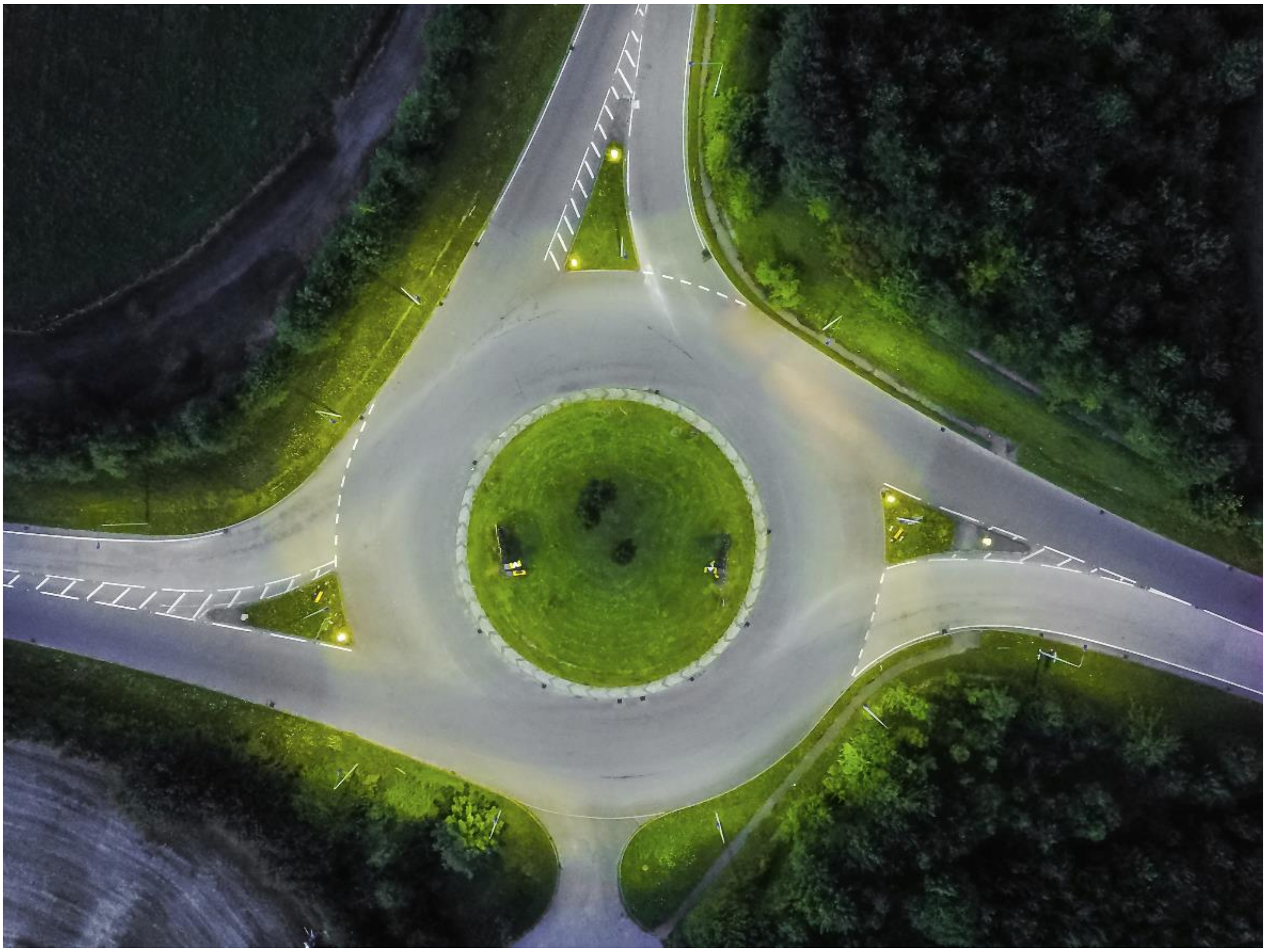

Indonesia Tax Alert July 2020

Implementing Regulation on Tax Incentives for Gross Split PSC Companies Issued

On 15 June 2020, Indonesia's Minister of Finance (MoF) issued Regulation Number 67/PMK.03/2020 (PMK-67) regarding tax incentives for oil and gas companies holding Production Sharing Contracts (PSC) under the Gross Production Split scheme (Gross Split PSC). PMK-67 comes into effect as from 16 July 2020 and is a long awaited implementing regulation of article 25(3) in relation to incentives of Government Regulation Number 53 of 2017 (PP-53) regarding the tax treatment of Gross Split PSCs.

