THE APPLICATION PROCEDURE OF DOUBLE TAXATION CONVENTION (DTC) PER-10/PJ/2017

Directorate of International Taxation
Directorate General of Taxes
THE APPLICATION PROCEDURE OF DTC AND THE PREVENTION OF ABUSE ON DTC IN THE PREVIOUS DGTR REGULATION


#Witholding Tax#
#Certificate of Domicile (CoD)#
#Administrative Obligation for Tax Offices#
#CoD from DTC Partner#
#Nonabusive requirement in the CoD#


#Types and Criteria of DTC Abuse#
#Consequences for DTC Abuse#
#Substance over form rule#
#MAP Procedure#
#The Separation of BO and Abuse in DTC#

DGT REGULATION ON THE APPLICATION PROCEDURE OF DOUBLE TAXATION CONVENTION (DTC)
Scheme for The Application Procedure of DTC based on DGTR NO. PER-10/PJ/2017

Start

Identification for Non-Resident transaction and Withholding Tax Payable

Yes

Qualify DTC requirement

No

Yes

File CoD of Non-Resident on time

No

No

Qualify as BO and Not DTC Abuse

Yes

Domestic (Income Tax Law)

Refund or MAP

Finish

Yes

DTC
SCHEME OF DTC BENEFIT ACCORDING TO DGTR NO. PER-10/PJ/2017

<table>
<thead>
<tr>
<th>Non-Resident</th>
<th>Custodian</th>
<th>Withholding Agent</th>
<th>Tax Office</th>
<th>Tax Office where PE should be registered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Original CoD</td>
<td>Original CoD</td>
<td>Tax Return, WHT Slip and Ori/Copy/Legalise CoD</td>
<td>Tax Return, WHT Slip, and Copy/Legalised CoD</td>
<td></td>
</tr>
<tr>
<td>WHT Slip</td>
<td>Original CoD</td>
<td>Original and Copy of CoD</td>
<td>Original CoD</td>
<td>Advise Letter</td>
</tr>
<tr>
<td></td>
<td>Original and Legalised CoD</td>
<td>Original and Copy of CoD</td>
<td>Legalised CoD</td>
<td></td>
</tr>
</tbody>
</table>

1. Original CoD
2. WHT Slip
3. Advise Letter
WITHHOLDING TAX

**Withholding Agent:**
- Must Withhold Tax based on Domestic Law; or
- Must Withhold Tax based on DTC

**Withholding Agent:**
- Shall make Withholding Tax Slip;
- Must file CoD of Non-Resident as attachment of Tax Return for the period when WHT is payable; dan
- May file CoD of Non-Resident electronically

**Refund:**
- Apply in case of DTC misimplementation or late filed of CoD of Non-Resident; and
- Forbidden for DTC Abuse

**Non-Resident may apply for MAP in case of:**
- Non-Resident does not receive DTC Benefit; and
- Withholding Agent does not file Tax Return
CoD of Non-Resident

**Administrative Requirements**

- Using Form DGT-1 or Form DGT-2
  - being filled out correctly, completely; and clearly
  - being signed or given an equally mark as a signature according to the prevalence in the Contracting Country or Jurisdiction
  - being authorized with a signature or an equally mark as a signature by the CA according to the prevalence in the Contracting Country or Jurisdiction
  - being used in the period as stated in the CoD of Non-Resident
  - being filed by Withholding Agent in conjunction with the filing time of Tax Return, no later than the due date of Tax Return submission for the period when WHT is payable

**Other Requirements**

For Form DGT-1, Non-Resident shall state in the second page of the form that:
1. There are relevant economic motives or other valid reasons for the establishment of the foreign entity;
2. The entity has its own management to conduct the business and such management has an independent discretion;
3. The entity has sufficient assets to conduct business other than the assets generating income from Indonesia;
4. The entity has sufficient and qualified personnel to conduct the business; and
5. The entity has business activity other than receiving dividend, interest, royalty sourced from Indonesia;

