



Update to Limitation of
Tax Court Services in
response to COVID-19 ^{P1}

Super Deduction facility
for labour-intensive
industries ^{P1}

Update to Limitation of Tax Court Services in response to COVID-19

On 16 March 2020, the Tax Court issued Circular Letter No.SE-01/PP/2020 (SE-01) as part of the Government's efforts to contain the spread of COVID-19 by suspending the following Tax Court services during the prevention period, from 17-31 March 2020:

1. Tax Court proceedings;
2. Reception service in relation to submission of Tax Appeals (*Banding*), Lawsuits (*Gugatan*), and/or Reconsideration Requests (*Peninjauan Kembali*);
3. Help desk services; and
4. Delivery service in relation to Tax Court Decisions and Reconsideration Request Decisions.

Please refer to our [TaxFlash No.05/2020](#) for our discussion on SE-01.

The Tax Court issued another Circular Letter No.SE-02/PP/2020 on 18 March 2020, extending the prevention period of the above services to **17 March – 3 April 2020**.

Super Deduction facility for labour-intensive industries

On 9 March 2020, the Minister of Finance (MoF) issued Regulation No.16/PMK.010/2020 (PMK-16) granting a tax facility for certain spending in labour-intensive industries. This facility is one of the "Super Deductions" as outlined in Government Regulation No.45 Year 2019.

Super Deduction facility

This facility operates to allow a 60% uplift in deductibility for amounts invested in the form of "tangible fixed assets" (including land) utilised for main business. This 60% uplift is prorated at 10% for six years from the start of commercial production.

Eligibility

The Super Deduction is available for taxpayers in labour-intensive industries who meet the following requirements:

1. constitute an Indonesian corporate taxpayer;
2. have a main business constituting one of the 45 eligible businesses listed in [PMK-16](#) based on the 2017 Standard Classification of Business Field (*Klasifikasi Baku Lapangan Usaha/KBLI*); and
3. employ an average of at least 300 workers as part of the eligible investment within each relevant fiscal year.

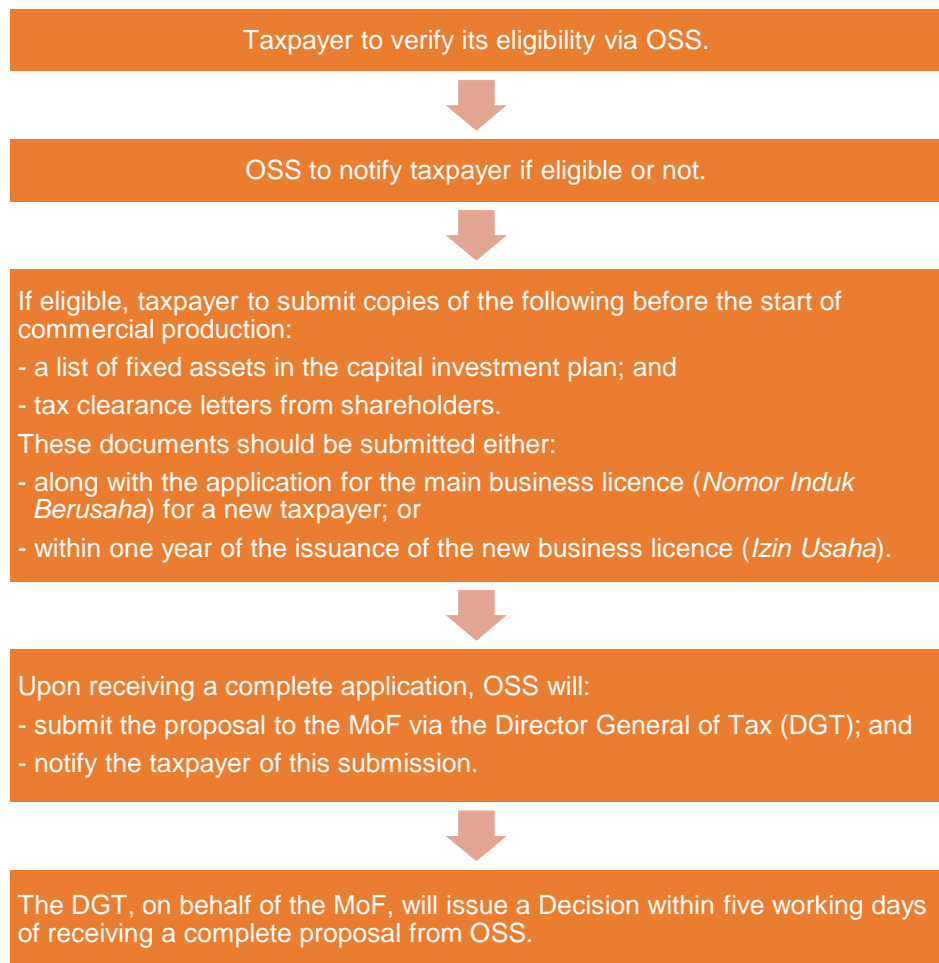
The “tangible fixed assets” (including land) should satisfy the following conditions:

1. they are new (unless originating from a complete relocation from another country);
2. they are listed in the new business licence used as the basis for obtaining the tax facility; and
3. they are owned and utilised in the taxpayer’s main business activity.

For “tangible fixed assets” (other than land), the assets must also be acquired after obtaining the business licence.

Application process

As with other recent tax concessions, PMK-16 encourages the use of the Online Single Submission (OSS) system as follows:



If the OSS system is not available, taxpayers can submit applications manually to the DGT via the Capital Investment Coordinating Board (*Badan Koordinasi Penanaman Modal*).

To begin utilising the Super Deduction facility, the taxpayer must then submit another application through OSS once it has entered commercial production (essentially a notification of business operations). The DGT will respond by conducting a field audit within 45 working days of sending the tax audit instruction letter to the taxpayer.

Once the Decision is granted, the taxpayer is required to submit annual reports on the realisation of:

1. the investment plan; and
2. the employment of Indonesian workers.

Failure to submit these reports will result in a tax audit.

Super Deduction sanctions

The Super Deduction facility will be impacted in the following circumstances:

Conditions	Consequences
Realisation of the employment plan during the tax facility period is below 300 workers.	<ol style="list-style-type: none"> a. tax that should have been due per the Super Deduction facility to be repaid with penalties; and b. Super Deduction can be utilised in the following year if the employment plan is achieved, but without an extension on the tax facility period.
Main business not in line with the main business activity plan.	<ol style="list-style-type: none"> a. subject to penalties (unclear if tax is also to be repaid – but the answer is presumably yes); b. Super Deduction facility discontinued; and c. taxpayer cannot be granted Super Deduction in the future.
Use of assets for other purposes, including transferring assets during the tax facility period (except in the case of asset replacements).	

Asset replacement is subject to written notification to the DGT prior to the replacement. The basis for calculating the Super Deduction facility after the replacement is the lower of the acquisition cost of the new fixed assets or the initial fixed assets.

Taxpayers enjoying the following concessions cannot also enjoy this Super Deduction facility:

1. the Tax Allowance facility;
2. the Tax Holiday facility; or
3. an income tax facility for Special Economic Zones.

Subject to fulfilling requirements for the Super Deduction facility, PMK-16 stipulates that business licences issued prior to 9 March 2020 may be granted a Super Deduction facility if:

1. the taxpayer has never had an application granted or rejected for a Tax Allowance, Tax Holiday, or income tax facility for Special Economic Zones; and
2. the application is submitted before the start of the commercial production, but no later than 8 March 2021.

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