



Indonesia Tax Info April 2021

New implementing regulation on special economic zones issued

Following the changes introduced by Law Number 11 of 2020 regarding Job Creation (Omnibus Law) made to Law Number 39 of 2009 regarding special economic zones (SEZs), the Indonesian government on 2 February 2021 issued Regulation Number 40 of 2021 (PP-40) to replace the existing government regulations related to SEZs. PP-40 came into effect immediately upon its issuance. It combines the provisions stipulated in Regulation Number 1 of 2020 regarding the organization of an SEZ and Regulation Number 12 of 2020 (PP-12) regarding the facilities in an SEZ (please refer to [Tax Info March 2020](#)) into one regulation, and revokes these two regulations.

On 1 April 2021, the Minister of Finance (MoF) also issued Regulation Number 33/PMK.010/2021 (PMK-33). It amends MoF Regulation Number 237/PMK.010/2020 (PMK-237), the existing implementing tax regulation on SEZ (please refer to [Tax Info February 2021](#)), to accommodate changes made by PP-40.

This article discusses only the changes related to taxation facilities resulting from the issuance of PP-40 and PMK-33.

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Overview

To be eligible for the taxation facilities in an SEZ, a business entity (*badan usaha*) that manages an SEZ and a business player (*pelaku usaha*) that carries out business in an SEZ must meet the following criteria:

Business entity	Business player
<ul style="list-style-type: none"> • Be a domestic taxpayer (including a branch) that conducts business in an SEZ; • Be registered as a business entity; • Have clear area boundaries following the stage of SEZ development; and • Hold the necessary license to conduct business/activities. 	<ul style="list-style-type: none"> • Be a domestic taxpayer (including a branch) that conducts business in an SEZ; and • Hold the necessary license to conduct business/activities.

To obtain the VAT, import duty, tax, and excise facilities, the transfer of goods into and from an SEZ must be carried out through an SEZ application system.

Income tax

Income tax facilities in SEZs

In general, the income tax facilities under PP-40 are the same as those under PP-12, including tax holidays, tax allowances, and other income tax facilities. As such, PMK-33 did not make material changes to PMK-237 in this particular subject.

Territorial basis of taxation for certain foreign citizens treated as resident taxpayers

PP-40 stipulates that a foreign employee working in an SEZ who has been treated as a resident taxpayer (*subjek pajak dalam negeri*) by virtue of spending more than 183 days within a 12-month period in Indonesia, may be taxed on Indonesian-source income only (territorial-basis taxation) as opposed to worldwide income, for four years, if the individual has certain skills. This facility is not specifically mentioned in PMK-33. On the other hand, Regulation Number 18/PMK.03/2021 (PMK-18) issued by the MoF on 17 February 2021 had set out detailed arrangements for the territorial-basis taxation facility as part of the Omnibus Law implementation (please refer to [Tax Info March 2021](#)). It is yet unclear, whether the arrangement under PMK-18 also applies to foreign employees working in an SEZ.

PP-40 stipulates that certain foreign employee working in an SEZ may be taxed on Indonesian-source income only.

Value added tax (VAT)

The list of transactions of taxable goods and services eligible for VAT and luxury-goods sales tax (LST) not collected facility in SEZs is updated by PP-40 so as to include:

- Delivery of certain taxable tangible goods from other Indonesian Customs Area (TLDDP), free trade zones, and bonded storage facilities to a business entity and/or business player;
- Import of certain taxable tangible goods into an SEZ by a business entity and/or business player;

- Import of consumable goods into a tourism SEZ by a business entity and/or business player, subject to any limitations specified by the SEZ administrator. PMK-33 defines consumable goods as consumable goods and materials used by a business entity and/or business player in the service industry in order to deliver services in an SEZ;
- Delivery of certain taxable tangible goods between business entities and business players, or between a business entity and a business player;
- Delivery of taxable services and/or taxable intangible goods, including land and/or building rental services, in an SEZ by a business entity and/or business player to another business entity and/or business player in the same SEZ or another SEZ, but limited to self-construction activities. Such delivery is no longer limited to a certain period of time;
- Delivery of certain taxable services and taxable intangible goods by entrepreneurs from TLDDP or from outside of TLDDP to a business entity and/or business player; and
- Utilization of taxable services and/or taxable intangible goods from TLDDP within an SEZ by a business entity and/or business player.

