



MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA

COPY OF
REGULATION OF THE MINISTER OF FINANCE
NUMBER 14/PMK.03/2011
CONCERNING
TAXATION TREATMENT ON A PERMANENT ESTABLISHMENT'S TAXABLE INCOME
AFTER DEDUCTION OF INCOME TAX

BY THE GRACE OF GOD ALMIGHTY
THE MINISTER OF FINANCE,

- Considering
- a. that in order to provide a better justice and legal surety concerning taxation treatment on reinvestment of a Permanent Establishment's Taxable Income After Deduction of Income Tax as set forth in Regulation of the Minister of Finance Number 257/PMK. 03/2008 concerning Taxation Treatment on a Permanent Establishment's Taxable Income After Deduction of Income Tax, it is necessary to readjust taxation treatment on reinvestment of a Permanent Establishment's Taxable Income After Deduction of Income Tax;
 - b. that based on consideration as referred to in point a, and in order to implement the provisions in Article 26 paragraph (4) of Law Number 7 Year 1983 concerning Income Tax as several times amended most recently by Law Number 36 Year 2008, it is necessary to stipulate a Regulation of the Minister of Finance concerning Taxation Treatment on a Permanent Establishment's Taxable Income After Deduction of Incomes Tax;
- In View of
- 1. Act Number 6 Year 1983 on General Provisions and Procedures of Taxation (State Gazette of the Republic of Indonesia Year 1983 Number 49, Supplement to State Gazette of the Republic of Indonesia Number 3262) as several times amended most recently by Act Number 16 Year 2009 (State Gazette of the Republic of Indonesia Year 2009 Number 62, Supplement to State Gazette of the Republic of Indonesia Number 4999);
 - 2. Act Number 7 Year 1983 concerning Income Tax (State Gazette of the Republic of Indonesia Year 1983 Number 50, Supplement to State Gazette of the Republic of Indonesia



MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA

Number 3263) as several times amended most recently by Act Number 36 Year 2008 (State Gazette of the Republic of Indonesia Year 2008 Number 133, Supplement to State Gazette of the Republic of Indonesia Number 4893);

3. Presidential Decree Number 56/P Year 2010;

DECIDES:

To stipulate :REGULATION OF THE MINISTER OF FINANCE CONCERNING TAXATION TREATMENT ON A PERMANENT ESTABLISHMENT'S TAXABLE INCOME AFTER DEDUCTION OF INCOME TAX.

Article 1

- (1) A Permanent Establishment's Taxable Income After Deduction of Income Tax in Indonesia shall be subject to Income Tax as referred to in Article 26 paragraph (4) of Act Number 7 Year 1983 concerning Income Tax as several times amended most recently by Act Number 36 Year 2008.
- (2) In case that a Permanent Establishment's Taxable Income After Deduction of Income Tax is reinvested in Indonesia, the said income shall be exempted from imposition of Income Tax as referred to in paragraph (1).
- (3) Exemption from imposition of Income Tax as referred to in paragraph (2) shall be granted if a Permanent Establishment's all Taxable Incomes After Deduction of Income Tax are reinvested in Indonesia in the form of:
 - a. capital participation in a company newly established and domiciled in Indonesia as the founder or founder participant;
 - b. capital participation in a company already established and domiciled in Indonesia as the shareholder;
 - c. purchase of fixed assets used by the Permanent Establishment to run the business of Permanent Establishment or to perform the activity of Permanent Establishment in Indonesia; or
 - d. investment in the form of intangible assets by the Permanent Establishment to run the business of Permanent Establishment or to perform the activity of Permanent Establishment in Indonesia.

Article 2

- (1) A Permanent Establishment's All Taxable Incomes After Deduction of Income Tax reinvested in Indonesia and



MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA

exempted from imposition of Income Tax as referred to in Article 1 paragraph (3) should comply with the following requirements:

- a. reinvestment in Indonesia should be made no later than the end of the next Tax Year, after Tax Year in which the said income has been earned for the related Permanent Establishment; and
 - b. the related Permanent Establishment shall deliver a written notification concerning capital investment form, reinvestment realization which has been made and/or commencement of commercial production for the company newly established, to the Head of Tax Office where the Tax Payer is registered.
- (2) For reinvestment in Indonesia in the form of capital participation as referred to in Article 1 paragraph (3) point a, in addition to requirements as referred to in paragraph (1), it should also comply with the following requirements:
- a. a company newly established and domiciled in Indonesia has actively performed business activities in accordance with its deed of establishment, at least one (1) year from the establishment of the company; and
 - b. the related Permanent Establishment may not conduct any transfer of capital participation within at least two (2) years from the commercial production of the said new company.
- (3) For reinvestment in Indonesia in the form of capital participation as referred to in Article 1 paragraph (3) point b, in addition to requirements as referred to in paragraph (1), it should also comply with the following requirements:
- a. a company already established and domiciled in Indonesia has active business activities in Indonesia; and
 - b. the related Permanent Establishment may not conduct any transfer of capital participation within at least three (3) years from the capital participation.
- (4) For reinvestment in Indonesia in the form of:
- a. purchase of assets as referred to in Article 1 paragraph (3) point c; or
 - b. investment in the form of intangible assets as referred to in Article 1 paragraph (3) point d,



MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA

in addition to requirements as referred to in paragraph (1), the related Permanent Establishment may not conduct any transfer for purchase of fixed assets or transfer for investment of intangible assets, within at least three (3) years from the acquisition of fixed assets or investment of intangible assets related.

