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## EVALUATION OF WITHHOLDING INCOME TAX IMPLEMENTATION FOR FOREIGN WORKERS IN PT X

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# EVALUATION OF THE IMPLEMENTATION OF THE WITHHOLDING OF INCOME TAX FOR FOREIGN WORKERS IN THE PT. X

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## ABSTRACT

Foreign workers in Indonesia are a potential source of additional tax income for the country. It is essential for companies to determine the appropriate tax withholding treatment for such workers. This study aims to evaluate whether the implementation of such withholding in a certain company, PT.X, has been applied correctly in accordance with the prevailing tax regulations. Such workers already have an Indonesian Tax Identification Number (TIN) and receive income from the company. PT. X then withholds the Article 26 Income Tax on their employment. The research method involved qualitative analysis based on interviews. The findings show that the withholding of income tax for foreign workers categorized as domestic tax subjects must be implemented according to Article 21 withholding income tax, while for foreign tax subjects it must comply with Article 26 withholding income tax. PT. X has theoretical understanding of Articles 21 and 26, but in practice the implementation of income tax withholding is not in accordance with the prevailing tax regulations and laws. The withholding of income tax for foreign workers who already have a TIN should be in line with Article 21 rather than Article 26.

**Keywords:** *foreign workers, income tax, withholding*

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## 1. INTRODUCTION

In recognition of the need for foreign investors in Indonesia, companies in Indonesia are allowed to employ foreign workers in accordance with Government Regulation Number 34 Year 2021 regarding the utilization of such workers. With such employment, companies can meet the need for professional and skilled workers in certain specialized fields. The workers can be employed for a certain period, both short term and long term, in accordance with the plan of the Employment of Foreign Workers.

The presence of foreign workers in Indonesia has created income opportunities for the state through income tax. This is the largest state revenue which supports the state budget every year, as can be seen from the budget figures of 2021, in which income tax revenues amounted to 683.77 trillion rupiah, or 101.86% of the target realization of the state budget from tax revenues. Article 21 and Article 26 Income Tax revenues contributed 17.9% of this amount to the state. Article 26 Income Tax revenue showed a stable level of transactions with foreign trading partners or investors. Article 21 Income Tax, Article 25/29 Income Tax for individuals, and Article 26 Income Tax are the main tax revenues for Indonesia, as shown in Table 1.

Tax Type	Realization 2021 (in billions rupiah)	Contribution
Article 21 Income Tax	149.75	11.7%
Article 25/29 Income Tax	210.91	
- Individual	12.36	1%
- Corporate	198.55	15.5%
Article 26 Income Tax	66.28	6.2%
Final Income Tax	110.45	8.6%
Onshore VAT	342.72	26.8%
Tax on imports	235.33	
- Article 22 imports	40.47	3.2%
- VAT imports	191.49	15.5%
- VAT on luxury goods imported	3.37	

Table 1. Main Income Tax

Source: APBN Kita; period January 2022

Article 21/26 as a main form of income tax is inseparable from the application of withholding income tax for employees working in Indonesia, including the employment of foreign workers. Based on Article 19 paragraph 1 PER-16/PJ/2014, income withheld through Article 26 Income Tax is income tax that is final in nature applied to work or services performed by individuals with the status of Foreign Tax Subjects by considering their status based on the double taxation avoidance agreement applicable between Indonesia and the domicile of the said Foreign Tax Subject.

In the case of foreign workers employed in Indonesia, all employers are obliged to withhold tax on the income earned. This tax withholding is undertaken through a system employed each time tax is payable, namely Article 21 Income Tax for domestic taxpayers and Article 26 Income Tax for foreign taxpayers. When withholding income tax, companies must consider whether the foreign worker employed is a domestic or a foreign taxpayer, so that the tax withholding is in accordance with applicable tax regulations.

When a foreign worker is employed, there will be cross-border business activities that can raise the issue of double taxation by Indonesia and the foreign worker's country of origin. The issue of the imposition of double taxation will clearly burden the financial position of the tax subjects themselves ; in this case, the foreign workers. To avoid double taxation, taxpayers can take advantage of the double taxation avoidance agreement with partner countries. By referring to this agreement, the method of tax exemption or tax credit in the source country of income can be provided by the domicile country of the tax subject (Septriadi & Deborah, 2017). However, in the case to be discussed, all foreign workers' income in Indonesia is immediately subject to Article 26 Income Tax of 20%, although in fact the taxpayer may not necessarily be categorized as a foreign one.

