

Update on tax incentives in response to COVID-19 crisis



The Minister of Finance ("MoF") issued MoF Regulation No 44/PMK.03/2020 ("PMK-44"), dated 27 April 2020, to replace MoF Regulation No 23/PMK.03/2020 ("PMK-23") regarding the tax incentives given to taxpayers impacted by the COVID-19 crisis.

The Minister of Finance issued PMK-44 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-44 is effective on the date of issue.

Taxpayers should review the full list of eligible industry codes, to determine whether they are now eligible for incentives, under the expanded approach.

A. Tax incentives given under PMK-44

The tax incentives given under PMK-44 are basically the same as tax incentives given by PMK-23¹, 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-table Entrepreneur.

However, there is an additional tax incentive under PMK-44 that is given to SME businesses, which under the Government Regulation No 23/ 2018 ("GR-23") is 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").

¹ Please kindly refer to our tax alert: Economic Stimuli in response to COVID-19 of 31 March 2020- https://www.ey.com/en_id/tax-service

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) 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-44. There are 1062 KLUs that are eligible for this incentive. The complete list of eligible KLUs can be found at: <http://www.jdih.kemenkeu.go.id/fullText/2020/44~PMK.03~2020Per.pdf>;
- 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.

Exception on employee that can be given Article 21 income tax DTP incentive is an employee that receives income which came from the State Budget Revenue or the Regional Budget Revenue and the Article 21 income tax has been borne by the Government based on the prevailing Tax Laws and regulations.

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 I of PMK-44. There are 431 KLUs that are eligible for this incentive. The complete list of the taxpayers' KLU can be found at: <http://www.jdih.kemenkeu.go.id/fullText/2020/44~PMK.03~2020Per.pdf>;
- b) A taxpayer with KITE status; or
- c) A taxpayer with a Bonded Zone Organizer, a Bonded Zone Entrepreneur, or a PDKB license, when exit 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 N of PMK-44. There are 846 KLUs that are eligible for this incentive. The complete list of the taxpayers' KLU can be found at: <http://www.jdih.kemenkeu.go.id/fullText/2020/44~PMK.03~2020Per.pdf>;
- b). A taxpayer with KITE status; or
- c) A taxpayer with a Bonded Zone Organizer, a Bonded Zone Entrepreneur, or a PDKB license.

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.

4. For accelerated preliminary VAT refund

The accelerated preliminary VAT refund is given to a taxpayer with the same criteria as a taxpayer eligible for an exemption on Article 22 WHT on imports; and filed overpaid monthly VAT returns with the amount of tax refunds of no more than IDR 5 billion.

5. For final income tax DTP

This incentive is given to SME businesses, which under GR-23 is subject to final income tax at the rate of 0.5% of their total gross turnover.

C. Tax incentives period

As was the case under PMK-23, all of the tax incentives in item A above (including final income tax DTP for SME businesses) is given for six months from April to September 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 September 2020. For example, if a taxpayer submits a notification to obtain Article 21 income tax DTP on May 2020, the taxpayer can only utilize the tax incentive for five months (from May up to September 2020).

D. Procedures to obtain the tax incentives under PMK-44

1. The procedures to obtain the tax incentives in item A points 1 to 4 above are the same as procedures under PMK-23 (please kindly refer to our tax alert: Economic Stimuli in response to COVID-19 of 31 March 2020- https://www.ey.com/en_id/tax-service). In short, the notification and/ or the application to obtain the tax incentives should be filed online through www.pajak.go.id.

The additional provision is given for a taxpayer with a Bonded Zone Organizer, a Bonded Zone Entrepreneur, or a PDKB license. When the taxpayer submits a notification for Article 21 income tax DTP and/ or Article 25 monthly income tax installments, or an application to obtain Tax Exemption Letter (*Surat Keterangan Bebas - "SKB"*) with the Directorate General of Tax ("DGT"), the MoF Decree on the Bonded Zone Organizer, Bonded Zone Entrepreneur, or a PDKB license should be attached to the notification or the application.

2. The procedures to obtain final income tax DTP incentive are:
 - a) The SME taxpayer (including the SME taxpayer that has owned a statement letter before the enactment of PMK-44) files an application to the DGT via certain channel in DGT website: www.pajak.go.id by using a prescribed format as stated in attachment G of PMK-44.
 - b) The procedures to files the application and the issuance of the statement letter should follow the MoF regulation on the implementation of GR-23.
 - c) The statement letter is still valid as the implementation of GR-23, even after the tax incentive period in item C above is expired.


E. Obligation to submit a realization report

1. As was the case with PMK-23, a taxpayer that utilizes the tax incentives must submit the first quarterly realization report on 20 July 2020 for tax periods of April to June 2020 and the second quarterly report on 20 October 2020 for tax periods of July to September 2020. However, under PMK-44, for Article 21 income tax DTP and final income tax DTP incentives the realization report should be submitted monthly instead of on a quarterly basis. The monthly realization report must be submitted by the 20th of the following month after the end of the tax period.
2. All of the realization reports must use the relevant prescribed formats as attached to PMK-44.

F. Transitional provisions

At the time PMK-44 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 based on PMK-23 is not required to re-submit a notification based on PMK-44.
2. A taxpayer that has submitted an application to obtain an SKB on Article 22 WHT on imports and/ or has obtained an SKB on Article 22 WHT on imports based on PMK-23 is not required to re-submit the application to obtain an SKB on Article 22 WHT on imports based on PMK-44.
3. An employer or a taxpayer that has been approved to utilize the Article 21 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 can still utilize the tax incentives.
4. The submission on the realization reports for the utilization of Article 21 income tax DTP, an exemption on Article 22 WHT on imports, and/ or a reduction on Article 25 income tax installments for an employer or a taxpayer that has been approved to utilize the tax incentives shall be carried out based on PMK-44.
5. PMK-23 is revoked and is no longer valid.



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