



Indonesia Tax Info May 2020

New Implementing Regulation concerning Value Added Tax on Electronic Trade Systems

On 31 March 2020, the President of Indonesia issued Government Regulation in Lieu of Law Number 1 (“PERPU-1”), which introduces several policies to preserve the health of national economy, including the introduction of tax treatments on transactions through electronic system (*Perdagangan Melalui Sistem Elektronik* (“PMSE”). The regulation stipulates that Value Added Tax (“VAT”) on PMSE is to be collected, paid, and reported by the foreign traders, foreign service providers, foreign PMSE providers (“PPMSE”), and/or domestic PPMSEs (please refer to [Tax Alert April 2020 – 1st edition](#)).

PERPU-1 stipulates that procedures for appointment of VAT collector, as well as the collection, settlement, and reporting of the VAT will be regulated by the Minister of Finance (“MoF”). As such, on 5 May 2020 the MoF issued Regulation Number 48/PMK.03/2020 (“PMK-48”).

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1. Key Highlights

Some important terms used in PMK-48 are defined as follows:

- a. PMSE: trading in which the transactions are carried out through series of electronic devices and procedures.
- b. Digital Goods: all intangible goods in the form of electronic or digital information, covering goods that resulted from conversion or transformation or originally in an electronic form, including but not limited to software, multimedia, and/or electronic data.
- c. Digital Services: services delivered through internet or electronic network with automatic nature or involving minimal human interference, and it is impossible to be determined without information technology. This includes but not limited to software-based services.
- d. Goods Buyer/Service Recipient: an individual or an entity that receives (or should be receiving) and pays (or should be making the payment) for the intangible taxable goods/services in relation to the utilization of offshore intangible taxable goods/services within Indonesian Customs Area through electronic system.
- e. PPMSE: a party who provides the platform to carry out PMSE.
- f. PMSE party: an individual or an entity performing PMSE business activities. This includes foreign trader, foreign service provider, foreign PPMSE/platform, and/or domestic PPMSE/platform.

The scope of PMK-48 covers the following:

- a. The object of the PMSE VAT collection covers the utilization of offshore intangible taxable goods and/or taxable services within Indonesian Customs Area through electronic system. With the definition of Goods Buyer and Service Recipient mentioned above, the VAT collection on PMSE shall include B2B (business-to-business) and B2C (business-to-consumer) transactions. The VAT on PMSE should be collected, paid, and reported by PMSE parties appointed by the MoF ("PMSE VAT Collector").
- b. The utilization of intangible goods covers similar definition of intangible goods in the prevailing VAT Law, and it also includes the utilization of Digital Goods. Meanwhile, the utilization of services includes the utilization of Digital Services.

The Directorate General of Taxation ("DGT") can appoint a PMSE VAT Collector in the event of:

- a. A direct transaction with the Goods Buyer or Service Recipient, for which the PMSE VAT payable shall be collected, paid, and reported by the foreign traders or foreign service providers appointed as PMSE VAT Collector; or
- b. A transaction conducted through foreign or domestic PPMSE/platform, for which the PMSE VAT payable can be collected, paid, and reported by foreign traders/foreign service providers/foreign PPMSE/domestic PPMSE appointed as PMSE VAT Collector.

Any utilization of offshore intangible taxable goods/services in Indonesian Customs Area other than for the transactions above will be subject to normal self-assessed VAT mechanism, which should be collected, paid, and reported by the Goods Buyer and/or Service Recipient.

The VAT collection on PMSE shall include B2B and B2C transactions.

PMK-48 mentions that PMSE parties who have met the following criteria can be appointed as PMSE VAT Collector:

- a. Transaction value with Goods Buyers and/or Service Recipients in Indonesia exceeding a certain threshold in a twelve-month period; or
- b. Number of traffic/access exceeding a certain threshold in a twelve-month period.

The threshold of transaction value or number of traffic/access above will be further decided by the DGT. The appointment will come into effect starting from the following month after the date of appointment decree from the DGT. PMSE VAT Collector will be given an identity number for the taxation administration process. Any PMSE party that has met the criteria, but not yet appointed as a PMSE VAT Collector, may submit notification to the DGT to be appointed as a PMSE VAT Collector.

