Tax Indonesia

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Are you a tax audit target this year?

In 2011, the Indonesian Tax Office (ITO) will be more aggressive in conducting tax audits to meet a Rp 9 trillion (approximately US$ 1 billion) tax audit revenue target. In this regard, the Directorate General of Taxes (DGT) has issued Circular Letter No. 29/PJ/2011 (SE-29) dated 4 April 2011 regarding the tax audit strategy and plan for 2011.

This year, the ITO will focus on carrying out tax audits on certain industries and high-wealth individuals. Those target industries are:

No	Business Classification	Business Industry
1	11000	Mining and mining services to oil and gas
2	17000	Textile industry
3	19000	Leather goods, and footwear
4	21000	Paper industry, paper products, and the like
5	24000	Chemical industry and goods from chemicals
6	26400	Cement industry, lime and gypsum, as well as goods from cement and lime
7	34000	Motor vehicle industry
8	45000	Construction
9	50000	Cars and motorcycle sales, rental, and maintenance, retail sales of vehicle fuels
10	51000	Domestic large trade, except for trading of cars and motorcycles in addition to exports and imports
11	54000	Import trade, except for car and motorcycle trading
12	55200	Restaurant, bar and catering services
13	60000	Land transport and transport by pipeline
14	64200	Telecommunication
15	70000	Real-estate
16	74300	Advertising services

Other than focusing on the above 16 industries, the ITO also focuses on transfer pricing audits, especially for taxpayers registered in the Large Taxpayers Regional Tax Office, the Special Jakarta Regional Tax Office, and the Middle Tax Office throughout Indonesia.

For the individual taxpayers' audit target, the ITO has set the following criteria:
a. Indonesia's richest individuals in 2010 according to Forbes magazine;
b. High-ranking officials in central and local governments;
c. Professionals (i.e., lawyers, doctors, consultants, notaries, artists, athletes);
d. The five largest individual taxpayers in each Tax Service Office (TSO);
e. Individual taxpayers who, according to data, information, or observations are taxpayers with high levels of wealth which are not included in point (d).

Under SE-29, the ITO is also instructed to finish tax audits by 30 June 2011, for which a tax audit instruction letter was issued before 1 January 2011.

Guidance on refunds of income tax which should not have been paid

Taxpayers may make mistakes in applying the withholding tax mechanism, leading to an income tax overpayment. In that case, the ITO has provided guidance to resident taxpayers in claiming the overpaid income tax that should not have been paid by issuing DGT Regulation No. 5/PJ/2011 (PER-5). PER-5 defines income tax which should not have been paid as:
a. income tax paid by a taxpayer, which is actually not due;
b. caused by mistakes in withholding or collecting tax which:
    1. results in the withheld or collected income tax being higher than the income tax which should have been withheld or collected, based on the prevailing tax regulations; or
    2. is not an income tax object.

The condition in point (a) above is caused by tax payments for income that should not be subject to income tax or cancelled transactions. Thus, this condition may happen to corporate or individual taxpayers, including individuals who have no Tax Identification Number (*NPWP*).

Mistakes in withholding or collecting income tax, as described in point b, occur for:
1. income which is received by a non tax subject;
2. income which should not be withheld or collected;
3. income which causes the withheld or collected income tax to be higher than it should be;
4. wrong implementation of tax regulations by a tax withholder.

Under the condition in point (a), the claim request should be initiated by the taxpayers who made the tax payment to the TSO in which the taxpayers are registered. However, for the condition in point (b), the tax withholder should file the request to the TSO in which it is registered. If the tax withholder cannot be found, for example because it has been liquidated, the party whose tax has been withheld submits the claim request to the ITO in which it is registered.

To claim the overpaid income tax, the following requirements need to be met:
a. the income tax has not been credited in the taxpayer's tax return;
b. the tax withholder has reported the income tax in the relevant periodical tax return;
c. the taxpayer whose tax has been withheld does not file an objection as regulated in Article 25(1) of the General Tax Provisions and Procedures Law.

The claim request should be filed for each income tax settlement mistake and the form prescribed by PER-5 must be used. In addition, some supporting documents, such as the tax payment slip, should be attached.

