

# **TaxFlash**



## ***New Tax Holiday regulation***

The Minister of Finance (MoF) has issued a new Tax Holiday policy through Regulation No.35/PMK.010/2018 (PMK-35) dated 4 April 2018. It revokes previous MoF Regulation No.159/PMK.010/2015 as amended by Regulation No.103/PMK.010/2016.

### **Who is eligible?**

The Tax Holiday is available for new investments that meet requirements as listed below.

1. Pioneer industries in the following business sectors:
  - a. integrated upstream basic metal;
  - b. integrated oil and gas refinery;
  - c. integrated petrochemicals from oil, gas, or coal;
  - d. integrated inorganic basic chemicals;
  - e. integrated organic basic chemicals from agriculture, plantation, or forestry products;
  - f. integrated pharmaceutical raw materials;
  - g. semi-conductor and other main components of computers which are integrated with computers manufacturing;
  - h. main components of communication equipment which are integrated with smartphones manufacturing;
  - i. main components of health equipment which are integrated with irradiation, electro medical, or electrotherapy manufacturing;
  - j. main components of industrial machinery which are integrated with machinery manufacturing;
  - k. main components of machinery which are integrated with motor vehicles manufacturing;

- l. robotics components which are integrated with manufacturing industry;
- m. main components of vessels which are integrated with vessel manufacturing;
- n. main components of aircrafts which are integrated with aircraft manufacturing;
- o. main components of trains which are integrated with train manufacturing;
- p. power plant machinery; or
- q. economic infrastructure.

It is worth mentioning that the Tax Holiday is now open for economic infrastructure under the scheme of Government Cooperation with Business Entities (*Kerjasama Pemerintah dengan Badan Usaha/KPBU*). The government is also open to input on pioneer industries that have not been listed should the applicant fulfil the remaining requirements.

Details of the business scope of each pioneer industry will be stipulated further in a Capital Investment Board (*Badan Koordinasi Penanaman Modal/BKPM*) regulation.

## 2. New capital investment plan

The minimum legalised new capital investment plan is now reduced to be IDR 500 billion. PMK-35 does not require this new investment in the form of a new taxpayer (i.e. company) nor to place an investment commitment in the form of a bank deposit.

## 3. Debt to equity ratio

The taxpayer is required to satisfy the debt to equity ratio for income tax purposes as stipulated in MoF Regulation No.169/PMK.010/2015.

## 4. The taxpayer has never had its Tax Holiday application granted or rejected by the MoF.

## 5. The taxpayer is incorporated in Indonesia (no limitation on the date of establishment).

### Other requirements:

- Tax Clearance – Domestic shareholders of the applicant must obtain a tax clearance letter issued by the Director General of Tax (DGT).

## The facility

Below is a comparison of the available tax facilities under the new and previous regulation.

Provision	Old	New																		
Corporate Income Tax (CIT) reduction rate	10 – 100%	100% (single rate)																		
Concession period	<ul style="list-style-type: none"> <li>• 5 – 15 years; or</li> <li>• can be extended to 20 years; subject to MoF discretion</li> </ul>	5 – 20 years depends on the investment value: <table border="1"> <thead> <tr> <th>No.</th> <th>Investment (in IDR)</th> <th>Period (in years)</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>500 billion up to &lt; 1 T</td> <td>5</td> </tr> <tr> <td>2</td> <td>1 T up to &lt; 5 T</td> <td>7</td> </tr> <tr> <td>3</td> <td>5 T up to &lt; 15 T</td> <td>10</td> </tr> <tr> <td>4</td> <td>15 T up to &lt; 30 T</td> <td>15</td> </tr> <tr> <td>5</td> <td>≥ 30 T</td> <td>20</td> </tr> </tbody> </table>	No.	Investment (in IDR)	Period (in years)	1	500 billion up to < 1 T	5	2	1 T up to < 5 T	7	3	5 T up to < 15 T	10	4	15 T up to < 30 T	15	5	≥ 30 T	20
No.	Investment (in IDR)	Period (in years)																		
1	500 billion up to < 1 T	5																		
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3	5 T up to < 15 T	10																		
4	15 T up to < 30 T	15																		
5	≥ 30 T	20																		
Transition	Not available	50% CIT reduction for the next 2 years																		

## Changes in the application process

Application for Tax Holiday should be made to BKPM prior to the of start commercial production, either together with the application for new capital investment or at a maximum within a year after the issue of investment approval. The application must go through BKPM review prior forwarded to the MoF for approval.

The MoF will issue its decision on the application within five working days upon receiving the complete proposal from BKPM.

## Post-approval provisions

The period of Tax Holiday may be adjusted if the field audit result shows that the investment realisation is below the initial investment plan.

The taxpayer's approval can be revoked due to the following:

- a. realisation of the investment plan at the start of commercial production is below IDR 500 billion;
- b. it is found out based on the field audit result that there is a discrepancy between realisation and the initial main business activity plan;
- c. importing or buying second-hand capital goods, unless this is a full relocation as a complete package of new investment from other countries and the goods are not locally produced, and/or based on government instruction to implement national strategic projects;
- d. conducting a main business that is not in line with the initial main business activity plan;
- e. transferring its assets or changing its ownership during the concession period, except if the new asset is more productive and does not lessen the investment value; and/or
- f. relocating its investment to other countries.

If any of these situations occur, the Tax Holiday value that has been utilised by the taxpayer would need to be repaid along with penalties.

Specifically for those taxpayers whose approval is revoked due to realisation of investment plan below IDR 500 billion, they can be offered to utilise Tax Allowance facility if the realisation is still in line with the initial main business activity plan.

## Transitional provisions

PMK-35 sets out the following transitional provisions:

1. Taxpayers that were already granted the tax facilities based on the old MoF regulations can continue to use the facility until the end of the facility period.
2. Proposals from BKPM, which were prepared based on the old MoF regulations and already submitted to the MoF after 16 August 2015 but not yet decided, will be processed based on PMK-35.

## Application period

The Head of BKPM may only submit tax facility proposals to the MoF for a period of five years after the effective date of PMK-35 (i.e. until 3 April 2023).

Taxpayers who have enjoyed a Tax Allowance facility cannot enjoy this Tax Holiday facility, and vice versa.

Taxpayers who currently benefit from an approved Tax Holiday, may apply for a Tax Allowance following their Tax Holiday concession period.

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