

TaxFlash



More luxurious goods will be subject to Article 22 Income Tax

In addition to Value Added Tax, deliveries of certain very luxurious goods may be subject to Luxury-goods Sales Tax (LST) and Article 22 Income Tax (*PPh 22*) depending on several factors such as: the selling price or size. LST rates vary based on the type of goods while the *PPh 22* rate is fixed at 5%. *PPh 22* collected by the seller constitutes a prepayment for the current year income tax liability of the buyer. This tax is not applicable if the buyer is not a tax subject in Indonesia.

With regard to *PPh 22*, the Minister of Finance (MoF) issued Regulation No.90/PMK.03/2015 (PMK-90) dated 30 April 2015 that essentially reduces the threshold of very luxurious goods as well as adding another category of goods subject to *PPh 22*, which are listed below.

Very luxurious goods	Old	New
Private airplane	<ul style="list-style-type: none">• selling price > Rp 20 bn	no threshold
Cruiser and the like	<ul style="list-style-type: none">• selling price > Rp 10 bn	no threshold
House together with land	<ul style="list-style-type: none">• selling price or the price of transfer > Rp 10 bn; and• building area > 500 m²	<ul style="list-style-type: none">• selling price or the price of transfer > Rp 5 bn; or• building area > 400 m²
Apartment, condominium, and the like	<ul style="list-style-type: none">• selling price or the price of transfer > Rp 10 bn; and/or• building area > 400 m²	<ul style="list-style-type: none">• selling price or the price of transfer > Rp 5 bn; or• building area > 150 m²
4-wheeled motor vehicles for carrying <10 persons in the form of sedan, jeep, SUV, MPV, minibus and the like	<ul style="list-style-type: none">• selling price > Rp 5 bn; and• cylinder capacity > 3,000 cc	<ul style="list-style-type: none">• selling price > Rp 2 bn; or• cylinder capacity > 3,000 cc
2-wheeled or 3-wheeled motor vehicles	not available	<ul style="list-style-type: none">• selling price > Rp 300 mn; or• cylinder capacity > 250 cc

PMK-90 also confirms that PPh 22 on the purchase of very luxurious motor vehicles from sole agents, agents and general importers should be collected based on this regulation (i.e. 5% of the selling price) and not based on general PPh 22 provisions on the purchase of motor vehicles from the above sellers (i.e. 0.45% of the selling price).

Guidance on Tax Allowance facility

The MoF issued Regulation No.89/PMK.03/2015 (PMK-89) on 28 April 2015. This regulation provides technical guidance on Tax Allowance facilities available for companies that invest in certain designated business sectors and/or regions based on Government Regulation No.18/2015 (GR-18) that has been effective since 6 May 2015. Please refer to our TaxFlash No.13/2015 for a discussion of GR-18.

PMK-89 revoked MoF Regulation No.144/PMK.011/2012 that implemented the old Government Regulations on Tax Allowance facility. General guidance and timeline for each process have remained the same. PMK-89 provides more information on several key aspects, which is as follows:

- Taxpayers that carry out business subject to this tax facility and other business that is not subject to this tax facility should maintain separate bookkeeping and therefore each aspect of the tax facility should be calculated proportionally.
- The start of commercial production is determined as the first time of selling produced goods to the market or self-use for subsequent production process. The taxpayer should apply to the Director General of Tax to get approval for the start of commercial production, which will be determined after carrying out a field tax audit.
- In the event the taxpayer fulfils all the options to extend the tax-loss carry forward which could be more than five years, the maximum additional period to claim the tax-loss is still five years.
- The requirement on the number of Indonesian employees is only applicable for Indonesian citizens who are registered as employees reported in the Article 21 Income Tax returns of the taxpayer granted with the tax facility.

Taxpayers whose Tax Holiday application is rejected, can apply for this Tax Allowance facility as long as they fulfil the requirements in GR-18 (i.e. high investment value or for export purposes; high absorption of manpower; or high local content). The taxpayers do not need to submit a new application as the previous Tax Holiday application is considered as the same application for the purpose of Tax Allowance facility.

Detailed administrative requirements along with the format of the corresponding documents are set out in PMK-89.

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