

taxBlitz

Tax & Customs Update

Otoritas Pajak Pertegas Aturan Pemanfaatan *Tax Treaty*

Direktorat Jenderal Pajak mempertegas ketentuan pemanfaatan Persetujuan Penghindaran Pajak Berganda (P3B) atau *tax treaty* dengan menerbitkan Peraturan Direktur Jenderal (Perdirjen) Pajak Nomor PER-10/PJ/2017 pada 19 Juni 2017.

Beleid tersebut menggantikan Perdirjen Pajak Nomor PER-61/PJ/2009 tentang Tata Cara Penerapan P3B, sebagaimana telah diubah dengan PER-24/PJ/2010. Selain itu, peraturan ini juga memasukan substansi Perdirjen Pajak Nomor 62/PJ/2009 tentang Pencegahan Penyalahgunaan Persetujuan P3B yang telah diubah dengan Perdirjen Pajak Nomor PER-25/PJ/2010.

Dengan terbitnya Perdirjen Pajak Nomor PER-10/PJ/2017, secara otomatis Perdirjen Pajak Nomor PER-61/PJ/2009 yang telah diubah dengan PER-24/PJ/2010 dan PER-62/PJ/2009 yang telah diubah dengan PER-25/PJ/2010 dicabut dan dinyatakan tidak berlaku lagi per 1 Agustus 2017.

Beneficial Owner

Dalam peraturan P3B yang baru terdapat penambahan jenis subjek pajak luar negeri, yakni dana pensiun. Selain itu, Perdirjen Pajak Nomor PER-10/PJ/2017 juga mempertegas ketentuan mengenai penerima manfaat yang sesungguhnya atas penghasilan (*beneficial owner*), yang sebelumnya diatur dalam Perdirjen Pajak Nomor PER-25/PJ/2010. Penegasannya adalah WPLN yang memenuhi ketentuan sebagai *beneficial owner* tidak boleh bertindak sebagai agen, *nominee*, atau *conduit*.

Khusus untuk WPLN Badan, ada sejumlah ketentuan *beneficial owner* yang dipersyaratkan dan harus diklarifikasi dalam formulir DGT-1, yakni:

1. mempunyai kendali untuk menggunakan atau menikmati dana, aset, atau hak yang mendatangkan penghasilan dari Indonesia;
2. tidak lebih dari 50% penghasilan badan digunakan untuk memenuhi kewajiban kepada pihak lain;
3. menanggung risiko atas aset, modal atau kewajiban yang dimiliki; dan

4. tidak mempunyai kewajiban baik tertulis maupun tidak tertulis untuk meneruskan sebagian atau seluruh penghasilan yang diterima dari Indonesia kepada pihak lain.

Surat Keterangan Domisili (SKD)

DJP juga menambahkan sejumlah persyaratan bagi WPLN terkait SKD yang memenuhi persyaratan administrasi, antara lain **Certificate of Residence** sebagai pengganti penandasahan SKD oleh pejabat yang berwenang. Untuk itu, WPLN wajib mencantumkan dalam form DGT-1 paling sedikit informasi mengenai **nama WPLN, tanggal penerbitan, dan tahun pajak berlakunya Certificate of Residence**.

