

TERMINATION OF TAX CRIME INVESTIGATION

Oct 31, 2012

Article 63 of Government Regulation Number 74 of 2011 on The Procedures for Exercising Tax Rights and Fulfilling Tax Obligations (“Regulation 74/2011”) mandates the promulgation of a Minister of Finance (MOF) Regulation on the suspension of a tax crime investigation. Regulation 74/2012 now provides relief for taxpayers who are implicated in a tax crime investigation so that the criminal case will not proceed from the Attorney General’s Office to the District Court.

Under Article 2 paragraph (1) of Regulation 74/2012, a request for the termination of a tax crime investigation must be submitted to the MOF and copied to the Directorate General of Tax using the form attached to Regulation 74/2012. A taxpayer who files a request must also provide a statement admitting fault using the form attached to Regulation 74/2012.

In addition, evidence of a deposit for the settlement of a tax debt (and fines) in an escrow account opened by the taxpayer suspect as a guarantee must also be provided. Article 2 (3) of Regulation 74/2012 requires the funds in the escrow account to equal the unpaid tax or the amount stated in the tax invoice or tax deposit slip, plus a fine amounting to four times the loss to the state.

The escrow account is to be opened under an agreement entered into by the taxpayer and the Directorate General of Tax or an official appointed and recognized by the bank in which the escrow account is opened. The form and content of the escrow account management agreement must include certain details.

Upon receipt of the application to terminate the tax crime investigation submitted by the suspected taxpayer, the MOF will instruct the Director General of Tax to examine and to provide an opinion as a consideration for his/her decision. The MOF may deny or grant the request to terminate the tax crime investigation.

If the request is granted, the MOF will immediately issue a written notification to the Director

General of Tax to instruct the Taxpayer to draw down the guarantee in the escrow account using the Tax Deposit Letter. If the request is denied, the MOF will also notify the Director General of Tax. Upon receipt of the Tax Deposit Letter, the MOF will submit a request for the termination of the investigation to the Attorney General's Office.

This regulation has been in force since 7 August 2012 and replaces Regulation of the MOF Number 130/PMK.03/2009 on The Procedure for Suspending Tax Crime Investigations to Protect State Revenue and Regulation of the MOF Number 189/PMK.03/2011 on Amendments to MOF Regulation Number 130/PMK.03/2009.