

REGULATION OF THE MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA
NUMBER 93/PMK.03/2019

ON

AMENDMENT TO REGULATION OF THE MINISTER OF FINANCE NUMBER
107/PMK.03/2017 ON DETERMINATION OF THE TIMING WHEN DIVIDENDS ARE
ACCRUED TO AND THE CALCULATION BASIS BY RESIDENT TAXPAYERS ON
THEIR EQUITY PARTICIPATION IN CONTROLLED FOREIGN COMPANIES OTHER
THAN COMPANIES WHOSE SHARES ARE LISTED IN STOCK EXCHANGE

BY THE BLESSINGS OF ALMIGHTY GOD

MINISTER OF FINANCE OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that the provisions on determination of the timing when dividends are accrued to resident Taxpayers on their equity participation in controlled foreign companies other than companies whose shares are listed in stock exchange have been regulated in the Regulation of the Minister of Finance Number 107/PMK.03/2017 on Determination of the Timing when Dividends are Accrued to Resident Taxpayer on Their Equity Participation in Controlled Foreign Companies other than Companies whose Shares are Listed in Stock Exchange;
 - b. that in order to encourage transparency, to provide legal certainty and justice in taxation for resident Taxpayers who have equity participation in controlled foreign companies other than companies whose shares are listed in stock exchange, it is necessary to amend the provisions on determination of the timing when dividends



are accrued to resident Taxpayers for their equity participation in controlled foreign companies other than companies whose shares are listed in stock exchange as referred to in point a;

- c. that based on the considerations as referred to in point a and point b, it is necessary to issue Regulation of the Minister of Finance on Amendment to Regulation of the Minister of Finance Number 107/PMK.03/2017 on Determination of the Timing when Dividends are Accrued to and the Calculation Basis by Resident Taxpayer on Their Equity Participation in Controlled Foreign Companies other than Companies whose Shares are Listed in Stock Exchange;

Observing : Regulation of the Minister of Finance Number 107/PMK.03/2017 on Determination of the Timing when Dividends are Accrued to and the Calculation Basis by Resident Taxpayer on Their Equity Participation in Controlled Foreign Companies other than Companies whose Shares are Listed in Stock Exchange (State Bulletin of the Republic of Indonesia of 2017 Number 1043);

HAS DECIDED:

To Issue : REGULATION OF THE MINISTER OF FINANCE ON AMENDMENT OF REGULATION OF THE MINISTER OF FINANCE NUMBER 107/PMK.03/2017 ON DETERMINATION OF THE TIMING WHEN DIVIDENDS ARE ACCRUED TO AND THE CALCULATION BASIS BY RESIDENT TAXPAYERS ON THEIR EQUITY PARTICIPATION IN CONTROLLED FOREIGN COMPANIES OTHER THAN COMPANIES WHOSE SHARES ARE LISTED IN STOCK EXCHANGE.

Article I

Several provisions in Regulation of the Minister of Finance Number 107/PMK.03/2017 on Determination of the Timing when Dividends are Accrued to and the Calculation Basis by

Resident Taxpayer on Their Equity Participation in Controlled Foreign Companies other than Companies whose Shares are Listed in Stock Exchange are amended as follows:

1. The provision of Article 2 is amended by inserting 3 (three) sections between section (3) and section 4, namely section (3a), section (3b), and section (3c), so that Article 2 reads as follows:

Article 2

- (1) A resident Taxpayer who:
 - a. owns direct equity participation at least 50% (fifty percent) of the amount of paid in capital of the Non-Listed FC; or
 - b. together with other resident Taxpayer owns direct equity participation at least 50% (fifty percent) of the amount of paid in capital of the Non-Listed FC,
is determined to own direct control over the Non-Listed FC.
- (2) Non-Listed FC which is directly controlled by the Taxpayer as referred to in section (1) is a directly controlled Non-Listed FC.
- (3) Resident Taxpayer as referred to in section (1) is deemed to accrue Deemed Dividend on its direct equity participation to a directly controlled Non-Listed FC.
- (3a) Deemed Dividend as referred to in section (3) comes from certain income of controlled Non-Listed FC which includes income as follows:
 - a. dividends, except dividends received and/or accrued from controlled Non-Listed FC;
 - b. interest, except interest received and/or accrued by controlled Non-Listed FC owned by resident Taxpayers who have a bank business license;
 - c. rent in the form of:
 - 1) rent received and/or accrued by controlled Non-Listed FC in connection with the use of land and/or building; and

