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Treaty Entitlement on Loan Interest Guarantyd By Foreign Government Financial Institutions: Analysis of KEXIM Guaranty Based on Article 11 Indonesia-South Korea Dta

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ABSTRACT

Cross-border loan interest may be subject to Indonesian Article 26 withholding tax. Article 11 of the Indonesia-Korea tax treaty, however, provides special treatment for interest received by governmental institutions and for interest on debt-claims guaranteed or indirectly financed by government-owned financial institutions, including the Korea Export-Import Bank (KEXIM). This study examines treaty entitlement for KEXIM-guaranteed debt using a qualitative normative-empirical approach. The evidence combines four Article 26 tax-dispute response documents, a semi-structured expert interview with a senior tax consultant experienced in international withholding tax and tax treaties, the treaty and applicable regulations, and a synthesis of 45 Indonesian journal articles and 5 international journal articles. The findings show that the explicit listing of KEXIM in Article 11(4) establishes its institutional status but does not automatically exempt every interest payment associated with KEXIM. Article 11(3) entitlement requires characterization as interest, residence and beneficial-ownership tests, absence of an effective connection with an Indonesian permanent establishment, and, critically, evidence linking the KEXIM guarantee to the specific debt-claim or tranche generating the interest. The expert interview identifies guarantee linkage and the consistency of the evidentiary chain as the main areas of audit risk. A defensible treaty file should combine the Loan/Facility Agreement, KEXIM Guarantee Agreement or Certificate, Coverage Schedule, KEXIM confirmation, Form DGT/CoR, beneficial-owner evidence, and payment trail. Accordingly, zero withholding is the outcome of cumulative treaty and evidentiary tests rather than an automatic consequence of KEXIM involvement.

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INTRODUCTION

Financing for infrastructure projects and large-scale investments often uses cross-border loan structures due to the large capital requirements, long-term nature, and the involvement of risk-sharing among sponsors, commercial lenders, export credit agencies, and government financial institutions. In such a structure, foreign government support can be provided in the form of direct lending, guaranties, insurance, or indirect financing. The tax consequences are not only determined by the domestic rate but also by how the tax treaty allocates the right to tax interest.

In Indonesian domestic law, interest paid to foreign taxpayers other than permanent establishments is in principle included as income subject to withholding tax under Article 26. However, when the recipient is a resident of a treaty partner country, the imposition of tax must be re-evaluated against the treaty provisions. DTT functions not merely as a provider of lower rates, but as an instrument for the distribution of tax rights between the source country and the residence country (Yusuf et al., 2023; Puspa & Samudra, 2025).

The Indonesia-South Korea DTA provides a specific structure for interest. Article 11(2) limits the source country's tax to a maximum of 10% of the gross amount of interest if the recipient is the beneficial owner. However, Article 11(3) provides an exemption if the interest is received by the government, central bank, financial institution wholly owned by the Government, or a resident of another country on a debt-claim guarantyd or indirectly financed by the institution. Article 11(4) explicitly includes the Korea Export-Import Bank (KEXIM) in the category of Korean government financial institutions. Consequently, the existence of the KEXIM guaranty can result in materially different tax outcomes compared to regular commercial loans.

The uniqueness raises a question of proof. The status of KEXIM as an Article 11(4) institution does not by itself prove that every interest payment to a commercial bank qualifies for an exemption. Taxpayers still need to demonstrate that the payment is interest from a debt-claim, the debt-claim in question is genuinely guarantyd or indirectly financed by KEXIM, the interest recipient meets treaty entitlement, and the administrative requirements of the DTA are fulfilled. Thus, the main issue shifts from merely "who the receiving bank is" to "whether the specific debt-claim meets the requirements of Article 11(3)".

The empirical background of the research comes from the dispute over Article 26 Income Tax of PT XYZ, a pseudonym for an Indonesian corporate taxpayer engaged in cross-border financing transactions. Business field, location, identity, and certain transaction values are not disclosed to maintain confidentiality. Four SPUH response letters indicate that during the objection process, KEXIM has been treated as a resident of Korea based on the Certificate of Residence and can access the Indonesia-South Korea DTA. The same document also highlights the importance of income characterization because the payment of interest rate swaps to KEXIM is deemed not to meet the definition of interest under Article 11 and is reclassified under Article 7 as business profits. This documentary finding does not prove that a certain loan is guarantyd by KEXIM, but shows that the character of income and treaty entitlement are treated as two different stages of analysis.

Indonesian literature has discussed DTA, beneficial owner, treaty shopping, tax disputes, thin capitalization, and hedging transactions. Ardianyah (2021), Malvinas et al. (2018), Angelica (2024), and Nivia (2023) demonstrate the importance of beneficial ownership and the substance of income recipients. Kurniawan and Rahayu (2022) highlight anti-treaty shopping, while Supriyadi et al. (2019), Hamdani et al. (2023), Hasanah et al. (2025), and Effendy et al. (2025) place the quality of evidence and differences in interpretation as important factors in tax disputes. On the financing side, thin capitalization research shows that cross-border debt is a tax risk area, but the focus is more on tax avoidance than on treaty exemption for government-guaranteed debt.

At the international level, the literature on export credit agencies emphasizes that official export credit can take the form of financing, insurance, and government-backed guaranties (Pýcha, 2021; Klasen & Vassard, 2023; Klasen & Janus, 2023). Meanwhile, tax treaty literature shows that withholding tax and exemption are the results of negotiations on the division of tax rights, and they need to be distinguished from treaty shopping (Petkova et al., 2026; van't Riet & Lejour, 2025). There are still few studies in Indonesia that integrate tax treaty research with financing guarantyd by foreign government financial institutions, particularly in the context of Article 11(3)–(4) of the Indonesia–South Korea tax treaty.

Based on this gap, this research focuses on treaty entitlement for interest on loans guarantyd by KEXIM and builds a proof framework that can be used to assess whether a payment falls under the domestic rate, treaty rate, or exemption. This focus distinguishes the research from derivative studies in the SPUH document; swap transactions are used only as an empirical context regarding the importance of income characterization and treaty entitlement, while the main object of the research is the interest arising from the guarantyd debt-claim.

