

# Tax News Flash

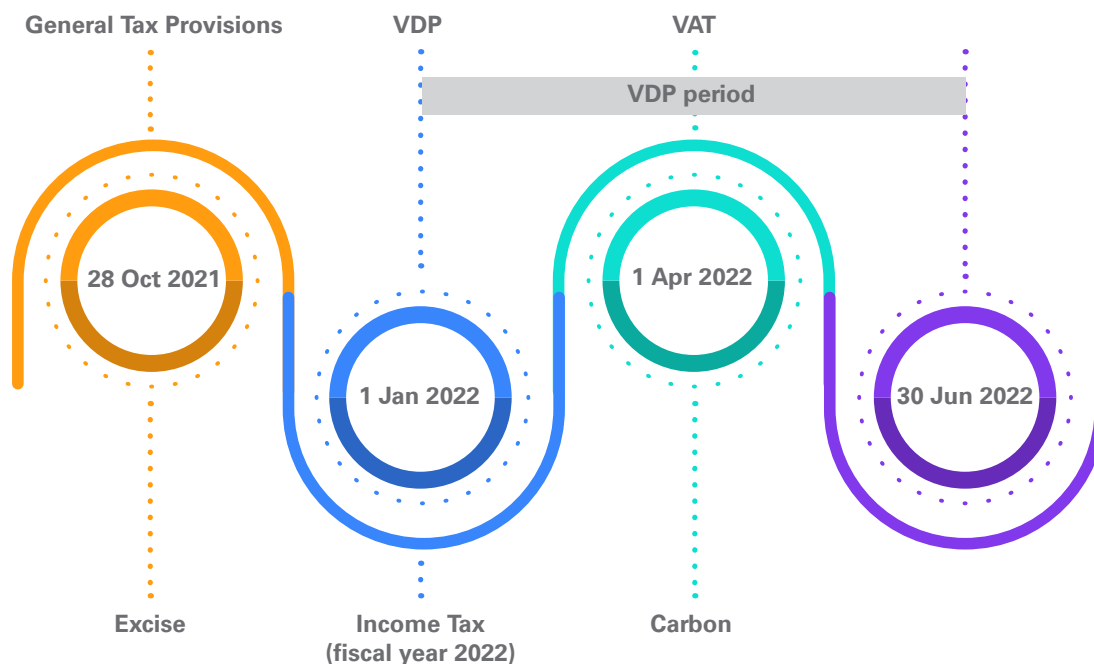
December 2021



## Harmonization of Tax Regulations Law

The President of the Republic of Indonesia has signed Law No. 7 Year 2021 in regard to the “Harmonization of Tax Regulations” (Undang-undang Harmonisasi Peraturan Perpajakan / “the HPP Law”). This law was enacted on 29 October 2021. The HPP Law also introduces a new carbon tax law and a follow-up to the previous tax amnesty scheme, the Voluntary Disclosure Program (“VDP”).

### Timeline of the tax laws’ amendments/new provisions



### Highlights of the HPP Law:

#### Changes to the General Tax Provisions and Procedures Laws

- For Indonesian tax residents, their tax identification numbers (*Nomor Pokok Wajib Pajak* / “NPWP”) are now their national identification numbers (*Nomor Induk Kependudukan* / “NIK”).
- Taxpayers may submit a separate report to revise their tax returns even during a tax audit, as long as the tax auditor has not issued a tax audit result notification. The conditions for submitting a revision are also eliminated, which means that the revised information may be related to other than the amounts of tax underpayment, under reported of assets or equity, etc.

- Introduction of lower tax penalties and providing certainty in the maximum interest penalty:

Description	Administrative Sanction	
	Former scheme	New scheme
Failure to submit a tax return (annual or monthly) after a warning letter is issued (and upon completion of a tax audit)	Increment: 50% of tax underpayment	Interest Penalty: refer to the published interest rate issued by the Ministry of Finance ("MoF") plus 20% (divided by 12) for a maximum of 24 months
Tax audit result stating that VAT/luxury tax should not be compensated or should not be subject to 0% VAT rate	Increment: 100% of tax underpayment	Increment: 75% of tax underpayment
Tax audit result stating that WHT is withheld but not paid or underpaid to the treasury	Increment: 100% of tax underpayment	Increment: 75% of tax underpayment
Tax underpayment which has not been paid prior to the submission of the tax objection letter, in the case the tax objection application is rejected or partially approved	Fine: 50% of tax underpayment that has not been paid	Fine: 30% of tax underpayment that has not been paid
Tax underpayment which has not been paid prior to the submission of the tax objection letter, in the case the tax appeal application is rejected or partially approved	Fine: 100% of tax underpayment that has not been paid	Fine: 60% of tax underpayment that has not been paid

