

TaxFlash



Transfer of Land and Buildings – implementing guidelines

The Minister of Finance (MoF) issued Regulation No.261/PMK.03/2016 (PMK-261) on 4 January 2017 to provide implementing guidelines for 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.

The principal rules such as scope, tax rates, tax base, timing, and exemptions are as stipulated in GR-34. Please refer to our TaxFlash No.13/2016 for a detailed discussion of GR-34.

We have outlined below the additional key points that are elaborated on PMK-261.

Scope

PMK-261 elaborates on the type of documents which represent a transfer of rights on L&B and PPJB that are subject to final tax.

The transfer of rights on L&B can be in the form of:

- a. Property rights (*hak milik*), cultivation rights (*hak guna usaha*), building rights (*hak guna bangunan*) and the right of use (*hak pakai*), as stipulated in the provisions of the Agrarian Law;
- b. Property rights of flats and flat buildings units as stipulated under the Law concerning flats.

PPJB is defined as a transfer agreement between parties which can be in the form of:

- a. Purchase Binding Agreements on L&B (PPJB);
- b. Letter of unit reservation unit;
- c. Down payment receipt; or
- d. Any other form of agreement between a party that is selling or intending to sell and a party that is buying or intending to buy L&B.

PPJB also covers an agreement or cooperation between an L&B owner and another party who is a buyer in substance, where this 'buyer' then goes on to sell the L&B to a third party.

Reporting

The taxpayer is required to report the final income tax by submitting a monthly tax return no later than 20 days after the end of the tax period.

Foreign taxpayers are exempt from submitting monthly income tax returns. The submission of a monthly income tax return will be considered as 'submitted' if the tax payment has been paid properly by the foreign taxpayer.

With regards to the transfer of rights on L&B to the government, both the taxpayers (who received or obtained the income) and the government officer do not need to make and fill in the tax payment slip.

Transitional provision

One of the key points in the transitional provision in PMK-261 states that a partial or full payment received for an initial PPJB prior to 7 September 2016 is subject to a 5% final tax rate as stipulated under the old regulation on the transfer of rights on L&B (i.e. GR No.71 Year 2008). This implies that the inclusion of the initial PPJB through GR-34 in the taxable base is enacted with retro-active effect for transfers prior to 7 September 2016. We note that GR-71 did not provide for the taxation of an initial PPJB.

Implementing regulation in the form of a Director General of Tax (DGT) Regulation will be further issued.

Update on Tax Amnesty

In late 2016, the DGT issued additional implementing regulations on Tax Amnesty, as follows:

1. Regulation No.PER-26/PJ/2016 (PER-26) dated 19 December 2016 regarding Tax Amnesty documents and guidelines to complete the forms; and
2. Regulation No.PER-28/PJ/2016 (PER-28) dated 22 December 2016 regarding repatriation of offshore assets.

Key points from these regulations are as follows:

A. New Tax Amnesty forms

The DGT revised the following Tax Amnesty forms:

1. Tax Amnesty Declaration Letter (*Surat Pernyataan Harta untuk Pengampunan Pajak/SPHPP*);
2. Statement Letter to repatriate and invest the offshore assets in Indonesia;
3. Statement letter not to transfer and invest the assets outside of Indonesia; and
4. Statement letter to revoke all ongoing tax legal processes.

Taxpayers must use these new forms in their Tax Amnesty applications effective from 19 December 2016.

B. Repatriation of offshore assets

The amount of repatriation on offshore assets should follow the amount declared in the SPHPP. Taxpayers may also repatriate the amount in currency other than Rupiah to a Special Account in the Gateway banks.

C. Reminder of annual reporting post-declaration

Filing of an individual and company's 2016 Annual Income Tax Return (AITR) for the tax year ended 31 December 2016 are 31 March and 30 April 2017, respectively. Taxpayers that have applied for Tax Amnesty should submit the first annual report on the declared onshore assets and repatriated offshore assets by the deadline to submit this 2016 AITR. The templates of this annual report are attached to the Minister of Finance Regulation No.118/PMK.03/2016 juncto Regulation No.141/PMK.03/2016 and are available for download from the [DGT website](#).

Your PwC Indonesia contacts:

Abdullah Azis

abdullah.azis@id.pwc.com

Adi Poernomo

adi.poernomo@id.pwc.com

Adi Pratikto

adi.pratikto@id.pwc.com

Alexander Lukito

alexander.lukito@id.pwc.com

Ali Widodo

ali.widodo@id.pwc.com

Andrias Hendrik

andrias.hendrik@id.pwc.com

Anton Manik

anton.a.manik@id.pwc.com

Antonius Sanyojaya

antonius.sanyojaya@id.pwc.com

Ay Tjhing Phan

ay.tjhing.phan@id.pwc.com

Brian Arnold

brian.arnold@id.pwc.com

Dany Karim

dany.karim@id.pwc.com

Deny Unardi

deny.unardi@id.pwc.com

Engeline Siagian

engeline.siagian@id.pwc.com

Enna Budiman

enna.budiman@id.pwc.com

Gadis Nurhidayah

gadis.nurhidayah@id.pwc.com

Gerardus Mahendra

gerardus.mahendra@id.pwc.com

Hanna Nggelan

hanna.nggelan@id.pwc.com

Hasan Chandra

hasan.chandra@id.pwc.com

Hendra Lie

hendra.lie@id.pwc.com

Hyang Augustiana

hyang.augustiana@id.pwc.com

Laksmi Djuwita

laksmi.djuwita@id.pwc.com

Lukman Budiman

lukman.budiman@id.pwc.com

Mardianto

mardianto.mardianto@id.pwc.com

Margie Margaret

margie.margaret@id.pwc.com

Otto Sumaryoto

otto.sumaryoto@id.pwc.com

Parluruhan Simbolon

parluruhan.simbolon@id.pwc.com

Peter Hohtoulas

peter.hohtoulas@id.pwc.com

Runi Tusita

runi.tusita@id.pwc.com

Ryosuke R Seto

ryosuke.r.seto@id.pwc.com

Ryuji Sugawara

ryuji.sugawara@id.pwc.com

Soeryo Adjie

soeryo.adjie@id.pwc.com

Sutrisno Ali

sutrisno.ali@id.pwc.com

Suyanti Halim

suyanti.halim@id.pwc.com

Tim Watson

tim.robert.watson@id.pwc.com

Tjen She Siung

tjen.she.siung@id.pwc.com

Turino Suyatman

turino.suyatman@id.pwc.com

Yessy Anggraini

yessy.anggraini@id.pwc.com

Yuliana Kurniadjaja

yuliana.kurniadjaja@id.pwc.com

Yunita Wahadaniah

yunita.wahadaniah@id.pwc.com


www.pwc.com/id

 [PwC Indonesia](#)

 [@PwC Indonesia](#)

 [@pwcindonesia](#)

 [PwC Indonesia](#)

 [pwc indonesia](#)

If you would like to be removed from this mailing list, please reply and write UNSUBSCRIBE in the subject line, or send an email to contact.us@id.pwc.com

DISCLAIMER: This content is for general information purposes only, and should not be used as a substitute for consultation with professional advisors.

© 2017 PT Prima Wahana Caraka. All rights reserved. PwC refers to the Indonesia member firm, and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see www.pwc.com/structure for further details.