For this reason, it is important to evaluate whether a company has made an appropriate tax imposition for all the foreign workers employed by them, by considering the actual conditions of each worker. However, in practice, PT. X has withheld Article 26 Income Tax of 20% on the remuneration paid to foreign workers who already have a TIN. Neither does the company include the foreign worker's TIN on the withholding tax slip. As PT. X is a large multinational company, operating in Indonesia since 1855, it should be aware of the taxation regulations in the country and apply tax treatment in accordance with the prevailing tax laws and regulations. Moreover, foreign workers who work at PT. X hold important positions

such as CEO, CFO, or Head of Division, meaning the income tax payable is significant compared to other employees. By evaluating the application of withheld income tax by PT. X, it can be established whether the company is acting correctly.

Against this background, the formulation of the research problem includes the following questions: a) What is the form of the implementation of the withholding of income tax for foreign workers at PT. X from the income received by their employer?; b) Is the withholding of income tax conducted in accordance with the law and applicable tax regulations?; and c) What are the recommendations for PT. X regarding the application of the withholding of income tax for foreign workers? The aim of the research is to ascertain whether the tax withholding made by PT. X for foreign workers is appropriate, based on their actual conditions. In answering the above research questions, the conceptual framework shown in the Appendix 1 is developed, which evaluates PT. X based on the residency test, taxation rights, the withholding tax system and reporting implementation.

## **2. LITERATURE REVIEW**

### **2.1. PREVIOUS RELATED RESEARCH**

Several similar studies have been previously conducted. Rossita (2006) states that in PT. X, the object of her research, there were foreign workers who had been in Indonesia for more than 183 days within a 12 month period, thus should have been considered as Indonesian residents. The study findings show that Article 21 withholding of income tax have been made; however, the implementation was not in accordance with the prevailing regulations. Kurniawan (2020) argues that the foreign workers who initially had Article 26 Income Tax withheld, but then became resident in Indonesia, should be subject to Article 21 Income Tax regulations. Article 26 tax which had been withheld could be credited in their tax return, thus reducing tax payable.

### **2.2. WITHHOLDING INCOME TAX SYSTEM**

Almost all countries in the world use a self-assessment tax system, one which gives taxpayers freedom to determine, calculate, and report their own income in an active manner. However, in practice, there are many weaknesses of such a system, due to taxpayers' lack of awareness of how to calculate and pay taxes in accordance

with the applicable regulations. This is the case in Indonesia, coupled with the low level of compliance. Therefore, another mechanism, the withholding system, gives authority to third parties to calculate, withhold, and report the tax payable.

This tax collection or withholding system is performed in accordance with the principles of tax collection of Smith (2020), namely The Four Maxims described in his book *Wealth of Nations*, namely Equality, Certainty, Convenience of Payment, and Economics of Collection. Equality means that the tax burden should be balanced between the ability to pay and income of the tax subject. Certainty refers to the existence of tax law certainty regarding tax subjects, tax objects, tax rates, and provisions for making payments. Convenience of Payment concerns the issue of when tax is collected, it should be at the right time, close to the time the income is received. Finally, Economics of Collection means that tax collection should be conducted as efficiently as possible, and that the cost of collecting taxes is lower than the tax received.

Based on Law No. 6 of 1983 on the General Provisions of Taxation in Indonesia, a taxpayer is anyone who has an obligation to pay, deduct, and withhold taxes. This obligation arises because the taxpayer has met the subjective and objective tax requirements. Taxpayers, specifically workers in Indonesia, should have Article 21 Income Tax withheld, with the progressive tax rate on their income paid by the employer for the domestic taxpayer. On the other hand, foreign taxpayers will be subject to Article 26 Income Tax, with a final flat rate of 20%.

### **2.3. DOUBLE TAXATION AGREEMENT**

It is possible that an individual could be subject to tax by two countries. This double taxation situation is certainly not desirable; therefore, international taxation policies exist to ensure that income is not taxed twice (Rohatgi, 2005). Rohatgi also explains that if someone can be categorized as a resident of two countries, then a must be applied to determine which country has the right to recognize that person's residency.

