

支柱二对免税期延长的
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支柱二对免税期政策优惠延长的影响

财政部长（“MoF”）签发 2024 年第 69 号条例（以下简称“PMK-69¹号文”），作为对指定先锋行业的重大新投资免税期激励措施的最新更新/修订。该条例将提交申请（申请须通过 OSS 系统）适用期延长至 2025 年 12 月 31 日。

与此前税收条例相比，PMK-69 号文延续了免税期政策的适用条件和优惠措施；但新增了支柱二相关的规定：

- 已获得免税期优惠的纳税企业且同时属于合格受支柱二规则影响缴纳全球最低税的跨国企业集团成员，需要根据 PMK-69 条例额外课征本国补足税。
- 该本国补足税条例亦适用于在 PMK-69 号文生效之前获批免税期优惠政策的纳税企业。

尽管财政部尚未发布印尼实施全球反税基侵蚀（“GloBE”）规则的国内法规，我们预计后续出台的法规中，印尼将采用合格本国最低补足税（“QDMTT”）规则。

与此同时，PMK-69 号文也对适用条件、申请程序和行政事宜等作出如下调整：

- 已获得名为“Nusantara”（Ibu Kota Negara bernama Nusantara/“IKN”）的国家首都免税优惠的纳税人不得重复申请此税收优惠。
- 申请人需要通过 OSS 提供申请企业的完税证明（Surat Keterangan Fiskal/“SKF”）以作为申请免税优惠的其中一项条件。此前，完税证明仅要求合资公司的印尼股东申办提交。PMK-69 号文仍保留对当地股东完税证明的要求，但无需作为申请附件提交至 OSS。
- PMK-69 号文明确规定所有申请必须通过 OSS 线上提交，投资部不再受理纸质申请。
- 资本投资和生产实现的报告义务亦须通过 OSS 系统线上完成。

¹ 财政部第 69 号条例（“PMK-69”）于 2024 年 10 月 9 日颁布并生效。

联合经营税务处理的新规定

财政部长签发2024年财政部第79号条例（以下简称“PMK-79² 号文/财政部79号文”），明确联合经营（“JO”/ *Kerja Sama Operasi*）的税务处理细则。PMK-79号文是财政部层面首个有关联合经营税务处理的全面实施准则。

财政部79号文将联合经营/JO定义为一种实体，其形式为JO成员企业之间的联合安排，规定JO成员企业无论以任何名称或形式共同控制或拥有资产权利和负债义务。

PMK-79对如下情境下的税务处理进行了区分：

- A. 需要获得税号（Nomor Pokok Wajib Pajak/“NPWP”）并需登记为应税企业（Pengusaha Kena Pajak/“PKP”）的JO；和
- B. 无需要获得NPWP且无需登记为PKP的JO。

A. 需要获得NPWP并注册为PKP的JO

1. 判定标准和管理要求

判定标准

如果满足以下判定标准，JO需要作为企业纳税人申请NPWP：

- 交付商品/服务；
- 获得收入；和/或
- 以JO的名义发生成本或向其他方支付收入。

申办NPWP和登记PKP的行政要求

JO需要在其住所地管辖税局申请办理NPWP。JO住所地的判定可根据JO协议/任命协议明确某一成员企业注册地/所在地为准。NPWP需要在下列程序完成之后的一个月內完成注册：

- a) JO协议明确上述判定标准的，自JO设立之后一个月內；
- b) JO协议未明确上述标准，自JO实际开展活动一个月內。

交付应税商品/服务的JO，满足如下条件的，需要注册为PKP：

- a) 已超过财政部有关增值税认证微小企业限制规定的限额；和/或
- b) 一名或多名JO成员企业已注册登记为PKP。

2. 增值税/奢侈品销售税（“LST”）处理

PMK-79号文未对进项增值税的留抵、支付和申报义务进行修订（即遵循一般规则），但PMK-79依据应税商品/服务交付流程明确了应税事件、计税基础和增值税票开具等事项：

