



### In This Issue:

1. [Implementing Regulation on Income Tax Facility Application](#)
2. [Update on Tax Facility on Issuance of Government Bonds](#)
3. [Update on State-Owned Enterprises Obligation as VAT and LGST Collector](#)
4. [Extended Deadline for Re-registration of VAT Registered Entrepreneur](#)
5. [Update on Transfer Procedure of Taxpayers among Certain Tax Offices](#)
6. [Update on API Regulation](#)

### Implementing Regulation on Income Tax Facility Application

The Ministry of Finance (“MoF”) issued Regulation No. 144/PMK.011/2012 (“PMK-144”) to further stipulate a more detailed guideline for granting income tax facility for investors in certain industries and/ or certain provinces as previously stipulated in the Government Regulation No. 1 Year 2007 (“PP-1”) as amended last by Government Regulation No. 52 Year 2011 (“PP-52”); please refer to our tax info March 2012 edition).

The additional clarification/ changes are as follow:

1. Income tax facilities i.e., lower income tax on dividend and extension of loss carry forward period that can be granted to investors who applies for facilities on the basis of expansion to their existing investments is now limited to a certain percentage. In this case, the maximum percentage of dividend and loss carry forward that qualifies for income tax facilities shall be calculated as follows:

$$\frac{\text{Realized additional investment value}}{\text{Additional investment value + the balance of book value of fixed assets before realization of additional investment}} \times 100\%$$

2. Once approved, the income tax facilities can only be exercised after at least 80% of the investment plans is realized and approved by the Director General of Taxation (“DGT”). Under the precending regulation MoF Regulation No. 16/PMK.03/2007 (“PMK 16”), the DGT’s approval is not required and the “net income reduction facility” can only be exercised after commercial production. PMK-144 also specifically stipulates the starting fiscal year/ month depending on the type of facilities as follows:

Income tax facilities	Time of exercise
a. Net Income reduction	in the <u>Fiscal Year</u> when the 80% of the investment plans are realized and approved by DGT
b. Reduced withholding tax rate applied on dividend	
c. Extended period for loss carry-forwards	
d. Accelerated depreciation and amortization	in the <u>Fiscal Month</u> when the 80% of the investment plans are realized and approved by DGT

3. Additional administrative requirements for taxpayers who have obtained income tax facility approvals:

- a. To report on periodic basis (every semester/ six months) their financial report detailing, among others, the amount of production realization, fixed assets, transfer of fixed assets, at the latest ten working days after the end of the semester for six consecutive years after the DGT approves the realization of at least 80% of their investment plans.
- b. To maintain separate bookkeeping for Fixed Assets that are subject to the facilities and those that are not subject to the facilities.

4. The Investment Coordinating Board's ("BKPM") recommendation for approval that need to be submitted to MoF through the DGT must also be attached with:

- a. Investment permit issued by BKPM or other authorized agencies; and
- b. The details of type and amount of the investment,

in addition to copy of Taxpayer ID Number (NPWP) and copy of taxpayer's request letter to the Head of BKPM as regulated under the preceding regulation.

5. The transition rule with regard to the timeline for submitting income tax facility application due to the issuance of PMK-144 are regulated as follows:

- a. Applicants whose investment permits are issued after PMK-144 is issued, shall submit their applications within one year after the investment permits are granted by BKPM;
- b. Applicants whose investment permits were granted after PP-52 was issued but before PMK-144 is issued, shall submit their application within one year after PMK-144 is issued;
- c. Applicants whose investment permits were published before the issuance of PP-52 (subject to the following

conditions: investment plan of at least IDR 1,000,000,000,000 and applicants were not commercially operating when PP-52 becomes effective) shall submit their applications within one year after PMK-144 is issued.

PMK-144 revokes the PMK-16 Regulation No. 16/PMK.03/2007 which serves as implementing regulation of PP-1, and PMK-144 is effective as of the date of its issuance, 3 September 2012. However for those companies who had already applied for the tax facilities approval or already obtained the approval are to follow PMK-16.

### **Update on Tax Facility on Issuance of Government Bonds**

The MoF has recently issued Regulation No. 147/PMK.011/2012 ("PMK-147") regarding tax facilities in the form of income tax borne by the Government on Government Bonds, i.e., State Debentures (SUN) and Sharia Government securities which are issued in international market. Income tax borne by Government will cover:

- a. income in the form of interest or fee (including discount and premium) derived from Government securities issued in the international markets; and
- b. income received by third parties from payment of fees and remuneration related to services rendered to the Government for the issuance of Government's securities in the international markets. Third parties are typically seller's agents, international legal counsels, foreign stock exchange, fiscal agents, paying agents and rating agencies, and shall exclude services performed by local legal counsels.