Problem Formulation

1. What is KEXIM's position in Article 11(4) of the Indonesia-South Korea DTA?
2. What requirements must be met for interest on a debt claim guarantyd or indirectly financed by KEXIM to qualify for the Article 11(3) exemption?
3. What documents are substantively and administratively required to prove treaty entitlement for the interest?
4. How to differentiate the conditions for applying the domestic tax rate under Article 26, the treaty rate of 10%, and the exemption rate of 0%?
5. What is the perspective of tax practitioners/consultants on proving the KEXIM guaranty in audit or objection practices?

Research Objectives

The research aims to analyze the position of KEXIM and the structure of exemption Article 11, identify the elements of proof for government-guaranteed debt, compile a matrix of supporting documents for treaty entitlement, and obtain practical validation from tax consultants regarding the application of Article 26 income tax on interest guarantyd by KEXIM.

LITERATURE REVIEW

Article 26 Income Tax and the Function of DTA

Article 26 Income Tax is a domestic charging and withholding mechanism on certain income sourced from Indonesia and received by foreign taxpayers. In interest transactions, domestic law is the starting point, but the DTA determines the extent to which the source taxing right can be exercised. With this approach, the treaty does not create a new tax object, but rather limits or allocates existing tax rights based on domestic law.

Treaty Entitlement

Treaty entitlement refers to the eligibility of income recipients to obtain benefits based on Double Taxation Avoidance Agreements (DTAA). The assessment of treaty entitlement includes, among other things, the status as a resident of the partner country under the DTAA, fulfillment of beneficial ownership requirements if relevant, absence of treaty abuse, and compliance with the administrative requirements stipulated in the application of the DTAA. Literature on beneficial ownership in Indonesia indicates that formal status as an income recipient is not always sufficient to obtain treaty benefits. The application of the DTA needs to be supported by the alignment between the legal status of the income recipient and the economic substance of the income they receive (Tiono & Sadjiarto, 2013; Malvinas et al., 2018; Ardianyah, 2021; Angelica, 2024).

Structure of Article 11 of the Indonesia-South Korea DTA

Provision	Substance	Implication
Article 11(1)	Interest arising in a Contracting State and paid to a resident of another Contracting State may be taxed in the residence state.	Grants taxing rights to the residence state.
Article 11(2)	The source state may also tax, but if the recipient is the beneficial owner, the rate shall not exceed 10% of the gross interest.	General treaty rate for interest.
Article 11(3)	Certain interest is exempt in the source state if obtained by a qualifying government institution or a resident on debt-claims guaranteed/indirectly financed by such institution.	Basis for 0% exemption on qualifying government-supported debt.
Article 11(4)	Defines Central Bank and wholly government-owned financial institution; for Korea, it includes the Export-Import Bank of Korea (KEXIM).	Confirms KEXIM falls under the paragraph (3) institution categories.
Article 11(5)	Interest is income from debt-claims of every kind and categories treated as income from money lent.	Mandates characterization as interest before testing for exemption.

Provision	Substance	Implication
Article 11(6)	If the debt-claim is effectively connected with a PE/fixed base, Article 7/14 applies.	Prevents application of Article 11 when a nexus with a relevant PE exists.

KEXIM as a Government Financial Institution

Article 11(4)(a) explicitly mentions the Korea Export-Import Bank. Therefore, this research does not need to prove KEXIM through the residual category of "other wholly government-owned financial institution"; its treaty status has been directly established by the DTA. The more determining issue is whether the specific debt-claim that generates interest is indeed guarantyd or indirectly financed by KEXIM as referred to in Article 11(3).

Guaranty, Debt-Claim, and Burden of Proof

Conceptually, a guaranty is a form of credit support aimed at reducing the risk of default borne by the lender. In the official export credit scheme, government support can be provided in the form of direct loans, guaranties, insurance, or other forms of financing. However, in the application of Article 11(3), each form of support cannot be equated with the terms used in the DTA. Therefore, the analysis of treaty entitlement must be based on a demonstrable relationship between the three main elements, namely: (1) a specific debt-claim that serves as the basis for the generation of interest income; (2) the guaranty or indirect financing provided by KEXIM for that debt-claim; and (3) the interest payment that directly originates from the same debt-claim. The interconnection of these three elements is crucial to ensure that the exemption under Article 11(3) is applied to transactions that substantively meet the P3B requirements, not merely because KEXIM is involved in the financing structure.

Synthesis of 45 Local Journals and 5 International Journals

The literature is mapped based on six themes, namely DTA and beneficial owner; treaty abuse and source taxation; disputes and evidence; debt structure and thin capitalization; hedging/derivatives as a distinguishing context; and export credit/government-backed financing. The following table shows the position of 50 previous studies in relation to the research focus.

At the international level, Pýcha (2021), Klasen and Vassard (2023), as well as Klasen and Janus (2023) show that official export credit can be provided through financing, insurance, and guaranties that receive government support. Petkova et al. (2026) and van 't Riet and Lejour (2025) show that withholding rates and exemptions in tax treaties are the result of the allocation of bilateral tax rights and must still be distinguished from treaty shopping. The synthesis of the literature reveals a research gap regarding the relationship between the form of official ECA support, the character of specific debt-claims, and the interest exemption requirement in Article 11(3) of the Indonesia-South Korea tax treaty.

Other literature on cross-border transactions expands the context of nexus and taxation, including Rivaldi (2021). Although the subjects of study differ, the literature reinforces the importance of determining the basis of tax rights before applying specific provisions in tax treaties. Thus, the characterization of income and the identification of the legal relationship of the transaction remain the initial stages before assessing the possibility of treaty rate or exemption.

The fourth group discusses hedging and derivatives. Mangoting (2003), Ahmad et al. (2017), Verawaty et al. (2019), Utomo and Hartanti (2020), Sulistyani and Azwina (2022), Listiana and Primasari (2022), Muftiasa et al. (2023), Lestari et al. (2024), and Rahmawati and Syahwildan (2024) show that derivative instruments are used to manage exchange rate and interest rate risks. This literature serves as an important comparison because it supports the separation between derivative payments and interest arising from debt claims. In this study, the separation is reinforced by the SPUH document which shows that the interest rate swap to KEXIM is not automatically characterized as Article 11 interest.

