

REGULATION OF MINISTER OF FINANCE OF THE REPUBLIC OF INDONESIA
NUMBER 192/PMK.03/2018
ON
THE APPLICATION OF FOREIGN TAX CREDIT
BY THE BLESSINGS OF ALMIGHTY GOD

MINISTER OF FINANCE OF THE REPUBLIC OF INDONESIA,

- Considering : a. that in order to simplify administration, provide legal certainty, and avoid the burden of double taxation due to the imposition of tax on income received or accrued from overseas, it is necessary to regulate the calculation of tax credit on income received or accrued from overseas;
- b. that there is a shortage in the Decree of the Minister of Finance No. 164 / KMK.03 / 2002 concerning Foreign which cannot accommodate the needs of domestic Taxpayers in crediting taxes on income from overseas so it needs to be replaced;
- c. that based on the considerations as referred to in letter a, letter b, letter c and letter d, and to implement the provisions of Article 24 paragraph (6) of Law Number 7 of 1983 concerning Income Tax, as lastly amended by Law Number 36 of 2008 concerning Fourth Amendment of Law Number 7 of 1983 concerning Income Tax , it is necessary to establish a Regulation of Minister of Finance concerning The Application of Foreign Tax Credit;
- Observing : Law Number 7 of 1983 concerning Income Tax (State Gazette Number 50 of 1983, Supplement to State Gazette of The Republic of Indonesia Number 3263), as lastly amended by Law Number 36 of 2008 concerning Fourth Amendment of Law Number 7 of 1983 concerning Income

Tax (State Gazette Number 133 of 2008, Supplement to State Gazette of The Republic of Indonesia Number 4983);

HAS DECIDED:

To Issue : REGULATION OF MINISTER OF FINANCE CONCERNING THE APPLICATION OF FOREIGN TAX CREDIT.

Article 1

In this Regulation of Minister of Finance, the following definitions shall apply:

1. Foreign Income Tax hereinafter referred to as Foreign Income Tax is income tax payable, paid, or deducted overseas.
2. Taxable Income is the basis of calculation to determine the amount of Income Tax payable.
3. Resident Taxpayers, hereinafter referred to as WPDN, are domestic tax subjects as referred to in the Income Tax Law, which have fulfilled subjective and objective obligations in accordance with the provisions of the Income Tax Law.
4. Tax Year is a period of 1 (one) calendar year except if Taxpayers use accounting year different from calendar year.
5. Annual Income Tax Return, hereinafter referred to as the Annual Income Tax Return is an Income Tax Form for a Tax Year of Part of Tax Year.
6. The Income Tax Law hereinafter referred to as Income Tax Law is Law Number 7 of 1983 concerning Income Tax, as lastly amended by Law Number 36 of 2008 concerning the Fourth Amendment of Law Number 7 of 1983 concerning Income Tax.
7. Double Tax Agreement, hereinafter referred to as DTC, is an agreement between the Government of Indonesia and other Contracting States to prevent double taxation and tax evasion.

8. Trust is a scheme, arrangement, or relationship based on a written agreement between a person or entity in his capacity as a founder and a person or entity in his capacity as the owner of assets with the obligation to maintain the assets for the benefit of the beneficiaries.

Article 2

- (1) Resident Taxpayer is subject to Income Tax on Taxable Income derived from all income including income received or accrued from overseas.
- (2) In cases where a Domestic Taxpayer is subject to Foreign Income Taxes on income received or accrued from source of income overseas as referred to in paragraph (1), the Foreign Income Tax may be credited against Income Tax payable in Indonesia.
- (3) Excluded from the Foreign Income Tax which may be credited in accordance with this Minister Regulation is Foreign Income Tax on dividends income as referred to in Article 18 paragraph (2) Income Tax Law.
- (4) The procedures for Foreign Tax Credit on dividends income as referred to in paragraph (3) shall be applied in accordance with the Regulation of Minister of Finance concerning the acquisition of dividends and its basis of calculation by resident Taxpayers on participating shares in foreign companies other than listed companies.

Article 3

- (1) The source of income as referred to in Article 2 section (1) is determined as follow:
 - a. income from shares or other securities and gain from the alienation of shares and securities is the country in which the entity issuing the shares or securities incorporated or situated;

- b. interests, royalties and rent income derived from the use of movable property is the country where the payer or the party who bear such interests, royalties and rent is domiciled or situated;
 - c. rent income derived from the use of movable property in the country in which the property is situated;
 - d. remuneration for services, employment, and activities is the country where the payer or the party who bears the remuneration domiciled or situated;
 - e. income of a permanent establishment is the country where the permanent establishment carries out its businesses or activities;
 - f. income from the alienation of part or the whole mining rights or participating interest is the country in which the mine is situated;
 - g. gains from the alienation of fixed assets is the country in which the fixed assets are situated; and
 - h. gains from the alienation of property forming part of the business property of a permanent establishment is the country where the permanent establishment is situated.
- (2) Permanent establishment as referred to in section (1) point e and point h are branches, representative offices, and other business form used by Domestic taxpayers to carry out its businesses and activities overseas.
- (3) The determination of source of income other than referred to in section (1) use the rules for the determination the source of income overseas as referred to in section (1).
- (4) The determination of source of income other than referred to in section (3), income received or accrued from overseas source of income may arise from trust, for which the determination of the source of income is the country where the trust is established or incorporated, using rules referred to in section (1).

