Tax News Flash

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A new policy for Article 21 Withholding Tax: Effective rate

The government introduced an "Average Effective Rate" or "*Tarif Efektif Rata-rata* (TER)" for Article 21 employee income tax through Government Regulation No. 58 Year 2023 on 27 December 2023 which stipulates the Article 21 Withholding Tax ("Art. 21 WHT") rate on income related to employment, services, or activities received by individuals ("GR-58"). The implementing guidelines for this GR-58 is the Minister of Finance Regulation No. 168 Year 2023 dated 29 December 2023 ("PMK-168") which was also issued and both regulations took effect on 1 January 2024.

The purpose of GR-58 and PMK-168 are to simplify the Art. 21 WHT calculation by applying a monthly TER from January to November. The annual calculation method for December, or the last tax period, remains the same as in previous regulations, and Article 17 Paragraph 1 (a) of the Income Tax Law ("Art. 17" - progressive income tax rate) should be applied. The tax payable for December will be based on the recalculation of annual tax payable deducted by the total tax that has been withheld from January through November. The implementation of TER imposes no additional tax burden on employees, as the annual Art. 21 WHT calculation applies the same tax rate as in previous regulation (PER-16/PJ/2016).

TER category

TER consists of monthly TER and daily TER. For monthly TER, there are 3 categories which apply to all income received by individuals on a monthly basis:

TER category	Non-taxable income ("PTKP") status	PTKP amount	Monthly TER
Category A	Single without dependents (S/0)	IDR 54,000,000	From 0% to 34% (with 44 layers of monthly gross income from IDR 5.4 million to above IDR 1.4 billion)
	Single with 1 dependent (S/1)	IDR 58,500,000	
	Married without dependents (M/0)	IDR 58,500,000	
Category B	Single with 2 dependents (S/2)	IDR 63,000,000	From 0% to 34% (with 40 layers of monthly gross income from IDR 6.2 million to IDR 1.405 billion)
	Single with 3 dependents (S/3)	IDR 67,500,000	
	Married with 1 dependents (M/1)	IDR 63,000,000	
	Married with 2 dependents (M/2)	IDR 67,500,000	
Category C	Married with 3 dependents (M/3)	IDR 72,000,000	From 0% to 34% (with 41 layers of monthly gross income from IDR 6.6 million to IDR 1.419 billion)

Source: Attachment of GR-58/2023

To calculate the monthly Art. 21 WHT payable, the employer must identify the employee's marital status to choose the category, then apply the gross income layers to determine the monthly TER.

A daily TER is applied on the income received by non-permanent employees who receive their gross income on a non-monthly basis and make between IDR 0 and IDR 2.5 million per day. Their daily TER is listed below. For daily gross income above IDR 2.5 million, tax is calculated from 50% of their daily gross income using the Art. 17 tax rate.

Details of the daily TER are as follows:

Daily gross income	Daily TER
IDR 0 - IDR 450,000	0%
> IDR 450,000 - IDR 2,500,000	0,5%

The application of TER on the gross income received by individuals in a particular month takes into account deductions from gross income, including job-related expenses, pension fund contributions, and PTKP. This is applied on a monthly basis without annualization (it is also non-cumulative, meaning that each month is considered independently).

Types of income recipients and the tax calculation

The calculation method for Art. 21 WHT, using either TER or the Art. 17 progressive tax rate will be based on the type of income recipient, as summarized below:

Income recipients	Income	Art. 21 WHT calculation
Permanent employees	Gross income (regular and irregular income)	Gross income x monthly TER (prior to last tax period)
	Annual taxable income	Annual taxable income x Art. 17 (last tax period)
Pensioners	Gross income (regular income in the form of pension money or similar income)	Gross income x monthly TER (prior to last tax period)
	Annual taxable income	Annual taxable income x Art. 17 (last tax period)
Supervisory board/commissioners	Gross income (irregular income)	Gross income x monthly TER (every tax period)
Non-permanent employees	Gross income (non-monthly payment); IDR 0 - IDR 2.5 million/day	Gross income per day x daily TER (every tax period)
	Gross income (non-monthly payment); > IDR 2.5 million/day	Gross income x 50% x Art. 17 (every tax period)
	Gross income (monthly payment)	Gross income x monthly TER (every tax period)
Non-employees	Gross income (honorarium, commission, fee, etc)	Gross income x 50% x Art. 17 (every tax period)
Activity participants	Gross income (honorarium, pocket money, representation money, meeting money, etc)	Gross income x Art. 17 (every tax period)
Pension program participants	Pension benefit money or similar income partially withdrawn by pension program participants who still have the status of employees	
Former employees	Gross income (production service, bonus, gratuities as regulated in the Income Tax Law, bonus, and other irregular rewards	

