Wake Up Call

Will the new Tax Holiday regulation encourage investment?

The Government is initiating various reforms to simplify doing business and to encourage investment. A component of this is the recent tax holiday regulation. But will this make a difference?

Minister of Finance (MoF) Regulation No. 35/ PMK.010/2018 (PMK- 35) was announced on 4 April, 2018. The regulation replaced MoF Regulation No. 159/PMK.010 dated 14 August, 2015 (PMK-159) and its amendment.

PMK-35 provides greater accessibility, clearer benefits and certainty regarding the tax holiday periods.

Previously a tax holiday was only available if the investment would be at least IDR 1 trillion (with a lower threshold of IDR 500 billion for investments in the information, communications and telecommunications industry). PMK-35 now provides an across-the-board threshold of IDR 500 billion.

In addition, whereas PMK-159 stated the tax holiday benefit (reduction in corporate tax) could be between 10%-100% of the corporate tax payable, now all successful applicants will receive a reduction of 100% of the corporate tax payable. In addition the successful applicant receives a 50% reduction for the next 2 years after the end of the tax holiday period.

PMK-35 also simplifies the application process that previously required the authorities to assess the provision and/or contribution to the development of infrastructure in the proposed project location, the employment of Indonesians, and technology transfer. These potentially subjective criteria are now removed so that the criteria are now clearer, i.e. a pioneer industry, with the minimum investment and after providing specific administrative documents.

To further ease the process, an investor is no longer required to deposit 10% of the proposed investment and it is no longer necessary to obtain an Advance Pricing Agreement (APA) if the production is intended for export to an overseas related party.

Whereas PMK-159 stated the tax holiday period could be between 5-15 years or up to 20 years for projects of national importance, PMK-35 codifies the period based on the investment. That is, an investment of IDR 500 billion will receive a tax holiday for 5 years, and the period then increases for higher investments to a maximum of 20 years for investments of at least IDR 30 trillion.

One potentially limiting factor is that tax holidays continue to only be available for investment in "pioneer" industries, which are specifically defined. That said, PMK-35 does allow an investor to propose a case to add sectors to the list of pioneer industries.

PMK-35 offers a better facility than was provided under PMK-159. Investors will receive a 100% reduction in corporate tax payable and can plan for the tax holiday period based on their investment. The facility is now open for a lower level of investment and has less burdensome and subjective criteria for qualification. However, as many economists argue, tax holidays are not a key driver of investment decisions, and therefore the real issue is whether the Government has done enough in other areas to convince foreign and domestic investors that Indonesia is the best location for the proposed investment.

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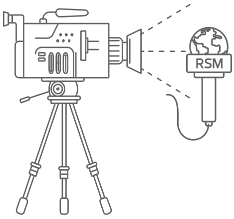

KEY POINTS

- 100% reduction to corporate tax during the Tax Holiday.
- 5-20 years period based on the investment.
- Eligible industries expanded; though focus still on "pioneer" industries.