

Omnibus Law Introduces Special Tax Rules in Relation to the Sovereign Wealth Fund

Tax Treatment for LPI ^{p1}

Tax Treatment for Third Parties Cooperating with LPI ^{p2}

The government has issued Government Regulation (GR) No.49 Year 2021 (GR-49) to set out special rules on the tax treatment on transactions involving the State Wealth Fund (*Lembaga Pengelola Investasi/LPI*) or the entities it cooperates with or invests in.

LPI is an institution that is authorised to manage the sovereign wealth fund investments of the central government, as mandated by the Omnibus Law.

In performing their function, LPI is authorised to:

- a. Perform fund placement in a financial instrument;
- b. Carry out asset management function;
- c. Cooperate with a third party, including a trust fund;
- d. Determine potential investment partners;
- e. Carry out lending and borrowing; or
- f. Assets administration.

In carrying out the asset management function, LPI can establish a fund by itself or in cooperation with a third party or may participate in a fund established by a third party. The fund can be a joint venture, mutual fund, collective investment contract, or any other form, either domestic or offshore entities.

Tax Treatment for LPI

For Indonesian tax purposes, LPI is considered as a domestic corporate taxpayer which is subject to general income tax treatment, but with several special specific tax treatments, as follows:

- Provision expense is deductible up to the mandatory provision amount formed in the previous year, which based on GR-74¹ must be set at least 10% of its profit until the provision reaches 50% from LPI's capital.

¹ Government Regulation No. 74 Year 2020 regarding LPI

This provision expense is deductible until:

- ✓ the fiscal year when the mandatory provision amount reaches 50% of LPI's capital, or
 - ✓ when dividend or profit is distributed to the government, whichever occurs earlier.
- Loan interest income received by LPI from its subsidiary or joint venture company, is exempted from withholding tax (without requiring any Tax Exemption Letter), except for domestic bond interest income.
 - Duty on the acquisition of land and/or building rights (*Bea Perolehan Hak atas Tanah dan Bangunan/BPHTB*) can be charged as a deductible expense in the year when the land and/or building is acquired.

GR-49 emphasises that the transfer of government or State-Owned Entity's (SoE) assets is carried out at fair value.

Tax Treatment for Third Parties Cooperating with LPI

The third party referenced in point c above includes investment partners, investment managers, SoE, Government institutions or entities, or other entities either domestic or foreign entities. The cooperation is carried out by giving or receiving management proxy, establishment of a joint venture, or other forms of cooperation.

Generally, the third parties are subject to normal Indonesian tax treatment, with some specific tax treatments on the following types of income which are received by the third parties from the cooperation with LPI:

Dividend recipient Dividend Type	Non-residents who directly cooperate with LPI and the cooperation is in the form of domestic corporate taxpayers	Domestic taxpayer
Dividends derived from capital repayment amount that exceed the paid in capital during a liquidation, if:		Non-tax object in accordance with the dividend exemption rules under the Income Tax Law
<ul style="list-style-type: none"> • It is reinvested or used for other business purpose in Indonesia within three years 	Not subject to tax	
<ul style="list-style-type: none"> • It does not meet reinvestment requirement 	Final Tax of 7.5% or Tax Treaty rate	
Any other dividend in any name or forms	Final Tax of 7.5% or Tax Treaty rate	

The final tax above is to be withheld at the end of the month when the payment is made, made available for payment, or the payment is due, whichever occurs earlier, and to be reported under Article 4(2) Income Tax.

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