

TaxFlash



New Regulation on Preliminary Tax Refund

On 12 April 2018, the Minister of Finance (MoF) issued Regulation No.39/PMK.03/2018 (PMK-39) concerning a preliminary tax refund. PMK-39 streamlines several previous regulations into one regulation and revokes those regulations as listed below:

1. MoF Regulation No.71/PMK.03/2010 (PMK-71) concerning a low-risk VAT-able Entrepreneur eligible for a preliminary Value Added Tax (VAT) refund;
2. Articles 5-7 of MoF Regulation No.72/PMK.03/2010 that stipulate procedures on preliminary VAT refunds;
3. Article 18A of MoF Regulation No.255/PMK.04/2011 that prohibits entrepreneurs in Bonded Zone from applying for a preliminary VAT refund;
4. MoF Regulation No.74/PMK.03/2012 (PMK-74) concerning Golden Taxpayers eligible for preliminary income tax and VAT refunds;
5. MoF Regulation No.198/PMK.03/2013 (PMK-198) concerning taxpayers with low refund value eligible for preliminary income tax and VAT refunds.

Eligible taxpayers

A preliminary tax refund is available for taxpayers that meet certain criteria which are updated in PMK-39, as follows:

A. Golden Taxpayers

1. Submit tax returns in a timely manner;
2. Have no tax arrears for all types of taxes, except tax arrears which have obtained a permit to pay tax in instalments or that have been postponed;
3. Financial Statement audited by a public accountant or the audit board of the Republic of Indonesia with an Unqualified Opinion for three consecutive years; and
4. Never have been convicted of a tax crime in the last five years.

B. Taxpayers with low refund value

1. Individuals that do not have any business or freelance activity that apply for an income tax refund in their Annual Income Tax Return (AITR);
2. Individuals that have business or freelance activities that apply for income tax refund in their AITR of a maximum of IDR 100 million (previously IDR 10 million);
3. Companies that apply for an income tax refund in their AITR of a maximum of IDR 1 billion (previously IDR 100 million); or
4. VAT-able Entrepreneurs that apply for VAT refund in their VAT Return of a maximum of IDR 1 billion (previously IDR 100 million).

C. Low-risk VAT-able Entrepreneurs

Companies that engage in the following business activities are considered as low-risk VAT-able Entrepreneurs (*Pengusaha Kena Pajak/ PKP*):

- a) export activities;
- b) delivering VAT-able goods and/or services to a VAT Collector; and/or
- c) delivering VAT-able goods and/or services for which VAT is not collected.

This low-risk PKP must fall under the following conditions:

1. Companies whose shares are traded on the stock exchanges in Indonesia (previously there was a 40% floating requirement);
2. Companies whose majority shareholders are the central and/or regional government;
3. Companies with a Priority Partner of Customs status;
4. Companies with Authorised Economic Operator status;
5. Manufacturers or producers other than the VAT-able Entrepreneur referred to in point 1-4 above that have a place to conduct production activities, and submit VAT Return for the last 12 months in a timely manner; or
6. Companies that apply for a VAT refund in their VAT Return of a maximum of IDR 1 billion (previously IDR 100 million).

The companies must also not be under an ongoing process of a tax audit on preliminary evidence of a tax crime and/or tax investigation (previously within the last 24 months) and they must have not been convicted of a tax crime in the last five years.

Appointment as eligible taxpayer

Taxpayers must submit an application to the Indonesian Tax Office (ITO) where it is registered in order to be appointed as a Golden Taxpayer or low-risk PKP.

The applicant of the Golden Taxpayer must submit its application by 10 January and the ITO must issue a decision within one month.

For low-risk PKP, the application can be submitted at any time, and the ITO must issue a decision within 15 working days.

The appointment status is valid from the date of the decision until the revocation (if any).

Taxpayers with low refund value can automatically submit its preliminary tax refund request via the relevant tax return without the need to apply for an appointment status.

Revocation of appointment status

The following conditions may lead to revocation of the appointment status.

A. Golden Taxpayers

1. late submission of AITR;
2. late submission of one type of Monthly Tax Return (MTR) for two consecutive tax periods;
3. late submission of one type of MTR for three tax periods within one calendar year; or
4. in the process of tax audit on preliminary evidence of a tax crime or tax investigation.