The taxable goods eligible for VAT and LST not collected facility now include raw materials and ancillary materials necessary to provide taxable services and/or activities to develop technology, as well as certain taxable goods and/or taxable services related to ship and aircraft maintenance, repair, and overhaul (MRO) activities.

In addition to the VAT and LST not collected facility mentioned above:

- The import of certain consumable goods into tourism SEZs is also eligible for import duty exemption and import taxes not collected facilities;
- The delivery of goods into TLDDP by business players carrying out ship and aircraft MRO activities may also benefit from import duty relief, exemption, or reduced rates and import tax not collected facilities;
- Tax and customs facilities may be available when a vendor brings capital goods into an SEZ on behalf of a business entity and/or business player. The business entity and/or business player, as the owner of the goods, is responsible for applying for the facilities; and
- An SEZ that has been converted from a free trade zone (FTZ) may benefit from VAT and LST not collected facility on the delivery of taxable goods and/or provision of taxable services from an SEZ to an FTZ and vice versa, as well as the sale of land and buildings in an SEZ during the transitional period. The transitional period will be determined by the national council of SEZs. However, certain services, such as domestic air transport services and nonfixed line telecommunication services, into or from an FTZ are subject to VAT.

Regional tax

In general, provisions related to regional tax under PP-40 are similar to those under PP-12. PP-40, however, adds that regional tax reductions, reliefs, and exemptions, at minimum, must include a reduction in the duty for acquisition of land and building rights and a reduction in land and building tax.

The list of transactions of taxable goods and services eligible for VAT and LST not collected facility in SEZs is updated.

Types of vehicle on which luxury-goods sales tax is borne by the government now expanded

To expedite the economic recovery process during the COVID-19 pandemic, the Indonesian government has rolled out various tax incentives for sectors affected by the pandemic. These include a tax incentive provided by the MoF for the automotive industry, under which the luxury-goods sales tax (LST) payable on sales of certain types of vehicle is borne by the government as opposed to the purchaser (Regulation Number 20/PMK.010/2021 (PMK-20) issued in February 2021).

On 31 March 2021, the MoF expanded the types of vehicle eligible for the LST relief through the issuance of Regulation Number 31/PMK.010/2021 (PMK-31), which replaced PMK-20 effective from 1 April 2021. Under PMK-31, sales of the following types of vehicle, which have met the requirement of a minimum of 60% local content (i.e., at least 60% of the components used to build the vehicle are produced domestically), are eligible for its LST to be borne by the government:

Type of vehicle (diesel or semi-diesel)	Current LST rate	LST borne by the government
Sedans or station wagons with cylinder capacity of up to 1,500 cc	30%	<ul style="list-style-type: none"> 100% (1 April to 31 May 2021) 50% (1 June to 31 August 2021) 25% (1 September to 31 December 2021)
Vehicles with a capacity of less than 10 people (other than sedans or station wagons), a single-axle drive system, and cylinder capacity of up to 1,500 cc	10%	
Vehicles with a capacity of less than 10 people (other than sedans or station wagons), a single-axle drive system, and cylinder capacity of more than 1,500 cc up to 2,500 cc	20%	<ul style="list-style-type: none"> 50% (1 April to 31 August 2021) 25% (1 September to 31 December 2021)
Vehicles with a capacity of less than 10 people (other than sedans or station wagon), a double-axle drive system, and cylinder capacity of more than 1,500 cc up to 2,500 cc	40%	<ul style="list-style-type: none"> 25% (1 April to 31 August 2021) 12.5% (1 September to December 2021)

As a follow up to PMK-31, the Minister of Industry issued Decision Number 839 of 2021 on 1 April 2021 which stipulates a list of 29 vehicles eligible for this facility.