The third group places debt structure and thin capitalization as areas of tax risk. Natalia and Widyadhana (2021), Fasita et al. (2022), Mahardika and Irawan (2022), Ramadhan (2023), Rahmadhani and Lastanti (2024), Anggraeni et al. (2024), Silalahi (2025), Edisa (2025), Daniel and Handayani (2025), Panjaitan et al. (2026), Endarta et al. (2026), Cintya (2026), and Sholichah and Umaimah (2026) generally examine the relationship between financing structure and tax avoidance or deductibility. This research takes a different angle by focusing on the distribution of tax rights on interest and the possibility of exemption based on government guaranty, rather than on interest cost restrictions or tax avoidance behavior.

The second group discusses disputes, objections, and the quality of evidence. Supriyadi et al. (2019), Aji et al. (2022), Hamdani et al. (2023), Rahmansyuri and Nadirah (2025), Hasanah et al. (2025), Effendy et al. (2025), Sitorus et al. (2025), Sa’adah and Aulia (2026), and Al et al. (2026) show that differences in interpretation and the sufficiency of evidence are important factors in resolving tax disputes. The findings of this group are relevant because the application of Article 11(3) not only depends on the reading of the treaty but also on the taxpayer's ability to build a chain of evidence linking debt-claim, guaranty, interest recipient, and administrative requirements.

A review of 50 previous studies shows that the literature on DTA in Indonesia primarily develops on issues of beneficial ownership, treaty entitlement, anti-treaty shopping, and the allocation of taxing rights. Studies by Tiono and Sadjiarto (2013), Malvinas et al. (2018), Apriliasari (2019), Ardianyah (2021), Kurniawan and Rahayu (2022), Butarbutar (2022), Nivia (2023), Yusuf et al. (2023), Tambunan (2024), Tampubolon and Pati (2024), Angelica (2024/2025), Akbar Velayati and Muhammad (2024), and Sari and Ikhsan (2026) emphasize that the utilization of tax treaties needs to consider the substance of the income recipient, residence, anti-abuse, and tax nexus. This study group builds a conceptual foundation to examine treaty entitlement, but has not yet positioned KEXIM-guaranteed debt as the primary unit of analysis.

Literature Synthesis and Research Gap

The literature on Indonesia's DTA has sufficiently explained beneficial ownership, anti-treaty shopping, and the division of source-residence taxing rights. However, the research generally discusses ordinary interest payments, dividends, royalties, or treaty disputes in general and has not yet made government-guaranteed debt the main unit of analysis.

The literature on thin capitalization and debt covenants indicates that debt financing is often a fiscal concern. However, the research analyzes deductibility or tax avoidance, not whether the source-state withholding right is waived by Article 11 of the tax treaty.

Literature on hedging and derivatives is useful for comparison because the SPUH document shows that swap payments to KEXIM are classified differently from interest. Thus, characterization must precede treaty rate analysis: only payments that meet Article 11(5) can enter the Article 11(3) test.

International export credit literature shows that ECAs use financing, insurance, and guaranties to support cross-border financing. However, the literature rarely connects these forms of support with the specific wording of a tax treaty. The main gap of this research is bridging the legal-economic character of the KEXIM guaranty with the requirements of Article 11(3)-(5) and the consequences of Indonesia's Article 26 Income Tax.

METHODOLOGY

Approach and Design

The research uses a qualitative approach with a normative-empirical case study design. Normative analysis is used to interpret Article 11 of the Indonesia-South Korea DTA, the provisions of Article 26 of the Income Tax Law, and the procedures for implementing the DTA. Empirical analysis uses four SPUH documents and three actual expert interviews with senior tax consultants. Administrative provisions are distinguished temporally: PER-25/PJ/2018 is used to interpret the context of transactions in 2020, while PMK 112 of 2025 and PENG-2/PJ.09/2026 are used to explain the procedures for applying the DTA that were in effect at the time the research was conducted.

Object and Anonymization

The object of the empirical context is PT XYZ, a pseudonym for an Indonesian corporate taxpayer engaged in cross-border financing. The company name, NPWP, address, specific transaction value, decree number, and official identities have been anonymized. The research does not claim access to the original Loan Agreement, KEXIM Guaranty Agreement, or Certificate of Residence that were not submitted by the company to the researcher.

Data Sources

Type	Source	Function	Limitations
Documentary empirical	Four SPUH response letters on Article 26 Income Tax for the 2020 tax period.	Dispute chronology; recognition of KEXIM residence; application of tax treaty (P3B); separation of interest and swap.	Does not prove a guarantee for specific loans.

Type	Source	Function	Limitations
Primary normative	Indonesia-South Korea Tax Treaty, specifically Article 11; PER-25/PJ/2018 for the 2020 transaction context; Income Tax Law (UU PPh).	Basis for taxing rights, treaty entitlement, and administrative procedures.	Administrative rules are interpreted according to the transaction period.
Primary interview	Informants KP-01, KP-02, KP-03: Senior Tax Consultants, 10 years of experience; face-to-face interviews on August 8, 2026; August 16, 2026; August 27, 2026.	Expert validation on Article 11(3)-(6), KEXIM status, guarantee linkage, supporting documents, audit/objection practices, and guidance needs.	Three expert informants; findings are utilized through triangulation and not generalized as the view of all tax consultants.
Secondary	45 local journals + 5 international journals.	Establishing the state of the art, research gap, and comparative analysis of results.	Does not replace transaction evidence.

Selection of Informants

The actual informants were coded KP-01 to KP-03 and were purposively selected due to having a minimum of 10 years of experience as Senior Tax Consultants, as well as experience in reviewing and assisting with audits/objections related to Article 26 Income Tax on foreign loan interest, including financing involving export credit agencies. The interviews were conducted face-to-face on August 8, 2026, August 16, 2026, and August 27, 2026, after obtaining the informants' consent and recording permission, with the identities of clients/companies anonymized. The interview is positioned as an expert perspective and is not intended to represent the entire population of tax consultants in Indonesia.

