

NEW PROVISIONS ON ARTICLE 25 INCOME TAX INSTALLMENT AND COMPLIANCE RISK MANAGEMENT



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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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The Assertion of the Article 25 Income Tax Installment Mechanism

The Directorate General of Taxes (DGT) has issued a provision concerning the implementation of income tax installment calculation (Income Tax Article 25) by taxpayers with certain criteria. This is stated in Circular letter of the Director General of Taxes Number SE-25/PJ/2019 ([SE-25/PJ/2019](#)). Accordingly, the issuance of this Circular Letter then revoked the former Circular Letter of Director General of Taxes Number SE-77/PJ/2010 concerning Supervision of the Implementation of Article 25 Income Tax for Individual Taxpayer for Certain Entrepreneur ([SE-77/PJ/2010](#)).

This circular letter itself contains further instructions for the implementation of the Minister of Finance Regulation No. 215/PMK.03/2018 concerning the calculation of income tax installment in the current fiscal year that must be paid by the new taxpayers, banks, State-Owned Enterprises, Local-Owned Enterprises, listed taxpayer, other taxpayers based on the provisions who are required to make periodic financial report and individual taxpayer for certain entrepreneur ([MoF Reg No. 215/2018](#)).

In addition, net income as the calculation basis of Article 25 Income Tax installment for those three taxpayers denotes as a commercial net income. Three components that are not included in commercial net income, as being stated here, are foreign income, income that has been subject to final income tax, and/or not as an object of income tax, and costs related to final income and/or not as an object of tax income which are carried out proportionally or based on separate bookkeeping between final and non-final income, and also includes income that is not taxable object. Furthermore, the calculation basis of this type of installment for banks as taxpayer, listed taxpayer, and other taxpayers can be seen in Table 1 below.

The second aspect is related to the assertion of the net fiscal income which is the basis for the Article 25 Income Tax Installment for State-Owned Enterprises Taxpayer and Local-Owned Enterprises Taxpayer. Net fiscal income for the two taxpayers as stated here is the profit/loss according to the Work Plan and Corporate Budget (*Rencana Kerja dan Anggaran Perusahaan/RKAP*) in the relevant fiscal year which has been approved by the General Meeting of Shareholders (*Rapat Umum Pemegang Saham/RUPS*) after the fiscal adjustment has been made following the calculation of the loss that can be compensated.

Table 1 – Calculation Basis of Article 25 Income Tax Installment

No.	Taxpayer Category	Calculation Basis of Article 25 Income Tax Installment
1	Banks as Taxpayer.	Commercial net income in the monthly financial statements in accordance with the monthly reports submitted to the Financial Services Authority (<i>Otoritas Jasa Keuangan/OJK</i>) or as published on the bank's website.
2	Listed taxpayer and other taxpayers who are required to make financial report.	Net commercial income in quarterly financial reports is in accordance with quarterly report submitted to the Indonesia Stock Exchange (<i>Bursa Efek Indonesia/BEI</i>) and/or Financial Services Authority (OJK).
3	Other taxpayers who are not required to make monthly or quarterly report. ¹	Refers to general provisions.

Source: SE-25/PJ/2019.

There are several aspects which are emphasized by the tax authorities in calculating Article 25 Income Tax installment through the regulation in which was stipulated on 24 September 2019. The first aspect is that tax authority need to look at the condition of the taxpayer which can affect the installment. This first condition is primarily intended for banks as taxpayer, listed taxpayer, and other taxpayers that are required to make financial report. Some of these include having a fiscal loss that can be compensated, publicly listed and obtain tariff deduction, net income deduction, and 50% tariff deduction facilities.

The third aspect relates to the mechanism for the Article 25 Income Tax installment for taxpayers who are no longer meet the criteria as mentioned in Government Regulation Number 23 of 2018 ([Gov Reg No. 23/2018](#)). This third aspect also includes the provisions for taxpayers who choose to be subjected to income tax based on general provisions. The fourth aspect which is being emphasized is the installment mechanism for individual taxpayer for certain entrepreneur in which the Article 25 Income Tax installment are set at 0.75% of the

¹ Specifically for Listed Taxpayer and other taxpayers that do not have the obligation to submit financial report for the fourth quarter, the installment of Article 25 Income Tax for the January to the March tax period in the current year is equal to the amount of the Installment of Article 25 Income Tax for the last month of the previous fiscal year.

