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New Provisions on Pioneer Industry Criteria for Tax Holiday Entitlement and Excise Tariffs for Tobacco Products

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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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New Provisions on Pioneer Industry Criteria for Tax Holiday Entitlement and Excise Tariffs for Tobacco Products

Regulation on Details of Business Sectors and Types of Production of Pioneer Industries Entitled to Tax Holiday

The Indonesian Investment Coordinating Board (*Badan Koordinasi Penanaman Modal*/BKPM) has issued a new regulation on the details of the business sectors entitled to tax holiday facilities. Said regulation refers to the Indonesian Investment Coordinating Board Regulation No. 7 of 2020 concerning Details of Business Sectors and Types of Production of Pioneer Industries and Procedures for the Granting of Corporate Income Tax Reduction Facilities (BKPM Reg. 7/2020).

Corporate taxpayers performing new investments in pioneer industries may be given a corporate income tax reduction on income received or earned from their main businesses. As is well known, currently 18 pioneer industries may apply for a tax holiday to the government as regulated in the Minister of Finance Regulation No. 130/PMK.010/2020.

Details of the business sectors and types of production of each pioneer industry scope are listed in Appendix I which is an integral part of this regulation. Referring to the appendix, the government has expanded the business sectors entitled tax holiday facilities from 174 Indonesian Standard Business Classification (*Klasifikasi Baku Lapangan Usaha Indonesia*/KBLI) to 185 KBLI.

In comparison, the appendix of BKPM Regulation 7/2020 and the appendix of the former regulation, i.e. BKPM Regulation No. 9/2019, the KBLI covered in the agricultural, plantation, or forestry-based processing industry that produces pulp without or with their derivatives increases from 3 KBLI to 9 KBLI. Currently, the printing and writing paper industry, paper boards, paper boxes, and tissue paper which are integrated with the pulp producing industry are also entitled to the tax holiday facility.

Moreover, there are 3 new KBLIs in the category of organic basic chemical industry sourced from oil and gas and/or coal without or with their integrated derivatives. The 3 KBLIs include industries that produce polyethylene film, industries that produce asphalt, and industries that produce catalysts. Furthermore, 2 new KBLIs that are included in the appendix of the BKPM Reg. 7/2020 are industries that produce vitamins and industries of two or three-wheeled electric vehicles.

As is known, corporate taxpayers that apply for corporate income tax reduction must meet several criteria, i.e. classified as a pioneer industry, having status as an Indonesian legal entity, and performing new investments. On another note, corporate taxpayers must have a new investment plan of at least IDR100 billion, meet the provisions on the ratio between debt and capital, and be committed to realizing the investment plan.

For applicants whose business is not enlisted in the regulation, application can still be proposed through OSS by submitting research paper or report stating the fulfillment of pioneer industry criteria. The paper should include the explanation of production process, product scope, corporate income tax and value added tax paid after the tax facilitation is granted, and supporting data that is used to justify the fulfillment of the pioneer industry criteria.

Tax holiday applications can be submitted through the online single submission system using the application form listed in Appendix II of this regulation. If the tax holiday application meets the requirements, BKPM will verify the fulfillment of the document criteria. For verification of applications that have been declared complete and correct, BKPM will subsequently issue a receipt of the application in the format listed in Appendix VI of this regulation.

When this regulation came into effect, BKPM Regulation No. 6/2018 and BKPM Regulation No. 1/2019 were revoked and declared invalid. This regulation has taken effect as of 4 December 2020.

Provisions on the Stipulation of Tariffs on Types of Non-Tax State Revenues

The government has issued a regulation on the procedures for the stipulation of tariffs on types of non-tax state revenues (*Penerimaan Negara Bukan Pajak*/PNNBP). This policy is outlined in Government Regulation no. 69 of 2020 concerning Procedures for the Stipulation of Tariffs on Types of Non-Tax State Revenues (Gov. Reg. 69/2020).