- (5) In case that the requirements as referred to in paragraph (1), paragraph (2), paragraph (3), and paragraph (4) are not complied with, upon the related Permanent Establishment's Taxable Income After Deduction of Income Tax, it shall be subject to Income Tax as referred to in Article 1 paragraph (1), calculated from the acquisition of the concerned Taxable Income and shall be subject to sanctions in accordance with the provisions of prevailing taxation laws.

Article 3

- (1) A Taxpayer of Permanent Establishment conducting the reinvestment of all Taxable Incomes after deduction of income tax in Indonesia as referred to in Article 1 paragraph (3) shall be obliged to deliver a written notification concerning the capital investment form to the Head of Tax Office where the Taxpayer is registered, by enclosing it in the Annual Tax Return for Tax Year in which the concerned incomes are received or earned.
- (2) The Tax Payer of Permanent Establishment as referred to in paragraph (1) shall be obliged to deliver a written notification concerning the reinvestment realization which has been conducted, to the Head of Tax Office where the Tax Payer is registered, by enclosing it in the Annual Tax Return for Tax Year when the reinvestment realization is conducted.
- (3) The notification as referred to in paragraph (2) shall include at least the following matters:
- a. the amount of the Permanent Establishment's Taxable Income After Deduction of Income Tax and the Tax Year concerned; and
 - b. reinvestment form, the amount of reinvestment realization and Tax Year when the reinvestment realization is conducted.

Article 4

- (1) A Tax Payer of Permanent Establishment conducting the reinvestment of all Taxable Incomes After Deduction of Income



MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA

Tax in Indonesia as referred to in Article 1 paragraph (3) point a shall be obliged to deliver a written notification concerning the commencement of commercial production.

- (2) The commencement of commercial production as referred to in paragraph (1) is when the company newly established has started to produce goods for sale for manufacturing companies or when the company starts to conduct the sales of goods and/or services for companies other than manufacturing companies.
- (3) Decision concerning the commencement of commercial production as referred to in paragraph (1) shall be stipulated by the Head of Tax Office where the Tax Payer of Permanent Establishment is registered, on behalf of Director General of Taxation based on research results of the said Tax Office, not later than six (6) months after the Tax Payer of Permanent Establishment has delivered a written notification concerning the commencement of commercial production.
- (4) Stipulation concerning the commencement of commercial production as referred to in paragraph (3) shall be conducted based on the real situation with respect to the commencement of commercial production conveyed by the concerned Tax Payer of Permanent Establishment.
- (5) If the period of time as referred to in paragraph (3) has elapsed and Director General of Taxation has not issued a decision concerning the commencement of commercial production, then the commencement of commercial production shall be based on the written notification delivered by the concerned Tax Payer of Permanent Establishment.

Article 5

In the event that the holding company of the Tax Payer of Permanent Establishment is a domestic tax payer of a state which already has a Double Taxation Avoidance Agreement with Indonesia, the amount of tariff to calculate the Income Tax as referred to in Article 1 paragraph (1) shall be determined in the applicable Double Taxation Avoidance Agreement.

Article 6

In the event that the business income received or earned by the Tax Payer of Permanent Establishment is subject to final Income Tax, the base for the imposition of Income Tax as referred in Article 1 paragraph (1) shall be Taxable Income calculated on the



MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA

basis of bookkeeping of which fiscal correction has been made, reduced by the amount of final Income Tax.

Article 7

The procedures for the written notification by the Tax Payer of Permanent Establishment as referred to in Article 3 and Article 4 paragraph (1) shall be further regulated by Regulation of Director General of Taxation.

Article 8

With the enactment of this Regulation of the Minister of Finance, then Regulation of the Minister of Finance Number 257/PMK. 03/2008 concerning Taxation Treatment on a Permanent Establishment's Taxable Income After Deduction of Income Tax shall be revoked and declared null and void.

Article 9

This Regulation of the Minister of Finance shall come into force on the date of its promulgation.

For public cognizance, this Regulation of the Minister of Finance shall be promulgated by placing it in State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

On January 24, 2011

MINISTER OF FINANCE

Signed,

AGUS D.W. MARTOWARDOJO

Promulgated in Jakarta

On January 24, 2011

MINISTER OF LAW AND HUMAN RIGHTS

Signed

PATRIALIS AKBAR

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2011 NUMBER 33

Issued for Certified True Copy

HEAD OF THE GENERAL AFFAIRS BUREAU

For

HEAD OF THE MINISTERIAL ADMINISTRATIVE DIVISION

GIARTO



MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA

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