Article 4

- (1) For calculating Taxable Income, Resident Taxpayers combine income received or accrued from source of income overseas as referred to In Article 2 section (1) with income received or accrued from source of income in Indonesia.
- (2) The amount of income derived from overseas combined as referred to in section (1) is be calculated in the following manner:
 - a. business income, including income from Resident Taxpayers' branches or representatives overseas equals to net income;
 - b. income received from foreign trusts equals to net income of part of net income received or accrued by Resident Taxpayers; and
 - c. other income equals to net income.
- (3) For calculating Taxable Income as referred to in section (1), Resident Taxpayers can not calculate:
 - a. business losses from foreign branch or representative, including losses from foreign branch or representative after deducting losses from properties or activities effectively connected with such foreign branch or representative; and
 - b. other foreign losses.

Article 5

- (1) The aggregation of income received or accrued from foreign source of income with income received or accrued from Indonesian source of income as referred to in Article 4 section (1) is be made in Tax Year in which the income from foreign source of income received or accrued.
- (2) Tax Year in which the income from foreign source of income received or accrued as referred to in section (1) is be given effect to in the following manner:
 - a. for business income as referred to in Article 4 section (2) is Tax Year in which the income is received;

- b. for income derived from foreign trust as referred to in Article 4 section (2) point b is determined in accordance with the following rules:
 - 1. if cases where the foreign trust income is taxable on the hand of the trust is the Tax Year in which the income is received; and
 - 2. in cases where the foreign trust is not taxable in the the hand of the trust is the Tax Year in which the income is received or accrued, whichever occurred first; and
- c. for other income as referred to in Article 4 section (2) point c is Tax Year in which the income is received.

Article 6

- (1) Foreign Income Tax as referred to in Article 2 section (2) may be credited in Tax Year in which the incorporation of income is made as referred to in Article 5 section (1).
- (2) The calculation of Foreign Tax credit as referred to in section (1) is be made for every item of income for every country or jurisdiction.
- (3) For calculating the amount of Foreign Income Tax that may be credited for each type of income for each country or jurisdiction as referred to in section (2), the determination of the country or jurisdiction for the foreign source of income is be made in accordance with the provisions as referred to in Article 3 section (1), section (3), and section (4).
- (4) The amount of Foreign Income Tax that may be credited as referred to in section (1) is the least of:
 - a. the amount of income tax payable, paid, or deducted overseas, taking into account the provisions in DTAs, in the cases where there are effective DTAs;
 - b. the amount of Foreign Income Tax; and
 - c. certain amount calculated in accordance with the ratio of income received or accrued from foreign source of

income and Taxable Income multiplied by Income Tax payable on the Taxable Income, at most equal to Income Tax payable.

- (5) In the cases where spouses as Resident Taxpayers wish to have written prenuptial agreement or choose to exercise their tax rights and fulfill their obligation separately, the amount of Foreign Income Tax that may be credited as referred to in section (1) by each spouses is the least of:
 - a. the amount of income tax payable, paid, or deducted overseas for income received or accrued from foreign source of income by each spouses, taking into account the provisions in DTAs, in the cases where there are effective DTAs;
 - b. the amount of Foreign Income Tax for income received or accrued from foreign source of income by each spouses; and
 - c. certain amount calculated in accordance with the ratio of income received or accrued from foreign source of income by each spouses and Taxable Income multiplied by Income Tax payable on the Taxable Income, at most equal to Income Tax payable which is borne by each spouses.
- (6) In the case of income received or accrued from foreign source of income as referred to in Article 2 section (2) came from *Trust*, the amount of Foreign Income Tax as referred to section (4) point b and section (5) point 5 is determined in accordance with the following manner:
 - a. the amount of income tax or the portion of income tax received by Resident Taxpayers, in the case of foreign Trust being subject to income tax at the Trust level; and
 - b. the amount of income tax received by Resident Taxpayers, in the case of foreign Trust not being subject to income tax at the Trust level.