Under this regulation, PNBP objects refer to all activities, objects, and/or bodies, which constitute sources of state revenues other than taxation and grants. PNBPs objects have four criteria.

First, the implementation of government duties and functions. *Second,* the use of funds originating from the state budget. *Third,* management of state assets. *Fourth*, stipulation of statutory regulations.

PNBP objects may include the use of natural resources, services, segregated management of state assets,

management of state property, management of funds, and other state rights. The tariffs for types of PNBP may take the form of specific rates and/or *ad valorem* rates.

Through this regulation, the minister of finance is authorized to set tariffs for services PNBP, state property (*Barang Milik Negara*/BMN) management PNBP, and other state rights PNBP. The minister of finance may stipulate PNBP tariffs if the tariffs of the three types of PNBP are volatile. Volatile tariffs refer to those that require changes at least once a year.

PNBP tariffs categorized as volatile based on Gov. Reg. 69/2020 include tariffs in the field of training other than functional training, leadership training, and basic training for civil servant candidates (*Calon Pegawai Negeri Sipil*/CPNS). The government regulation also categorizes tariffs in the field of laboratory testing and tariffs for goods and services resulting from research, development, education, training, and coaching as volatile PNBP tariffs, thus, may be determined through minister of finance regulations.

Moreover, PNBP tariff may also be revised in case of urgent needs. Urgent needs occur when there are national or international activities, there are results of ratification of international treaties, and presidential instructions. Urgent needs may also result from recommendations from the Audit Board of the Republic of Indonesia (*Badan Pemeriksa Keuangan*/BPK) or PNBP auditing agencies, by-products of government activities, organizational changes, or if the tariffs must be changed to implement court decisions or agency decrees.

New Regulation on Details of Cigarette Excise Tariffs

Minister of Finance Sri Mulyani Indrawati has officially released a new regulation that outlines details of the increase in tobacco excise (*Cukai Hasil Tembakau*/CHT) tariffs starting 1 February 2021. Said regulation refers to the Minister of Finance Regulation No. 198/PMK.010/2020 concerning Tobacco Excise Tariffs (MoF Reg. 198/2020).

CHT tariffs, as per one of the considerations under the ministerial regulation, are set based on clear, logical, and accountable parameters. The stipulation of cigarette excise tariffs also takes into account the impact and justice for society, as well as the interests of the state which focus on the benefit and expediency.

Tobacco product manufacturers are categorized into a number of manufacturer groups based on types and the amount of tobacco production as per the limit of factory production. The categories of tobacco product manufacturers are listed in Appendix I of this regulation, the details of which are indicated in Table 1.

Table 1 Categories of Tobacco Product Manufacturers

No.	Manufacturer		Limit on the Amount of Factory Production
	Type	Category	
1.	Machine-made Clove Cigarettes	I	More than 3 billion sticks
		II	Not more than 3 billion sticks
2.	Machine-made White Cigarettes	I	More than 3 billion sticks
		II	Not more than 3 billion sticks
3.	Hand-rolled Cloves Cigarette	I	More than 2 billion sticks
		II	More than 500 millon sticks but not more than 2 billion sticks
		III	Not more than 500 millon sticks
4.	Hand-rolled White Cigarette	I	More than 2 billion sticks
		II	More than 500 million sticks but not more than 2 billion sticks
		III	Not more than 500 millon sticks
5.	Filter-tipped Hand-rolled Clove Cigarettes or White Filter-tipped Hand-rolled Cigarettes	Uncategorized	No limit on the amount of production
6.	Sliced Tobacco	Uncategorized	No limit on the amount of production
7.	Rhubarb and Incense Cigarettes or Corn-leaf Cigarettes	Uncategorized	No limit on the amount of production
8.	Cigars	Uncategorized	No limit on the amount of production
9.	Other Processed Tobacco Products	Uncategorized	No limit on the amount of production

Source: Appendix I of MoF Reg. 198/2020.

