



Law Number 11 of 2020

CLUSTER EASE OF DOING BUSINESS: TAXATION

*Webinar INSIGHT on Omnibus Law - Focus on Investment, Taxation, and
Manpower Regulation*

Wednesday, April 21st 2021



The Job Creation Bill, better known as the Job Creation Omnibus Law, has been officially approved as Law by the Indonesian House of Representatives (DPR), at the DPR RI Building in Jakarta on October 5, 2020 which was later promulgated on November 2, 2020 to become Law Number 11 of 2020 on Job Creation.



BACKGROUND OF CLUSTER EODB: TAXATION



One of the efforts to **strengthen the economy** in Indonesia.



Encouraging investment in the midst of the world economic slowdown, to **absorb the workforce** optimally.

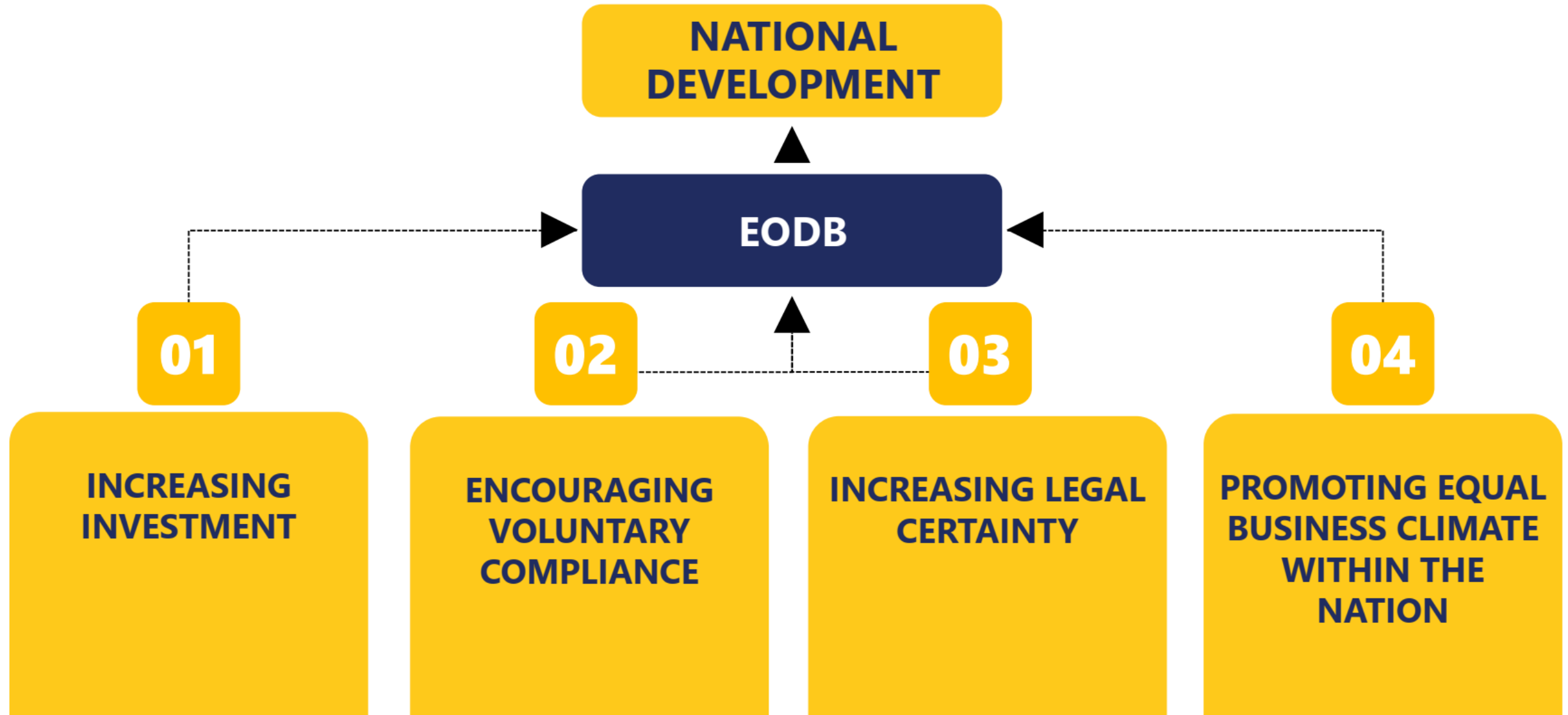


Amendments to various statutory provisions are necessary, including three of the tax Laws, namely the KUP, Income Tax Law, VAT Law, in the near future.



