TaxPrime Newsletter

Transformation of Article 21 Withholding Tax Calculation Under GR-58/2023 and MoFR-168/2023

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To align with the change of income tax rate for individual taxpayers as per the Law Number 7 of 2021 regarding Harmonization of Tax Regulations (HPP Law) and to ease and simplify withholding of Income Tax on incomes earned by individuals, the Government of Indonesia has implemented two key regulations: Government Regulation Number 58 of 2023 (GR-58/2023) and Minister of Finance Regulation Number 168 of 2023 (MoFR-168/2023). GR-58/2023 introduces a notable change through the average effective tax rate (ETR), effective from January 1, 2024, for calculating Article 21 Income Tax. MoFR-168/2023 revokes the previous regulations including MoFR-252/2008 and sets forth the new guidance of withholding tax on income earned by individuals under the framework of GR-58.

Before the enactment of two regulations above, withholding Article 21 Income Tax involves complex and varying schemes as compared to other withholding income tax e.g. withholding Article 22 and 23. By those regulations, it is expected that calculating and withholding of Income Tax on incomes earned by resident and non-resident individuals will be much easier and simpler, leading to improved legal certainty, administrative efficiency, and a transparent tax environment.

There are several changes introduced in the new regulations, and this detailed overview looks into the key revisions and the impacts of this transformation.

Important Changes

A. ETR (Effective Tax Rates)

1. Monthly ETR

The new regulation introduces monthly and daily ETR for Art 21 income tax withholding. These rates are based on the individual's gross monthly or daily income and vary depending on the individual's marital status and the number of dependents.

For monthly ETR, taxpayers are classified into three categories (A, B, and C) based on their marital status and dependents, with each category having different income thresholds and corresponding tax rates..

Categories	Non-Taxable Income Status	ETR
A	Single without dependants, single with 1 (one) dependant or married without dependants.	Start from 0% for monthly gross income up to IDR 5,4 million and goes up to 34% for incomes above IDR 1,4 billion.
B	Single with 2 (two) or 3 (three) dependents, or married with 1 (one) or 2 (two) dependents	Start from 0% for monthly gross income up to IDR 6,2 million and reach 34% for incomes above IDR 1,405 billion.
C	Married with 3 (three) persons dependents	Start from 0% for monthly gross income up to IDR 6,6 million and 34% for incomes above IDR 1,419 billion.

2. Daily ETR

For incomes received on a daily, weekly, or unit-rate basis, the daily effective rate applies. This rate is 0% for daily incomes up to IDR 450,000 and 0.5% for daily incomes above IDR 450,000 up to IDR 2,500,000.

B. Tax Computation Schemes

1. Permanent Employees and Pensioners

Each tax period except for the final tax Period of the year

Article 21 Income Tax (WHT Art 21) is calculated by applying the monthly ETR to the total income received by permanent employees and pensioners in each tax period, except for the final tax period of the year.

The final tax period

In the last tax period, a reconciliation process was undertaken for WHT Art 21. This process involves a two-step calculation. The first step applies progressive tax rates to the total annual income after subtracting allowable deductions. The second step calculates the difference between the tax determined in the first step and the total monthly tax previously calculated using the ETR. This difference represents the tax amount to be withheld by employers for the last tax period. It's important to note that while the ETR simplifies monthly tax calculations, the total annual tax liability remains unchanged.

The previous regulations

Under the previous regulations, the calculation of monthly WHT Art 21 for each tax period, including the last tax period of the year, involved several steps. First, the monthly income was annualized. Then, allowable deductions and non-taxable income were subtracted from this annualized income. Finally, progressive tax rates were applied to the net annual income resulting from these deductions. This method mirrors the first step in the calculation for the final tax period as outlined under the new regulations.

2. Non-Permanent Employees

The daily ETR (0% and 5%), as outlined above, is applied to daily incomes of up to IDR 2.5 million, which are paid by employers to non-permanent employees. If daily paid income exceeds IDR 2.5 million, the tax should be calculated by applying progressive tax rates to the taxable income, which constitutes 50% of the gross income. However, if daily incomes are paid on a monthly basis, similar to the scheme for permanent employees and pensioners, the monthly ETR should be utilized instead of the daily ETR.

The previous regulations

Under the previous regulations, four distinct layers of progressive income were subject to varying tax treatments. Specifically, for daily paid incomes up to IDR 450,000, there are different terminologies used in the new and previous regulations — '0%' in the new regulations versus 'no withholding of income tax' in the previous ones. Despite this difference in phrasing, the practical impact in both cases is identical: no tax is required to be withheld for this income bracket.

3. Summary of Computation Scheme Revision

Among the various changes introduced in MoFR-168 / 2023, the most significant revisions primarily concern the computation schemes for WHT Art 21 and Art 26. These amendments affect not only permanent employees, pensioners, and non-permanent employees, as previously detailed, but also other types of income earners, with the key changes summarized as follows:

Types of Income Earners	Computation scheme	
Permanent employees and pensioners	Prior to the last tax period	Gross income x monthly ETR
	The last tax period	Annual taxable income x Art 17 tax rates (progressive)
Non-permanent employees	Daily paid in a tax period	IDR 0-2.5 million: Daily gross income x daily ETR > IDR 2.5 million: Daily gross income x 50% x Art 17 tax rates
	Monthly paid	Gross income x monthly ETR
Non-employees	Applicable per tax period or when tax is due	Gross income x 50% x Art 17 tax rates
Commissioners/supervisory board receiving irregular income	Applicable per tax period	Gross income x monthly ETR
Event participants receiving prize or incomes related to event	Applicable per tax period or when tax is due	Gross income x Art 17 tax rates
Pension program participants (with employee status)	Applicable per tax period	Gross income x Art 17 tax rates
Ex-employees	Applicable per tax period	Gross income x Art 17 tax rates
Non-resident individuals	Gross income x 20% or tax rate according to DTAA	

Impacts

A. Over Withheld of Tax

The application of the Effective Tax Rate (ETR) may lead to an over-withholding of tax. This situation occurs when the amount of WHT Art 21 withheld for each tax period prior to the last tax period a given fiscal year (where monthly ETR is applied to gross incomes), exceeds the total Income Tax Article 21 due for that entire year or part thereof. In this case, the excess withheld tax must be refunded by the withholding agent to the permanent employees and pensioners. This refund, along with the issuance of the Income Tax Article 21 withholding slip, must be completed no later than the end of the month following the final tax period.

Additionally, if there is an overpayment of tax in a certain tax period by the withholding agent (or employer), this excess can be carried forward to offset WHT Art 21/WHT Art 26 due in the subsequent month, as reported in the Monthly Tax Returns. Furthermore, the compensation of any overpayment of tax in the following months, does not require these months to be consecutive.

These procedures are stipulated in MoFR-168 / 2023 provisions, indicating the Government' awareness that the ETR implementation may result in over withholding of tax. Inevitable divergence between the annual computation of tax liability and monthly computation using ETR is likely the possible cause of this over withholding of tax. Moreover, this discrepancy is likely to arise in certain conditions such as combination of regular and irregular income e.g. the religious holiday allowance and bonus paid in a particular tax period. This excess withholding may recur in subsequent years. Employers need to be aware of this, as they may frequently experience overpayment in the final tax periods and are required to refund any over withholding of tax to their employees. However, the option available to employers for claiming overpayment is limited to offsetting it against tax liabilities in the subsequent tax periods.

B. Potential Reduction of Usual Take Home Pay

Both employees and employers may need to consider that the impact of ETR implementation can reduce the usual take home pay of employees.

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