Based on the double taxation agreement, in order to determine the residency status of an individual, they may apply the tie-breaker rule, which should consider factors such as their permanent home; whether the house or accommodation available is used at the time; whether it is owned or rented; what their center of vital interest is; and with which country the person has closer personal and economic relations, such as ones related to family, social interests, politics, culture,

and other activities. The next factor that needs to be considered to determine the residence is habitual abode, which is the place that is more frequently visited or occupied based on a certain period of time, with no consideration of the person's purpose for being in that place by considering the physical presence, and finally the person's nationality. If based on these factors it is still not possible to determine which residency is more appropriate, then a competent authority is needed to resolve the issue through mutual agreement. Besides the tie-breaker rule, individuals also need to prove their residency with documents such as a Tax Residency Certificate, which states their current residency status, Tax ID number, work permit or stay permit, and other documents that may be required by the tax authorities.

Taxation rights also should be considered to determine which state has the right to tax an individual's income. Based on a double taxation agreement, the domicile state has the right to tax an individual's income unless the employment is undertaken in another state. In this case, the domicile state may have the right to tax the income if several criteria are met, such as the recipient should not present in other state for more than 183 days in a calendar year or within 12 months; the remuneration is paid by the head company in the domicile state; and the remuneration is not borne by permanent establishment in other state.

### **3. RESEARCH METHODS**

The research employed a qualitative method with a case study approach. According to Hutter, Bailey, and Hennink (2020), the qualitative method involves the conducting of in-depth interviews, focus group discussions, and observations, amongst other steps, to assess participants' experience in detail. The five respondents were one person from the Directorate General of Taxes; three tax consultants, and the latter being those who help foreign workers at PT. X to meet their tax obligations in Indonesia.

The data analysis method used was thematic analysis, which is a way of analyzing data aimed at finding themes within them (Braun & Clarke, 2006, cited by Heriyanto, 2018). After conducting the interviews, the research continued with the manual transcription of the proceedings. The process of thematic analysis was then conducted. According to Heriyanto (2018), the first step is to understand the data in order to comprehend the phenomena and problems in more depth, which is

achieved by rereading the transcripts of the interviews and re-listening to the interview recordings.

The second stage in thematic analysis is compilation of the code. This is completed when all data have been coded, the code has the same meaning made into one group, and an explanation is given about the groupings and code. The next stage involves finding a theme that draws important issues in the data related to the formulation of the problem. To determine the theme, the researcher re-examines all the codes devised and ensures that the related ones have been included in the appropriate group, and then observes the code along with the group. Groups with the same meaning will become one group and produce a tentative theme. After the determination of several tentative themes, these are then reviewed to observe their similarities, differences, or relationships. In the final step, the themes are arranged based on their level of significance, and the points are explained.

The study findings were obtained from interviews with the following five respondents.

1. An account representative from Pratama Mampang Prapatan Tax Office. It was expected that he would be able to provide information about the perspective of the Directorate General of Taxes in determining the residency status of foreign workers in Indonesia and regarding their appropriate tax treatment.
2. A staff of PT. X's Human Resources Division. It was expected that they could also explain the process of determining the residency status of foreign workers at PT. X, together with the actual conditions of the assignment of such workers at the company.
3. Tax consultants holding different positions: partner, senior manager and assistant manager. These tax consultants are responsible for the preparation of the Individual Tax Returns of each foreign worker at PT. X. By conducting interviews with them, it was expected that they would be able to provide information from the consultant's point of view, as a representative or proxy of the taxpayer, in determining the residency of foreign workers. With their different backgrounds and different levels of knowledge, the researchers were eager to hear their responses, who were team members handling the foreign workers at PT. X.



The respondents were interviewed employing several questions to answer the research problem, as detailed below.

No.	Criterion	Questions
1	Residency Test	Does Indonesia have a Double Tax Agreement (DTA) with India, Spain and Singapore? How is residency determined based on the DTA, and what supporting documents are needed as proof of residency?
2	Taxation Rights	How are taxation rights determined based on the DTA? How is withholding tax applied based on these rights? What supporting documents are needed as proof of taxation rights.
3	Application of Withholding Tax for Foreigners at PT. X	How is the withholding tax system used at PT. X for domestic and foreign taxpayers? Is there any sanction if the company withholds Article 26 Income Tax for foreign taxpayers?
4	Recommendation	How should PT. X apply withholding tax for foreign workers? How can the consequences of withholding tax errors be avoided? How can double taxation for foreign workers be avoided from an individual point of view?

