Deloitte.

Indonesian Tax Info

January 2016 edition

In this issue:

Import and/or Delivery of Strategic Certain Taxable Goods that are exempted from VAT

In implementing the Supreme Court Decision No.70/P/HUM/2013, the Government has issued Government Regulation ("GR") number 81 of 2015 ("GR-81") dated 2 November 2015 and revoke GR number 12 0f 2001 as lastly amended by GR number 31 of 2007 concerning import and/or delivery of strategic certain Taxable Goods which are exempted from VAT.

Under GR-81, the strategic certain Taxable Goods whose importation and/or delivery is exempted from VAT are now as follows:

a. Plant machinery and equipment which is used directly in the process of generating taxable goods, excluding spare parts, and shall use a VAT Exemption Certificate;
b. Goods resulting from business activities in the maritime and fishery sector, both capture fishery and aquaculture;
c. Raw hides and skins that are not tanned;
d. Certain livestock;
e. Certain seeds and/or breeding stock of goods of agriculture, plantations, forestry, livestock, or fishery;
f. Animal feed, excluding pet food;
g. Fish feed;
h. Feed material for the manufacture of livestock feed and fish feed;
i. Raw material of silver handicrafts; and
j. Owned Simple Flat ("Rumah Susun Sederhana Milik") units with changed criteria such as limits on selling price and income of the individual purchasing the unit as regulated by Ministry of Finance (previously maximum selling price was IDR 144,000,000 and maximum income was IDR 4,500,000 per month and owner must have Tax ID number);
k. Electricity, except for houses with power above 6,600 (six thousand six hundred) Volt-Amperes.

In addition, in the case that the strategic certain Taxable Goods in point a and j above, whose importation and/or delivery is exempted from VAT, within four (4) years since the acquisition and/or importation are used not in accordance with its intended purposes, or is partially or wholly transferred to another party, the VAT that was deferred must be paid and cannot be credited.
Previously the period of this limitation was five (5) years.

This GR-81 does not include agricultural products, such as palm oil.

This regulation became effective on 8 January 2016.

Update on Revaluation of Fixed Assets for Fiscal Purposes which is proposed in 2015 and 2016

The Ministry of Finance (MoF) issued Regulation number 233/PMK.03/2015 ("PMK-233") on 21 December 2015 to provide legal certainty and to prevent inconsistencies in the implementation of Revaluation of Fixed Assets for Fiscal Purposes. PMK-233 amends the previous MoF Regulation number 191/PMK. 010 /2015 ("PMK-191") dated 20 October 2015.

The new criterion for the revaluation of fixed assets is that the assets should have a useful life of more than 1 (one) year.

In the event that the revalued asset is transferred or sold:

- Before 3 years for assets in category 1 and 2;
- Before 5 years for assets in category 3 and 4; or
- Within 1 years from revaluation for assets category land/building,

there will be additional tax that must be paid.

The surplus of revaluation of fixed assets above the initial residual fiscal book value shall be subject to additional final Income Tax at a rate equal to the highest Income Tax rate which is applicable at the time of the revaluation of the fixed assets, less the tax already paid. The highest rate for a corporate Taxpayer or permanent establishment is 25%, and for an individual Taxpayer it is 30%.

The surplus of revaluation of a Taxpayer's fixed assets above the initial residual commercial book value after deducted by the income tax must be stated in the Financial Statements.

This regulation is effective starting from 20 October 2015, the same as PMK-191, for the application submitted in year 2015 and 2016.

Execution of Verdict of the Supreme Court of the Republic of Indonesia number 73 P/HUM/2013 Concerning Judicial Review of Articles in GR number 74 of 2011 Concerning Procedures for Exercise of Tax Rights and Fulfilment of Tax Obligations

The Directorate General of Taxation ("DGT") issued Circular Letter No. SE-74/PJ/2015 on 4 December 2015 concerning the judicial review of articles in GR-74/2011 related to the procedures for exercise of tax rights and fulfilment of tax obligations. It covers the following topics:

1. Implementation of Verification

2. Compensation interest for an Appeal Verdict in the case that a request is filed for Judicial Review
3. Legal remedies not allowed for an Underpaid Tax Assessment Notice (SKPKB) issued under Article 13A of KUP Law
4. Certain decisions or decrees for which lawsuits cannot be filed to the Tax Court
5. Calculation of the period from objection to the execution of a Lawsuit verdict

The following is the detailed explanation regarding the articles in GR-74/2011 which are declared invalid and not generally applicable in the Supreme Court Verdict:

1. Verification Implementation

The following articles in GR-74/2011 concerning verification have been declared null and void:

1. Article 1 number 4 and 5
2. Article 13 par (1) and (2)
3. Article 14 par (1) and (3)
4. Article 15
5. Article 18 par (1) a
6. Article 19
7. Article 20 par (1) and (2)
8. Article 21
9. Article 30 par (2) c
10. Article 35 par (1) d
11. Article 38 par (2) and (3)
12. Article 48 par (3), (4), (7), (8), (9), and (10)

As a consequence, several Regulations of the MoF regarding verification have been revoked and amended by PMK 182/PMK.03/2015, PMK 183/PMK.03/2015, PMK 184/PMK.03/2015, PMK 187/PMK.03/2015.

