

Rules on Tax Holiday Updated

As boosting investment is a priority for the Government of Indonesia, the Minister of Finance (“MOF”) recently issued MOF Regulation No. 35/PMK.010/2018 dated April 4, 2018 on Granting of Corporate Income Tax Reduction Allowance (the “New Regulation”). The New Regulation revokes MOF Regulation No. 159/PMK/10/2015 dated August 18, 2015 on Granting of Corporate Income Tax Reduction Allowance, as amended by MOF Regulation No. 103/PMK.010/2016 dated June 30, 2016 (collectively, the “Previous Regulation”).

The New Regulation exempt new businesses in 17 “pioneer industries” from paying corporate income tax (or known as “tax holiday”) while the Previous Regulation only provided tax holiday for 8 industries. Pioneer industries are defined as those that create added value, introduce advance technology, as well as has strategic value for the national economy. Among such industries are transportation, telecommunications, robotic components, oil and gas refinery, train engines, medical devices, pharmaceutical raw materials, power plant machinery, and processing of metals and agricultural products.

❖ Enhanced Tax Holiday Allowance

Under the Previous Regulation, the rate of the tax holiday was from 10% - 100%. The New Regulation offers a single 100% tax holiday rate. This means that newly established companies will not have to pay any corporate income taxes for a period depending on the scale of their investment.

Amount of New Investment	Tax Holiday Allowance	Period of Tax Holiday Allowance	Subsequent Tax Holiday Allowance
Rp500,000,000,000 up to under Rp1,000,000,000,000	100%	5 years	50% tax holiday allowance for 2 additional years
Rp1,000,000,000,000 up to under Rp5,000,000,000,000	100%	7 years	
Rp5,000,000,000,000 up to under Rp15,000,000,000,000	100%	10 years	
Rp15,000,000,000,000 up to under Rp30,000,000,000,000	100%	15 years	
Rp30,000,000,000,000 or more	100%	20 years	

Previously, only companies that invest at least Rp1,000,000,000,000 were able to qualify for tax holiday, and the tax holiday granted for a maximum period of 15 years.

❖ **Criteria to Obtain a Tax Holiday**

A company that wish to apply for a tax holiday must fulfill the following criteria:

- a. It is classified as a pioneer industry;
- b. It is new capital investment;
- c. It has new minimum capital investment of Rp500,000,000,000;
- d. It has a debt to equity ratio of not more than 4:1;
- e. It does not have any pending tax holiday application, and the MOF never refused any tax holiday application request submitted by the company; and
- f. It is an Indonesian legal entity.

In addition, if the shareholders of the company are Indonesian individuals and/or entities, they must obtain a tax clearance letter from the Directorate General of Taxation (“DGT”) in order to prove that such shareholders have fulfilled their respective tax obligations.

❖ **Tax Holiday Application**

An application for a tax holiday must be submitted to the Capital Investment Coordinating Board (*Badan Koordinasi Penanaman Modal* or “BKPM”).

Once the application is submitted and has been examined by BKPM, BKPM will forward the application and its recommendation to the MOF for further review. The MOF shall issue its decree on tax holiday application within five days after the receipt of a complete and correct application.

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