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gross income of each place of business, including the one which is located at the place of residence of the taxpayer.

The fifth aspect of the regulation relates to other explanation that guarantee uniformity of operational implementation in the field. Several other types of explanation include the procedure for the transfer due to overpayment of Article 25 Income Tax installment, the time basis in which when the installments are calculated, and the removal of administrative sanctions for the installment miscalculation during the transition period from January 2019 tax period until the March 2019 tax period. Thus, the amount of the installment is expected to be closer to the amount due at the end of the fiscal year.

The Relaxation of Excise Rules Enactment for Sliced Tobacco Type Products

The government changed the rules regarding the notification of excisable goods (*Barang Kena Cukai*/BKC). This is regulated in a regulation issued on 19 September 2019, namely Minister of Finance Regulation Number 134/PMK.04/2019 ([MoF Reg No. 134/2019](#)) concerning the Amendment to the Minister of Finance Regulation Number 94/PMK.04/2016 ([MoF Reg No. 94/2016](#)).

The main change in this regulation is in the form of granting concessions for tobacco product excise (*Cukai Hasil Tembakau*/CHT) of sliced tobacco type to the business players. Previously, the obligation to notify the BKC for the type of sliced tobacco was when the tobacco leaf processing was completely made, regardless of the substitute materials or auxiliary materials used in its manufacture.

However, in this new regulation, there is an additional time for notification where it can be made after the commodities have been packaged for retail sales. Accordingly, the imposition of CHT for the sliced tobacco type will be enforced after the products are being packaged for retail sales, and not as the material for further processing by other manufacturers.

One of the considerations of MoF Reg No. 134/2019 issuance is due to the Supreme Court Ruling (*Putusan Mahkamah Agung*/PMA) Number [46 P/HUM/2017](#) dated 2 October 2017 related to the provisions of Article 2 Paragraph 3 Letter f and Article 3 Paragraph 2 letter D in MoF Reg No. 94/2016 which is considered contrary to Law No. 39 of 2007 ([2007 Excise Law](#)).

The decision stipulates that both farmers and business entities that sell tobacco processing products for raw material purpose prior to the final consumer cannot be categorized as parties who must have a permit in the

form of Code Numbers of Excisable Goods Entrepreneurs (*Nomor Pokok Pengusaha Barang Kena Cukai*/NPPBKC).

Elimination of Dualism in Batam Investment Leadership

The Indonesian government officially handed over the exploitation of Batam's free trade area and free port to the local mayor. This policy is contained in Government Regulation Number 62 Year 2019 ([Gov Reg No. 62/2019](#)) concerning the Second Amendment to PP No. 46/2007 ([Gov Reg No. 46/2007](#)) concerning the Free Trade Zone and Free Port of Batam.

The main consideration of the issuance is in the context of synchronization and coordination between the Free Trade Zone Management Agency and the Batam Free Port (*Badan Pengusahaan Batam*/BP Batam) and the government of Batam City. This policy also ended the dualism of investment decision-making between the Head of BP Batam and the local government.

BP Batam, formerly known as the Otorita Batam is a non-structural agency of the central government that was formed based on Gov Reg No. 46/2007. The duties and authority of BP Batam is to carry out the management, development and development of the area in accordance with the functions related to the establishment of Batam as a Free Trade Zone and Free Port for a 70 year-period from 20 August 2007. However, the Head of BP Batam is not a local government official even though it is located at the Batam region.

Through the new regulation, the ex-officio mayor of Batam will then be the Head of BP Batam as long as the individual meets the qualifications, namely not in the process of detention and not temporarily absence. According to this new rule, the Head of BP Batam will eventually become a budget user/consumer of goods. The tenure of this position will refer to the provisions of the law relating to the Free Trade Area and the Local Government.

