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Haryanto Sahari & Rekan

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15% Compensation for Housing and Medical Allowance (Manpower Law)

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Interpretation of the housing and medical allowance clauses in Manpower Law No. 13/2003 ("the Law") presents an important business and accounting issue. Specifically, the issue concerns whether an employee who voluntarily resigns is entitled to the allowance.

One result has been that the 15% compensation for housing and medical allowance, which is computed as a percentage of any severance pay or gratuity, is often not accrued (or recognized in the financial statements) nor is it paid by the employer. The reason often quoted is that a worker who resigns voluntarily is not entitled to the severance pay and gratuity under the Law, therefore the worker's housing and medical allowance is 15% times zero, which equals nil. However, some employers believe that the Manpower Law requires them to provide the 15% compensation when an employee resigns voluntarily and that the compensation should be higher than zero

Relevant clauses

The relevant clauses in the Manpower Law, in particular articles 162 (1) and 156 (4), state that where an employment is terminated due to the voluntary resignation of an employee, the employee is eligible for compensation *(hak penggantian)* consisting of:

a) Payment for annual leave not yet taken and still outstanding;
b) Travelling costs for the employee and his/her family to the place originally hired;
c) Payment to cover housing allowance and medical expenses;
d) Other components stipulated under the work contract, company regulations or any collective labor agreements.

Furthermore, the Law stipulates that the allowance for housing and medical expenses (point c above) should be set at 15% of any severance pay *(pesangon)* and/or tenure-based gratuity *(penghargaan masa kerja)* for resigning employees. The severance pay and gratuity amount are based on the number of years an employee has worked for a company.

Government position

Conscious of the inconsistent views regarding the payment of 15% compensation for housing and medical allowance, the previous Minister of Manpower and Transmigration issued a letter dated 6 January 2004 clarifying that the 15% compensation should be paid by employers to employees who resign voluntarily (and to those whose employment is terminated due to serious violations of the law). The letter also makes clear that the housing and medical allowance should be a certain amount and that amount is not zero.

It seems that the position has now changed. The current Minister of Manpower and Transmigration issued a letter dated 31 August 2005, making reference to the previous letter dated 6 January 2004, and stated that upon further analysis the Ministry confirms that employees who resign voluntarily are not entitled to the severance pay and gratuity, and therefore such employees are also not entitled to the housing and medical allowance (computed at 15% of the severance pay and gratuity sum, or 15% times zero). In other words, such employees are not entitled to receive any of the 15% compensation for housing and medical allowance. However, the Minister's letter in August 2005 also implies that a worker who resigns voluntarily will still receive the other components of compensation, particularly:

- Annual leave not yet taken and still outstanding
- Tavelling costs to the place where the worker was originally hired
- Other components stipulated under company regulations or any collective labor agreement.

Implications and application

Although both letters of the Minister of Manpower and Transmigration were addressed to Manpower regional offices rather than to the public in general, the legal department of the Ministry of Manpower and Transmigration has informally confirmed that the letters from the Minister can be treated by the public as an applicable interpretation of the Law. As such, the accounting for the 15% compensation for housing and medical allowance depends on which letter is applied.

The first letter of the Minister of Manpower and Transmigration dated 6 January 2004 clarified that employers should provide a certain amount for employees who resign voluntarily. In this regard, the resulting 15% compensation qualified as a post-employment benefit rather than a termination benefit in accordance with PSAK 24 (Rrevised 2004) on Employee Benefits. Consequently, the 15% compensation was accounted for as with any other post-employment benefit, i.e. computed and accrued using an actuarial approach called the "projected-unit-credit" method.

If the second letter of the Minister dated 31 August 2005 is applied, the 15% compensation, which was previously accrued, is no longer recognized since the compensation needs not be paid. This change in benefits granted to employees constitutes a plan amendment, which results in a past-service cost being recognized. PSAK 24 (Revised 2004) requires that past-service costs be recorded as an expense on a straight-line basis over the relevant period until the benefits become vested. In this case, the 15% compensation (and elimination thereof) vest immediately since the employee's entitlement to the 15% benefits is not conditional on future employment.

In the absence of any clarifying regulations or public interpretive comments by the Ministry of Manpower and Transmigration, we are of the view that the position of the second letter should be followed as an applicable interpretation of the Law.The accounting impact of applying the interpretation of the second letter is that the employee benefit obligation will be reduced, and this should be immediately recognized in the income statement.

If you have any concern or question regarding matters in this NewsFlash, please contact your engagement partner or Dudi Kurniawan of the PricewaterhouseCoopers Technical Committee at dudi.m.kurniawan@id.pwc.com