

TaxFlash



Second round of Sunset Policy

The Minister of Finance (MoF) has released Regulation No.91/PMK.03/2015 (PMK-91) dated 4 May 2015 on the Sunset Policy. PMK-91 is part of a series of incentives to increase tax compliance as well as boosting national tax revenue. PMK-91 follows the earlier MoF Regulation No.29/PMK.03/ 2015 (PMK-29) that grants incentives for the payment of tax in arrears stipulated in Article 19(1) of the General Tax Provisions and Procedures (*Ketentuan Umum dan Tata Cara Perpajakan/KUP*) Law No.16/2009. Please refer to our TaxFlash No.09/2015 for discussion of PMK-29.

PMK-91 specifically grants an elimination or reduction in administrative sanctions (i.e. interest penalties, fines and increments) which would otherwise be imposed due to a taxpayers' negligence or mistakes other than by the taxpayer in accordance with Article 36(1)(a) of the KUP Law. Administrative sanctions which qualify for this incentive are limited to those arising from the following actions in 2015:

No.	Action	Sanction
1.	Late submission of Annual Income Tax Returns for 2014 and prior years (qualified AITRs) and/or Monthly Tax Returns (including Value Added Tax (VAT)) for December 2014 and prior months (qualified MTRs)	- fine of Rp1mn for Corporate AITR - fine of Rp500k for VAT return - fine of Rp100k for Individual AITR and MTR of income taxes
2.	Late payment of underpaid tax due reported in the qualified AITRs	- interest penalty of 2%/month
3.	Late payment of the tax due as reported in the qualified MTRs	- interest penalty of 2%/month
4.	Voluntary amendments of qualified AITRs and/or MTRs that lead to higher tax due	- interest penalty of 2%/month; and/or - fine of 2% x tax base (for VAT)

The administrative sanctions subject to PMK-91 should have been initially collected via a Tax Collection Notice (*Surat Tagihan Pajak/STP*). The STPs will be eligible for reduction or exemption as long as they have not been paid or only partially paid by the respective taxpayer. Administrative sanctions are considered as not paid if they have been compensated with the taxpayer's overpaid tax.

This facility can be obtained by submitting an application letter to the Director General of Tax (DGT) through the tax office where the taxpayer is registered. Detailed administrative requirements along with the format of the corresponding documents are set out in PMK-91. Tax collection is deferred if the taxpayer submits the application.

A decision on the submitted application should be made by the DGT no later than six months from the date of receipt of the application. Taxpayers can only submit the application twice. Reapplication can only be made if the first application was rejected because it did not meet administrative requirements.

This facility follows the first Sunset Policy implemented in 2008 that granted an elimination or reduction of administrative sanctions for those who submitted amendment of AITRs prior 2007 that lead to a higher tax due.

Elimination or reduction of other administrative sanctions should be processed based on MoF Regulation No.8/PMK.03/2013 as the general implementing regulation of Article 36 of the KUP Law. Please refer to TaxFlash No.04/2013 for our discussion on this.

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