Note: Annual taxable income = Annual gross income – Allowable deductions – PTKP

Zakat or religious donations

In the previous regulation, zakat or religious donations could be deducted from gross income when the employee calculated their annual individual income tax. However, under PMK-168, zakat or religious donations can be deducted by the employer in the last period if the zakat or religious donations (mandatory for followers of religions recognized in Indonesia) are paid through employers to zakat amil bodies, zakat amil institutions or religious institutions established or authorized by the government.

The employer’s obligations

PMK-168 also regulates the employer’s obligations for Article 21/26 Withholding Tax (“Art. 21/26 WHT”) which are as follows:

1. Calculate, withhold, pay, and report Art. 21/26 WHT related to work, services, or activities that are due for each tax period.
2. Prepare the Art. 21/26 WHT slip and provide it to the income recipient. The WHT slip form will be determined by the Director General of Taxation (“DGT”) in PER-2/PJ/2024.
3. Prepare and maintain the records or worksheets for the calculation of Art. 21/26 WHT.

The above obligations remain when income is provided even if there is no tax payable in the respective month. However, this obligation is not applicable if there is no income given for personal employment, services, or activities in the respective month.

Tax overpayment due to TER implications

In some cases, if the employee resigns in the middle of the year, the income tax will be over-withheld for the relevant employee. The cumulative Art. 21 WHT amount before the latest period could be substantially greater than the actual tax liability in the last tax period upon recalculation. PMK-168 regulates that if Art. 21 WHT is over-withheld, the employer must refund the over-withheld amount to the respective permanent employee or retiree and provide an Art. 21 WHT slip by the end of the month following the last tax period. This is not applicable for any Art. 21 WHT that is over-withheld and borne by the government.

In cases where there is an overpayment of Art. 21 WHT payable, the employer can compensate it in the following period. If the tax overpayment was due to an amendment of a monthly tax return, the tax overpayment can be compensated in other periods. It does not have to be in a consecutive month.

Updated Art. 21 WHT slip

After the issuance of PMK-168, the DGT issued Regulation No. 2 Year 2024 (“PER-2”) which introduces the new monthly Art. 21/26 WHT slip and monthly Art. 21/26 tax return, both of which took effect in the January 2024 tax period. Highlights of the changes are as follows:

1. A new form, i.e. 1721-VIII must be reported every month except for the latest tax period.
2. The new form must be given to employees one month after the tax period ends (at the latest). It cannot be used by employees as a tax credit.
3. For the January 2024 period, Art. 21 WHT slips (Form 1721-VI, 1721-VII, and 1721-VIII) can be given to income recipients by, at the latest, 31 March 2024, since this falls within the transition period.
4. A WHT slip must be issued if there is the payment of income, even though there is no withholding tax payable.

KPMG notes:

- The TER scheme simplifies the monthly Art. 21 WHT calculation (January – November) and reduce the monthly calculation under previous regulation. The actual tax payable will be calculated in December (the last period) employing the tax rate as stipulated in Article 17 Paragraph 1 (a) of the Income Tax Law. However, there is a possibility of significant underpayment in the last period which should be communicated to the employees, especially if the gross method for the Art. 21 WHT calculation is used. In other cases, Art. 21 WHT might be over-withheld for employees who do not work for the full year or receive significant compensation (such as bonus) in the middle of the year. This must be refunded to these employees.
- The monthly Art. 21 WHT payable will fluctuate depending on gross income in the period from January to November which can impact an employer's cash flow.
- Employers must organize any zakat or religious donations which are paid through them and give these donations to authorized zakat amil bodies, zakat amil institutions and religious institutions established or authorized by the government to allow the zakat or religious donations to be treated as deductions for gross income received by employees in the Art. 21 WHT calculation in the last tax period.
- For employers, there will be an administrative burden in preparing the withholding tax slips for permanent employees and retirees who receive income related to pensions either periodically or every month. This also applies to Art. 21 WHT for non-permanent daily employees because daily WHT slips need to be made.

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