Three months from the date on which the completed request letter is lodged, the ITO is required to issue an overpayment tax assessment letter (*SKPLB*), otherwise the claim request will be deemed to have been accepted.

Deductible donations – how far can we claim?

In December 2010, The Government of Indonesia issued Regulation No.93/2010 (GR-93) regarding deductible donations for income tax calculation purposes, which is applicable from Fiscal Year 2010 onwards. Based on this regulation, a donation is deductible if the requirements set out in GR-93 are satisfied. However, detailed procedures with regard to donations recording and reporting will be stipulated further in a Minister of Finance regulation.

On 5 April 2011, the Minister of Finance issued Regulation No.76/PMK.03/2011 (PMK-76) regarding Recording and Reporting Procedures for Donations for Combating National Disasters, Research and Development, Educational Facilities, Sports Development, and Costs for Social Infrastructure Construction to be Deducted from Gross Income, as the implementing regulation of GR-93.

The requirements to be satisfied, as set out in PMK-76, in order to claim a donation as a deductible expense are summarised below.

<table>
<tr><th>Type of donation</th><th>Channeled through</th><th>Deductibility requirements</th><th>Form of donation</th><th>Timing of deductibility</th></tr>
<tr><td>National disaster</td><td>• disaster recovery body; or
• any parties receiving a licence from the disaster recovery body</td><td rowspan="5">• the donor should have fiscal net income for the previous year;
• the donation amount should not be more than 5% of the previous year's fiscal net income
• the donation will not cause a loss for the relevant tax year;
• the donation must be supported by valid evidence;
• the recipient agent must have a Tax ID Number;
• the donation is not provided to a related party</td><td rowspan="4">cash and/or goods, whose value is determined based on the following if the donation is provided in the form of goods:
• acquisition cost → if the goods have not been depreciated
• fiscal book value → if the goods have been depreciated
• COGS → if the goods are self-produced</td><td rowspan="4">during the fiscal year when the donation is provided</td></tr>
<tr><td>Research and development</td><td>research and development institution</td></tr>
<tr><td>Education facility</td><td>education institution</td></tr>
<tr><td>Sport development</td><td>sport development institution</td></tr>
<tr><td>Social infrastructure</td><td>no specific agency regulated for this type of donation, PMK-76 only stipulates the aim of this donation should be for public interest and non-profit purposes</td><td>facilities and infrastructure, whose value is determined based on actual cost incurred</td><td>• during the fiscal year when the social infrastructure can be used;
• in cases in which the infrastructure construction is carried out over more than one fiscal year, the cost would be wholly deductible during the fiscal year when the infrastructure can be used;
• in cases in which the construction cost is funded by more than one taxpayer, the deductible donation should be the actual cost covered by each taxpayer but not more than the 5% threshold</td></tr>
</table>

In addition, a valid donation receipt should be attached by the donor taxpayer in its Annual Income Tax Return, whilst the recipient agent should provide a report of the donation received and distributed to the DGT.

New sale value of non-taxable land and building

An individual or an organisation that owns a right to a piece of land, and/or takes benefits from that land, and/or owns, controls, and/or takes benefits from a building, can by law be regarded as the Land and Building Tax (*PBB*) payer for that piece of land and/or building.

The PBB rate is specified at 0.5% of the taxable sale value of the land and/or building (*NJKP*). NJKP is a predetermined proportion of the sale value of the tax object of a particular land and/or building. NJKP is currently stipulated to be either 20% (for the sale value of the taxable object (*NJOP*) up to Rp 1 billion) or 40% (for NJOP above Rp 1 billion). The government can increase the NJKP rate by up to 100% of the NJOP. As a result, the effective PBB at present is either 0.1% or 0.2% of the NJOP.

Each taxpayer is entitled to a non-taxable NJOP, which was set at Rp 12 million under the Minister of Finance (MoF) Decision No.201/KMK.04/2000 (KMK-201). On 4 April 2011, the MoF issued Regulation No.67/PMK.03/2011 (PMK-67) regarding Adjustment on the non-taxable NJOP which revokes KMK-201.

PMK-67 stipulates that the non-taxable NJOP for calculating PBB is Rp 24 million, starting from 1 January 2012.

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