Analysis Techniques

1. Reconstructing facts explicitly present in SPUH without assuming the content of unaccessed documents.
2. Identifying the character of income: whether the payment meets the definition of interest under Article 11(5).
3. Testing residence, beneficial ownership, and the absence of a PE connection that shifts the analysis to Article 7.
4. Testing the elements of Article 11(3): the existence of a debt-claim and the guarantee/indirect financing relationship with KEXIM.
5. Code the interview results using seven themes: CHAR (characterization), KEX (KEXIM status), GAR (guarantee linkage), ENT (treaty entitlement), DOC (documentation), DSP (dispute practice), and POL (policy implication).
6. Triangulate between SPUH documents, treaty text, regulations, literature, and interviews.

RESEARCH RESULT

Documentary Findings from SPUH: Treaty Entitlement KEXIM

The SPUH document notes that KEXIM is based in Korea and there is a Certificate of Residence proving its status as a tax resident of South Korea for the 2020 tax year. The reviewer also noted that KEXIM can benefit from the

Indonesia-South Korea tax treaty. This finding is important because it shows that in dispute practice, residence and treaty access are treated as issues that must be proven documentarily.

However, the payment analyzed in SPUH is an interest rate swap. The reviewer determined that the payment does not meet the definition of interest under Article 11(5), and therefore it is categorized as business profits under Article 7. Consequently, SPUH cannot be used to conclude that the interest on the loan guarantyd by KEXIM automatically qualifies for an exemption. On the contrary, SPUH reinforces the principle that characterization must be completed before the exemption under Article 11(3) is tested.

The Position of KEXIM in Article 11(4)

The official text of the Indonesia-South Korea DTA explicitly includes the Korea Export-Import Bank in Article 11(4)(a)(ii). Consequently, KEXIM is the financial institution referred to for the purposes of Article 11(3). This distinguishes KEXIM's case from institutions that are not explicitly listed and must first be proven under the category "other financial institution wholly owned by the Government."

Conditions for Exemption Article 11(3)

Article 11(3) includes two paths for exemption. The first path applies when the interest is derived by the government/central bank/government-owned financial institution itself. The second path applies when the interest is obtained by a Korean resident on a debt claim that is guarantyd or indirectly financed by the institution. This research focuses on the second path because the lender can be a commercial bank, while KEXIM acts as the guarantor or provider of official credit support.

Layer	Testing	Key Evidence
1. Income characterization	Payment must constitute "interest" under Article 11(5), namely income from debt-claim.	Loan Agreement/facility terms, interest clause, interest calculation, payment notice.
2. Treaty residence	The interest recipient must be a Korean resident entitled to access the treaty, if the exemption path is utilized by a Korean resident.	CoR/SKD/Form DGT in accordance with the period provisions.
3. Beneficial ownership	The recipient must satisfy beneficial owner requirements if relevant to Article 11 and tax treaty implementation rules.	Beneficial owner statement, flow-of-funds, no conduit evidence.
4. Specific debt-claim	The debt-claim generating the interest must be identifiable.	Loan Agreement, lender schedule, tranche schedule.
5. KEXIM guarantee/indirect financing	The same debt-claim must be traceable as guaranteed or indirectly financed by KEXIM.	KEXIM guarantee/coverage certificate, guarantee agreement, KEXIM/lender confirmation, facility reference.
6. No PE connection	The debt-claim is not effectively connected with the recipient's PE in Indonesia, which would shift the analysis to Article 7.	Representation/no-PE confirmation, facts of operations.
7. Administrative compliance	Treaty documents must be available and transactions reported in accordance with period regulations.	DGT Form/SKD, Periodic Tax Return (SPT Masa), reporting proof.

The Strongest Document to Support the KEXIM Guaranty

Document	Evidentiary Function	Treaty Relation
Loan Agreement / Facility Agreement	Shows the borrower, lender, principal, tenor, interest, and specific debt-claim.	Article 11(5)
KEXIM Guarantee Agreement / Guarantee Certificate	Direct proof that a specific debt-claim is guaranteed by KEXIM.	Article 11(3)–(4)
KEXIM Coverage / Facility Schedule	Links facility/tranche numbers, lender, amount covered, period, and debt-claim.	Article 11(3)
Official confirmation from KEXIM or lender	Confirms the guarantee is still valid and covers the facility generating interest.	Article 11(3)
Certificate of Residence / SKD / Form DGT	Proves residence and treaty access of the interest recipient in accordance with the period.	Article 1 / 4 + tax treaty implementation rules
Beneficial owner confirmation	Supports that the interest recipient is not a nominee / agent / conduit.	Article 11(2) and treaty entitlement
Interest notice & calculation	Connects the amount paid with the principal and loan clause.	Article 11(5)
SWIFT / bank statement / payment advice	Proves actual payment flow and recipient.	Evidentiary linkage
No-PE representation / facts	Prevents misclassification to Article 7 if the debt-claim is effectively connected with a PE.	Article 11(6)
Periodic Tax Return (SPT Masa) and reporting proof	Shows administrative compliance even if the effective rate is 0%.	Transaction period administration rules

Decision Tree: 20%, 10%, atau 0%

Question	Key Answer	Consequence
Is the payment interest from a debt-claim?	No	Article 11 is not applied; test Article 7 / other distributive articles.
Is the recipient entitled to the tax treaty (P3B) and fulfills the documentation?	No	Domestic withholding rule may apply (20% according to relevant domestic provisions).
Is Article 11(3) proven: debt-claim guaranteed / indirectly financed by KEXIM?	Yes	Exemption in Indonesia (0% source-state tax).
If Article 11(3) is not proven, but treaty entitlement under Article 11(2) is fulfilled?	Yes	Tax treaty cap 10% of gross interest.
Is the debt-claim effectively connected with a PE in Indonesia?	Yes	Article 11(6) directs to Article 7 / PE provisions.

