

LEGAL UPDATE – TAX HOLIDAY

On 21 January 2019, the Head of Investment Coordinating Board of the Republic of Indonesia issued a new regulation, i.e., Regulation of Investment Coordinating Board Number 1 of 2019 concerning Details of Business Fields and Types of Production of Pioneer Industry Eligible for the Corporate Income Tax Reduction Facility as well as Guidelines and Procedures for the Granting of Corporate Income Tax Reductions (*Rincian Bidang Usaha dan Jenis Produksi Industri Pionir yang Dapat Diberikan Fasilitas Pengurangan Pajak Penghasilan Badan serta Pedoman dan Tata Cara Pemberian Fasilitas Pengurangan Pajak Penghasilan Badan*) (“**BKPM Regulation 1/2019**”). This regulation serves as implementing regulation of the Regulation of the Minister of Finance Number 150/PMK.010/2018 concerning Provision of Corporate Income Tax Reduction Facility (*Pemberian Fasilitas Pengurangan Pajak Penghasilan Badan*) (“**RMF 150/2018**”) which was issued on 26 November 2018. BKPM Regulation 1/2019 also serves to replace the previous regulation of the same title under Regulation of the Investment Coordinating Board Number 5 of 2018 (“**BKPM Regulation 5/2018**”).

RMF 150/2018 provides that any corporate taxpayer which conducts a new investment in a pioneer industry in Indonesia shall be entitled to receive reduction of corporate income tax, which is also known as Tax Holiday. Details of Tax Holiday rate and period as provided in BKPM Regulation 1/2019 are as follows:

No	New Investment Plan Value (IDR)	First Period		Second Period	
		Reduction Rate	Period	Reduction Rate	Period
1	100 billion – less than 500 billion	50% of the total corporate income tax liability	5 fiscal years	25% of the total corporate income tax liability	2 fiscal years
2	500 billion – less than 1 trillion	100% of the total corporate income tax liability	5 fiscal years	50% of the total corporate income tax liability	
3	1 trillion – less than 5 trillion		7 fiscal years		
4	5 trillion - less than 15 trillion		10 fiscal years		
5	15 trillion – less than 30 trillion		15 fiscal years		
6	≥ 30 trillion		20 fiscal years		



In order to obtain Tax Holiday facility, corporate taxpayers must meet the following criteria:

1. The business field must be classified as pioneer industries. Currently, pioneer industries also encompass the following sectors:
 - a. Agricultural, plantation and forestry processing industries which produce pulp paper with or without its derivative products; and
 - b. Digital economy players, including data processing, hosting and related activities.
2. The company must be in the form of Indonesian legal entities.
3. The company must have a minimum investment plan in the amount of IDR 100 billion. Investment plan values are the value of production facilities and/or fixed capital for the new investments, excluding working capital.
4. The business field must be a new investment which has yet to have any income tax deduction applications approved or rejected. Formerly, Tax Holiday facility is only applicable for new investments in pioneer industries. Now, with the enforcement of BKPM Regulation 1/2019, Tax Holiday also can be granted to any business development related to pioneer industry with classification of new investments are as follows:
 - a. Establishment of new businesses, including the construction of new factories or economic infrastructure;
 - b. Establishment and development of new businesses, either in the same or different locations and which meet certain criteria; and
 - c. Expansion of businesses in the form of increased production capacities.
5. The business must meet the debt-to-equity ratio which is set under the prevailing regulation concerning on determination of company debt-to-equity ratios for income tax calculations. Currently, the prevailing regulation is the Regulation of the Ministry of Finance No. 169/PMK.010/2015 on the Determination of Company Debt-to-Equity Ratios for Income Tax Calculations (*Penentuan Besarnya Perbandingan antara Utang dan Modal Perusahaan untuk Keperluan Perhitungan Pajak Penghasilan*). Pursuant to this regulation, the maximum debt-to-equity ratio is 4:1.



RMF 150/2018 and BKPM Regulation 1/2019 introduces pioneer industry as set out in the table below:

No	Category	Industry	KBLI
1	Natural resources	Upstream base metal	24101A – 24202F
2		Oil and gas refining	19211 – 19291D
3		Petroleum-based petrochemical	20117A – 20302B
4		Organic basic chemicals industry sourced from agriculture, plantation, or forestry	20115A – 20302D
5	Chemical	Inorganic basic chemicals	20111A – 20114D
6		Main raw materials of pharmaceutical	21011A – 21012C
7	Machinery/ Manufacture	Irradiation, electro-medical, or electrotherapy equipment manufacturing	26601A – 26602B
8		Electronics or telematics equipment main Components manufacturing	26120A – 27201A
9		Machinery and machine main components manufacturing	27111A - 28263
10		Robotic components manufacturing industry that support manufacturing machine	28299A
11		Power plant machine main components manufacturing	27112A – 28111A
12	Transportation Component	Motor vehicle and motor vehicle main components manufacturing	29300A – 29100A
13		Vessel main component manufacturing	28112B
14		Train main component manufacturing	28112C – 42216B
15		Aircraft main component and aerospace	30300A – 33153A
16	Other	Agriculture, plantation, or forestry producing pulp-based processing industry without or with its derivatives	17011A – 17014A
17		Economic infrastructure	35101A – 09100A
18		Digital economy that includes data processing, hosting, and activities associated with it	63112



A taxpayer, which has met the qualifications to obtain Tax Holiday, may submit the application through OSS system (www.oss.go.id). The procedures are as follows:

1. Application submission through the OSS website (www.oss.go.id).
2. Assessment and document submission.
The qualifications will be assessed through the OSS system. OSS system will provide a notification whether or not the company has met the qualifications. If the qualifications have been completed, the company will then be required to submit the following compliance documents prior to the commercial operation stage:
 - a. Softcopy details of any fixed assets under the relevant investment value plan and the debt-to-equity ratio; and
 - b. Softcopy of the shareholders' tax clearance certificate (*surat keterangan fiskal*).

Submission of the abovementioned documents must be completed within the following timeframes:

- a. Simultaneously with registrations for Business Identity Numbers; or
- b. By no later than one year after the issuance of a business license for new investments.

Subsequently, BKPM and related Ministry will assess the proposed application.

3. Proposal.
Upon approval from BKPM and related Ministries, the application of Tax Holiday will be submitted to the Director General of Tax (*Direktur Jenderal – “Dirjen”*) through the OSS system.
4. Determination.
Dirjen will assess and determine whether or not the application of Tax Holiday can be approved.
5. Field inspection.
Upon the approval of Tax Holiday facility from the Dirjen, the Tax Holiday facility will only apply once the company commences commercial operation. Dirjen shall conduct field inspections to determine the commencement date of the commercial operation.



Should you require further information, please do not hesitate to contact us at below contact details.

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