

TaxFlash

In This Issue

▪ Effective VAT management

Companies will have only 10 days from year end to determine and settle the 2009 PPh 21/26 underpayment. In the past, they had three months to do so. Early preparation will help alleviate the pressure.

▪ Batam, Bintan, and Karimun as free trade zones

The free trade zone status of BBK came into force on 1 April 2009. This results in exemption of import duties, VAT, and excise certain types of transactions involving .

▪ Types of provision for tax

In general, provisions are not claimable as deductible expenses for tax. However, some exceptions to the general rule apply to companies engaged in certain types of and the Finance Minister has recently issued a regulation on this matter.

Strict deadline for the 2009 payroll tax compliance

Management focus on payroll tax compliance (PPh 21/26) will be more important than ever this year. This is because of changes to the payroll tax compliance system introduced in May 2009, which mean that any underpayment for the 2009 year must be settled by 10 January 2010. In the past, taxpayers used to have three months to quantify any year-end payroll tax underpayment and settle it with the State Treasury. That is no longer the case.

The new compliance system applies to compliance obligations for the July 2009 month, and subsequently. Although taxpayers may need to consider the possibility of IT system adjustments as a result, these may not be significant as the new compliance system basically requires the same data, with the same structure, as the old system.

The new compliance system integrates annual compliance obligations with the monthly obligations, and the tax return for December will cover full year payroll and other payments to individuals, along with the corresponding annual tax liability. Each of the other monthly tax returns will account for the tax obligation for that particular month. This could save a lot of work. But it also adds to the year-end pressure on taxpayers, whose annual calculation for a particular year must now be completed within 10 days after year end.

A particular issue relate to bonus payments eg, if a company has decided to pay bonuses but has not yet worked out the exact amount to pay to each qualifying employee at year end. If the company treats the bonus estimate as a provision, it may solve the issue ie, payroll tax

would not be payable on the provision. However, the provision will not then be claimable as a deductible expense. Hence, such a treatment will impact on the corporate income tax due for the 2009 year. This will be more than just a timing difference, given that the corporate tax rate will be reduced from 28% to 25% in 2010.

The alternative would be to wait for the exact bonus amount payable to each individual to settle the underpaid payroll tax for 2009 with the risk of missing the 10 January deadline. The corporate tax issue may be solved; however a potential interest penalty, at 2% per month, would then become due on the late settlement of any payroll tax underpayment.

Even where bonuses are not under consideration, taxpayers will still be under pressure to meet the strict deadline. To alleviate the pressure, companies need to revisit their monthly payroll tax returns for the January-June 2009 period. Each tax return must reflect the actual tax liability for the relevant month based on the salaries paid to employees and other payments made to non-employee individuals. Revision of certain tax returns may be required. Going forward to December, companies can then better control the amount of payroll tax to be paid for each month, to lower the risk of tax overpayment, and thereby reduce the tax audit risk.

Batam, Bintan and Karimun as free trade zones

The status of Batam, Bintan, and Karimun (BBK) as free trade zones (FTZs) effectively came into force on 1 April 2009. As a result, there should no longer be any import duties, VAT and excise in BBK. However, this facility should not be taken for granted. In particular, only “master list” goods are eligible for the facility. In this respect, Master list approval must be obtained from the FTZ authority.

Deliveries of taxable goods or services to BBK companies may not call for VAT-related fund flows. However suppliers or service providers from outside BBK are still required to issue tax invoices with a stamp “VAT not to be collected”. Failure to do this may cost them an administrative penalty of 2% of the transaction values.

BBK companies no longer need taxable company status. However, if they supply taxable goods or provide taxable services to parties outside BBK, a VAT liability may arise. A unique tax invoicing system should apply in this case, i.e. by direct payment using a tax payment slip (SSP).

Types of provision for tax

In general, provisions are not claimable as deductible expenses for tax. However, an exception to the general rule applies to companies engaged in certain types of business. Banks, leasing companies, factoring companies, and consumer finance companies, for instance, are allowed to deduct a provision for uncollectible accounts receivable. General insurance companies can claim *unearned premium reserve* and *claim reserves*. Life insurance companies can deduct *claim reserves*.

Other companies having similar privileges include those engaged in mining, forestry, and industrial waste processing.

Details of this matter are set out in MoF Reg. 81/PMK.03/2009 replacing MoF Decree 80/KMK.04/1995.

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