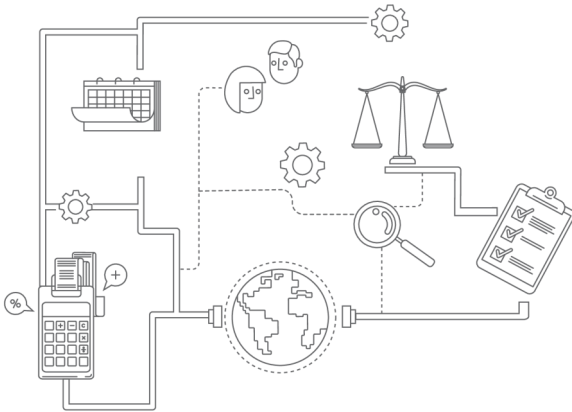


Additional Income Tax Facilities during COVID-19 (Government Regulation No.29/2020)

The Government of Indonesia has issued Regulation No. 29 Year 2020 ("GR-29") on 10 June 2020 to provide additional income tax facilities for taxpayers, primarily related to activities to fight COVID-19.



The income tax facilities provided are:

- **An additional deduction for costs to produce medical equipment or household health supplies used for handling COVID-19**
- **A deduction for donations related to handling COVID-19**
- **NIL tax for income earned by individuals from providing health services to the Government related to handling COVID-19**
- **NIL tax for income earned by taxpayers from the Government for rental of assets used for handling COVID-19**
- **Relaxation of criteria for public companies to access the reduced rate of corporate income tax, where there was a share buyback**

Additional deduction for costs of production

In addition to any tax deduction available under the Income Tax Law, GR-29 provides an additional 30% deduction for costs to produce "medical equipment" and "household health supplies" used for handling COVID-19 in Indonesia. For example, if a taxpayer's gross income is 1,000 and there are tax deductible costs of 600 then the net income is 400. If these costs of 600 are also costs to produce medical equipment and/or household health supplies used for handling COVID-19 in Indonesia then for tax purposes there is an additional deduction of $600 \times 30\%$ and therefore the net income becomes 400 minus by $(30\% \times 600)$ or 220.

The eligible costs are those paid between 1 March – 30 September 2020 unless this period is extended.

The additional deduction must be claimed in the tax year when the underlying cost occurred.

If there are joint costs incurred for the production of medical equipment and/or household health supplies and for other products that cannot be separately allocated then the cost should be allocated proportionally to determine the amount that is subject to the additional deduction.

"Medical Equipment" used for handling COVID-19 are:

- surgical mask and N95 respirators;
- protective clothing in the form of medical coveralls, disposable gowns, heavy duty aprons, caps, shoe covers, goggles, face shields, and waterproof boots;
- surgical gloves;
- examination gloves;
- ventilators; and
- diagnostic test reagents for COVID 19.

"Household Health Supplies" (PKRT) for handling COVID-19 are:

- antiseptic hand sanitizer; and
- disinfectant.

The list of health equipment and PKRT can be revised by the Minister of Finance based on input from the Minister of Health.

Taxpayers wishing to claim the additional deduction must submit a report of the costs to the Director-General of Taxation ("DGT") in accordance with the format prescribed in Attachment A of GR-29. The report can be submitted together with the annual income tax return or before. Failure to submit a report will result in the DGT denying the claim of additional deduction.

Deduction for donation related to handling COVID-19

Although Government Regulation No. 93/2010 might have permitted a tax deduction for a donation related to the COVID-19 pandemic, GR-29 provides fewer requirements to claim a deduction for donations related to handling COVID-19 in Indonesia.

These donations can be claimed as a deductible expense provided the following conditions are met:

- The donation is given to any of:
 - ⇒ Badan Nasional Penanggulangan Bencana (BNPB)
 - ⇒ Badan Penanggulangan Bencana Daerah (BPBD)
 - ⇒ The Ministry of Health
 - ⇒ The Ministry of Social Affairs, or
 - ⇒ An institution that collects donations
- The donation is given during 1 March – 30 September 2020 unless this period is extended
- The donation is supported by a receipt which mentions:
 - ⇒ Name, address and Tax ID/NPWP of the taxpayer giving the donation;
 - ⇒ Name, address and Tax ID/NPWP of the recipient of the donation;
 - ⇒ The date of the donation;
 - ⇒ The nature/form of the donation; and
 - ⇒ The value of the donation.
- The party receiving the donation must have a Tax ID (NPWP).

Donations can be provided in cash, goods, services, and/or the use of assets without compensation.

The value for donations provided as goods, services or use of assets will be:

1. If in the form of goods – the value of the donation shall be:
 - a. the purchase price (if goods are not yet depreciated),
 - b. the fiscal book value (if goods have been depreciated), or
 - c. the cost of goods sold (if goods are from own production).
2. If in the form of services and/or the use of asset without compensation – the value is determined based on the cost of service/sales.