Persyaratan Administratif SKD Lama	Persyaratan Administratif SKD Baru
<ul style="list-style-type: none">• menggunakan bahasa Inggris;• diterbitkan pada atau setelah tanggal 1 Januari 2010;• berupa dokumen asli atau dokumen fotokopi yang telah dilegalisasi oleh Kantor Pelayanan Pajak tempat salah satu Pemotong/Pemungut Pajak terdaftar sebagai Wajib Pajak;• sekurang-kurangnya mencantumkan informasi mengenai nama WPLN; dan• mencantumkan tanda tangan pejabat yang berwenang, wakilnya yang sah, atau pejabat kantor pajak yang berwenang di negara mitra P3B atau tanda yang setara dengan tanda tangan sesuai dengan kelaziman di negara mitra P3B dan nama pejabat dimaksud dalam persyaratan administratif SKD baru.	<ul style="list-style-type: none">• menggunakan bahasa Inggris;• diterbitkan pada atau setelah tanggal 1 Januari 2010;• berupa dokumen asli atau dokumen fotokopi yang telah dilegalisasi oleh Kantor Pelayanan Pajak tempat salah satu Pemotong/Pemungut Pajak terdaftar sebagai Wajib Pajak;• paling sedikit informasi mengenai nama WPLN, tanggal penerbitan, dan tahun pajak berlakunya <i>Certificate of Residence</i>; dan• mencantumkan tanda tangan pejabat yang berwenang, wakilnya yang sah, atau pejabat kantor pajak yang berwenang di negara mitra P3B atau tanda yang setara dengan tanda tangan sesuai dengan kelaziman di negara mitra P3B.

Tax Refund

Ketentuan mengenai pengembalian kelebihan pembayaran/pemotongan atas pajak yang tidak seharusnya terutang (refund) juga mengalami penyesuaian dan relatif lebih lunak bagi WPLN. Apabila selama ini keterlambatan penyerahan SKD tidak dipertimbangkan dalam penetapan P3B, maka terhitung per 1 Agustus 2017 SKD yang telat dilaporkan tetap bisa digunakan dalam proses pengembalian kelebihan pemotongan pajak yang tidak seharusnya terutang.

Selain itu, WPLN juga bisa memanfaatkan P3B melalui mekanisme *Mutual Agreement Procedure* (MAP), dalam hal pemotong pajak tidak menggunakan P3B atau tidak menyampaikan SPT Masa. Sejalan dengan itu, maka format formulir DGT-1 dan DGT-2 mengalami penyesuaian.



CERTIFICATE OF DOMICILE OF NON RESIDENT
FOR INDONESIA WITHHOLDING TAX

Formulir DGT-1

Guidance :

This form is to be completed by a person (which includes a body of a person, corporate or non corporate) :

- who is a resident of a country which has concluded a Double Taxation Convention (DTC) with Indonesia, and
- who claims relief from Indonesia Income Tax in respect of the following income earned in Indonesia (dividend, interest, royalties, income from rendering services, and other income) subject to withholding tax in Indonesia.

Do not use this form for :

- a banking institution, or
- a pension fund, or
- a person who claims relief from Indonesia Income Tax in respect of income arises from the transfer of bonds or stocks which traded or registered in Indonesia stock exchange and earned the income or settled the transaction through a Custodian in Indonesia, other than interest and dividend.

All particulars in the form are to be properly furnished, and the form shall be signed as completed. This form must be certified by the Competent Authority or his authorized representative or authorized tax office in the country where the income recipient is a tax resident before submitted to Indonesian withholding agent.

NAME OF THE COUNTRY OF INCOME RECIPIENT : _____ # _____

Part I INCOME RECIPIENT

Tax ID Number : _____

Name : _____

Full address : _____

Contact Number : _____ email : _____

Part IV INDONESIA WITHHOLDING AGENT

Tax ID Number : _____

Name : _____

Full address : _____

Contact Number : _____ email : _____

Part II DECLARATION BY THE INCOME RECIPIENT

I, (full name) declare that I have examined the information provided in this form and to the best of my knowledge, correct, and complete. I further declare that I am this company taxpayer. (Please check the box accordingly)

Signature of the income recipient or individual authorized to sign for the income recipient _____ Place, date (mm/dd/yy) _____

Part V TO BE COMPLETED IF THE INCOME RECIPIENT IS AN INDIVIDUAL

- Name of Income Recipient : _____
- Date of birth (mm/dd/yyyy) : _____ / _____ / _____
- Full address : _____
- One of the principal purpose of the arrangements or transactions is to obtain benefit under the convention and contrary to the object and purpose of the DTC Yes No
- Are you acting as an agent or a nominee? Yes No
- Do you have permanent home in Indonesia? Yes No
- In what country do you ordinarily reside? _____
- Have you ever been resided in Indonesia? Yes No
If so, in what period? _____ / _____ / _____ to _____ / _____ / _____
Please provide the address : _____
- Do you have any office, or other place of business in Indonesia? Yes No
If so, please provide the address : _____

