On 2 February 2021, the Indonesian Government issued Government Regulation No 9/ 2021 (“GR-9”) and on 17 February 2021, the Minister of Finance (“MoF”) issued regulation No. 18/PMK.03/2021 (“PMK-18”). These are implementing regulations of Law No 11/2020 (i.e. Omnibus Job Creation Law) and provide important details in respect of tax treatments to support ease of doing business.

GR-9 and PMK-18 provide some further details on aspects of income tax, value added tax (“VAT”) and general tax provisions and procedures (“KUP”), and each was effective on the date of issue.

GR-9 and PMK-18 contain a range of important updates which will be of relevance to both domestic groups, and multinationals with Indonesian interests. Key aspects of GR-9 and PMK-18 include:

1. Reduced WHT on bond interest – to potentially encourage bond issuance by Indonesian corporates.
2. Exempt dividend income – important criteria for Indonesian companies and Individuals to exempt dividend income from tax, including the “investment in Indonesia” rule.
3. Changes to the individual tax residency criteria and stipulation of certain professions that can access a tax exemption on non-Indonesian sourced income. This may help companies attract talent in 25 key areas to work in Indonesia.
4. VAT rules on in-kind equity contributions, consignment sales, retail transactions, pre-production phase, and crediting input VAT in various scenarios.
5. Rules and procedures concerning calculation and payment of “interest reward” – i.e. interest paid to the taxpayer where there has been an overpayment.
6. The acceptability of verified electronic signatures on tax documents.
7. Various changes to tax audit policies and procedures.

These and other issues are considered in further detail below.
A. Income Tax

Under GR-9:

I. Reduced withholding tax (“WHT”) rate on bond interest
1. GR-9 reduced the WHT rate on bond interest paid to non-resident bond holder from 20% to 10% (or applicable tax treaty rate). The reduced rate is effective six months after the enactment of GR-9.1
2. The bond interest includes:
   a) Interest from bond with coupon, which is the gross interest in the bond holding period;
   b) Discount from bond with coupon, which is the difference between the sales price or nominal value over the acquisition price of the bond, not including accrued interest; and
   c) Discount from non-coupon bond, which is the difference between the sales price or nominal value over the acquisition price of the bond.
3. The income tax withholding shall be carried out by:
   a) The bond issuer or appointed custodian as the paying agent, on interest and/or discount received by the bond holder with coupon; or discount received by bond holder without coupon, at the maturity of the bond; and/or
   b) Securities company, dealer, or bank as an intermediary agent and/or a buyer, on interest or discount received by the bond seller at the time of transaction.
4. The above tax treatments also applicable for bond operating under sharia principles.

We expect this will be a welcome development for Indonesian corporates and may increase the attractiveness of onshore bond issuances. This is particularly the case given the various taxation challenges associated with offshore issuances.

II. Exempt dividend income2
1. A dividend paid by a domestic company, which is received by a resident individual taxpayer or a corporate tax resident, is exempt from income tax provided such dividend is distributed based on a general shareholders meeting or interim dividend in accordance with the prevailing laws (these include similar kind of meetings or similar dividend distribution mechanism).
2. For a resident individual taxpayer, to obtain an exemption from income tax, in addition to the above, the dividend would also need to be invested in Indonesia for a certain period. If the investment requirement is not met, the dividend income is subject to income tax and the resident individual taxpayer should pay the income tax payable on a self-assessment basis. The income tax is payable at the time dividend is received. The procedures to self-assess and pay the income tax shall be further regulated by the Minister of Finance.
3. Other income received by a resident individual taxpayer or a corporate tax resident that is exempt from income tax are the after-tax profits from an offshore permanent establishment and active income generated from offshore not from a permanent establishment.
4. The exemption from income tax on the dividend or other income received by a resident individual taxpayer or a corporate tax resident as stated above is effective since the enactment of Law No 11/2020.

1 Chapter II Article 3 of GR-9
2 Chapter III Article 2A of GR-9
Further details regulated under PMK-18 are:

I. Individual tax treatments for resident and non-resident taxpayers

1. Resident taxpayer (SPDN)

There is no change on the regulations to determine an individual to be a tax resident in Indonesia. PMK-18 provides more detail explanations about the definition of domicile and indicator of intention to reside in Indonesia.

The regulation states that an individual who is domiciled in Indonesia is one who:

a) Stays or resides permanently in a place in Indonesia;
b) Has a center of vital of interest in Indonesia, and;
c) Has an habitual abode in Indonesia.

As to the intention, the individual is considered as having intention to reside, if they have:

a) KITAP;
b) VITAS/ITAS valid for more than 183 days along with employment contract or business activities or activities for more than 183 days;
c) Employment contract or business activities or activities for more than 183 days; or
d) Other document, such house rental agreement, document showing that the family also move to Indonesia.

