

## Client Alert

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## The New Tax Holiday Regulation of Indonesia

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### Recent Development

The Government of Indonesia has been consistently trying to improve the economy by promoting local and foreign investment in Indonesia. As part of that effort, the Government provided corporate income tax reduction facilities to investors through the issuance of Minister of Finance Regulation No. 159/PMK.010/2015 as lastly amended by Minister of Finance Regulation No. 103/PMK.010/2016.

So far, unfortunately, the Government has not seen the desired result from the provision of the corporate income tax reduction facilities. Therefore, to further attract potential investors, the Minister of Finance recently issued Minister of Finance Regulation No. 35/PMK.010/2018 on Corporate Income Tax Reduction Facility ("**MoF Regulation 35**"), which came into force on 4 April 2018. This regulation is the basis for the Government to grant more attractive corporate income tax reduction facilities for taxpayers in certain industries.

### Implications for Taxpayers

A taxpayer that meets the criteria set out in the regulation is allowed to enjoy a 100% corporate income tax reduction facility.

The period of the facility depends on the amount of investment. The details are as follows:

Investment (Rp)	Facility Period
500,000,000,000 - <1,000,000,000,000	5 years
1,000,000,000,000 - <5,000,000,000,000	7 years
5,000,000,000,000 - <15,000,000,000,000	10 years
15,000,000,000,000 - <30,000,000,000,000	15 years
≥30,000,000,000,000	20 years

After the facility period is over, the taxpayer will still receive corporate income tax reduction. For the next two fiscal years after the end of the facility period, the taxpayer will receive a 50% reduction of its corporate income tax.



The facility can be enjoyed starting from the fiscal year when the taxpayer starts its commercial production. The commercial production is considered to be started when the product is first sold or self-used. The Director General of Tax will determine the starting time of the commercial production based on a field inspection.

A taxpayer that receives the facility is required to submit an annual report to the Director General of Tax, which explains the taxpayer's production and investment realization. The deadline to submit the annual report is 30 days after the end of a fiscal year.

## What the Regulation Says

We set out below some essential provisions under MoF Regulation 35.

### Who is entitled to participate?

Only corporate taxpayers are eligible to apply for this facility. The criteria to receive this facility are as follows:

- The taxpayer runs business in the **pioneer industry**.
- The injection of capital is a new investment.
- The investment amount is a minimum of IDR 500 billion.
- The company meets the debt to equity ratio stipulated under relevant Minister of Finance regulation (4:1 debt to equity ratio).
- The taxpayer has not previously received a rejection for an application for corporate income tax reduction from the Minister of Finance.
- The recipient of the facility is an Indonesian entity.

Pioneer industries are defined as industries that have broad relevance, provide added value and high externality, introduce new technologies and have strategic value for the national economy. MoF Regulation 35 expands industries considered as pioneer industries.

Under MoF Regulation 35, the pioneer industries are as follows:

1. Integrated upstream base metal industry
2. Integrated oil and gas refinery industry
3. Integrated oil, gas and coal-based petrochemical industry
4. Integrated inorganic chemical based industry
5. Integrated organic chemical based industry
6. Integrated pharmaceutical raw materials industry
7. Semi conductor and main computer component industry which is integrated with computer manufacturing industry
8. Main component of communication tools industry which is integrated with smartphone manufacturing industry



9. Main component of health equipment industry which is integrated with irradiation, electro medical or electrotherapy manufacturing industry
10. Main component of industrial machinery industry which is integrated with machinery manufacturing industry
11. Main component of machinery manufacturing industry which is integrated with motor vehicles manufacturing industry
12. Robotic components industry which is integrated with manufacturing industry
13. Main component of ship industry which is integrated with ship manufacturing industry
14. Main component of aircraft industry which is integrated with aircraft manufacturing industry
15. Main component of train industry which is integrated with train manufacturing industry
16. Power plant engine manufacturing industry
17. Economic infrastructure

Businesses in industries other than those stated above can apply for the facility under this regulation. To be able to apply for the facility, the taxpayer must first meet all the other criteria mentioned above. If the other criteria are met, the taxpayer can submit an application to the Capital Investment Coordination Board ("**BKPM**").

BKPM will then coordinate a meeting between the Ministry of Finance and relevant ministries to determine whether the industry meets the requirements of a pioneer industry.

### **How to participate?**

In general, the following are the steps to enjoy Corporate Income Tax Reduction facilities:

1. A taxpayer applies to BKPM for the facility prior to its commercial production period.
2. BKPM checks on the fulfillment of the criteria as stipulated under MoF Regulation 35.
3. The Minister of Finance issues a response within five days after it receives the recommendation from BKPM.

If the shareholders of the applicant are domestic taxpayers, the applicant must attach fiscal certificates of all shareholders to prove that the shareholders have fulfilled their tax obligations.

### **Adjustment of the period of Tax Holiday**

If the field audit result shows that the investment realisation is below the initial approved investment plan, the period of the Tax Holiday can be adjusted.



## Revocation of the Approval

The approval of a Tax Holiday may be revoked in the following situations:

- a. The taxpayer's realization of the investment plan at the beginning of commercial production is below IDR 500 million.
- b. There is a discrepancy between the taxpayer's realization and the initial main business activity plan.
- c. The taxpayer imports or purchases second-hand capital goods, unless this is a full relocation as a complete package of new investment from another country and the goods are not locally produced, or this is based on government instruction to implement national strategic projects.
- d. The taxpayer conducts a main business that is not in line with the initial main business activity plan.
- e. The taxpayer transfers its assets or changes its ownership during the concession period, unless the new asset is more productive and does not reduce the investment value.
- f. The taxpayer relocates its investment to another country.

If any of the above situations occurs, the taxpayer will need to repay the Tax Holiday value that has been utilized, along with penalties as per prevailing tax regulations.

Taxpayers whose approvals are revoked due to reason above can be offered income tax facilities for capital investment in certain business activities and/or in certain areas as regulated by the relevant government regulations.

### Actions to consider

In general, this program is very attractive and provides a good opportunity for new investors to seriously consider investing in Indonesia. Further consultation may be required to fully understand the details of this corporate income tax reduction facility.

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