

Indonesian Tax Incentive Update ^{P1}

Tax Holiday v.5.0 ^{P1}

Income Tax facility on R&D activities ^{P4}

Update on Customs Incentive in response to COVID-19 ^{P7}

Indonesian Tax Incentive Update

Through a number of recently issued regulations, some of the available Indonesian tax incentives have been expanded and/or further detailed guidance has been issued.

This TaxFlash will cover:

- Recently issued **Tax Holiday** update;
- Detailed guidance on utilisation of the tax **Research and Development (R&D) “Super Deduction”**; and
- Updated **Customs Incentives** for import of certain medical products.

Tax Holiday v.5.0

The Ministry of Finance (MoF) has issued Regulation No.PMK-130¹ as the latest update/revision of the Tax Holiday incentive for substantial new investment in designated Pioneer industries. This latest (5th) revision continues the Indonesian Government’s efforts to improve the Indonesian investment environment and ease of doing business.

Whilst the benefits of the Tax Holiday facility remain largely the same as in the previous version², the update provides some administrative, procedural, and eligibility changes including specific procedures for taxpayers wishing to apply if their industry is not listed as a “Pioneer Industry”.

There are also some potentially significant benefits added in terms of “counted” investment amounts for National Strategic Project (*Proyek Strategis Nasional/PSN*) implemented through a business “spin-off”.

The key highlights stipulated in PMK-130 are set out as follows.

¹ MoF Regulation No.130/PMK.010/2020 (PMK-130) dated 24 September and effective from 9 October 2020.

² MoF Regulation No.150/PMK.010/2018 (PMK-150) issued on 27 November 2018. Please refer to [TaxFlash No.14/2018](#) for detailed discussion on PMK-150.

A. General eligibility

Although they largely remain the same, PMK-130 updated the existing criteria to be eligible for the facility as follows:

- a. Constituting a Pioneer Industry;
- b. Having status as Indonesian Legal entity;
- c. Having a new capital investment plan that has not been issued a decision on the following tax facilities:
 1. Tax Holiday;
 2. Tax Allowance;
 3. Additional deduction on labour intensive industry – *new*; and
 4. Special Economic Zone – *new*.
- d. Having a new capital investment plan with a minimum of IDR100,000,000,000 (one hundred billion rupiah);
- e. Satisfying the debt to equity ratio required for income tax purposes; and
- f. Committed to start realising the investment plan at the latest one year after the issuance of the Tax Holiday approval – *new*.

B. Avenue for companies not listed as pioneer industry

Under PMK-150, companies whose KBLI³ are outside the list of pioneer industry that is stipulated in a BKPM⁴ regulation can also apply for the Tax Holiday facility through a separate channel to the MoF provided that they fulfil the other general eligibility requirements. However, there were no clear guidelines on the procedures or considerations taken into account in the decision-making process under this avenue.

One of the key changes in PMK-130 is the clarification of the application process for companies wishing to apply through this avenue. PMK-130 stipulates that the applicant can make a self-assessment to justify why they should be considered as a pioneer industry.

This self-assessment form is provided in the Attachment B of PMK-130 and sets out requirements to be able to apply for the Tax Holiday facility, as well as a quantitative scoring system. The taxpayer must obtain a score of at least 80 in the quantitative criteria assessment form.

The assessment form contains criteria in the following categories:

- a. Possessing a broad local connection (e.g. using main raw materials produced domestically, production products used domestically);
- b. Having added value or high externalities (e.g. hiring a large number of workers, investment locations);
- c. Introducing new technology (e.g. using environmentally friendly technology); and
- d. Being a priority industry on a national scale (e.g. supporting national strategic projects, building infrastructure facilities independently).

Application process under this avenue

1. The application can be made through the Online Single Submission (OSS) system or manually if the OSS is not available.
2. The submission to the OSS must be completed with the softcopy of the following:

³ Standard Classification of Business Field (*Klasifikasi Baku Lapangan Usaha/KBLI*)

⁴ Capital Investment Board (*Badan Koordinasi Penanaman Modal/BKPM*)

- a. List of fixed assets in the capital investment plan;
 - b. Tax clearance letter(s) for domestic shareholder;
 - c. Study on the fulfilment of the pioneer industry criteria; and
 - d. Quantitative criteria self-assessment form.
3. Upon receiving a complete application from the taxpayer, BKPM will conduct an assessment on the taxpayer's quantitative criteria self-assessment form and issue a decision through OSS within five working days.