- (7) In the case of Taxable Income is less than the total foreign income received or accrued, the amount of Foreign Income Tax may be credited as referred to section (1) at most equal to the amount of Income Tax payable on the Taxable Income.
- (8) In the case where based on the provisions in the DTA as referred to in section (4) point a or section (5) point a stipulates that a type of income can only be taxed in Indonesia, the Foreign Income Tax on that income can not be credited with the Income Tax payable in Indonesia.
- (9) Taxable Income as referred to section (4) point c, section (5) point c, and section (7) Penghasilan Kena Pajak sebagaimana dimaksud pada ayat (4) huruf c, ayat (5) huruf c, dan ayat (7) does not include income that is subject to:
 - a. final Income Tax as referred to in Article 4 section (2) Income Tax Law;
 - b. final Income Tax based on special calculation norms as referred to in Article 15 Income Tax Law; and
 - c. separate Income Tax as referred to in Article 8 section (1) Income Tax Law.

Article 7

In the cases where Foreign Income Tax exceeds Foreign Tax Credit as referred to in Article 6 section (4), section (5) or section (7), the excess:

- a. is not be deducted from Taxable Income;
- b. is not be deducted as expense or deduction from gross income; and
- c. is non-refundable.

Article 8

- (1) The proof of payment on Foreign Income Tax for Resident Taxpayers who credit Foreign Income Tax as referred to in Article 6 section (1) can be in the form of:
 - a. copy of proof of payment or proof of withholding on Foreign Income Tax; or

- b. other similar copy of proof which may indicate payment or withholding of Foreign Income Tax.
- (2) The proof of payment for Foreign Income Tax as referred to in section (1) at least contains following data or information:
 - a. name of Resident Taxpayer; and
 - b. the amount of Foreign Income Tax.
- (3) In the cases of Resident Taxpayer derives business income and/or income from foreign Trust taxable in the hand of trustee, the proof of payment of Foreign Income Tax as referred to in section (1) may be replaced by annual income tax return filed overseas by branch or representative of the Resident Taxpayer in overseas and/or annual income tax return or proof of payment of Foreign Income Tax conducted by Trust.

Article 9

In the case of Foreign Income Tax already credited is subsequently deducted or refunded, the amount deducted or refunded is added to Income Tax payable according to Income Tax Law in Tax Year in which the deduction or refund is made.

Article 10

- (1) In calculating the amount of creditable Foreign Tax Income as referred to in Article 6 section (4), section (5), or section (7), the amount of Foreign Income Tax in foreign currency units is converted into Rupiah currency units.
- (2) Conversion into Rupiah currency units as referred to section (1) uses exchange rate determined by Minister of Finance.
- (3) In the case of Resident Taxpayers has:
 - a. been granted a permit from Minister of Finance; or
 - b. been delivered written notification to Minister of Financeto maintain bookkeeping using English language and United States Dollar currency based on the provisions of

regulation which stipulate the administration of bookkeeping using foreign languages and currencies other than Rupiah, the amount of Foreign Income Tax in the currency other than United States Dollar is converted into United States Dollar currency.

- (4) Conversion into United States Dollar units as referred to section (3) uses:
 - a. Bank Indonesia middle rate; or
 - b. the daily spot rate of the relevant foreign currency at international markets against United States Dollar in the case of Bank Indonesia middle rate is not available.
- (5) Conversion into Rupiah currency units as referred to section (2) and conversion into United States Dollar currency units as referred to section (3) are conducted on when the Foreign Income Tax is payable, paid, or withheld overseas.

Article 11

The incorporation of income from sources of income overseas as referred to in Article 4 section (1) and the calculation of creditable Foreign Income Tax as referred to in Article 6 section (4), section (5), or section (7) are made in accordance with examples set out in the Annex which is an intergral part of this Minister Regulation.

Article 12

The application of Foreign Tax Credit in Tax Year 2018 prevails the provisions as stipulated in this Minister Regulation.

Article 13

At the time this Minister Regulation comes into force, Decree of Ministry of Finance Number 164/KMK.03/2002 concerning Foreign Tax Credit is declared null and void.

Article 14

This Minister Regulation shall come into force on the date of promulgation.

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 31 December 2018

THE MINISTER OF FINANCE
OF REPUBLIC OF INDONESIA,

signed

SRI MULYANI INDRAWATI

Promulgated in Jakarta
on 31 December 2018

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

signed

WIDODO EKATJAHJANA

STATE BULLETIN OF THE REPUBLIC OF INDONESIA YEAR 2018 NUMBER
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ANNEX
REGULATION OF MINISTER OF FINANCE OF REPUBLIC
OF INDONESIA
NUMBER 192 /PMK.03/2018
ON
THE APPLICATION OF FOREIGN TAX CREDIT

A. EXAMPLE OF COMBINING INCOME RECEIVED OR ACCRUED FROM SOURCES OF INCOME OVERSEAS WITH INCOME RECEIVED OR ACCRUED FROM SOURCES OF INCOME IN INDONESIA:

1. In combining their Taxable Income, Resident Taxpayers incorporate income received or accrued from foreign source of income with income received or accrued from Indonesian source of income.