² 财政部第79号条例（“PMK-79”）于2024年10月18日颁布并生效。

	J0成员企业对J0	J0对客户
应税事件	当J0向客户交付应税商品/服务时	
计税基础	根据J0协议中各成员商定交付义务对应的金额	遵循一般增值税条例
增值税票开具	最迟不晚于J0向客户开具增值税票时	

奢侈品应税货物交付的LST仅在J0将货物交付给客户时征收一次。

3. 所得税处理

J0层面的税务处理

J0从客户赚取的所得（最终税所得和非最终税所得）属于J0纳税义务，其企业所得税处理如下：

	非最终所得税	最终所得税
费用扣除	与非最终收入相关的业务支出是可扣除的	与最终税收入相关的业务支出不可扣除
J0成员企业收取的成本	J0的业务相关成本包括各成员企业产生的成本；成员企业成本应基于J0协议中约定的交付明细进行确认	
税损弥补	J0的亏损只能由J0自行弥补，不能由J0成员企业弥补（包括J0解散时的累计亏损）	

J0成员企业层面的税务处理

J0成员企业根据J0协议约定的交付义务而产生的成本应在J0成员企业层面确认为收入，收入确认时点为：

- J0收到来自客户的收入，同时确认成员企业交付义务对应的成本 - 适用于非最终所得税/一般类J0。
- J0收到来自客户的收入 - 适用于最终所得税J0。

以下是J0向J0成员企业分配税后利润的税务处理：

国内纳税主体 (<i>Subjek Pajak Dalam Negeri</i>) 或常设机构 (“PE”)	<ul style="list-style-type: none"> ● 无需缴纳企业税或预扣税； ● J0成员在其年度所得税申报表（“AITR”）中申报为无需缴纳所得税的收入； ● PE所得未在印尼进行再投资的，需按所得税法第26(4)条缴纳预扣税
外国纳税主体 (<i>Subjek Pajak Luar Negeri</i>)	缴纳预提税

除此之外，JO成员企业的税务亏损只能由成员企业自己弥补，其中也包括JO协议之外的收入和支出产生的亏损。

4. 预提税处理

JO

- JO须就其收入、采购/进口和出口缴纳普遍适用的预扣税（包括自行支付）。
- 扣缴或自行支付的税款将作为纳税企业年度所得税申报的税收抵免（非最终所得税纳税人）或所得税结算（最终所得税纳税人）。
- 如果JO收入来源于建筑施工服务，扣缴税率按施工服务条例规定的成员企业中适用的最高税率统一扣缴。
- 获取NPWP的JO在向其他方付款时也需履行扣缴义务。

JO成员企业

- JO成员企业根据其协议义务向JO收取的收入无需缴纳预扣税。成员企业是外国纳税主体的，仍需遵循所得税第26条预扣税规定。
- 然而，成员企业（最终税/非最终税应税主体）需要遵从一般所得税规定。同时，成员企业须就其最终税收入自行缴纳最终税。
- 来源于土地和/或建筑物（“L&B”）转让或签订具有法律效力的L&B买卖协议（Perjanjian Pengikatan Jual Beli）包括其修订的最终所得，以JO名义自行缴纳的最终税款可视同JO成员企业所得税结算。

5. 特别规定和过渡性条款

针对开展土地和建筑物所有权转让业务的JO的特别规定

土地和建筑物所有权转让的最终税款支付必须由JO提出申请，且经由税务机关核实。

在国土和空间规划部进行土地和建筑物所有权转让的过程中，JO必须备齐：

- a) 税务机关已对最终税款缴纳进行核实的声明函；
- b) JO联合体协议或JO设立章程的复印件（与原件保持一致）。

过渡性条款

财政部79号文生效日（即2024年10月18日）之前已持有NPWP且符合PMK-79规定标准的JO：

- a) NPWP未满足PMK-79号文要求的，必须向JO住所地管辖税局提出NPWP转移申请；
- b) 如未注册PKP，但实质经营达到PMK-79号文的相关判定，JO须向税局注册登记为PKP；
- c) 履行其纳税义务，包括：
 1. 自2024年10月起履行增值税/奢侈品销售税纳税义务；和
 2. 自2025年1月起履行扣缴义务。
- d) 自2025财年开始，JO需要核算、支付和申报所得税。