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Next, Article 5 states that the CHT tariffs are determined using the amount in rupiah for each stick or gram of tobacco products. The amount of CHT tariff is based on the type of tobacco product, manufacturer category, and the retail selling price (*Harga Jual Eceran*/HJE) limit per stick or gram. In particular, for other processed tobacco products (*Hasil Pengolahan Tembakau Lainnya*/HPTL), the CHT tariff is set at 57% of the HJE submitted by tobacco product manufacturers or importers as listed in Appendix II of MoF Reg. 198/2020.

The limits on HJE per stick or gram and excise tariff per stick or grams for each type of tobacco product from each category of tobacco product manufacturers are listed in Appendix III of MoF Reg. 198/2020. The classification in stipulating the excise tariff per stick or grams for each type of tobacco product is based on the type, amount of production, and HJE. HJE per retail sales package must be rounded up in multiples of IDR25.00. Details of HJE limits and excise tariffs per stick or gram of domestically produced tobacco products can be seen in Table 2.

Furthermore, excise tariffs and the limits of lowest HJE per stick or gram for each type of imported tobacco product are listed in Appendix IV of MoF Reg. 198/2020 which is an integral part of this regulation. Details of excise tariffs and minimum HJE for imported tobacco products can be seen in Table 3.

Article 18 states that the head of the office may restipulate excise tariffs under several conditions. *First,* the restipulation is carried out by taking into account the excise tariffs that are still in effect for types of tobacco products, the categories of tobacco product manufacturers, and the minimum HJE limits set based on MoF Reg. 152/2019.

Second, the restipulated excise tariffs are in accordance with Appendix II, III, and IV of MoF Reg. 198/2020. *Third*, the restipulated HJE must not be lower than the prevailing HJE limits per stick or gram and may not be lower than the minimum HJE limits under Appendix II, III, and IV. When this regulation comes into effect, MoF Reg. 146/PMK.010/2017, MoF Reg. 156/PMK.010/2018, and MoF Reg. 152/PMK.010/2019 shall be revoked and declared invalid.

Table 2 Limits of HJE and Excise Tariffs Per Stick or Gram of Domestically Produced Tobacco Products

No.	Tobacco Product Manufacturer Categories		Limit of HJE per Stick or Gram (IDR)	Excise Tariff Per Stick or Gram (IDR)
	Type	Category		
1.	Machine-made Clove Cigarettes	I	Minimum at 1,700	865
		II	More than 1,275	535
			Minimum at 1,020 up to 1,275	525
2.	Machine-made White Cigarettes	I	Minimum at 1,790	935
		II	More than 1,485	565
			Minimum at 1,015 up to 1,485	555
3.	Hand-rolled Clove Cigarettes or Hand-rolled White Cigarettes	I	More than 1,460	425
			Minimum at 1,015 up to 1,460	330
		II	Minimum at 535	200
		III	Minimum at 450	110
4.	Filter-tipped Hand-rolled Clove Cigarettes or White Filter-tipped Hand-rolled Cigarettes	Uncategorized	Minimum at 1,700	865
5.	Sliced Tobacco	Uncategorized	More than 275	30
			More than 180 up to 275	25
			Minimum at 55 up to 180	10
6.	Corn-leaf Cigarettes	Uncategorized	Minimum at 290	30
7.	Rhubarb and Incense Cigarettes	Uncategorized	Minimum at 200	25
8.	Cigars	Uncategorized	More than 198.000	110.000
			More than 55.000 up to up to 198.000	22.000
			More than 22.000 up to 55.000	11.000
			More than 5,500 up to 22.000	1.320
			Minimum at 495 up to 5,500	275

Source: Appendix III of MoF Reg. 198/2020.