Table 2. Question list. See also Appendix 2 and Appendix 3

#### 4. ORGANIZATIONAL PROFILE

PT. X is a multinational company which has operated Indonesia since 1855. IT is engaged in technology and focuses on the infrastructure, transportation, and health industries. The company employs several foreign workers who work in Indonesia, from various countries such as Germany, the Netherlands, Spain, the

United States, India, Singapore, and Thailand. In Indonesia, PT. X has 843 employees, consisting of 820 local ones and 23 foreign workers. The foreign workers hold positions in the company's top management.

Depending on the countries that assign their employees to work in Indonesia, there are several types of assignments or contracts for foreign workers employed at PT.X. One is a type of assignment whereby the initial contract is for a period of one to six months, but can be a subject to extension at the end of the assignment period. This may apply to foreign workers working in the field, such as conducting technical management, installation, or maintenance services or consultation on repairs. These workers are paid by their country of origin, but this can be charged to the company in Indonesia, and the tax payable in Indonesia in connection with the work will be borne by the company of origin.

In 2018, there was one foreign national from Singapore with this kind of assignment type, who already had a TIN. In 2019 and 2020, there were two foreign Spanish nationals and two Indian nationals working in the country with a TIN. Regarding the imposition of taxes on these five foreign nationals, a 20% withholding of Article 26 Income Tax was applied.

## **5. RESULTS AND DISCUSSION**

### **5.1. DETERMINATION OF RESIDENCY FOR FOREIGN WORKERS**

Based on domestic regulations, the determination of a foreign national's residency, whether a domestic or a foreign tax subject, may refer to the Income Tax Law as amended several times, most recently by the Tax Harmonization Law, in which it is explained that domestic tax subjects are individuals, both Indonesian citizens and foreign nationals, who reside in Indonesia, being in the country for more than 183 days within a period of 12 months. On the other hand, domestic tax subjects are foreign nationals who are in Indonesia for not more than 183 days in a 12 month period.

However, in addition to referring to domestic regulations, it is also necessary to consider whether there is a double taxation avoidance agreement with a partner country regarding the determination of the foreign national's residency. In the event that there is such an agreement, to determine residency it is necessary to refer to this. Such an agreement is essentially a rule that is a *lex specialis* in nature on

domestic provisions (Darussalam & Septriadi, 2017). In other words, double taxation avoidance agreements take precedence over domestic regulations.

For this reason, the determination of the residency can refer to the double taxation avoidance agreement of each country, which is regulated in Article 4. Article 4 paragraph 1 of double taxation avoidance states that the resident of a country is a person who, based on the country's domestic regulations, is subject to tax for reasons of domicile, residence, or place of business, amongst other criteria. However, on the basis of paragraph 1, a person can be said to be a resident in two countries, so their residency status must then be determined on other criteria. If they have a permanent home in both countries, then it can be determined by their center of daily interest, such as the place where the family lives or their center of economic interest. However, if residency still cannot be determined based on the center of interest, then it can also be decided by the person's nationality, or their habits; that is, where they live most of the time. Finally, if it still cannot be determined based on nationality, it must then be resolved through an agreement procedure between the two countries.

The foreign workers at PT. X have several assignment types, including long term for more than a year, and short term for around 6 months. The short-term type can be extended to more than a year. For long-term assignments, PT. X registers the worker's TIN, although short-term foreign workers are automatically categorized as a non-resident or foreign resident in Indonesia, so a TIN is not needed and therefore not registered by the company.

If an assignment is extended, PT. X understands that they should reassess the residency status of the foreign worker as they have resided in Indonesia for more than 183 days within a 12-month period. However, the residency test not only involves a time test, but also several other criteria as stated in the double tax agreement (DTA), for example their permanent home, center of interest and center of economic interest. Since the foreign workers are from Singapore, Spain and India, PT. X should determine their residency status based on the DTAs between Indonesia and these countries, which use tie-breaker rules.

Based on the assessment, it is known that there is one foreigner from Singapore who should be considered as a foreign taxpayer due to his presence in Indonesia being for less than 183 days within a 12-month period. However, the company has registered him to obtain a TIN, even though his status is a foreign taxpayer. Other

foreign workers are considered as domestic taxpayers in Indonesia based on the tie-breaker rule consideration.