- 2) rent other than rent as referred to point 1) received and/or accrued by controlled Non-Listed FC coming from transactions with party that has a special relationship with the controlled Non-Listed FC;
 - d. royalty; and
gain from sale or alienation of assets.
 - (3b) Excluding the exempted interest as referred to in section (3a) sub-section b, interest received and/or accrued by controlled Non-Listed FC coming from direct or indirect transaction with resident Taxpayers who have a special relationship with the controlled Non-Listed FC.
 - (3c) Special relationship as referred to in section (3a) sub-section c point 2) and section (3b) is a special relation as regulated in Income Tax Law.
 - (4) The amount of direct equity participation as referred to in section (1) is determined at the end of Tax Year of resident Taxpayer.
 - (5) The determination of the amount of direct equity participation in a directly controlled Non-Listed FC is conducted in accordance with the examples attached in Annex A as an integral part of this Ministerial Regulation.
2. The provisions of section (2), section (3), section (7) and section (9) Article 4 are amended, so that Article 4 reads as follows:

Article 4

- (1) The amount of Deemed Dividend is calculated by multiplying the percentage of the resident Taxpayer's equity participation in directly controlled Non-Listed FC with the imposition basis of Deemed Dividend.
- (2) The imposition basis of Deemed Dividend as referred to in section (1) is the net amount after tax on certain income of the directly controlled Non-Listed FC as referred to in Article 2 section (3).
- (3) In the case of the resident Taxpayer owns direct control over directly controlled Non-Listed FC and owns indirect control over indirectly controlled Non-Listed FC, the imposition basis of Deemed Dividend as referred to in section (1) is:

- a. the net amount after tax on certain income of the directly controlled Non-Listed FC; and
 - b. the net amount after tax on certain income of the indirectly controlled Non-Listed FC multiplied with the percentage of directly controlled Non-Listed FC equity participation on the indirectly controlled Non-Listed FC.
- (4) Indirectly controlled Non-Listed FC as referred to in section (3) sub-section b is a Non-Listed FC which is indirectly controlled by the resident Taxpayer through:
- a. directly controlled Non-Listed FC; or
 - b. directly controlled Non-Listed FC and indirectly controlled Non-Listed FC in the previous layer of equity participation,
- with equity participation amounting to 50% (fifty percent) or more of the amount of the respective paid in capital in every layer of equity participation.
- (5) The definition of indirectly controlled Non-Listed FC as referred to in section (4) is included Non-Listed FC of which 50% (fifty percent) or more of the amount of its paid in capital, jointly owned by:
- a. the resident Taxpayers and:
 - 1) directly controlled Non-Listed FC; and/or
 - 2) indirectly controlled Non-Listed FC
 - b. the resident Taxpayers and other resident Taxpayers through a directly controlled Non-Listed FC and/or indirectly controlled Non-Listed FC; or
 - c. directly controlled Non-Listed FC and/or indirectly controlled Non-Listed FC.
- (6) The determination of the amount of equity participation as referred to in section (4) is determined at the end of Tax Year for controlled Non-Listed FC that ends in the Tax Year for the resident Taxpayer.
- (7) In the case of the indirectly controlled Non-Listed FC is jointly owned as referred to in section (5) point a, the amount of Deemed Dividend is calculated with the following method:

- a. if the participation in indirectly controlled Non-Listed FC is through a directly controlled Non-Listed FC and/or indirectly controlled Non-Listed FC, it is calculated in accordance with the provisions as referred to in paragraph (1); and
 - b. if the direct participation of the resident Taxpayer in the directly controlled Non-Listed FC, it is calculated by multiplying the equity participation of the resident Taxpayer by the net amount after tax on certain income of the indirectly controlled Non-Listed FC.
- (8) In the case of equity participation in Non-Listed FC is conducted through a foreign trust or other similar entities, the equity participation is considered conducted by the party committing equity participation.
- (9) The net amount after tax on certain income as referred to in section (2) is the gross amount on certain income after deducted:
- a. expenses to earn, to collect, and to secure the certain income; and
 - b. the portion of payable, paid or withheld income tax on certain income, in the case of income tax that is payable, paid or withheld on that certain income.
- (10) The calculation of the amount of Deemed Dividend, the calculation of Income Tax payable on Deemed Dividend, and the determination of the amount of indirect equity participation are conducted in accordance with the examples attached in Annex A as an integral part of this Ministerial Regulation.
- (11) The amount of Deemed Dividend as referred to in section (1) must be reported by the resident Taxpayer in the Annual Income Tax Return in the Tax Year of the income of the Deemed Dividend as referred to in Article 3.
3. Amending Annex A point 8, point 9 and point 10, so that it becomes as stated in the Annex which is an integral part of this Ministerial Regulation.

Article II

This Ministerial Regulation comes into effect on the Tax Year 2019.

In order that every person may know hereof, it is ordered to promulgate this Ministerial Regulation by its placement in the State Bulletin of the Republic of Indonesia

Issued in Jakarta
On 19 June 2019
MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA,

signed

SRI MULYANI INDRAWATI

Promulgated in Jakarta
on 26 June 2019

DIRECTOR GENERAL OF LEGISLATION
OF THE MINISTRY OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA

signed

WIDODO EKATJAHJANA

STATE BULLETIN OF THE REPUBLIC OF INDONESIA OF 2019 NUMBER 702

Jakarta, 14 May 2020
Has been translated as an Official Translation
on behalf of Minister of Law and Human Rights
of the Republic of Indonesia
DIRECTOR GENERAL OF LEGISLATION,

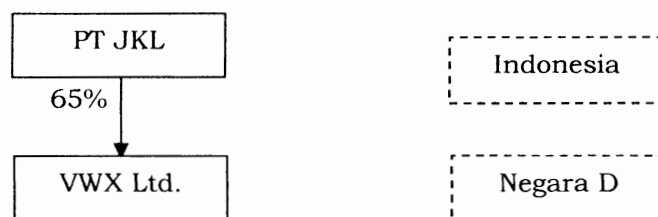

WIDODO EKATJAHJANA

ANNEX A
REGULATION OF THE MINISTER OF FINANCE OF THE
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ON
AMENDMENT TO REGULATION OF THE MINISTER OF FINANCE
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TIMING WHEN DIVIDENDS ARE ACCRUED TO AND THE
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EQUITY PARTICIPATION IN CONTROLLED FOREIGN
COMPANIES OTHER THAN COMPANIES WHOSE SHARES ARE
LISTED IN STOCK EXCHANGE

A. EXAMPLES OF DETERMINATION OF AMOUNT OF DIRECT AND
INDIRECT EQUITY PARTICIPATION, DEEMED DIVIDEND INCOME,
CALCULATION OF DEEMED DIVIDEND INCOME, CALCULATION OF
DEEMED DIVIDEND INCOME TAX, CALCULATION OF CALCULATED
DEEMED DIVIDEND WITH INCOME DIVIDEND, AND CALCULATION OF
CREDIT OF INCOME TAX OF DOMESTIC TAXPAYER FOR EQUITY
PARTICIPATION OF DIRECTLY CONTROLLED NON-LISTED FC

8. Example of the calculation of the amount of Deemed Dividend and its reporting time:

PT JKL which is a resident Taxpayer at the end of Tax Year 2018 has direct equity participation for the amount of 65% (sixty-five percent) of paid in capital of the VWX Ltd. in country D. Shares of VWX Ltd. are not listed in stock exchange.

