

# Tax News Flash

May 2018



## Revised Tax Holiday Regulations More Attractive for Potential Investors

To attract greater capital investment in Indonesia, in early 2018 the Government, through Ministry of Finance PMK No. 35/PMK.010/2018 (PMK 35), issued a revised regulation concerning its Tax Holiday Program. PMK 35 revisions of previous policies are:

1. The Applicant must be incorporated in Indonesia and considering a new capital investment. Previously the Applicant was required to be a new entity; that is no longer a requirement.
2. The pioneer industry groups which can participate in the Tax Holiday Program have been expanded. A list of them is included at the end of this Tax News Flash.
3. The government also now provides the opportunity to add more pioneer industries to its list. If a Taxpayer considers its business is a pioneer industry, it can apply to the Government for approval.
4. PMK 35 also now allows businesses that have economic infrastructure cooperation with the Government and Business Partnerships (KPBU/ *Kerjasama Pemerintah dengan Badan Usaha*) to participate in the Tax Holiday Program. The previous regulation was limited to economic infrastructure using schemes other than with the KPBU.
5. To participate in the Tax Holiday Program, the Applicant must meet the Debt to Equity Ratio requirements in accordance with MoF Regulation PMK No. 169/PMK.010/2015 (4:1) and must not yet have been issued a decision on the granting or a notification of rejection of the Corporate Income Tax reduction by the Minister of Finance (MoF).



## Tax Facility Scope and Obligations

PMK 35 stipulates that successful Applicants will be entitled to a tax facility reduction of 100% of the amount of corporate income tax payable. The time period for the tax facility depends on the value of the investment, as follows:

Investment Level (IDR)	Periods
500 billion up to < 1 T	5 fiscal years
1 T up to < 5 T	7 fiscal years
5 T up to < 15 T	10 fiscal years
15 T up to < 30 T	15 fiscal years
30 T or more	20 fiscal years

After the time period expiration of the tax facility, the Taxpayer will be awarded a reduction of Corporate Income Tax of 50% of its Corporate Income Tax liability for the next 2 fiscal years.

A Taxpayer that obtains the Corporate Income Tax reduction has the following obligations:

- Maintain separate bookkeeping for income obtaining the Corporate Income Tax reduction and income not obtaining the Corporate Income Tax reduction; and
- Maintain tax withholding and collection obligations to other parties in accordance with the provisions of the tax laws and regulations.

The Tax Holiday facility starts at the time when the Company begins commercial production. The Taxpayer must submit an application for

Commencement of Commercial Production to BKPM (Indonesian Investment Board). BKPM will then provide written notice of the start of commercial production to the Tax Office, which will verify commencement, based on field inspection results.

The deduction of Corporate Income Tax will be revoked in the event that:

1. Based on the field inspection results, it is discovered that the amount of a Taxpayer's new capital investment at the time of the Commencement of Commercial Production is less than IDR 500 billion;
2. Based on the field inspection results, it is found that there is a discrepancy between the actual and the planned investment in the Core Business Activity;
3. A Taxpayer imports or buys second-hand capital goods as new capital investments, unless the second-hand capital goods constitute a relocation on the whole as one package of new capital investment from another country and are not produced domestically;
4. A Taxpayer is assigned by the Government to perform strategic national projects;
5. Taxpayer transfers assets during the period of the utilization of the Corporate Income Tax reduction, except if the transfer is conducted for the purpose of improving efficiency and will not cause the value of the capital investment to become less than the capital investment plan; and/or
6. Taxpayer relocates new capital investment to a foreign country.



## KPMG Comments:

Prior to the issuance of PMK 35, the requirements to obtain a Tax Holiday were considered to be too complicated. As a result, expectations to boost incoming investment were not realized.

PMK 35 provides greater convenience and more flexibility for investors to obtain a Tax Holiday by revising and loosening some of the previous requirements to make them more attractive, more lenient and put fewer burdens on the Applicants.

PMK 35 requires a lower minimum capital requirement and changes the legal form of investment from only the establishment of a new company to include an additional capital investment by an already established entity to attract existing pioneer industries to join the Tax Holiday Program by simply meeting the required investment value threshold without having to create a new company.

It is expected that with the presence of PMK 35 will boost investment so that economic growth will increase as a consequence.

## The revised list of pioneer industry groups is as follows:

- integrated upstream basic metal
- integrated oil and gas refinery
- integrated petrochemical from oil, gas or coal
- integrated inorganic basic chemicals
- integrated organic basic chemicals from agriculture, plantation or forestry products
- integrated pharmaceutical raw materials
- semi-conductor and other main components of computers integrated with computers manufacturing
- main components of communications equipment integrated with smartphones manufacturing
- main components of health equipment integrated with irradiation, electro medical or electrotherapy manufacturing
- main components of industrial machinery integrated with machinery manufacturing
- main components of machinery integrated with motor vehicles manufacturing
- robotics components integrated with manufacturing industry
- main components of vessels integrated with vessel manufacturing
- main components of aircrafts integrated with aircraft manufacturing
- main components of trains integrated with train manufacturing
- power plant machinery
- economics infrastructure.



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