## **5.2. TAXATION RIGHTS**

In addition to residency determination, it is also important to ascertain the taxation rights on income received by individuals. For foreign nationals working in Indonesia, such rights can refer to any double taxation avoidance agreement with partner countries. This is in accordance with the study conducted by Rossita (2006), who states that in order to determine taxation rights it is important to refer to this agreement. Such rights for those assigned from a company can refer to article 15 of the double taxation avoidance agreement.

It is stated in Article 15 paragraph 1 that the domicile country has the right to tax, unless the income from work is received in the source country, in which case this country will have taxation rights. It is further explained in paragraph 2 that the domicile country has the right to tax if three criteria are met such as a person is in another country for a period of less than 183 days within a 12 month period; the salary paid then comes from the parent country; and the costs are not charged to the permanent establishment. If these three criteria are met, the taxation rights belong to the domicile country. However, if one of the criteria is not met, then the rights refer to the source country. However, according to one respondent, determining taxation rights may not be as easy as in theory as Indonesia uses a self assessment system, whereby taxpayers calculate and determine the amount of tax payable themselves.

Based on the information from this respondent, taxation rights should be determined by residency status, that is, whether the worker is considered as a domestic or foreign taxpayer. In the event that Indonesia has taxation rights on income derived from foreign workers working in the country, it is necessary to examine whether the withholding of such income is based on Article 21 Income Tax with a progressive rate, or on Article 26, with a tax rate of 20%. However, even if Indonesia has taxation rights, it remains to be determined if the worker can be categorized as a domestic or foreign tax subject. When this is established, a tax withholding decision can be taken.

If they are categorized as a domestic tax subject and already have a TIN, tax withholding will be made using Article 21 Income Tax at a progressive rate. If they are a foreign tax subject, residency is considered as the country of origin, and they

will be subject to withholding of Article 26 Income Tax at a rate of 20%. This issue was considered by one respondent, namely that the determination of tax subjects must be clear at first.

In the case of the foreign workers at PT. X, there is one foreign worker from Singapore who is considered as a foreign taxpayer and four foreign workers considered as domestic taxpayers. Even though their status is as a foreign taxpayer, the Singaporean worker has already registered for a TIN. Based on this, income tax should be withheld in line with Article 21 Income Tax using the progressive tax rate, as was the opinion of one of the respondents. For other foreign workers, it is clear that their income should be withheld according to Article 21 Income Tax rather than Article 26.

### **5.3. WITHHOLDING OF INCOME TAX AND REPORTING IMPLEMENTATION FOR FOREIGN WORKERS AT PT. X**

It is demonstrated that PT. X already understands the regulations on the withholding tax system in Indonesia. However, in practice the company still withholds Article 26 income tax for their foreign workers even though they have domestic taxpayer status and already have an Indonesian TIN. Furthermore, based on the information received, the income tax calculation at PT. X is outsourced overseas. This means there is a lack of information when calculating the income tax for foreign workers; for example, information on whether foreign workers already have a TIN.

In the case of miscalculations made by outsourced company, foreign workers can recalculate their withheld tax in their annual individual income tax return. Three respondents stated that Article 26 Income Tax could be claimed against the Indonesian tax payable in their tax return. However, the account representative had a different opinion, stating that Article 26 Income Tax cannot be claimed in the tax return since it is a final tax in nature. Therefore, there will be income tax payable in the tax return. This opinion also differs from that of Kurniawan (2020), who states that the Article 26 Income Tax can be claimed in the tax return based on Income Tax Law Article 26 paragraph 5b, which stipulates that Article 26 is a final tax except if there is a withholding tax for an individual or foreign company whose status has changed to domestic taxpayer or permanent establishment.

However, if PT. X does not want to impose any underpayment on foreign workers, it may make corrections to Article 21/26 Income Tax Withholding Tax

Return to amend the correct Article 26 and Article 21 amount, although when there is an underpayment on the part of the company, it may be subject to sanctions for late payment. Other sanctions that can be imposed for withholding income tax errors include the issuance of SP2DK, which is a result of the examination made by the account representative.

In addition, foreign workers who already have a TIN and are categorized as domestic tax subjects must also report any income from any part of the world. Therefore, income from overseas may also be taxed in the home country. To avoid double taxation, foreign workers are allowed to claim taxes that have been withheld overseas. Although in practice not all taxes paid abroad can be credited in Indonesia, this crediting system can reduce the tax burden borne by foreign workers in the country.

