

REVISIONS TO FRAMEWORK FOR IMPLEMENTING TAX TREATIES

RSM INDONESIA CLIENT ALERT – 17 MARCH 2026

The Minister of Finance (MoF) issued MoF Regulation No 112 Year 2025 concerning The Procedure for Implementing the Tax Treaty (PMK-112) dated 30 December 2025. As a higher Minister-level regulation, PMK-112 strengthens the existing regulations related to use of tax treaties by foreign taxpayers and requests for Certificates of Domicile by domestic taxpayers.¹

WHEN DOES IT APPLY?

It is applicable on 31 December 2025.

WHAT IS THE SUBSTANCE OF PMK-112?

In general, PMK-112 regulates two important matters:

- (a) Administrative procedures regarding the implementation of tax treaties.
- (b) Strengthening provisions preventing the misuse of tax treaties.

¹The existing regulations are Director-General of Taxation (DGT) Regulation No PER-25/PJ/2018 concerning Procedures for the Application of the Tax Treaty (PER-25) and DGT Regulation No PER-28/PJ/2018 concerning Certificate of Domicile for Indonesian Resident Tax Subjects in the context of Application of the Tax Treaty (PER-28).

A) ADMINISTRATIVE PROCEDURES FOR IMPLEMENTATION OF TAX TREATIES

PMK-112 repeats the provisions stipulated by PER-25 and PER-28. In addition, PMK-112 'polishes' certain provisions while addressing gaps/uncertainties that might have existed under PER-25 and PER-28.

The tables below summarize key provisions for domestic taxpayers (that request evidence of tax residence to reduce/avoid foreign taxation of foreign income, as regulated by PER-28), and for foreign taxpayers (that wish to obtain tax treaty benefits on income sourced from Indonesia, as regulated by PER-25).

DOMESTIC TAXPAYERS	
Provision	Explanation
Certificate of Domicile / Tax Residence (CoD)	<ul style="list-style-type: none"> <input type="checkbox"/> Indonesian tax residents can apply for CoD to assist claims for tax treaty benefits for income sourced from a country that has concluded a tax treaty with Indonesia. <input type="checkbox"/> An application can be submitted for a CoD that relates to the current tax year or part of that tax year, or the immediate past tax year or part of that past tax year. <input type="checkbox"/> The application is submitted through Coretax or the DGT contact centre. <input type="checkbox"/> A separate request is required: <ul style="list-style-type: none"> a) per Partner Country, b) per tax year/ part of tax year, and c) per counterparty. <input type="checkbox"/> If approved, the CoD is valid until 31 December of the year that the CoD is issued. <input type="checkbox"/> Minimum information required: <ul style="list-style-type: none"> a) Name and email address of the counterparty, b) Tax ID number and/ or address of the counterparty, and c) Explanation of the income received from the counterparty. <input type="checkbox"/> Compliance requirements: <ul style="list-style-type: none"> a) The taxpayer must be a tax resident for the tax year or part of that tax year for which the CoD is being requested; b) The taxpayer has an NPWP, and c) The taxpayer has submitted an Annual Income Tax Return: <ul style="list-style-type: none"> i. For the previous tax year/part year, if the application relates to the current tax year/part year, or ii. For the immediate past tax year/part-year, if the application relates to the immediate past tax year or part of that past tax year. <input type="checkbox"/> The CoD will be automatically issued if all the above are met.

DOMESTIC TAXPAYERS

Provision	Explanation
Special Form (Formulir Khusus) ²	<ul style="list-style-type: none"> <input type="checkbox"/> Domestic taxpayers that have obtained a CoD may also request certification of a Special Form via the Head of the Tax Service Office (KPP) where that taxpayer is registered. <input type="checkbox"/> Requirements that shall be fulfilled: <ul style="list-style-type: none"> a) Prepare the application form (provided as an attachment to PMK-112) b) Attach the Special Form that is requested to be certified, which is already signed by the taxpayer or their representative (as governed by the tax law). c) The Special Form must be in English and include at the minimum: <ul style="list-style-type: none"> i. The name, NPWP and status of the taxpayer, ii. The name of tax treaty partner country (for the source of income), and iii. The tax year or part of tax year that is requested to be certified, consistent with the CoD. <input type="checkbox"/> The application for certification of the Special Form shall be approved/rejected within 10 calendar days since the application is completely received by the DGT. <input type="checkbox"/> If the application is rejected, the taxpayer may re-submit an application (subject to, again, complying with the requirements).