Differences Between KEXIM as a Lender and KEXIM as a Guarantor

If KEXIM acts directly as a lender and also as the beneficial owner of the interest income, the application of Article 11(3) is relatively simpler because KEXIM explicitly falls into the category of financial institutions as referred to in Article 11(4).

Conversely, if the lender is a commercial bank and KEXIM acts as a guarantor for the financing facility, the focus of proof shifts to the connection between the guaranty provided by KEXIM and the specific debt claim that forms the basis for the interest income.

In such a condition, proving that KEXIM is a government financial institution is not by itself sufficient to support the application of the exemption under Article 11(3). Taxpayers still need to demonstrate that the debt-claim generating the interest income is a debt-claim specifically guarantyd or supported by financing as referred to in the P3B provisions.

Discussion of Previous Literature

The results of this research expand the discussion on beneficial ownership and treaty entitlement in the international tax literature in Indonesia. Ardianyah (2021), Malvinas et al. (2018), and Angelica (2024) emphasize the importance of identifying the party that substantively has the right to benefit from the tax treaty. This research adds another dimension in the form of the characteristics of debt-claims that meet the treaty requirements. In the context of Article 11(3), the application of the exemption does not only depend on the status of the income recipient but also on the character and legal relationship of the debt-claim that serves as the source of interest income.

The literature on thin capitalization (Mahardika & Irawan, 2022; Ramadhan, 2023; Fasita et al., 2022) generally places debt-based financing structures in the context of tax avoidance and interest expense deduction limitations. This research presents a different perspective. Although the loan facility has legitimate commercial substance, the treatment of withholding tax on interest payments can still vary, following either the domestic rate, the P3B rate, or obtaining an exemption, depending on the allocation of tax rights and the fulfillment of specific requirements regarding guaranties by government financial institutions. Thus, the analysis of treaty exemption needs to be distinguished from the analysis of tax avoidance.

International literature on export credit shows that guaranties and various forms of official government support are commonly used instruments by export credit agencies (ECA) in supporting cross-border financing (Pýcha, 2021; Klasen & Vassard, 2023; Klasen & Janus, 2023). This research contributes by linking the economic and legal characteristics of such support with specific requirements in the DTA. In the context of Article 11(3), the existence of a guaranty must be clearly traceable to a debt claim that generates interest income, while the institution providing the guaranty must also meet the category as specified in Article 11(4).

Interview Results and Thematic Analysis

Interviews with three tax consultant informants, namely KP-01, KP-02, and KP-03, produced several main themes that both reinforce and provide boundaries to the normative interpretation of the research. In general, the three informants emphasized that the application of the exemption based on Article 11(3) of the Indonesia–South Korea DTA cannot be determined solely based on KEXIM's involvement in the financing structure.

The interview results indicate that treaty entitlement needs to be analyzed through several interconnected stages, namely the characterization of income as interest, the treaty residence status of the income recipient, beneficial ownership, KEXIM's position based on Article 11(4), the relationship between guaranties or indirect financing and certain debt claims, the existence of a permanent establishment with an effective relationship to the debt claim, and the fulfillment of administrative requirements for the application of the tax treaty.

The three informants also have a relatively consistent view that the explicit mention of KEXIM in Article 11(4) provides certainty regarding KEXIM's institutional status as a financial institution of the South Korean government. However, this status does not automatically exempt all interest related to financing facilities involving KEXIM from being exempted under Article 11(3). In the condition where KEXIM acts as a guarantor for loans provided by commercial banks, the taxpayer still needs to prove the connection between the guaranty provided by KEXIM and certain debt-claims that generate interest income.

Thus, the existence of the KEXIM guaranty cannot be treated as the sole basis for applying a 0% withholding tax rate. The exemption from Article 26 Income Tax is the result of a series of tests on the character of the transaction, the status of the income recipient, the legal relationship between the guaranty and the debt claim, and the completeness of the documentation supporting treaty entitlement.

Characterization and Hierarchy of Article 11

The interview results indicate that the analysis of treaty entitlement should begin with the characterization of income. The payments being analyzed must first be ensured to meet the definition of interest arising from a debt-claim as referred to in Article 11. After the character of the income is determined, domestic provisions are used as a starting point to identify the obligation to withhold Article 26 income tax, while Article 11(2) serves as a general provision that limits Indonesia's right to tax interest income.

Furthermore, Article 11(3) is applied as a specific provision that can provide an exemption if the conditions specified in the DTA are met. The analysis also needs to consider Article 11(6) to ensure that the debt-claim generating the interest does not have an effectively connected relationship with a permanent establishment in Indonesia. If such an effective connection exists, the tax treatment will no longer solely follow the interest taxation mechanism in Article 11.

This approach is consistent with the findings in the SPUH document, which indicate that the characterization of income is the initial stage in determining the relevant provisions of the tax treaty. The payment of the interest rate swap to KEXIM is not treated as interest merely because its calculation uses a reference interest rate, but rather analyzed based on the legal character and substance of the underlying transaction.

KEXIM Status Not the Same as Automatic Entitlement

The results of interviews with KP-01, KP-02, and KP-03 show a consistent view that the explicit mention of KEXIM in Article 11(4) of the Indonesia–South Korea DTA provides certainty regarding KEXIM's institutional status as a financial institution relevant for the application of Article 11(3). Thus, the main issue in the analysis no longer lies in proving whether KEXIM is included as a government financial institution referred to in the DTA, but rather in fulfilling the treaty entitlement requirements for the analyzed transaction.

The three informants emphasized that KEXIM's status does not by itself cause any interest payments related to financing facilities involving KEXIM to be exempt. If KEXIM acts directly as the lender and beneficial owner of the interest income, the application of Article 11(3) is relatively simpler because the recipient of the income is also the institution explicitly mentioned in Article 11(4). However, if the actual lender is a commercial bank and KEXIM acts as a guarantor or provider of indirect financing, additional proof is required that the debt claim generating the interest is indeed covered by KEXIM's guaranty or financing support.