For Form DGT-1 and Non-Resident acting as BO, Non-Resident shall state in the third page of the form that:
1. for an Individual Non-Resident Taxpayer, they shall not act as an agent or nominee; or
2. for an entity as Non-Resident Taxpayer, they shall not act as an agent, nominee, or conduit that fulfill these requirements:
   a) The entity has controlling rights or disposal rights on the income or the assets or rights that generate the income in Indonesia;
   b) No more than 50 per cent of the entity's income is used to satisfy claims by other persons;
   c) The entity bear the risk on its own asset, capital, or the liability; and
   d) The entity does not have contract/s which obliges the entity to transfer the income received to resident of third country;

For Form DGT-2, Non-Resident shall state in Part II of the form that:
1. The Income Recipient is a Resident of the Contracting Country or Jurisdiction for income tax purposes within the meaning of DTC of both countries; and
2. He /She is or this company is not acting as an agent or a nominee.
Certificate of Residence which fulfill these requirements

- in English language;
- an original document or a copy of document authorized by the Tax Office where one of the Withholding Agent registered;
- at least disclosing information about the name of Non-Resident, the issuance date, and the taxable year of the CoR; and
- disclosing the name and being signed or given an equally mark as a signature by the CA according to the prevalence in the Contracting Country or Jurisdiction.
Not DTC Abuse when Non-Resident has:
- economic substance in the establishment of the entity or implementation of the transaction;
- legal form that similar to economic substance in the establishment of the entity or implementation of the transaction;
- its own management to conduct the business and such management has an independent discretion;
- sufficient assets to conduct business other than the assets generating income from Indonesia;
- sufficient and qualified personnel to conduct the business
- business activity other than receiving dividend, interest, royalty

for an Individual Non-Resident Taxpayer, they shall not act as an agent or nominee; or
for an entity as Non-Resident Taxpayer, they shall not act as an agent, nominee, or conduit that fulfill these requirements:
- a) The entity has controlling rights or disposal rights on the income or the assets or rights that generate the income in Indonesia;
- b) No more than 50 per cent of the entity's income is used to satisfy claims by other persons;
- c) The entity bear the risk on its own asset, capital, or the liability; and
- d) The entity does not have contract/s which obliges the entity to transfer the income received to resident of third party.
Additional Provisions

Others Provision

- Certain organisations that excluded may not use *Form DGT-1* or *Form DGT-2*.
- These Organisations must file CoR or atau notification letter from the CA in the Contracting Country or Jurisdiction.
- Non-Resident must file CoR to the Tax Office whose working area covers the residence, the place of business, or the place of domicile of Non-Resident in Indonesia.

Interim Provisions

- Previous CoD may be used until the expiration date

Closing Provisions

- This DG Regulation shall come into force on 1 August 2017
Form-DGT 1 filling by Non-Resident: resident from DTC Partner who apply for reducing Withholding Tax Tariff based on DTC for dividend, interest, royalties and other incomes.
Filling Instructions for Form-DGT 1

Form-DGT 1 Page 1 Part I

Fill the name of the country of income recipient.

Fill with taxpayer identification number (TIN), name, address, contact number, and email of income recipient.

All particulars in the form are to be properly furnished, and the same shall be signed as completed. This form shall be certified by the Competent Authority or his authorized representative or authorized tax office in the country where the income recipient is a tax resident before submitted to Indonesian withholding agent.

<table>
<thead>
<tr>
<th>NAME OF THE COUNTRY OF INCOME RECIPIENT:</th>
<th>(1)</th>
</tr>
</thead>
</table>

**PART I**  
**INCOME RECIPIENT**

<table>
<thead>
<tr>
<th>Tax ID Number</th>
<th>(2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td>(3)</td>
</tr>
<tr>
<td>Full address</td>
<td>(4)</td>
</tr>
<tr>
<td>Contact Number</td>
<td>(5) email: (6)</td>
</tr>
</tbody>
</table>

© Dit. PI, DJP
Form-DGT 1
Page 1 Part II

Filling Instructions for Form-DGT 1

Fill the income recipient’s name

In case the income recipient is not an individual, fill in the name of person authorized to sign on behalf the income recipient and check the appropriate box.