Example:

Resident Taxpayer, PT Indologo Satu in Tax Year 2018 earned and received income derived from outside Indonesia as follows:

- a. business profit from the branch of PT Indologo Satu situated in country V in Tax Year 2018 is Rp800.000.000,00;
- b. received Rp200.000.000,00 dividends from XYZ Ltd. in country W for direct participating shares of 25% of paid in capital. XYZ Ltd.'s shares are traded in the stock exchange. the dividends from XYZ Ltd. is from profit in 2016 set forth in 2017 shareholder meeting and received in February 2018;
- c. Rp100.000.000,00 interest for second semester of 2017 were received from STU Sdn. Bhd. in country Y in July 2018;
- d. Rp50.000.000,00 gain from the alienation of property in form of shares in XYZ Ltd. were received in country W in December 2018; and
- e. received Rp75.000.000,00 dividends from PQR Corp. in country X for direct participating shares of 75% of paid in capital. PQR Corp.'s shares are traded in stock exchange. The dividends from PQR Corp. is from profit in 2017, which in accordance with Minister of Finance regulating the acquisition of dividends and its basis of calculation by resident Taxpayers on participating shares on foreign companies other than listed companies are deemed to be received in Tax Year 2018.

The combination of foreign income and domestic income shall be made as follows:

- a. business profit from the branch of PT Indologo Satu in country V is combined with domestic income in Tax Year 2018, which is the year in which business income accrued.
- b. dividends from XYZ Ltd. is combined with domestic income in Tax Year 2018, which is the year in which dividends income was received;
- c. interest from STU Sdn. Bhd is combined with domestic income in Tax Year 2018, the Tax Year in which the interest income was received;
- d. gains from the alienation of property in form of shares in XYZ Ltd. in country W shall be combined with domestic income in Tax Year 2018, the Tax Year in which the gains from the alienation of property was received; and
- e. the combination of dividends income from PQR Corp. shall be made in accordance with Minister of Finance Regulation on the acquisition of dividends and its basis of calculation by resident Taxpayers on participating shares on foreign companies other than listed companies.

2. In calculating Taxable Income, foreign losses are not be combined with domestic income for calculating Taxable Income.

Example:

Resident Taxpayer, PT Indologo Dua in Tax Year 2018 received and accrued the following income:

- a. PT Indologo Dua accrued business profits from PT Indologo Dua branch in country X Rp1.000.000.000,00, those incomes consist of commercial net income Rp1.500.000.000,00 and capital loss from sale of assets in the form of shares which have effectively connected with PT Indologo Dua branch in country X Rp500.000.000,00;uffered from losses Rp1.000.000.000,00 in country X;
- b. PT Indologo Dua earned net interest income of Rp3.000.000.000,00 in country Y;
- c. PT Indologo Dua received net dividends income of Rp75.000.000,00; in country Z (VWX Ltd's shares are traded in country Z stock exchange);
- d. PT Indologo Dua suffered from loss of Rp250.000.000,00 in country Z; and
- e. domestic net income is Rp4.000.000.000,00.

PT Indologo Dua has no branch in country Y and country Z.

Thus, the Taxable Income of PT Indolodo Dua in Tax Year 2018 is as follows:

a. Foreign net income:		
1) country X (business profits)	Rp	
a) commercial net income	Rp	1.500.000.000,00
b) capital loss from the alienation of property effectively connected	Rp	(500.000.000,00)
2) country Y (interest income)	Rp	3.000.000.000,00
3) country Z	Rp	
a) dividend income	Rp	750.000.000,00
b) capital loss from the alienation of property	Rp	0,00
Total foreign net income	Rp	4.750.000.000,00
b. Domestic net income	Rp	4.000.000.000,00
c. Total net fiscal income	Rp	8.750.000.000,00
d. Taxable income	Rp	8.750.000.000,00

In calculating the amount of Taxable Income, capital loss suffered in country X from asset or activity that is effectively connected with branch or representative in country X can be calculated to the branch or the representative net income in country X. Nevertheless, capital loss suffered in country Z can not be combined in calculating Taxable Income.

B. EXAMPLE OF THE CALCULATION OF CREDITABLE FOREIGN INCOME TAX

1. The calculation of Foreign Tax Credit shall be made in accordance with the provisions set out in Article 5 of this Minister Regulation. In the cases where foreign income derived from several countries, the amount of Foregin Income Tax that can be credited against domestic Income Tax Payable shall be made for each country (per country limitation).