- The HPP Law includes a new provision that a judicial review process does not defer nor cease the implementation of a tax court verdict and that a tax underpayment that has not been paid prior to the submission of the objection letter is subject to a 60% penalty.
- With respect to a MAP, the HPP Law states that in case a MAP process has not been concluded before the announcement of the tax court or judicial review verdict, the Director General of Tax ("DGT") can continue the MAP negotiation if the tax court verdict or judicial review verdict is not related to the case that is being discussed in the MAP. For the case that is being discussed in the MAP, DGT can continue the MAP process by referring to the tax court verdict or judicial review verdict if the verdict is already issued.

### Changes to the Income Tax Law

- Continuation of a 22% CIT rate.
- The CIT rate for listed companies, subject to meeting specific requirements, is lowered by 3% (previously 5%) starting fiscal year 2022 to 19%.
- The HPP Law revises the progressive tax rates for individual taxpayers as follows:

Former scheme		New scheme	
Income band (in IDR million)	Tax rate	Income band (in IDR million)	Tax rate
<= 50	5%	<= 60	5%
50-250	15%	60-250	15%
250-500	25%	250-500	25%
> 500	30%	500-5,000	30%
		> 5,000	35%

- Introduction of a non-taxable income threshold of IDR 500 million for individual taxpayers who are subject to tax under the 0.5% final small scale taxpayer tax regime.
- Clarification that interest or discount of short-term securities traded in money markets are subject to final tax under Article 4(2). The tax rate and the withholding mechanism are expected to be governed further in an implementing regulation.

- Starting in fiscal year 2022, employees' benefits-in-kind are taxable income for employees and therefore deductible for CIT payable calculation purposes, if they are provided in the context of normal business arrangements. Some exemptions still apply for benefits-in-kind provided to all employees in remote areas, for indispensable work funded by a state/regional government revenue budget and other certain employees' benefits.
- Tax depreciation/amortization periods for buildings/intangible assets having more than 20 years of useful life may follow the actual economic useful life in accordance with the approach(es) adopted in the taxpayer's accounting treatment.
- Deductibility of bad debt provisions for banks and other loan providers, financial leasing companies with option rights, consumer finance companies and factoring companies can follow the applicable accounting standards with certain limits and approval from the Financial Services Authority (Otoritas Jasa Keuangan/ OJK).
- Introduction of a new method for the application of thin capitalization rules. The percentage of EBITDA (Earnings Before Interest, Taxes, Depreciation, and Amortization) is now considered an acceptable method in addition to the Debt-to-Equity ratio method.

## Changes to the VAT Law

- An increase of the VAT rate to 11% applicable from 1 April 2022 to 31 December 2024 and to 12% from 1 January 2025 onwards.
- Redefinition of VAT-able goods/services, which includes:

Become VAT-able goods/services	Remain as non-VAT-able goods/ services but with certain requirements	Become VAT-able strategic goods/services that are exempted from VAT
<ul style="list-style-type: none"> <li>• Mining and/or drilling products, taken directly from the source</li> <li>• Gold bars other than for the Government's forex reserve</li> <li>• Non-advertising broadcasting services</li> <li>• Postal services</li> <li>• Public phone services</li> <li>• Money transfer by postal services</li> </ul>	<ul style="list-style-type: none"> <li>• Food and beverages served in hotels/ restaurants, etc. that are subject to regional tax</li> <li>• Hotel, parking, catering, arts and entertainment services that are subject to regional tax</li> <li>• Public services, i.e., services provided by the Government that cannot be provided by other parties</li> </ul>	<ul style="list-style-type: none"> <li>• Basic necessity products that are highly needed by the public</li> <li>• Medical services under the national health insurance program</li> <li>• Financial services</li> <li>• Insurance services</li> <li>• Educational services</li> <li>• Social services which are not profit-based</li> <li>• Public transportation services</li> <li>• Labor services</li> </ul>

Further clarification is expected to be available in an implementing regulation which is expected to be released soon.

