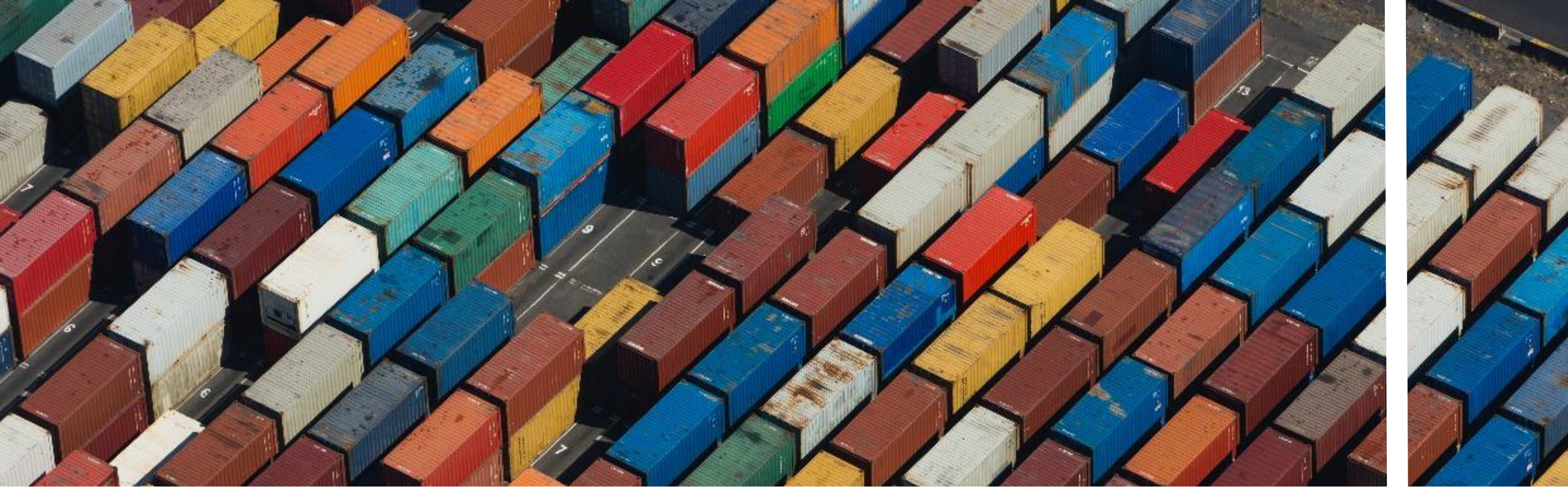

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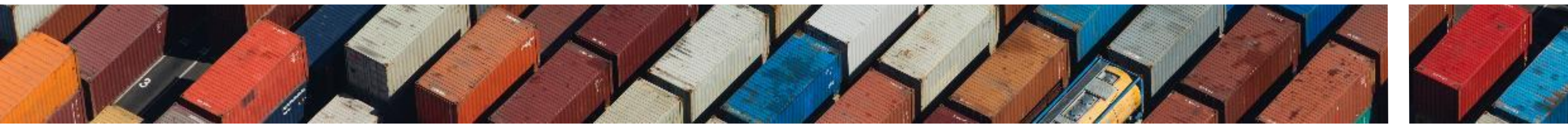

New Economic Policy in response to COVID-19

Yesterday (31 March 2020), Government Regulation in Lieu of Law No.1 Year 2020 ("Perppu-1") was issued. Perppu-1 is intended to help secure national economic stability during the COVID-19 pandemic. Perppu-1 governs new economic policy in the areas of taxation, government spending, and financing.

As an effort to get information out to you quickly, this TaxFlash offers a high-level discussion of the parts of Perppu-1 that relate to taxation policy. Many of these tax law changes mirror (but bring forward) the tax law changes envisaged by the Omnibus Tax Bill that was previously proposed.

We will provide more comprehensive guidance of the relevant provisions as they become clearer via the public discourse and ultimately the issuance of implementing regulations.

