

# TaxFlash

## In This Issue

- Taxpayer Benchmark Ratios – Further Development
- New Negative List of Investment: Is it a Wider Opportunity for Foreign Investors?



## Taxpayer Benchmark Ratios – Further Development

In our Tax Flash No.02/2010, we mentioned that the Indonesian Director General of Taxation (DGT) has adopted a more sophisticated approach to the selection of tax audit cases. This involves using benchmark ratios, primarily in relation to profitability and expenditure, to assess whether a taxpayer's affairs require further examination, which in turn may lead to a formal tax audit.

Previously, the DGT released two Circular Letters i.e. SE-96/PJ/2009 and SE-11/PJ/2010 which contain a series of benchmark ratios for 20 and 31 industry groups, respectively. Recently the DGT released another set of benchmarking guidelines for 31 industry groups, with Circular Letter No. SE-68/PJ/2010. Therefore, up to now the DGT has released benchmarking guidelines of 82 industries.

The benchmark information is to be used only as a supporting tool in assessing the tax compliance level of a taxpayer and a discrepancy in respect of any particular ratio does not in itself prove non-compliance by a taxpayer. The discrepancy may prompt a follow up from the account representative for a further explanation. If the review of the discrepancy reveals non-compliance with the tax law, the account representative may request an amendment of the tax return or recommend that the taxpayer be subject to a tax audit.

The 82 industries are as follows.

No	KLU	Industry	No	KLU	Industry
1	15141	Food oil from plant and animal sources	41	50401	Wholesale of motorcycles along with spare-parts and accessories
2	15144	Cooking oil from palm oil	42	51220	Wholesale of food, beverages, and tobacco
3	15410	Bread and its equivalents	43	55210	Restaurants
4	15432	Food made from chocolate and candy	44	55260	Catering
5	16002	Clove cigarette	45	65121	Foreign exchange bank
6	16003	White cigarette	46	65910	Leasing
7	21010	Pulp and paper	47	66020	Pension fund
8	22120	Newspaper, journal, and magazine publishing	48	66030	Non-life insurance
9	24232	Pharmaceutical	49	74210	Architectural consultancy and engineering Services
10	25205	Plastic packaging	50	92132	Private radio broadcasting
11	32300	Radio, television, voice and picture recording tools, and the equivalent	51	92132	National private television broadcasting
12	34100	Manufacture of four-wheel (or greater) vehicles	52	02020	Exploitation of natural forest
13	35911	Manufacture of motorcycle and its equivalent	53	13201	Tin ore mining
14	45000	Construction	54	15491	Tea processing
15	50101	Car wholesale	55	15491	Coffee processing
16	51391	Household tools and equipment wholesale	56	15497	Seasoning and food flavoring
17	51430	Construction material wholesale	57	17112	Spinning yarn
18	52111	Retail trading of various items mainly food, beverages, or tobacco in a supermarket	58	24110	Basic chemical except fertilizer
19	70101	Owned or rented real estate	59	24115	Basic organic chemical based on agriculture result
20	85113	Private hospital service	60	24122	Single primary macro artificial fertilizer
21	15211	Dairy	61	25202	Plastic sheet goods
22	15331/15332	Fish/animal ratios or animal feed ratios	62	25206	Plastic based technical/industrial goods and tools
23	15421	Sugar	63	26413	Gypsum
24	15423	Other sugar	64	26423	Cement and lime based goods for construction
25	15540	Soft drink	65	27101	Iron and steel making
26	19201	Manufacture of footwear for daily use	66	27102	Steel rolling

27	20211/20 212	Manufacture of plywood/ laminated plywood, including decorative plywood	67	27103	Steel and iron made pipe and pipe connection
28	20213	Other wood panel manufacture	68	28992	Metal based office equipment, except furniture
29	20294	Kitchenware from wood, rattan, and bamboo	69	29112	Combustion motor
30	22210	Printing	70	29130	Mechanic transmission
31	24131	Artificial resins and plastic raw material	71	29150	Lifting and handling equipment tools
32	24221	Paint	72	34300	Component and equipment for four-wheel (or greater) vehicles
33	24241	Soap and household purifier, including toothpaste	73	40101	Electrical power generator
34	24242	Cosmetics	74	41000	Procurer and distributor of clean water
35	25111	Tire manufacture (including tire tube)	75	50301	Car accessories and spare-parts wholesaler
36	25201	Pipe and plastic intervals	76	51100	Fee or contract based wholesaler
37	26411	Cement	77	51399	Household tools and equipments wholesaler
38	29302	Household electrical appliance manufacture	78	52191	Retailer of assorted goods not including stuffs/food, beverages, or tobacco in department stores
39	31300	Phone and electrical cable	79	54220	Tobacco, food and beverage import trade
40	35912	Motorcycle (and equivalent) components	80	54392	Pharmaceutical and chemical import trade for household
			81	54500	Machines, spare-parts and equipment import trade
			82	65922	Customer credit

## New Negative List of Investment: Is it a Wider Opportunity for Foreign Investors?

A new Negative List of Investment (NLI) by Presidential Decree No. 36/2010, which became effective on 25 May 2010, has replaced the previous one which was issued in 2007.

