

## Tax Office and Immigration cooperation is a further step towards greater compliance

For years, the information “silos” within various Government departments have created opportunities for non-compliance. The Cooperation Agreement signed on 15 May by the Director-General of Taxation and the Director-General of Immigration should increase the number of foreigners that register for tax and assist collection of tax arrears, but may also raise questions for those that remain tax residents of other countries.

Under the Income Tax Law, foreigners are Indonesian tax residents (and should obtain a Tax ID) if they:

- Reside in Indonesia;
- Are present in Indonesia for more than 183 days in any 12-months period, or
- Are present in Indonesia during a tax year and intend to reside in Indonesia.

Despite this some incorrectly believed they were only tax residents if they held a work permit and they assumed the use of business visas avoided Indonesian tax residence obligations (ignoring their obligation to hold a valid visa consistent with their activities).

The sharing of information between Immigration and the Tax Office has the potential to:

- Highlight foreigners whose time in Indonesia exceeds the time test
- Allow the Tax Office to cross-check the date when tax residence occurred (e.g. if this is prior to the work permit date)

In theory this should result in more and/or earlier tax registrations of foreigners that are working or living in Indonesia. In practice, however, there remains a question whether

the Tax Office will register a foreigner who is technically a tax resident but does not hold a work permit.

Given that certain information will also be shared from the Tax Office to Immigration, there is a related question whether a foreigner will voluntarily register for tax if they are living and doing business in Indonesia but do not have a work permit (e.g. because there is no sponsor available) when this might then result in them appearing on Immigration’s radar.

Another potential consequence is that foreigners that remain a tax resident of another country are more likely to be required to prove their foreign tax residence in response to a question from the Tax Office why they have not registered as an Indonesian tax resident despite exceeding the time test.

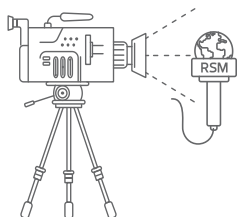
In addition to information sharing, the Agreement allows the two institutions to cooperate to prevent overseas travel by taxpayers under investigation for tax crimes or the non-payment of tax. The travel ban can be imposed for up to 6 months with an extension for up to a further 6 months.

The Tax Office has specific obligations under the Tax Administration & Procedures Law regarding the confidentiality of taxpayer information received by it. The Agreement requires both institutions to ensure confidentiality in relation to the storage and use of shared data. Interestingly, it does then allow data to be provided to other parties, though only after receiving approval from the original data-sending institution.

The Cooperation Agreement is a positive step by the Government towards removal of information gaps that allowed some to avoid their tax obligations through non-registration or flight. It is further evidence of the global trend towards greater transparency in tax matters. This underlines our view that tax planning should never be based on non-declaration or the unavailability of information. Tax planning should reflect the laws and the expected developments. Individuals should review their current tax residence status and take appropriate action. In the case of unpaid tax debts or significant tax investigations then it is possible that travel restrictions will be imposed.



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### KEY POINTS

- Tax residence is not based only on holding a work permit.
- Travel bans could be imposed to assist collection of tax debts.
- Long-staying non-residents may need to prove their foreign tax resident status.

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