This MoF regulation is effective from 1 January to 31 December 2012. Previously, similar facility was given under MoF Regulation No. 155/PMK.011/2011 which was effective from 1 January to 31 December 2011 (please refer to our tax info November 2011 edition).

## Update on State-Owned Enterprises Obligation as VAT and LGST Collector

MoF Regulation No. 85/PMK.03/2012 regarding the appointment of State-Owned Enterprises (“SOE”) as one of the Value Added Tax (“VAT”) and Luxury Goods Sales Tax (“LGST”) Collectors issued on 6 June 2012 (please refer to our July 2012 Tax Info) was recently amended by MoF through the issuance of MoF Regulation No. 136/PMK.03/2012 (“PMK-136”).

The amendment is to add another requirement with regard to SOE’s obligation to report monthly VAT returns, whereby the returns must now be attached with a nominative list containing the details of VAT invoices issued by their vendors and the related Tax Payment Slips. The standard format of the nominative list is provided in this regulation.

PMK-136 is effective as of 16 August 2012.

## Extended Deadline for Re-registration of VAT Registered Entrepreneur

The DGT has extended the VAT Registered Entrepreneurs (“PKP”) re-registration period until 31 December 2012. Based on the report submitted by the Tax Offices there are still a significant number of outstanding PKP to be re-registered.

In February 2012, the DGT issued Regulation No. 05/PJ/2012 (“PER-05”) in order to improve tax authority’s control and supervision on the tax compliance fulfillment of PKP. PER-05 requires all PKP to re-register starting from February 2012 up to 31 August 2012 (please refer to May 2012 Tax Info edition). This extension is stipulated in DGT Regulation No. 20/PJ/2012 and circular No. 44/PJ/2012 which comes into effect on 11 September 2012.

## Update on Transfer Procedure of Taxpayers among Certain Tax Offices

The DGT has issued PER-18/PJ/2012 (“PER-18”) to amend PER-06/PJ/2012 (“PER-06”) regarding transfer procedures of taxpayers/VAT registered Entrepreneur (“PKP”) from/ and to several tax offices. This is to ensure that taxpayers are registered accordingly to its category. The tax offices affected are Large Tax Office (LTO), Jakarta Special Regional Office (KANWIL Jakarta Khusus), and Madya Tax Office.

Among others, the important changes are as follows:

- To provide more certainty, DGT stipulates that taxpayer who are just transferred to the new tax office is allowed to use their “old” tax returns which Tax ID Number (NPWP) still contain the previous tax office code, for a maximum of two tax periods from the new registration date, rather than two months as previously stipulated in PER-06. The “old” tax office code is to be crossed on the form and the new tax office code added on top of it, so that the old tax office code is still shown.
- PKP is still allowed to issue their old VAT invoices containing the old serial numbers for a maximum of three tax periods rather than three months as previously stipulated in PER-06, calculated from the new registration date. The new tax office code should be added on top or below the old tax office code in the NPWP column, but no crossing is allowed, to ensure the validity of the tax invoice.
- Old VAT invoices containing old NPWP issued by PKP seller or received by PKP buyer is still considered valid as long as they are issued within three months from the new registration date and in line with the VAT Law. The PKP buyer can use such VAT invoices as their VAT credit as long as they meet the requirement as creditable VAT Input.

PER-18 is effective on the date of its issuance, 24 August 2012.

# Custom Focus

## Update on API Regulation

The Ministry of Trade (“MoT”) issued a regulation No.59/M-DAG/PER/9/2012 (“MoT-59”) on 21 September 2012, to update the preceding MoT regulation No.27/M-DAG/PER/5/2012 (“MoT-27”) regarding Importer’s Identification Number (“API”).

The MoT-59 was issued as one of the Government’s efforts to respond to the feedback from the concerned business stakeholders after MoT-27 was issued on 1 May 2012.

The main revisions are as follows:

1. General importer (API-U holder) is now allowed to import group of products/goods under more than one section headings (of type of goods) in the Indonesian Customs Tariff Book (“BTKI”), provided that one of the following conditions is met:
  - the goods is imported from an overseas company that has special relationship with the API-U holder; or
  - the API-U holder is an entity of which all or some of its capital is owned by the Government.

Previously under MoT-27, an API-U holder was only allowed to import goods that are listed under one section of goods in the BTKI. This creates great difficulties for the general trading company that generally needs to import goods under more than one section.

2. The MoT-59 simplifies the criteria of complementary goods that can be imported by producer importer (API-P holder). Now the criteria are as follows:

- The type of certain industrial goods being imported must be relevant to the activities as described in the API-P holder’s business license (or other similar licenses issued by the Investment Coordinating Board - BKPM); and
- The goods are produced by an overseas company that has special relationship with the API-P holder.