Signature from the income recipient or person authorized to sign on behalf the income recipient, followed by address, date, and the capacity of the claimant or his representative who signs this form.

PART II
DECLARATION BY THE INCOME RECIPIENT

I, (full name) declare that I have examined the information provided in this form and to the best of my knowledge and belief it is true, correct, and complete. I further declare that □ I am □ this company is not an Indonesian resident taxpayer. (Please check the box accordingly)

Signature of the income recipient or individual authorized to sign for the income recipient

Place, date (mm/dd/yy)

Capacity in which acting
Form-DGT 1
Page 1 Part III

- Fill with the name of country where the income recipients is registered as a resident taxpayer.
- Fill with the period of the tax year to be covered (maximum 12 months from the starting month) and the name of country where the income recipients is registered as a resident taxpayer.
- Fill with name, and signature of the Competent Authorities or his authorized representative, followed by capacity, date address and signature mark (if any).

PART III
CERTIFICATION BY COMPETENT AUTHORITY OR AUTHORIZED TAX OFFICE OR THE COUNTRY OF RESIDENCE:

For the purpose of tax relief, it is hereby confirmed that the taxpayer mentioned in Part I as a resident in

_________ (11) for the period _______ to _______ (13) of the fiscal year _______ (14) within the meaning of the Double Taxation Convention in accordance with Double Taxation Convention concluded between Indonesia and _______ (15)

Office address: _____________________________ (19)

This form is available and may be downloaded at this website: http://www.pajak.go.id

© Dit. PI, DJP
Fill with **TIN, name, address, contact number** and **email** of Indonesia Withholding Agen.

<table>
<thead>
<tr>
<th>Field</th>
<th>Description</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax ID Number</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Name</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Full address</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contact Number</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Email</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

© Dit. PI, DJP
Part V only for An Individual

Fill with **name, date of birth** and **address** of the income recipient, and answer questions number 4 to 9 based on the fact by checking the appropriate box and filling the available space.

Individual who has right to receive DTC benefit must fulfill these criteria:
- does not have one or all of the principal purposes of the arrangements or transactions is to obtain benefit under the convention and contrary to the object and purpose of the DTC;
- not acting as agent or a nominee;
- does not have permanent home in Indonesia;
- does not reside in Indonesia for certain period; and
- does not have PE in Indonesia.

<table>
<thead>
<tr>
<th>1. Name of Income Recipient</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Date of birth (mm/dd/yyyy)</td>
<td></td>
</tr>
<tr>
<td>3. Full address</td>
<td></td>
</tr>
<tr>
<td>4. One of the principal purposes of the arrangements or transactions is to obtain benefit under the convention and contrary to the object and purpose of the DTC.</td>
<td>□ Yes □ No</td>
</tr>
<tr>
<td>5. Are you acting as an agent or a nominee?</td>
<td>□ Yes □ No</td>
</tr>
<tr>
<td>6. Do you have permanent home in Indonesia?</td>
<td>□ Yes □ No</td>
</tr>
<tr>
<td>7. In what country do you ordinarily reside?</td>
<td></td>
</tr>
<tr>
<td>8. Have you ever been resided in Indonesia?</td>
<td>□ Yes □ No</td>
</tr>
<tr>
<td>If so, in what period?</td>
<td></td>
</tr>
<tr>
<td>Please provide the address:</td>
<td></td>
</tr>
<tr>
<td>9. Do you have any office, or other place of business in Indonesia?</td>
<td>□ Yes □ No</td>
</tr>
<tr>
<td>If so, please provide the address:</td>
<td></td>
</tr>
</tbody>
</table>
Form-DGT 1
Page 2 Part VI
No. 1-4

Part VI only for Non-Individual.