FOREIGN TAXPAYERS

Provision	Explanation
Requirements that shall be fulfilled by Foreign Taxpayers	<ul style="list-style-type: none"> <input type="checkbox"/> Must submit a DGT Form (the format is attached to PMK-112) to the Indonesian tax withholder if wish to enjoy a reduced rate of withholding tax. <input type="checkbox"/> To enjoy the benefits available under a tax treaty, the DGT Form must confirm the foreign taxpayer: <ul style="list-style-type: none"> a) Is not an Indonesian tax resident, b) Is a tax resident of the relevant tax treaty partner country, and c) Is not misusing the tax treaty. ^(Note 1) <input type="checkbox"/> The DGT Form must be fully and correctly completed, signed by the foreign taxpayer and ratified by an authorized official of the tax treaty partner. <input type="checkbox"/> The ratification by the authorized official can be replaced with a CoD provided that CoD: <ul style="list-style-type: none"> a) Is in English, b) States the name of the foreign taxpayer, c) Has a date of issue, and d) Has the name and signature/equivalent of the authorized official.

² A Special Form is a form issued by the competent authority of the tax treaty partner (e.g., the W-8BEN form required by the IRS).

FOREIGN TAXPAYERS	
Provision	Explanation
Requirements that shall be fulfilled by Foreign Taxpayers	<ul style="list-style-type: none"> <input type="checkbox"/> The validity of the DGT Form is for: <ul style="list-style-type: none"> a) The shorter of the period stated on the Form or 12 months, or b) The tax period for which the CoD is issued if there is no applicable period stated in CoD. <input type="checkbox"/> Foreign governmental institutions that earn income sourced from Indonesia are only obliged to submit a CoD to the domestic taxpayer.
Obligations of the domestic taxpayer (counterparty for the transaction with the foreign taxpayer)	<ul style="list-style-type: none"> <input type="checkbox"/> Verify the accuracy and completeness of the DGT Form based on transaction documents (books, records/ documents used as basis of tax withholding). <input type="checkbox"/> If DGT Form meets the requirements, the taxpayer must: <ul style="list-style-type: none"> a) Upload the DGT Form to Coretax, b) Receive and send the lodgement receipt to the foreign taxpayer; and c) Withhold/ collect income at reduced tax rate. <input type="checkbox"/> Withhold income tax at the rate specified by the income tax law and regulations if the DGT Form does not meet the requirements. <input type="checkbox"/> If receiving a lodgement receipt (in lieu of a DGT Form), re-verify that the foreign taxpayer is not an Indonesian tax resident, is a tax resident of the relevant tax treaty country, is not misusing the tax treaty and the DGT Form was fully and correctly completed. <input type="checkbox"/> Deposit, report and issue WHT slip for income that has been withheld by either a reduced tax rate or normal income tax rate. <input type="checkbox"/> Report, and issue WHT slip for income that, due to the tax treaty, is not subject to withholding tax. <input type="checkbox"/> Keep the DGT Form and its receipt, CoD, and books/ records/ documents that support the rate of withholding tax.
Multiple use of DGT Forms	<ul style="list-style-type: none"> <input type="checkbox"/> If the validity period is still effective, the foreign taxpayer can submit the lodgement receipt to other domestic taxpayers in lieu of providing a fresh DGT Form.
Refund mechanism	Foreign taxpayers can request a refund if tax is withheld in excess of what should occur ³ .

³ The refund process is currently governed by Article 122(1) letter (e) of MoF Regulation No 81 Year 2024 concerning Taxation Provisions in terms of CORETAX. This revoked MoF Regulation No 187/PMK.03/2015 concerning Procedures for Refund of Tax Overpayment which should not be Payable. This requires the foreign taxpayer to coordinate with the domestic taxpayer, who must submit the application.

NOTE 1:

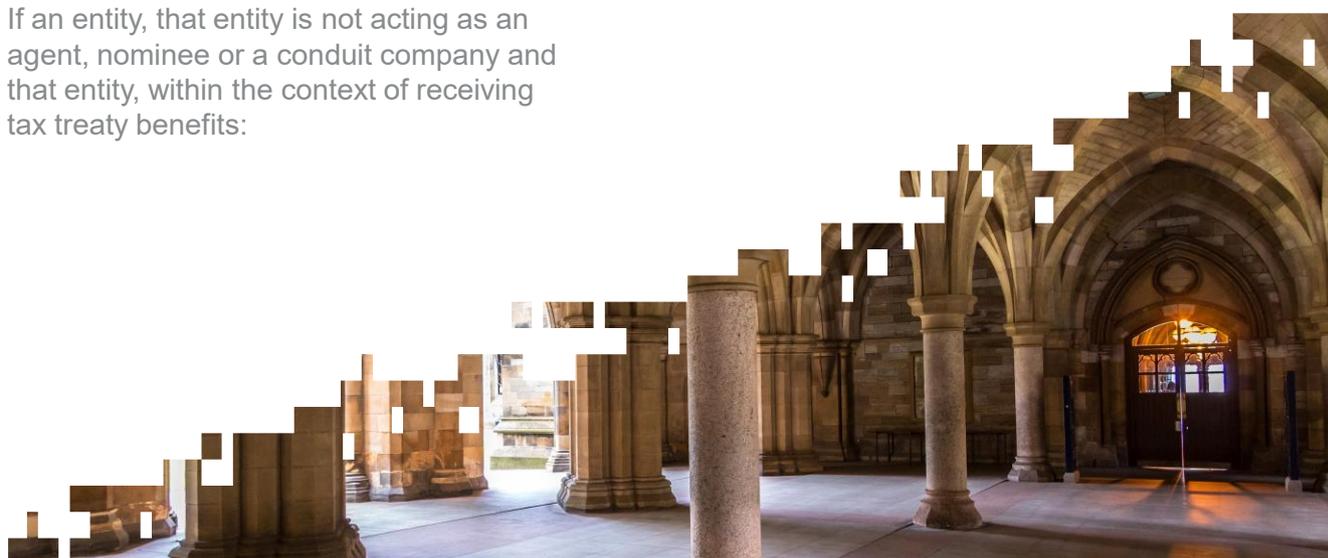
As previously regulated by PER-25, misuse of a tax treaty is not considered to occur if all of the following conditions are met in relation to the transaction/structure and/or entity (as appropriate):

- (a) has economic substance in the incorporation of the entity or the implementation of transactions;
- (b) has the same legal form as the economic substance in the incorporation of the entity or the implementation of transactions;
- (c) carries out business activities under its own management and the management has sufficient authority to carry out transactions;
- (d) owns fixed assets and non-fixed assets, which are sufficient and adequate to implement business activities in the tax treaty partner, in addition to the assets that generate income from Indonesia;
- (e) has a sufficient and adequate number of employees with certain expertise and skills in accordance with the line of business that the company is engaged in;
- (f) carries out active activities or business other than only receiving income in the form of dividends, interest and/or royalties sourced from Indonesia;
- (g) conducts transactions not for the principal or main purposes of, either directly or indirectly, obtaining the tax treaty benefits as referred to in Article 2 paragraph (6) of PMK-112; and
- (h) is the beneficial owner of the income, which further requires:
 - a. If an individual, that individual is not acting as an agent or nominee;
 - b. If an entity, that entity is not acting as an agent, nominee or a conduit company and that entity, within the context of receiving tax treaty benefits:

- i. has control to use or enjoy the funds, assets or rights that generate income from Indonesia;
- ii. does not use more than 50% of the income in whatever name and form as well as from whatever source, according to the non-consolidated financial statements of the foreign taxpayer, to fulfil liabilities to other parties, except for giving remuneration to employees as reasonable to be given in the course of employment; and to other parties, for other expenses as customarily incurred by the foreign taxpayer in the course of its business;
- iii. assumes any risks on their assets, capital or liabilities; and
- iv. does not have any obligation, either written or otherwise, to pass on part or all of the income received from Indonesia to other parties.

For entities, these tests are explicitly stated on the DGT Form. For individuals, the relevant tests are addressed by a general question whether the purpose of the transaction is to obtain a benefit directly or indirectly that is contrary to the object and purposes of the tax treaty, and a specific question whether the individual is acting as an agent or nominee.

Compared to PER-25, the beneficial owner tests must now be satisfied for all types of income. PER-25 only required these to be satisfied for foreign taxpayers that received dividends, interest or royalties.



B) STRENGTHENING PROVISIONS PREVENTING THE MISUSE OF TAX TREATIES

Under PMK-112, the DGT is authorized to review compliance and avoidance of abuse based on:

- (a) any provision in the tax treaty; or
- (b) the Income Tax Law if there are no provisions in the tax treaty.

If violations are found, the DGT will determine the tax payable based on the Income Tax Law.