In this context, the focus of proof shifts from KEXIM's institutional status to the connection between the support provided by KEXIM and the specific debt claim that forms the basis for the interest income. The connection must be traceable through the identity of the facility or tranche, the scope of the guaranty, the period of validity, the parties benefiting from the guaranty, and the obligations legally covered in the guaranty document. Therefore, the mere presence of KEXIM's name in the financing structure is not sufficient to support the application of the exemption under Article 11(3) if the relationship between the KEXIM guaranty and the relevant debt claim cannot be adequately proven.

The interview findings indicate a separation between institutional qualification and transactional qualification. Article 11(4) provides the basis for determining KEXIM's position as an institution that meets the P3B category, while Article 11(3) still requires an examination of the character and relationship of the transactions that generate interest. Thus, treaty entitlement is the result of the fulfillment of both layers cumulatively, not an automatic consequence of KEXIM's status as a financial institution of the South Korean government.

Guaranty Linkage as the Main Point of Proof

The results of interviews with KP-01, KP-02, and KP-03 indicate that the linkage between the guaranty and the debt-claim is one of the most important aspects of proof in the application of Article 11(3). The three informants emphasized that the relationship between the guaranty provided by KEXIM and a specific facility or tranche must be clearly traceable through the identity of the facility, lender, borrower, the period of validity of the guaranty, the covered amount, and the scope of obligations included in the guarantyd obligations.

In a financing structure involving multiple lenders or multiple tranches, proof should not be limited to the project or facility level in general. The relationship between the KEXIM guaranty and the debt claim should be traceable to the facility or tranche level that directly generates interest payments. This is necessary to ensure that the interest claimed for exemption truly originates from the debt claim covered by the guaranty as intended in Article 11(3).

Interview results also indicate that ambiguity or inconsistency in the relationship between the guaranty document and the debt claim can increase the risk of correction during the audit process. Therefore, the strength of treaty entitlement is not only determined by the existence of the guaranty document but also by the taxpayer's ability to establish a consistent and traceable chain of evidence between the Loan Agreement, Guaranty Agreement or Guaranty

Certificate, Coverage Schedule, facility/tranche identity, and the relevant interest payments.

Chain of Evidence and Main Document

The results of interviews with KP-01, KP-02, and KP-03 indicate that the Loan Agreement is the main document (anchor document) in proving the existence of the debt-claim, the identities of the lender and borrower, the principal loan amount, the interest calculation formula, the tenor, and the structure of the financing facility. However, the existence of the Loan Agreement alone is not sufficient to support the application of the exemption under Article 11(3), especially when KEXIM acts as a guarantor and not as a direct lender.

The three informants emphasized the importance of establishing a chain of evidence that consistently demonstrates the connection between the debt claim, KEXIM guaranty, and the interest payment claimed to be exempt. The series of documents includes, among others, the Loan or Facility Agreement, KEXIM Guaranty Agreement, Guaranty Certificate or Coverage Schedule, official confirmation from KEXIM, Form DGT and/or Certificate of Residence, proof of beneficial ownership, interest calculation, as well as payment evidence or relevant SWIFT documents.

The strength of the evidence is not solely determined by the number of available documents, but rather by the consistency and traceability of information between the documents. The identities of the lender and borrower, facility or tranche numbers, guaranty validity periods, coverage amounts or percentages, as well as the value and interest payment dates need to show consistent relationships. Thus, integrated and reconcilable documentation becomes an important element in supporting treaty entitlement and reducing the risk of interpretational differences during audits.

Partial Coverage, Principal-only Guaranty, and Credit Insurance

Interviews with KP-01, KP-02, and KP-03 identified several interpretative areas that require caution in the application of Article 11(3). These areas primarily relate to the coverage of guaranties that are partial in nature, guaranties that only cover the principal, and the use of credit insurance as a form of financing support.

First, in the case of KEXIM guaranty covering only a portion of the debt-claim (partial coverage), there is a question regarding the extent to which the exemption on interest income can be applied. The interview results show a difference in emphasis among the informants. Some informants view that a proportional approach can be used by referring to the part of the debt-claim that is clearly within the scope of the guaranty. Meanwhile, another viewpoint emphasizes that the application of proportionality should not be done automatically because Article 11(3) does not explicitly determine the allocation method based on the percentage of the guaranty. Therefore, the scope of the guaranty and the legal character of the debt-claim need to be analyzed before determining the portion of interest income that meets the exemption requirements.

Second, if the guaranty document only explicitly covers the principal, further analysis is needed on the definition of guarantyd obligations and other provisions in the guaranty document. The main issue is whether the guaranty on the principal can be considered a guaranty on the debt-claim that generates interest income, or whether the legal scope of the guaranty is indeed limited to the obligation to repay the principal. In such conditions, the wording of Article 11(3) and Article 11(5) needs to be analyzed together with the provisions in the Guaranty Agreement to determine the relationship between the guarantyd debt-claim and the interest income arising from it.

Third, the informants emphasized that credit insurance cannot be automatically equated with a guaranty for the purposes of Article 11(3). Although economically both can provide protection against credit risk, the legal character, claim mechanism, parties receiving protection, scope of risk covered, and the relationship between insurance coverage and debt-claim can differ. Therefore, the legal and substantive characteristics of credit insurance need to be analyzed first to determine whether the form of support can meet the definition of guarantyd or indirectly financed as referred to in Article 11(3).

The findings indicate that the existence of KEXIM's support cannot be assessed solely based on its name or the form of its documentation. Determining treaty entitlement requires an analysis of the legal substance and actual scope of the support provided, as well as its relation to the debt claim that generates interest income.

Substantive and Administrative Entitlement

The results of interviews with KP-01, KP-02, and KP-03 indicate that the fulfillment of substantive entitlement and administrative requirements in the application of DTA are two complementary aspects. The fulfillment of the substantive elements in Article 11(3), including the existence of a debt-claim guarantyd or indirectly financed by KEXIM, is not by itself sufficient to apply the exemption from Article 26 income tax if the administrative requirements for the application of the tax treaty are not met.