2. Foreign individual resident taxpayer

Based on the Law No 11/2020, foreign individuals who are resident taxpayers will be subject to tax only on Indonesian sourced income within four years of them becoming a tax resident if they possess certain expert skills.

PMK-18 stipulates that foreign individuals with certain expert skills are:

a) The foreign workers who occupy certain professions and have satisfied the Ministry of Manpower requirement to employ foreign workers, and
b) Foreign researchers as appointed or determined by Ministry of Research and Technology / Head of BRIN.

There are 25 professions which could be eligible for this exemption and these are mostly as experts in the areas of science, engineering, and/or mathematics, such as:

a) Chemical experts (2113)
b) Geology and Geophysics expert (2114)
c) Chemical engineering expert (2145)
d) Civil engineering expert (2142)
e) Environmental engineering expert (2143)

*) the codes refer to International Standard Classification of Occupation (ISCO)

The possession of certain skills must be proved by a certificate issued by Indonesian government or the home country of the expatriate, educational certificate, and minimum five years work experience in that field of expertise.

The expatriate will need to request approval from the Director General of Taxation (“DGT”). The DGT will conduct a verification and must respond to the request within 10 days.
For a qualifying expatriate, while the foreign sourced income would generally be exempt:

a) Income earned or received in relation to employment, services or activities carried out in Indonesia that is paid outside of Indonesia is still taxable.

b) The exemption does not apply to foreign citizens who claim benefits under tax treaty provisions.

3. Non-resident taxpayer (SPLN)

An Indonesian citizen who resides outside of Indonesia for more than 183 days within 12 months period could be considered as non-resident if they meet the following conditions:

a) Has a permanent resident outside Indonesia,

b) Has center of vital interest (personal, economy and social relationship) outside Indonesia,

c) Has place of habitual abode,

d) Become a tax resident outside Indonesia supported with Certificate of Domicile; and/or

e) Other requirements:

   • Has fulfilled tax obligations in Indonesia.

   • Obtain statement letter as a non-resident taxpayer issued by the DGT (“Surat Keterangan Warga Negara Indonesia Memenuhi Persyaratan Menjadi Subjek Pajak Luar Negeri”).

The Indonesian citizen who satisfies the requirements to be a non-resident taxpayer is considered as “leaving Indonesia permanently” and becomes a non-resident taxpayer due to leaving Indonesia. This would mean that the starting date as non-resident taxpayer does not depend on when the statement letter is issued by the DGT but should be based on the actual date leaving of Indonesia.

This implementing regulation is notable in that it is not a pure self-assessment of individual residency. It will be interesting to see the approach of the DGT over time and what scrutiny is applied to such applications.

For individual who has intention to become non-resident, before they leave Indonesia, they can submit an application to be a non-effective taxpayer. If they obtain the status as non-effective taxpayer, the tax withheld on the income derived from Indonesia will be subject to withholding tax under Article 26.

Note however, once the individual actually resides overseas, they still have to obtain the statement letter satisfied the requirement to become a non-resident taxpayer from the DGT. If the DGT determined that the individual cannot be considered as non-resident taxpayer, the non-effective taxpayer status will be automatically cancelled, and the individual would be considered as a resident taxpayer. Any Article 26 withholding tax that has been withheld could be considered as a tax credit (not final tax).
II. Dividend or other income exempt from income tax and “investment in Indonesia” procedures

1. Dividend and other income exempt from income tax

Onshore and offshore dividend received by a resident individual taxpayer and a corporate tax resident could be exempt from income tax provided they meet certain conditions.

For onshore dividend received, the conditions to obtain the exemption are:

<table>
<thead>
<tr>
<th>If received by a domestic individual taxpayer</th>
<th>If received by a corporate tax resident</th>
</tr>
</thead>
<tbody>
<tr>
<td>The dividend is distributed based on a general shareholders meeting or interim dividend in accordance with the prevailing laws (these include similar kind of meetings or similar dividend distribution mechanism)</td>
<td>Such dividend is distributed based on a general shareholders meeting or interim dividend in accordance with the prevailing laws (these include similar kind of meetings or similar dividend distribution mechanism)</td>
</tr>
<tr>
<td>The dividend must be invested in Indonesia in certain investments forms for a period of at least three years after the fiscal year in which the dividend is received.</td>
<td>NA</td>
</tr>
<tr>
<td>If the invested dividend is less than the dividend received by the taxpayer, the invested component is exempt from income tax. However, the remaining (uninvested) amount is subject to income tax in accordance to the prevailing laws.</td>
<td>NA</td>
</tr>
</tbody>
</table>

4 Chapter II Articles 14 - 41 of PMK-18
For offshore dividends and other foreign source income received by a resident individual taxpayer and a corporate tax resident, the conditions to obtain the exemption are:

<table>
<thead>
<tr>
<th>Dividend paid by an offshore company listed on a stock exchange</th>
<th>Dividend paid by a private/non-listed offshore company</th>
<th>After-tax profit from an offshore permanent establishment (“PE”)</th>
<th>Foreign source income not from a PE</th>
</tr>
</thead>
<tbody>
<tr>
<td>The dividend must be invested in Indonesia in certain investments forms for a period of at least three years after the fiscal year in which the dividend is received; or used to support other business activities in Indonesia.</td>
<td>Such dividend must be invested in Indonesia in certain investments forms with a period of at least three years after the fiscal year in which the dividend is received; or used to support other business activities in Indonesia.</td>
<td>Such after-tax profit must be invested in Indonesia in certain investments forms for a period of at least three years after the fiscal year in which the after-tax profit is received; or used to support other business activities in Indonesia.</td>
<td>Such foreign source income must be invested in Indonesia in certain investments forms for a period of at least three years after the fiscal year in which the foreign source income is received.</td>
</tr>
<tr>
<td>If the invested dividend is less than the dividend received by the taxpayer, the invested dividend is exempt from income tax. However, the remaining (uninvested) amount is subject to income tax in accordance to the prevailing laws.</td>
<td>Dividend that must be invested in Indonesia is at least 30% of the after-tax profit; and it must be invested before the DGT issues a tax assessment letter on such dividend in relation to Article 18(2) of the Income Tax Law (i.e. CFC rule).</td>
<td>After-tax profit that must be invested; or used to support other business activities in Indonesia is at least 30% from the after-tax profit.</td>
<td>The foreign source income (i) must be generated from an active business in overseas; and (ii) must not be generated from an overseas company owned by the taxpayer.</td>
</tr>
<tr>
<td>NA</td>
<td>Dividend that must be invested in Indonesia shall be dividend from fiscal year 2020 after-tax profit, that is received from 2 November 2020 onwards.</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>NA</td>
<td>If the invested dividend is less than 30% of the after-tax profit, the invested dividend is exempt from income tax. However, the difference between the 30% after-tax profit and the invested dividend is subject to Article 17 of the Income Tax Law - i.e. part of normal taxable income.</td>
<td>If the invested component is less than 30% of the after-tax profit, the invested after-tax profit is exempt from income tax. However, the difference between the 30% after-tax profit and the invested after-tax profit is subject to Article 17 of the Income Tax Law.</td>
<td>If the invested foreign source income is less than the received foreign source income, the invested foreign source income is exempt from income tax. However, the difference between the received foreign source income and the invested foreign source income is subject to Article 17 of the Income Tax Law.</td>
</tr>
<tr>
<td>NA</td>
<td>The balance of the after-tax profit after subtracting (i) the invested dividend and (ii) the difference between 30% after-tax profit less the invested dividend, is exempt from income tax.</td>
<td>The balance of the after-tax profit after subtracting (i) the invested after-tax profit and (ii) the difference between 30% after-tax profit less the invested after-tax profit, is exempt from income tax.</td>
<td>NA</td>
</tr>
<tr>
<td>NA</td>
<td>If the invested dividend is more than 30% of the after-tax profit, the invested dividend is exempt from income tax; and the balance of the after-tax profit less the invested dividend is also exempt from income tax.</td>
<td>If the invested after-tax profit is more than 30% of the after-tax profit, the invested after-tax profit is exempt from income tax; and the balance of the after-tax profit less the invested after-tax profit is also exempt from income tax.</td>
<td>NA</td>
</tr>
</tbody>
</table>

*references above to the after-tax profit are to the particular Indonesian shareholder's proportionate share of the company's after-tax profit.

2. Foreign tax credit

No tax credit, deduction or refund will be allowed on any foreign tax paid on the exempted portion of the offshore dividend or the offshore after-tax profit. If only part of the received offshore dividend or offshore after-tax profit is invested in Indonesia (and therefore exempted), the foreign tax credit shall be apportioned.

3. Eligible investment criteria

Certain investment forms that are eligible for the investment of dividend and other foreign source income to obtain exemption from income tax are:

- a) Indonesian Government’s securities including sharia securities;
- b) State-owned company’s bond or sukuk, which the traded is supervised by the Financial Service Authority (“OJK”);
- c) State-owned financial institutions’ bond or sukuk, which the traded is supervised by OJK;
- d) Financial investment in the tax payment banks (“bank persepsi” – i.e. the major banks authorized to receive tax payments for state revenue) including sharia banks;
- e) Private company’s bond or sukuk, which the traded is supervised by OJK;
- f) Joint venture between the Government and corporates for infrastructure investment;
- g) Investment in real sector based on priorities determined by the Government;
- h) Capital contribution on a new established company residing in Indonesia, as a shareholder;
- i) Capital contribution on an existing company residing in Indonesia, as a shareholder;
- j) Collaboration with an investment management institution;
- k) Loan to micro and small-scale businesses in Indonesia in accordance with the prevailing laws on micro, small and medium-scale businesses; and/or
- l) Other legitimate investments in accordance with the prevailing laws.
Investments for items 3(a) up to 3(e) and 3(l) shall be placed in money market investment instruments in the forms of: (i) debt securities, including medium term notes; (ii) sukuk; (iii) shares; (iv) mutual fund participation units; (v) assets backed securities; (vi) real estate investment fund participation units; (vii) time deposits; (viii) savings; (ix) current accounts; (x) future contracts traded in the Indonesia's future exchange; and/or (xi) other money market investment instruments including insurance product linked with investment, financing company, pension funds, or venture capital, that authorized by the OJK.