B. Low-risk PKPs

1. in the process of tax audit on preliminary evidence of a tax crime and/or tax investigation;
2. convicted of a tax crime; or
3. no longer meet the requirements as a low-risk PKP.

Preliminary tax refund processes

Application

A preliminary tax refund is requested by way of ticking the refund box in the relevant tax return.

If the approved tax refund amount is different from the requested amount, the taxpayer can re-apply using a separate letter. However, the taxpayer needs to revise the relevant tax return if they do not want to re-apply.

Examination of the application

Formal Examination

The DGT will conduct a formal examination on preliminary tax refund requested by a Golden Taxpayer or low-risk PKP.

	Golden Taxpayer	Low-risk PKP
Holds a valid appointment status	√	√
Not currently in the process of tax audit on preliminary evidence of a tax crime and/or tax investigation	√	√
No late submission of one type MTR for two consecutive tax periods	√	
No late submission of one type MTR for three tax periods within one calendar year	√	
No late submission of AITR	√	
Never convicted of tax crime in the last five years		√

Material Examination

A material examination will be conducted on all applicants of the preliminary tax refund.

	Golden Taxpayer	Taxpayer with low refund value	Low-risk PKP
Correctness of tax calculation	√	√	√
The credited withholding tax slip has been reported by the tax withholder	√	√	
The credited input VAT has been reported by the seller	√	√	√
Validate the payment of self-assessed VAT	√	√	√

	Golden Taxpayer	Taxpayer with low refund value	Low-risk PKP
Verify that the taxpayer is engaged in the prescribed business activities			√

Decision

Based on the examination result, the ITO will issue a Decision for Preliminary Tax Refund (*Surat Keputusan Pengembalian Pendahuluan Kelebihan Pajak/SKPPKP*) within:

- three months for income tax and one month for VAT for Golden Taxpayers
- 15 working days and one month respectively for individuals and companies with a low refund value
- one month for low-risk PKPs

The ITO will notify the taxpayer if their preliminary tax refund application is rejected due to not passing the formal and/or material examination.

Post-tax refund consequences

The ITO can still do a tax audit on the tax year or period that has been granted a preliminary tax refund.

If the tax audit results in a tax underpayment position, administrative sanctions will be as follows:

- for Golden Taxpayers: 100% increase of the underpaid tax
- for taxpayers with a low refund value: 100% increase of the underpaid tax
- for low-risk PKPs: interest of 2%/month for a maximum 48%

Special provisions

PMK-39 sets out special provisions on the application of preliminary tax refund, as follows:

1. Provisions for low-risk PKP (including the sanction from tax audit result) will prevail if the taxpayer is also fulfilling the criteria as a Golden Taxpayer or has a low refund value.
2. The ITO will process Overpaid Tax Returns with no refund request submitted by eligible taxpayers with a tax audit based on Article 17(1) of the General Tax Provisions (KUP) Law.
3. The ITO will process Overpaid Tax Returns with a normal refund request (i.e. not under the preliminary tax refund scheme) with a tax audit based on Article 17B of KUP Law.
4. If the application for preliminary tax refund is rejected, the refund request will be processed based on Article 17B of KUP Law.

Transitional provisions

PMK-39 sets out the following transitional provisions:

1. Eligible taxpayers that have not been appointed as a Golden Taxpayer may submit the application within three months since 12 April 2018. The ITO must issue a decision within one month upon receiving the complete application.
2. The ITO will reappoint existing taxpayers with valid Golden Taxpayer or low-risk PKP status within one month since 12 April 2018.
3. Outstanding preliminary tax refund requests will be processed based on PMK-71, PMK-74, or PMK-198.
4. Existing implementing regulations based on PMK-71, PMK-74, and PMK-198 remain valid as long as they are not in contrary to the provisions in PMK-39.

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

Hisni Jesica

hisni.jesica@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

Mohamad Hendriana

mohamad.hendriana@id.pwc.com

Otto Sumaryoto

otto.sumaryoto@id.pwc.com

Parluhutan Simbolon

parluhutan.simbolon@id.pwc.com

Peter Hohtoulas

peter.hohtoulas@id.pwc.com

Raemon Utama

raemon.utama@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

Sujadi Lee

sujadi.lee@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

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.

© 2018 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.