The Goods Buyer/Service Recipient covered by PMK-48 is an individual or entity that fulfils the following criteria:

- a. Domiciles or resides in Indonesia, provided that:
 - (i) The correspondence or billing address is located in Indonesia; and/or
 - (ii) The country selected upon the registration with the website/application/system provided/designated by the PMSE VAT Collector is Indonesia.
- b. Pays the VAT using debit, credit, and/or other payment facilities provided by an institution in Indonesia; and/or
- c. Transacts using an internet protocol (IP) in Indonesia, or uses phone number with the country code of Indonesia.

The applicable PMSE VAT rate will be 10%, with the tax base constituting the amount paid by the Goods Buyers and/or Service Recipients. The PMSE VAT collection will be payable at the time of payment is made by the Goods Buyer and/or Service Recipient. The VAT Collector may use its usual billing document as a proof of PMSE VAT collection and it shall be treated as equivalent to a VAT Invoice. The billing document can be in the form of commercial invoice, billing, order receipt, or other similar documents, which mentions the amount of PMSE VAT collection and states that it has been paid.

The PMSE VAT Collector must settle the PMSE VAT collected on a monthly basis by the end of the following month. The PMSE VAT settlement will be made via electronic channel to the State Treasury account, using the following currency:

- a. Indonesian Rupiah (IDR) converted using the exchange rate issued by the MoF on the date of settlement; or
- b. United States Dollar (USD); or
- c. Other foreign currencies as determined by the MoF.

DGT Regulation Number PER-09/PJ/2020 (new DGT regulation issued regarding tax payment slips – please refer to article on [New Regulation Governing Tax Payment Slip](#) below) has assigned tax payment code of 411219-111 for settlement of PMSE VAT made by foreign PMSE VAT Collectors.

The PMSE VAT Collector must report the VAT collection and amount settled to the State Treasury on a quarterly basis. The DGT may also request the PMSE VAT Collector to submit a detailed report of PMSE VAT transactions covering one-year period.

The PMSE VAT Collector must settle the PMSE collected on monthly basis, submit a quarterly report on the VAT collected and settled.

2. Observation

PMK-48 will come into effect starting from 1 July 2020. However, there are matters that have not been stipulated in detail in PMK-48, including but not limited to the criteria, guidance, and procedures on appointment of PMSE VAT Collector, settlement, and reporting of PMSE VAT collection. As such, one would expect that the DGT will issue further regulations that will provide guidance on these outstanding matters soon.

Beside VAT, PMSE transaction may also be subject to income tax or electronic transaction tax (*Pajak Transaksi Elektronik* ("PTE")). PMK-48 does not cover these two taxes. Therefore, there is a high possibility that another MoF regulation covering these two taxes will be issued soon.

Considering the short timeline until the regulation comes into effect, we believe that multinational digital companies should immediately start assessing the potential implications of this new modification of Indonesian VAT rules. The critical starting point is for the relevant parties to identify their various existing digital business models related to Indonesian customers.

On another note, on 16 May 2020, PERPU-1 has been passed as law (*Undang-Undang*) through the issuance of Law Number 2 of 2020 ("Law No. 2/2020"). Law No. 2/2020 comes into effect starting from 18 May 2020.

New Implementing Regulation on Value Added Tax Not-Collected Facility in Transportation Industries

In July 2019, the Indonesian Government issued Regulation Number 50 ("PP-50") to provide clarity and broaden the scope of importations and deliveries of certain transportation equipment and spare parts, and related services, for which VAT not-collected facility may apply (please refer to [Tax Info July 2019 edition](#)). The MoF recently has also issued Regulation Number 41/PMK.03/2020 ("PMK-41") in order to provide updates on the implementing regulation of PP-50 while revoking the MoF Regulation Number 192/PMK.03/2015 and 193/PMK.03/2015 ("PMK-193").

In order to obtain the VAT not-collected facility, the relevant taxpayer has to apply for a VAT Not-Collected Declaration Letter (*Surat Keterangan Tidak Dipungut* ("SKTD")). The SKTD can be issued if the taxpayer fulfils the following requirements:

1. The taxpayer has submitted its corporate income tax returns for the last two fiscal years, and/or VAT returns for the last three fiscal periods;
2. The taxpayer does not have any outstanding tax payable with the tax office where the taxpayer (including branch, if any) is registered, or the settlement for outstanding tax payable has been approved to be postponed or paid by installment;
3. The business activity is the same as per company's intention (for qualified water transportation companies); and
4. The taxpayer has submitted Realization Report on Import and/or Purchase (*Laporan Realisasi Impor dan/atau Perolehan* ("LRIP")) and/or realization report on Import and Purchase Plan (*Rencana Kebutuhan Impor dan Perolehan* ("RKIP")).