Table 3 Excise Tariffs and Minimum Retail Selling Price of Imported Tobacco Products

No.	Type of Tobacco Products	Limit of Lowest HJE per Stick or Gram (IDR)	Excise Tariff Per Stick or Gram (IDR)
1.	Machine-made Clove Cigarettes	1,700	865
2.	Machine-made White Cigarettes	1,790	935
3.	Hand-rolled Clove Cigarettes or Hand-rolled White Cigarettes	1,461	425
4.	Filter-tipped Hand-rolled Clove Cigarettes or White Filter-tipped Hand-rolled Cigarettes	1,700	865
5.	Sliced Tobacco	276	30
6.	Corn-leaf Cigarettes	290	30
7.	Rhubarb and Incense Cigarettes	200	25
8.	Cigars	198,001	110,000

Source: Appendix IV of MoF Reg. 198/2020.

DGCE Releases a Regulation on the Adhesion of Excise Bands

The Directorate General of Customs and Excise (DGCE) has released a regulation on the adhesion of excise bands. These provisions are outlined in the Director General of Customs and Excise Regulation No. PER-15/BC/2020 concerning the Adhesion of Excise Bands (PER-15/BC/2020). Coming into force on 1 January 2021, this regulation has been released to implement the Minister of Finance Regulation No. 68/PMK.04/2018 concerning Excise Payment.

The regulation stipulates that excise bands may be affixed at the factory location for goods subject to excise that are produced in Indonesia, i.e. in the form of tobacco products and beverages containing ethyl alcohol (*Minuman Mengandung Etil Alkohol*/MMEA) with an ethyl alcohol content of more than 5%.

The adhesion of excise bands for imports of similar goods subject to excise is carried out in the country of origin of the goods subject to excise.

Article 5 of the regulation outlines that excise bands must be firmly affixed to closed retail sales packaging and cover the available retail sales packaging openings. This is intended to keep the excise bands intact and undamaged when the packaged product is opened.

Further, it is also stipulated that the affixed excise bands may not cover the name and location of the factory written on the retail sales packaging.

In the event of the turn of a new fiscal year and/or design changes, excise bands are to be affixed by the manufacturer no later than the 1st of the following month after the turn of the fiscal year and/or the new design.

Next, in the event of any policy changes in terms of tariffs and/or Retail Selling Price (*Harga Jual Eceran*/HJE), excise bands that have been ordered beforehand must be affixed no later than the 1st of the following month after these changes apply.

As for imported goods subject to excise, excise bands are to be affixed by importers at a temporary storage area or bonded storage area no later than the 1st of the following month after the turn of the fiscal year and/or a new design or changes in tariffs and/or HJE.

In the event that there are excise bands that have not been affixed after the deadline has passed, the Head of the Customs and Excise Office will perform an enumeration to obtain the number, type, and condition of the available excise bands. Next, excise bands that have passed the deadline will be destroyed. Costs incurred as a result of the destruction of excise bands shall be the sole responsibility of the manufacturer or the importer concerned.

Administrative Penalties and Compensation Interest Rates for the January 2021 Period

The Minister of Finance stipulates the interest rates as the basis for calculating administrative penalties in the form of interest and the granting of interest compensation for the January 2021 period. This policy is regulated under the Minister of Finance of the Republic of Indonesia Decree Number 57/KMK.10/2020 concerning Interest Rates as the Basis for Calculating Administrative Penalties in the Form of Interest and Interest Compensation for the period

between 1 January 2021 to 31 January 2021 (KMK 57/2020).

The administrative penalties in the form of interest and interest compensation shall be effective from 1 January 2021 to 31 January 2021. There are 4 interest rates apply for administrative penalties, ranging from 0.51% to 1.76%. The four monthly interest rates are lower than the monthly interest rates for the December 2020 period. Details of monthly interest rates for tax interest penalties for the period between 1 January 2021 to 31 January 2021 can be seen in Table 4.

The amount of monthly interest rates in the MoF Decree varies as it is the result of the calculation of the monthly interest rate with the reference interest rate formula set by the minister of finance plus the uplift factor of each article and divided by 12.

