



# Tax Newsletter

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## Tax collection procedures

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## What is new?

The Indonesian Minister of Finance recently launched regulation No. 61 Year 2023 (“MoFR 61/2023”) concerning the procedures on tax collection. The regulation was issued on 9 June 2023 with enactment on 12 June 2023.

MoFR 61/2023 introduces carbon tax in the scope; enumerates the detailed process of inter-jurisdictions tax collection; allows tax installment payments in post distress warrant is issued; puts restrictions on access to public services as well as release of tax bearer’s name to interested parties where necessary, in view of reinforcing the regulation; and includes tax collection letter as one of the conditions that extend the tax statute of limitation.

In addition, it provides a broader definition of corporate tax bearers which include head of branch and board of management whose names are not documented in a company’s legal deed. It clarifies the party in order that undertakes the responsibility as tax bearer in a condition when there is change of a company’s board of management. On the other hand, such parties in order may not apply in conditions when, inter-alia, there is confiscation on tax bearer’s assets by third parties, or an indication of termination or reduction of a company’s activities in Indonesia.

The regulation revokes MoFR 189/2020 concerning the same subject, MoFR 23/2006 and MoFD 8/2002.

## Key highlights of the procedures on tax collection

MoFR 61/2023 is released as one of the implementation rules of HPP Law and GR 50/2022 which undergo several adjustments. It stipulates notable highlights below.

Carbon tax is introduced under the scope of MoFR 61/2023 in addition to the income tax, value added tax, sales tax on luxury goods, sales tax, stamp duty, land and building tax.

A distress warrant is delivered to the tax bearer by the tax bailiff by reading the content of the distress warrant. Where the respective tax bearer is not found, a distress warrant alternatively is announced in the DGT’s website or other appointed websites.

The Minister of Finance through DGT is authorized to conduct inter-government tax collection based on international agreements, namely: tax treaty, mutual convention on tax administrative assistance and other bilateral/multilateral agreements. The procedures are mainly similar to those applied domestically except that installment payments are not recognized in inter-jurisdiction tax collection process. The tax collected by the DGT will be offset against any outstanding tax liabilities in Indonesia, collection cost and other related expenses, prior to the transfer to partner jurisdiction.

Request for tax collection assistance to partner jurisdiction shall satisfy the following criteria:

- Each request for tax collection assistance shall comprise one taxpayer.
- The tax bearer is domiciled in partner jurisdiction or possess assets in partner jurisdiction.

- The tax liability is not under dispute between the tax bearer and the DGT or is binding.
- Tax collection efforts have been put in Indonesia in accordance with the prevailing regulations as mutually agreed with partner jurisdiction, however the tax bearer remains not paying tax; and
- The tax liability is not yet expired.

On the other hand, provision of tax collection assistance to partner jurisdiction shall satisfy the conditions below in addition to the criteria as outlined above.

- The tax claim is in Rupiah; and
- The tax claim is signed by the relevant authorities in the partner jurisdiction.

The inter-government tax collection assistance will be terminated in either the following conditions:

- The tax collection process is completed.
- The tax bearer's assets are not found or are being used as a guarantee against other liabilities.
- The tax collected has been delivered to the respective partner jurisdiction.
- The individual as stated in the tax document is declared bankrupt or is dead.
- The entity as stated in the tax document is declared bankrupt, dissolved, liquidated, or license terminated.
- The disputed tax is expired.

Tax installment payments are allowed in post distress warrant is issued implies the possibility to do installment payments during the process of tax confiscation, deterrence, and hostage (*gijzeling*).

Tax deterrence and tax hostage are held to the following tax bearer:

- Who has tax liability at a minimum of Rp 100 million (equals to USD 6.7 million), and
- Whose good faith in paying tax is doubtful, as indicated by the following:
  - Does not pay the tax liability at once nor by installments, despite of being reminded by distress warrant, and/or
  - Hide or transfer the assets owned or under control, including an intention to dissolve the entity upon the arising of the tax liability.

Certain measurements are put in place to reinforce the tax collection efforts. In this regard, the DGT may provide recommendation and/or request for restriction or block the tax bearer against the access to public service. Where necessary, the DGT may issue a notification letter to interested party which letter contains information of tax bearer whose name has been stated in a distress warrant.

The statute of limitation is five years however is extendable in the events of: issuance of distress warrant; there is tax acknowledgement by taxpayers, directly and indirectly; or there is an indication of tax crime.

Tax acknowledgements that extend the statute of limitation due to either the following tax actions performed by taxpayers:

- File a request for tax penalty reduction or waiver.
- File a request for a reduction or waiver of an inappropriate tax assessment letter or tax collection letter.
- File a request for a revocation of tax audit.
- File a lawsuit to tax court; and/or
- File an objection or an appeal against tax assessment letter which tax liability was not agreed by taxpayers during tax audit closing conference – *newly added*.  
This applies particularly to a tax collection letter which arises as a result and forms an integration to tax assessment letter.

The expiration of the tax collection letter is deferred until the issuance of tax objection decision letter or tax appeal decision letter.

Head of branch and board of management whose name is not documented in a company's legal deed are included as tax bearers of an entity. In a condition when there is a change in a company's board of management, tax collection will be prioritized to the management under current deed, followed by the management under past deed. Nevertheless, such priority may not apply in either condition below:

- The assets are not found;
- There is confiscation of tax bearer's assets by third parties – *newly added*;
- The tax collection is conducted immediately and at once;
- The tax disputed will be expired in less than 2 years;
- Based on data and information, there is an indication the tax bearer will leave Indonesia for good or has an intention to do so;
- There is an indication that the company will be dissolved, merged, spin-off, handed over, or any other forms of change;
- There is an indication of bankrupt and/or in a condition of bankrupt;
- There is an indication of termination or reduction of a company's activities in Indonesia – *newly added*; or
- The tax bearer can convince the relevant authority by proving his/her position that is not able to be charged for the tax liability and the related tax collection expense.

Assets under confiscation include assets of spouse and child under the custody of the tax bearer, unless of property separation agreement. MoFR 61/2023 defines property separation agreement as an agreement already registered under the relevant authority. Further, it adds motor bikes, yacht, and plane as movable assets in addition to the previous assets list.

## Key notes

Globalization not only makes it harder for tax authorities to accurately determine the correct tax liabilities of taxpayers: it also makes the collection of tax more difficult. Taxpayers may have assets throughout the world, but tax authorities generally are not able to go beyond their borders to take action to collect taxes. Indonesia together with 147 jurisdictions participate in The Convention on Mutual Administrative Assistance in Tax Matters developed by OECD and as encouraged by the G20, which outlines, inter-alia, provisions in recovery of

tax claims. The action is reflected in the HPP Law and GR 50/2022 as further implemented by the issuance of MoFR 61/2023.

*The content of this newsletter is for the purpose of general guidance on matters of interest and is not meant as advice. The implementation and impact of laws/regulations can vary widely based on the specific facts involved. Readers are advised to consult their tax advisors before making any business decisions.*

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