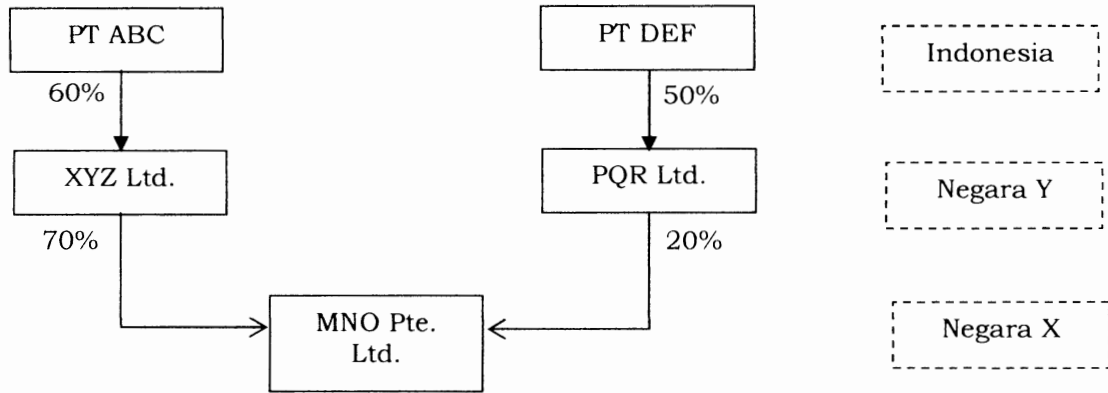


In tax year 2018, VWX Ltd. accrues certain income with a gross value of USD80,000.00. Expenses related to that certain income of USD25,000.00 and the portion of income tax related to that certain income of USD5,000.00. The VWX Ltd.'s tax year is 1 January to 31 December 2018 and the deadline for the obligation to submit annual income tax return for the tax year in that country is not later than 31 May 2019, so the timing when Deemed Dividend accrued for PT JKL of its equity participation in VWX Ltd. is on 30 September 2019. The exchange rate of US\$ to Rupiah which is applicable on 30 September 2019 is Rp11,500.00/USD.

Thus, the amount of Deemed Dividend of 2017 which is accrued by PT JKL is $65\% \times (\text{USD}80,000.00 - \text{USD}25,000.00 - \text{USD}5,000.00) =$

USD32,500.00. The Deemed Dividend reported by PT JKL is $US\$32,500.00 \times Rp11,500.00/US\$ = Rp373,750,000.00$ in Annual Income Tax Return of Tax Year 2019.

9. Example of the calculation of the amount of Deemed Dividend:



Continuing the example number 6, the tax year of XYZ Ltd., PQR Ltd., and MNO Pte. Ltd. is the same as calendar year. Then, at tax year 2018, each foreign entities accrues certain income as follows:

- a. XYZ Ltd. accrues certain income with a gross value of US\$1,750,000.00 (excluding dividend received and/or accrued from MNO Pte. Ltd.). Expenses related to that certain income of USD25,000.00 and the portion of income tax related to that certain income of USD5,000.00, so that the net amount after tax on certain income of USD1,500,000.00. There is obligation to submit annual income tax return on 30 April 2019;
- b. PQR Ltd. accrues certain income with a gross value of US\$3,300,000.00 (excluding dividend received and/or accrued from MNO Pte. Ltd.). Expenses related to that certain income of USD225,000.00 and the portion of income tax related to that certain income of USD75,000.00, so that the net amount after tax on certain income of USD3,000,000.00. There is obligation to submit annual income tax return on 30 April 2019; and
- c. MNO Pte Ltd. accrues certain income with a gross value of US\$1,250,000.00. Expenses related to that certain income of USD195,000.00 and the portion of income tax related to that certain income of USD55,000.00, so that the net amount after tax on certain income of USD1,000,000.00.

Thus, the timing when Deemed Dividend accrued to XYZ Ltd. and PQR Ltd. is on 31 August 2019. The exchange rate of US\$ to Rupiah on 31 August 2019 is Rp11,550.00/US\$.

