

2019 Tax Wish List

The last 2 years have seen many new tax regulations issued. Some, were a welcome sight, such as the amendment to the Income Tax Holiday Regulation that reduced the threshold for access to the income tax holiday whilst also adding certainty regarding the eligible sectors and application process. Others, however, have added complexity, uncertainty or unreasonable cost.

With end of 2018 approaching, we have put together a list of items that we hope Father Pajak might decide to put into taxpayers' Christmas Stocking some revisions and added clarity to several regulations.

Deemed Dividend. Revision to the Regulation regarding Controlled Foreign Corporation/ Deemed Dividend (PMK-109/2017) to:

- allow active foreign subsidiaries to utilize profits for working capital without these being regarded as a dividend for the Indonesian parent;
- allow losses in foreign subsidiaries to be compensated before determining the amount of deemed dividend to be recognized by the Indonesian parent.

Energy Sector. For the energy sector: (i) Revision to the Regulation regarding Tax & Non-tax State Revenue in the Mineral Mining Sector (PP-37/2018) so that the payment of the Central Government and Regional Government Shares of Mining Profits can be deducted when determining the taxable profit of the mining company, (ii) Issue of the

pending Minister of Finance Decree regarding tax incentives as mentioned in Article 10 of PP 79 Jo. 27 to be provided for Oil and Gas companies in order to increase the economics of their projects.

Tax Holiday. Broadening the sectors that are eligible for income tax holidays, so that the focus is no longer on pioneer industries, but encourages any large investment.

Tax Treaty. Revision to the substance rules that are required to be satisfied under PER-10/2017 before a non-resident taxpayer can access relief under an applicable tax treaty (e.g. with greater consistency to the OECD's rules on substance).

Representative Office. Recognition by the Tax Office that Trade Representative Offices are not subject to tax on deemed income if the parent of the Representative Office is resident in a treaty partner country and the Representative Office is only engaged in marketing for its parent.

Exported Services. Expand the definition of Exported

Services to include all services, so that VAT does not need to be charged to foreign users of Indonesian service providers.

Transfer Pricing. Release of additional regulations to remove uncertainty regarding how the existing transfer pricing regulations should be implemented (e.g. in relation to adjustments resulting from the bench-marking process).

Digital Economy. Guidance regarding the tax treatment of the digital economy.

And, finally, the long promised revisions to the Income Tax Law, VAT Law, and Law on General Tax Administration & Procedures.

Of course, we know that Santa will not fulfill all of our hopes, however, some progress regarding the above would be most welcome as we enter a 2019 that includes the presidential election, the ongoing disruption from the China-USA trade war and other macro-economic forces as the USA's Federal Reserve continues to wind back monetary stimulus.



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KEY POINTS

- Revisions to the 3 tax laws are necessary.
- Supporting & interpretative regulations are required to encourage investment and growth.
- Changes to the definition of Exported Services will improve the competitiveness of Indonesian service providers.
- CFC and substance regulations should be amended to reflect international best practice.

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