Example:

Resident Taxpayer, PT Indologo Tiga in Tax Year 2018 earned and received the following net income:

- a. PT Indologo Tiga earned operating profit of Rp1.000.000.000,00 on which tax is imposed at 30% rate or Rp3.000.000,00 in country X;
- b. PT Indologo Tiga received interests income of Rp3.000.000.000,00 on which tax is imposed at 15% or Rp450.000.000,00 in country Y;
- c. PT Indologo Tiga suffered losses of Rp250.000.000,00 in country Z; and
- d. domestic net income is Rp4.000.000.000,00.

There is no DTA between Indonesia and country X, country Y, and country Z. The amount of Income Tax payable on all income is calculated as follows:

a. Foreign net income:		
1) country X (business profits)	Rp	1.000.000.000,00
2) country Y (interest income)	Rp	3.000.000.000,00
3) country Z (loss from alienation of asset)	Rp	0,00
Total foreign net income	Rp	4.000.000.000,00
b. Domestic net income	Rp	4.000.000.000,00
c. Total net income	Rp	8.000.000.000,00
d. Taxable Income	Rp	8.000.000.000,00
e. Income Tax Payable (Rate of Article 17 of Income Tax Law)	Rp	2.000.000.000,00

The amount of Foreign Tax Credit from each countries shall be calculated as follows:

- a. business income from country X:
 - 1) Foreign Income Tax on business income from country X is Rp300.000.000,00;
 - 2) Certain amount:
$$\frac{\text{Rp } 1.000.000.000,00}{\text{Rp } 8.000.000.000,00} \times \text{Rp } 2.000.000.000,00 = \text{Rp } 250.000.000,00$$

Since the certain amount of Rp250.000.000,00 is less than the Foreign Income Tax on business income in country X, the amount of Foreign Income Tax on business income in country X that may be credited against domestic Income Tax payable is equal to certain amount, Rp250.000.000,00.

- b. interest income in country Y:
 - 1) Foreign Income Tax on business income in country Y is Rp450.000.000,00;
 - 2) Certain acmount:
$$\frac{\text{Rp } 3.000.000.000,00}{\text{Rp } 8.000.000.000,00} \times \text{Rp } 2.000.000.000,00 = \text{Rp } 750.000.000,00$$

Since the Foreign Income Tax on interest income in country Y of Rp450.000.000,00 is less than the certain amount, the amount of Foreign Income Tax on interest income from country Y that may be credited against domestic Income Tax payable is equal to the Foreign Income Tax, Rp450.000.000,00.

Therefore, the amount of Foreign Income Tax that may be credited by PT Indologo Tiga against domestic Income Tax payable is Rp700.000.000,00 (Rp250.000.000,00 + Rp450.000.000,00). Losses from country Z shall not be combined in calculating the Taxable Income.

2. In the cases where resident Taxpayer received or accrued income derived from countries or jurisdictions which has effective DTA with Indonesia, the maximum amount of tax imposed in source country on certain types on income such as dividends, interests, royalties and if specifically regulated, fees from technical services, are also determinants in calculating Foreign Income Tax that can be credited against domestic Income Tax payable.

Example:

Continued from Example 3, in this case there is an effective DTC between Indonesia and country Y (Indonesia – country Y DTA). The Indonesia – country Y DTA rules that the maximum tax rate imposed by source state on interest income is 10%. The amount of Foreign Income Tax that can be credited against domestic Income Tax payable, is the least of:

- a. the amount of income tax that should be payable or should be paid in country Y taking into account the provisions in Indonesia – country Y DTC is 10% of the interest income or Rp300.000.000,00;
- b. Foreign Tax Credit paid or deducted in country Y, that is Rp450.000.000,00; or
- c. certain amount:
$$\frac{\text{Rp } 3.000.000.000,00}{\text{Rp } 7.000.000.000,00} \times \text{Rp } 1.750.000.000,00 = \text{Rp } 750.000.000,00$$

Since the amount of income tax that should be payable or should be paid in country Y taking into account the provisions in the DTC of Rp300.000.000,00 is less than the Foreign Income Tax on interest income in country Y and the certain amount, the amount of Foreign Income Tax on interest income from country Y that may be credited against domestic Income Tax payable is equal to income tax that should be payable or should be paid in country Y taking into account the provisions in the DTC, Rp300.000.000,00.

Therefore, the amount of Foreign Income Tax that may be credited by PT Indologo Tiga against domestic Income Tax payable is Rp550.000.000,00 (Rp250.000.000,00 + Rp300.000.000,00).

3. Certain amount shall be calculated in accordance with the ratio between income received or accrued from foreign source of income and Taxable Income multiplied by Income Tax payable on Taxable Income, equal to Income Tax payable at most.