Please note that certain exceptions to the above are allowed for certain taxpayers.

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The critical starting point is for the relevant parties to identify their various existing digital business model related to Indonesian customers.

To obtain the VAT not-collected facility, the relevant taxpayer has to apply for a VAT Not-Collected Declaration Letter (SKTD)

The taxpayer submits the SKTD application through DGT website, in which the DGT system will automatically issue a SKTD if the taxpayer qualifies for the facility or it will not process the application if the taxpayer does not qualify for the facility. Any required supporting documents must be submitted to the tax office within seven working days from the date of the issuance of SKTD. However, in force majeure situation, the deadline for the submission of supporting documents is extended to one month after the force majeure situation ends.

In the case the taxpayer cannot submit the application through DGT's website, the taxpayer has to submit the application directly to the tax office, and the decision to issue SKTD or rejection letter has to be issued within five working days after the application is received in complete.

Under PMK-193, the LRIP has to be submitted on quarterly basis. However, under PMK-41, the LRIP (covering the periods of the facility) is to be submitted by the end of January of the following year.

Under PMK-41, SKTD can be revoked and the taxpayer has to repay the VAT payable if:

1. The taxpayer fails to submit the required supporting documents or the supporting documents are not submitted in complete; or
2. The tax office has or acquires data or information, which suggests that the taxpayer should not be eligible for the facility.

PP-50 governs that goods delivered or imported under this facility must be utilized in accordance with their initial purposes and shall not be transferred within four years; otherwise, the VAT not-collected under this facility has to be repaid to the government. However, PMK-41 stipulates that the VAT may not need to be repaid if the goods delivered or imported are transferred from main office to branch (or vice versa) and/or inter-branches; or ships that enjoy the facility are transferred and exchanged with the same type of ship that has bigger size or capacity, as verified by the relevant authorities. PMK-41 also mentions that VAT not-collected under this facility does not need to be repaid if the goods delivered or imported are transferred due to force majeure situation, whose criteria is determined by the relevant authority.

Goods delivered or imported under facility must be utilized in accordance with their initial purposes and shall not be transferred within four years, with certain exceptions.

PMK-41 provides some transitional provisions as follows:

1. Application for SKTD that has been submitted before PMK-41 came into effect is to be processed in accordance to PMK-193;
2. A SKTD that has been issued in accordance to PMK-193 will remain valid until expiration. However, an amendment or revocation of the SKTD will follow PMK-41;
3. For SKTD that has been issued under PMK-193 and is valid until 31 December 2020, any request for amendment of the RKIP before PMK-41 came into effect will be processed in accordance with PMK-193;
4. For an SKTD that has been issued under PMK-193 and is valid until 31 December 2020, any request for amendment of the RKIP after PMK-41 came into effect will be processed in accordance with PMK-41;
5. For an SKTD that has been issued under PMK-193 is and valid until 31 December 2020, the RKIP has to be submitted pursuant to provisions under PMK-41;
6. Business entities in national airline industry that has obtained SKTD in accordance with PMK-193 that is valid until 31 December 2020, will be deemed to have applied for SKTD for VAT not-collected facility for purchase of offshore services until 31 December 2020.

PMK-41 provides a list of transportation equipment and goods that are eligible for the facility, templates of various documentations and procedures to apply, utilize and report the facility. Relevant taxpayers should familiarize themselves to PMK-41, since it has entered into effect starting from 24 April 2020.

Automatic Extension of Value Added Tax Centralization Period during COVID-19 Prevention Period

In general, VAT-able Entrepreneur (“PKP”) carrying out business activities through business units in jurisdiction of different tax offices has to register each business unit with their respective tax offices. However, the PKP may choose to centralize the VAT administration by submitting a notification to the tax office and the tax office will issue an approval/rejection letter. The approval for VAT centralization is valid for five years. However, the centralization can be extended if the PKP applies for an extension at the latest two months before the current centralization approval letter expires.

