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The Expansion of Business Classification of Taxpayers Receiving Covid-19 Tax Incentives

Sets the Standards and Beyond



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ABOUT DDTC Newsletter

Published every two weeks, DDTC Newsletter provides a summary of key tax law changes, both the current modifications and changes in taxation regulations, particularly those pertaining to domestic policies.

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The Expansion of Business Classification of Taxpayers Receiving Covid-19 Tax Incentives

Expansion of Business Classification and Extended Granting of Incentives for Taxpayers Affected by Covid-19

The government has again expanded the scope of sectors entitled to tax incentives for taxpayers affected by the Covid-19 pandemic. The expansion of the scope of the incentive recipients is outlined in the Minister of Finance Regulation No. 86/PMK.03/2020 concerning Tax Incentives for Taxpayers Affected by the Corona Virus Disease 2019 Pandemic (MoF Reg. 86/2020).

Enacted and effective from 16 July 2020, this regulation revokes the former regulation, the Minister of Finance Regulation Number 44/PMK.03/2020 concerning Tax Incentives for Taxpayers Affected by the Corona Virus Disease 2019 Pandemic (MoF Reg. 44/2020). The government has revoked MoF Reg. 44/2020 as it is deemed necessary to facilitate the use of broader incentives during the national economic recovery.

The types of incentives granted under MoF Reg. 86/2020 remain the same as those provided under MoF Reg. 44/2020. *First*, Article 21 Income Tax (*Pajak Penghasilan*/PPh) borne by the government (*Ditanggung Pemerintah*/DTP). *Second*, exemptions from Article 22 Import PPh. *Third,* the reduction of Article 25 PPh installments by 30%. *Fourth*, accelerated VAT refunds. *Fifth,* Final PPh incentives for Micro, Small, and Medium Enterprises (MSMEs).

Under this regulation, however, the government adds the number of business classifications (*Klasifikasi Lapangan Usaha*/KLU) that may apply for incentives for taxpayers affected by the Covid-19 pandemic. For Article 21 PPh DTP, 1,189 KLU are given tax incentives, whereas formerly only 1,062 KLU were entitled to such incentives. Next, the number of KLU receiving Article 22 Import PPh exemption incentives has been added from 431 KLU to 721 KLU.

The number of KLU that may apply for accelerated VAT has been added to 716 KLU from 431 KLU. In contrast, the reduction of Article 25 Income Tax installments incentive can now be utilized by 1,014 KLU from previously only 846 KLU. In addition to expanding the scope of KLU to receive these incentives, the government has also extended the validity period of all types of incentives from until September 2020 to December 2020.

MoF Reg. 86/2020 also provides some other relief for taxpayers wishing to take advantage of tax incentives during the Covid-19 Pandemic. This facility includes that the notification of the utilization of Article 21 PPh DTP incentives for employers with branches is to be submitted at the central level only.

On another note, MSME taxpayers that wish to take advantage of the final PPh DTP incentives do not need to submit the Certificate of Gov. Reg. No. 23 of 2018, but are only required to submit a realization report every month. Not all MSMEs, however, are exempt from the obligation to submit the Certificate of Gov. Reg. No. 23 of 2018 to benefit from the final PPh DTP incentive.

The simplification of procedures –through the elimination of the obligation to submit the Certificate as outlined under MoF Reg. 86/2020– applies to MSME taxpayers that have settled PPh by depositing the payment themselves. Conversely, Certificate of Gov. Reg. No. 23 of 2018 will still be required in the event that MSME taxpayers transact with PPh withholders. This is because the PPh withholders need the document to confirm the validity of the taxpayer status as an MSME in various channels provided by the DGT.

Another change in MoF Reg. 86/2020 is that taxpayers that enjoy Article 22 Import PPh incentives and Article 25 PPh installment incentives are required to submit monthly reports on incentive realization. The reports are submitted no later than the 20th of the following month after the tax period ends. Previously, the incentive realization was to be reported every three months.

Under this regulation, the government also stresses that compensation for overpayment of taxes from the previous tax period can be calculated in the VAT-refund-related incentive mechanism. The threshold for accelerated initial refunds under the latest regulation remains the same as before, i.e. Rp. 5,000,000,000.00.

When MoF Reg. 86/2020 comes into force, employers or taxpayers that have notified of the use of incentives or requests for VAT exemption certificates under MoF Reg. 23/2020 or MoF Reg. 44/2020 are no longer required to resubmit the relevant notification or application.

IMEI Registration Procedures for Imported Telecommunications Equipment Carried by Passenger and Crew Members

The Directorate General of Customs and Excise (DGCE) has established procedures for registering international mobile equipment identity (IMEI) of

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imported telecommunications equipment. Details of the registration procedures are outlined in the Director General of Customs and Excise Circular Number SE-12/BC/2020 concerning Procedures for the Registration of International Mobile Equipment Identity (IMEI) of Imported Telecommunications Equipment Carried by Passengers or Crew Members that Have Exited the Customs Area (SE-12/2020).

Coming into force on 14 July 2020, this circular is intended to sustain the DGCE's efforts to reduce the number of circulating illegal telecommunications equipment. Measures to prevent the circulation of illegal telecommunications equipment through the IMEI control program are also related to the Director General of Customs and Excise Regulation No. PER-05/BC/2020 concerning the Procedures for the Notification and Registration of International Mobile Equipment Identity (IMEI) of Telecommunications Equipment in Customs Declaration (PER- 05/2020).

PER-05/2020, however, only regulates the IMEI registration procedures for the luggage of passengers or crew members that has not been released from customs areas. The DGCE has, therefore, released SE-12/2020 to provide clarity on the IMEI registration procedures for telecommunications equipment carried by passengers or crew members that have exited the customs area.

