

Tax News Flash

February 2026

Recent updates to the tax treaty application procedures

The Ministry of Finance recently issued Regulation No. 112 Year 2025 ("PMK 112"), effective as of 31 December 2025, which updates the procedures for the application of Double Taxation Avoidance Agreements ("Tax Treaties"). This regulation consolidates the previous Directorate General of Taxation ("DGT") regulations, No. PER-25/PJ/2018 and PER-28/PJ/2018, regarding tax treaty applications for foreign taxpayers (*Wajib Pajak Luar Negeri/WPLN*) and domestic taxpayers (*Wajib Pajak Dalam Negeri/WPDN*), respectively.

The key updates under PMK 112 are as follows:

1. Simplified and clarified procedures

- *Updates to the tax treaty application procedures for WPDN:*
 - The certificate of domicile ("COD") WPDN application requirements have been updated to include email addresses.
 - The processing time for the legalization or rejection of the Special Form has been extended from five working days to ten calendar days.
- *Updates to the tax treaty application procedures for WPLN:*
 - PMK 112 requires tax withholding agents to verify both the completeness of the DGT Form and the taxpayer's eligibility for treaty benefits. Otherwise, Income Tax Law rates apply.
 - Certification of the DGT Form by a competent foreign tax authority can be replaced by a CoD WPLN if certain requirements are met. The validity period for the CoD WPLN is either:
 - stated in the CoD WPLN; or
 - the tax period of the month when the CoD WPLN was issued, in the absence of a stated validity period.
 - WPLN may now submit the DGT Form

during tax audits, objections, or requests for the reduction/cancellation of tax assessments, provided treaty eligibility existed when the tax was due.

- The DGT Form, which previously comprised seven sections, has been streamlined to six sections, with the beneficial owner and substance tests integrated into Part V. This is now applicable to all recipients of Indonesian-sourced income—not just those receiving dividends, interest, or royalties.

2. The application of treaty anti-abuse rules

To prevent treaty abuse, the DGT may examine withholding compliance in the tax treaty or, where anti-abuse rules are absent, under the Income Tax Law.

PMK 112 introduces anti-abuse rules aligned with the OECD Multilateral Instrument (MLI) and Model Tax Convention, including the beneficial owner test, the application of a lower dividend tax rate, rules on holding periods and immovable property thresholds for taxing gains from share or interest transfers, the application of permanent establishment ("PE") anti-avoidance provisions, the limitation of benefits, and the application of a principal purpose test/main purpose test.

The regulation includes examples of cases where treaty anti-abuse rules apply and incorporates certain anti-abuse rules from the MLI.

Under PMK 112, the following anti-abuse rules apply:

• **Beneficial owner tests**

Beneficial owner tests include the following requirements:

- An individual taxpayer must not act as an agent or nominee.¹

¹ A party who legally holds assets or receives income on behalf of the party who owns them or benefits from them.

- To qualify as a beneficial owner, an entity must not act as an agent, nominee or conduit company and must have control over any funds, assets or rights that generate income from Indonesia, and must not pass on **more than 50%** of the Indonesian income to another party. The taxpayer must genuinely bear the risks associated with their assets, liabilities, or capital.
- If the entity merely acts as a pass-through with no commercial risk, beneficial owner status will be denied.

- **Application of lower dividend tax rates**

In cases where the tax treaty regulates two withholding tax rates on dividends based on the shareholding percentage, the following requirements must be met for applying the lower tax rate:

- shareholding thresholds as stipulated in the applicable tax treaty, and
- minimum holding periods (at least 365 calendar days including the dividend payment date).

- **Taxing rights on capital gains: Holding period and immovable property threshold rules**

Under PMK 112, Indonesia has taxing rights on the gains from the transfer of shares/ interest (capital gains), subject to the following conditions:

- The value of the immovable property exceeds the percentage threshold of the total assets of the company or entity whose shares or interests are transferred, as specified in the applicable tax treaty; and
- The threshold is met at any time within the 365 calendar days before the transfer of the shares or interest.

- **Application of PE anti-avoidance provisions**

PMK 112 now stipulates the conditions under which a WPLN is deemed to have a PE in Indonesia, which include:

- having a permanent place of business
- carrying out construction or installation projects exceeding the time test under the tax treaty
- operating through a dependent agent in Indonesia that regularly concludes contracts or conducts delivery on behalf of the WPLN

- having insurance agents or employees who receive insurance premiums or bear insurance risks in Indonesia
- performing activities that are not merely preparatory or auxiliary.

