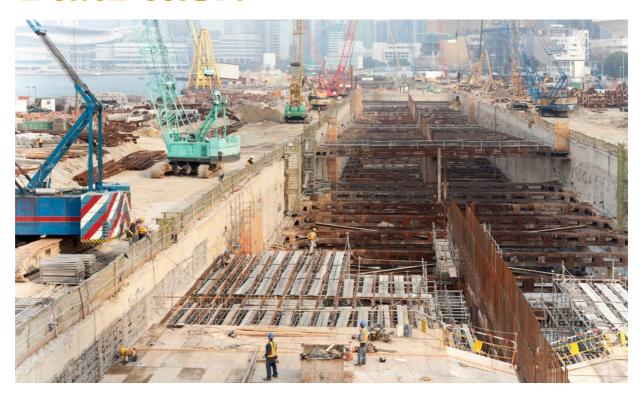
# Tax Indonesia / October 2016 / No.18

Tax Amnesty – changes to asset repatriation rules Pr

# TaxFlash



# Tax Amnesty – changes to asset repatriation rules

On 5 October 2016, the Minister of Finance (MoF) released the following regulations, which amend the existing investment rules for offshore asset repatriation:

- a) Regulation No.150/PMK.08/2016 (PMK-150) being the second amendment to Regulation No.119/PMK.08/2016 (PMK-119) regarding the Procedures for Asset Repatriation into Indonesia and the Placement in Investment Instruments in Financial Markets; and
- b) Regulation No.151/PMK.08/2016 (PMK-151) as the amendment to Regulation No.122/PMK.08/2016 (PMK-122) regarding the Procedures for Asset Repatriation into Indonesia and the Placement in Investment Instruments in Non-Financial Markets.

The key changes stipulated in PMK-150 and PMK-151 (the PMKs) are set out below.

#### General changes affecting investment instruments in financial and non-financial markets

#### Addition to the forms of the repatriated offshore assets

Previously, repatriated assets could only be in the form of cash. However, the PMKs stipulate that the repatriation can now be other than cash in the form of debt securities/*sukuk* issued by Indonesian Government or an Indonesian issuer in foreign currency in the international primary and/or secondary markets.

Debt securities are repatriated by transferring the administration from the overseas custodian to a custodian in the Perception Banks appointed as the Gateway. A the minimum three-year retention period will start from the transfer of administration.



### Gradual cash repatriation

The PMKs stipulate that cash repatriation can be gradual but only until the deadline set in the Tax Amnesty Law, as follows:

- a) 31 December 2016 for taxpayers using 2% and 3% Redemption Money rates
- b) 31 March 2017 for taxpayers using the 5% Redemption Money rate

For gradual cash repatriations, the minimum three-year retention period starts once the gradual repatriation is completed.

## Status of cash repatriated into Indonesia after 31 December 2015

Cash repatriated into Indonesia after 31 December 2015 may be treated differently depending on the date of repatriation:

- a) If the cash is repatriated between 31 December 2015 and 30 June 2016, the cash may be considered to be an onshore asset or a repatriated offshore asset. If a taxpayer had previously declared this cash as an offshore asset and had received the Tax Amnesty Approval (*Surat Keterangan Pengampunan Pajak/SKPP*) that included this cash as an offshore asset, the taxpayer can choose to treat this cash as an onshore asset by submitting a request letter to the DGT revising the SKPP. This revision procedure will be governed under a future DGT regulation.
- b) If the cash is repatriated after 1 July 2016, this cash is considered a repatriated offshore asset and must be invested in the prescribed investment list.

#### **Others**

Investment gains from repatriated assets can be withdrawn at any time (previously withdrawls were only permitted once a year). Gains are calculated based on the investment margin of each investment type, after taking into account all investment costs.

If the investment instrument is used as loan collateral in a Gateway bank, the bank can liquidate the asset if the taxpayer is in default.

# Changes on the rule for investment instruments in non-financial markets

PMK-151 stipulates that investments in the real sectors prioritised by the Government and direct investments in a company in Indonesia must be in the form of capital investment in a limited liability company (*Perseroan Terbatas/PT*). The funds from this capital investment can be used by the management of the PT company in accordance with the company policy.

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