In addition to proving the connection between the KEXIM guaranty and the debt claim that generates interest income, the taxpayer also needs to prove the treaty residence status of the income recipient, beneficial ownership if required, and comply with administrative requirements such as the Certificate of Domicile and/or the applicable DGT Form. Thus, treaty entitlement does not only depend on the substance of the financing relationship but also on the taxpayer's ability to consistently meet and document the administrative requirements.

In the context of the 2020 transactions that form the background of the research, the administrative aspects of the application of the DTA were analyzed based on PER-25/PJ/2018 that was in effect during that period. Meanwhile, to illustrate the latest regulatory developments, the research also considers PMK Number 112 of 2025 concerning the Procedures for the Implementation of Double Tax Avoidance Agreements. Its implementation in 2026 includes the use of the DGT Form format based on these provisions and the submission of information and uploading of the DGT Form through the Foreign Taxpayer Domicile Certificate facility on Coretax DJP.

Examination Practices, Objections, and Guidance Needs

Interview results with KP-01, KP-02, and KP-03 indicate that potential differences in opinion regarding the application of Article 11(3) are more related to the sufficiency of proof of the relationship between the KEXIM guaranty and certain debt claims rather than the institutional status of KEXIM itself. The position of KEXIM is relatively clearer because it has been explicitly mentioned in Article 11(4), whereas the relationship between loan facilities, guaranties, and interest payments still requires proof based on facts and transaction documents.

At the examination stage, the three informants emphasized the importance of structured documentation preparation. Each element that forms the basis for the application of Article 11(3) needs to be linked with relevant evidence, including the Loan Agreement, Guaranty Agreement or Guaranty Certificate, Coverage Schedule, DGT Form or Certificate of Residence, beneficial ownership documents, interest calculations, and payment evidence. This approach allows the Taxpayer to demonstrate a traceable relationship between the P3B provisions and the transaction facts underlying the exemption claim.

If corrections have been made by the tax authorities, the quality of additional evidence becomes increasingly important at the objection stage. Official confirmation from KEXIM regarding the coverage of guaranties, Coverage Schedule, facility or tranche mapping, lender confirmation, and legal opinions can strengthen the argumentation if there is any ambiguity regarding the relationship between guaranty, insurance, and debt-claim. Thus, the effectiveness of the defense is not only determined by the number of documents but primarily by the ability of those documents to directly address the correction reasons put forward by the tax authorities.

The informants also identified the continued need for more detailed guidelines regarding the application of Article 11(3), particularly concerning minimum proof standards, the treatment of partial guaranties, the characterization of credit insurance, and the understanding of indirect financing. Clarity on these aspects is necessary to reduce interpretative differences between taxpayers and tax authorities, as well as to enhance the consistency of treaty exemption application on financing transactions supported by foreign government financial institutions.

SYNTHESIS TABLE OF INTERVIEW FINDINGS KP-01, KP-02, AND KP-03				
Research: Treaty Entitlement on Loan Interest Guaranteed by Foreign Government Financial Institutions – Analysis of KEXIM Guarantee Based on Article 11 of Indonesia–South Korea Tax Treaty				
Code	**Analysis Theme**	**Synthesis of Interview Findings**	**Potential Tax Risk**	**Implications for Research**
CHAR	Income characterization	Determining tax treaty treatment must begin by ensuring that the payment meets the character of interest arising from a debt-claim.	Mischaracterization can lead to the application of tax treaty provisions that do not accord with the substance of the transaction.	Income characterization is placed as an initial stage prior to testing Article 11(3).

KEX	KEXIM status	The mention of KEXIM in Article 11(4) provides certainty regarding its institutional status, but does not in itself determine the treatment for every transaction involving KEXIM.	Exemption may be claimed too broadly if KEXIM's status is assumed to automatically apply to all financing facilities.	Analysis needs to distinguish the qualification of the institution from the qualification of the interest-generating transaction.
GAR	Linkage between guarantee and debt-claim	A guarantee or indirect financing must be linkable to a specific facility or tranche that generates interest payments.	Guarantees that are general in nature or untraceable to a specific debt-claim can weaken the basis for treaty exemption.	The connection between KEXIM support and the debt-claim becomes a key element in proving Article 11(3).
ENT	Treaty entitlement	Residence status, beneficial ownership, anti-abuse rules, and potential permanent establishment connections must still be analyzed despite the presence of a KEXIM guarantee.	Tax treaty benefits may be denied if any of the treaty entitlement requirements are not fulfilled.	Treaty entitlement is understood as the result of several interrelated tests, not merely the presence of a guarantee.
DOC	Documentation	Evidence supporting treaty exemption needs to demonstrate consistency among the Loan Agreement, guarantee documents, Form DGT/CoR, interest calculations, and payment flow.	Discrepancies in party names, facility numbers, periods, or guarantee coverage can raise questions during tax audits.	Research places document traceability and consistency as an essential component of proving treaty entitlement.
DSP	Audit and objection	Disputes tend to center on the strength of evidence linking the guarantee to the debt-claim and compliance with tax treaty administration.	Lack of documentation at the transaction stage can increase the burden of proof when disputes proceed to the objection stage.	Contemporaneously prepared documentation can strengthen the Taxpayer's position compared to evidence reconstructed post-adjustment.
POL	Policy implications	There remains room for interpretation regarding partial guarantees, credit insurance, indirect financing, and minimum standards of proof.	Differences in understanding can lead to inconsistent tax treatment across cases.	These findings demonstrate the need for more detailed guidelines to enhance certainty in applying Article 11(3).

Triangulation of Interviews, SPUH, and Literature

The results of the triangulation show consistency between the documentary findings, previous literature, and the interview results. First, the SPUH document shows that the application of P3B benefits requires proof regarding the status of the income recipient and the character of the income that is the subject of the transaction. In the case of interest rate swap payments to KEXIM, the characterization of income becomes an important factor because the payment is not treated as interest under Article 11, but rather analyzed under the provisions of Article 7 regarding business profits.

Second, the literature on beneficial ownership and treaty entitlement emphasizes that the application of P3B benefits is not only determined by the formal position of the income recipient but also by the residence status, the substance of the income receipt, anti-abuse provisions, and the allocation of taxing rights between the source country and the residence country.