Fill with:
(1) Country of registration or incorporation,
(2) Country where the place of management or control reside,
(3) Address of Head Office,
(4) Address of branches, offices, or other place of business in Indonesia (if any)

**PART VI**

**TO BE COMPLETED IF THE INCOME RECIPIENT IS NON INDIVIDUAL**

1. Country of registration/incorporation: ____________________________ (35)
2. Which country does the place of management or control reside? ____________________________ (35)
3. Address of Head Office: ____________________________ (36)
4. Address of branches, offices, or other place of business in Indonesia (if any): ____________________________ (37)
Answer questions no. 5 to 10 by checking the appropriate box based on true fact. (Treaty Abuse Test)

Non-Individual who has right to receive DTC benefit must fulfill these criteria:
- does not have one or all of the principal purposes of the arrangements or transactions is to obtain benefit under the convention and contrary to the object and purpose of the DTC;
- There are relevant economic motives or other valid reasons for the establishment of the foreign entity;
- The entity has its own management to conduct the business and such management has an independent discretion;
- The entity has sufficient assets to conduct business other than the assets generating income from Indonesia;
- The entity has sufficient and qualified personnel to conduct the business; and
- The entity has business activity other than receiving dividend, interest, royalty sourced from Indonesia;

5. One of the principal purposes of the arrangements or transactions is to obtain benefit under the convention and contrary to the object and purpose of the DTC.

6. There are relevant economic motives or other valid reasons for the establishment of the foreign entity

7. The entity has its own management to conduct the business and such management has an independent discretion.

8. The entity has sufficient assets to conduct business other than the assets generating income from Indonesia.

9. The entity has sufficient and qualified personnel to conduct the business.

10. The entity has business activity other than receiving dividend, interest, royalty sourced from Indonesia.
Signature from the income recipient or person authorized to sign on behalf the income recipient, followed by address, date, and the capacity of the claimant or his representative who signs this form.

I declare that I have examined the information provided in this form and to the best of my knowledge and belief it is true, correct, and complete.

Signature of the income recipient or individual authorized to sign for the income recipient

Place, date (m/m/dd/yy)

Capacity in which acting
Answer questions no. 1 to 5 by checking the appropriate box based on true fact. (BO Test)
The income recipient of dividend, interest and royalty who has right to receive DTC benefit must fulfill these criteria:
- does not act as an agent, nominee, or conduit
- The entity has controlling rights or disposal rights on the income or the assets or rights that generate the income in Indonesia;
- No more than 50 per cent of the entity's income is used to satisfy claims by other persons;
- The entity bear the risk on its own asset, capital, or the liability; and
- The entity does not have contract/s which obliges the entity to transfer the income received to resident of third country.

<table>
<thead>
<tr>
<th>Part VII</th>
<th>To be completed if the income earned are dividend, interest, or royalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The entity is acting as an agent, nominee or conduit</td>
<td>[ ] Yes [ ] No (47)</td>
</tr>
<tr>
<td>2. The entity has controlling rights or disposal rights on the income or the assets or rights that generate the income.</td>
<td>[ ] Yes [ ] No (48)</td>
</tr>
<tr>
<td>3. No more than 50 per cent of the entity's income is used to satisfy claims by other persons.</td>
<td>[ ] Yes [ ] No (49)</td>
</tr>
<tr>
<td>4. The entity bear the risk on its own asset, capital, or the liability</td>
<td>[ ] Yes [ ] No (50)</td>
</tr>
<tr>
<td>5. The entity has contract/s which obliges the entity to transfer the income received to resident of third country.</td>
<td>[ ] Yes [ ] No (51)</td>
</tr>
</tbody>
</table>
## Filling Instructions for Form-DGT 1