PMK-112 stipulates how certain anti-abuse provisions contained in a tax treaty should be interpreted (including adopting certain provisions of the OECD's Multilateral Instrument – MLI), as per the table below:

Provision	Explanation
Beneficial Owner (BO) of the income	<p>The recipient of income must be the party that actually obtains the benefits. The tests are the same as those stipulated in PER-25. That is:</p> <ul style="list-style-type: none"> <input type="checkbox"/> For individuals, they are not acting as an agent or nominee. <input type="checkbox"/> For entities, they are not acting as an agent, nominee, or conduit company, and the entity, within the context of receiving tax treaty benefits: <ul style="list-style-type: none"> a) Has control to use or enjoy the funds, assets or rights that generate income from Indonesia; b) Does not use more than 50% of the income in whatever name and form as well as from whatever source, according to the non-consolidated financial statements of the foreign taxpayer, to fulfil liabilities to other parties, except for giving remuneration to employees as reasonable to be given in the course of employment; and to other parties, for other expenses as customarily incurred by the foreign taxpayer in the course of its business; c) Assumes any risks on their assets, capital or liabilities; and d) Does not have any obligation, either written or otherwise, to pass on part or all the income received from Indonesia to other parties.
The percentage and minimum period of share ownership (to enjoy a reduced rate of withholding tax for dividends)	<p>If the tax treaty provides for two rates of withholding tax depending on the percentage of share ownership, the lower rate can only be applied if:</p> <ul style="list-style-type: none"> a) The dividend recipient is the BO; b) The shareholder owns at least the required percentage of the shares; and c) The shares have been held for at least 365 days, including the date of dividend payment. <p>If these conditions are not met, the higher rate of withholding tax will apply, provided the dividend recipient is the BO.</p>
The period and percentage limit of immovable property value compared to total assets (to determine taxing rights on gains from the transfer of shares or rights related to an entity)	<p>Some tax treaties provide that the source country (e.g., Indonesia) only has the right to tax gains from the sale of shares or other rights in a company resident in the source country if that company is “immovable asset rich” (i.e., where the value of immovable assets exceeds a percentage of total assets that is stipulated in that tax treaty).</p> <p>Where this provision exists then Indonesia is entitled to tax profits from the sales of shares or rights to an entity if:</p> <ul style="list-style-type: none"> a) The value of immovable property that is compared to total value of the assets of the entity whose shares/ rights are transferred exceeds the percentage threshold; and b) The percentage threshold is exceeded at any time within 365 days prior to the transaction. <p>If these conditions are not met, the country of residence of the foreign taxpayer has the right to tax the capital gain on transfer of shares or rights.</p>

<p>Preventing structuring to avoid creation of a Permanent Establishment (PE)</p>	<p>PMK-112 references the key provisions of MoF regulation No. 35 dated 1 April 2019 regarding when a PE shall exist. That is, a foreign taxpayer shall be deemed to have PE if it:</p> <ul style="list-style-type: none"> a) Has a permanent place of business in Indonesia; b) Carries out construction, installation, or assembly projects in Indonesia beyond the time period specified in the tax treaty; c) Uses a dependent agent in Indonesia who: <ul style="list-style-type: none"> i. usually signs contracts on behalf of the foreign taxpayer, or ii. does not conclude contracts but usually makes deliveries on behalf of the foreign taxpayer. d) Is a foreign insurance company that has agents/ employees in Indonesia who receive premiums or assumes risks in Indonesia; and/or e) The activities in Indonesia are not merely preparatory or auxiliary in nature. <p>PMK-112 also provides additional information regarding what contracts should be considered in relation to a dependent agent, and what are preparatory or auxiliary activities.</p> <p>Provisions that prevent structuring to avoid creation of a PE are:</p> <ul style="list-style-type: none"> <input type="checkbox"/> For construction/ installation/ assembly projects (anti-splitting rules): <ul style="list-style-type: none"> a) The duration of projects conducted by a foreign taxpayer are combined if the total time period for projects conducted by the foreign taxpayer exceeds 30 calendar days. b) The duration of projects conducted by a foreign taxpayer are combined with the duration of projects conducted by closely related parties (those with a close relationship) if the projects are carried out at the same location and each of the projects is carried out for more than 30 calendar days. <input type="checkbox"/> Dependent agent (commissionaire arrangements) <ul style="list-style-type: none"> ▪ Although the dependent agent does not sign the contract, a foreign taxpayer shall be deemed to have a dependent agent (and a PE) if that agent usually plays a major role leading to the contract being concluded without material modification by the foreign taxpayer. <input type="checkbox"/> Misuse of preparatory/ auxiliary activities <ul style="list-style-type: none"> ▪ If the preparatory activities undertaken are essential core business activities and the auxiliary activities are additional activities solely aimed at assisting or facilitating essential core business activities, then the exemption shall not apply and a PE will exist. This result also applies if these activities are carried out by an individual or entity that is closely related to the foreign taxpayer. That relationship is considered to exist if there is control, ownership or capital participation as defined by PMK-112.
<p>Limitation on Benefits (LoB)</p>	<p>Eligibility for tax treaty benefits will be determined using criteria set out in the tax treaty, which may include the following:</p> <ul style="list-style-type: none"> a) Individuals who are residents of a tax treaty partner country; b) Entities with more than 50% of the shares owned by an individual(s) that is a resident of a tax treaty partner country; c) Entities where more than 50% of their income is not used to fulfil obligations to other parties other than those specified in the tax treaty; or d) Entities where more than 50% of that entity's shares are traded regularly on a stock exchange as expressly stated in the tax treaty.



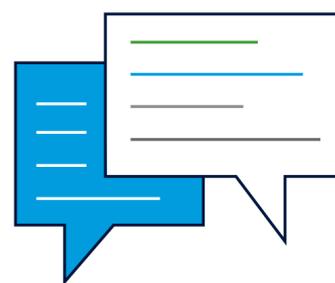
Principal Purpose Test (PPT)

- ❑ Tax treaty benefits are not provided if the main purpose or one of the main purposes of the transaction is to obtain treaty benefits, whether directly or indirectly.
- ❑ The PPT is applied if other anti-abuse provisions cannot be applied and/or there are indications that treaty benefits have been obtained through “arrangements” intended to obtain those benefits.
- ❑ In these cases, the following shall be analysed:
 - a) the transaction structure;
 - b) the underlying contract;
 - c) the formal and economic substance of the transaction;
 - d) the timing and duration of implementation of the transaction;
 - e) the parties involved;
 - f) the relationships of parties involved;
 - g) the rights and obligations of the parties involved;
 - h) the tax treaty benefits resulting from the transaction;
 - i) benefits other than tax treaty benefits resulting from the transaction; and
 - j) other relevant facts and circumstances.

RSM COMMENTS

While Indonesia's tax treaties themselves remain unchanged, the way treaty benefits are accessed, reviewed, and potentially denied has shifted materially. PMK-112 moves treaty relief away from a predominantly administrative exercise toward a substance-based, risk-managed process, supported by clearer procedures and explicit anti-abuse principles. Through release of a MoF regulation rather than relying on the DGT regulations, PMK-112 provides stronger legal authority, broader applicability, and greater weight in audits, objections, and tax court proceedings. Taxpayers and withholding agents should, therefore, expect higher scrutiny, stricter controls, and increased emphasis on commercial substance, particularly in light of the formal confirmation of the PPT.

- ❑ Treaty relief now requires proactive management. Formal compliance alone is insufficient; successful treaty positions will increasingly depend on clear commercial narratives and demonstrable substance.
- ❑ Withholding agents have become central to treaty compliance because these agents may face under-withholding assessments; administrative penalties; and commercial disputes with foreign counterparties. Therefore PMK-112 positions Indonesian taxpayers as the first layer of defense against treaty abuse, making treaty application a matter of governance and internal control.
- ❑ Anti-avoidance rules targeting PE avoidance, including aggregation of project duration across closely related parties and a broader assessment of project unity are strengthened under PMK-112. Groups involved in construction, EPC, or long-term service projects should reassess PE exposure carefully, as contract splitting alone is unlikely to be sufficient to avoid creation of PE.
- ❑ Structures relying on interposed entities or fragmented activities face heightened vulnerability under a combined beneficial ownership and PPT analysis. Intermediate holding companies, treasury centers, and IP vehicles are likely to face increased scrutiny, particularly where: income is largely passed through to other group entities; strategic decisions are made elsewhere; or the entity performs limited active functions. Therefore, economic reality will carry more weight than legal form.
- ❑ Although PMK-112 now adds ministerial 'strength' to the previous DGT regulation stating that CoD can be provided during a tax audit, this does not override the domestic taxpayer's obligation to have carefully reviewed the CoD and substance of the transactions to ensure there is no treaty abuse.
- ❑ Domestic taxpayers cannot request a CoD (to obtain tax treaty benefits on foreign sourced income) if the relevant tax year is not the current tax year or the previous tax year. Therefore, if the relevant period is, for example, more than 2 years ago, then it is not possible to obtain a CoD.



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