cutting through complexity

TAX NEWS FLASH
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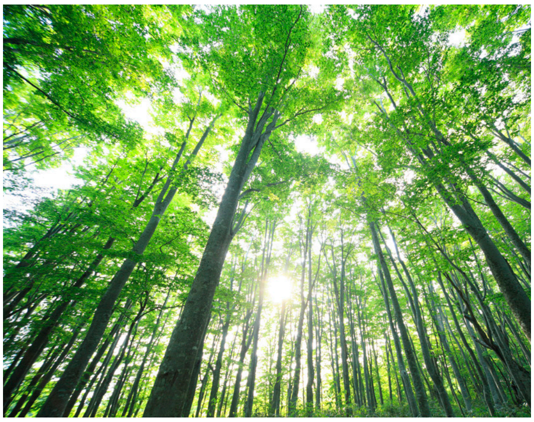
KPMG Advisory Indonesia



New Income Tax Facilities

In order to boost economic growth, the Government recently issued the second amendment, Government Regulation No. 18 Year 2015 ("GR-18/2015") to Government Regulation ("GR") No. 1 Year 2007 ("GR-1/2007") regarding income tax facilities on investments in certain business sectors and/or in certain regions within Indonesia (the first amendment, GR-52/2011, was issued in 2011) to attract more foreign and domestic businesses to invest in those industries and regions, effective 6 May 2015, together with implementing guidelines: Minister of Finance Regulation No. 89/PMK.010/2015 ("PMK-89/2015"), the Chairman of Indonesian Investment Coordinating Board ("BKPM") Regulation No. 8 Year 2015 ("BKPM-8/2015") and Minister of Industry Regulation No. 48/M-IND/PER/5/2015.

There is some new business sectors that are now qualified for tax incentives:
1. Mining product smelters,
2. Computer and communication device manufacturing,
3. Motor vehicle manufacturing,
4. Land transportation, and
5. Pipeline transportation

Unlike GR-52/2011, there is no minimum investment amount stipulated in GR-18/2015 to obtain these new Income Tax Facilities. The investment criteria are any investments that have:
1. High investment value;
2. Export orientation;
3. High intensive labor; or
4. High local content.

These Tax Facilities will be granted to both new investors and existing investors for business expansion investing in various qualified sub-business sectors located in qualified locations/regions within Indonesia.

Qualified Sub-Business Sectors and Locations/Regions

The lists of qualified sub-business sectors and qualified specific geographic locations are much too voluminous to list here.

There are 66 qualified sub-business sectors within the 24 qualified general business sectors listed below that are applicable to all regions in Indonesia:	
1. Agriculture, farming, hunting and related activities	13. Computer, electronic and optical equipment manufacturing
2. Forestry and wood logging	14. Electrical equipment manufacturing
3. Coal and lignite mining	15. Machinery and equipment manufacturing
4. Crude petroleum, natural gas and geothermal mining	16.Motor vehicle, trailer and semi-trailer manufacturing
5. Food products manufacturing	17. Other transportation equipment manufacturing
6. Textile manufacturing	18. Construction and machinery and equipment repair services
7. Coal and petroleum refining products manufacturing	19. Supplying electricity, gas, steam and cold air
8. Chemicals and chemical products manufacturing	20. Water supply
9. Pharmaceuticals, medicinal chemicals and traditional medicine manufacturing	21. Land transportation and pipeline transportation
10. Rubber, rubber products and plastics products manufacturing	22. Warehouse and transportation support services
11. Basic metals manufacturing	23. Programming, computer consultancy and other computer related activities
12. Metal products, non-machine and related products manufacturing	24. Real estate activities

There are 77 qualified sub-business sectors within the 16 qualified general business sectors listed below that are limited to very specific locations in various regions in Indonesia:	
1. Agriculture, farming, hunting and related activities	9. Paper and paper products manufacturing
2. Forestry and wood logging	10. Chemical and chemical products manufacturing
3. Fishery	11. Rubber and goods made from rubber and plastic manufacturing
4. Coal and lignite mining	12. Non-metal mining
5. Metal ore mining	13. Basic metals manufacturing
6. Food products manufacturing	14. Furniture manufacturing
7. Textile manufacturing	15. Machinery and equipment repair and installation services
8. Leather, leather products and footwear manufacturing	16.Waste management

The qualified sub-business sectors in the “all regions” lists differ from those listed for specific locations/regions.

New Income Tax Facilities

The new income tax facilities granted under GR-18/2015 are:

Main Incentives			
Type		Requirements	Applicability
1.	Additional deductions (the "Investment Allowance") equal to 5% of the total investment in fixed assets, including land, ("Approved Assets") annually for up to 6 years following commencement of commercial operations	Approved Assets use limited to operation of the approved business	• Acquisition costs of the Approved Assets used for the approved business activities • Effective from the date commercial production begins, as determined and approved by the Directorate General of Tax ("DGT"). **Notes:** Approved Assets must not be transferred, partially or in full, except for new replacements, during the 6-year period after commencement of commercial production or their useful lives, whichever is longer. If transferred, the income tax facilities will be revoked, the company will be penalized under the general tax regulations and no income tax facilities can be obtained by the company under GR-18/2015.
2.	Accelerated depreciation of Approved Assets and amortization of approved related intangible assets	Use the Approved Assets as intended	Applicable from the month when the income tax facilities approval is effective **Note:** Approved Intangible Assets must be used until the end of their useful lives and cannot be transferred until then.
3.	Withholding tax rate reduction on offshore dividend payments to 10% or the rate in the prevailing tax treaty, whichever is lower	None	When the dividends are declared as payable (not the payment date).

