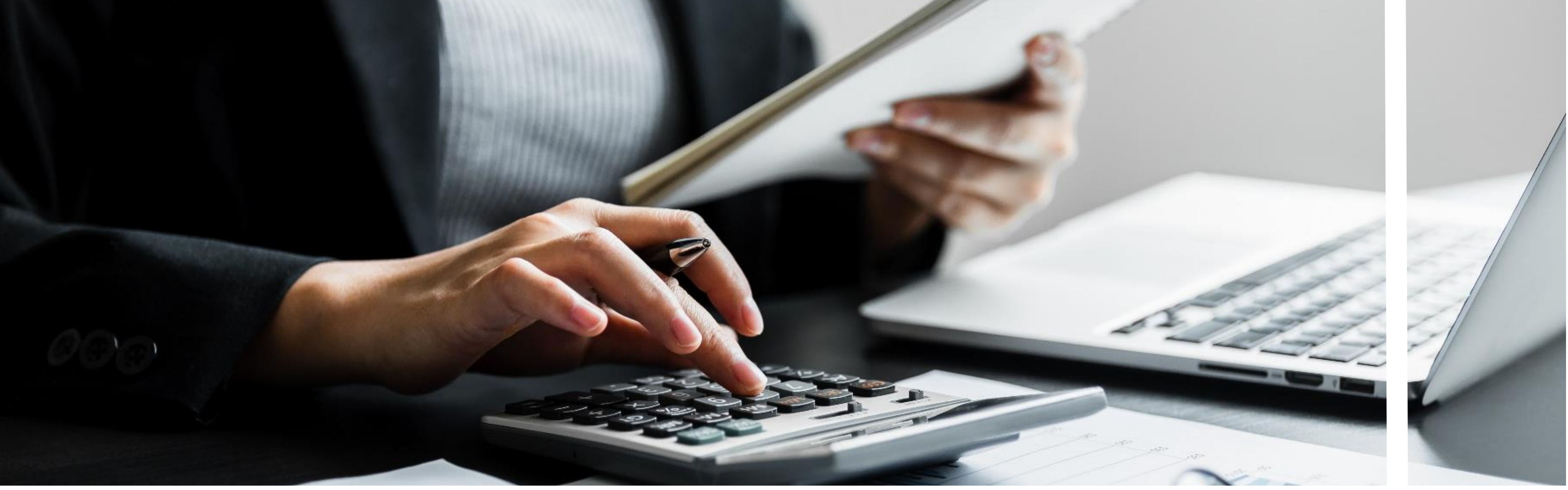

TaxFlash

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New Article 21 withholding tax calculation guideline [P1]

New Article 21 withholding tax calculation guideline

Following the issuance of Government Regulation (**"**GR**"**) No.GR-58[1] regarding new rules on the Article 21 withholding tax rate, the Minister of Finance (**"**MoF**"**) issued regulation No.PMK-168[2] regarding an implementing guideline for Article 21 income tax calculation on employment, service and activity income received by individuals mainly to accommodate the Effective Tax Rate (*Tarif Efektif Rata-Rata/"TER"*) introduced in GR-58. These regulations have been effective since 1 January 2024.

PMK-168 revokes several MoF regulations, i.e. PMK-250[3], PMK-252[4], PMK-102[5] and PMK-262[6]; their contents and changes are streamlined into this PMK. As PMK-252 serves as the legal basis for the previous implementing guidelines for Article 21 withholding tax, i.e. PER-16[7], the revocation of PMK-252 renders PER-16 no longer applicable.

The key highlights of PMK-168 are as follows.

Types of income recipient and their tax treatments

The types of income recipient covered under PMK-168 are mainly the same as in PER-16. However, the calculation methods are changed.

[1] GR No.58 Year 2023 (GR-58) dated 27 December 2023
[2] MoF Regulation No.168 Year 2023 (PMK-168) dated 29 December 2023
[3] MoF Regulation No.250/PMK.03/2008 (PMK-250) dated 31 December 2008 and effective from 1 January 2009 regarding Amount of official costs or pension costs deductible from the gross income of Permanent Employee or Pensioners
[4] MoF Regulation No.252/PMK.03/2008 (PMK-252) dated 31 December 2008 and effective from 1 January 2009 regarding Technical directives for the withholding of tax on income with respect to work, service and activity of individuals
[5] MoF Regulation No.102/PMK.010/2016 (PMK-102) dated and effective from 27 June 2016 regarding Stipulation of portion of income in connection with works of employees paid daily and weekly as well as other temporary employees which are not subject to withholding of Income Tax
[6] MoF Regulation No.262/PMK.03/2010 (PMK-262) dated 31 December 2010 and effective from 1 January 2011 regarding Procedure for withholding of Article 21 Income Tax for State Officials, Civil Servants, Members of Indonesian National Military Forces, Members of Indonesian National Police and their Retirees on income charged to State Revenues and Expenditures Budget or Regional Revenues and Expenditures Budget
[7] Director General of Taxes Regulation No.PER-16/PJ/2016 (PER-16) dated 29 September 2016

PER-16 mainly uses the progressive income tax rate for individuals as stipulated in Article 17(1)(a) ("Art. 17"), uses annualisation and applies certain deductions and non-taxable threshold (*Penghasilan Tidak Kena Pajak/"PTKP"*), as well as taking into account the continuity of the income, the annual cumulative income, and the Tax ID status of the individual to calculate the Article 21 withholding tax for certain types of income recipient.

