

TaxFlash



2016 Individual Income Tax Return submission deadline extension

As the deadline of 31 March 2017 to submit the 2016 Individual Income Tax Return approaches, the Director General of Tax (DGT) has issued Decree No.KEP-87/PJ/2017, extending the submission deadline until 21 April 2017. Based on the Decree, no administrative sanction for late filing will be imposed for tax returns submitted during this extension period. However, any tax underpayment must still be made by 31 March 2017 at the latest or will be subject to late payment penalties.

Tax Amnesty annual reporting

The DGT through Press Release No.12/2017 and Regulation No.PER-03/PJ/2017 (PER-03) dated 29 March 2017 provided further provisions on the Tax Amnesty annual reporting mechanism.

Format of the report

The annual report should be submitted in the form of:

- Hardcopy and softcopy (e.g. in CD or flashdrive) – if submitted directly to the tax office.
- Electronic document – if submitted through certain channels (nothing currently available – based on future technology developments)

PER-03 also amends the templates of this annual report. All taxpayers should use these new templates from the first year of reporting, including taxpayers that have submitted the annual report prior to the date of this regulation.

Asset information – cut-off date

The asset information that is included in the annual report is the information as of the end of the last fiscal year prior when the report is submitted, e.g. if the report is submitted on 31 March 2018, the asset information is as of 31 December 2017 for taxpayers with January – December fiscal year.

However, the final annual report must provide the asset information as of the end of the three-year restriction period, i.e. three years from repatriation date for offshore asset repatriation and three years from Tax Amnesty Approval (*Surat Keterangan Pengampunan Pajak/SKPP*) date for onshore asset declaration.

PER-03 provides an example of reporting periods as follows:

| Onshore assets declaration | 1 st reporting period | 2 nd reporting period | 3 rd reporting period | 4 th reporting period |
|----------------------------|---------------------------------------|----------------------------------|----------------------------------|----------------------------------|
| SKPP issued 10 Oct 2016 | 10 Oct 2016 – 31 Dec 2017 (14 months) | 1 Jan – 31 Dec 2018 (12 months) | 1 Jan – 9 Oct 2019 (10 months) | |
| SKPP issued 10 Apr 2017 | 10 Apr 2017 – 31 Dec 2017 (9 months) | 1 Jan – 31 Dec 2018 (12 months) | 1 Jan – 31 Dec 2019 (12 months) | 1 Jan – 9 Apr 2020 (4 months) |

| Offshore assets repatriation | 1 st reporting period | 2 nd reporting period | 3 rd reporting period | 4 th reporting period |
|-----------------------------------|---------------------------------------|----------------------------------|----------------------------------|----------------------------------|
| Deadline repatriation 31 Dec 2016 | 31 Dec 2016 – 31 Dec 2017 (12 months) | 1 Jan – 31 Dec 2018 (12 months) | 1 Jan – 31 Dec 2019 (12 months) | |
| Deadline repatriation 31 Mar 2017 | 31 Mar 2017 – 31 Dec 2017 (9 months) | 1 Jan – 31 Dec 2018 (12 months) | 1 Jan – 31 Dec 2019 (12 months) | 1 Jan – 30 Mar 2020 (3 months) |

Submission deadline

Taxpayers should submit the annual reports by:

- The 2017 Annual Income Tax Return (AITR) submission deadline for the first annual report, e.g. on 31 March 2018 for individual taxpayers and 30 April 2018 for corporate taxpayers with January – December fiscal year.
- Subsequent annual reports should similarly be submitted by the subsequent AITR submission deadlines.

As stipulated previously, failure to meet these deadlines will trigger the tax office to issue a Warning Letter and the taxpayer will have to submit the reports within 14 working days from the date of the Warning Letter. If the reports have not been submitted within 14 working days:

- a. the net assets declared in the Tax Amnesty Asset Declaration Letter (*Surat Pernyataan Harta untuk Pengampunan Pajak/SPHPP*) will be deemed to be additional income in the fiscal year ended 2016 and become subject to Income Tax and administrative sanction will be 2% per month for a maximum of 24 months, starting from 1 January 2017 until the issue of a tax assessment letter; and
- b. the previously paid Redemption Money will be credited against the additional tax due.

PER-03 added that if the taxpayer fails to:

- a. execute the repatriation and prescribed investment of declared offshore assets by the deadlines and/or retain in Indonesia the onshore assets during the requisite period;
- b. respond to the Warning Letter relating to point a; or
- c. submit the annual report within the prescribed deadline in the Warning Letter,

the tax office can perform a tax audit on the taxpayer. This tax audit is likely to be the avenue to issue the tax assessment to deem the net assets declared in the SPHPP to be additional income in the fiscal year ended 2016 as per above.