This also aligns with the provisions stipulated by PMK 35 Year 2019 regarding the determination of PE status for foreign individuals and foreign entities operating in Indonesia.

There are also anti-abuse rules that apply to PE status under PMK 112 which include:

- *Contract splitting:*

The DGT may aggregate the duration of related projects or business activities conducted by an enterprise (or its closely related persons)² in Indonesia to prevent taxpayers from avoiding time-test thresholds by splitting contracts.

- *Rules on agents in Indonesia: Dependent agents cannot sign contracts on behalf of a foreign taxpayer*

Under PMK 112, a WPLN is considered to have a PE in Indonesia if a person or entity acts as their dependent agent in Indonesia, even without formally concluding contracts, and if they habitually play a key role that leads to the conclusion of contracts that are customarily concluded without material modification. This rule prevents individuals or entities acting as dependent agents in Indonesia from avoiding the determination of a PE.

- *Preventing the exemption of preparatory/auxiliary activities from a PE:*

PMK 112 provides limitations on preparatory/auxiliary activities. The misuse of preparatory or auxiliary activities to avoid PE classification is prevented by ensuring business activities in Indonesia are not considered preparatory or auxiliary.

Auxiliary activities are supplementary activities that support core or significant operations, while preparatory activities are preliminary activities intended to prepare essential or significant operations. If these activities form an integral part of the business's overall value chain, they may constitute a PE.

² Individuals or entities with control or ownership (more than 50%) or which are under common control.

If the DGT identifies that a WPLN meets the PE criteria but has not registered, the DGT can issue a Tax Identification Number (TIN/NPWP) ex officio. This allows the DGT to assess taxes on the PE's income from that date onward.

- **Limitations on the benefit rules**

Limitations on the benefit rules in a tax treaty, which determine who may claim the treaty's benefits, are also set out in PMK 112. Eligibility is based on specific criteria:

- An individual who is a resident of the treaty partner country
- An entity in which more than 50% of shares are owned by individuals who are residents of the treaty partner country
- More than 50% of the entity's income received by residents of the treaty partner country is not used to meet obligations to parties other than those specified in the tax treaty, or
- More than 50% of the entity's shares are regularly traded on a stock exchange explicitly mentioned in the tax treaty.

- **Principal Purpose Test**

Under the Principal Purpose Test ("PPT"), the DGT is allowed to deny treaty benefits even if all formal requirements (like residency) are met, if the main purpose of a transaction or arrangement is to obtain those benefits, or directly or indirectly gain a tax advantage.

PMK 112 stipulates that the PPT can be conducted through an analysis of:

- the structure of the transactions
- the underlying contracts
- the form and economic substance of the transactions
- the timing and duration of the transactions
- the parties involved in the transactions
- the relationships among the parties
- the rights and obligations of the parties
- the treaty benefits obtained from the transactions
- any non-treaty benefits obtained from the transactions, and
- any other relevant facts and circumstances.

KPMG notes:

- **Following the updates in PMK 112, WPLN and tax withholding agents must ensure they are eligible to claim any treaty benefits. With the strengthened rules to prevent treaty abuse and the emphasis on substance over form, claiming treaty benefits now requires compliance, not only with formal administrative requirements, but also with substantive criteria. Please note that the DGT has the authority to review the transactions and deny the application of tax treaty benefits if any abuse is identified. As a result, the DGT may reassess the tax payable, potentially leading to tax underpayment.**
- **Carefully assess your business structures and transaction flows in light of these changes. Maintaining proper documentation, ensuring genuine economic activity, and aligning with the tax treaty's purpose are now essential in securing treaty benefits and avoiding the risk of denial or higher taxation under domestic law.**
- **Be aware of the use of the new DGT form which went into effect on 31 December 2025.**

Please reach out to your KPMG contacts for any further guidance you may require with respect to this regulation.

Contact us

KPMG Advisory Indonesia

Tax

34th Floor Jakarta Mori Tower

40-41, Jl. Jend. Sudirman

Jakarta 10210, Indonesia

T: +62 (21) 570 4888

Sutedjo

Head of Tax

Sutedjo@kpmg.co.id

kpmg.com/id

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates or related entities.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

©2026 KPMG Advisory Indonesia, an Indonesian limited liability company and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.