There are some provisions in the Decree which widen opportunities for foreign investors to invest in Indonesia.

- Indirect or portfolio investment through domestic capital market

The new NLI confirms Investment Law No. 25/2007 that provisions in the NLI are not applicable for indirect or portfolio investments made through domestic capital market, i.e. Indonesia Stock Exchange (IDX).

- More industries open to foreign investment

There are several lines of businesses which previously were closed for foreign investors but now are open. In addition the maximum foreign shareholdings in some industries are increased. Such industries among others are:

Sector	Business	Previous NLI	New NLI
Energy and mining	Electricity generators with a capacity of 1-10 MW	Reserved for micro, small, medium companies and cooperatives	Open with a requirement of partnership
Trading	Direct selling	Max. 60% foreign	Increased to max. 90% foreign
Infrastructure	Large scale construction contractor	Max. 55% foreign	Increased to max. 60% foreign
Telecommunication and Information	Postal service	Monopoly of state owned enterprise	Max. 49% foreign
Health Industry	Hospital	Max. 65% foreign only in Medan and Surabaya	Increased to max. 67% and no location limitation

- Privilege of ASEAN countries

Foreign investors from ASEAN countries are also privileged by the new NLI as they can have more ownership compared to investors from other countries in certain industries such as nursing services, cargo handling and international shipping business.

On the other side there are also more restrictions on foreign investors in certain businesses, such as:

- The new NLI confirms that telecommunication tower business is reserved only for domestic investors.
- Decrease of foreign ownership in venture capital from 85% to 80% and motel and lodging services from 50% to 49%.

Similar to the previous one, the new NLI also provides grandfathering to the investment approval issued prior to the new NLI, with a note that it is applicable if the provisions in the new NLI are more beneficial for the investors.

The new NLI indeed provides more clarification than the previous one. However, certain clarifications are still needed, such as:

- Whether the new NLI applies in the case of a foreign party acquiring the shares for controlling purposes through IDX. The Coordinating Body for Investments (*BKPM*) on its press release on the BKPM website, seems to confirm that the new NLI applies if the acquisition is meant for controlling purposes.
- The Privilege of ASEAN investors to hold 60% ownership in international shipping businesses and its contradiction with the Indonesian Shipping Law which only allows companies majority owned by Indonesian parties to register Indonesian flagged vessels as a requirement to obtain a shipping company license (*SIUPP*).

For further information on the implementation of the new NLI, you may contact Laksmi Djuwita/Inge Jahja/Adi Pratikto.

#### Your PricewaterhouseCoopers Indonesia contacts

**Ali Mardi**  
ali.mardi@id.pwc.com

**Ali Widodo**  
ali.widodo@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

**Engeline Siagian**  
engeline.siagian@id.pwc.com

**Hendra Lie**  
hendra.lie@id.pwc.com

**Irene Atmawijaya**  
irene.atmawijaya@id.pwc.com

**Jim McMillan**  
jim.f.mcmillan@id.pwc.com

**Laksmi Djuwita**  
laksmi.djuwita@id.pwc.com

**Mardianto**  
mardianto.mardianto@id.pwc.com

**Margie Margaret**  
margie.margaret@id.pwc.com

**Nazly Siregar**  
nazly.siregar@id.pwc.com

**Paul Raman**  
paul.raman@id.pwc.com

**Parluhutan Simbolon**  
parluhutan.simbolon@id.pwc.com

**Ray Headifen**  
ray.headifen@id.pwc.com

**Suyanti Halim**  
suyanti.halim@id.pwc.com

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

**Triadi Mukti**  
triadi.mukti@id.pwc.com

[www.pwc.com/id](http://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](mailto:maria.purwaningsih@id.pwc.com).

© 2010 PT Prima Wahana Caraka. All rights reserved.  
"PricewaterhouseCoopers" refers to PT Prima Wahana Caraka. As the context requires, "PricewaterhouseCoopers" may also refer to the network of member firms of PricewaterhouseCoopers International Limited, each of which is a separate legal entity. Each member firm is a separate legal entity and PT Prima Wahana Caraka does not act as agent of PwCIL or any other member firm nor can it control the exercise of another member firm's professional judgment or bind another member firm or PwCIL in any way.

**DISCLAIMER:** This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, KAP Tanudiredja, Wibisana & Rekan, PT Prima Wahana Caraka, or PT PricewaterhouseCoopers FAS, its members, employees and agents do not accept or assume any liability, responsibility or duty of care for any consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.