Third, the results of interviews with KP-01, KP-02, and KP-03 indicate that in financing guarantyd by KEXIM, the most important aspect of proof lies in the taxpayer's ability to demonstrate a traceable relationship between the KEXIM guaranty and a specific debt claim that generates interest income. The relationship needs to be supported by consistency between the Loan Agreement, Guaranty Agreement or Guaranty Certificate, Coverage Schedule, identities of the lender and borrower, DGT Form or Certificate of Residence, as well as relevant payment evidence.

Based on these three sources, this research shows that the application of Article 11(3)–(5) needs to be analyzed through several interconnected layers, namely the institutional position of KEXIM, the character and relationship of the debt-claim with the guaranty or indirect financing, the treaty entitlement of the income recipient, and the sufficiency of evidence supporting the transaction. The integration of these aspects constitutes the analytical contribution of the research in explaining the application of the exemption from Article 26 Income Tax on loan interest that receives support from foreign government financial institutions.

Implications and Limitations

This research has several limitations. First, the researcher did not obtain direct access to the entire Loan Agreement, Guaranty Agreement, Coverage Schedule, or other contractual documents related to the financing facility that is the context of the research. Therefore, the research is not intended to conclude that a specific loan facility has factually met all the requirements of Article 11(3), but rather to analyze the treaty entitlement framework and the standard of proof based on the available documents.

Second, primary data were obtained from interviews with three tax consultants who were purposively selected based on their experience and understanding of Article 26 Income Tax, Double Taxation Agreements (DTA), and cross-border financing transactions. The limited number of informants means that the interview results cannot be generalized as a representation of the views of all tax consultants in Indonesia. Interviews in this study are used as a practitioner's perspective, which is then triangulated with SPUH documents, the Indonesia–South Korea DTA provisions, Indonesian tax regulations, as well as national and international literature.

Third, the research focuses on Article 11 of the Indonesia–South Korea DTA and the position of KEXIM as a financial institution of the South Korean government. Therefore, the research results cannot automatically be applied to financing facilities that receive guaranties or support from export credit agencies of other countries because each DTA may have different wording, institutional coverage, and exemption requirements. Further research could expand the study by comparing the treatment of government-supported financing in several Indonesian tax treaties, analyzing relevant tax dispute rulings, and using a larger number of informants and transaction documents to test the consistency of treaty exemption application in practice.

Ethical Statement, Confidentiality, And Data Availability

Interviews were conducted after obtaining consent from each informant. The identities of informants, clients, companies, and other information that could potentially reveal the identities of the parties involved are anonymized to maintain confidentiality and the professional interests of the parties.

SPUH documents and transaction information used in the research are only presented in a masked form and limited to information relevant to the research objectives. The names of companies, specific transaction values, identities of related parties, and confidential commercial information are not disclosed in the article.

Primary data in the form of complete interview transcripts and transaction documents are not available for public access due to confidentiality considerations and informant consent. However, the interview results are presented in the form of thematic synthesis and relevant paraphrasing to support the analysis and research findings.

All data used in the research are analyzed solely for academic purposes. The presentation of research results is carried out while maintaining the anonymity of informants and the confidentiality of information derived from documents and transactions that are the context of the research.

CONCLUSIONS AND RECOMMENDATIONS

This research shows that KEXIM has a clear position in the Indonesia–South Korea DTA because it is explicitly mentioned in Article 11(4) as one of the relevant financial institutions for the application of Article 11(3). However, the existence of the KEXIM guaranty does not by itself cause all interest payments to be exempt from Article 26 income tax. The application of the exemption still requires a series of tests on the character of the income, the treaty entitlement of the recipient, and the relationship between the debt-claim and the financing support provided by KEXIM.

The analysis results show that the payment must first meet the characteristics of interest originating from the debt-claim as referred to in Article 11. Additionally, the income recipient must meet the treaty residence and beneficial ownership requirements, and there must be no effective relationship between the debt-claim and the permanent establishment in Indonesia that causes the tax treatment to shift to other provisions in the tax treaty. In the condition where KEXIM does not act as the direct lender, the taxpayer also needs to prove a clear connection between the guaranty or indirect financing provided by KEXIM and the specific facility or tranche that generates interest income.

From the evidentiary side, the Loan Agreement is the main document to identify the lender, borrower, loan amount, facility structure, and the basis for interest accrual. However, the results of interviews with KP-01, KP-02, and KP-

03 indicate that a strong treaty entitlement requires a series of mutually consistent documents, including the KEXIM Guaranty Agreement or Guaranty Certificate, Coverage Schedule, official KEXIM confirmation, Form DGT or Certificate of Residence, proof of beneficial ownership, interest calculation, and payment evidence. Consistency between the identity of the parties, facility or tranche number, validity period, guaranty coverage, and interest payments is an important element in supporting the application of Article 11(3).

Interview results also indicate that areas still prone to differing interpretations include the relationship between guaranties and specific debt claims, partial coverage, guaranties that only cover the principal, and the differing legal characteristics between guaranties and credit insurance. These findings indicate that the application of treaty exemption on financing supported by foreign government financial institutions requires a broader analysis than merely identifying the status of the guarantor institution.

The SPUH document provides limited empirical support on the aspects of income characterization, residence status, and access to DTA benefits. In the document, interest rate swap payments to KEXIM are treated differently from interest, emphasizing the importance of the characterization stage before the application of Article 11. However, SPUH does not provide direct evidence of the existence of a KEXIM guaranty for certain loan facilities. Therefore, the verification of the relationship between the guaranty and the debt-claim still depends on the availability of contractual documents and transaction supporting documents.

Overall, this research shows that the application of Article 11(3) of the Indonesia–South Korea DTA is the result of the interconnection between KEXIM's institutional status, the character of the debt-claim, the treaty entitlement of the income recipient, and the sufficiency of proof regarding the relationship between the guaranty and interest payment. Thus, the exemption from Article 26 Income Tax is not automatic, but depends on the fulfillment of substantive and administrative requirements that can be consistently proven.

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