Furthermore, economic activities in the area related to the development of public infrastructure and public interests will be carried out based on joint planning between the Head of BP Batam and the government of Batam City which will be coordinated by the Board of Batam Free Port and Free Trade Zone. This Board is also authorized to establish general policies, coach, supervise, evaluate the achievement of performance agreements (*Pencapaian Perjanjian Kinerja*/PPK), and coordinate the activities of BP Batam in accordance with the provisions of the legislation that includes the assignation of the Head of BP Batam.

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Efforts to Increase Taxpayer Compliance through Compliance Risk Management (CRM)

The Indonesian government continues to work on several instruments to improve taxpayer's compliance. Moreover, the government itself is targeting a formal compliance rate for 2019 of 85%.² On the other hand, the trend of formal compliance over the past five years has only been around 60% to 70%.

One of the efforts made by the government is by optimizing the compliance risk management (CRM) regulated through the Director General of Taxes Circular Letter Number SE-24/PJ/2019 regarding Implementation of Compliance Risk Management in Extensification, Supervision, Inspection, and Collection Activities at the Directorate General of Taxes ([SE-24/PJ/2019](#)).

The regulation, which was promulgated as of 11 September 2019, defines CRM as a taxpayer compliance risk management process carried out systematically by the DGT. This risk management is implemented through constructing the treatment options based on taxpayer behavior and the capacity of its resources that can be used to increase compliance effectively while preventing non-compliance.

The CRM implementation itself is a continuation of the tax amnesty program and the Exchange of Information (EoI) to enable tax authorities for setting a more sophisticated and accurate taxpayer risk profile through the preparation of a Compliance Map. Thus, the tax authority can achieve the organization's strategic objectives by utilizing a decision-making tool. In its implementation, CRM will be divided into three main stages, namely extensification, supervision & inspection, and billing.

First, the implementation of CRM extensification functions. This stage begins with the preparation of a list of extensification targets (*Daftar Sasaran Ekstensifikasi/DSE*). The authority will then sort the taxpayer based

on risk analysis after the DSE is identified in the CRM compliance map of the extensification function. The extensification activity of implementation, follow-up, monitoring and evaluation will be conducted in accordance with the provisions of the procedure for extensification in the field of taxation.

Second, the implementation of CRM for taxpayer inspection and supervision activities. The draft the compliance map in this stage will heavily relies on the level of likelihood of non-compliance and contribution to revenue from the taxpayers. The data used in the preparation of this CRM are reporting, payment, and reporting accuracy.

One of the activities related to the second stage of CRM is constructing the list of priority targets for potential excavation (*Daftar Sasaran Prioritas Penggalan Potensi/DSP3*) of specific taxpayers. At this stage, the authority also begins to use third party data with the intention for supervising and inspecting taxpayers. One of data source is the database of spontaneous information exchange.

The role of the Head of the Tax Office (*Kantor Pelayanan Pajak/KPP*) who acts as the Head of the Taxpayer Compliance Committee is also very crucial at this stage. In connection with this role, the Head of the KPP can determine the list of audit priority targets (*Daftar Sasaran Prioritas Pemeriksaan/DSPP*) and the list of priority supervision (*Daftar Prioritas Pengawasan/OPP*) after a set of specific mechanisms.

Third, the implementation of CRM for tax collection activities and distress warrant. Unlike the two previous stages where the map is formed based on the potential for taxpayer non-compliance, this stage will set the map based on the tendency of taxpayer to pay. This is due to the CRM function on this stage which is closely related to the efforts of the tax receivable disbursement optimization. One mechanism used for preparing the map is by forming a priority list of tax collection actions (*Daftar Prioritas Tindakan Penagihan Pajak/DPTTP*).

² Redaksi DDTCTNews, "Sri Mulyani Akui Target Kepatuhan Formal 85% Cukup Berat," (4 March 2019), Internet, can be accessed at: <https://news.ddtc.co.id/sri-mulyani-akui-target-kepatuhan-formal-85-cukup-berat-15201>

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