### Part VIII

#### INCOME EARNED FROM INDONESIA IN RESPECT TO WHICH RELIEF IS CLAIMED

<table>
<thead>
<tr>
<th>1. Dividend, Interest, or Royalties:</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Type of Income: (52)</td>
</tr>
<tr>
<td>b. Amount of Income liable to withholding tax under Indonesian Law: IDR. (53)</td>
</tr>
<tr>
<td>c. Amount of Income liable to withholding tax under DTC:</td>
</tr>
<tr>
<td>Amount: __________________________ (54) Percentage: __________________________ (55)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>2. Income from rendering services (including professional):</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Type of Income: (56)</td>
</tr>
<tr>
<td>b. Amount of Income liable to withholding tax under Indonesian Law: IDR. (57)</td>
</tr>
<tr>
<td>c. Amount of Income liable to withholding tax under DTC:</td>
</tr>
<tr>
<td>Amount: __________________________ (58) Percentage: __________________________ (59)</td>
</tr>
<tr>
<td>d. Period of engagement (mm/dd/yy):</td>
</tr>
<tr>
<td><strong><strong><strong>/</strong></strong></strong>/__________ to <strong><strong><strong><strong>/</strong></strong>__/</strong></strong>______</td>
</tr>
<tr>
<td><strong><strong><strong>/</strong></strong></strong>/__________ to <strong><strong><strong><strong>/</strong></strong>__/</strong></strong>______</td>
</tr>
<tr>
<td><strong><strong><strong>/</strong></strong></strong>/__________ to <strong><strong><strong><strong>/</strong></strong>__/</strong></strong>______</td>
</tr>
</tbody>
</table>

---

**Fill the type of income, by writing on:**
- number 1 for dividend, interest, or royalties;
- number 2 for income from rendering services;

Amount of income must be stated including when there is no tax payable in Indonesia based on DTC.

**On part of Amount of Income IDR may be filled with:**
- Rupiah currency

**Part of periods of engagement may be emptied in case of the time of service completion can not be predicted.**
Filling Instructions for Form-DGT 1

3. Other Type of Income:
   a. Type of income: ____________________________ (61)
   b. Amount of income liable to withholding tax under Indonesian Law: IDR. ____________________________ (62)
   c. Amount of income liable to withholding tax under DTC:
      Amount: ____________________________ (63) Percentage: ____________________________ (64)

I declare that I have examined the information provided in this form and to the best of my knowledge and belief it is true, correct, and complete.

____________________ (65)  ___, __ / __ / ___________ (67)
Signature of the income recipient or individual authorized to sign for the income recipient  Place, date (mm/dd/yy)

On part of Amount of Income IDR may be filled with:
• Rupiah currency

Signature from the income recipient or person authorized to sign on behalf the income recipient, followed by address, date, and the capacity of the claimant or his representative who signs this form.
Form-DGT 2 fill by Non-Resident who is:
• a banking institution,
• a pension fund, and
• a person who claims relief from Indonesia Income Tax in respect of income arises from the transfer of bonds or stocks which traded or registered in Indonesia stock exchange and earned the income or settled the transaction through a Custodian in Indonesia, other than interest and dividend.
Filling Instructions for Form-DGT 2

**Form-DGT 2**
Page 1 Part I

Fill the name of the country of income recipient.

Fill with **taxpayer identification number (TIN)**, **name**, **address**, **contact number**, and **email** of income recipient.

---

<table>
<thead>
<tr>
<th>NAME OF THE COUNTRY OF INCOME RECIPIENT:</th>
<th>(1)</th>
</tr>
</thead>
</table>

**PART I**

<table>
<thead>
<tr>
<th>INCOME RECIPIENT</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax ID Number :</td>
<td>(2)</td>
</tr>
<tr>
<td>Name :</td>
<td>(3)</td>
</tr>
<tr>
<td>Full address :</td>
<td>(4)</td>
</tr>
<tr>
<td>Contact Number :</td>
<td>(5)</td>
</tr>
<tr>
<td>email :</td>
<td>(6)</td>
</tr>
</tbody>
</table>
Form-DGT 2 Page 1 Part II

Fill in the name of the country where the income recipient resides.

For question no. 2 and 3, check the appropriate box if the income recipient is not an individual.

Signature from the income recipient or person authorized to sign on behalf the income recipient, followed by address, date, and the capacity of the claimant or his representative who signs this form.

