Indonesia: Income tax incentives modified for investment in certain industries and regions

The Indonesian government issued a regulation on 6 April 2015 (Regulation No. 18 of 2015, or PP-18) that provides a long-awaited revision of the income tax incentive regulation that applies to investments in certain industries and regions. PP-18 applies from 6 May 2015 and revokes guidance issued in 2007 and 2011.

PP-18 makes changes and clarifications to available incentives, including the following:

- It eliminates the requirement of having a capital investment plan of at least IDR 1 trillion to qualify for the tax holiday scheme for investments in specified sectors.
- It clarifies the incentive that permits a reduction of net income by up to 30% of the amount invested, to be spread equally over six years (i.e. 5% per year) starting from the company’s start of commercial production. Under PP-18, the amount of investment to be used as the base for calculating the incentive is the capital investment in the form of tangible fixed assets, including land used in the primary business activity.
- It clarifies that the incentive that permits accelerated depreciation of tangible assets also permits accelerated amortization of intangible assets; the previous regulation did not cover the treatment of intangible assets.
- It provides that the incentive that permits an extension of the tax loss carryforward period (normally five years) for up to 10 years may be further extended to apply for an additional two years if the taxpayer fulfils one of the following conditions (in addition to the conditions provided under the prior regulation):
  - The investment is an expansion of an existing business in certain business sectors and/or certain regions, and the investment funds are derived from the after-tax profit earned in the fiscal year before the year in which the business expansion permit is issued;
  - The taxpayer has exported at least 30% of the total sales value, for investments within certain business sectors located outside a bonded zone area;
  - The company employs at least 1,000 Indonesian workers for five consecutive years (the previous regulation provided only an additional one-year loss carryforward for employing at least 500 Indonesian workers for five consecutive years); or
  - The taxpayer disburses 5% of the investment value for research in relation to product development or production efficiency within five years (the previous regulation provided only an additional one-year loss carryforward for this category).

Taxpayers that already have obtained certain tax incentives relating to integrated economic development zones (KAPET) or a specified tax holiday (under Regulation No. 94/2010) are not eligible for incentives under PP-18.

PP-18 provides the following transition rules:
• Taxpayers that obtained a tax incentive under the previous regulation may continue to enjoy the incentive until it expires.
• Recommendations on the eligibility of taxpayers for tax incentives that have been issued under the previous regulation and submitted to the head of the Indonesian Investment Coordination Board (BKPM) will be processed using the guidance under the previous regulation.
• A taxpayer whose principle permit for investment or for investment expansion was issued by the Head of the BKPM after the previous regulation came into force may be processed for a recommendation to receive incentives under PP-18, as long it meets the following requirements:
  o No decision on approval or rejection has been issued on the principle permit under the previous regulation;
  o The requirements for line of business, business classification, product coverage, requirements and location comply with the attachments to PP-18;
  o The taxpayer had not started commercial production at the time PP-18 entered into force; and
  o The recommendation on eligibility for the tax incentive is received within one year after PP-18 enters into force.

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