B. 无需获得NPWP且无需注册为PKP的JO

1. 判定标准和管理要求

如果JO协议或实际执行不符合PMK-79号文规定标准，JO无需申办NPWP或注册为PKP。因此，JO成员企业各自负责其税收权力和义务。

2. VAT/LST处理

下列条款遵循现行税收法规的规定：

- JO成员企业向客户交付应税商品/服务应缴纳VAT/LST；
- 交付应税商品/服务的VAT/LST应税事件；
- JO成员企业提供应税商品/服务的VAT/LST税基；
- JO成员PKP企业，交付应税货物/服务的VAT税票开具要求；
- 获取应税商品/服务、进口应税商品以及使用无形应税商品和/或从关区外使用应税服务时产生的进项VAT，只要符合进项VAT抵扣规定，JO成员企业即可抵扣；
- JO成员企业缴纳和申报应付VAT/LST的要求。

3. 所得税处理

JO成员遵循现行税收法规中的有关规定，根据JO协议中商定的比例份额分别进行计算、支付和申报所得税。

4. 预提税处理

JO成员企业应根据一般税收条例的规定，对其收入、采购/进口和出口等业务缴纳代扣税（包括自行支付）以及向其他方支付款项时履行扣缴义务。

5. 过渡性条款

PMK-79号文生效日（即2024年10月18日）前已拥有NPWP但不符合PMK-79规定的JO：

- a) 提交注销NPWP申请；或
- b) 已注册为PKP的，JO须提交注销NPWP和撤销PKP申请。

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Tax Holiday extension
with Pillar Two impact ^{P1}

New rules on the tax
treatment of Joint
Operation ^{P2}

Tax Holiday extension with Pillar Two impact

The Minister of Finance (“MoF”) has issued Regulation No.PMK-69¹ as the latest update/revision of the Tax Holiday incentive for substantial new investment in designated Pioneer industries. This regulation extends the granting period to be applicable for Tax Holiday proposals submitted to the Online Single Submission (“OSS”) system up to 31 December 2025.

Whilst the eligibility and benefits of the Tax Holiday facility remain largely the same as in the previous version, this update contains new provisions related to the implementation of Pillar Two, as follows:

- A taxpayer who has obtained a Tax Holiday facility but also falls under a qualifying taxpayer being part of a multinational enterprise group that is subject to Global Minimum Tax under Pillar Two rules, is subject to an additional domestic top up tax under this rule.
- This domestic top up tax would also apply to those who have obtained the Tax Holiday facility prior to the effective date of PMK-69.

Although the MoF has not issued the domestic regulation to implement the Global Anti-Base Erosion (“GloBE”) rules in Indonesia, it is expected that the Qualified Domestic Minimum Top-up Tax (“QDMTT”) will be adopted under the upcoming regulation.

PMK-69 also provides some eligibility, procedural, and administrative changes as follows:

- Taxpayer who has obtained Tax Holiday facility under the National Capital to be named “Nusantara” (*Ibu Kota Negara bernama Nusantara/“IKN”*) facility cannot apply for this Tax Holiday.
- Applicant now needs to submit its own Tax Clearance Letter (*Surat Keterangan Fiskal/“SKF”*) in the online application to use the Tax Holiday facility. Previously, SKF was required for their domestic shareholder. Domestic shareholder is still required to have an automated SKF but no longer needs to be submitted in the application.
- Manual application submission is no longer available, meaning that all application must be submitted only through OSS.
- Reporting obligations for capital investment and production realisation must now be submitted online through OSS.

¹ MoF Regulation No.69 Year 2024 (“PMK-69”) dated and effective from 9 October 2024

New rules on the tax treatment of Joint Operation

The MoF has issued Regulation No. PMK-79² regarding tax treatment of Joint Operation (“JO”/ *Kerja Sama Operasi*) which serves as the first comprehensive implementing regulation on this topic at a PMK level.

PMK-79 defines JO as an entity in the form of a joint arrangement between members of the JO which stipulates that members of the JO have joint control or have rights towards assets and obligations towards liabilities, with any name and in any form.

