Tax
Indonesia

TaxFlash

30 March 2009 No. 03/2009

IN THIS ISSUE:

- **2008 annual income tax return filing**

  Companies with a book year ended 31 December must file their 2008 AITR by 30 April 2009 and settle the underpaid tax before that. Companies need to be aware of specific requirements about lodgement of AITRs.

- **Government-borne payroll tax**

  The MoF and the DGT have issued several regulations regarding the government-borne payroll tax. This is part of the fiscal stimulus announced recently aimed at alleviating the hardship of the economic downturn.

- **Other development**

  There have been some discussions between business chambers and the Minister of Trade and Industry regarding the need to revisit the current Negative List of Investment (DNI). There have also been some measures taken to allow foreign construction service companies to obtain certification.

2008 annual income tax return filing

The annual income tax return filing deadline is getting closer. The 2007 tax administration law (KUP), which came into force on 1 January 2008, gives corporate taxpayers four months from year end to file their annual income tax returns (AITRs). This is a month longer than that provided by the 2000 KUP. Hence, a company with a book year ended on 31 December must file its 2008 AITR by 30 April 2009. Any income tax underpayments (typically referred to as Art. 29 income tax), must be settled before filing the AITR.

For individual taxpayers, the AITR filing time remains the same: three months from year end. Hence, they must file their 2008 AITR by 31 March 2009.

Some specific issues to be aware of about tax return filing obligations are set out below.

- *Extension of the filing time*. If you are not ready to file the 2008 AITR by the deadline, you can get an extension of the filing time by a maximum of two months. This means individual and corporate taxpayers can shift the filing deadline to 31 May and 30 June 2009 respectively. Unlike the old procedure, you do not need the approval of the director general of tax (DGT) to extend the AITR filing time. However, you are required to submit an official notification letter to the DGT office no later than the AITR filing deadline. A tentative calculation of the 2008 income tax liability along with the corresponding tax payment slip (SSP) for the settlement of the underpaid tax, if any, must be attached to the notification letter. Additionally, corporate taxpayers need to attach a letter from their external auditor confirming that the financial audit has not yet completed. The KUP law does not state whether or not another extension can still be granted, possibly by way of DGT approval, if a two month extension is not sufficient.

- *Completeness standard.* There is a long check list of items that must be satisfied to meet the ”completeness standard” for an AITR. For example, an AITR must be signed by the competent person, i.e., a company’s officer for a corporate taxpayer. In principle, the meaning of “officer” in this case is broader than just a member of the board of directors stated in the company’s Deeds of Establishment. However, for the sake of certainty, it would be better to have a director sign the AITR. Also, each column of the AITR should be filled out accurately. In this respect, leaving an item on the form “blank” is not the same as marking it “nil”. If you mean “nil”, you should state this in the AITR by putting “0” or “-“ in the appropriate field. Please bear in mind that an incomplete AITR may be ignored by the DGT i.e., treated as if it had not been lodged.

- *Filing procedure*. Unlike the previous procedure, you do not need to go to the tax service office (KPP) with which you or your company is registered as a taxpayer to file the 2008 AITR. You can submit your AITR to any KPP, which will then forward it to the appropriate KPP. Your AITR must be put in a closed envelope with information about your own or your company's identity, the tax year, the telephone number and the tax status (nil, underpayment, or overpayment) of the return. The tax official will give you a receipt upon receiving your AITR without checking the completeness of the AITR. The DGT will check the completeness of the AITR within two months (for underpaid and nil AITRs) or 14 days (for overpaid AITRs). If the DGT determines that your AITR is incomplete, the DGT will send you a request to complete the missing data or provide further documents within 30 days of the request date. If you do not provide the requested data or documents, the DGT will classify your AITR as an incomplete AITR and consider you to have never filed an AITR. The regulation does not state whether or not a confirmation will be sent to you if your AITR has met the completeness standard.

- *Article 25 income tax.* A company's AITR for 2008 must state the amount of Article 25 income tax (PPh 25) to be paid on a monthly basis during 2009. By default, PPh 25 to be paid during a particular year must be based on the previous year's tax liability. The issue with the 2008 AITR is that a lower income tax rate (28%) applies for 2009 than that for 2008 (highest marginal rate of 30%). Our understanding is that the basic rule applies while concessions are granted by Per-10/PJ/2009 regarding fast-track PPh 25 reduction (Ref. to TaxFlash 2/2009).