4. Up to an additional 5 years for tax loss carry forward utilization, to a maximum of 10 years, can be claimed on a piece-meal basis if/as the following requirements are met:

	Additional Years	Requirements	Applicability
a.	1	Approved investment is located in an industrial zone and/or bonded zone	Applicable to tax loss in all years with DGT approval
b.	1	At least IDR10 billion is spent for economic and social infrastructures at the business location	Applicable to the tax loss in the financial year when the IDR10 billion has been entirely spent
c.	1	Use of local raw materials and/or components for at least 70% of the finished products, starting in the 4th year (or before) after BKPM approval	Applicable to the tax loss in the financial year when meeting the 70% local content requirement
d.	1 and/or 2	• Employment of at least 500 Indonesian employees for 5 consecutive years • Employment of at least 1,000 Indonesian employees for 5 consecutive years	Applicable to the tax loss in the financial year after meeting the requirement based on PPh 21 returns
e.	2	Spend at least 5% of the total investment within 5 years for research and development in Indonesia for product development and production efficiency	Applicable to the tax loss in the year when this 5% research and development expense has been entirely spent
f.	2	Business expansion in certain industries and/or in certain regions funded by earnings after tax (we can assume that this is retained earnings) before the principal business expansion license is granted	Applicable to the tax loss in the year when the commercial operation related to this business expansion commenced
g.	2	Export sales are at least 30% of total sales for qualified business sectors outside bonded zones	Applicable to tax loss in the year when the 30% export level is achieved

In order to qualify for the additional loss carry forward years described above, except for point f, a company must maintain separate books and records for the approved investment as well as to support the achievement of the above requirements.

The New Income Tax Incentives Impact on Existing Income Tax Facilities

If the following income tax facilities are currently enjoyed by a company, they must be discontinued if the company is granted new income tax facilities under GR-18/2015:

1. Final income tax facilities given under Government Regulation No. 48 Year 2013;
2. Tax facilities granted to a company located in the Integrated Economic Development Zone (Kawasan Pengembangan Ekonomi Terpadu or KAPET) under Government Regulation No. 20 Year 2000, as amended by Government Regulation No. 147 Year 2000; and
3. Exemption or reduction of income tax facilities given under Government Regulation No. 94 Year 2010

Transitional Provisions

During the period from 22 December 2011 (effective date of GR-52/2011) to 5 May 2015 (effective date of GR-18/2015), a company that has obtained investment approval from BKPM (izin prinsip penanaman modal or izin prinsip perluasan penanaman modal) may apply for the new income tax incentives provided that:

1. The company has never been granted any income tax incentives under the previous regulations;
2. The company's sub-business sector and location/region comply with GR-18/2015);
3. The company was not yet in commercial production as of 6 May 2015, the effective date of GR-18/2015, and
4. The recommendation for these tax incentive is received by the Minister of Finance at the latest 1 year after the effective date of GR-18/2015.

Application Procedures for the New Income Tax Facilities

A Company that has obtained investment approval from BKPM must file a request for the income tax incentives provided under GR-18/2015 to BKPM. The application must have the Asset Details and Statement of Investment Criteria attached.

Upon receiving the application, BKPM will coordinate meetings with DGT and MoF. Based on the results of these meetings, BKPM will issue a recommendation letter to MoF. DGT, for and on behalf of MoF, will respond to the request within 10 working days after BKPM's recommendation.

Procedures to Request Commercial Production Date Verification

Commercial production will be determined by selling the first products and/or the use of the products for further processing. Within 30 days after the end of the year in which the first sales were made, the company must file a request with DGT for a determination of when commercial production started.

Upon receiving the request, DGT will conduct a field audit to determine the commercial production date and how much Investment Allowance that the company is entitled to receive.

DGT must issue a decision letter within 45 days after the written request is complete.

- If approved, DGT will confirm:
  1. The commencement date of commercial production,
  2. The approved investment amount, which is the basis to determine the Investment Allowance, and
  3. Compliance between the products that were sold and the business sector, business code/KLBI and other requirements as regulated.
- If not approved, the DGT will:
  1. Revoke the income tax facilities, and
  2. Indicate the associated penalties pursuant to the prevailing tax laws.

KPMG comments:

The New Tax Facilities granted under GR-18/2015 are very attractive for investors, particularly the possible extensions of tax loss carry forward utilization periods.

However, a company must be prepared and committed to meet all the requirements to obtain and retain these new income tax incentives to avoid unnecessary penalties.

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