2. Interest Compensation in the Case of Appeal Verdict Filed for Judicial Review

Article 43 par (6) c of GR-74/2011 is declared invalid and not generally applicable in the Supreme Court Verdict. In this regard, several Regulations of the Minister Finance regarding interest compensation are revoked and amended by PMK 186/PMK.03/2015.

As a consequence, the interest repayment procedure will be as follows:

a. A request for Judicial Review by either a Taxpayer of the DGT against an Appeal Verdict of the Tax Court shall not postpone or defer the granting of interest compensation, provided that the Taxpayer has complied with the provisions on interest compensation.
b. In the case that the judicial review verdict results in the re-collection of interest compensation that was granted at the time of execution of the Appeal Verdict, such interest compensation shall be collected together with the execution of the Judicial Review Verdict.

3. Legal remedies for Underpaid Tax Assessment Notice (“SKPKB”) issued under Article 13A of the General Tax Provisions and Procedures Law (“KUP”)

The Article in GR-74/2011 that is declared invalid and not generally applicable in the Supreme Court Verdict is Article 29 par (3), which states that “a Taxpayer cannot submit an objection to an SKPKB issued under Article 13A of the KUP Law”.

In this regard, Regulation of Minister Finance PMK No. 9/PMK.03/2013 has been amended by PMK No. 202/PMK.03/2015, which removes this provision.

As a consequence, a Taxpayer can submit an objection to an SKPKB

issued under Article 13A of the KUP Law.

4. Certain Decisions or Decrees for which Lawsuits cannot be Filed to the Tax Court

The Article in GR-74/2011 declared invalid and not generally applicable in the Supreme Court Verdict is Article 37, which stated that lawsuits may be filed to the Tax Court *except* for the following types of decisions:

- Tax assessment notice whose issuance was in accordance with the procedure for issuance
- Decision on Amendment
- Objection Decision whose issuance was in accordance with the procedure for issuance
- Decision on Reduction of Administrative Penalties
- Decision on Cancellation of Administrative Penalties
- Reduction of Tax Assessment Decree
- Decision on Cancellation of Tax Assessment Notice
- Decision on Preliminary Refund of Tax Overpayment

As a result, lawsuits may now be filed with the Tax Court against any of the above decision or decree.

5. Calculation of Time period for Resolution of Objection to Implementation of a Lawsuit Verdict

The Article in GR-74/2011 declared invalid and not generally applicable in the Supreme Court Verdict is Article 41 paragraphs (2) and (3):

Par (2) – If the tax court grants a Taxpayer's lawsuit against a DGT letter stating that the Taxpayer's objection cannot be considered as mentioned in Article 25 paragraph (4) of the KUP Law, the DGT shall resolve the objection raised by the Taxpayer within a maximum period of 12 months

Par (3) – The maximum period of 12 months as mentioned in paragraph (2) shall be counted from the time the Decision on the Lawsuit is received by the DGT.

Change in Regulation regarding Procedures for Filing and Settlement of Objections

The MoF issued Regulation number 202/PMK.03/2015 ("PMK-202") on 11 November 2015 to amend MoF Regulation number 9/PMK.03/2013 ("PMK-9") regarding the procedures for filing and settlement of objections.

The main changes in this regulation are:

1. PMK-202 has deleted a condition stipulated in PMK-9 for which an objection cannot be proposed. Under PMK-9, a taxpayer could not file an objection to an underpaid tax assessment notice which relates to Article 13A of the Law on General Provisions and Procedures for Taxation ("KUP Law"). Article 13A of the KUP Law refers to a taxpayer who causes loss to the State Revenue due to the following conditions:
   - did not submit its tax return; or
   - submits a tax return with incorrect or incomplete contents; or
   - attaches a statement to the tax return with incorrect content, causing loss to State revenue.

   Now under PMK-202, a taxpayer can file a tax objection to an Underpaid Tax Assessment Notice which relates to Article 13A of the KUP Law.
2. Normally, the DGT must issue a decision on an objection within 12 months from the time the objection is filed. Now under PMK-202, if a taxpayer files a lawsuit to the Tax Court against a letter from the DGT stating that the taxpayer's objection is not considered due to formality requirements, the period of 12 months

shall be deferred, starting from the date the letter was sent from DGT to the taxpayer to the time the tax court verdict is received by the DGT. Previously, there was no clause mentioning this point.