Part III CERTIFICATION BY COMPETENT AUTHORITY OR AUTHORIZED TAX OFFICE OF THE COUNTRY OF RESIDENCE

For the purpose of tax relief, it is hereby confirmed that the taxpayer mentioned in Part I is a resident for the period _____ for the period _____ to _____ of the fiscal year _____ the meaning of the Double Taxation Convention in accordance with Double Taxation Convention Indonesia and _____

Official Stamp (if any) _____

Name and Signature of the Competent Authority or his authorized representative or authorized tax office _____ Capacity/designation _____

Office address : _____

This form is available and may be downloaded at this website: <http://www.pajak.go.id>

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Part VI TO BE COMPLETED IF THE INCOME RECIPIENT IS NON INDIVIDUAL

- Country of registration/incorporation _____
- Which country does the place of management or control reside? _____
- Address of Head Office : _____
- Address of branches, offices, or other place of business in Indonesia (if any) : _____
- One of the principal purpose of the arrangements or transactions is to obtain benefit under the convention and contrary to the object and purpose of the DTC Yes No
- There are relevant economic motives or other valid reasons for the establishment of the foreign entity Yes No
- The entity has its own management to conduct the business and such management has an independent discretion. Yes No
- The entity has sufficient assets to conduct business other than the assets generating income from Indonesia. Yes No
- The entity has sufficient and qualified personnel to conduct the business. Yes No
- The entity has business activity other than receiving dividend, interest, royalty sourced from Indonesia. Yes No

I declare that I have examined the information provided in this form and to the best of my knowledge and belief it is true, correct, and complete.

Signature of the income recipient or individual authorized to sign for the income recipient _____ Pls _____

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Part VII TO BE COMPLETED IF THE INCOME EARNED ARE DIVIDEND, INTEREST OR ROYALTY

- The entity is acting as an agent, nominee or conduit Yes No
- The entity has controlling rights or disposal rights on the income or the assets or rights that generate the income. Yes No
- No more than 50 per cent of the entity's income is used to satisfy claims by other persons. Yes No
- The entity bear the risk on its own asset, capital, or the liability Yes No
- The entity has contract/s which obliges the entity to transfer the income received to resident of third country. Yes No

Part VIII INCOME EARNED FROM INDONESIA IN RESPECT TO WHICH RELIEF IS CLAIMED

- Dividend, Interest, or Royalties:
 - Type of income : _____
 - Amount of income liable to withholding tax under Indonesian Law : IDR _____
 - Amount of income liable to withholding tax under DTC : Amount : _____ Percentage : _____
- Income from rendering services (including professional):
 - Type of income : _____
 - Amount of income liable to withholding tax under Indonesian Law : IDR _____
 - Amount of income liable to withholding tax under DTC : Amount : _____ Percentage : _____
 - Period of engagement (mm/dd/yy) : _____ to _____
_____ to _____
_____ to _____
- Other Type of Income
 - Type of income : _____
 - Amount of income liable to withholding tax under Indonesian Law : IDR _____
 - Amount of income liable to withholding tax under DTC : Amount : _____ Percentage : _____

I declare that I have examined the information provided in this form and to the best of my knowledge and belief it is true, correct, and complete.

