

**Client Alert on  
Religious Festivity Allowance (THR) during the Covid – 19 Pandemic**

A religious festivity allowance (*tunjangan hari raya*/"THR") is compulsory under prevailing manpower regulation. It is particularly regulated in Ministry of Manpower Regulation Number 6 of 2016 on Religious Festivity Allowances for Employees / Workers in Company ("MoM 6/2016").

The current situations of the Covid-19 pandemic had inflicted inabilities for companies to operate and run their businesses, which also affect their financial performances. This leads to the companies being possibly unable to pay the THR to their employees in a timely manner.

As a form of protection for the employees and by taking into account to the company's financial condition due to the contemporary Covid-19 pandemic, the Government through the Ministry of Manpower ("Ministry") had recently issued a policy in the form of the Ministry Circular Letter Number M/6/HL.00.01/V/2020 dated 6 May 2020 concerning Implementation on Providing the Religious Festivity Allowance / *Tunjangan Hari Raya Keagamaan* Year 2020 Within the Corona Virus Disease 2019 (Covid-19) Pandemic ("Circular Letter"). This policy was issued in order to provide an equal understanding in facing the current uncertain economic conditions between the company and the employee regarding the forthcoming THR payment requirement.

**1. Installment or Postponement Methods on THR Payment**

Under MoM 6/2016, THR must be paid maximum 7 (seven) days before the day of religious festivity.<sup>1</sup> The employee is entitled for THR amount of 1 (one) time salary for the employee who already working consecutively for 12 (twelve) months or proportional amount payment for the employee who has working period more than 1 (one) month but less than one year.<sup>2</sup> THR also must be paid to the employee who is transferred to the new company with a continued working period, if the employee does not receive THR payment from the previous company.<sup>3</sup>

Despite the above requirement, through this Circular Letter, the Ministry basically relaxes and provides alternative payment methods for the company to implement the THR payment as follows:

- a. Installment.  
If the company cannot pay the THR in full within the required time as mentioned under MoM 6/2016, then the company can pay the THR partially and gradually; or
- b. Postponement.  
If the company cannot pay the THR at all within the required time as mentioned under MoM 6/2016, then the company may postpone the prescribed THR payment within the mutually agreed timeframe.

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<sup>1</sup> MoM 6/2016 Article 5 (4). The acknowledged religious festivities in Indonesia are Eid Mubarak, Christmas, Nyepi (Saka New Year), Vesak and Chinese New Year. The THR is paid once annually in accordance with the employee's religious belief.

<sup>2</sup> MoM 6/2016 Article 3 (1).

<sup>3</sup> MoM 6/2016 Article 8.

The above methods must be mutually agreed in advance between the company and the employee. These agreements have to also be reported to the relevant local manpower office.

## **2. Imposition of Fines according to MoM 6/2016**

Under a normal situation, the company must pay a fine of 5% (five percent) from the total THR payment amount if the THR is not paid within the prescribed timeframe.<sup>4</sup> Therefore, should the company opts to apply the methods in point 1 above, then the Circular Letter elucidates that such application will not waive the requirements of the company to pay the fine. In other words, the fine is arguably imposed when the company opts either methods in the foregoing point 1.

Please note that the Circular Letter obliges the above THR payment and fine to be paid in the year of 2020. Hence, any attempt to restructure the payment timeframe of the THR and or fine are to be made by taking into account the requirement that they have to be settled within year 2020.

Please note that the information contained in this alert should be only used as a general guideline with respect to the subject hereof and may not contain legal advice for your specific cases. The information herein should not be used or relied upon in regard to any particular facts or circumstances without seeking legal advice from us.

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<sup>4</sup> MoM 6/2016 Article 10 (1).