- Input VAT relating to the purchase of sedans and station wagons now can be credited as long as the vehicle is used for business purposes and not only intended for certain employees.
- VAT entrepreneurs whose annual gross turnover is less than a certain amount (i.e., revenue threshold) and are engaged in certain business activities that are not obliged to maintain bookkeeping in Indonesia are allowed to remit and pay the VAT due in a certain amount. The VAT rate and reporting mechanisms shall be further regulated in an implementing regulation.

### **Changes to the Excise Law**

The HPP Law includes electronic cigarettes as a tobacco product subject to excise.

The HPP Law provides room for the extension and/or reduction of the scope of excise-able goods which shall be further regulated in an implementing regulation.

### **Introduction of new tax regimes**

#### **Voluntary Disclosure Program ("VDP")**

The HPP Law introduces two VDP schemes:

- VDP I: for taxpayers who participated in the previous tax amnesty program  
Qualified taxpayers are allowed to disclose assets acquired from 1 January 1985 up to 31 December 2015 (similar to the previous tax amnesty program) by paying a final tax rate between 6% to 11%.
- VDP II: only for individual taxpayers  
Qualified taxpayers are allowed to disclose assets acquired from 1 January 2016 up to 31 December 2020 by paying a final tax at a rate between 12% to 18%.

Further details of the VDP will be discussed in a separate Tax News Flash.

### **Carbon Tax**

The implementation of the Carbon tax will be done in stages with the earliest stage to be effective on 1 April 2022. Carbon tax is imposed on carbon emissions which have a negative impact on the environment. Further on the carbon emissions that are subject to carbon tax shall be regulated under an implementing regulation which will be evaluated regularly. The HPP Law determines that the rate of the Carbon tax is to be not less than IDR30/kg. The appropriateness of this rate is also be subject to regular review.

#### **KPMG Notes:**

- Where there is a dispute with any of the clauses in the tax laws, the HPP Law shall prevail.
- The HPP Law eliminates several potential differences in interpreting the tax laws. For instance, clarifications in the tax treatment of benefits-in-kind and creditability of Input VAT in respect of the implementation of the Output-Input VAT credit mechanism. Nonetheless, several provisions, including the new ones, require further guidance. We expect the Indonesian Tax Authority to issue many implementing regulations related to this law in the near future.
- It is still unclear whether the new provisions, such as the Carbon Tax Law, can be effectively implemented on 1 April 2022, given that they are subject on the availability of the implementing regulations.
- For individuals who pay Indonesian income taxes, the taxation of benefits-in-kind beginning in 2022 may push their taxable income into a higher tax rate bracket.
- We believe that the new amortization/depreciation rule for buildings with more than 20 years of useful life will only be applicable for new buildings and/or intangible assets.

# Contact us

## **KPMG Advisory Indonesia**

### **Tax Services**

33<sup>rd</sup> Floor, Wisma GKBI  
28, Jl. Jend. Sudirman  
Jakarta 10210, Indonesia

**T:** +62 (0) 21 570 4888

**F:** +62 (0) 21 570 5888

### **Abraham Pierre**

#### **Head of Tax Services**

Abraham.Pierre@kpmg.co.id

### **Aaron Brunier**

Aaron.Brunier@kpmg.co.id

### **Adeline Harriman**

Adeline.Harriman@kpmg.co.id

### **Andy Tanu Utomo**

Andy.Utomo@kpmg.co.id

### **Anita Priyanti**

Anita.Priyanti@kpmg.co.id

### **Bambang Budiman**

Bambang.Budiman@kpmg.co.id

### **Diana Ria Hutagaol**

Diana.Hutagaol@kpmg.co.id

### **Eko Prajanto**

Eko.Prajanto@kpmg.co.id

### **Esther Kwok**

Esther.Kwok@kpmg.co.id

### **Hamdanus Lukman**

Hamdanus.Lukman@kpmg.co.id

### **Irwan Setiawan**

Irwan.Setiawan@kpmg.co.id

### **Iwan Hoo**

Iwan.Hoo@kpmg.co.id

### **Jacob Zwaan**

Jacob.Zwaan@kpmg.co.id

### **Julya Permata Tjen**

Tjen.Permata@kpmg.co.id

### **Natalia Yamin**

Natalia.Yamin@kpmg.co.id

### **Sontang Ruli Siregar**

Sontang.Siregar@kpmg.co.id

### **Sutedjo**

Sutedjo@kpmg.co.id

### **Tonggo Aritonang**

Tonggo.Aritonang@kpmg.co.id

### **Yoshiyuki Misao**

Yoshiyuki.Misao@kpmg.co.id

**home.kpmg/id**

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