Executive summary

On 26 November 2018, Indonesia’s Minister of Finance (MOF) signed MOF Regulation No. 150/PMK.010/2018 (PMK-150), revising the tax holiday regulations. PMK-150 became effective as of 27 November 2018 and is intended to increase new capital investments in “pioneer industries” to stimulate economic growth in Indonesia. PMK-150 includes a new procedure to apply for the facility which aligns with the Online Single Submission (OSS) system, a web-based system for business license registrations on new capital investment.

Under PMK-150, the definition of pioneer industry has been expanded to cover 18 sectors and the tax holidays provide a lower threshold of IDR100 billion (US$7.2 million) for the new capital investment. The exact list of industry codes to be eligible for tax holidays is to be provided under a separate regulation. The tax exemption period remains the same, between 5 and 20 years, depending on the amount of new capital investment. This is the second time eligibility has been broadened in 2018.

This Alert summarizes key aspects of PMK-150.
Detailed discussion

General overview
A corporate taxpayer that makes a new capital investment under the pioneer industry category (Appendix 1) is eligible for a tax holiday on its corporate income tax, under the following conditions:

<table>
<thead>
<tr>
<th>Category</th>
<th>New Capital investment</th>
<th>Tax holiday facility</th>
<th>Tax holiday period</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>≥ 100 billion up to less than 500 billion</td>
<td>≥ 7.2 million up to less than 36 million</td>
<td>50%</td>
</tr>
<tr>
<td>II</td>
<td>≥ 500 billion up to less than 1 trillion</td>
<td>≥ 36 million up to less than 72 million</td>
<td>100%</td>
</tr>
<tr>
<td>III</td>
<td>≥ 1 trillion up to less than 5 trillion</td>
<td>≥ 72 million up to less than 360 million</td>
<td>7 years</td>
</tr>
<tr>
<td>IV</td>
<td>≥ 5 trillion up to less than 15 trillion</td>
<td>≥ 360 million up to less than 1.1 billion</td>
<td>10 years</td>
</tr>
<tr>
<td>V</td>
<td>≥ 15 trillion up to less than 30 trillion</td>
<td>≥ 1.1 billion up to less than 2.1 billion</td>
<td>15 years</td>
</tr>
<tr>
<td>VI</td>
<td>≥ 30 trillion</td>
<td>≥ 2.1 billion</td>
<td>20 years</td>
</tr>
</tbody>
</table>

Additional corporate income tax reduction is offered for two years following the expiration of the above tax holidays for:

a. 25% of the corporate income tax liability for the new capital investment under Category I.
b. 50% of corporate income tax liability for the new capital investment under Categories II to VI.

To qualify for the tax holidays:

- A taxpayer must be an Indonesian legal entity with a new investment in a pioneer industry, with a minimum capital investment of IDR100 billion.
- The taxpayer must comply with the Indonesian thin-capitalization rules (i.e., 4:1 debt-to-equity ratio).

Once the OSS system processes the business license request on the new capital investment and identifies the registrants potentially qualifying for the tax holiday, the taxpayer will be notified by the OSS system.

Pioneer industries
PJM-150 modified the existing list and added some industry sectors including manufacturing using agricultural, plantation or forestry products and certain activities in the digital economy sector. A pioneer industry is defined as an industry that has broad connection and/or linkage, provides value added and high externalities, introduces new technology and provide strategic value for the national economy. The complete list is provided in Appendix 1.

The new list seems to indicate that the Indonesian Government desires to expand the local economy beyond assembly to value-added manufacturing in many sectors. A taxpayer may still qualify for a particular incentive even if it is engaged in a pioneer industry that is not specifically listed, if approved jointly by the MOF, other relevant Ministries and the Investment Coordinating Board.

Procedure for the tax holiday application
A taxpayer who received a tax holiday qualification notification is considered to have submitted its application to obtain the facility once they file additional supporting documents (e.g., list of fixed assets in the capital investment plan, debt to equity ratio computation and tax clearance letter (in case of domestic shareholders)) through the OSS system. The submission of documents can be done either during the capital investment registration or within one year after the issuance of relevant license.
Once the complete documents are submitted, a recommendation is made by the OSS system to the MOF through the Directorate General of Taxes (DGT) and DGT for and on behalf of MOF will issue the final decision to the taxpayer within five business days of the recommendation.

Tax audit and annual report requirements
Under PMK-150, the tax holiday will start from a fiscal year when the taxpayer reaches the commercial operation stage (COS), i.e., the time when the taxpayer sells its product for the first time, or when the taxpayer uses its own products for further processing. Under PMK-150, upon the taxpayer’s submission of a COS request, the Indonesian Tax Authority should conduct a tax audit to determine whether the taxpayer’s COS determination is appropriate. In addition, if the taxpayer fails to satisfy its commitment such as committed capital investment, the actual activity is different from the proposed plan, or importing used capital goods for the investment, the DGT can recommend the MOF to terminate the tax holiday.

In addition, the taxpayer is required to submit an annual report to the DGT on: (i) capital investment realization report covering the period from the issuance of MOF approval for the tax holiday to the COS; and (ii) production realization report from the COS through the end of a fiscal year when the tax holiday expires. The report should be submitted within 30 days of the fiscal year end.

A taxpayer who obtains a tax holiday under PMK-150 is not entitled to apply for another tax incentive (i.e., tax allowance).

Endnote

1. The prior minimum capital investment was IDR500 billion.
For additional information with respect to this Alert, please contact the following:

**EY Indonesia, Jakarta**
- Peter Mitchell (peter.mitchell@id.ey.com)
- Peter Ng (peter.ng@id.ey.com)

**Ernst & Young LLP, Indonesia Tax Desk, New York**
- Ihsan Muttaqien (ihsan.muttaqien1@ey.com)

**Ernst & Young LLP, Asia Pacific Business Group, New York**
- Chris Finnerty (chris.finnerty1@ey.com)
- Kaz Parsch (kazuyo.parsch@ey.com)
- Bee-Khun Yap (bee-khun.yap@ey.com)
APPENDIX 1 – List of pioneer industries

a. Upstream base metal industry
b. Oil and gas purification and or refinery industry
c. Petrochemical industry, based on petroleum, natural gas or coal
d. Inorganic base chemical industry
e. Organic base chemical industry
f. Pharmaceutical raw material industry
g. Manufacturing of irradiation equipment, electro medical or electrotherapy
h. Manufacturing industry of electronic and telematics device’s main components such as semiconductors wafer, backlight for liquid crystal display, electrical driver or display
i. Manufacturing industry of main components for industrial engines and main components for engines
j. Manufacturing industry of robotic components, which support the engines manufacturing industry
k. Manufacturing industry of main components for electrical power generation engines
l. Manufacturing industry of vehicle and main components for vehicles
m. Manufacturing industry of main components for ships
n. Manufacturing industry of main components for trains
o. Manufacturing industry of main components for aircraft and other supporting aircraft industries
p. Agricultural, plantation or forestry - based processing industries that produce pulp
q. Economic infrastructures
r. Digital economy that includes data processing, hosting and other related activities

The exact industry codes which will be eligible, within the above categories, will be announced under a separate regulation.
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