PMK-79 differentiates the tax treatment for:

- A. JOs that are required to obtain Tax ID (*Nomor Pokok Wajib Pajak* “NPWP”) and to be appointed as VATable Entrepreneur (*Pengusaha Kena Pajak* “PKP”); and
- B. JOs that are not required to obtain NPWP or to be appointed as PKP.

A. JOs required to obtain NPWP and to be appointed as PKP

1. Criteria and administrative requirements

Criteria

JO must obtain an NPWP as a Corporate Taxpayer if the agreement or implementation stipulate that the JO will:

- deliver goods/services;
- receive income; and/or
- incur cost or pay income to other parties, in the name of JO.

Administrative requirements for NPWP registration and PKP appointments

NPWP registration is carried out at the Tax Office where the JO is domiciled, which is determined based on the residence or place of domicile of one of the JO members in Indonesia that is designated in the agreement or letter of appointment to represent the JO. The registration must be done within one month after the following event:

- a) establishment of JO, if the JO agreement meets the above criteria; or
- b) performance of activity within the above criteria, if the JO agreement did not indicate the above criteria.

PKP appointment is applicable for JOs who deliver taxable goods/services when:

- a) the JO has exceeded the small enterprise limitation as stipulated in the MoF Regulation concerning small enterprise limitation for Value-Added Tax (“VAT”) purposes; and/or
- b) One or more JO member has been appointed as PKP.

2. VAT/Luxury-goods Sales Tax (“LST”) treatment

Whilst the rules for crediting Input VAT, payment, and reporting obligation follows the general rules, PMK-79 stipulates the taxable event, tax base, and VAT Invoice issuance based on the flow of delivery of taxable goods/services, as follows:

² MoF Regulation No.79 Year 2024 (“PMK-79”) dated and effective from 18 October 2024

	JO member to JO	JO to Customer
Taxable event	When the JO delivers the taxable goods/services to Customer	
Tax base	Other values based on agreed contribution in the JO agreement, which list down the detailed type of taxable goods/services delivered by each member	Follow general VAT rule
VAT Invoice issuance	At the latest when JO issue VAT Invoice to Customer	

LST on the delivery of luxurious taxable goods are imposed only one time when the JO delivers the goods to the Customer.

3. Income Tax treatment

Taxation at JO level

Income received by JO from Customers is taxable in the hands of the JO and may consist of final-taxed and non-final-taxed income, with the following corporate tax treatment:

	Non-final Income Tax	Final Income Tax
Deductibility	Business-related costs in relation to the non-final income are deductible	Business-related costs in relation to the final-taxed income are not deductible
Costs incurred by JO members	JO's business-related costs include the costs incurred based on the member's contribution, which amount is based on the agreed contribution in the JO agreement, and list down the detailed type of taxable goods/services delivered by each member	
Tax loss compensation	JO losses can only be compensated by the JO and not by the JO members. This includes the loss upon the dissolution of the JO	

Taxation at JO members level

Costs incurred based on the member's contribution are recognised as an income at the JO members level at the time the JO:

- receives the income from Customers and recognises the cost incurred based on the member's contribution – for a JO with non-final-taxed income;
- receives the income from Customers – for a JO with final-taxed income.

The followings are the tax treatments on the **profit-after-tax** distributed by a JO to a JO member who is:

Domestic tax subject (Subjek Pajak Dalam Negeri) or Permanent Establishment ("PE")	<ul style="list-style-type: none"> • Not subject to corporate tax or withholding tax; • Reported by each JO member in their Annual Income Tax Return ("AITR") as income that is not subject to Income Tax; • PE income that is not re-invested in Indonesia is subject to Article 26(4) of Income Tax Law withholding tax
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Foreign tax subject (Subjek Pajak Luar Negeri)	Subject to withholding tax
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With regards to tax losses, JO members' losses can only be compensated by JO members themselves and not by the JO. This includes the losses originating from income and expenses outside of the JO agreement.