Example:

Resident Taxpayer, PT Indologo Tiga earned and received net income in Tax Year 2018 as follows:

- a. business income in country X Rp1.000.000.000,00
- b. domestic business losses (Rp 200.000.000,00)

Foreign Income Tax paid or payable on business income in country Y is Rp300.000.000,00

Income Tax payable on Taxable Income is Rp200.000.000,00 shall be calculated as follows:

- Net income from country X	Rp	1.000.000.000,00
- Domestic net income (losses)	(Rp)	200.000.000,00
- Total net income	Rp	800.000.000,00
- Taxable Income	Rp	800.000.000,00
- Income Tax Payable (Rate of Article 17 Income Tax Law)	Rp	200.000.000,00

The amount of Foreign Income Tax in country X that may be credited against domestic Income Tax payable shall be the the least of:

- a. Foreign Income Tax on business income of Rp300.000.000,00
- b. Certain amount of Rp200.000.000,00 which calculated as follows:

$$\frac{\text{Rp } 1.000.000.000,00}{\text{Rp } 800.000.000,00} \times \text{Rp } 200.000.000,00 = \text{Rp } 250.000.000,00$$

Since the amount of Taxable Income is less than foreign net income, therefore, that certain amount is equal to Income Tax payable on Taxable Income in the cases of Taxable Income is less than foreign income or Rp200.000.000,00. Accordingly, the amount of Foreign Income Tax that can be credited against domestic Income Tax payable is Rp200.000.000,00.

Therefore, the amount of Foreign Income Tax that may be credited against domestic Income Tax payable is Rp200.000.000,00.

4. In the cases where resident Taxpayers received or accrued:
- a. income subject to final Income Tax as referred to in Article 4 section (2) of the Income Tax Law;
 - b. income subject to final income based in special calculation norms as referred to in Article 15 of the Income Tax Law; and
 - c. income subject to separate Income Tax as referred to in Article 8 section (1) of the Income Tax Law,

those income shall not be added to domestic net income in calculating Taxable Income.

Resident Taxpayer, Mr. Hismail Hunaedi who carried out several business sectors received and accrued the following income in Tax Year 2018:

a. business income in country X subject to 30% income tax or Rp300.000.000,00;	Rp	1.000.000.000,00
b. non-final domestic net income	Rp	2.000.000.000,00
c. final domestic income subject to Article 4 paragraph (2) of the Income Tax Law, which is 4% of gross income	Rp	1.500.000.000,00
d. wife's income from an employer on which Article 21 Income Tax has been withheld and satisfied the provisions of Article 8 paragraph (1) of the Income Tax Law	Rp	500.000.000,00

There is no effective DTC between Indonesia and country X. Mr. Hismadi is married with no children or other dependents. The amount of Income Tax payable on all income is calculated as follows:

a. Net income from country X	Rp	1.000.000.000,00
b. Domestic net income	Rp	2.000.000.000,00
c. Total fiscal net income	Rp	3.000.000.000,00
d. Tax allowance	Rp	58.500.000,00
e. Taxable Income	Rp	2.941.500.000,00
f. Income Tax Payable (Rate of Article 17 of the Income Tax Law)	Rp	827.450.000,00

The amount of creditable foreign Income Tax from country X shall be calculated as follows:

- a. Foreign Income Tax on business income from country X is Rp300.000.000,00.
- b. Certain amount:
- $$\frac{\text{Rp } 1.000.000.000,00}{\text{Rp } 2.941.500.000,00} \times \text{Rp } 827.450.000,00 = \text{Rp } 281.302.057,00$$

therefore, the amount of Foreign Income Tax that can be credited against domestic Tax Income payable is equal to that certain amount, that is Rp281.302.057,00. On the other hand, the domestic income subject to Article 4 section (2) Income Tax and the wife's income subject to separate Income Tax as referred to in Article 8 section (1) of the Income Tax Law shall not be included in the calculation of Taxable Income to compute the amount of Foreign Income Tax that can be credited against domestic Income Tax payable.

5. Pursuant to the principle of the Income Tax Law which views family as a single economic unit, the income or lossess of the whole family members are combined as a single unit subject to Income Tax and the fulfillment of tax obligations is carried out by the husband as the head of the family. However, in the cases where spouses wish to have a written prenuptial agreement or choose to fulfill their tax obligations separately therefore, the calculation of Foreign Income Taxes for respective spouses shall be made in accordance with Article 6 section (5) of this Minister Regulation.

In Tax Year 2018, resident Taxpayer, Mr. Nandang, earned domestic income of Rp2.000.000.000,00 and net foreign income from country X of Rp200.000.000,00 (the Foreign Tax Income on those income is Rp40.000.000,00).

In the same Tax Year Mrs. Nanda (Mr. Nandang's wife) accrued domestic net income of Rp1.500.000.000,00 and net foreign income tax from country X of Rp300.000.000,00 (the Foreign Tax Income on those income is Rp60.000.000,00).