Signature of the income recipient or individual authorized to sign for the income recipient _____ Place, date (mm/dd/yy) _____ Capacity in which acting _____

This form is available and may be downloaded at this website: <http://www.pajak.go.id>

MINISTRY OF FINANCE OF THE REPUBLIC OF INDONESIA
DIRECTORATE GENERAL OF TAXES (FORM DGT-2)

CERTIFICATE OF DOMICILE OF NON RESIDENT FOR INDONESIA WITHHOLDING TAX

Guidance :
This form is to be completed by a person (which includes a body of a person, corporate or non corporate) who is a resident of a country which has concluded Double Taxation Convention (DTC) with Indonesia, who is :
 • a banking institution, or
 • a pension fund, or
 • a person who claims relief from Indonesia Income Tax in respect of income arises from the transfer of bonds or stocks which traded or registered in Indonesia stock exchange and earned the income or settled the transaction through a Custodian in Indonesia, other than interest and dividend.

All particulars in the form are to be properly furnished, and the form shall be signed as completed. This form must be certified by the Competent Authority or his authorized representative or authorized tax office in the country where the income recipient is a tax resident before submitted to Indonesian withholding agent/Custodian.

NAME OF THE COUNTRY OF INCOME RECIPIENT : _____ (1)

PART I INCOME RECIPIENT

Tax ID Number : _____ (2)
 Name : _____ (3)
 Full address : _____ (4)
 Contact Number : _____ (5) email : _____ (6)

PART II DECLARATION BY THE INCOME RECIPIENT

1. I declared that I am a resident of _____ (7) (name of the state of residence) for Income tax purposes within the meaning of Double Taxation Convention of both countries.
 2. In relation with the earned income, I am this company is not acting as an agent or a nominee; (Please check the box accordingly)
 3. The beneficial owner is not an Indonesian resident taxpayer and I am this company is not an Indonesian resident taxpayer, and (Please check the box accordingly)
 4. I have examined the information stated on this form and the best knowledge and belief it is true, correct and complete;

_____, (8) _____, (9) _____, (10)
 Signature of the income recipient or individual authorized to sign for the income recipient Place, date (mm/dd/yy) Capacity in which acting

PART III CERTIFICATION BY COMPETENT AUTHORITY OR AUTHORIZED TAX OFFICE OF THE COUNTRY OF RESIDENCE

For the purpose of tax relief, it is hereby confirmed that the taxpayer mentioned in Part I is a resident in _____ (11), for the period _____ (12), to _____ (13), of the fiscal year _____ (14) within the meaning of the Double Taxation Convention in accordance with Double Taxation Convention concluded between Indonesia and _____ (15).

_____, (16)
 Name and Signature of the Competent Authority or his authorized representative or authorized tax office Capacity/designation
 Office address : _____

Official Stamp (if any)

This form is available and may be downloaded at this website: <http://www.pajak.go.id>

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Formulir DGT-2

PART IV INCOME EARNED FROM INDONESIA IN RESPECT TO WHICH RELIEF IS CLAIMED

1. Dividend, Interest, or Royalties:

a. Type of income : _____ (20)
 b. Amount of income liable to withholding tax under Indonesian Law : IDR _____ (21)
 c. Amount of income liable to withholding tax under DTC :
 Amount : _____ (22) Percentage : _____ (23)

2. Income from rendering services (including professional):

a. Type of income : _____ (24)
 b. Amount of income liable to withholding tax under Indonesian Law : IDR _____ (25)
 c. Amount of income liable to withholding tax under DTC :
 Amount : _____ (26) Percentage : _____ (27)
 d. Period of engagement (mm/dd/yy) : _____ (28)
 _____ to _____
 _____ to _____
 _____ to _____

3. Other Type of Income

a. Type of income : _____ (29)
 b. Amount of income liable to withholding tax under Indonesian Law : IDR _____ (30)
 c. Amount of income liable to withholding tax under DTC :
 Amount : _____ (31) Percentage : _____ (32)

I declare that I have examined the information provided in this form and to the best of my knowledge and belief it is true, correct, and complete. _____ (33)
 Signature of the income recipient or individual authorized to sign for the income recipient Place, date (mm/dd/yy) Capacity in which acting

Official Stamp (if any)

This form is available and may be downloaded at this website: <http://www.pajak.go.id>

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