



Indonesian Tax Info February 2015 edition

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Update on Requirements as well as Implementation of Rights and Obligations of a Proxy Authorized by a Taxpayer

The Minister of Finance (“MoF”) has issued regulation No. 229/PMK.03/2014 (“PMK-229”) to revoke the previous MoF regulation 22/PMK.03/2008 (“PMK-22”). PMK-22 serves as the implementing regulation of the Law on General Taxation Provisions and Procedures (“KUP”) in regard to the requirements as well as implementation of rights and obligations of a proxy authorized by a Taxpayer.

PMK-229 stipulates that:

- a proxy may only be a certified tax consultant or taxpayer’s employee who holds certain qualifications
- An individual taxpayer can no longer appoint a proxy for applying for Tax ID number and VAT registration.
- Whereas the earlier regulation set limits on who can give a proxy to a non-tax consultant, the new regulation does not state any kind of limitation.
- A taxpayer that authorizes its employee (in addition to the other prevailing credential requirements that need to be submitted) now must also submit the following supporting documents:
 - a. the latest Employee Income Tax Return to show that the employee concerned is still actively working for the taxpayer; and
 - b. a copy of acknowledgement receipt from the tax office for the latest personal income tax return.
- Meanwhile, a tax consultant who is authorized to be a proxy by a taxpayer must provide a copy of the acknowledgement receipt from the tax

office for his/her latest personal Income Tax Return. Under PMK-22, such proxy had to provide copies of his or her personal income tax returns for the most recent two years.

- The taxpayer can revoke the proxy based on certain conditions (e.g. proxy is involved in corruption, investigation in the field of taxation) before the term as stated in the power of attorney letter has ended by submitting a written notification to the tax office. Under PMK-22, such notification was not required.

There is no material difference (e.g. formats of the proxy letter, tax consultant statement letter, and appointment letter) between PMK-229 and PMK-22.

This regulation is effective from 18 December 2014.

Update on Implementation of VAT and Luxury Goods Sales on Luxury Residences

The Director General of Taxation (DGT) issued a Circular Letter No. SE-45/PJ/2014 (“SE-45”) on 30 December 2014 as reference for the implementation of the Value Added Tax (VAT) and Luxury Goods Sales Tax (LGST) on luxury residences as mentioned in Minister of Finance regulation No. 103/PMK.03/2009 (“PMK-103”). Based on the Circular, the luxury residences that are categorized as luxury taxable goods (as also stipulated in PMK-103):

- a. House and Town House (non-strata title) with building area of 350 m² or more;
- b. Apartment, condo, town house (strata title) or the like with building area of 150 m² or more, are those which were handed over since **10 June 2009**.

In order to determine the 20% LGST on the above, the building area shall be calculated based on the following types of documents:

- a. site plan;
- b. building permit;
- c. booking fee receipt;
- d. sale and purchase agreement;
- e. purchase order for the house/apartment (or similar document);
- f. deed of sale and purchase;
- g. minutes of handover of the building/house/apartment;
- h. land and building tax returns,
- i. and other similar documents.

The amount of tax collected is calculated based on the selling price stated in the tax invoice, before the VAT. The following documents can be used to determine the selling price:

- a. evidence/receipt of down payment;
- b. purchase order for house/apartment (or similar document);
- c. sale and purchase agreement; and/or
- d. sale and purchase deed.

Payments by the purchaser, such as notarial fees, bank credit, and electricity and water installation, basically are not part of the selling price, unless it is known that such payments are already calculated as included in the selling price.

SE-45 reiterates that the VAT and LGST on the transfer of luxury residence is payable at the time of the transfer of the right to use the luxury residence, that is, at the signing of the sale and purchase agreement or the sale and purchase deed. In the case that the payment is made before the transfer of the luxury residence happens, then

the VAT and LGST is payable at the time of the payment.

New Document Whose Status is Equivalent to Tax Invoice

DGT regulation No. PER-33/PJ/2014 dated 30 December 2014 is the third amendment of DGT regulation No. PER-10/PJ/2010 regarding certain documents treated as equivalent to a tax invoice. The regulation amends the provisions of Article 1 of the regulation.

This amendment only adds one more document that can be treated as equivalent to a tax invoice, which is, tax payment slip for the payment of VAT on delivery of taxable goods through an auctioneer, accompanied with the Minutes of the Auction.

Update on Procedures for Payment and Remittance of Tax

MoF Regulation No. 242/PMK.03/2014 revokes a number of previous MoF regulations in order to streamline and stipulates a concise procedures for payment and remittance of tax.