C. National Strategic Projects

PMK-130 added some beneficial provisions relating to investors that carry out a PSN business expansion/additional investment through a "spin-off". Under a spin-off scheme, the capital investment that is counted (and can enjoy benefits) for the Tax Holiday will include the value of the investment resulting from the spin-off in addition to the newly invested capital.

The investment value amount to be used to determine the concession period of tax holiday will be:

- a. all of the investment value (i.e. new investment value and investment value resulting from spin-off) – If the new investment value is higher than investment value resulting from spin-off.
- b. the new investment value – If the new investment value is lower than investment value resulting from spin-off.

D. Field Audit for Tax Holiday utilisation

The decision on the start of utilisation of Tax Holiday is determined based on the field audit which is intended to verify the conformity of the realisation of the investment plan and the initial main business activity plan. Adjustment on the entitlement of the Tax Holiday facility may occur as a result of this audit.

Under PMK-130 this audit can also be carried out to evaluate the quantitative criteria self-assessment for taxpayers outside the listed eligible pioneer industries. In addition, PMK-130 now provides a time limit of this audit, i.e. maximum 45 working days since the audit notification letter is delivered to the taxpayer.

E. Reporting requirement

Once the application is granted, the taxpayer is required to submit annual investment and production realisation reports. PMK-130 now stipulates that if a taxpayer fails to do so in a timely manner (within 30 days of year end), the Directorate General of Taxes (DGT) will issue a warning letter and this may eventually lead to a tax audit.

F. Application period

Tax Holiday proposals from OSS system to the MoF under PMK-130 may only be submitted up to four years after the effective date of PMK-130, i.e. until 8 October 2024.

G. Transitional provisions

PMK-130 sets out a number of transitional provisions:

- a. Taxpayer already granted a Tax Holiday based on the "old" MoF regulations can continue to use the existing facility until the end of the facility period.

- b. Tax Holiday applications by taxpayers outside the listed eligible pioneer industries which decision has been reached in the BKPM meeting based on PMK-150, is processed under PMK-150. If the decision has not been reached, it will be processed under PMK-130, and the taxpayer will be required to commit to start realising the investment plan at the latest one year after the issuance of the Tax Holiday approval and also to submit the study on the fulfilment of the pioneer industry criteria and the quantitative criteria self-assessment form.
- c. Taxpayer who have licences issued by OSS from 27 November 2018 up to the issuance of PMK-130, the Tax Holiday applications may be process based on PMK-130 if they are eligible under PMK-130, submit the application before the start of the commercial production and before 8 October 2021.
- d. PMK-130 sets out that the taxpayer already granted a Tax Holiday based on the “old” MoF regulations but have not started utilising it, can apply for the utilisation based on PMK-130. However, the reporting obligation and the determination of commercial production are based on the previous DGT regulations.

Income Tax facility on R&D activities

The MoF has issued PMK-153⁵ regarding Income Tax facilities on certain R&D activities conducted in Indonesia. This regulation is one of the implementing regulations mandated under GR-45⁶ that introduced new tax facilities for industries with certain emerging features.

The key highlights stipulated in PMK-153 are as follows:

A. Facility

Corporate taxpayers who carry out certain R&D activities in Indonesia are entitled to enjoy 300% deduction from the costs incurred for these activities. The deduction amount is conditional and staged over a certain period of time.

This 300% deduction consists of:

1. 100% deduction of the actual costs incurred in the relevant year.
2. A maximum of 200% additional deduction which consists of:
 - a. 50% additional deduction when the R&D activities obtain intellectual property rights in the forms of patent or Plant Variety Protection (PVP) rights that are registered in the Indonesian intellectual property rights office.
 - b. 25% additional deduction when the intellectual property rights in point (a) are also registered in an overseas intellectual property rights office.
 - c. 100% additional deduction when the R&D activities have reached commercialisation stage.
 - d. 25% additional deduction when the R&D activities in point (a), (b), or (c) are carried out in cooperation with the Government’s R&D institution or higher education institution in Indonesia.