PMK-67 is the long awaited implementing regulation on incentives for Gross Split PSCs under PP-53.

1. Overview

Under PMK-67, certain Gross Split PSC contractors are eligible for the following tax incentives during the exploration and exploitation stages until the start of commercial production:

- Value Added Tax (VAT) and Luxury-goods Sales Tax (LST) not-collected (VAT not-collected); and
- 100% reduction of Land and Building Tax (*Pajak Bumi dan Bangunan* (LBT)).

PMK-67 defines commercial production as the period from when the sale of oil and gas begins until the Gross Split PSC ends.

To be eligible for these incentives, the Gross Split PSC operator must apply to the regional tax office for a Tax Facility Statement Letter for Gross Split (*Surat Keterangan Fasilitas Pajak Gross Split* (SKFP)). The SKFP will be issued within seven working days of receipt of a complete application.

The SKFP comes into effect from:

- The effective date of the Gross Split PSC where the contract is signed after PP-53 came into effect (28 December 2017);
- The approval date for a PSC that is converted into a Gross Split PSC; or
- 28 December 2017, for contracts signed prior to that date that have been operated following the provisions in PP-53.

The SKFP expires when the contract expires or is terminated prior to commercial production, or when the PSC enters into commercial production.

The Gross Split PSC operator may request an amendment to the SKFP (*SKFP Pengganti*) where there are errors in the SKFP, or there is a change in the operator in the PSC.

For domestic purchases of taxable goods and/or services, a copy of SKFP must be provided to the vendor.

2. VAT not-collected

During the exploration and exploitation stages until the start of commercial production, VAT and LST on the following purchases intended for oil and gas operational purposes are treated as not-collected:

- Taxable goods and/or services; and
- Taxable offshore intangible goods and/or services utilized within the Indonesian Customs Area.

For utilization of taxable offshore intangible goods and/or services within the Indonesian Customs Area, the contractor is not required to self-assess VAT.

For domestic purchases of taxable goods and/or services, a copy of the SKFP must be provided to the vendor, who will issue a VAT invoice with a written statement that the VAT is not-collected in accordance with PP-53: "*PPN ATAU PPN DAN PPnBM TIDAK DIPUNGUT SESUAI DENGAN PP NOMOR 53 TAHUN 2017.*" The contractor is not required to self-assess VAT for the utilization of taxable offshore intangible goods and/or services within Indonesia.

3. LBT

To benefit from the 100% reduction of LBT, the Gross Split PSC contractor must submit a Tax Object Notification Letter (*Surat Pemberitahuan Objek Pajak* (SPOP)) and a copy of the SKFP to the regional tax office. The Director General of Taxation (DGT) will issue a Tax Due Notification Letter (*Surat Pemberitahuan Pajak Terutang* (SPPT)) showing the 100% reduction in LBT.

To benefit from the 100% reduction of LBT, the contractor must submit an SPOP and a copy of SKFP to the regional tax office.

If the SKFP becomes invalid after 1 January as a result of the Gross Split PSC expires or is terminated or enters into commercial production, the LBT incentive will no longer be available from the beginning of the year following the year in which the Gross Split PSC expires or is terminated, or the Gross Split PSC enters into commercial production.

4. Procedure where incentives cease to apply

The incentives under PMK-67 will not apply where:

- The facilities are used for non-oil and gas related activities; or
- The SKFP is no longer valid.

For VAT purposes, the contractor then must settle the VAT that should have been collected from the date that the contractor ceased to be eligible for the incentives to the State Treasury, or the tax office will issue a tax assessment to collect the VAT due. In either case, where the VAT is paid after the due date, late settlement penalties will apply.

For LBT purposes, the DGT will issue an amendment to the SPPT and any LBT payable will be collected through the standard LBT collection notice procedures.

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