The significant change is that when a taxpayer submits an objection against a tax assessment notice for a tax period, part of the tax year or fiscal year 2008 or thereafter and the taxpayer has obtained approval to pay on instalment basis or delay the payment, the taxpayer is obliged to pay the part that was agreed in the closing conference before submitting the tax objection.

On the other hand, if a taxpayer submits a tax objection for a tax period, part of the tax year or fiscal year 2007 or earlier and previously has obtained approval to pay on instalment basis or delay the payment, the approval to pay on installment basis or to delay the payment shall

remain in force and taxpayer is obliged to settle the tax based on the schedule that has been agreed.

This regulation is effective from 24 December 2014.

Update on Tax Returns

The MoF has issued a new regulation No. 243/PMK.03/2014 (“PMK-243”) dated 24 December 2014 regarding tax returns (regulating standard form, submission and receipt process, penalty, etc.), intended to streamline and replace several previous regulations on the subject.

The important changes include:

1. Exemption from administration penalties for not filing the tax returns on time is now granted in the following conditions:
 - If it is caused by malfunctioning of the government’s information system administration;
 - Other circumstances deemed by the DGT.
2. PMK-243 adds a new criterion of individual taxpayers exempted from the obligation to submit personal income tax returns, that is, individual taxpayers who do not engage in business activity or do not do freelance work. The other criterion, as governed in the previous regulation, is that the individual taxpayer’s income does not exceed the non-taxable income threshold.

There are no changes in the format of monthly and annual tax returns.

Reduction of Land and Building Tax for Oil and Gas taxpayers in the Exploration Stage

The MoF has issued a new regulation No. 267/PMK.011/2014 to provide a facility of reduction of subsurface Land and Building Tax for upstream oil & gas taxpayers which are still in the exploration phase. The taxpayers who are eligible for the facility are contractors that entered into cooperation contracts since Government Regulation No. 79 of 2010.

The taxpayer must submit a Notification of Tax Object (*Surat Pemberitahuan Objek Pajak*) and attach a recommendation letter from the Minister of Energy and Mineral Resources (“MoEMR”) that the block is still in exploration phase.

The reduction is 100% of tax that should have been paid by the taxpayer. Upon review, the reduction will be reflected in the Notification of Tax Payable (*Surat Pemberitahuan Pajak Terhutang*) issued by the tax office.

This facility can be enjoyed for up to 6 years since the signing date of the cooperation contract and can be extended for another 4 years with a similar recommendation from the MoEMR.

This regulation is effective from 31 December 2014 and can be applied by the taxpayers for subsurface Land and Building tax payable for fiscal year 2015 onwards.

Update on Procedure for Audits on Preliminary Evidence of Criminal Acts in Taxation

The MoF has issued a regulation governing the procedures for Preliminary Evidence Tax Audit, Regulation No. 239/PMK.03/2014, which supersedes Regulation No. 18/PMK.03/2013 (“PMK-18”). This regulation governs the procedure for Initial Evidence Audit, i.e., a type of tax audit triggered by evidence, activity or circumstances leading to indication of a present or past criminal act in taxation.

The main changes are highlighted below:

- This tax audit (whether an “open” audit or a “closed” audit) shall be completed within twelve months since the delivery date of the audit instruction letter. It can be extended for another period of no longer than 24 months. Under PMK-18, the time frame was six months and could be extended indefinitely at the DGT’s discretion.
- The taxpayer must submit data/ information which constitutes evidence to the tax auditor no later than 14 days from the date the of loan request letter. Under PMK-18, it was 7 days.

Some of the other new provisions regulate the following matters:

- Tax payment made by taxpayer based on its disclosure of wrongful act, in the case where a tax audit for initial evidence is followed by an investigation.
- The DGT can redo an Initial Evidence Audit in certain circumstances when new evidence is obtained after an Initial Evidence Audit was completed.
- Investigation can be executed without being preceded by an Initial Evidence Audit when it is known immediately that a tax crime is being or has just been committed.

Update on Land and Building Tax

The MoF has issued new regulations dated 30 December 2014 regarding the Land and Building Tax for certain areas (e.g. plantation, forestry, and mining).

