

Tax News Flash

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General Summary of Taxation for Coal Mining Business

Government Regulation No. 15 Year 2022 (“GR-15”) was issued to provide clarification of the tax implications as well as the non-tax aspects applicable for the coal mining sector. This TNF focuses on the taxation aspects of GR-15.

GR-15 was issued on 11 April 2022 and has been effective since 18 April 2022. GR-15 is applicable to holders of mining business licenses (*Izin Usaha Pertambangan*, “IUP”), special mining business licenses (*Izin Usaha Pertambangan Khusus*, “IUPK”), including those that are continuation of coal contract of work (*Perjanjian Karya Pengusahaan Pertambangan Batu Bara*, “PKP2B”) operations, and the holder of PKP2B – with or without specific tax provisions covered in the respective contract.

Tax attributes, rights and obligations

GR-15 confirms that the tax attributes, taxpayer’s rights and obligations for holders of IUP, IUPK, IUPK as a continuation of PKP2B, and PKP2B are attached to the holder of the license. This is aligned with Ministry of Finance Regulation No. 61 Year 2021.

Income tax implications applicable for the coal mining sector

The following table summarizes the tax situation for the coal mining sector following the implementation of GR-15.

Type of tax	Type of business license				
	IUP	IUPK	IUPK as continuation of PKP2B ^{(i) (ii)}	PKP2B without specific tax provision covered in the respective contract	PKP2B with specific tax provision covered in the respective contract
Income tax					
Recognition of taxable income for corporate income tax (“CIT”) purposes	Taxable income includes income in any name and any form	Same	Same	Same	Based on the tax provision of PKP2BP

Type of tax	Type of business license				
	IUP	IUPK	IUPK as continuation of PKP2B ^{(i) (ii)}	PKP2B without specific tax provision covered in the respective contract	PKP2B with specific tax provision covered in the respective contract
Recognition of deductible expenses for CIT purposes	Expenses that are incurred in the context of earning, collecting and maintaining taxable income, including: <ul style="list-style-type: none"> - Those incurred for exploration, feasibility study, production, post mining activities, reclamation - Depreciation/amortization of tangible/non-tangible assets^{(iii) (iv)} - Retribution or non-tax surcharges paid to a government body (e.g., royalty) - Financing-related costs - Donations or contributions paid to the appointed government body^(v) - Contributions to the development of social infrastructure^(vi) 	Same	Same	Same	Based on the tax provision of PKP2BP
Application of thin capitalization rules	In accordance with the prevailing tax regulations, mining is one of the few sectors that are exempted from the obligation to comply with the thin capitalization rules	Same	Same	Same	Based on the tax provision of PKP2BP
Applicable corporate income tax rate	22% of net taxable income in accordance with the prevailing tax regulations	Same	Same ^(vii)	Same	Based on the tax provision of PKP2BP
Withholding taxes obligations	In accordance with the prevailing tax regulations	Same	Same	Same	Same
Value added tax					
VAT obligations	In accordance with the prevailing tax regulations	Same	Same	Same	Same
Land & building tax (<i>Pajak Bumi dan Bangunan</i>)					
Land & building tax obligations	In accordance with the prevailing tax regulations	Same	In accordance with the tax regulations that prevail at the date the IUPK as continuation of PKP2BPKP2B is issued ^(viii)	Same	Based on the tax provision of PKP2BP