The amount of Deemed Dividend of -year 2019 which is accrued by each resident Taxpayers is as follows:

NO	Resident Taxpayers	Deemed Dividend from XYZ Ltd. (in million rupiah)	Deemed Dividend from PQR Ltd. (in million rupiah)
(1)	(2)	(3)	(4)
1	PT ABC	Rp15,246.00 ^{a)}	-
2	PT DEF	-	Rp18,480.00 ^{b)}

Keterangan:

a) Deemed Dividend of PT ABC originating from XYZ Ltd.:

= equity participation percentage of PT ABC to XYZ Ltd. x (the net amount after tax on certain income XYZ Ltd. + (equity participation percentage of XYZ Ltd. to MNO Pte. Ltd. x the amount after tax on certain income MNO Pte. Ltd.))

= 60% x (USD1,500,000.00 + (70% x USD1,000,000.00))

= USD1,320,000.00

Deemed Dividend which is reported by PT ABC in Annual Income Tax in Tax Year 2019:

= USD1,320,000.00 x Rp11,550.00

= Rp15,246,000,000.00

b) Deemed Dividend of PT DEF originating from PQR Ltd.:

= equity participation percentage of PT DEF to PQR Ltd. x (the net amount after tax on certain income PQR Ltd. + (equity participation percentage of PQR Ltd. to MNO Pte. Ltd. x the net amount after tax on certain income MNO Pte. Ltd.))

= 50% x (USD3,000,000.00 + (20% x USD1,000,000.00))

= USD1,600,000.00

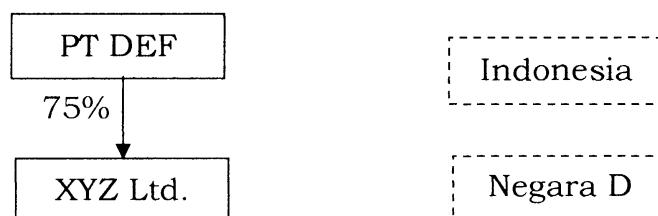
Deemed Dividend which is reported by PT DEF in Annual Income Tax Tax Year 2019:

= USD1,600,000.00 x Rp11,550.00

= Rp18,480,000,000.00

10. Example of determination of the timing when Deemed Dividend accrued and calculation of the amount of Deemed Dividend:

Since Tax Year 2018, PT DEF owns direct equity participation of 75% (seventy-five percent) of paid in capital of the XYZ Ltd. as the resident of country D.



There is no obligation to submit annual income tax return in country D. The PT DEF's Tax Year and XYZ Ltd.'s tax year are the same as the calendar year. The information of net income after tax or (loss) of XYZ Ltd. and the calculation of the amount of Deemed Dividend which is obligated to report by PT DEF are as follows:

Tax Year	Net Income After Tax XYZ Ltd. (USD)	Net Amount after Tax on Certain Income XYZ Ltd. (USD)	Deemed Dividend* (USD)	Nilai Kurs** (Rp)	Deemed Dividend* (Rp)
(1)	(2)	(3)	(4) = 75% x (3)	(5)	(6) = (4) x (5)
2019	200,000.00	100,000.00	75,000.00	9,100.00	682,500,000.00
2020	150,000.00	75,000.00	56,250.00	9,700.00	545,625,000.00
2021	(50,000.00)	20,000.00	15,000.00	12,200.00	183,000,000.00
2022	100,000.00	50,000.00	37,500.00	12,800.00	480,000,000.00
2023	20,000.00	100,000.00	75,000.00	13,000.00	1,158,000,000.00

* Deemed Dividend is reported by PT DEF at the end of the seventh month after the end of XYZ Ltd.'s tax year.

** Value of Exchange Rate when Deemed Dividend is determined to be accrued at the end of the seventh month after the end of XYZ Ltd.'s tax year.

Domestic net income or (loss) of PT DEF for Tax Year 2020 to Tax Year 2024 in details is as follows:

Tax Year 2020	Rp3,000,000,000.00
Tax Year 2021	(Rp 200,000,000.00)
Tax Year 2022	Rp1,500,000,000.00
Tax Year 2023	Rp2,000,000,000.00
Tax Year 2024	Rp2,500,000,000.00

Based on those data and calculation above, the net income that must be reported by PT DEF in Annual Income Tax Return for Tax Year 2020 to Tax Year 2024 is as follows:

