



Indonesia Tax Info

Update on VAT and LGST on Import of Taxable Goods Exempted from Import Duties

The Indonesian Ministry of Finance ("MoF") has issued regulation number 196/PMK.010/2016 ("PMK-196") as the fifth amendment of MoF Regulation number 231/KMK.03/2001 ("KMK-231") to update the treatment of VAT and Luxury Goods Sales Tax ("LGST") on import of taxable goods exempted from import duties.

Under PMK-196, the following taxable goods are added to the list of goods exempted from import duty:

1. Goods and materials to be processed, assembled or installed with other import goods which enjoy the facilities of import for export purposes;
2. Goods and materials or machinery imported by Small and Medium Enterprises (or by a consortium of SMEs) using the facilities of import for export purposes.

To obtain the exemption facility, the taxable goods shall not be transferred within four years from the importation date, as opposed to five years under the previous regulation.

As with the previous regulation, the VAT and LGST should be payable by the Importer and the VAT cannot be credited in the VAT return if the transfer does not satisfy the conditions. If the Importer does not settle the VAT and LGST of the transferred taxable goods within one month, the Directorate General of Taxation ("DGT") may issue an Underpaid Tax Assessment equal to the amount of VAT which was exempted plus an administrative sanction of 2% (two percent) per month (for a maximum of 24 months) from the date of the import.

PMK-196 came into effect as of 20 January 2017.

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Hike in Effective VAT Rate on Tobacco Products

The MoF has issued regulation number 207/PMK.10/2016 ("PMK-207") to stipulate an increase in the effective VAT rate on delivery of tobacco products from 8.7% to 9.1% of the retail price of the tobacco products. PMK-207 amends MoF regulation number 174/PMK.03/2015 and came into effect as of 1 January 2017.

Update on Information Request to Parties Bound By Confidentiality Obligation

The MoF has issued a new regulation number 235/PMK.03/2016 ("PMK-235") to amend the previous MoF regulation number 87/PMK.03/2013 on procedures for requesting information or evidence from parties bound by confidentiality obligations. It includes implementation of a new electronic application procedure to process request information from the MoF to the Financial Services Authority (*Otoritas Jasa Keuangan* or OJK) more effectively.

Further to the issuance of PMK-235, the MoF and the DGT have issued decree number 12/KMK.03/2017 and decision letter number KEP-23/PJ/2017 respectively, to introduce the use of an electronic application called "Akasia" and a more detailed procedure for such information request to the OJK via Akasia.

Update on Implementation of Income Tax Treatment based on International Agreements

The MoF has issued regulation number 5/PMK.010/2017 ("PMK-5") to stipulate the addition of AIIB (Asian Infrastructure Investment Bank) and EIB (European Investment Bank) into the list of international organizations which may exercise income tax treatment based on the existing international agreements made between the Indonesian Government and the International Organizations as designated in this regulation. It applies as *lex specialis*, i.e., overriding the general Income Tax Law. PMK-5 amends the previous MoF regulation number 157/PMK.010/2015 and came into effect as of 19 January 2017.

Indirect Tax and Customs Focus

Exemption and/or Reduction of Import Duty and/or VAT on Import of Goods in Context of CoW and CCoW

In order to further improve the tax and customs services in the mineral and coal mining industries as well as to provide more orderly administration, supervision, and legal certainty on the implementation of the transfer, re-export, and destruction of goods that are imported using tax and customs facilities, the MoF has issued regulation number 259/PMK.04/2016 ("PMK-259") on the exemption and/or reduction of import duty and/or VAT on import of goods in context of CoW (Contract of Work/*Kontrak Karya*) and CCoW (Coal Contract of Work/*Perjanjian Karya Pengusahaan Pertambangan Batubara*). PMK-259 revokes the previous MoF regulation number 110/PMK.010/2005.

Under PMK-259, exemption or reduction of import duty and/or exemption of VAT on import of goods shall be applicable only for a contractor whose CoW or CCoW stipulates such exemption or reduction facilities. PMK-259 also stipulates the procedure for transfer, re-export and destruction of goods imported with this facility. If the transfer, re-export, or destruction of goods imported does not follow the requirements, the import duty, VAT, and/or penalty will be applied.

PMK-259 also governs that the goods may be transferred to another party after two years from the date of the customs declaration. However, if the transferee does not enjoy the customs and tax facilities, the allowable time for transfer is after five years from the customs declaration date. The clawback mentioned in the preceding paragraph shall be applied if the transfer does not satisfy these conditions.

As per the previous regulation, import of goods that is not based on the master list will remain subject to import duty and/or VAT, except in the event of force majeure.

PMK-259 is effective 30 days after 4 January 2017.

Update on Goods Classification (HS Codes) and Import Duty Rates

Further to the issuance of the ASEAN Harmonized Tariff Nomenclature ("AHTN") 2017 which revises the AHTN 2012, the MoF has issued regulation number 6/PMK.010/2017 ("PMK-6") to adjust the classifications of imported goods and the applicable import duty rates.

Indonesia and other ASEAN countries have agreed to standardize the 8-digit HS Code for export-import matters, where the first 6 digits are the international standardized HS Code. Therefore, PMK-6 revokes the earlier MoF regulation number 213/PMK.010/2011 and its amendments, which applied the 10-digit HS codes.

Goods imported from any country using the HS Code are classified under the same structure of classifying goods, which consists of:

- a. Post/sub post and description of goods up to 6 (six) digits, which is the text of the Harmonized System (HS) issued by WCO;
- b. HS Code and description of goods in 8 (eight) digits, which is the text of the AHTN and serves as the national tariff line.

This new HS Code must be reflected in the goods classification system used for purpose of tariff and non-tariff regulatory sectors, including customs, excise, tax, fiscal, trade, industry and investment and is effective from 1 March 2017. Any related provisions should follow this new HS Code no later than two years from the effective date. This may affect the value of import duties/export duties, customs value, taxes, rules of origin, identification and monitoring of prohibited and restricted commodities, and other matters.

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