PART II
DECLARATION BY THE INCOME RECIPIENT

1. I declare that I am a resident of ___________________________ (7) [name and date of residence] for income tax purposes within the meaning of the Double Taxation Convention of both countries;

2. In relation with the earned income, [ ] I am [ ] this company is not acting as an agent or a nominee; (Please check the box accordingly)

3. The beneficial owner is not an Indonesian resident taxpayer and [ ] I am [ ] this company is not an Indonesian resident taxpayer, and (Please check the box accordingly)

4. I have examined the information stated on this form and to the best knowledge and belief it is true, correct and complete;

_______________________________
Signature of the income recipient or individual authorized to sign for the income recipient

, / / (9) Place, date (mm/dd/yy)

(10) Capacity in which acting

© Dit. PI, DJP
Filling Instructions for Form-DGT 2

**Part III**

**Certification by Competent Authority or Authorized Tax Office**

**Country of Residence:**

For the purpose of tax relief, it is hereby confirmed that the taxpayer mentioned in Part I is a resident in [country name] within the meaning of the Double Taxation Convention in accordance with Double Taxation Convention concluded between Indonesia and [country name].

[Official Stamp]

Name and Signature of the Competent Authority or his authorized representative or authorized tax office:

Office address:

This form is available and may be downloaded at this website: http://www.pajak.go.id

© Dit. PI, DJP
Fill the type of income, by writing on:
- number 1 for untuk dividend, interest, or royalties;
- number 2 for income from rendering services;

Amount of income must be stated including when there is no tax payable in Indonesia based on DTC.

<table>
<thead>
<tr>
<th>Part IV</th>
<th>INCOME EARNED FROM INDONESIA IN RESPECT TO WHICH RELIEF IS CLAIMED</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Dividend, Interest, or Royalties:</td>
<td></td>
</tr>
<tr>
<td>a. Type of Income:</td>
<td>(20)</td>
</tr>
<tr>
<td>b. Amount of Income liable to withholding tax under Indonesian Law:</td>
<td>IDR.</td>
</tr>
<tr>
<td>c. Amount of Income liable to withholding tax under DTC:</td>
<td>Amount:</td>
</tr>
<tr>
<td>2. Income from rendering services (including professional):</td>
<td></td>
</tr>
<tr>
<td>a. Type of Income:</td>
<td>(24)</td>
</tr>
<tr>
<td>b. Amount of Income liable to withholding tax under Indonesian Law:</td>
<td>IDR.</td>
</tr>
<tr>
<td>c. Amount of Income liable to withholding tax under DTC:</td>
<td>Amount:</td>
</tr>
<tr>
<td>d. Period of engagement (mm/dd/yy):</td>
<td></td>
</tr>
<tr>
<td>_____ / _____ / _______</td>
<td>to</td>
</tr>
<tr>
<td>_____ / _____ / _______</td>
<td>to</td>
</tr>
<tr>
<td>_____ / _____ / _______</td>
<td>to</td>
</tr>
<tr>
<td>_____ / _____ / _______</td>
<td>to</td>
</tr>
<tr>
<td>_____ / _____ / _______</td>
<td>to</td>
</tr>
</tbody>
</table>

On part of Amount of Income IDR may be filled with:
- Rupiah currency)

Part of period of engagement may be emptied in case of the time of service completion can not be predicted.
### Filling Instructions for Form-DGT 2

**Form-DGT 2**  
Page 2 Part IV  
No. 3 dan Declaration

**3. Other Type of Income:**

<table>
<thead>
<tr>
<th>Type of Income</th>
<th>Amount of income liable to withholding tax under Indonesian Law: IDR.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Amount: ____ Percentage: ____</td>
</tr>
</tbody>
</table>

Amount of income must be stated including when there is no tax payable in Indonesia based on DTC.

On part of Amount of Income IDR may be filled with:
- Rupiah currency

I declare that I have examined the information provided in this form and to the best of my knowledge and belief it is true, correct, and complete.

Signature from the income recipient or person authorized to sign on behalf the income recipient, followed by address, date, and the capacity of the claimant or his representative who signs this form.

This form is available and may be downloaded at this website: [http://www.pajak.go.id](http://www.pajak.go.id)
THANK YOU