COVID-19 prevention period has affected the tax administration services in the tax offices, including the process of application for an extension of VAT centralization. As such, the DGT issued an Announcement Number PENG-5/PJ.09/2020 on 15 May 2020, whereby it confirms that for VAT centralization approval letters that are expiring between March and July 2020 fiscal periods and whose extension application is submitted between January and May 2020, the centralization approval letters are automatically granted with an extension for another five years.

In case the PKP wishes not to extend the VAT centralization, the PKP will have to submit a notification to the tax office pursuant to the prevailing regulation.

New Regulation Governing Tax Payment Slip

Tax regulations keep evolving throughout the years. In order to keep up with the development of the taxation necessities, the DGT issued Regulation Number PER-09/PJ/2020 (“PER-09”) on 30 April 2020 to update the list of tax payment codes and information required to be disclosed in a tax payment slip (*Surat Setoran Pajak* (“SSP”)).

In general, the newly prescribed SSP format introduced under PER-09 is similar to the current SSP format; hence, there is no material change. However, PER-09 made some changes to the information required to be stated in the SSP, i.e.:

1. The tax ID code used by taxpayer who does not have a tax ID number (*Nomor Pokok Wajib Pajak*) is now changed;
2. The tax object number (*Nomor Objek Pajak*) and its relevant address now must be stated for payment of land and building tax (*Pajak Bumi dan Bangunan*) for mining, forestry, plantation, and other certain sectors as well;
3. The VAT invoice number must be stated for payment of VAT upon delivery to VAT collector;
4. SSP is now required to be made in two copies:
 - a. A copy for bank/post perception or other perception bodies; and
 - b. A copy for taxpayer’s file.

However, the taxpayer is allowed to prepare more copies when needed.

There is no material change in the prescribed SSP format, but there are some changes to the information required to be stated in the SSP.

PER-09 enters into effect starting from 30 April 2020, revoking PER-38/PJ/2009 (as most recently amended by PER-22/PJ/2017). As such, taxpayers should refer to PER-09 for the latest list of tax payment codes and procedures to fill in the SSP going forward.

Indonesia Deposits Multilateral Instrument Ratification Instrument

On 28 April 2020, Indonesia deposited its instrument of ratification for the Multilateral Convention to Implement Tax Treaty-Related Measures to Prevent Base Erosion and Profit Shifting (“MLI”) with the Organization for Economic Co-operation and Development (OECD). Indonesia identifies 47 tax treaties to be covered under the Convention.

MLI will enter into force in Indonesia on 1 August 2020.

The MLI will enter into force for Indonesia on 1 August 2020 (three months after the deposit of its instrument ratification). For comments on the MLI, please refer to [Tax Alert January 2020 edition](#).

Further Extension of COVID-19 Prevention Period in the Tax Court

In early May 2020, the Tax Court issued Circular Letter Number SE-06/PP/2020 to extend the COVID-19 prevention period in the Tax Court, initially between 17 March 2020 and 13 May 2020 (please refer to [Tax Alert March 2020 – 1st edition](#), [Tax Alert April 2020 – 2nd edition](#), and [Tax Alert April 2020 – 3rd edition](#)), to 1 June 2020. However, on 26 May 2020, the Tax Court issued another Circular Letter Number SE-09/PP/2020 to further extend the COVID-19 prevention period in the Tax Court until 7 June 2020. All other arrangements under SE-03/PP/2020 remain the same.

Tax Court will reopen on 8 June 2020.

With the imminent reopening of the Tax Court on 8 June 2020, the Tax Court has issued Circular Letters Number SE-10/PP/2020 (“SE PP-10”) and SE-11/PP/2020 (“SE PP-11”).

SE PP-10 provides guidelines and procedures for hearings and administrative services in tax courts while observing the necessary measures to prevent the spreading of COVID-19 outbreak in tax court.

SE PP-11 confirms that the prevention period in tax court lasts for 83 days (from 17 March to 7 June 2020). For a tax appeal that will be applied directly to the tax court reception desk and the deadline to submit the appeal letter falls between 17 March and 7 June 2020, such deadline will be deferred by 83 days. In respect of a lawsuit, if it is to be applied directly to the tax court reception desk and the deadline to submit the lawsuit falls during the prevention period, the deadline is extended to 14 days after the prevention period ends (i.e. by 21 June 2020).

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