1. Reduction in Corporate Income Tax ("CIT") rate

a) the CIT rate will be gradually reduced from the current rate of 25% to 22% for fiscal year 2020–2021 and to 20% starting fiscal year 2022.

b) the CIT rate for Limited Liability Companies with at least 40% of their paid-in shares listed on the Indonesia Stock Exchange and meet certain requirements, would be reduced by a further 3% (i.e. the CIT rate will become 19% for fiscal year 2020–2021 and 17% starting fiscal year 2022). The requirements will be further regulated under a Government Regulation ("GR").

2. Tax on e-commerce

Some of the proposed provisions on digital economy tax which were previously included in the Omnibus Tax Bill have been included in Perppu-1. Perppu-1 will require electronic trading ("e-commerce") business to fulfil the following tax obligations:

a) Value-Added Tax (VAT)

Utilisation of foreign intangible goods or services in Indonesia's Customs Area through e-commerce system will be subject to Indonesian VAT and follow the prevailing provisions in the VAT Law.

VAT collection, payment, and reporting is to be conducted by foreign sellers, foreign service providers, or foreign e-commerce marketplace (collectively referred to as "foreign e-commerce players") and/or domestic marketplace as appointed by the Ministry of Finance ("MoF"). The collection, payment, and reporting mechanism will be governed by MoF.

Marketplace is defined as business players providing electronic communication platform to be used in e-commerce, while foreign sellers or service providers are defined as individuals or companies residing or domiciled outside of Indonesia which carry out transactions with domestic party in Indonesia.

b) Income Tax or Electronic Transaction Tax

Foreign e-commerce players with a "significant economic presence" in Indonesia can be deemed as having a Permanent Establishment ("PE") in Indonesia. If a PE cannot be deemed under the existing rules of an applicable Tax Treaty, affected e-commerce players will be subject to an Electronic Transaction Tax ("ETT"). ETT will be imposed on direct sales or sales through the marketplace.

Details on the tax rate, tax base, and calculation method will be governed in a GR, while the payment and reporting mechanism will be governed by MoF.

The "significant economic presence" PE will be determined based on the following factors:

- consolidated gross turnover of group businesses;
- revenue from Indonesian market; or
- number of active users

within certain thresholds that will be governed by the MoF.

Foreign e-commerce players can appoint a representative in Indonesia to fulfil its tax obligations based on the MoF Regulation.

Foreign e-commerce players that do not fulfill the above tax obligation will be subject to administrative penalty based on the existing General Tax Provision Law (*Ketentuan Umum dan Tata Cara Perpajakan/"KUP Law"*). On top of that, their access to the Indonesian market will be disconnected by the Ministry of Communication and Informatics based on request from the MoF if they do not fulfill their tax obligation (after deadline as stated in a warning letter).

3. Deadline extensions for tax filings and submissions

Certain tax matters where the deadline falls within a "*force majeure* period" due to COVID-19 will be extended as follows:

a) Submission of tax objection letter – extended for six months maximum;
b) Payment of tax refunds (normally payable within one month after the issuance of the Overpayment Tax Assessment Letter) – extended for one month maximum;
c) Issuance of the following decisions are extended by six months maximum:
   - Overpayment Tax Assessment Letter
   - Tax objection decision letter
   - Decisions as governed under Article 36 (1) of KUP Law on:
     - Request for reduction/elimination of administrative sanction
     - Request for reduction/cancellation of incorrect Tax Assessment Letter
     - Request for cancellation of tax audit result.

The deadlines stipulated in the relevant articles in the KUP Law in relation to the above matters will be considered invalid as long as they are aligned with the purpose of this Perppu.

The *force majeure* period as stated above will be based on government stipulation issued by the head of National Disaster Management Authority (*Badan Nasional Penanggulangan Bencana)*.

4. Customs facility for certain goods

The government will also change the list of goods under the prevailing Customs Law that are provided with import duty exemption or reduction with regards to handling COVID-19 and anticipating any threat to the national economy. The change will be further governed by an MoF regulation.

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