stated in 5(a) above, it cannot enjoy the corporate income tax rate that is 3% less than the applicable corporate income tax rate. The consideration that the public listed company has met the conditions as stated in 5(b)(i) and (ii) above is only applicable for fiscal years 2020, 2021 and 2022.
- g) The public listed company must attach the report on the results of the share buy-back that are traded on the IDX to its annual income tax return for the relevant fiscal year.

C. Transitional provisions

At the time GR-29 is enacted, on the:

- a) Domestic taxpayers that produce Medical Equipment and/ or Household Medical Supplies, as stated in B (1)(a), starting from 1 March 2020;
- b) Donations given through BNPB, BPBD, Ministry of Health, Ministry of Social Welfare and/ or LPPS to control COVID-19 crisis, as stated in B (2)(a), starting from 1 March 2020;
- c) Additional income from the Government in the form of honorarium or other compensation earned or received by individual taxpayers, as stated in B (3)(a), starting 1 March 2020;
- d) Income received from the Government in the form of compensation or reimbursement for the use of assets, as stated in B (4)(a), starting 1 March 2020; and
- e) Share buy-back, as stated in B (5), starting 1 March 2020,

shall follow the provisions under GR-29.

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Who we are:

At EY, everything starts with our people:

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

What we stand for:

Achieving Potential - Making A Difference

We are committed to helping our people, our clients and our wider communities achieve their potential.

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- ▶ Media & entertainment
- ▶ Telecommunications
- ▶ Technology
- ▶ Public infrastructure
- ▶ Transportation
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