Type of tax	Type of business license				
	IUP	IUPK	IUPK as continuation of PKP2B ⁽ⁱ⁾ ⁽ⁱⁱ⁾	PKP2B without specific tax provision covered in the respective contract	PKP2B with specific tax provision covered in the respective contract
Carbon tax					
Carbon tax obligations	In accordance with the prevailing tax regulations	Same	Same	Same	Same
Stamp duty					
Stamp tax obligations	In accordance with the prevailing tax regulations	Same	Same	Same	Same
Excise and customs duty					
Excise and customs (import and export) duty obligations	In accordance with the prevailing tax regulations	Same	Same	Same	Same
Regional tax and retribution					
Regional tax and retribution obligations	In accordance with the prevailing tax regulations	Same	Same	Same	Same
<p>Notes:</p> <ol style="list-style-type: none"> i. Applies to holders of IUPK as a continuation of PKP2B regardless of whether the PKP2B had a specific tax provision regulated in the respective PKP2B or not. ii. If the IUPK as continuation of PKP2B was issued before 2022, taxpayers holding IUPK as a continuation of PKP2B are required to manage tax compliance (excluding VAT) in accordance with the provision of GR-15 since fiscal year 2022 (assuming fiscal year period is January to December). And with respect to VAT, starting from April 2022. The provision of GR-15 shall apply up to the end of the IUPK period. iii. With respect to tax depreciation/amortization: <ul style="list-style-type: none"> – Expenses that are incurred during the exploration stage (including extended exploration) and derive more than one year of economic benefits are capitalized and expensed by way of amortization. The amortization starts upon commencement of the production after approval from the relevant government body (i.e., Ministry of Energy and Mineral Resources or the regional government) is obtained. – The tax amortization is to be done following the acceptable guidance provided under the Income Tax Law, which is by applying the proportional method or unit production method during the respective mining license/contract period. – Taxpayers with more than one mining license at different stages must maintain separate tax amortization. iv. Specific for holders of IUPK as a continuation of PKP2B: <ul style="list-style-type: none"> – Depreciation of tangible goods is done as follows: <ol style="list-style-type: none"> a. Residual value of acquisition-related costs of tangible goods that exist at the time the IUPK as continuation of PKP2B is issued should be fully depreciated at that respective year. b. Acquisition-related costs of tangible goods incurred after the IUPK is obtained should be depreciated in accordance with the prevailing tax regulations. – With respect to the amortization of intangible goods: <ol style="list-style-type: none"> a. Residual value of acquisition-related costs of intangible goods that still exist at the time the IUPK as continuation of PKP2B is issued should be done in accordance with the PKP2B tax provision. b. After the end of the PKP2B period, the amortization of acquisition-related costs of intangible goods (for intangible goods acquired before and after the PKP2B period ends) should be done in accordance with the prevailing tax regulations. v. Donations that are deductible for CIT purposes are donations provided in respect of national natural disasters, research & development activities conducted in Indonesia, development of educational facilities and sports program development that are paid to the appointed body or institution (officially assigned by the central or regional government). vi. Contributions to the development of social infrastructure are deductible for CIT purposes if they are incurred for non-profit-oriented activities and in respect of the provision of public facilities and infrastructure, including in the healthcare sector, that are paid to the appointed body or institution (officially assigned by the central or regional government). vii. The 22 percent statutory corporate income tax rate applies for the following fiscal year after the issuance of the IUPK as continuation of PKP2B. viii. The land & building tax provision applies for the following fiscal year after the issuance of the IUPK as continuation of PKP2B. 					

If the holder of an IUPK as the continuation of PKP2B wishes to maintain bookkeeping for tax purposes in other language and other currency following the end of the PKP2B period, the holder of the IUPK as the continuation of PKP2B is required to apply for a new permit. Without such permit, the holder of the IUPK as the continuation of PKP2B is obliged to maintain its bookkeeping for tax purposes in Bahasa Indonesia and using Indonesian Rupiah (IDR) currency.

Like other taxpayers, holders of IUP, IUPK, IUPK as continuation of PKP2B and PKP2B are obliged to file their bookkeeping and supporting documents in Indonesia in ten years after the related tax period ends. In case the exploration phase takes longer than the ten-year filing period, the filing period is extended until approval of the commencement of production activity is obtained from the Ministry of Energy and Mineral Resources or regional government, or if the mining license is returned to the government.

KPMG notes:

With the clarification on the taxation of coal sector provided by GR-15, it is expected that the potential disputes between the tax official and taxpayer holders of mining business licenses could be minimized, if not avoided. The issuance of GR-15 seems to provide more favorable tax rates and potential tax savings (e.g., lower corporate income tax rates), in practice, however, it might not always be the case noting the increase in production royalty rate and additional government levy, among others that would absorb the operating profits, etc. For IUPK holders as continuation of PKP2B, the implementation of GR-15 would mean higher operating costs (compared to the tax costs under the PKP2B regime) and therefore lower (net) operating income after tax.

This TNF discusses only the taxation aspects of GR-15 for the coal mining sector. Holders of IUP, IUPK, IUPK as continuation of PKP2B and PKP2B without specific tax provision covered in the respective contract are suggested to take a close look at the implications of GR-15 for their business.



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