Investments for items 3(f) up to 3(k) shall be placed in the investment instruments outside of money market, in the forms of: (i) infrastructure investment through joint venture between the Government and corporates; (ii) investment in real sectors based on priorities determined by the Government; (iii) investment in property in the form of land and/or building built above it; (iv) direct investment in a company in Indonesia; (v) investment in gold in the form of gold bar or gold bullion; (vi) collaboration with an investment management institution; (vii) loan to micro and small-scale businesses in Indonesia in accordance with the prevailing laws on micro and small medium scale businesses; and/or (viii) other legitimate investments outside of money market in accordance with the prevailing laws.

4. Timeline for reinvestment
The reinvestment of dividend and other income into the above investment forms in Indonesia shall be carried out no later than:

a) the end of the third month, for an individual taxpayer; or

b) the end of the fourth month, for a corporate taxpayer,

after the end of the fiscal year when the dividend or other foreign source income is received.

5. Reporting of exempt income
The exception of dividend, and other foreign source income that are exempt from income tax is carried out by reporting such dividend and other foreign source income in the annual tax return as a non-tax object. For dividend paid by a domestic company, the tax withholder shall not withhold any income tax without a tax exemption letter.

6. Non-eligible dividend and other income
Dividend or other income that does not meet the conditions, the investments criteria or the investment period as stated in items (1) and (3) above is subject to income tax at the time the dividend or the other foreign source income is received. In such a case, the income tax must be self-assessed by the resident individual taxpayer by the 15th of the following month after the dividend is received. An individual taxpayer who pays the income tax payable and has received payment validation with State Revenue Transaction Number (“NTPN”) is deemed to have submitted its monthly income tax return in accordance with the validation date.

7. Obligation to report the investment
For a taxpayer that received exemption from income tax on the dividend or other income received must submit periodic investment realization reports using a prescribed form as attached in PMK-18. This is required no later than the end of the third month, for an individual taxpayer, or the end of the fourth month, for a corporate taxpayer. The realization report must be submitted until the third year after the fiscal year in which the dividend or other income is received. The report shall be submitted electronically via certain channels determined by the DGT; or if electronic channel is not yet available the report could be submitted directly or posted or couriered to the tax office where the taxpayer is registered.
III. Residual amount received by social and/or religious institutions exempt from income tax

Residual amount received by registered social and/or religious institutions is exempt from income tax provided 25% of the residual amount is used to develop and/or procure the social and/or religious infrastructures that reside in Indonesia. If there is a balance on the use of residual amount after the development and/or procurement of the social and/or religious infrastructure, the balance shall be placed as an endowment fund.

The development and/or procurement of the infrastructures and the allocation to an endowment fund shall be carried out within four years after the residual amount is received.

B. VAT

Under GR-9:

I. Delivery of taxable goods as equity contribution or “Inbreng”

1. The delivery of taxable goods as equity contribution shall not be regarded as a taxable delivery, if:
   a) both transferor and the transferee are registered as a VAT-able Entrepreneurs; and
   b) the purpose of taxable goods is ‘delivery is for a capital contribution to a Company’ as defined by the VAT Law.

2. If the above requirements are not fulfilled, the VAT on the delivery of taxable goods will be payable at the time:
   a) the delivery of taxable goods as equity contribution is agreed upon or stipulated in the agreement of equity contribution by using delivery of taxable goods; or
   b) the public notary signs the deed of delivery of taxable goods as equity contribution.

II. Consignment sales

The definition of delivery of taxable goods excludes delivery of taxable goods under a consignment. This is because, the consignment sales will be carried out by way of a consignor depositing the taxable goods to the consignee; and the consignee will then deliver the deposited taxable goods to the buyer of the goods.

VAT treatment on consignment sales:

1. For a consignor: the delivery of taxable goods does not occur at the time the consignor deposits the taxable goods to the consignee, but when the consignor acknowledges it as a receivable or income, or when the consignor VAT-able Entrepreneur issues a sales invoice, in accordance with generally accepted accounting principles that are consistently applied.

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5 Article 48 of PMK-18
6 Chapter IV Article 17 (3)(e) numbers 3 and 4 of GR-9
7 Consignor is defined as the goods owner under GR-9
8 Consignee is defined as the goods recipient under GR-9
9 Elucidation of Chapter IV Article 17A(1) of GR-9
10 Elucidation of Chapter IV Article 17A(1) of GR-9
2. For a consignee: the delivery of taxable goods for the consignee occurs when:
   a) The taxable goods are directly delivered to a buyer or to a third party for and on behalf of the buyer;
   b) The taxable goods are directly delivered to the recipient for free gifts, own-use or inter-branches deliverers;
   c) The taxable goods are delivered to a courier or transportation services entrepreneur;
   or
   d) The price for delivery of taxable goods is acknowledged as a receivable or income, or when the consignee VAT-able Entrepreneur issues a sales invoice, in accordance with generally accepted accounting principles that is consistently applied.11

III. Additional information for a tax invoice

There is additional information related to the buyer that is now required to be included in the tax invoice to be regarded a valid tax invoice, for certain types of purchasers. These requirements are:

1. For an individual buyer, there are two categories:
   a) Domestic individual buyer: Tax ID Number (“NPWP”) that can be replaced with a Resident Identity Number (“NIK”). NIK has the same validity as NPWP. Tax invoice completed with NIK is a valid tax invoice and can be credited.
   b) Non-resident individual buyer: a passport number

2. Non-resident corporate buyer or non-tax subjects as stated in Article 3 of the Income Tax Law12; name and address.13

IV. New definition of a retailer

GR-9 changes the definition of a retailer to be a VAT-able Entrepreneur company that delivers taxable goods and/or services to its end-customer, including an e-commerce company.14

Details mechanism of VAT collection, payment and reporting related to the delivery of taxable goods and/or services to the end-customer, and appointment of a third party as a VAT collector will be further regulated with the Minister of Finance regulation.

This is an important development for many online businesses that may previously have had administrative challenges issuing compliant VAT invoices to all customers.

Further details regulated under PMK-18 are:

I. Criteria not yet delivering/export taxable goods and/or taxable services, determination of certain business sectors, and procedures to remit back the input VAT15

1. VAT-able Entrepreneur who is not yet delivering taxable goods and/or services is able to credit the Input VAT from the purchase of taxable goods and/or services in accordance with the prevailing tax regulation, as well as to file for a refund at the end of book year.

11 Chapter IV Article 17A(2) of GR-9
12 Foreign office representatives, diplomatic representative officers, international organizations and/or their officers
13 Chapter IV Article 19A(2) of GR-9
14 Chapter IV Article 20(1) of GR-9
15 Chapter I Article 54-61 of PMK-18
2. However, the Input VAT is not eligible to be credited if during a certain period, the VAT-able Entrepreneur is:
   a) still not able to deliver taxable goods and/or services,
   b) still not able to deliver taxable goods and/or services and the company is dissolved, or when VAT-able Entrepreneur status is revoked.

3. Criteria of a VAT-able Entrepreneur who is not yet delivering taxable goods and/or services:
   a) VAT-able Entrepreneur whose main business activities are trade, if in certain period do not carry out the activities of delivery/export of taxable goods;
   b) VAT-able Entrepreneur whose main business activities are services, if in certain period do not carry out the activities of delivery/export of taxable services;
   c) VAT-able Entrepreneur whose main business activities produce taxable goods, if in certain period do not carry out the activities of delivery/export of self-produced taxable goods.

   Included in criteria not yet delivering taxable goods and/or services is the VAT-able Entrepreneur who conducts:
   a) self-use and/or gift;
   b) delivery from head office to branch or vice versa and/or delivery between branches;
   c) delivery of Taxable Goods in the form of assets that according to its original purpose not to be traded;
   d) delivery activities of taxable goods and/or services that does not have direct relationship with main business activities.

4. The certain period is:
   a) three years since the VAT-able Entrepreneur credited the input VAT for the first time;
   b) the period can be extended for certain industries up to five years (for industries produce taxable goods) to six years (for industries include as National Strategic Project that obtain assignment from Government).

5. The input VAT treatment for VAT-able Entrepreneur not yet delivering the taxable goods and/or services and during a certain period as stated above make changes to its business activity:
   a) Input VAT that has been credited and has not been requested yet for a refund, can be credited provided the purchase of VAT-able goods and/or services is used for its new business activity;
   b) Input VAT that has been credited and has been requested for a refund, must be paid back to the state treasury if the purchase of taxable goods and/or services are not used for its new business activities;
   c) Input VAT that has been credited and has not been requested a refund yet becomes unable to be credited if the purchase of taxable goods and/or services is not used for business activities and should amend its VAT return.

6. Timing of input VAT should be remitted back:
   a) at the end of the certain period;
   b) liquidation date or when VAT-able Entrepreneur status is revoked;
   c) taxable period when new business activity is carried out.
7. Payment deadline of input VAT that should be remitted back:
   a) end of following month after the end of certain period (3 years);
   b) end of following month after the end of certain period for certain industries (5 or 6 years);
   c) end of following month after liquidation date or VAT-able Entrepreneur status is revoked.

