

# TaxFlash



## *New rules for the transfer of land and building*

The Government has recently released Government Regulation No.34 Year 2016 (GR-34) regarding Income Tax on the Transfer of Rights on Land and/or Buildings (L&B), and Sale and Purchase Binding Agreements on L&B (*Perjanjian Pengikatan Jual Beli/PPJB*) along with its Amendments. GR-34 revokes GR No.48 Year 1994 as lastly amended by GR No.71 Year 2008. GR-34 is dated 8 August 2016 and will be effective as from 7 September 2016.

The main changes from the previous GRs are outlined below.

### **Scope**

Previously only income from the Transfer of Rights on L&B was subject to final tax. Income from Transfers of Rights on L&B involving a PPJB is now covered and included in the final tax object.

Final tax triggered by PPJB will be due from:

- The seller whose name appears in the PPJB when it was first signed; or
- The buyer whose name appears in the PPJB prior to future amendments (subsequent seller). Previously, the subsequent sellers were taxed on their gains at the prevailing income tax rates (i.e. not final tax).

## Tax Rate

The general final tax rate is reduced from 5% to 2.5%. The final tax rate for the sale of low-cost houses/flats by taxpayers in the real estate business remains 1%.

Transfer of right on L&B to government (including State-Owned Enterprises and Regional-Owned Enterprises), in relation to the procurement of land for development of public interest, continues to be exempt, although it is now referred to as a 0% rate instead of an exemption as under the previous regulation.

## Tax Base

Tax Object Sale Value (*Nilai Jual Objek Pajak/NJOP*) is no longer used for calculating tax base purposes. The value used for calculating tax base is:

Event	Tax Base
Transfer of right to government	Value determined by the authorised official
Transfer of right under auction	Value based on auction minutes
Transfer of right to or PPJB with related party - <i>new</i>	Value that should have been received or obtained
Transfer of right to or PPJB with third party - <i>new</i>	Value that is actually received or obtained
Transfer of right via asset swap, waiver, conveyance, grant, inheritance or other ways as agreed - <i>new</i>	Value that should have been received or obtained based on market value

## Timing

The final tax on the transfer of rights of L&B must be paid prior to the signing of the transfer deed by the notary. For taxpayers earning income from L&B Sale and Purchase Binding Agreement, the final tax is now due at the time of full or partial payment, including down payment, interest, charges, and any other payments by the buyer.

When there is a change in the buyer's name in the PPJB due to the subsequent seller selling the L&B to another buyer, the subsequent seller must pay the final tax prior to the amendment of the PPJB. The seller, whose name appears in the PPJB when it was first signed, signs the amended PPJB only if the copy of the validated final tax payment slip is made available. The seller has the obligation to report the amendment of PPJB to the Director General of Tax.

## Exemption

GR-34 adds the events that are exempted from the final tax, which are as follows:

- Transfer of L&B under merger, consolidation or business expansion that have approval to use book value by the Minister of Finance (MoF)
- Transfer of buildings under a Build Operate and Transfer, Build Transfer and Operate, or the use of state-owned goods L&B

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