- MoF regulation No.254/PMK.03/2014 regulates the procedures for registration and updating of Land and Building Tax objects. MoF regulation No.256/PMK.03/2014 stipulates the implementation of the tax audit and investigation provision in the Land and/or Building Tax (“LBT”) law.
- MoF regulation No.255/PMK.03/2014 stipulates the procedures for the issuance of LBT tax assessment notices and decisions on LBT overpayment.
- MoF regulation No.253/PMK.03/2014 regulates the procedure for submission and resolution of Land and Building Tax objections.

Customs Focus

New Regulation on Import and Export of Crude Oil, Natural Gas and Other Fuels

The Ministry of Trade (MoT) has issued a new Regulation No. 03/M-DAG/PER/1/2015 to govern the Import and Export of Crude Oil, Natural Gas and Other Fuels, effective in April 2015, to support the availability of these strategic natural resources in the domestic market.

Under this regulation, Crude Oil and Natural Gas can only be exported by:

- a. a Business Entity that conducts upstream Oil and Gas business activity,
- b. a Permanent Establishment that conducts upstream Oil and Gas business activity, or
- c. a Business Entity that conducts downstream Oil and Gas business activity.

Other Fuels may only be exported by a Business Entity that conducts Other Fuel business activity.

The regulation includes a list of goods under each category of Crude Oil, Natural Gas and Other Fuels whose export is restricted.

Anti-Dumping Duties Imposed on Certain Yarn Imports from Malaysia and Thailand

The Ministry of Finance (MoF) has imposed Anti-Dumping Duty on imports of Spin Draw Yarn (SDY) products from Malaysia and imports of Partially Oriented Yarn (POY) products from Malaysia and Thailand, effective 19 January 2015.

Under the provisions of Government Regulation No. 34 of 2011, Anti-Dumping Duties may be imposed in addition to the normal import duties if the export price of imported goods is lower than the Normal Value (the Standard Export Price stipulated in the Indonesian Government Regulation), thereby causing losses to the Government.

There is evidence of dumping in imports of SDY products from the People's Republic of China (PRC), the Republic of Korea, Malaysia, and Taiwan, causing losses to be suffered by the domestic industry. The same can be said for

imports of POY products from Malaysia, the Republic of Korea, the PRC, Taiwan, and Thailand,

Details of the Anti-Dumping Duties are as follows:

1. SDY Products, as stipulated in regulation No. 13/PMK.010/2015.

Imports of SDY products from Malaysia in the form of synthetic filament yarn (other than sewing thread), not put up for retail sale, including synthetic monofilament of less than 67 decitex, single, untwisted or with a twist not exceeding 50 turns per meter, of polyester material, which are included in tariff heading 5402.47.00.00, are subject to the following Anti-Dumping Duty:

Country of Origin	Company Name	Anti-Dumping Import Duty (%)
Malaysia	Recron (Malaysia) Sdn Bhd.	7.5%
	Other companies	

2. POY Products, as stipulated in regulation No. 14/PMK.010/2015.

Imports of POY products from Malaysia and Thailand in the form of synthetic filament yarn (other than sewing thread), not put up for retail sale, including synthetic monofilament of less than 67 decitex, single, with no untwisted or with a twist not exceeding 50 turns per meter, polyester material, partially reoriented, which are included in tariff heading 5402.47.000, are subject to the following Anti-Dumping Duty:

No	Country of Origin	Company Name	Anti-Dumping Import Duty
1	Malaysia	Recron (Malaysia) Sdn. Bhd	9.3%
		Other exporters and/or exporter producers	9.3%
2	Thailand	Thai Polyester Co., Ltd	0%
		Other exporters and/or exporter producers	13.3%

Postponement of Rules on Imports of Forest Products and Technical Verification of the Export of CPO and its Derivatives

The MoT has postponed the effective date of two regulations: No. 78/M-DAG/PER/10/2014 ("PER-78") governing the Imports of Forest Products and No. 29/M-DAG/PER/6/2013 ("PER-29") governing Technical Verification of the Export of

CPO and its Derivatives. The purpose of this postponement is to optimize the Government's readiness in the implementation of these policies.

The details are as follows:

Subject	Original Effective Date	New Effective Date	MoT Regulation Amending the Effective Date
Imports of Forest Products	1 February 2015	1 September 2015	No. 07/M-DAG/PER/1/2015
Technical Verification of the Export of CPO and its Derivatives	24 December 2014	5 January 2016	No. 02/M-DAG/PER/1/2015

PER-78 aims to improve the administration and supervision of forest product imports, as well as to support environmental sustainability.

Meanwhile, through PER-29, the Government aims to monitor the implementation of technical verification of export of CPO and its derivatives more intensively.

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