Mr. and Mrs. Nandang have no dependents and there is no DTA between Indonesia and country X.

- a. In cases where tax obligations of Mr. and Mrs. Nandang are fulfilled as a single economic entity (KK), the amount of Foreign Tax Income that creditable against domestic Income Tax payable shall be calculated as follows:

Calculation of Income Tax payable		
	As a single economic entity	
	Husband	Wife
Domestic income	Rp2.000.000.000,00	Rp1.500.000.000,00
Combined domestic income	Rp.3.500.000.00,00	
Foreign income	Rp200.000.000,00	Rp300.000.000,00
Combined foreign income	Rp500.000.000,00	
Total combined foreign net income	Rp4.000.000.000,00	
Tax Allowance (Married with No Dependents) (K/0)		
- Taxpayer (husband)	Rp54.000.000,00	
- Extra allowance for married Taxpayer	Rp4.500.000,00	
- Extra allowance for a wife	Rp54.000.000,00	
- Extra allowance for dependents	0	
Total Tax Allowance	Rp112.500.000,00	
Taxable Income	Rp3.887.500.000,00	

Income Tax payable:	
5% x Rp50.000.000,00	Rp2.500.000,00
15% x Rp200.000.000,00	Rp30.000.000,00
25% x Rp250.000.000,00	Rp62.500.000,00
30% x Rp 3.387.500.000,00	Rp1.016.250.000,00
Total Income Tax payable	Rp1.111.250.000,00

The amount of Foreign Income Tax in country X that may be credited shall be determined in accordance with the least of:

- Foreign Income Tax from country X of Rp100.000.000,00 (Rp40.000.000,00 + Rp60.000.000,00);
- Certain amount:

$$\frac{\text{Rp } 500.000.000,00}{\text{Rp } 3.887.500.000,00} \times \text{Rp } 1.111.250.000,00$$

= Rp142.926.045,00

Therefore, the amount of Foreign Income Tax that may be credited against domestic Income Tax payable shall be equal to Foreign Income Tax from country X, Rp100.000.000,00.

- b. In cases where tax liabilities of Mr. Nandang and Mrs. Nanda is fulfilled separately (by prenuptial agreement or chose to fulfil separately), the amount of Foreign Income Tax that may be credited agains domestic Income Tax payable shall be calculated in accordance with Article 6 paragraph (5) of this Minister Regulation, as follows:

Income Tax payable calculation		
	As single economic entity	
	Husband	Wife
Domestic income	Rp2.000.000.000,00	Rp1.500.000.000,00
Combined domestic income	Rp.3.500.000.00,000	
Foreign income	Rp200.000.000,00	Rp300.000.000,00
Combined foreing income	Rp500.000.000,00	
Total combined foreign net income	Rp4.000.000.000,00	
Tax Allowance (Married with No Dependents) (K/0)		
- Taxpayer (husband)	Rp54.000.000,00	
- Extra allowance for married Taxpayer	Rp4.500.000,00	
- Extra allowance for a wife	Rp54.000.000,00	
- Extra allowance for dependents	0	
Total Tax Allowance	Rp112.500.000,00	
Taxable Income	Rp3.887.500.000,00	

Income Tax payable:	
5% x Rp50.000.000,00	Rp2.500.000,00
15% x Rp200.000.000,00	Rp30.000.000,00
25% x Rp250.000.000,00	Rp62.500.000,00
30% x Rp 3.387.500.000,00	Rp1.016.250.000,00
Total Income Tax payable	Rp1.111.250.000,00

Income Tax payable for the husband	=	Net income of the husband	x	Income Tax payable
		Total combined net income		

	=	Rp2.200.000.000,00	x	Rp1.111.250.000,00
		Rp4.000.000.000,00		

	=	Rp611.187.500,00		
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Income Tax payable for the wife PPh terutang istri	=	Net income of the wife Jumlah pengh. neto istri	x	Income Tax payable PPh terutang
		Total combined net income Jumlah pengh. neto gabungan		

	=	Rp1.800.000.000,00	x	Rp1.111.250.000,00
		Rp4.000.000.000,00		

	=	Rp500.062.500,00		
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The amount of Foreign Income Tax from country X that may be credited against Mr. Nandand shall be the least of:

- Foreign Income Tax from country X of Rp40.000.000,00;
- Certain amount for Mr. Nandang:

=	Foreign income tax of the husband	X	Income Tax payable on Taxable Income
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	Taxable Income		
=	Rp200.000.000,00	X	Rp1.111.250.000,00
	Rp3.887.500.000,00		
=	Rp57.170.418,00		

Therefore, the amount of Foreign Income Tax that may be credited against domestic Income Tax payable shall be equal to Foreign Income Tax from country X for Mr. Nandang, Rp40.000.000,00.