Under SE-12/2020, passengers and crew members who have already left the customs area but have not yet registered the IMEI may register the IMEI of their telecommunications equipment at the customs office closest to the domicile. The telecommunications equipment covered by this regulation includes cellular phones under the HS Code 8517.12.00, cellular-based handheld computers under HS Code 8471.30.90, and cellular-based tablet computers under HS Code 8471.30.90.

In further detail, registration may be conducted no later than sixty days after the arrival of the passenger or crew members. Additionally, each passenger may only register a maximum of two units of telecommunications equipment.

Further, this regulation states that the telecommunications equipment carried by passengers or crew members is not provided with the exemption from import duties and taxes on imports (*Pajak Dalam Rangka Impor*/PDRI) facility. Passengers or crew members are, therefore, required to pay import duties at a rate of 10% of the customs value.

Moreover, passengers or crew members are required to pay value added tax (VAT) at a rate of 10% of the import value and Article 22 Import Income Tax (*Pajak Penghasilan*/PPh). Article 22 Import PPh is imposed at a rate of 10% of the import value for passengers who have a Taxpayer Identification Number (TIN) and 20% of the import value for passengers who do not have a TIN.

The IMEI is registered by filling out and submitting an application form electronically to the DGCE through the "Beacukai" online application or the website https://www.beacukai.go.id. The application form contains the full name, address, passport number, flight number, date of arrival, NPWP, brand and type of telecommunications equipment, as well as the IMEI code.

Having filled out the application form, passengers will obtain a receipt of the application. Said receipt must subsequently be submitted to the Head of the Customs Office at the nearest customs office. In addition to showing the application form, the passengers or crew members must show the original passport, supporting documents in the form of tickets, boarding passes, or similar documents, and telecommunications equipment to be registered.

Next, the Head of the Customs Office or an appointed official will examine the application. The examination is carried out no later than one working day as of the date the passenger shows the receipt of the application, supporting documents, and the telecommunications equipment whose IMEI has been registered.

Should the examination results indicate conformity, the Head of the Customs Office or appointed official will determine the customs tariff and value, calculate the import duty and PDRI, and issue a billing code. The passengers or crew members are then required to pay import duties and PDRI through perception banks, perception posts, or other perception institutions.

In the event that both the passenger and the crew have paid the import duty and PDRI and have obtained the State Revenue Transaction Number (*Nomor Transaksi Penerimaan Negara*/NTPN), the Head of the Customs Office or appointed official shall notify the approval or rejection of the IMEI registration application.

Upon approval, the competent authority will also submit the payment receipt and IMEI registration receipt to the passenger or crew member as the applicant. Furthermore, the service computer system (*Sistem Komputer Pelayanan*/SKP) will submit the

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IMEI to the Ministry of Industry. On the other hand, if the examination results indicate any discrepancy, IMEI registration cannot be further processed.

The Ratification of Indonesia–Cambodia Tax Treaty

The Indonesian government has officially ratified a tax treaty (*Perjanjian Penghindaran Pajak Berganda*/P3B) with the Royal Government of Cambodia. The ratification of the treaty is outlined in Presidential Regulation Number 74 of 2020 concerning the Agreement between The Government of the Republic of Indonesia and The Royal Government of Cambodia for The Avoidance of Double Taxation and The Prevention of Fiscal Evasion with Respect to Taxes on Income (Pres. Reg. No. 74 of 2020). Promulgated on 3 July 2020, this regulation has come into force thereafter.

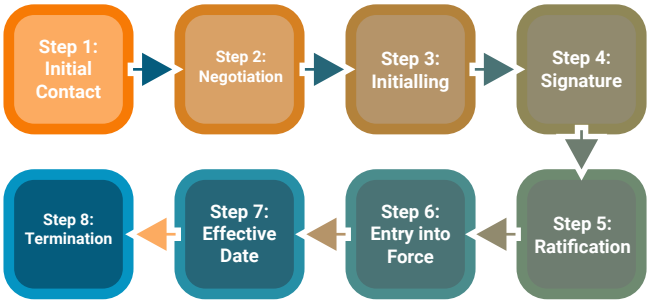
Both countries signed the tax treaty circularly on 23 October 2017 in Jakarta and on 13 October 2017 in Phnom Penh. The tax treaty has been formulated to improve the bilateral relationship between Indonesia and Cambodia, in particular, economic cooperation with regard to income taxes.

Pres. Reg. No. 74 of 2020 is attached with the original text of the treaty, i.e. the tax treaty in Indonesian, Khmer, and English. In addition, the Indonesian version of the copy of the original tax treaty text can be accessed here and the English version can be accessed here. In the event of any difference in interpretation, the English tax treaty script shall prevail.

The ratified tax treaty is also attached with a protocol that provides a basis for the interpretation of three clauses, i.e. provisions regarding permanent establishments (*Badan Usaha Tetap*/BUT) in Article 5, provisions regarding operating profits in Article 7, and provisions concerning dividends in Article 10 paragraph 5.

Furthermore, despite having been ratified, the tax treaty between Indonesia and Cambodia does not automatically enter into force. Pursuant to Article 29 of the bilateral agreement, said tax treaty will enter into force on the last date both parties submit written notifications through diplomatic channels regarding the completion of the procedures required by law or legislation for the entry into force of the treaty. In general, the implementation stages of a tax treaty can be seen in Figure 1.

Figure 1 – General Process for Implementing Bilateral Tax Treaty



Source: Darussalam et al (2010).

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