

# **TaxFlash**



## ***Cancellation of the new Article 4(2) withholding tax forms***

After being postponed last month, the Directorate General of Tax (DGT) Regulation No.PER-01/PJ/2015 (PER-01) was finally cancelled through the issue of PER-14/PJ/2015 (PER-14) on 13 March 2015. PER-01 amends PER-53/PJ/2009 (PER-53) regarding the format of Article 4(2) withholding tax forms in order to gain more information from tax withholders. PER-14 states that all Article 4(2) withholding tax forms must remain using the forms under PER-53/PJ/2009. The reason for this cancellation is to create investment growth and avoid different opinions in the public.

## ***New rules on withholding tax on prizes***

The DGT issued PER-11/PJ/2015 (PER-11) dated 3 March 2015 to provide new rules on income tax imposition on prizes. PER-11 revokes KEP-395/PJ/2001 (KEP-395) and will be effective on 1 May 2015. There are two main changes in this regulation:

### ***1. Income tax on direct gift***

Under KEP-395, direct gifts from the purchase of goods or services which are given to all buyers or end customers without lottery drawing and which are received directly upon the purchase of goods or services do not fall under the definition of prizes that are subject to income tax.

However, PER-11 stipulates that those kind of gifts are subject to income tax (although not subject to withholding tax), and must be reported in the customers' annual income tax return. The basis to be used for the reporting is the market price of the gift.

This poses a practicality issue as technically this rule applies to any gift that is part of a purchase promotion, such as getting a plate as a gift with the purchase of a detergent. This means that for these kind of gifts, the customer must know the market price of the gift and must pay tax based on the market price at year end reporting, using the highest layer of applicable tax rate on their existing income.

## *2. Income tax on prizes given by banks*

In one of the examples, PER-11 confirms that gifts given by banks for depositors with a certain amount of deposits and certain withdrawal restriction periods are considered as a present value of part of the interest that should be earned by the depositors. Therefore, these gifts are subject to 20% final withholding tax on deposit interest. The withholding tax imposition base is the market price of the gifts. Again, administratively, it may be difficult to withhold tax on benefit-in-kinds in practice. Banks must mindfully consider the taxation of the incentives that they provide to their customers.

## ***Non-VATable hotel services***

New Value Added Tax (VAT) Law No.42/2009 determines hotel services as one of the services not subject to VAT (non-VATable services). On 9 March 2015, the Minister of Finance (MoF) issued Regulation No.43/PMK.010/2015 (PMK-43) that regulates the criteria of non-VATable hotel services.

PMK-43 confirms that the hotel services listed below are non-VATable:

- ❖ room rental, including ones equipped with necessary additional facilities for guests who are staying (such as gymnasium, laundry & dry cleaning, internet, room service, etc.); and
- ❖ space rental for events or meetings in a hotel, guesthouse, lodging-house.

Excluded from non-VATable hotel services are listed below:

- ❖ Space rental other than the non-VATable hotel services, such as space rental for ATMs, banks, restaurants, etc.
- ❖ Apartment or condominium rental. This exclusion will be applied based on the business license.
- ❖ Travel agents operated by the hotel.

## ***VAT Collector: an Update***

To ease the VAT and/or LST collection, the MoF appointed certain entities to be VAT Collectors through the issue of MoF Regulation No. 37/PMK.03/2015 (PMK-37) dated 4 March 2015. The entities covered under PMK-37 serve as additional entities on top of the State Owned Entities (SOEs) which have been appointed as VAT Collectors under MoF Regulation No. 136/PMK.03/2012 (PMK-136). PMK-37 will be effective on 1 April 2015.

Certain entities as stipulated in PMK-37 are:

1. Certain entities which are restructured by the government after the enactment of this regulation, by way of shares transfer from the government to another State-Owned Entity.
2. Certain entities in the fertiliser industry, which have been restructured by the government, as follows:
  - PT Pupuk Sriwidjaja Palembang
  - PT Petrokimia Gresik
  - PT Pupuk Kujang
  - PT Pupuk Kalimantan Timur, and
  - PT Pupuk Iskandar Muda.
3. Certain entities that are directly owned by SOEs, as follows:
  - PT Telekomunikasi Selular,
  - PT Indonesia Power,
  - PT Pembangunan Jawa-Bali,
  - PT Semen Padang,
  - PT Semen Tonasa,
  - PT Elnusa Tbk,
  - PT Krakatau Wijatama,
  - PT Rajawali Nusindo,
  - PT Wijaya Karya Beton Tbk,
  - PT Kimia Farma Apotek,
  - PT Badak Natural Gas Liquefaction,
  - PT Kimia Farma Trading & Distribution,
  - PT Tambang Timah,
  - PT Terminal Petikemas Surabaya,
  - PT Indonesia Comnets Plus,
  - Bank Syariah Mandiri,
  - Bank BRI Syariah, and
  - Bank BNI Syariah.

If the entities in points 2 and 3 above change their names, the VAT Collector appointment status remains the same. However, if these entities are no longer directly owned by the SOEs, they are no longer appointed as a VAT Collector.

The other VAT Collector procedures and mechanisms for the above entities are the same as the ones applicable for SOEs under PMK-136.

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