



Business tax reforms to fuel investment and economic growth

SwissCham Indonesia and Ministry of
Finance

30 August 2019

PER25: Indonesia anti-tax treaty abuse rules

PER - 25/PJ/2018

Article 26(1a) of the Income Tax Law

- ▶ Not more than 50% of the total non-consolidated income is used to fulfill obligations to other parties.
 - ▶ Excluded from the obligations:
 - ▶ fair compensation payments to employees in relation to work, and
 - ▶ payments to other parties for normal business costs.
 - ▶ **Distribution of profit in the form of dividend to the shareholders.**

- ▶ Country of domicile shall not only be determined based on Certificate of Domicile, but also residence or domicile of beneficial owner of the said income.
- ▶ If the beneficial owner is an entity, its country of domicile shall be the country where the owner, or more than 50% (fifty percent) of shareholders both individually and jointly are domiciled; or where effective management is located.

Observations:

- Passing on of dividend does not breach the Beneficial Owner test?
- Form DGT only cover direct income recipient. There is no further tracing of the Beneficial Owner as required under Article 26(1a)?
- Issues around refund process through custodians and registering Form DGT on DGT's website portal

Book value spin-off

Article 1(6) of Minister of Finance Regulation No. 205/PMK.010/2018

- ▶ Book value spin off applies on the following:
 - d. Indonesian corporate taxpayer receiving spun-off assets and liabilities which are capitalized with at least IDR 500 billion by foreign investor;
 - e. State-owned company receiving additional capital from the Indonesian Government which relates to the creation of a state-owned holding company.

Observation:

- Awaiting implementing regulations from DGT

Super deduction incentives

Government Regulation No. 45 Year 2019	
Sector/ activities	Available incentive
A tax facility may be available for a domestic corporate taxpayer that conducts new capital investment or business expansion in a business sector which is: <ul style="list-style-type: none"> a. a labor-intensive industry sector; and b. is not eligible for a tax allowance or tax holiday incentive. 	A reduction of net revenue amounting to 60% of the capital investment amount in the form of tangible fixed assets, including land, used for main business activities
For a domestic corporate taxpayer that carries out work practice, internship and/ or teaching to coach and develop human resources with 'certain competency basis'	A reduction of gross revenue, of a maximum of 200% of the total expenses incurred
A domestic corporate taxpayer that carries out certain R&D activities in Indonesia	A reduction in gross revenue of a maximum of 300% of the total expenses incurred for certain R&D activities in Indonesia

Observation:

- Awaiting implementing regulations from MoF