PMK-202 became effective as of 12 November 2015.

Change of Tax Payment Method to Electronic Tax Payment System

The manual or hardcopy-based tax payment system that had been provided by almost all private banks and state-owned banks and the post office expired on 31 December 2015. Starting 1 January 2016, tax payments are made online via E-Billing.

To accommodate the transition of tax payment from the manual system to the online system through E-Billing, four state-owned banks – Bank Mandiri, Bank Negara Indonesia, Bank Rakyat Indonesia, and Bank Tabungan Negara – and PT Pos Indonesia will continue to process tax payments manually, but only up to 30 June 2016.

Taxpayers should refer to the detailed guidance for the payment procedures as provided in DGT Regulation number 26/PJ/2014 dated 13 October 2014, which first introduced the Electronic Tax Payment System to the Taxpayers.

Customs Focus

Import of Manufactured Goods by API-P holders

The Ministry of Trade ("MoT") issued a new Regulation number 118/M-DAG/PER/12/2015 ("MDAG-118") on 23 December 2015 which enables API-P holders to import complementary goods, market test goods and goods for after-sales**.**

Under MDAG-118, an API-P holder may import interchangeable manufactured goods to develop its business and investment, but such goods may not be used in the manufacturing process.

The complementary goods, market test goods and goods for after sales purposes shall fulfill the following criteria:

1. The goods have not been used before (new condition);
2. The goods cannot yet be produced by the API-P holder; and
3. The goods are consistent with the principle license or with other relevant licenses.

In addition, the complementary goods shall be produced by a foreign company which has a special relationship with the API-P holder. As for the test market goods, limited quantity and time frame are applied, to be determined by the technical advisor minister.

MDAG-118 is effective from 1 January 2016 and the implementation of this regulation will be evaluated annually by the Ministry of Trade

Import of Color Multifunction Machines, Color Photocopying Machines and Color Printing Machines

The MoT has issued Regulation number 102/M-DAG/PER/12/2015 ("MDAG-102") on 8 December 2015, to replace MoT Regulation number 15/M-DAG/PER/3/2007 as amended by Regulation number 07/M-DAG/PER/2/2012.

Import of color multifunction machines, color photocopying machines and color printing machines is restricted and may only be performed by API holder companies that have obtained Import Approval from the Minister of Trade.

In addition to the Registered-Importer (IT) license, The importation shall require an Import Approval (*Persetujuan Impor* or PI). The application to obtain import approval can be accessed through http//inatrade.kemendag.go.id.

The Import Approval is valid for 6 (six) months from the issuance date and may be extended up to 30 (thirty) days. Verification or technical examination by a surveyor designated by the Minister will be performed on every importation.

MDAG-102 is effective from 1 January 2016.

Contact Persons

Questions concerning any of the subjects or issues contained in this newsletter should be directed to your usual contact in our firm, or any of the following individuals:

Melisa Himawan	Tax Managing Partner	mehimawan@deloitte.com
Firdaus Asikin	Senior Tax Partner	firdausasikin@deloitte.com
Carlo Llanes Navarro	Senior Technical Advisor – Transfer Pricing	canavarro@deloitte.com
Connie Chu	Senior Technical Advisor	cchu@deloitte.com
Roy David Kiantiong	Tax Partner	rkiantiong@deloitte.com
Heru Supriyanto	Tax Partner	hsupriyanto@deloitte.com
Cindy Sukiman	Tax Partner	csukiman@deloitte.com
Dionisius Damijanto	Tax Partner	ddamijanto@deloitte.com
Irene Atmawijaya	Tax Partner	iatmawijaya@deloitte.com
John Lauwrenz	Tax Partner	jlauwrenz@deloitte.com
Turmanto	Tax Partner	tturmanto@deloitte.com
Balim	Tax Director – Transfer Pricing	bbalim@deloitte.com
Heru Widayanto	Tax Director	hwidayanto@deloitte.com
Soenari Chasan	Tax Director	csoenari@deloitte.com
Vivi Karwito	Tax Director	vkarwito@deloitte.com
Yan Hardyana	Tax Director	yhardyana@deloitte.com
Koji Sugimoto	Technical Advisor	kojisugimoto@deloitte.com

Deloitte Tax Solutions

The Plaza Office Tower, 32nd Floor
Jl. M.H. Thamrin Kav 28-30
Jakarta 10350, Indonesia
Tel: +62 21 2992 3100
Fax: +62 21 2992 8303
Email: iddttl@deloitte.com
www.deloitte.com/id