

## STATUS QUO: INVESTIGATION OF TAX CRIMES

MOF REGULATION 17/2025

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## A Background

Tax is a mandatory contribution to the state that is coercive in nature, based on law, without direct compensation. The tax revenue collected is used to finance state expenditures for the greatest welfare of the people, as stipulated in Article 1 of Law Number 28 of 2007 as last amended by Law Number 7 of 2021 concerning General Provisions and Tax Procedures (“General Taxation Provisions Law”).

To ensure the effective enforcement of tax law, the government has issued Minister of Finance Regulation Number 17 of 2025 concerning the Investigation of Criminal Acts in the Field of Taxation (“MoF Regulation 17/2025”). This new regulation provides a more comprehensive elaboration on the procedures for conducting investigations, up to the termination of investigations into tax crimes.

## B Tax Crime Provisions: Three Tiers of Penalties

Type of Crime	Penalty	Acts Classified	Notes
<b>Tier 1:</b>  Negligence in Fulfilling Tax Obligations  <b>(Article 38 of the General Taxation Provisions Law)</b>	<ul style="list-style-type: none"> <li>The penalty shall be imposed at a minimum of onefold and a maximum of twofold of the unpaid or underpaid tax liability; or</li> <li>Detention for a duration of 3 to 12 months.</li> </ul>	<ul style="list-style-type: none"> <li>Failure to submit the Tax Return (Surat Pemberitahuan or SPT); or</li> <li>Submitting a Tax Return (Surat Pemberitahuan or SPT) containing false or incomplete information, or attaching incorrect statements.</li> </ul>	The element of <b>“negligence”</b> indicates that the taxpayer does not intend to commit a violation, but can still be subject to sanctions if proven negligent in fulfilling their tax obligations.
<b>Tier 2:</b>  Tax Crimes Committed Intentionally  <b>(Article 39 of the General Taxation Provisions Law)</b>	<ul style="list-style-type: none"> <li>Prison sentence: 6 months – 6 years; and</li> <li>The penalty shall be imposed at a minimum of twofold and a maximum of fourfold of the unpaid or underpaid tax liability</li> </ul>	<ul style="list-style-type: none"> <li>Failure to register for a Taxpayer Identification Number (NPWP) or failure to report business activities</li> <li>Misuse of NPWP or Taxable Entrepreneur status (“PKP”)</li> <li>Failure to submit, or submission of false/incomplete Tax Returns (SPT) or information</li> <li>Refusal to undergo a tax audit or examination</li> <li>Presenting or using forged documents</li> <li>Failure to organize, display, or maintain bookkeeping/records</li> <li>Failure to deposit taxes that have been withheld or collected</li> </ul>	The element of <b>“intent”</b> indicates the presence of a deliberate intention to commit actions in violation of tax law, thus resulting in significantly more severe penalties compared to negligence.
<b>Tier 3:</b>  Misuse of Tax Documents  <b>(Article 39A of the General Taxation Provisions Law)</b>	<ul style="list-style-type: none"> <li>Prison sentence: 2-6 years; and</li> <li>The penalty shall be imposed at a minimum of twofold and a maximum of sixfold of the tax amount contained in the misused documents.</li> </ul>	<ul style="list-style-type: none"> <li>Issuing or using invoices or tax withholding/collection/payment receipts not based on actual transactions</li> <li>Issuing tax invoices before being legitimately registered as a Taxable Entrepreneur (PKP)</li> </ul>	<b>Misuse of tax documents</b> is considered a serious offense because it can result in significant losses to the state and undermine the integrity of the tax system.

## C Tax Crime Investigation Process

### Flow of Investigation Process for Tax Crimes In Accordance with PMK-17/2025





Tax Investigation is a follow-up action after the issuance of an Incident Report, which contains an allegation of a criminal event supported by sufficient Preliminary Evidence.

In accordance with Minister of Finance (PMK) Number 17 Year 2025, the tax investigation process consists of ten main stages:

Stage	Details
<b>1. Summon</b>	Conducted for witnesses, experts, and/or suspects using formal procedures through an official summons letter.
<b>2. Examination</b>	Involves in-depth interviews with witnesses, experts, and/or suspects to gather evidence and statements.
<b>3. Arrest and/or Detention</b>	Arrest is carried out in coordination with the Indonesian National Police. Detention is applied if there are concerns that the suspect may: <ul style="list-style-type: none"> <li>• Flee</li> <li>• Destroy or conceal evidence</li> <li>• Repeat the criminal offense</li> </ul>
<b>4. Search</b>	Includes searches of houses, persons, and other items related to the offense. Must be accompanied by: <ul style="list-style-type: none"> <li>• A search warrant</li> <li>• A permit from the local District Court Chairman</li> </ul>
<b>5. Blocking and/or Seizure</b>	Asset blocking is conducted for: <ul style="list-style-type: none"> <li>• Evidence purposes</li> <li>• Securing state loss recovery</li> </ul> Seizure is conducted on evidence and/or the suspect's assets.
<b>6. Electronic Data Handling</b>	Carried out to obtain or secure electronic evidence during the investigation process.
<b>7. Prevention</b>	Actions to prevent the suspect/witness from leaving the territory of the Republic of Indonesia if: <ul style="list-style-type: none"> <li>• There is an indication of intent to leave Indonesia</li> <li>• Their good faith in the investigation process is in doubt</li> </ul>
<b>8. Suspect Determination</b>	Performed with the following requirements: <ul style="list-style-type: none"> <li>• At least two pieces of evidence are available</li> <li>• The individual has been examined as a witness beforehand</li> </ul>
<b>9. Case File Compilation and Submission to the Public Prosecutor</b>	Tax Auditor compile the official opinion report (summary) and conclusions of the investigation, and then submit: <ul style="list-style-type: none"> <li>• The case file to the Public Prosecutor</li> <li>• Responsibility over the suspect and evidence (if the file is declared complete)</li> </ul>
<b>10. Termination of Investigation</b>	Can be carried out if: <ul style="list-style-type: none"> <li>• The Taxpayer makes a voluntary disclosure of the inaccuracy</li> <li>• There is insufficient evidence</li> <li>• The event does not constitute a criminal offense</li> <li>• For other legal considerations</li> </ul>



## D Termination of Tax Investigation: A Case Resolution Option

It is important to understand that criminal sanctions in taxation are considered *ultimum remedium* (the last resort). The primary priority is the recovery of state losses through the payment of taxes and administrative sanctions. Minister of Finance (PMK) Number 17 Year 2025 regulates the procedure for termination of investigation as follows:

### 1. Submission of Request

- The Taxpayer submits a request for termination of investigation to the Minister of Finance through the Director General of Taxes.
- The Minister of Finance submits a request to the Attorney General

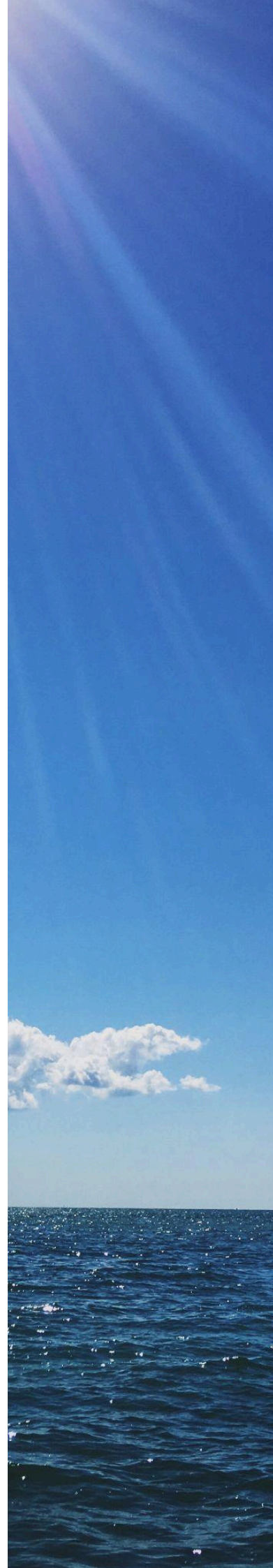
### 2. Settlement of Obligations

The Taxpayer must fully settle all tax obligations, consisting of:

- The principal amount of tax due
- Administrative sanctions in accordance with the category of violation

### 3. Termination Decision

- The Attorney General issues a decision on the request for termination of investigation.
- If approved: The Minister shall notify the Taxpayer in writing, and the investigation is terminated.
- If rejected: The Minister shall notify the Taxpayer in writing, and the investigation shall continue



## Comparison of PMK 55/2016 and PMK 17/2025: New or Amended Provisions

The provisions stipulated in PMK 17/2025 refine the previous provisions in PMK 55/2016, with the following details:

Aspect	PMK 55/2016	PMK 17/2025	Article
<b>Procedures for the Implementation of Tax Crime Investigations</b>			
<b>Implementation of Tax Investigation</b>	Not regulated	<ul style="list-style-type: none"> <li>Parties authorized to conduct the investigation;</li> <li>Legal basis for conducting the investigation;</li> <li>Incident report as the basis for initiating the investigation; and</li> <li>Flow of investigation activities</li> </ul>	PMK 17/2025 Article 2 until 21
<b>Procedures for Termination of Tax Crime Investigation</b>			
<b>Payment and Penalties</b>	Principal tax loss + an administrative sanction equal to four times the amount of the tax loss	Principal tax loss + an administrative sanction equal to between one and four times the amount of the tax loss	PMK 55 /2016 Article 3 Part (1)  PMK 17/2025 Article 23 Part (1)
<b>The period for the Directorate General of Taxes (DGT) to provide a response regarding the Taxpayer's request to know the settlement amount.</b>	Not regulated	The time limit for the Directorate General of Taxes (DJP) to provide a response is no later than 1 (one) month from the date the request is received	PMK 17/2025 Article 24 Part (2)
<b>In the event that the Taxpayer makes only a partial payment</b>	Not regulated	The investigation shall continue, and the amount that has been paid may be considered as part of the settlement during the investigation process	PMK 17/2025 Article 24 Part (7)
<b>Settlement if the tax crime is committed by more than one taxpayer</b>	Not regulated	Regulated regarding the calculation of the proportion of liabilities borne by each Taxpayer	PMK 17/2025 Article 25
<b>Submission of the investigation case to the Public Prosecutor</b>	Not regulated	In terms of: <ul style="list-style-type: none"> <li>The Taxpayer does not or has not yet made the payment;</li> <li>The Directorate General of Taxes (DJP) rejects the termination of the investigation; or</li> <li>The Attorney General rejects the termination of the investigation,</li> <li>The responsibility for the case shall be transferred to the Public Prosecutor</li> </ul>	PMK 17/2025 Article 28
<b>Tax Investigation Outside Jurisdiction</b>	Not regulated	This may be carried out by making use of a mutual legal assistance (MLA) request in criminal matters.	PMK 17/2025 Article 33

# F Taxpayer Risk Mitigation Strategies

By understanding the provisions of Minister of Finance (PMK) Number 17 Year 2025, the following strategies can be implemented to mitigate the risk of tax-related criminal offenses:

## 1. Implementation of a Tax Control Framework

Establish a comprehensive tax control system to ensure compliance with all tax obligations, including:

- Formation of a tax team or appointment of a tax officer
- Development of clear tax standard operating procedures (SOP)
- Implementation of an alert system for tax deadlines

## 2. Regular Tax Due Diligence

Conduct regular internal reviews to identify potential tax risks before they are discovered in official audits:

- Annual tax reviews
- Routine tax health checks
- Proper documentation of transactions

## 3. Effective Tax Document Management

Ensure that all tax documents are well-managed and readily accessible when needed:

- Structured document filing system
- Storage of transaction evidence for at least 10 years
- Routine reconciliation between bookkeeping and tax reporting





#### 4. Consultation with Tax Experts

The involvement of professional tax consultants may be essential for the Company to:

- Obtain second opinions on complex tax treatments
- Receive preventive guidance on potential risks
- Gain support in case of disputes or audits

#### 5. Ongoing Education and Training

Ensure that your finance and tax teams receive:

- Updates on the latest tax regulations
- Training on tax aspects specific to their industries
- Socialization of penalties and consequences of non-compliance

## G Conclusion and Recommendations

Minister of Finance (PMK) Number 17 Year 2025 introduces significant changes to the procedures for investigating tax crimes, which must be well understood by every Taxpayer in Indonesia. **Key points to note related Tax Crime include:**

### 1. Categorization of Violations Based on Intent

The categorization of tax violations is heavily influenced by the presence or absence of intent. The stronger the element of intent and the greater the loss to the state, the more severe the penalties imposed.

### 2. Structured Investigation Process

Minister of Finance (PMK) Number 17 Year 2025 regulates a more structured investigation process, from summons to termination, providing greater legal certainty.



### 3. Availability of Tax Investigation Termination Options

Taxpayers can submit a request for investigation termination to the Minister of Finance via the Director General of Taxes by meeting the specified requirements.

### 4. Settlement of State Losses, Taxes, and Administrative Sanctions as a Solution

In accordance with the principle of “*ultimum remedium*”, settling state

revenue losses plus administrative penalties based on the type of violation, and paying the tax amount along with any administrative sanctions (if applicable), is key to resolving tax crime cases.

### 5. Improved Process Transparency

Minister of Finance (PMK) Number 17 Year 2025 offers better transparency in the investigation process by setting response deadlines for the Tax Auditor and clearer procedures.

## Next Steps

As a prudent Taxpayer, you should take proactive steps to ensure tax compliance and minimize the risk of tax investigations:

#### 1. Conduct a Tax Health Check

Assess your business's current tax compliance status to identify areas that need improvement.

#### 2. Consult with an Expert

Discuss risk mitigation strategies with a tax advisor.

#### 3. Enhance Documentation Systems

Improve your company's tax documentation system to ensure the availability of adequate evidence.

#### 4. Plan Preventive Actions

Implement risk mitigation measures to prevent potential tax violations in the future.



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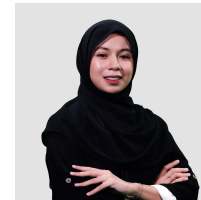
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## For More Insights about PMK-17, Watch DIAJAK Podcast

This episode delivers a comprehensive analysis of provisions outlined on **PMK-17/2025** regarding investigative procedures for tax crimes. Learn the fundamentals of what constitutes tax crimes, how investigations unfold, and compliance measures to protect your business from penalties under this new regulatory update.



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