It is necessary to **maintain and increase tax revenue** through investments, cooperative compliance, legal certainty and equality in business climate.

SUBSTANCE OF CLUSTER EODB: TAXATION



INCREASING INVESTMENT

ENCOURAGING VOLUNTARY COMPLIANCE

INCREASING LEGAL CERTAINTY

PROMOTING EQUAL BUSINESS CLIMATE WITHIN THE NATION

1. Gradual reduction of the **CIT rate** 22% (2020 & 2021) and 20% (2022 and forth)
2. Reduction of the CIT rate for the **Go Public** Taxpayers (general rate – 3%)
Stipulated in Law Number 2/2020
3. Elimination of CIT on **outbound dividend**.
4. **Exclusion of inbound dividend & Profit after Tax** from CIT objects insofar as invested in Indonesia
5. **Not-Subject to CIT** for:
 - a. Earning shares in cooperatives
 - b. Hajj fund managed by BPKH
6. Adjustments for CIT **Art.26 for interest**
7. **"Imbreng" not subject to VAT**

8. Relaxation of **Input Tax Crediting** Rights for Taxable Entrepreneurs
9. Adjustments on regulations:
 - a. Tax administrative penalties,
 - b. Interests.

10. **Determination of Individual Tax Resident:**
 - a. WNI or foreign citizen residing > 183 days in Indonesia become Tax Resident of Indonesia,
 - b. WNI residing in Indonesia < 183 days may become foreign tax resident (T&C applicable).
11. IIT for foreign tax resident with specific expertise receiving income from Indonesia.
12. Regarding VAT:
 - a. Sale of Coals is included as Sales of Taxable Goods.
 - b. Consignment is excluded from Taxable Goods transaction.
13. The excess of Social & Religious Funds are **Not-subject to Income Tax**.
14. No issuance of tax assessment letter for the Concluded Tax Crime.
15. **Issuance of Notice of Tax Collection (STP)** expires in 5 years.
16. STP can be issued to collect interest returns.
17. Application of only one **administrative penalty**.
18. Termination of **preliminary examination** and **tax crime investigation**.
19. **Refund of credited Input Tax**

20. **Tax on Electronic Transactions:**
 - a. The appointment of the VAT collectors,
 - b. Foreign Tax Resident is subject to tax in Indonesia for the electronic transactions conducted in Indonesia
Stipulated in Law Number 2/2020
21. **ID Number** substitutes the TIN of the buyer in tax invoice incase of not having TIN



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IMPLEMENTATION OF LAW NUMBER 11 YEAR 2020 REGARDING JOB CREATION IN INCOME TAX

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Overview

NO	MATERIAL PROVISIONS	GR-9	MOF-18	DESCRIPTION
1	A reduction in the Article 26 Withholding tax rate on the payment of interest, including premium, discount, and honorarium in relation to a debt repayment guarantee	Article 3	-	<ul style="list-style-type: none"> a. The Article 26 Withholding tax rate on bond interest income (including Sharia principles) received by non-resident taxpayers other than PE can be reduced to 10% or adjusted to the provisions under a Tax Treaty b. The provision of Article 26 Income Tax on bond interest comes into effect after the enactment of this regulation (2 August 2021)
2	The criteria, procedures and specific timeframes for investment, procedures for exemptions from income tax on dividends or other income exempted from tax objects, as well as changes to the threshold of invested dividends	Article 4 (2) (Amendments to GR 94/2010 Article 2A)	Article 14 until Article 43	<ul style="list-style-type: none"> a. Dividends that are exempted from income tax objects; b. The criteria, procedures and specific timeframes for investment; c. The procedures for exemptions from income tax on dividends or other income exempted from tax objects; d. Changes to the threshold of invested dividends.
3	The criteria for certain expertise and procedures for income tax imposition on foreign citizens	-	Article 7 until Article 13	<ul style="list-style-type: none"> a. The provision on Income Taxation of foreign citizens who have been designated as residents taxpayers (SPDN) that subject to income tax only on income received or earned from Indonesia; b. The criteria for certain expertise; c. The detail of the provisions on income tax for foreign citizens as mentioned in (a).

The Reduction of Income Tax Rate on Bond Interest Income

THE KEY CHANGES

▶ Article 26 paragraph (3b)

 **<20%**
by GR

Article 26 Withholding Tax Rate from the current tax rate of 20% on the gross amount of interest, including premiums, discounts, and compensation in connection with debt repayment guarantees **may be decreased to a lower rate** by a Government Regulation.