8. The mechanism is as follow:
   a) using the tax payment slip (“SSP”) with description “Repayment input VAT that has been credited and has been granted”;
   b) reported at the period of tax payment is made;
   c) VAT that has been paid cannot be credited as Input VAT;
   d) using tax account code 411219 for other VAT tax types and deposit type code 100 for other payable VAT payments.

9. The Indonesia Tax Authority (“ITA”) can conduct a tax audit to a VAT-able Entrepreneur not yet delivering Taxable Goods and/or Services and issue a Tax Underpayment Assessment Letter (“SKPKB”) to VAT-able Entrepreneur that does not remit back the Input Tax or still have a shortfall of payable taxes. Any late payment is subject to administrative sanction in the form of interest.

II. Procedure of crediting input VAT

1. General treatment
   a) VAT stated in the tax invoice that meets the provisions of Article 13(5) and 13(9) or VAT stated in the document that its positions equaled to a tax invoice shall be an input VAT that can be credited by VAT-able Entrepreneur in a tax period since the Entrepreneur is registered as VAT-able Entrepreneur.
   b) For VAT-able Entrepreneur that has conducted delivery or export of VAT-able goods and/or services but in a tax period there is no such delivery and/or export, input VAT in that tax period can be credited in accordance with the prevailing tax regulation.
   c) Creditable input VAT shall be input VAT that has not been charged as an expense or has not been added (capitalized) to the taxable goods and/or services acquisition price.
   d) Tax invoice shall contain buyer information such as name, address and NIK if the buyer is a domestic individual tax subject.

2. Input VAT crediting before the entrepreneur is registered as VAT-able Entrepreneur
   a) Input VAT from the purchase of taxable goods and/or services before VAT-Entrepreneur status is given by the ITA can be credited using the guidelines for crediting input VAT mechanism at a maximum 80% of the output VAT. These also applied to input VATs stated in other documents equal to the tax invoice.
   b) An entrepreneur who does not create tax invoice when delivering taxable goods and/or services before the status of VAT-able Entrepreneur is given, deemed not to qualify the provision as stated in Article 14(1) of KUP and will not be given administrative sanction such as penalty and interest.
   c) In using the crediting mechanism guideline, input VAT cannot be charged as expenses nor capitalized in the purchase price of taxable goods and/or services.
   d) In the event Input VAT has been charged or capitalized in the acquisition price, the VAT-able Entrepreneur should amend the relevant VAT returns.

16 Chapter II Article 62 to 68 of PMK-18
3. Crediting input VAT that is notified and/or found in the event of tax audit
   
a) Input VAT credits that are not reported in the VAT returns when found in the tax audit can be credited in accordance with the prevailing tax regulations.

b) Crediting the input VATs can be done by disclosing the relevant tax invoice during the tax audit period to be included in the assessment letter that would be issued. The additional Input VATs can be credited provided the Notification of tax audit findings is not yet issued.

4. Crediting input VAT collected through tax assessments
   
Input VAT that is collected through the issuance of a tax assessment can be credited by the VAT-able Entrepreneur in the amount of the principal amount of tax stated in the tax assessment, provided that:

a) the tax assessment is a tax assessment letter issued only to collect input Tax on taxable goods and/or services;

b) VAT-able Entrepreneur approves all audit results on tax assessments;

c) the amount of VAT that is still to be paid includes the tax base and sanctions as stated in the tax assessment where the payment has been made;

d) no legal remedy is made on the tax assessment; and

e) in accordance with the provisions of laws and regulations in the field of taxation.

III. Crediting input VAT on the tax invoice with buyer’s NIK

1. VAT-Entrepreneur can create a single tax invoice for the same buyer, which consists of total transactions in a month calendar.

2. NIK for domestic individual taxpayer and passport for foreign individual taxpayer shall be provided in the tax invoice in case there is no Tax ID available.

IV. Tax invoice for a retailer

1. The delivery of the taxable goods and/or services to the buyer with the characteristics of end customer is defined as retail delivery/sales. The characteristics are buyer consumes directly or does not use it for commercial activity, including the purchase through an electronic system or the internet.

2. VAT-able retail merchant can create a tax invoice for each taxable good and/or services delivery without including information regarding the buyer’s identity.

3. Cash, sales invoices, tickets, receipts, or proof of delivery can be considered as tax invoice for VAT-able retail merchant.

4. The tax invoice code and serial number can be determined by VAT-able retail merchant in accordance with the customary business practices.

17 Chapter III Article 69 to 78 of PMK-18

18 Chapter IV Article 79 to 82 of PMK-18
5. A Retailer VAT-able Entrepreneur who conducts delivery/sales of certain taxable goods and/or services to end customer is required to create a complete tax invoice (e-Invoice) – i.e. cannot access the above concessions. Certain taxable goods and/or services are:

a) Delivery or rental of land transportation: motor vehicle.

b) Delivery or rental of water transportation: cruise ships, ships excursions, ferries, yachts.

c) Delivery or rental of air transportation: aircraft, helicopter, hot air balloon.

d) Delivery or rental of land and/or building.

e) Delivery of firearms and firearm bullets.

C. KUP

Under GR-9:

I. Bookkeeping

GR-9 stipulates additional criteria for individual taxpayers which are not obligated to conduct bookkeeping but are required to keep certain financial records. These include individual taxpayers who meet certain requirements related to scale of business, gross turnover, and year of establishment. The detail provisions will be regulated further under a Minister of Finance Regulation. 19

II. Criminal act

1. Criminal act under GR-9 is defined as any action which is subject to criminal sanction based on Tax Laws which include KUP Law, Land and Building Tax Law (“PBB”), Stamp Duty Law, Law of Tax Collection with Enforcement Letter, and regulation regarding Access to Financial Information for Tax Purposes. 20

2. The calculation of actual tax underpayment under disclosure of wrongdoing (pengungkapan ketidakbenaran perbuatan) is no longer mandated to be in the form of a tax return. The settlement of tax underpayment and tax penalty is considered as a recovery for the loss of State Revenue. 21

3. GR-9 provides an additional chance to submit a disclosure of wrongdoing (pengungkapan ketidakbenaran perbuatan) at the time when the preliminary evidence tax audit has been followed up with tax investigation, but the investigation letter has not yet been notified to the public prosecutor. If the disclosure of wrongdoing carried out by the taxpayer is in accordance with the actual circumstances, the tax criminal investigation shall not be carried out against the taxpayer. 22 This regulation is consistent with tax provisions in the Job Creation Law.

4. Under GR-9, a suspended tax audit due to preliminary evidence tax audit will proceed even if there is an acquittal court verdict. However, the suspended tax audit due to preliminary evidence tax audit shall be ceased if there is court verdict related to tax criminal act. 23

5. The exception of tax criminal act from the 5-years statute of limitation for the issuance of tax assessment letter and tax collection notice in relation to various scenarios, is no longer applicable under GR-9. 24
III. Interest reward

Interest reward shall only be given on the maximum amount of tax overpayment as agreed by the taxpayer in the Closing Conference of Tax Audit related to the tax return which states an overpayment of tax. This is consistent with the current practice and policy adopted by the Tax Office but the previous relevant provisions in the KUP (Article 27A) has been removed and replaced with new provisions under Article 27B to provide more clarity.

IV. Electronic signature and decision

1. GR-9 allows taxpayers to use electronic signature for electronic transactions. In particular, to exercise the taxation rights and obligations, taxpayers should use verified electronic signature administered by an authorized electronic certification operator.

2. The DGT may issue decision or assessment letter in electronic form and use electronic signature. The electronic decision or assessment letter has an equal legal force as a written decision or assessment letter.

Further details regulated under PMK-18 are:

I. Interest reward

1. Interest Reward is not granted for overpaid payment of underpayment tax assessment letter (SKPKB) or additional underpayment tax assessment letter (SKPKBT) regardless of whether the underpayment figure is agreed or not in the closing conference.

2. PMK-18 emphasizes that in calculating the interest reward on overpaid tax due to objection, appeal, and judicial review decisions, the period of interest reward will be calculated from the date of Tax Assessment Letter (SKP) until the “issuance date of appeal or judicial review decision”, which is the announcement date of appeal or judicial review decision.

3. Interest reward application could also be submitted electronically via online (previously only in hard copy).

4. PMK-18 stipulated detail technical procedures regarding payment of interest reward, since the previous Minister of Finance Regulation has been revoked.

5. DGT can issue a Tax Collection Letter (STP) to claw back the interest reward given to the Taxpayer due to any decision, verdict, or other information received by DGT which indicates that the such interest reward should have not been given.

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25 Chapter V Article 45A(2) of GR-9
26 Chapter V Article 63A(1) and 63A(3) of GR-9
27 Chapter V Article 63B(1) and 63B(2) of GR-9
28 Article 83 to 102 of PMK-18
29 Article 83(5) of PMK-18
30 Article 88(2) of PMK-18
31 Article 91(3) of PMK-18
32 Article 102 of PMK-18
II. Tax payment and deposit procedures

1. DG T is required to issue a decision related to request for extension of the settlement due date within seven working days after the date of receipt of the application. If the time has passed, the taxpayers' application will be considered accepted. The approval decision must be issued by DGT within five working days after the respective time has passed.

2. Tax payments through Tax Overpayment Refund Order (Surat Perintah Membayar Kelebihan Pajak - SPMKP) and Interest Reward Payment Order (Surat Perintah Membayar Imbalan Bunga - SPMIB) for USD-bookkeeping taxpayer will be made in IDR based on the prevailing exchange rate as stipulated by Finance Minister Regulation on the date of issuance of SPMKP or SPMIB.

