TaxFlash

Real Estate Investment Fund

The Minister of Finance issued Regulation No.200/PMK.03/2015 (PMK-200) on 10 November 2015 regarding income tax and Value Added Tax (VAT) treatment for certain Collective Investment Contracts to enhance the financial sector.

This regulation stipulates the tax treatment for a Collective Investment Contract in the form of a Real Estate Investment Fund (*Kontrak Investasi Kolektif – Dana Investasi Real Estate/KIK-DIRE*).

Definition

A KIK-DIRE is a collective investment contract that raises public funds in order to invest these in real estate assets, assets related to real estate, and/or cash and cash equivalent.

A KIK-DIRE scheme can be established with or without a Special Purpose Company (SPC). The SPC is owned at least 99.9% by the KIK DIRE.

Income Tax Treatment

Dividend from SPC to KIK DIRE

Under the scheme where the KIK DIRE is established with a SPC, the SPC is considered an integral part of the KIK DIRE. Therefore, any dividend received by the KIK DIRE from the SPC is not taken into account as taxable income at KIK level. This means that the dividend is not considered taxable income and no withholding tax is due.

To be eligible for the above treatment, the KIK DIRE must attach the following documents in their annual Corporate Income Tax Return (CITR) for the fiscal year where the dividend was received:

a. Copy of notification letter of statement of effective registration of the KIK DIRE that is issued by the Financial Services Authority (*Otoritas Jasa Keuangan/OJK*);
b. Explanation from OJK that the taxpayer is a SPC under KIK DIRE; and
c. Statement letter with stamp duty stating that the SPC is formed solely for KIK DIRE purposes.

Transfer of real estate from original asset owner ("originator") to the SPC or KIK DIRE

The transfer of the real estate assets from the originator to the SPC or KIK DIRE is not subject to the 5% final tax on the transfer of land and building rights. No tax exemption letter (*Surat Keterangan Bebas*) is required for this treatment. However, the gain is subject to income tax.

The originator must submit a written notification to the tax office of such asset transfer using the template provided in the regulation. This notification letter and the documents outlined in point a, b, and c in the above section must be provided to the authorised officials (such as a notary) for them to be able to sign the transfer document.

VAT Treatment

The SPC or KIK DIRE is considered as a low risk entrepreneur and therefore can enjoy the preliminary VAT refund process. To enjoy this facility, the taxpayer must submit an application (through a VAT return or a separate application letter) and meet the following criteria:

- The taxpayer has been appointed as a low risk entrepreneur; and
- There is an input VAT claim from the acquisition of the real estate.

To be appointed as a low risk entrepreneur, the SPC or KIK DIRE must submit an application and attach it with the documents outlined in point a, b, and c in the above section. The Director General of Tax (DGT) must issue a decision within 15 working days, otherwise the application is deemed approved and a decision must be issued within 15 working days from the initial deadline. The decision is applicable for 12 months. Should this period end, the taxpayer may reapply for appointment as a low risk entrepreneur.

The appointment decision is declared invalid if the taxpayer is (i) subject to a preliminary evidence tax audit or investigation; or (ii) subject to a tax audit where it is discovered that the taxpayers does not carry out the KIK DIRE scheme.

Upon application for the preliminary VAT refund, the DGT will conduct an examination and issue a decision within one month from the complete application, otherwise the application is deemed approved and a decision must be issued within seven days from the initial deadline.

The preliminary VAT refund process may be rejected if:

- The taxpayer is not a SPC or KIK DIRE that has obtained the appointment as low risk entrepreneur;
- There is no input VAT claim from the acquisition of the real estate;
- Attachment of the VAT return is incomplete;
- There is no overpayment of VAT; and/or
- VAT payment made by the taxpayer is incorrect.

The DGT shall notify this rejection and process the VAT refund process under the normal procedures for which the deadline is 12 months.

Your PwC Indonesia contacts

Abdullah Azis
abdullah.azis@id.pwc.com

Adi Poernomo
adi.poernomo@id.pwc.com

Adi Pratikto
adi.pratikto@id.pwc.com

Alexander Lukito
alexander.lukito@id.pwc.com

Ali Widodo
ali.widodo@id.pwc.com

Andrias Hendrik
andrias.hendrik@id.pwc.com

Anthony J. Anderson
anthony.j.anderson@id.pwc.com

Anton Manik
anton.a.manik@id.pwc.com

Antonius Sanyojaya
antonius.sanyojaya@id.pwc.com

Ay Tjhing Phan
ay.tjhing.phan@id.pwc.com

Brian Arnold
brian.arnold@id.pwc.com

Engeline Siagian
engeline.siagian@id.pwc.com

Enna Budiman
enna.budiman@id.pwc.com

Felix MacDonogh
felix.macdonogh@id.pwc.com

Gadis Nurhidayah
gadis.nurhidayah@id.pwc.com

Gerardus Mahendra
gerardus.mahendra@id.pwc.com

Hanna Nggelan
hanna.nggelan@id.pwc.com

Hasan Chandra
hasan.chandra@id.pwc.com

Hendra Lie
hendra.lie@id.pwc.com

Ivan Budiarnawan
ivan.budiarnawan@id.pwc.com

Laksmi Djuwita
laksmi.djuwita@id.pwc.com

Lukman Budiman
lukman.budiman@id.pwc.com

Mardianto
mardianto.mardianto@id.pwc.com

Margie Margaret
margie.margaret@id.pwc.com

Parluhutan Simbolon
parluhutan.simbolon@id.pwc.com

Peter Hohtoulas
peter.hohtoulas@id.pwc.com

Runi Tusita
runi.tusita@id.pwc.com

Ryuji Sugawara
ryuji.sugawara@id.pwc.com

Soeryo Adjie
soeryo.adjie@id.pwc.com

Sutrisno Ali
sutrisno.ali@id.pwc.com

Suyanti Halim
suyanti.halim@id.pwc.com

Tim Watson
tim.robert.watson@id.pwc.com

Tjen She Siung
tjen.she.siung@id.pwc.com

Yessy Anggraini
yessy.anggraini@id.pwc.com

Yuliana Kurniadjaja
yuliana.kurniadjaja@id.pwc.com

Yunita Wahadaniah
yunita.wahadaniah@id.pwc.com

in PwC Indonesia

www.pwc.com/id

If you would like to be removed from this mailing list, please reply and write UNSUBSCRIBE in the subject line, or send an email to maria.purwaningsih@id.pwc.com.