



TaxFlash

**Tax Indonesia /
November 2018 / No.13.**

Updated Certificate of
Domicile for foreign tax
residents ^{P1}

Updated Certificate of Domicile for foreign tax residents

Indonesia has again updated its provisions on the Certificate of Domicile (CoD) for foreign tax residents through the issue of Director General of Tax (DGT) Regulation No.PER-25/PJ/2018 (PER-25) on 21 November 2018. PER-25 will apply from 1 January 2019 and revokes DGT Regulation No.PER-10/PJ/2017. CoDs based on this former regulation remain valid up to 31 December 2018.

Changes to the CoD template

PER-25 provides a new CoD standard that merges the existing DGT-1 Form and DGT-2 Form into a single DGT Form. This new DGT Form consists of seven sections as listed below that must be completed by foreign tax residents depending on the status of that person.

Sections	Content	To be completed by			Competent authority or authorised tax office
		Type of foreign tax resident		Entities	
		Individuals	Banks/ pension funds		
Part I	Data of the foreign tax resident	√	√	√	
Part II	Certification by the country of residence or CoD issued by the relevant country				√
Part III	Declaration by the foreign tax resident and prevention of		√		

	treaty abuse tests				
Part IV	Prevention of treaty abuse tests for foreign tax resident (individual)	√			
Part V	Prevention of treaty abuse tests for foreign tax resident (non-individual)			√	
Part VI	Beneficial ownership tests if the income earned is dividends, interest, or royalties			√	
Part VII	Declaration by the foreign tax resident and residency status	√		√	

The DGT Form no longer includes information on the type of transaction and the relevant amount. The DGT Form serves primarily as a certificate of residence, and therefore only one DGT Form is now required for the entire period to be covered. This means that a new DGT Form is no longer required for every transaction as according to previous DGT Forms.

The DGT Form is valid for a maximum of 12 months and PER-25 removes the fiscal year limitation, meaning that the DGT form may cover a 12-month period crossing different fiscal years.

Under PER-25, a person receiving income from the transfer of bonds or stock traded on the Indonesian Stock Exchange that are administered by an Indonesian custodian is no longer grouped together with the banking institution or pension fund. As a result, they are now also required to complete Part V and VI of the DGT Form to enjoy tax treaty benefits.

Changes in concepts specified in the DGT Form

Prevention of treaty abuse tests

PER-25 updated the items in Part V (Part VI in DGT-1 Form) to be more consistent with the body of PER-25 by adding Question 6 (being that “The entity has the same legal form and economic substance either in the entity’s establishment or the execution of the transaction”). PER-25 also updated the “purpose” (or anti-abuse) test in Question 11 by indicating that tax treaty benefits shall not be available if the purpose of the transaction is directly or indirectly to obtain a benefit under the relevant tax treaty that is contrary to the object and purpose of the tax treaty. Whilst the exact scope of this is not clear, it could mean no tax treaty relief if there is a “tax cost reduction” or a double non-taxation outcome. This change appears to also follow Indonesia’s commitment to the prevention of treaty abuse under the Principal Purpose Test rules set out in the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.

Beneficial ownership tests

One of the beneficial ownership tests continuous to be that no more than 50% of the entity’s income is used to satisfy claims made by other persons except for certain purposes (which also existed in the past). PER-25 indicates a more stringent requirement by limiting the

exception to providing fair remuneration to employees or payments to other parties commonly spent in carrying out business. This means that the dividend distribution to shareholders exceeding 50% of the entity's income will no longer fulfil this specific beneficial ownership test.

Changes in administrative procedures

As stated above, the DGT Form is only required to be provided once for the entire of the relevant period covered. To ease compliance, the DGT Form reporting will also now be conducted through a specific DGT electronic system to input the information from the DGT Form.

The DGT Form reporting mechanism is as follows:

1. For the first tax withholder:
 - a. Foreign tax resident to prepare the DGT Form and provide to the first Indonesian tax withholder;
 - b. Tax withholder to submit the relevant information on the DGT Form through the electronic system administered by the DGT. A receipt will be issued upon submission and the tax withholder should forward this receipt to the foreign tax resident.

The tax withholder should keep the original DGT Form and provide to the DGT if needed. If there is a difference between the DGT Form and the information submitted in the DGT electronic system the DGT Form prevails.

2. For subsequent tax withholders during the period covered in the DGT Form:
 - a. Foreign tax residents do not have to prepare a new DGT Form for subsequent transactions during the period covered. This is either with the same or a different tax withholder. Foreign tax residents only need to provide the subsequent tax withholder with the receipt of the existing DGT Form;
 - b. Subsequent tax withholder to check the receipt with the information available in the DGT electronic system. Foreign tax residents may not enjoy a lower tax rate based on tax treaties during checking if it is found that the DGT Form requirements were not satisfied.
3. Tax withholders should prepare a withholding tax slip for every transaction with foreign tax residents (in digital or printed format if the digital system is not yet available). The receipt of the DGT Form is treated as the equivalent to the DGT Form and should be attached to Monthly Article 26 Income Tax Return when the tax is due.

Provisions that stipulate avenues for tax refunds and CoD requirements for certain government agencies of a tax treaty partner remain the same.

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

Amit Sharma
amit.xz.sharma@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

Omar Abdulkadir
omar.abdulkadir@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

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