The said commercialisation can also be done by another corporate taxpayer. In this case, the additional deduction in point (c) and (d) are enjoyed by the taxpayer carrying out the R&D activities provided that they

⁵ MoF Regulation No.153/PMK.010/2020 (PMK-153) issued on 9 October 2020.

⁶ Government Regulation No.45 Year 2019 (GR-45) issued on 26 June 2019.

have obtained the patent or PVP rights and received proper remuneration from the taxpayer carrying out the commercialisation.

The taxpayer carrying out the R&D activities must register the patent or PVP under their name (or together with other taxpayers if the R&D activities were carried out collectively). The patent or PVP cannot be transferred to any other party unless the validity of protection period of the patent or PVP has passed. If the patent or PVP is transferred before this, the additional deduction that has been enjoyed by the taxpayer will be treated as taxable income in the year where the transfer occurred.

The percentages stipulated under the additional 200% deduction is applied on the eligible expenses that were incurred within the past five years from the earlier of:

- The registration of patent or PVP; or
- Reaching the commercialisation stage.

In order to justify reaching this stage, the taxpayer must submit supporting evidence and the ministry dealing with science and technology will conduct a verification process.

Once fulfilling the requirements, the additional deductions can be claimed starting in the year where the registration or commercialisation occurred, with a maximum of 40% of the taxable income of that respective year. If the amount of additional deduction exceeds 40%, it can be carried forward to the subsequent fiscal years.

B. Eligible activities

To enjoy this facility, the R&D activities must be:

1. Carried out by a corporate taxpayer, other than taxpayer under Production Sharing Contract, Contract of Work, or mining contracts whose income tax treatment is based on the contract and not the prevailing Income Tax Law;
2. Started from 26 June 2019 onwards;
3. Fulfilling the following criteria:
 - a. Aims to achieve new discoveries;
 - b. Based on the original concept and hypothesis;
 - c. Involve uncertainty on the end result;
 - d. Planned and budgeted;
 - e. Aims to create invention that can be freely transferred or traded; and
4. Falling under priority R&D activities in accordance with the focus and theme as listed in the attachment of PMK-153:

<ul style="list-style-type: none">– food;– pharmaceutical, cosmetics and medical device;– textile, leather, and shoes;– means of transportation;– electronics, telematics, information and communication technology;	<ul style="list-style-type: none">– energy;– capital goods, components and auxiliary materials;– agroindustry;– base metal and non-metal minerals;– base chemical from oil and gas and coal;– defense and security.
--	--

PMK-153 provides further definitions on eligible R&D activities as:

- Research: activities carried out according to scientific methodology for obtaining data and information related to the understanding of natural/social phenomena, to prove the truth of an assumption or hypothesis, and scientific conclusion.
- Development: activities to improve the benefits and supports from science and technology that is proven to be true and safe to enhance the functionality and benefits of science and technology.

Separately, the regulation also provides types of activities which do not fall under the definition of R&D, such as marketing research, quality control during commercial production, periodic or seasonal design changes on existing products, etc.

C. Eligible expenses

The eligible expenses for the additional 200% deduction are as follows:

1. Assets other than land and building, including the accumulated depreciation/amortisation and supporting costs of tangible fixed assets which include electricity, water, fuel, and maintenance costs. Additional deduction on these expenses is not applicable if the assets have enjoyed other facility under Tax Allowance regulation or additional deduction on labor-intensive industry under GR-45;
2. Goods or materials;
3. Salaries, honorariums, and similar payments paid to employees, researchers, and engineer;
4. Handling fee to obtain the patent or PVP; or
5. Payments made to the R&D institution or higher education institution in Indonesia that was hired to carry out the R&D activities without having the rights to the result of the R&D activities.

D. Application procedure

To enjoy the facility, a taxpayer must submit an application through the OSS system by attaching a proposal of the R&D activities and a Tax Clearance Letter. If the R&D activities will be carried out collectively, the proposal must be a collective proposal detailing the activities and expenses allocated to each party.

If the OSS is not available, the application can be made manually to the ministry dealing with science and technology using a letter template that is provided in the attachment of PMK-153.

Upon the completion of the review within the ministries, the taxpayer will receive a notification whether or not their application is approved, either through OSS or manual process.

