Tax Indonesia

TaxFlash

No.05/2011

pwc

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New tax audit procedures – more certainty about the process

To ensure that the tax audit process is in accordance with the General Tax Provisions (*Ketentuan Umum dan Tata Cara Perpajakan/KUP*) Law No.28/2007, the Minister of Finance (MoF) issued Regulation No.199/PMK.03/2007 (PMK-199) regarding the Tax Audit Procedure. PMK-199 stipulated a standard tax audit procedure, setting out all necessary steps from the planning to the completion of a tax audit.

On 3 May 2011, the MoF amended PMK-199 with Regulation No.82/PMK/03/2011 (PMK-82). PMK-82 was issued with reference to the current KUP Law No.16/2009 and aims to address several provisions which are unclear under PMK-199. The main changes are set out below.

Tax audit timeframe

The ITO should inform the taxpayer in writing if the initial timeframe of the tax audit is extended (it may be extended by up to three months for an office audit and four months for a field audit).

Obligations of the tax auditor

PMK-82 states that, in addition to providing the reason for, and purpose of, the tax audit, the ITO must, during the preliminary meeting, explain the taxpayer's rights and obligations with regard to the tax audit process. These include the taxpayer's right to propose a discussion with the Quality Assurance Team if there is any dispute between the taxpayer and the tax auditor during the closing conference. The result of this preliminary meeting should be documented in the minutes of the meeting.

Under PMK-199, the Quality Assurance Team was called the Reviewer Team. The scope of work of this Quality Assurance Team is now also defined in PMK-82.

The tax auditor must also provide the taxpayer with a tax audit questionnaire at the beginning of the tax audit; previously, the questionnaire was not obligatory, and was usually given to the taxpayer at the end of the tax audit.

Response to tax audit findings

The taxpayer must provide a written response to the tax audit findings within seven working days of receipt of the Notification of Tax Audit Findings. This is applicable for both office and field audits. The taxpayer may extend their submission of this response by a maximum of three working days. Notification of such an extension should be submitted before the original deadline for submitting the response letter.

Closing conference

The ITO must provide the taxpayer with a written invitation to attend the closing conference. The invitation should be provided within three working days of receiving the response letter from the taxpayer or, if no response letter is submitted, at the submission deadline.

The closing conference is to be completed a maximum of three weeks from the initial invitation date; this is applicable for both office and field audits.

Tax audit completion

The tax audit will be completed by the ITO upon: (a) tax audit termination with the issuance of a brief (*sumir*) tax audit result; or (b) the issuance of a tax audit result report (*Laporan Hasil Pemeriksaan/LHP*) as the basis of a tax assessment letter; or (c) recommendation of an audit for preliminary evidence (of a tax criminal offense). PMK-82 stipulates the completion procedure for each option.

If the recommendation of an audit for preliminary evidence is approved and relates to a refund application from regular taxpayers, completion of the tax audit is deferred until:

a. the audit for preliminary evidence is settled and not followed up by an investigation;
b. the audit for preliminary evidence is not continued since the taxpayer voluntarily discloses the dishonesty and paid any underpaid taxes;
c. the investigation is stopped and no prosecution is brought, because there is not enough evidence, or the occurrence is not a criminal offense in the field of taxation, or the occurrence has expired, or the suspect died;
d. the investigation is stopped and no prosecution is brought for the sake of state revenue; or
e. a court decision with binding legal force is received.

Detailed standard procedures for office and field tax audits will be regulated further in a Director General of Taxes (DGT) regulation.

PMK-82 is applicable from 3 May 2011. For ongoing tax audits for which the Tax Audit Instruction Letters were issued prior to the enforcement of PMK-82, the procedure will still be based on PMK-199.

Indonesia – Iran tax treaty comes into force

The DGT recently released Circular Letter No.SE-33/PJ/2011 dated 20 May 2011 announcing that the Tax Treaty between Indonesia and Iran came into force on 25 November 2010, and will take effect for amounts paid or credited on or after 1 January 2011.

The withholding tax rates applicable under the Indonesia – Iran Tax Treaty are summarised below:

Income	Rate	Tax Base
Dividends	7%	gross income
Interest	10%	gross income
Royalties	12%	gross income
Branch Profit Tax	7%	after-tax profits

For dividends, interest, and royalties, only the beneficial owner is acknowledged as the party entitled to the tax treaty benefits. Otherwise, that income which is paid to Iran will be subject to the normal Article 26 Income Tax rate of 20%.

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