#### **5.4. RECOMMENDATIONS**

There are several ways to assure the correct withholding of tax based on the prevailing regulations. PT. X should organize its administration system for its foreign workers to reflect their actual conditions. Moreover, PT. X also should understand the prevailing tax regulations and laws by making routine consultations with the tax office for any special cases. One of the respondents from PT. X also stated that each foreign worker should inform the HRD division if they have already obtained a TIN, given that the TIN is registered by the tax consultant. In this way, PT. X should be aware that they already have a TIN, so will withhold Article 21 Income Tax on their employment income.

Furthermore, to support residency status, each foreign worker should hold certain documents, such as a Tax Residency Certificate or Domicile Notification Letter, stay permit, work permit, contract with the employer, driving licence, and tax ID in their domicile country. Such documents can prove the foreign workers' residency status to the Indonesian Tax Authority if need be.

### **6. CONCLUSION AND RECOMMENDATIONS**

#### **6.1. CONCLUSION**

In theory, PT. X already understands the domestic law concerning the withholding tax system in Indonesia. However, further understanding of the law is

also needed, especially regarding the double tax agreement between Indonesia and other countries. In practice, the withholding tax calculations are made by other parties outside Indonesia. Therefore, there may be a lack of understanding and information regarding Indonesian taxation laws by such third parties, possibly resulting in incorrect withholding tax calculations.

Furthermore, Article 26 withholding tax applied by PT. X is not appropriate if considering the residency status of foreign workers in PT. X which is not in accordance with the prevailing tax and law in Indonesia. Therefore, PT. X needs to organize its administrative matters regarding the actual conditions of foreign workers for them to be aware of whether or not they already have a TIN. If this is the case, the company will be able to apply the appropriate withholding tax system.

## **6.2. RESEARCH LIMITATIONS**

One limitation of the study concerns the respondents interviewed. It should have been possible to interview the third party which calculates the withheld income tax of foreign employees. Moreover, it would have been advantageous to interview the tax auditor, Directorate Tax Regulation II, who has responsibilities to develop the regulations related to Articles 21 and 26 on the withholding of tax, and also the Directorate of International Tax, responsible for devising regulations related to international tax.

## **6.3. RECOMMENDATIONS**

Based on the research findings, the following recommendations are made concerning future research:

1. Studies should be developed by considering cases in depth; for example, by establishing the differences between Article 26 and Article 21 Income Tax that should be withheld in order to determine whether the company makes any losses or gains from using Article 26 Income Tax to withhold the tax on their foreign workers' income.
2. Interviews should be directly with the third party which calculates Article 26 withholding of income tax so that the constraints on withholding income tax for foreign workers working in Indonesia can be considered.
3. Interviews with the tax auditor, Directorate Tax Regulation II and the Directorate of International Tax should be held to interpret Article 21/26 income tax and international tax regulations clearly.

4. The variable of foreign citizens who have special skills should be included in the criteria for being taxed territorially for the first 4 years in Indonesia based on the Job Creation Law, as regulated in PMK No. 18/PMK.03/21.