KEY PROVISION GR-9/2021

- The Article 26 Withholding tax rate on **bond interest income** (including Sharia principles) received by **non-resident taxpayers** other than PE can be **reduced** to **10%** or adjusted to the provisions under a Tax Treaty.
- The provision of Article 26 Income Tax on bond interest **comes into effect after 6 months** since **the enactment of GR-9/2021** (2 August 2021).
- **up to 6 months** since the enactment of GR-9/2021 **follow the provision** as regulated in **GR 16 of 2009** as amended by GR 55 of 2019.

Previous Regulation:

Article 26 Withholding tax rate on interest from within the country that received by non-resident taxpayers **subject to final tax rate of 20%**



The Procedures and Specific Timeframes for Investment, Procedures for Exemptions from Income Tax on Dividends or Other Income Exempted From Tax Objects, as well as Changes to the Threshold of Invested Dividends

Domestic-Source Dividends that are received by Resident Corporate Taxpayer

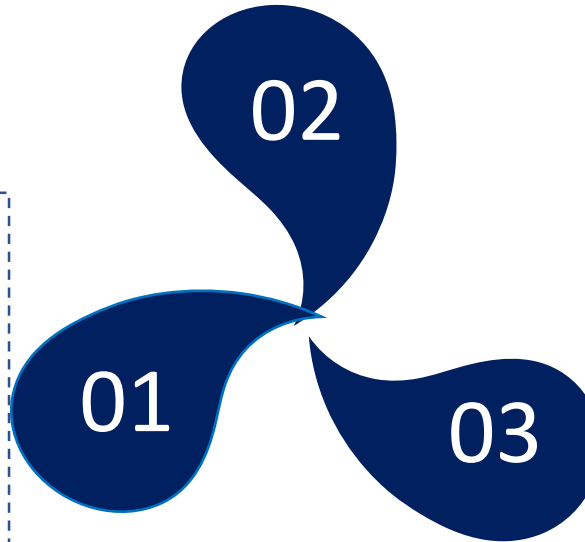
- Exempted from income tax objects **without any conditions**
- Dividends distributed **based on General Meeting of Shareholders** or **interim dividends**
- **Not impose withholding tax**

1.Domestic-Source Dividends received by the Resident Individual Taxpayer

2.Dividends from Foreign Country (shares listed on the stock exchange)

3. Foreign Source Income not from Permanent Establishment (PE)

- Exempted from income tax objects if meet the requirement: such dividends/other income **is invested in Indonesia** for a certain period of time
- The difference between the dividend paid/received and the invested dividend **will be taxable**
- Domestic-Source Dividends that are received by Resident Individual Taxpayer **is exempt from withholding tax**
- The income not from PE relates to **an active business in overseas** and the income is not generated from an overseas company owned by the taxpayer.



1. A Foreign Dividend (shares not listed on the stock exchange) 2. After-tax income from a Permanent Establishment (PE) abroad

- Exempted from income tax objects if meet the requirements: **if invested or used to support other businesses in Indonesia** for a certain period of time, at **least 30% of the after-tax profit** or before the issuance of the tax assessment letter due to the enforcement of Article 18 paragraph (2) of the Income Tax Law (a foreign dividend)
- Dividend or income that **invested exempted from income tax.**
- The difference between 30% of the after-tax profit and the invested amount **will be taxable** based on Article 17 of the Income Tax Law

The Procedures and Specific Timeframes for Investment, Procedures for Exemptions from Income Tax on Dividends or Other Income Exempted From Tax Objects, as well as Changes to the Threshold of Invested Dividends

Investment Instruments

1. Government securities and Government Islamis securities;
2. Bond or Sharia Bond of State-Owned Enterprises that have obtained OJK approval;
3. Bond or Sharia Bond of Financial Institutions owned by Government that have obtained OJK approval;
4. Financial investment in appointed bank, including Islamic bank (Sharia);
5. Bond or sharia bond of private companies that have obtained OJK approval;
6. Investment in infrastructure through government cooperation with business entities;
7. Sector real investment based on priorities determined by the government;
8. Investment in newly founded company in the territory of the Republic of Indonesia as the shareholder;
9. Investment in the company that already established in the territory of the Republic of Indonesia as the shareholder;
10. Cooperation with investment management institutions (LPI);
11. Use to support other business activities in the form of lending to micro and small businesses within the Republic of Indonesia; and/or
12. Other forms of investment beyond financial markets in accordance with statutory provisions.

LEGAL FRAMEWORK *Article 34, 36, and 41 MOF-18/2021*

Deadline for investment

- a. **the end of the third month**, for Individual Taxpayers; or
- b. **the end of the fourth month**, for Corporate Taxpayers after the end of the fiscal year, when the dividend or other income is received.