On the other hand, the interest rate as the basis for the granting of interest compensation is set at 0.51%. The monthly interest rates are lower than the previous period. Details of the monthly rates for tax interest compensation for the period between 1 January 2021 and 31 January 2021 can be seen in Table 5.

Table 4 Administrative Penalties in the Form of Interest the January 2021 Period

Articles in General Tax Provisions and Procedures	The Imposition of Administrative Penalties	Monthly Interest Rate
Article 19 paragraph (1)	Notice of Tax Underpayment Assessment (*Surat Ketetapan Pajak Kurang Bayar*/SKPKB) or Additional SKPKB, and Correction Decree, Objection Decision Letter, Decision on Appeal, or Decision on Case Review, which causes the amount of tax payable to increase, but at the time of maturity, it is not paid or underpaid. (Collection Interest)	0.51%
Article 19 paragraph (2)	Taxpayers are allowed to pay in installments or postpone tax payments (Installments/postponement of tax payments)	0.51%
Article 19 paragraph (3)	Taxpayers are allowed to postpone the filing of Annual Tax Returns and the temporary calculation of the tax payable as referred to in Article 3 paragraph (5) is actually less than the actual amount of tax payable. (Underpayment of postponement of the filing of Annual Tax Returns)	0.51%
Article 8 paragraph (2)	Underpayment of Correction of Annual or Periodic Tax Returns	0.93%
Article 8 paragraph (2a)	The taxpayer corrects Periodic Tax Returns on his own (before audits) which results in higher tax liability	0.94%
Article 9 paragraph (2a)	Late remittance of periodic income tax	0.93%
Article 9 paragraph (2b)	Late remittance of Annual Income Tax/Article 29 Income Tax	0.93%
Article 14 paragraph (3)	The issuance of Notice of Tax Collection (*Surat Tagihan Pajak*/STP) by the DGT due to: (i). Unpaid/underpaid income tax (ii). Based on the research results, there are taxes that are underpaid due to writing errors and/or miscalculations. (Income tax in the current year is not paid/underpaid or from the results of the research, there is tax underpayment due to writing errors and/or miscalculations)	0.93%
Article 8 paragraph (5)	Disclosure of inaccuracy of Tax Returns after audits, but the Notice of Tax Assessment (*Surat Ketetapan Pajak*/SKP) has not been issued. (Underpaid tax that arises due to the disclosure of incorrect Tax Return filling)	1.34%
Article 13 paragraph (2)	SKPKB is issued because the tax payable is not paid/underpaid due to matters regulated under Article 13 paragraph 1 subparagraph (a) to (e) of the General Tax Procedures and Provisions Law. (SKPKB Penalties)	1.76%
Article 13 paragraph (2a)	SKPKB is issued as the taxable person for VAT purposes has not performed any supplies, but has received refunds/has credited the input VAT as referred to in Article 9 paragraph (6a) of the VAT Law. (Refund of input VAT from taxable persons for VAT purposes that are not producing)	1.76%

Source: Job Creation Law and KMK 57/2020 (processed)

Table 5 Interest Compensation for the January 2021 Period

Article dalam KUP	The Granting of Interest Compensation for	Monthly interest rate
Article 11 paragraph (3)	The refund of tax overpayment is performed in 1 (one) month after the application	0.51%
Article 17B paragraph (3)	Notice of Overpayment Assessment (*Surat Ketetapan Pajak Lebih Bayar*/SKPLB) is issued late after the 1 month period expires	0.51%
Article 17B paragraph (4)	SKPLB is issued because the preliminary investigation of tax crime: a. does not proceed with the investigation, b. proceeds with the investigation but there is no prosecution of tax crime, or c. proceeds with the investigation and prosecution of the tax crime but it is acquitted.	0.51%
Article 27B paragraph (4)	The refund of tax overpaument on the filing of objections, requests for appeal, or requests for case review that are granted partially or in full.	0.51%

Source: Job Creation Law and KMK 57/2020 (processed)

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