Taxpayers wishing to claim the deduction must submit a nominative list of the costs to the DGT in the format prescribed in Attachment B of GR-29. The report can be submitted together with the annual income tax return or before. Failure to submit the list will result in the DGT denying the claim for the donation.

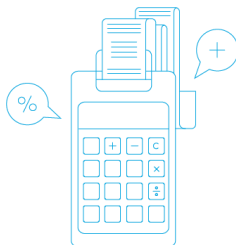
NIL tax for income earned by individuals from providing health services to the Government related to handling COVID-19



GR-29 regulates that no tax shall be imposed on income earned from the Government by individual taxpayers engaged as health workers or health supporting workers in the health sector to handle COVID-19, that is received in form of honorarium or other compensation. This include payments to the heirs/estate in the event of the death of the individual while so-engaged. The mechanism for implementing the facility is by imposition of 0% Final Tax under Article 21.

The facility only applies for income that is received or earned from 1 March – 30 September 2020, unless this period is extended.

NIL tax on income from the Government for use of asset for handling COVID-19



GR-29 regulates that no tax shall be imposed on income received or earned by taxpayers from the Government as compensation in any form from:

- rental of land and/or buildings; and/or
- rental and other income for the use of assets other than land and/or buildings

The mechanism for implementing the facility is by imposition of 0% Final Tax under Article 4(2) of the Income Tax Law.

Since the income is subject to final tax therefore all related expenses should not be included as deductible expenses (i.e. are subject to fiscal adjustment) in the annual income tax calculation.

The facility only applies for income that is received or earned from 1 March – 30 September 2020, unless this period is extended.

If the rental or use of the asset commenced prior to 1 March 2020 (and ends by 30 September, 2020), or starts after 1 March 2020 and ends after 30 September 2020, then a proportional calculation is used to determine the income that receives the 0% final tax facility (for the period from 1 March – 30 September 2020).

For example, a taxpayer rents a building to the Government and its lease agreement starts from 1 February 2020 to 31 January 2021. Therefore, the income will be taxed as follows:

- a) 10% (normal final tax rate) for income earned from 1 February – 29 February 2020 and from 1 October 2020 – 31 January 2021 and
- b) 0% for income earned from 1 March 2020 – 30 September 2020.

Relaxation of criteria for public companies to access reduced rate of corporate income tax, where there was a share buyback

In accordance with existing regulations, a company listed on the Indonesia Stock Exchange is eligible for a reduced rate of corporate income tax (19% for 2020–2021 tax years and 17% for the 2022 and future tax years) if:

- At least 40% of its paid in capital is listed on the Indonesia Stock Exchange;
- The shares should be owned by at least by 300 “parties” and each party must hold less than 5% from the total issued and paid in capital;
- These conditions must be met for a minimum of 183 calendar days within a tax year; and
- The company has submitted a report to the DGT regarding its fulfillment of these conditions.

“Party” is defined as any individual or organization (badan), but excludes shares bought back by the company (treasury shares) or held by shareholders that would be considered under the Income Tax Law or Capital Markets Law to be related parties of the company.

GR-29 provides a facility for a company which has undertaken or will undertake a buy-back of its shares so that these treasury shares can be included for the purposes of determining compliance with the criteria to use the reduced rate of corporate income tax.

The requirements to receive this facility are:

- Receipt of an approval letter for the buy-back from the Government or relevant agency (OJK) (issued with consideration for the policy to handle capital market conditions that fluctuate significantly);
- The period to buy back its shares is from 1 March – 30 September 2020; and
- Those shares can only be owned until 30 September 2022.



Eligible public companies can receive the facility for the 2020, 2021 and/or 2022 tax years.

In addition, GR-29 requires the taxpayer to attach a report regarding the buy-backs to the corporate income tax return for the relevant year.

RSM COMMENTS:

1. GR-29 has no definition of "handling COVID-19". This could create different interpretations during a tax audit.
2. For claims for the additional deduction:
 - ⇒ There are likely to be practical difficulties when trying to support the method of allocation of overhead/general consumables into costs of production of medical equipment or PKRT;
 - ⇒ GR-29 applies for costs that are paid ("dikeluarkan") rather than expensed. This suggests production costs that are inventorised can be claimed as an additional deduction even if the inventorised cost is not yet expensed because the product is not yet sold.
3. GR-29 does not have some of the restrictive conditions imposed by Government Regulation No. 93/2010 for claiming a tax deduction for donations. That is, GR-29 does not deny a claim for a deduction if the donation creates a tax loss. Therefore, any donations made related to COVID-19 should be reviewed to determine if these are best claimed under GR-29 and not the general regulations.
4. The NIL tax facilities for income earned from asset use/rental and by individuals from providing health services are back-dated to 1 March. Therefore related taxpayers may be eligible for a refund for any tax already withheld by their employer/customer.

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