The Investment Holding Period

- ✓ The investment must be held for a minimum **3 fiscal years** from the fiscal years when the dividend or other income is received or earned,
- ✓ The investment can not be transferred except to some other type of qualifying investment

Investment Realization Report

- Must submit **the report electronically through (www.pajak.go.id)**, except for Corporate Taxpayer that received domestic-source dividends
- The Investment realization report must be submitted:
 - a. **periodically** no later than at the end of the third month for individual taxpayers or at the end of the fourth month for corporate taxpayers after the fiscal year;
 - b. **for three years** starting from the fiscal year when the dividend or other income is received or earned.

The Procedures and Specific Timeframes for Investment, Procedures for Exemptions from Income Tax on Dividends or Other Income Exempted From Tax Objects, as well as Changes to the Threshold of Invested Dividends

The Procedures for Exemptions from Income Tax on Dividends or Other Income Exempted From Tax Objects

1. Exempted from income tax objects on:
 - a. Dividends from a domestic source earned or received Individual Taxpayers or Resident Corporate;
 - b. Dividends from overseas source; or
 - c. Other income from overseas source,
implemented by reporting dividends or other income as **“income not subject to tax” in the Annual Income Tax Return.**
 2. Dividends from domestic source that exempted from income tax objects is **not subject to withholding tax** and no need to apply Notice of Tax Exemption (SKB).
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- ✓ Failure to fulfill investment criteria, procedures and time period, **will be subject to tax when dividends or other income is received or obtained.**
 - ✓ The income tax payable for dividends from domestic source, **must be paid on a self-assessment basis** by Individual Taxpayers using the tariff in accordance with statutory provisions **(10%)**.
 - ✓ The income tax must be paid at the latest by **the 15th of the following month** after the dividend is received or obtained.
 - ✓ Individual Taxpayer that already paid the income tax payable and had received validation through state revenue transaction number (NTPN) **is considered to have submitted the Periodic Income Tax Return** according to the validation date.

The Taxation of Highly-Skilled Foreign Workers

**Income tax will be levied on income earned from Indonesian source only
(territorial income tax system)**

- **Who is eligible?**
 - a. foreign national worker(s);
 - b. who has been registered as Indonesian tax resident;
 - c. who has expertise in certain predetermined areas.
- **How long can you enjoy the incentive?**
 - a. you can enjoy the incentive for four fiscal years;
 - b. the four fiscal years is calculated from the first time you are registered as Indonesian tax resident.
- **What does income earned from Indonesian source mean?**
 - a. income earned from the provision of works or services in Indonesia;
 - b. in whatever names or forms;
 - c. whether paid by employer(s) or persons from Indonesia or from abroad.
- **Please notice that:**
 - a. once you apply for this incentive scheme and your request is approved;
 - b. you are no longer eligible to enjoy any Indonesian tax treaty benefits for whatever income you earn during the period you enjoy the incentive scheme.



The Criteria of Special Expertise

- **What is the initial prerequisite before you can apply for the tax incentive?**
 - a. make sure that you have gain permission from Indonesian Ministry of Labour to work in Indonesia, if you are not a researcher; or
 - b. make sure that you have gain permission from Indonesian Ministry of Research and Technology, if you are a researcher.
- **What are the criteria for special expertise?**
 - a. you are a foreign national worker, who has been registered as Indonesia tax resident;
 - b. you have special knowledge and expertise in science, technology and/or math, indicated by:
 - 1) certificate of expertise, issued by special body appointed by Indonesian Government or similar body in your respective countries;
 - 2) certificate of graduation; and/or
 - 3) minimum five years work experience, in the field of science or field of work relevant with the said expertise; and
 - c. you satisfy the obligation to transfer your knowledge as stipulated by the Ministry of Labour or the Ministry of Research and Technology.

LEGAL BASIS

Article 8 MOF Regulation Number PMK-18/2021

See Appendix II



How to Apply

Foreigners who choose to be subjected to **territorial income tax system** must submit an application electronically through a certain channel as determined by the Director General of Taxes (djponline.pajak.go.id).

The Director General of Taxes (DGT) checks the fulfillment of the requirements, and issues:

- a. letter of approval to use territorial income tax system; **or**
- b. rejection letter to use territorial income tax system,

within **10 working days** since the application is received by DGT.

Foreigners who have become Indonesian tax resident prior to the enactment of this Ministerial Regulation, may apply to use territorial income tax system, as long as:

- a. the period of 4 (four) fiscal years has not been exceeded; **and**
- b. submit the application as stipulated above.

LEGAL BASIS

Article 10, 11, 12 MOF Regulation Number PMK-18/2021

See Appendix III and IV



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