- *Tax audit preparation*. The DGT has the right to examine your AITRs. There are many factors considered by the DGT in selecting an AITR for a tax audit. However, disclosure of a tax overpayment in an AITR will trigger a tax audit within a few months of the filing date given that the DGT is required by law to decide on whether to refund the overpayment within 12 months. In this respect, the one-month rule should be borne in mind, i.e., a document requested by the tax auditor during an audit must be delivered within a month of the request date. Otherwise, the document will be ignored by the tax auditor.

Government-borne payroll tax

The Minister of Finance (MoF) and the DGT have issued several regulations regarding government-borne payroll tax (PPh 21). This is part of the 2009 fiscal stimulus announced by the government early this year to alleviate the hardship of the economic downturn.

In summary, the regulations set out the following:

- The industries eligible for the facility are agriculture, plantation, breeding, forestry, fishery and manufacturing. Please refer to the appendix of MoF Reg. 43/PMK.3/2009 for information whether your company is eligible for this facility.

- Qualifying employees are those with a maximum gross income (including bonus and allowances) of Rp5 million a month. If in a particular month an employee receives gross income of more than Rp5 million, e.g. because receiving bonus, he/she does not qualify for the facility for that month even if he does for the previous months.

- The payroll tax covered by this facility is the PPh 21 due for the months of February - November 2009.

- The government-borne PPh 21 must be paid in cash to the relevant employees and is not deductible if normally the tax is borne by the company.

- Employers are required to account for the government-borne tax payments in their monthly and annual income tax obligation as part of their monthly and annual income tax return filing.

- For employees without an NPWP are untitled to this facility for months of February-June 2009; however, the 20%-surcharge must be withheld and paid to the state treasury. They will completely loose their eligibility for the following months until they have obtained an NPWP.

Other developments

There have been discussions between the Indonesian Chambers of Commerce (KADIN) and representatives from various foreign business chambers (Amcham, Britcham, Eurocham), and the Ministry of Trade, regarding the need to revisit the current Negative List of Investments (DNI). One of the suggestions is to increase the maximum permitted percentage of foreign ownership in Indonesian companies engaged in certain business lines. Clarification is also sought on whether the DNI covers share ownership through capital markets.

It is expected that a further amendment of Presidential Decree 77/2007, which has been amended by Presidential Decree 111/2007, will be issued before the presidential election scheduled for October this year.

Certification of foreign engineering construction/consultants has been an issue of concern given that under current regulations, they are unable to obtain Indonesian certification. This situation has resulted in an unfavourable tax treatment to them in light of the final income tax regime.

The Construction Service Development Institution (LPJK) informed us recently that a certification procedure had been drafted since November 2008 and indicated that a new regulation would be issued in a couple of months. LPJK is aware that a number of foreign construction companies are waiting to get the certificate.

Your PricewaterhouseCoopers Indonesia contacts

Ali Mardi
ali.mardi@id.pwc.com

Anthony J. Anderson
anthony.j.anderson@id.pwc.com

Anton Manik
anton.manik@id.pwc.com

Engeline Siagian
engeline.siagian@id.pwc.com

Lili Tjitadewi
lili.tjitadewi@id.pwc.com

Margie Margaret
margie.margaret@id.pwc.com

Nuryadi Mulyodiwarno
nuryadi.mulyodiwarno@id.pwc.com

Robertus Winarto
robertus.winarto@id.pwc.com

Ali Widodo
ali.widodo@id.pwc.com

Ay-Tjhing Phan
ay.tjhing.phan@id.pwc.com

Heru Supriyanto
heru.supriyanto@id.pwc.com

Paul Raman
paul.raman@id.pwc.com

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

Ray Headifen
ray.headifen@id.pwc.com

Hendra Lie
hendra.lie@id.pwc.com

Tim Watson
tim.watson@id.pwc.com

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.

The information in this publication is prepared for the sole use of partners, staff and selected clients. Whilst every care has been taken in the preparation of this publication, no warranty is given as to the correctness of the information it contains and no liability is accepted for any statement or opinion, nor for any error or omission. When specific problems occur in practice, it may be necessary to refer to laws and regulations and to obtain appropriate advice.

© 2009 PT Prima Wahana Caraka. All rights reserved. "PricewaterhouseCoopers" refers to PT Prima Wahana Caraka or, as the context requires, the PricewaterhouseCoopers global network or other member firms of the network, each of which is a separate and independent legal entit