

June 2023

Tax Update

Tax Update: Minister of Finance Regulation Number 61 of 2023 regarding the Procedures for the Implementation of Tax Collection on the Amount of Tax Debt

Adjustment of Tax Collection Procedures on the Amount of Tax Debt

The Ministry of Finance issued Minister of Finance Regulation Number 61 of 2023 (MoFR 61) regarding the Procedures for the Implementation of Tax Collection on the Amount of Tax Debt. MoFR 61 is issued to adjust the provisions regarding Tax Collection Assistance based on Law Number 7 of 2021 concerning the Harmonization of Tax Regulations (HPP Law). MoFR 61 replaces Minister of Finance Regulation Number 189/PMK.03/2020¹ and is effective from June 12, 2023.

¹ Minister of Finance Regulation Number 189/PMK.03/2020 regarding the Implementation Procedures for Tax Collection

In MoFR 61, it is explained that Tax Collection Assistance is a facility provided in International Agreements that can be utilized by the Government of Indonesia and Partner Country Governments or Jurisdictions reciprocally for conducting tax debt collection administered by the Director General of Taxes or tax authorities of the Partner Country or Partner Jurisdiction (hereinafter referred to as Partner Countries).

The implementation of Tax Collection Assistance includes the request and provision of Tax Collection Assistance based on International Agreements, including:

- a. Double Taxation Avoidance Agreements;
- b. Conventions on Mutual Administrative Assistance in Tax Matters²; or
- c. Other bilateral or multilateral agreements.

The implementation of tax collection assistance requests and provisions is carried out based on a written agreement between the Directorate General of Taxes (DGT) and authorized officials in the Partner Countries.

The table below lists down series of Tax Collection procedures:

Deadline	Collection Actions
After 7 days from the Tax Payables due date	Issuance of Warning Letter
After 21 days from the Warning Letter delivery date	Issuance of Distress Warrant
After 2x24 hours from the Distress Warrant notification date	Confiscation
After 14 days from the Confiscation date	Auction announcement
After 14 days from the auction announcement date	a. Sale of confiscated goods through the state auction office; or b. Utilization, sale, and/or transfer of confiscated goods.

² Not included in the previous Minister of Finance Regulation

Request for Tax Collection Assistance

In an effort to obtain payment for Tax Payables and Tax Collection Costs, DGT may submit a request for Tax Collection Assistance to authorized officials in the Partner Countries. Such request may only include the identity of one Tax Bearer (Penanggung Pajak) located in the Partner Countries or possessing assets in the Partner Countries.

The requirements that must be met in every request for Tax Collection Assistance are as follows: the Tax Payables in question are not under dispute, the tax collection actions have been taken in Indonesia, and the right to pursue Tax Collection has not yet expired.

The request for Tax Collection Assistance should include the following information:

- a. The amount of Tax Payables and Tax Collection Costs;
- b. The identity of the Tax Bearer, including the name, Tax Bearer's identification number, and Tax Bearer's address;
- c. Explanation of the tax collection actions that have been taken;
- d. The requested tax collection actions to be performed;
- e. A list of the Tax Bearer's assets located in the territory of the Partner Countries in the case of a request for Tax Collection Assistance involving confiscation and/or sale of confiscated assets;
- f. The expiration date of the right to pursue Tax Collection for the Tax Payables; dan
- g. Other government account numbers.

In the event of a request for Tax Collection Assistance in the form of Distress Warrant notification, Confiscation, sale of confiscated assets, Prevention, Detainment, or equivalent tax collection actions in the Partner Countries, an Official Report of Distress Warrant must be attached.

Any changes in information or data related to the request for Tax Collection Assistance, such as partial reduction of the Tax Payables amount, addition of assets list owned by the Tax Bearer, modification of the tax collection expiration date, or changes in Other Government Account numbers, should be notified written by DGT to the authorized officials in the Partner Countries.

However, DGT may terminate the request for Tax Collection Assistance under two circumstances:

- a. If there is a request for Tax Payables Review that is undergoing the process of requesting Tax Collection Assistance.
- b. If there is a payment, reduction, or cancellation of the Tax Payables that is undergoing the process of requesting Tax Collection Assistance, resulting in no outstanding tax amount by the Tax Bearer.

Provisions of Tax Collection Assistance

DGT has the authority to provide Tax Collection Assistance based on the Tax Claim submitted by the Partner Countries. This Tax Claim serves as a legal instrument issued by the Partner Countries as the basis for requesting Tax Collection Assistance from DGT.

The Tax Claim contains information regarding the amount requested by the Partner Countries, which includes the principal outstanding tax amounts, imposed penalties, and the collection costs determined by the Partner Countries. The Tax Claim serves as the basis for DGT in carrying out the tax collection process in accordance with the applicable regulations.

There are 8 provisions that must be included in the Tax Claim as follows:

- a. Tax Claim reference number;
- b. Tax Claim Amount;
- c. Identity of the Tax Bearer for the Tax Claim, including name, identification number, and Tax Bearer's address;

- d. Explanation of the tax collection actions that have been taken in the Partner Countries;
- e. Requested tax collection actions to be performed;
- f. List of assets owned by the Tax Bearer for the Tax Claim in Indonesia, in case the requested Tax Collection Assistance involves Confiscation and/or sale of confiscated assets.
- g. Expiration date of the right to pursue Tax Collection of the Tax Claim Amount in the Partner Countries; and
- h. Destination Account Number to send the result of Tax Collection Assistance of the Tax Claim.

Based on the Tax Claim, DGT will conduct an examination of the information or data conformity that must be included in the Tax Claim and the criteria applied in providing Tax Collection Assistance. The results of this examination allow DGT to accept or reject the Tax Claim submitted by the Partner Countries. If the Tax Claim is accepted, DGT will issue an approval letter to provide Tax Collection Assistance. However, if the Tax Claim is rejected, DGT will issue a notification letter stating the rejection of providing Tax Collection Assistance.

Each provision of Tax Collection Assistance only includes one identity of the Tax Bearer for the Tax Claim located in Indonesia or possessing assets in Indonesia, the Tax Claim is not under dispute, tax collection actions have been taken in the Partner Countries, and the right to pursue Tax Collection of the Tax Claim Amount has not yet expired.

In addition, for the provision of Tax Collection Assistance in the form of Distress Warrant notification, Confiscation, sale of confiscated assets, Prevention, and/or Detainment, the Partner Countries must attach documents that are equivalent to an Official Report of Distress Warrant.

The authorized officials in the Partner Countries may notify changes to the information contained in the Tax Claim, including partial reduction of the Tax Claim Amount and addition of the assets list owned by the Tax Bearer, provided no later than 1 year before the expiration date. However, changes to the expiration date of tax collection

and the destination account number to send the result of Tax Collection Assistance of the Tax Claim must be notified no later than 14 days before the expiration date.

- a. If the Partner Countries request the termination of Tax Collection Assistance, DGT will terminate providing Tax Collection Assistance of the Tax Claim that is undergoing the tax collection process. Subsequently, DGT will provide written notification regarding the termination of Tax Collection Assistance to the Tax Bearer of the Tax Claim and/or the authorized officials in the Partner Countries.



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