Tax on Real Estate Investment Fund – an update

Under Government Regulation No.40 Year 2016 (GR-40) regarding Income Tax for certain Collective Investment Contracts in the form of a Real Estate Investment Fund (*Kontrak Investasi Kolektif – Dana Investasi Real Estate/KIK-DIRE*), income that is received or obtained from the transfer of real estate assets to a KIK-DIRE or a Special Purpose Company (SPC) is subject to a 0.5% final tax on the gross value of the assets transferred.

The Minister of Finance (MoF) has subsequently issued Regulation No.37/PMK.03/2017 (PMK-37) on 6 March 2017 to further regulate procedures for this final tax payment and reporting, which is similar to the general procedures in the event of land and building transfer.

PMK-37 revokes contradicting Articles in the earlier MoF Regulation No.200/PMK.03/2015 (PMK-200) that regulated Income Tax and Value Added Tax (VAT) on KIK-DIRE.

VAT treatment on KIK-DIRE remains unchanged and still based on provisions in PMK-200, i.e. KIK-DIRE is considered to be a low-risk VATable Entrepreneur, which is eligible to request for preliminary VAT refund.

In addition to proof of payment of the 0.5% final tax, the taxpayers that utilise this special tax rate should also attach specific documents to its final tax return that are the same as those required for the application as a low-risk VATable Entrepreneur, as follows:

- a. Copy of notification letter of statement of effective registration of the KIK DIRE that is issued by the Financial Services Authority (*Otoritas Jasa Keuangan/OJK*);
- b. Explanation from OJK that the taxpayer is a SPC under KIK DIRE; and
- c. Statement letter with stamp duty stating that the SPC is formed solely for KIK DIRE purposes.

Update on Exchange of Information

In order to take into account development in Exchange of Information (EOI) mechanism and to implement EOI provisions in new international agreements that Indonesia has agreed to comply, the MoF has issued Regulation No.39/PMK.03/2017 (PMK-39) on 6 March 2017 regarding EOI procedure based on international agreements. This regulation streamlines the existing regulations into one regulation, i.e. [MoF Regulation No.60/PMK.03/2014 \(PMK-60\)](#) as amended by [MoF Regulation No.125/PMK.010/2015 \(PMK-125\)](#) and [OJK Regulation No.25/POJK.03/2015 \(POJK-25\)](#).

The main procedures of EOI remain the same with PMK-60 and PMK-125. The key changes in PMK-39 are as follows:

- a. Country-by-Country Reporting (CbCR) is now included as the documents that will be exchanged through automatic EOI on an annual basis. This is in line with the Multilateral Competent Authority Agreement on CbCR signed by Indonesia on 26 January 2017.
- b. EOI is now also intended to get information on tax compliance in addition to prevent tax avoidance, tax evasion, or any tax treaty abuse.
- c. The MoF will appoint the Competent Authority (CA) responsible to conduct EOI for Indonesia.
- d. The Director General of Tax (DGT) will use data and information exchanged through EOI as a basis for tax data.

PMK-39 also includes several provisions based on POJK-25 to harmonise the EOI procedure on financial accounts of foreign customers. PMK-39 adopt the definitions in POJK-25 on financial institutions (FIs), foreign entities, and foreign customers. FIs should identify the required information on foreign customers and submit the information to the DGT or via OJK as regulated in POJK-25.

The implementing regulation regarding detailed EOI procedure, CA meetings, tax examinations abroad, and simultaneous tax examinations, will be further governed in a separate DGT regulation.

Updates on Article 21 Income Tax incentive for qualifying companies in the footwear and textile industries

On 13 March 2017, the MoF issued Regulation No.40/PMK.03/2017 (PMK-40) to further regulate the implementation of Government Regulation No.41 Year 2016 (GR-41) regarding Article 21 Income Tax incentive for the employees of qualifying footwear and/or textile industries.

GR-41 stipulates that employees with estimated taxable income of up to IDR 50 million per annum are subject to special final Article 21 Income Tax at 2.5%. If the actual taxable income exceeds IDR 50 million per annum, the excess amount is subject to a 15% final income tax up to December of that year. This incentive applies from July 2016 to December 2017.

Key updates from PMK-40 are as follows:

- The qualifying footwear and/or textile industries are those listed in the Attachment of PMK-40 which is based on Indonesia's business classification code. These industries are eligible for this Article 21 Income Tax incentive if satisfying certain requirements.
- As this incentive only applies from the second round of 2016, Article 21 Income Tax due for January to June 2016 that still uses the normal tax rate should be calculated on an annualised basis.
- Article 21 Income Tax due from July 2016 up to March 2017 that is still calculated using the normal tax rate should be amended to use the special rate. Any overpayment will be compensated to the next tax period.
- A template of the list of employees to be submitted along with the Article 21 Income Tax return for the period of July 2016 and January 2017 is provided in PMK-40.

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