While the amount of Foreign Income Tax from country X that may be credited by Mrs. Nanda shall be the least of:

- Foreign Income Tax in country X for Mrs. Nanda is Rp60.000.000,00;
- Certain amount for Mrs. Nanda

=	Foreign income of the wife	X	Income Tax payable on Taxable Income
	Taxable Income		
=	Rp300.000.000,00	X	Rp1.111.250.000,00
	Rp3.887.500.000,00		
=	Rp85.755.627,00		

Therefore, the amount of Foreign Income Tax that may be credited against domestic Income Tax payable shall be equal to Foreign Income Tax from country X for Mrs. Nanda or Rp60.000.000,00.

In cases where the Taxable Income is less than the total foreign income received or accrued, the amount of foreign Income Tax that may be credited shall be equal to Income Tax payable on Taxable Income, at most.

Example:

In 2018, Resident Taxpayer, PT Indologo Enam received and accrued net income as follow:

- a. In country X, PT Indologo Enam earned Rp1.000.000.000,00 of business income subject to Rp300.000.000,00 of Foreign Income Tax;
- b. In country Y, PT Indologo Enam earned Rp3.000.000.000,00 of business income subject to Rp900.000.000,00;
- c. In country Z, PR Indologo Enam suffered business losses of R250.000.000,00; and
- d. Domestic loss is Rp1.000.000.000,00.

There is no DTC between Indonesia and country X, country Y, and country Z. The amount of Income Tax payable on total income shall be calculated as follow:

- a. Foreign net income:
 - 1) Country X (business profits) Rp 1.000.000.000,00
 - 2) Country Y (business profits) Rp 3.000.000.000,00
 - 3) Country Z (business losses) Rp 0 0,00
 - Total foreign net income Rp 4.000.000.000,00
- b. Domestic losses Rp (1.000.000.000,00)
- c. Total net income Rp 3.000.000.000,00
- d. Taxable Income Rp 3.000.000.000,00

e. Income Tax payable (Rate of Article 17 of Income Tax Law)
Rp 750.000.000,00

The amount of Foreign Income Tax that may be credited against each item of income for each country or jurisdiction shall be calculated as follow:

a. Business income from country X:

- 1) Foreign Income Tax on business income from country X is Rp300.000.000,00;
- 2) Certain amount:

=	Rp1.000.000.000,00	x	Rp750.000.000,00
	Rp3.000.000.000,00		
=	Rp250.000.000,00		

Since the certain amount of Rp250.000.000,00 is less than Foreign Income Tax on business income from country X, the limit of Foreign Income Tax on business income from country X that may be credited against domestic Income Tax payable shall be equal to the certain amount or Rp250.000.000,00.

b. business profits from country Y:

- 1) Foreign Income Tax on interest income is Rp900.000.000,00;
- 2) Certain amount:

=	Rp3.000.000.000,00	x	Rp750.000.000,00
	Rp3.000.000.000,00		
=	Rp750.000.000,00		

Since the certain amount of Rp750.000.000,00 is less that Foreign Income Tax on business income from country Y, the amount of Foreign Income Tax on business income from country Y that may be credited against Income Tax payable shall be equal to the certain amount of Rp750.000.000,00.

The calculation of Foreign Income Tax that may be credited by PT Indologo Enam against domestic Income Tax payable based on the aforementioned calculation is Rp1.000.000.000,00 (Rp250.000.000,00 + Rp750.000.000,00). Losses from country Z shall not be combined in the calculation of Taxable Income.

Since the amount of Foreign Income Tax that may be credited in the aforementioned calculation is more than the Income Tax payable on Taxable Income, the amount of Foreign Income Tax that may me credited by PT Indologo Enam shall be equal to Income Tax payable on Taxable Income, at most or Rp750.000.000,00.

The amount of Foreign Income Tax that may be credited against each item of income for each country or jurisdiction shall be determined proportionally in accordance with the amount of foreign net income for each item of income for each country or jurisdiction divided by total foreign net income multiplied by Income Tax payable on Taxable Income, which calculated as follows:

a. business profits from country X:

=	business profits from country X	X	Income Tax payable on Taxable Income
	Total foreign net income		
=	Rp1.000.000.000,00	X	Rp750.000.000,00
	Rp4.000.000.000,00		
=	Rp187.500.000,00		

b. business profits from country Y:

=	business profits from country Y	X	Income Tax Payable on Taxable Income
	Total foreign net income		
=	Rp3.000.000.000,00	X	Rp750.000.000,00
	Rp4.000.000.000,00		
=	Rp562.500.000,00		

MINISTER OF FINANCE
OF THE REPUBLIC OF
INDONESIA,

SRI MULYANI INDRAWATI