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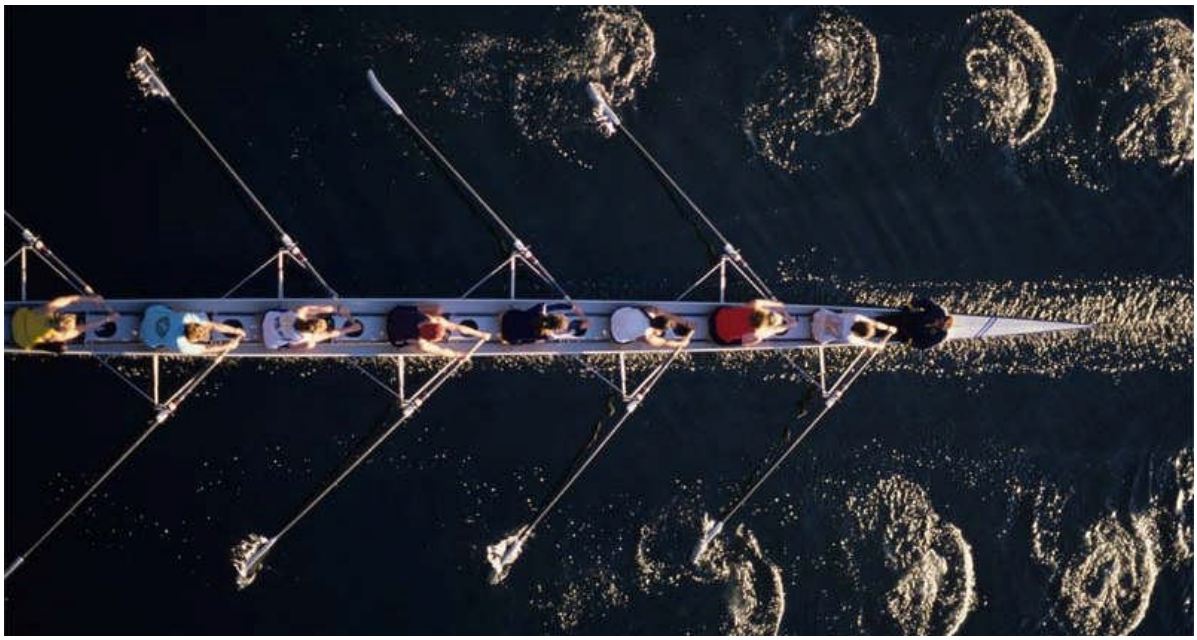

The implementation of new non-taxable income in 2015

The Director General of Tax (DGT) has recently released Regulation No.PER-32/PJ/2015 dated 7 August 2015 to implement the use of new non-taxable income (*Penghasilan Tidak Kena Pajak/PTKP*) in calculating individual income tax based on the Minister of Finance (MoF) Regulation No.122/PMK.010/2015 (PMK-122) dated 29 June 2015.

As PMK-122 is effective retroactively since the beginning of Tax Year 2015, PER-32 stipulates the following transitional provisions in calculating the tax for 2015:

- For the July to December period: the calculation should use new PTKP based on PMK-122.
- For the January to June period for which tax (using the old PTKP) has been paid and reported to the tax office: the calculation should be amended to be in line with PMK-122. Any tax overpayment can be compensated in the July to December period.

Apart from the changes in PTKP, the example of a tax calculation provided in PER-32 remains the same as the old DGT Regulation No.PER-31/PJ/2012 which has now been revoked. Communications with your account representative in the tax office may be necessary should there be some detailed issues related to this mid-year transition.

What's next from the 2015 Sunset Policy?

The DGT issued Circular Letter No.SE-53/PJ/2015 (SE-53) on 7 July 2015 that sets out the priority of a special tax audit in 2015 as a follow up action from Regulation No.91/PMK.03/2015 (PMK-91) that grants elimination/reduction of administrative sanctions due to late submission, late payment and voluntary amendments.

Individuals (entrepreneurs and freelancers) and corporate taxpayers that have already been notified by the tax office to utilise PMK-91 but have not used it, are subject to this special tax audit. Should the taxpayers voluntarily utilise this facility or utilise it after being notified, the tax officer will review the amended tax returns for further action. The taxpayer may be proposed for a special tax audit if the amended tax return does not match with the DGT's data.

If the special tax audit instruction letter was already issued prior SE-53, the taxpayer will be invited by the tax officer to discuss this facility as an avenue to amend its tax return. The tax audit will be carried out if the taxpayer does not agree to utilise this facility.

Exchange of Information – an update

Following some noteworthy international tax agreements that Indonesia has committed to, the MoF has updated the Indonesia's provisions on Exchange of Information (EoI) through the issue of Regulation No.125/PMK.010/2015 (PMK-125) dated 7 July 2015, which amends the MoF Regulation No.60/PMK.03/2014 (PMK-60).

PMK-125 expands the list of international tax agreements which are the basis of EoI, to be as follows (additions are highlighted in red):

a) Double Taxation Agreement (DTA/tax treaty)
b) Tax Information Exchange Agreement (TIEA)
c) Convention on Mutual Administrative Assistance in Tax Matters (Convention)
d) Intergovernmental Agreement (IGA)
e) Multilateral or bilateral Competent Authority Agreement (CAA)
f) Other agreements

The types of EOI and the associated application procedure stipulated in PMK-125 remain the same as in PMK-60.

For EoI purposes, the DGT can request supporting data from the relevant taxpayers (including permanent establishments) or other third parties having information relevant to the disputed taxpayer, such as financial institutions (FIs) in Indonesia as well as its customers, and offshore entities whose information is possessed or stored by Indonesian parties. If the data requested is restricted banking information, the written request should come from the MoF and should be addressed to the Head of the Financial Services Authority (*Otoritas Jasa Keuangan/OJK*), where previously it would have been addressed to the Governor of Bank Indonesia.

Under PMK-125, the DGT is authorised to provide information under automatic EoI to a country partner on detailed information on tax withholding/collection, or financial information related to FI customers. The scope of financial information includes: account balances, total income generated from assets maintained in FIs, securities sale proceeds, and income paid or credited to bank accounts.

New implementing regulation for the Tax Allowance facility

A series of regulations on the Tax Allowance facility have already been issued by several government authorities (i.e. the Head of BKPM, MoF, Minister of Industry and Minister of Energy and Mineral Resources) to implement the provisions in Government Regulation No.18/2015 (GR-18). Please refer to TaxFlash No.13/2015, No.15/2015 and No.16/2015 for our summary of the regulations.

As GR-18 no longer determines detailed requirements for each designated business sector and/or regions, the relevant ministers are given the authority to determine this matter. On 2 July 2015, the Minister of Marine Affairs and Fisheries issued Regulation No.17/PERMEN-KP/2015 (KP-17) that sets out detailed requirements on the designated businesses under its authority.

KP-17 applies strict requirements for fishing companies that the facility can only be enjoyed by domestic investment (Indonesian-flagged ships) with a minimum investment value of Rp 50 billion, that solely employs Indonesian workers, and has an integrated processing facility. For other fishery industries, the minimum requirements vary depending on the industry. As an example, the canned fish industry requires a minimum investment value of Rp 30 billion, half of the production is for export purposes, and employs at least 100 workers (90% of which should be Indonesian).

The details of KP-17 are available upon request, from your usual PwC Indonesia contact.

Land and Building Tax on certain industries

Land and Building Tax (*Pajak Bumi dan Bangunan /PBB*) on certain industries is governed under PBB Law No.12/1994 where each implementation is regulated separately as the industries are developing to be more diverse. The MoF along with the DGT have issued regulations that specify PBB on plantation, forestry, mining (including oil, gas, and geothermal) industries in the past.

On 20 May 2015, the DGT issued Regulation No.PER-20/PJ/2015 (PER-20) that stipulates PBB on the following industries which operate within Indonesian waters but outside of the authority of regencies/cities:

- marine fisheries
- toll road
- oil, gas, and water pipes
- telecommunication cable
- electricity cable

PER-20 is followed by the issue of DGT Decree No.KEP-126/PJ/2015 and DGT Circular Letter No.SE-33/PJ/2015 that sets out detailed guidance to calculate PBB on these industries. Historically, detailed provisions for the above industries along with plantation, forestry, and mining industries was regulated in the DGT Decree No.KEP-16/PJ.6/1998 (KEP-16).

PER-20 and its implementing regulations include more detailed provisions and have updated the formula or tax base to calculate PBB on these industries.

PBB on oil and gas pipes should be calculated based on the PBB regulation for oil, gas and geothermal sectors if it is located in a Production Sharing Contract area and become an integral part of the operation.

PER-20 regulates that PBB on these industries is administered by the Oil and Gas Tax Office although the company may already be registered under a different tax office for general tax purposes. An exception applies for marine fishery companies registered under the *Pratama* Tax Office, where they can continue their PBB compliance in that tax office.

VAT and LST not collected on the import of goods exempted from import duty – an update

Imports of goods exempted from import duty are generally subject to Value Added Tax (VAT) and/or Luxury-goods Sales Tax (LST) based on the prevailing tax regulations, except for certain goods listed under MoF Decision No.231/KMK.03/2001 (KMK-231) as lastly amended by MoF Regulation No.70/PMK.011/2013.

On 27 July 2015, the MoF issued Regulation No.142/PMK.010/2015 (PMK-142) as the fourth amendment to KMK-231. Particularly for the geothermal industry, PMK-142 now includes goods imported for geothermal exploitation to be eligible for both import duty and VAT/LST facilities, in addition to geothermal exploration which is already granted with the facility earlier.

PMK-142 also adds the following type of goods exempted from import duty and also being exempt from VAT/LST dues:

- Goods which are temporarily exported and thereafter re-imported in the same quality. A declaration of re-importation should be made upon the export.
- Goods which are temporarily exported for repair, work, and testing purposes.
- Medicines and health equipment for human therapy, blood and body tissue grouping, which are imported using the government budget for national purposes.

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