The third criteria under MoT-27 required that such complementary goods can only be imported if the API-P holder has not yet been able to produce them. Under MoT-59, this criteria is removed.

3. MoT-59 provides more clarity in defining “special relationship” between API holder and the overseas supplier. A “special relationship” can be identified in the following documentations or when one of the following conditions is met:
  - A contractual agreement to share control over a business economic activity;
  - Relationship through a share ownership;
  - As justified in the Article of Association;
  - As justified in the Agent or Distributor agreement; or
  - As justified in the Loan or Supplier agreement.

Previously under MoT-27, to establish whether such relationship exists, one must follow the definition of special relationship that is provided under the accounting standard.

MoT-59 is effective from 21 September 2012.

Questions concerning any of the subjects or issues contained in this newsletter should be directed to your usual contact in our firm, or any of the following individuals:

Firdaus Asikin	<a href="mailto:firdausasikin@deloitte.com">firdausasikin@deloitte.com</a>	Tax Managing Partner
Connie Chu	<a href="mailto:cchu@deloitte.com">cchu@deloitte.com</a>	Senior Technical Advisor
John Spissoy	<a href="mailto:jospissoy@deloitte.com">jospissoy@deloitte.com</a>	Senior Technical Advisor
Melisa Himawan	<a href="mailto:mehimawan@deloitte.com">mehimawan@deloitte.com</a>	Senior Tax Partner
Charles S. Oetomo	<a href="mailto:coetomo@deloitte.com">coetomo@deloitte.com</a>	Tax Partner
Cindy Sukiman	<a href="mailto:csukiman@deloitte.com">csukiman@deloitte.com</a>	Tax Partner
Heru Supriyanto	<a href="mailto:hsupriyanto@deloitte.com">hsupriyanto@deloitte.com</a>	Tax Partner
Roy David Kiantiong	<a href="mailto:rkiantiong@deloitte.com">rkiantiong@deloitte.com</a>	Tax Partner
Turmanto	<a href="mailto:tturmanto@deloitte.com">tturmanto@deloitte.com</a>	Tax Partner
Dionisius Damijanto	<a href="mailto:ddamijanto@deloitte.com">ddamijanto@deloitte.com</a>	Tax Director
Jeklira Tampubolon	<a href="mailto:jtampubolon@deloitte.com">jtampubolon@deloitte.com</a>	Tax Director
John Lauwrenz	<a href="mailto:jlauwrenz@deloitte.com">jlauwrenz@deloitte.com</a>	Tax Director
Sandra Suhenda	<a href="mailto:ssuhenda@deloitte.com">ssuhenda@deloitte.com</a>	Tax Director
Soenari Chasan	<a href="mailto:csoenari@deloitte.com">csoenari@deloitte.com</a>	Tax Director
Koji Sugimoto	<a href="mailto:kojisugimoto@deloitte.com">kojisugimoto@deloitte.com</a>	Technical Advisor

## Deloitte Tax Solutions

The Plaza Office Tower, 32<sup>nd</sup> Floor

Jl. M.H. Thamrin Kav 28-30

Jakarta 10350

Indonesia

Tel: +62 21 2992 3100

Fax: +62 21 2992 8303

email: [iddttl@deloitte.com](mailto:iddttl@deloitte.com)

[www.deloitte.com/id](http://www.deloitte.com/id)

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see [www.deloitte.com/about](http://www.deloitte.com/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte's approximately 195,000 professionals are committed to becoming the standard of excellence.

#### **About Deloitte Southeast Asia**

Deloitte Southeast Asia Ltd—a member firm of Deloitte Touche Tohmatsu Limited comprising Deloitte practices operating in Brunei, Guam, Indonesia, Malaysia, Philippines, Singapore, Thailand and Vietnam—was established to deliver measurable value to the particular demands of increasingly intra-regional and fast growing companies and enterprises.

Comprising over 250 partners and 5,500 professionals in 22 office locations, the subsidiaries and affiliates of Deloitte Southeast Asia Ltd combine their technical expertise and deep industry knowledge to deliver consistent high quality services to companies in the region.

All services are provided through the individual country practices, their subsidiaries and affiliates which are separate and independent legal entities.

#### **About Deloitte Indonesia**

In Indonesia, services are provided by Deloitte Tax Solutions.

This newsletter is prepared based on the prevailing Laws, regulations and publications available as at September 30<sup>th</sup> 2012. These materials and the information contained herein are provided by Deloitte Tax Solutions and are intended to provide general information on a particular subject or subjects and are not an exhaustive treatment of such subject(s).

This publication contains general information only, and none of Deloitte Touche Tohmatsu Limited, any of its member firms, or any of the foregoing's affiliates (collectively the "Deloitte Network") are, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This publication is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your finances or your business. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.

© 2012 Deloitte Tax Solutions