Vehicle manufacturing and selling businesses that are subject to VAT and wish to benefit from LST facility must issue VAT invoices containing certain information required by PMK-31. In addition, these businesses are required to electronically submit facility realization reports listing the sales of certain vehicles in a prescribed format, twice each month.

LST that has been borne by the government must be repaid if the tax authorities discover that the vehicles sold should not have qualified for the facility, or if any of the requirements related to VAT invoices, VAT returns, or realization reports are not met.

Government to bear VAT on sales of certain properties

To expedite the economic recovery process during the COVID-19 pandemic, the MoF issued Regulation Number 21/PMK.010/2021 (PMK-21) on 1 March 2021 which states that the government will bear all or part of the 10% VAT payable on sales of certain residential properties, as opposed to the general treatment whereby the VAT is borne by the purchaser.

PMK-21 introduces a government-borne VAT facility on the sale of landed houses and residential units by a VAT-registered business to an individual homeowner (purchaser). The property has to be new, ready-to-use, and never been handed over previously. The government will bear 100% of the VAT if the selling price of the property does not exceed IDR 2 billion, and 50% of the VAT if the selling price is between IDR 2 billion and IDR 5 billion.

This facility is available for sales of landed houses and residential units taking place between 1 March 2021 and 31 August 2021. The date of sale is determined based on the date of:

- Signing of sale and purchase deed; or
- Issuance of certificate of full payment by the seller.

Furthermore, the transfer of the rights to the property must be proven by the issuance of minutes of handover (*berita acara serah terima*).

If the purchaser has made an advance payment or installment before 1 March 2021, this facility shall be available under the following conditions:

- The initial advance payment or instalment is paid on or after 1 January 2021;
- The date of sale (determined as above) falls between 1 March 2021 and 31 August 2021; and
- The facility will be provided only on the instalments or other amounts paid between 1 March 2021 and 31 August 2021.

This facility is limited to one landed house or residential unit per individual and the property must not have benefitted from any other VAT reliefs.

VAT entrepreneurs selling such properties must issue VAT invoices and disclose certain information in the VAT invoices as required by PMK-21. The VAT invoices must be reported in the respective VAT returns and the returns also serve as facility realization reports.

VAT that has been borne by the government must be repaid if the tax authorities discover that:

- The property sold does not qualify for the facility;
- The individual owns more than one property that has benefitted from the facility;
- The sale of the property does not take place between 1 March 2021 and 31 August 2021;
- Any of the requirements related to VAT invoice, VAT return, or facility realization report are not met; or
- The property is handed over within one year after the initial sale.

The government will bear all or part of the 10% VAT payable on sales of certain residential properties.

The facility is limited to one landed house or residential unit per individual.

Directorate General of Taxation clarifies VAT treatment on land transactions

On 19 March 2021, Indonesia's Directorate General of Taxation (DGT) issued Circular Letter Number SE-28/PJ/2021 (SE-28) to clarify VAT treatment on land transactions.

SE-28 clarifies that, since land is a taxable good, sales of land by a VAT entrepreneur are subject to 10% VAT on the sale price. However, this does not apply if:

- The land is a nontrading (capital) asset, transferred in connection with a merger, expansion, spin-off, or acquisition, or an in-kind capital injection (specifically for land transactions after the Omnibus Law enactment); and
- Both the transferor and transferee are VAT entrepreneurs.

if the land is purchased by a government institution from a VAT entrepreneur as part of a land procurement program, the seller shall be responsible for the collection and payment of VAT instead of the government institution.

The treatment on VAT paid by a VAT entrepreneur during the pre-production period is as follows:

- **Prior to the enactment of the Omnibus Law:** VAT paid for the purchase of land may be credited only if the land purchased constitutes a capital good and is related to the provision of goods and/or services by the VAT entrepreneur, subject to VAT.
- **After the enactment of the Omnibus Law:** VAT paid for the purchase of land may be credited regardless of whether the land is purchased as a capital good or a noncapital good, as long as the land is related to the provision of goods and/or services by the VAT entrepreneur, subject to VAT.

After the Omnibus Law enactment, VAT paid for the purchase of land may be credited regardless of whether the land is purchased as a capital good or a noncapital good.

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