4. Withholding tax treatment

JO

- JO is subject to the generally applicable withholding tax (which may also be self-remitted) upon its income, purchases/imports, and exports.
- These withholding tax or self-remitted tax will become an Income Tax credit in its AITR for non-final-taxed income or settlement of Income Tax for final-taxed income.
- In the event that JO receives income from construction services, the withholding tax rate uses the highest rate applicable on its members based on the construction services regulation.
- JO that is required to obtain NPWP also has general withholding tax obligations upon payments to other parties.

JO members

- JO member's income that is received from the JO based on costs incurred in accordance with their contribution is not subject to withholding tax, unless the member is a foreign taxpayer whereby Article 26 withholding tax will still be applicable.
- However, it is subject to normal Income Tax treatment, either final or non-final-taxed. Tax on final-taxed income must be self-remitted by the JO members.
- If the final-taxed income is from the transfer of right on Land and/or Building ("L&B") or binding sale and purchase agreement (*Perjanjian Pengikatan Jual Beli*) for L&B along with the revision, the final tax that was self-remitted by the JO on this transaction becomes the settlement of Income Tax for the JO member.

5. Special rule and transitional provisions

Income Tax treatment for JOs that carry out transfer of right on L&B

Final tax payment from transfer of right on L&B must be validated by the Tax Office. This validation request must be carried out by the JO.

In the process of L&B title transfer at the Ministry of Agrarian Affairs and Spatial Planning, JO must attach:

- a) a statement letter resulting from the tax payment validation process; and
- b) a copy of the JO agreement or JO deed of establishment, in accordance with the original document.

Transitional provisions

JO who already have NPWP prior to effective date of this PMK (i.e. 18 October 2024) and fulfil the criteria as stipulated in PMK-79 are required to:

- a) submit an application to be transferred to the Tax Office where the JO is domiciled, if it is not yet registered in line with PMK-79;

- b) report their business to be appointed as PKP, in the case where the JO has yet to be appointed as PKP but fulfils the criteria as stipulated in PMK-79;
- c) fulfil its tax obligations, in the form of:
 - 1. VAT/LST collection as stipulated in PMK-79 for the tax period after October 2024; and
 - 2. Withholding tax obligation as stipulated in PMK-79 starting January 2025 tax period; and
- d) calculate, pay, and report Income Tax as stipulated in PMK-79 starting Fiscal Year 2025.

B. JOs not required to obtain NPWP and not required to be appointed as PKP

1. Criteria and administrative requirements

JOs do not need to register to obtain NPWP or to be appointed as a PKP if the JO agreement or implementation does not fulfil the criteria as stipulated in PMK-79.

The tax rights and obligation related to JO arrangement are carried out at each JO member level.

2. VAT/LST treatment

The following provisions follow the provisions in the existing tax regulations:

- Delivery of taxable goods/services from JO members to Customer which are subject to VAT/LST;
- Taxable event of VAT/LST on the delivery of taxable goods/services;
- Tax base on the delivery of taxable goods/services by JO members;
- Requirement to create VAT Invoice for JO members who are PKP upon the delivery of taxable goods/services;
- Input VAT on the acquisition of taxable goods/services, import of taxable goods, and utilisation of non-tangible taxable goods, and/or utilisation of taxable services from outside area customs to inside customs area, which can be credited by JO members as long as they fulfil the Input VAT credit provisions;
- Requirement to remit and report the payable VAT/LST by the JO member.

3. Income Tax treatment

Income Tax on income received in JO arrangement under this category is calculated, paid, and reported by the JO members according to the agreed proportions in the JO agreement, in accordance with the provisions in the existing tax regulations.

4. Withholding tax treatment

Withholding tax imposition (which may also be self-remitted) upon its income, purchases/imports and exports as well as withholding tax obligations upon payments to other parties that are related to the JO arrangement are carried out by each JO member based on the provisions in the general tax regulations.

5. Transitional provisions

JO who already have NPWP prior to effective date of this PMK (i.e. 18 October 2024) but do not fulfil the criteria as stipulated in PMK-79 are required to:

- a) submit an application to delete the NPWP; or

- b) submit an application to delete the NPWP and revoke the PKP appointment, in the case the JO is a PKP.

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