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Global Tax Alert

Indonesia issues Tax Allowance Incentive regulation

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The Government of Indonesia has issued[1] Government Regulation No. 78 Year 2019 (GR-78)[2] which offers tax incentives for capital investment in certain business sectors (Tax Allowance Incentive) to encourage increased foreign direct investment in Indonesia. GR-78 is effective from 12 December 2019.

This Alert summarizes the key aspects of GR-78.

Key changes under GR-78

GR-78 increases the eligible geographic areas for a significant number of subsectors. GR-78 provides that incentives for 166 subsectors (previously 66) are available in any geographic area. Incentives for 17 subsectors (previously 76) are restricted to specific geographic areas.

In addition, GR-78 improves the Tax Allowance Incentive application process through the Online Single Submission (OSS)[3] system.

Eligibility criteria

Tax Allowance Incentives may be granted to taxpayers who meet both of the following criteria:

- Local corporate taxpayers initiating new investment or expanding existing businesses[4] in eligible subsectors.[5]

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- The investment by the taxpayer meets any of the following criteria:
  - Has a high investment value or is export oriented.
  - Employs a large workforce.
  - Has high local content in its production.

Tax Allowance Incentive benefits

Benefits for a Tax Allowance Incentive includes:

- Additional cost recovery of 30% for tangible fixed asset investmen[6] used for primary business activities. The income tax incentive is a deduction from gross income of 30% of the investment resulting in an additional cost recovery deduction over six years (at a rate of 5% per year).
- Accelerated depreciation of 200% for tangible fixed assets and amortization for intangible fixed assets.
- Dividend distributions to nonresident shareholders are subject to a reduced withholding rate of 10% or the applicable treaty rate, whichever is lower.
- Tax losses can be carried forward for up to 10 years.[7]

Other considerations

Other considerations for taxpayers include:

- Incentivized tangible and intangible fixed assets are not permitted to be used for other purposes or transferred within a certain period.[8]
- Any taxpayers who have been granted Tax Allowance Incentives but who no longer meet the criteria and conditions may be subject to the revocation of the incentive, required to pay additional taxes and/or penalties and included in a black list for future incentive applications.
- Any taxpayers who are granted Tax Allowance Incentives are not entitled to other tax incentive programs.[9]

Endnotes

1. GR-78 was issued on 13 November 2019.
2. GR-78 replaces GR No. 18/2015 (GR-18), which amended by GR No. 9/2016 (GR-9).
3. OSS is an integrated system which is designed to issue business licenses for and on behalf of ministers, head of institutions, governors, or mayors to businessmen through an integrated electronic system.
4. The expansion of an existing business does not include machinery and/or equipment replacement and/or additions within a production line that was already in commercial production.
5. There are 166 business sectors that are eligible for the Tax Allowance Incentive, including 109 industrial sectors. 17 business sectors in specific geographical areas qualify for the Tax Allowance Incentive, including 10 industrial sectors.
6. Including purchases of land.
7. Ordinarily, tax losses can only be carried forward for five years. GR-78 outlines a number of conditions for the carry forward of tax losses over longer periods.
8. Tangible fixed assets are not permitted to be transferred within six years from the date of commencement of commercial operations or before the end of the useful period if subject to accelerated depreciation, whichever is longer. Intangible assets are not permitted to be transferred before the end of the useful period if subject to accelerated amortization. An exception applies if the intangible asset is replaced with a new intangible asset.
9. Integrated Economic Development, Tax Holiday and Super Deduction program for the labor-intensive sector.

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