3. Request for postponement or installment of tax payment could also be submitted electronically via online (previously only in hard copy), enclosing reason and evidence of liquidity difficulties or other force majeure conditions in the form of an interim financial report, or gross turnover recapitulation.

4. The timeline to apply for request for postponement or installment of tax payment will be at the time of the lodgment of the tax return and/or before the warrant letter (Surat Paksa) is notified by bailiff (Jurusita Pajak) to the taxpayer (Penanggung Pajak).

5. Collateral provided in relation to installment or postponement must be in the form of tangible assets. The assets provided as collateral should not be under dispute or pledged for any loan guarantee. This is different from the previous regulation which specifies the type of collateral as bank guarantee, document/certificate of movable property, third party guarantee, land certificate, or time deposit certificate.

6. Time period for tax payment installment or postponement is changed from 12 months to 24 months including for Land and Buildings Tax (Pajak Bumi dan Bangunan - PBB). Further, time period of underpaid annual tax return payment installment or postponement is also changed from the end of the following fiscal year to the statutory filing due date of the following annual tax return.

III. Tax audit procedures

1. There is an additional condition which will trigger a tax audit, related to a VAT-able Entrepreneur that does not make any delivery of taxable goods/services but has been given VAT refund or has claimed VAT credit.

2. The withholding/collection tax slip is included in the criteria of concrete data based on PMK-18. The existence of concrete data which indicates underpayment of tax payable can trigger a tax audit.

3. In the event where there is still a tax overpayment as a result of the preliminary evidence audit or investigation, the suspended tax audit will be continued by preparing the report of tax audit result (LHP) as a basis to issue tax assessment letter and/or tax collection letter.

IV. Procedures for Issuance of tax assessment letter and tax collection letter

1. Concrete data and newly discovered information based on court verdict are no longer included as criteria to initiate re-assessment with regard to Additional Underpayment Tax Assessment Letter Issuance.

2. PMK-18 emphasizes that tax assessment letter related to Article 21 Income Tax is issued to cover all periods within a single calendar year.

33 Article 103 of PMK-18
34 Article 105 of PMK-18
35 Article 106 of PMK-18
3. There will be no issuance of tax assessment letter and tax collection letter related to preliminary evidence tax audit.

4. Specific stipulations are made in respect to period of issuance of tax collection letter concerning administrative penalties related to:
   a) Article 19(1), shall be issued by no later than the expiration date to collect (daluwarsa penagihan) of Underpaid Tax Assessment Letter, Correction Decision Letter, Objection Decision Letter, Appeal Decision, and Reconsideration Decision which result in the increase of tax that should be paid;
   b) Objection Decision, which is at the latest five years after the issuance of Objection Decision;
   c) Appeal Verdict, which is at the latest five years after the verdict announcement date.

V. Examination procedures of preliminary evidence of criminal act in taxation

1. Examination of preliminary evidence could be issued after the statute of limitation period (5 years) as long as the 10 years expiry period related to criminal prosecution in taxation has not been passed in the case where new data is discovered other than those issued in tax assessment letter.

2. Preliminary evidence examination could be extended for only 12 months, instead of 24 months, notwithstanding the expiry period of tax assessment.

3. In addition to post, fax, or courier, a notification of preliminary evidence examination could be delivered electronically.

D. Transitional provisions

GR-9 and PMK-18 provide detailed instructions on the transition to these new regulations. Please contact your EY tax advisors to discuss the relevant details further.

36 Article 107 of PMK-18
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- Advance Manufacturing & Mobility
- Banking & Capital Market
- Insurance
- Wealth & Asset Management
- Government & Public Sector
- Health Science & Wellness
- Mining & Metals
- Oil & Gas
- Power & Utilities
- Private Equity
- Real Estate, Construction & Hospitality
- Technology, Media & Entertainment, Telecommunication (TMT)
- Agribusiness & Plantation
- Retail

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Our Values
Who we are:
At EY, everything starts with our people:
- People who demonstrate integrity, respect and teaming.
- People with energy, enthusiasm and the courage to lead.
- People who build relationships based on doing the right thing.

Our Purpose
At EY, our purpose is Building a better working world.
We believe a better working world is one where economic growth is sustainable and inclusive. We work continuously to improve the quality of all of our services, investing in our people and innovation - to use our knowledge, skills and experience to fulfill our purpose and create positive change.

EY | Building a better working world

EY exists to build a better working world, helping create long-term value for clients, people and society and build trust in the capital markets. Established by data and technology, diverse EY teams in over 150 countries provide trust through assurance and help clients grow, transform and operate. Working across assurance, consulting, law, strategy, tax and transactions, EY teams ask better questions to find new answers for the complex issues facing our world today.

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