

Updates on Tax Incentives for Businesses Affected by COVID-19

Not long after the Minister of Finance Regulation No. 23/PMK.03/2020 dated March 23, 2020 on Tax Incentives for Taxpayers Affected by the Coronavirus Outbreak (“MOF Regulation 23”) was issued, the Minister of Finance (the “MOF”) issued the MOF Regulation No. 44/PMK.03/2020 dated April 27, 2020 on Tax Incentives for Taxpayers Affected by the Coronavirus Disease 2019 Pandemic (“MOF Regulation 44”). MOF Regulation 44 revokes and replaces MOF Regulation 23.

MOF Regulation 44 was later revoked and replaced by MOF Regulation No. 86/PMK. 03/2020 dated July 16, 2020 on Tax Incentives for Taxpayers Affected by the Coronavirus Outbreak (“MOF Regulation 86”). The Director General of Tax (the “DGT”) also issued the DGT Circular Letter No. SE-43/PJ/2020 dated July 28, 2020 on the Implementing Guidelines of MOF Regulation 86 (“DGT Circular 43”).

MOF Regulation 86 sets out the same tax incentives as MOF Regulation 44, as follows:

- (i) the Article 21 income tax incentives, whereby the Government will bear the Article 21 Income Tax for employees with the annual gross income of up to Rp200 million;
- (ii) the final income tax incentive under Government Regulation No. 23 of 2018 dated June 8, 2018 on the Income Taxes on Income from Businesses Received or Generated by Taxpayers with Certain Gross Revenues, whereby the Government will bear the 0.5% final income tax for certain taxpayers that receive or generate an annual gross revenue below Rp4.8 billion;
- (iii) the non-collection of Article 22 import tax;
- (iv) the 30% reduction of the Article 25 corporate income tax (“Article 25 CIT”) installment incentives; and
- (v) the accelerated Value Added Tax (“VAT”) refunds.

As a reminder, for the Article 25 CIT installment incentives, the DGT Circular 43 sets out that the 30% reduction of the Article 25 CIT installment is calculated from, among others, the Article 25 CIT installment under the 2019 Annual Income Tax Returns, or the decision on the reduction of Article 25 CIT installment due to reduction in business applied by the taxpayer. Thus, a taxpayer that already obtains a reduction of Article 25 CIT installment may also apply for the incentives under MOF Regulation 86.

We set out below the key updates on tax incentives under MOF Regulation 86 and DGT Circular 43.

❖ Extension of Tax Incentive Period

Previously, MOF Regulation 23 and MOF Regulation 44 set out the tax incentive period until September 2020. Now, under MOF Regulation 86, the tax incentives are applicable until December 2020.¹

❖ Additions of Taxpayers Eligible for Income Tax Incentives

To be eligible for the income tax incentives, an employee shall be employed by an employer in certain business lines listed in Annex A of MOF Regulation 86. MOF Regulation 86 adds 127 business lines in its Annex A (in

¹ Articles 2(9), 5(7), 8(9), 10(4), 13(9), and 15 of MOF Regulation 86.

comparison to MOF Regulation 44).

In total, there are 1,189 business lines listed in Annex A of MOF Regulation 86. This list has been progressively expanded from the initial 440 business lines under MOF Regulation 23 that were only limited to manufacturing businesses. MOF Regulation 44 and MOF Regulation 86 broaden the scope of the eligible business lines, including services, tourism, and trade.

The employer shall already have the eligible business line listed in:

- (i) its 2018 Annual Tax Returns; or
- (ii) in its tax administration master-file, if it did not already have the obligation to file for Annual Tax Returns by 2018.² Previously, under MOF Regulation 44, this requirement was only applicable for taxpayers registered after 2018 or for government institutions. This new provision allows taxpayers existing before 2018 to also apply for the tax incentives.

❖ **Additional Provisions for Accelerated VAT Refunds**

Low risk taxable enterprises are qualified for accelerated VAT refunds. MOF Regulation 86 adds another requirement for this tax incentive, whereby the taxpayer shall opt for the accelerated refund of tax overpayment under Article 9(4c) of the Tax Law when submitting their periodic VAT returns.³

MOF Regulation 86 and DGT Circular 43 also provide that the accelerated VAT refunds will still be granted to the relevant taxpayers even though there are compensations of VAT overpayments for the previous tax period.⁴

❖ **Deadlines for Submissions**

As MOF Regulation 86 entered into force on July 16, 2020, DGT Circular 43 sets out the following deadlines for application submissions:

- (i) notice for Article 21 income tax incentive for the period of July 2020 shall be submitted by August 10, 2020;⁵ and
- (ii) notice for Article 25 income tax incentive for the period of July 2020 shall be submitted by August 15, 2020.⁶

We understand that the Government is in the final process of issuing an adjustment to MOF Regulation 86 for more incentives. The revised regulation is reported to be issued in the near future.

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AKSET

Please contact Johannes C. Sahetapy-Engel (jsahetapyengel@aksetlaw.com), Arfidea D. Saraswati (asaraswati@aksetlaw.com), or Nurana Sekar Lestari (nlestari@aksetlaw.com) for further information.

² Article 2(4)b of MOF Regulation 86.

³ Article 13(3) of MOF Regulation 86.

⁴ Article 13(11) of MOF Regulation 86 and Point E.8.n of DGT Circular 43.

⁵ Point E.2.d of DGT Circular 43.

⁶ Point E.5.e of DGT Circular 43.

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