PMK-168 is aimed to simplify the calculation, including by using TER in the calculation. TER is essentially a single rate that is determined based on an estimate of the applicable effective tax rate that takes into account the applicable Art. 17 progressive tax rate, allowable deductions and PTKP on an annualised income. Please refer to TaxFlash No.01/2024 for a more detailed explanation of TER and the applicable TER table as elaborated in GR-58.

The Article 21 tax calculation is performed by multiplying the tax base with the applicable tax rate. The summary of the tax base and tax rate for each type of income recipient under PMK-168 is as follows:

Types of Income Recipient	Tax Base	Tax Rate
Permanent employees and Pensioners	Prior to last tax period: Gross Income in a month	Monthly TER
	Last tax period: Annual Gross Income[i] – PTKP – allowable deductions[ii]	Art. 17
Non-permanent employees		
Non-monthly payment and ≤ IDR 2.5 mn/day	Daily (or daily average) Gross Income	Daily TER
Non-monthly payment and > IDR 2.5 mn/day	50% x Daily (or daily average) Gross Income	Art. 17
Monthly payment	Gross Income in a month	Monthly TER
Pension program participants with employee status	Gross Income in a month	Art. 17
Commissioners/supervisory boards with irregular income	Gross Income in a month	Monthly TER
Non-employees	50% x Gross Income in a month[iii]	Art. 17
Activity participants	Gross Income in a month	Art. 17
Ex-employees	Gross Income in a month	Art. 17

i. For expatriates who are not working for a full year, the annual gross income for last tax period is annualised and then the tax due will be prorated based on the actual number of the working months.
ii. Allowable deductions for permanent employees are functional cost, retirement contribution, and alms paid through the employer, whilst for pensioners the allowable deductions are only pension cost and alms paid through the pension payor.
iii. Non-employees receiving non-catering services can deduct certain costs from their tax imposition base if the costs can be separated and supported with contracts/invoices.

As with the previous regulation, PMK-168 provides definitions of each type of income recipient. One of the typical questions on this categorisation concerns the differentiation between permanent employees, non-permanent employees and non-employees. As a refresher to help with determining the category of the income recipient, we highlight the definitions of these categories as follows:

- Permanent employees (*pegawai tetap*) – employees who receive or earn certain regular income, including commissioners/supervisory boards, as well as employees who work based on a contract for a certain period as long as the employee is working full-time.
- Non-permanent employees (*pegawai tidak tetap*) – employees, including freelancers, who receive income only if they work, based on the number of working days, the number of units produced, or the completion of certain work as requested by the employer.

- Non-employees (*bukan pegawai*) – individuals other than permanent and non-permanent employees who receive service or freelance income based on orders or requests from the income providers, such as certain professionals (including land title registrars), artists (including content creators), and insurance agents.

Impact on the take-home pay of permanent employees

As the majority of the subjects of Article 21 monthly withholding tax are permanent employees, it is worth noting that the calculation change for this category only affects the calculation for the periods prior to the last tax period. The calculation for the last tax period remains the same as in the previous regulation, i.e. using the Art. 17 progressive income tax rate for individuals and applying allowable deductions and a non-taxable threshold. The last tax period for a full-year income recipient is December, whilst for a non-full-year income recipient it is the last month where the individual receives the income.

However, as TER only represents an "estimate" tax rate, the tax due amount will be different and not as accurate as the tax due calculated under the previous method using the Art. 17 tax rates. This will create a difference in the take-home pay amount of the employees. In certain cases, such as local employees who do not work for the full year, the total amount of Article 21 withheld prior to the last tax period may be significantly higher than the actual tax due upon the recalculation in the last tax period, which will result in tax being over-withheld for the relevant employee. In this situation, PMK-168 stipulates that the employer must returned the over-withheld tax and provide the withholding tax slip based on the recalculation amount to the employee by the end of the month following the last tax period.

If there is a tax overpayment in a certain tax period, the overpayment can be taken into account in the following month's tax due. PMK-168 also stipulates that if the tax overpayment occurs during a revision of a tax return, the overpayment can be taken into account in a tax return in the subsequent tax periods without having to be a consecutive month.

Key takeaways

As highlighted above, the change under the new calculation may cause a change in the tax due in the periods prior to the last tax period, although this will be adjusted in the last tax period resulting in the same total annual tax due as under the previous method. However, as this involves take-home pay amounts and cashflow of the employees, it is important to ensure that this change is carefully communicated to the employees.

For companies providing a net remuneration package, this change will also impact the cashflow of the company as the tax allowance amount will also be impacted.

Last but not least, for companies with large numbers of employees that have been using a payroll system to calculate the employee withholding tax amount, a change of system may also be required to accommodate the aforementioned change.

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