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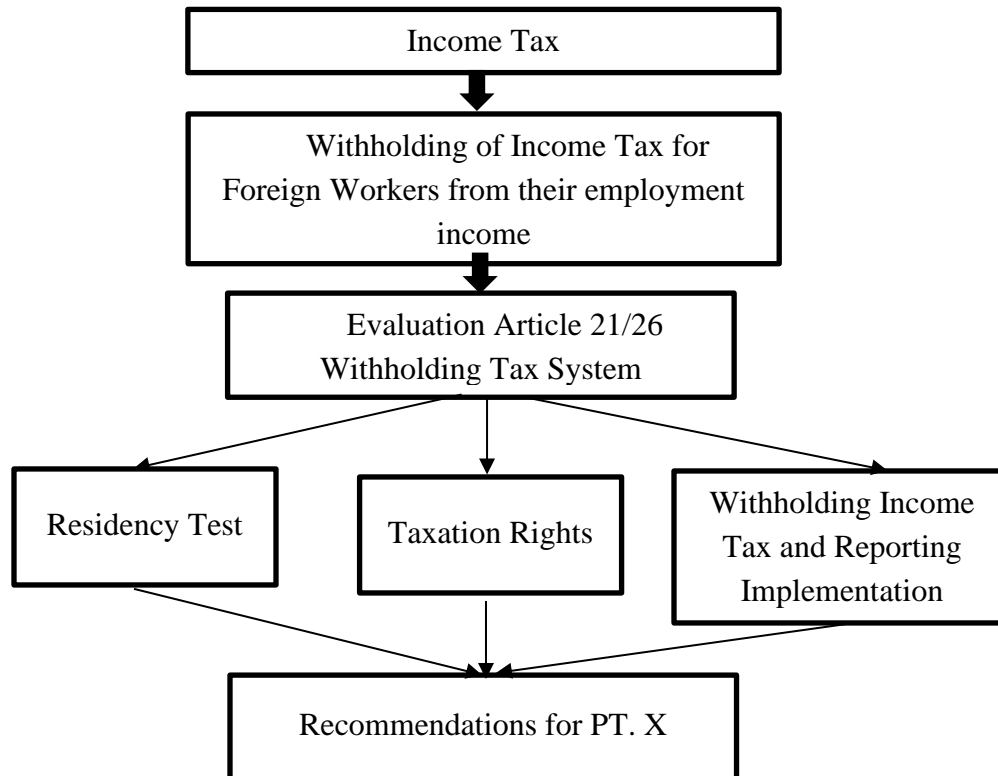
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## APPENDICES

### Appendix 1. Conceptual Framework



### Appendix 2. Question List for the Tax Account Representative and Tax Consultant

No	Question
<b>A. Residency Test</b>	
1	Does Indonesia have a double taxation avoidance agreement (P3B) with India, Spain and Singapore?
2	How can a person's residency under the double taxation avoidance agreement be determined?

No	Question
3	What supporting documents can prove that a foreigner can be categorized as a domestic tax subject or a foreign tax subject?
<b>B. Taxation Rights</b>	
4	How can the taxation rights for foreign nationals working in Indonesia by having a P3B with partner countries be determined?
5	If Indonesia has taxation rights, will the income from the foreigner's employment income be withheld under Article 21 Income Tax or Article 26 Income Tax?
6	If a foreigner already has a TIN but is still a taxpayer in their country of origin, how is the tie breaker rule applied?
7	If Indonesia does not have taxation rights, what documents must be provided by the foreigner so that the employment income is not withheld in Indonesia?
<b>C. Withholding of Income Tax for Foreign Workers</b>	
8	What is your opinion if foreigners are domestic taxpayers and already have a TIN but Article 26 Income Tax is withheld? Is this permissible according to the applicable laws and regulations?
9	What are the consequences for the company if a foreigner has Article 26 Income Tax withheld? Are there any specific sanctions?
<b>D. Recommendations</b>	
10	What steps can be taken to overcome errors in income tax withholding implementation?
11	What are the consequences for foreigners who already have a TIN and are considered as domestic taxpayers if their employment income is withheld under Article 26 Income Tax?
12	In the case of foreigners who already have a TIN and are still required to report their worldwide income in their tax return, but are also taxed in their country of origin, what can be done to avoid double taxation?

### Appendix 3. Questions List for Human Resource Staff at PT. X

No	Question
<b>A. Residency Test</b>	
1	Does Indonesia have double taxation avoidance agreements (P3B) with India, Spain and Singapore?
2	How can a person's residency under the double taxation avoidance agreement be determined?
3	When does the employer do to determine the residency of each foreign worker which they employ?
4	What criteria does the employer use in determining the residency of foreign workers employed in Indonesia?
5	What supporting documents can prove that a foreigner can be categorized as a domestic tax subject or a foreign tax subject?
<b>B. Withholding of Income Tax for Foreign Workers</b>	
6	How is the current withholding income tax applied by the employer for foreign workers who are categorized as domestic tax subjects? Is it in accordance with the prevailing laws and regulations in Indonesia?
7	How is the current withholding income tax applied by the employer for foreign workers who are categorized as foreign tax subjects? Is it in accordance with the prevailing laws and regulations in Indonesia?
8	To date, what consequences have been experienced by the company if domestic tax subjects were subject to Article 26 Income Tax? Are there any specific sanctions?
<b>C. Recommendations</b>	
9	What steps can be taken to overcome errors in income tax withholding implementation?