E. Administrative requirements

Taxpayer which application has been approved must submit:

1. An annual R&D cost report (through OSS or manual process); and
2. An annual report on the calculation of the use of additional deduction once they get a notification to be able to start claiming the additional deduction,

at the latest by the submission deadline of their annual income tax return.

Failure to fulfil the above requirements may result in the DGT making adjustment on the additional deduction that has been enjoyed.

F. Transitional rules

Taxpayer carrying out R&D activities prior to this regulation can enjoy this facility provided that the R&D results have not been registered for patent or PVP or have not reached commercialisation stage. They must submit the application at the latest 8 January 2021.

Update on Customs Incentive in response to COVID-19

The MoF has issued a Regulation No.PMK-149⁷ which covers customs facilities for goods needed to handle the COVID-19 pandemic. PMK-149 serves as a second amendment to PMK-34⁸ to update the detailed list of goods under this incentive by adding several goods from the list (finished medicine such as favipiravir, remdesivir, insulin, etc.) and removing others (such as mask, protective clothes, bronchoscopy portable, baby incubator, etc.).

⁷ MoF Regulation No.149/PMK.04/2020 (PMK-149) dated and effective from 8 October 2020.

⁸ MoF Regulation No.34/PMK.04/2020 (PMK-34) issued on 17 April 2020. Please refer to [TaxFlash No.15/2020](#) for detailed discussion PMK-34. First amendment to PMK-34 is an MoF Regulation No.83/PMK.04/2020 (PMK-83) issued on 7 July 2020. Please refer to [TaxFlash No.28/2020](#) for detailed discussion on PMK-83.

Your PwC Indonesia contacts:

Abdullah Azis
abdullah.azis@pwc.com

Gerardus Mahendra
gerardus.mahendra@pwc.com

Raemon Utama
raemon.utama@pwc.com

Adi Poernomo
adi.poernomo@pwc.com

Hasan Chandra
hasan.chandra@pwc.com

Runi Tusita
runi.tusita@pwc.com

Adi Pratikto
adi.pratikto@pwc.com

Hendra Lie
hendra.lie@pwc.com

Ryuji Sugawara
ryuji.sugawara@pwc.com

Alexander Lukito
alexander.lukito@pwc.com

Hisni Jesica
hisni.jesica@pwc.com

Soeryo Adjie
soeryo.adjie@pwc.com

Ali Widodo
ali.widodo@pwc.com

Hyang Augustiana
hyang.augustiana@pwc.com

Sujadi Lee
sujadi.lee@pwc.com

Amit Sharma
amit.xz.sharma@pwc.com

Kianwei Chong
kianwei.chong@pwc.com

Sutrisno Ali
sutrisno.ali@pwc.com

Andrias Hendrik
andrias.hendrik@pwc.com

Lukman Budiman
lukman.budiman@pwc.com

Suyanti Halim
suyanti.halim@pwc.com

Anton Manik
anton.a.manik@pwc.com

Mardianto
mardianto.mardianto@pwc.com

Tim Watson
tim.robert.watson@pwc.com

Antonius Sanyojaya
antonius.sanyojaya@pwc.com

Margie Margaret
margie.margaret@pwc.com

Tjen She Siung
tjen.she.siung@pwc.com

Ay Tjhing Phan
ay.tjhing.phan@pwc.com

Oki Octabiyanto
oki.octabiyanto@pwc.com

Turino Suyatman
turino.suyatman@pwc.com

Brian Arnold
brian.arnold@pwc.com

Omar Abdulkadir
omar.abdulkadir@pwc.com

Yessy Anggraini
yessy.anggraini@pwc.com

Dexter Pagayonan
dexter.pagayonan@pwc.com

Otto Sumaryoto
otto.sumaryoto@pwc.com

Yuliana Kurniadjaja
yuliana.kurniadjaja@pwc.com

Enna Budiman
enna.budiman@pwc.com

Parluhutan Simbolon
parluhutan.simbolon@pwc.com


Yunita Wahadaniah
yunita.wahadaniah@pwc.com

Gadis Nurhidayah
gadis.nurhidayah@pwc.com

Peter Hohtoulas
peter.hohtoulas@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.

© 2020 PT Prima Wahana Caraka. All rights reserved. PwC refers to the Indonesian 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.

