



Indonesia Tax Info

Tax Treatment for E-Commerce Transactions

Following the growth of e-commerce in Indonesia, the Indonesian Government through the Ministry of Finance ("MoF") had issued Regulation number 210/PMK.010/2018 ("PMK-210") regarding the tax treatment for certain e-commerce transactions. PMK-210 applies specifically to the Indonesian online marketplace providers and sellers/service providers.

Key tax obligations of the online marketplace providers and sellers/service providers utilizing the online marketplace platform are provided below:

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	Marketplace Provider	Sellers/Service Providers
Income Tax obligations	<ul style="list-style-type: none"> • Obtain a tax ID number. • Fulfill income tax obligations as required by the Income Tax Law. 	<ul style="list-style-type: none"> • Provide tax ID number to the online marketplace provider. If the seller and/or service provider does not have a tax ID number then they can register with the tax office or through platform of the marketplace provider, or provide Citizenship ID Number to the marketplace provider. • Fulfill income tax obligations as required by the Income Tax Law.

	Marketplace Provider	Sellers/Service Providers
VAT obligations	<ul style="list-style-type: none"> Register as a VATable entrepreneur. This registration is mandatory even if the provider is a small entrepreneur. Collect VAT on provision of marketplace services, delivery of own taxable goods, and other taxable deliveries in accordance to the prevailing VAT law. Report the total e-commerce transactions carried out through its platform via special report that should be attached to the monthly VAT return. 	<ul style="list-style-type: none"> Register as a VATable entrepreneur if total delivery exceeds IDR4.8 billion per annum Collect VAT and Luxury Goods Sales Tax on delivery of taxable goods and/or services through the online marketplace in accordance to the prevailing VAT law.

The online marketplace providers are required to obtain approval from the Director General of Customs and Excise ("DGCE") prior to importing goods traded in their platform. After the registration is approved, the provider shall submit e-invoice for every shipment and a prescribed e-catalog. Delivered Duty Paid ("DDP") Incoterm should be applied in settlement of the import taxes/duty by the marketplace provider. DGCE approval may be frozen or revoked if a marketplace provider fails to fulfil its customs obligation.

The Director General of Tax and DGCE will issue a regulation for further guidelines on tax ID registration and import of goods sold through platform of the marketplace provider, as well as reporting of e-commerce transactions.

PMK-210 will be effective from April 2019.

Deductibility of Certain Benefit in Kind

The MoF had issued Regulation number 167/PMK.03/2018 ("PMK-167") regarding the provision of certain benefit in kind that can be claimed as deductible expense by the employers. PMK-167 replaced Regulation number 83/PMK.03/2009 and was effective from 19 December 2018.

Notable points of PMK-167 is summarized below:

- Taxpayers can continue claiming costs related to F&B that are provided to all employees at the workplace. For those who work outside of workplace, costs incurred by the employer for providing meal coupon can be claimed as tax deductible expense; however, value of such coupon shall not exceed the value of meals provided at the workplace.
- Costs related to certain facilities provided to employees and their family members who work in remote area can be claimed as deductible expenses provided that the employer has been confirmed by the Director General of Tax ("DGT") as a taxpayer which operate in remote area. The DGT's confirmation is valid for 5 years and can be extended for another 5 years. Specifically for mining companies whose contract were converted from Contract of Work to Special Mining Business Permit for Production Operations ("IUPK OP") and the previous Contract of Work has specific provision on benefit in kind, the confirmation would be valid for 10 years and can be extended for another 10 years.
- Employers can also claim certain benefit in kind due to requirements from authority in-charge of labour matters, which include safety uniform/equipment, uniform for security personnel, transportation and accommodation for crews, vehicle owned by the employer and used by specific employee due to his/her position (50% of depreciation of the vehicle acquisition cost and repair and maintenance costs). Further implementing regulations will be issued by the DGT.

Updates on List of Taxpayers Eligible to Use Book Value in Transfer and Acquisition of Assets in a Business Spin-off Transaction

In order to promote inbound investment and establishment of state-owned holding companies, the MoF has updated Regulation number 52/PMK.010/2017 through issuance of Regulation number 205/PMK.010/2018 ("PMK-205") to add several taxpayers who are eligible to use book value in transfer and acquisition of assets in a business spin-off transaction. The following taxpayers are now also eligible for the facility (subject to pre-approval from the DGT):

- a) A resident corporate taxpayer, provided that the new entity resulted from the spin-off receives additional capital injection from a foreign investor with minimum value of IDR 500,000,000,000 (five hundred billion Rupiah); and
- b) A state-owned enterprise which receives capital injection from the Government of the Republic of Indonesia, provided that the spin-off is performed for the purpose of establishing a state-owned holding company.

PMK-205 is effective as of 31 December 2018.

Updated Guideline on Foreign Tax Credit

The MoF had issued a new guideline for taxpayers who wish to claim tax credit on foreign income source ("Foreign Tax Credit" or "FTC") through Regulation number 192/PMK.03/2018 ("PMK-192"). PMK-192 replaced MoF Decision No. 164/KMK.03/2002 and is effective as of 31 December 2018.

Compared to the previous regulation, PMK-192 provides more detailed guideline on determination of source country based on type of offshore income, including the income received or obtained from an offshore trust. PMK-192 also clarifies that offshore income that needs to be combined by the taxpayers in calculating its taxable income is the net income of the offshore branch, trust, or activities. Losses generated from offshore activities cannot be offset in calculating taxable income.

Recognition of the offshore income shall be as follows:

- Business income of an offshore branch: in the fiscal year when the income is obtained.
- Income from an offshore trust: in the fiscal year when the income is obtained if income tax is levied at the level of the offshore trust; otherwise, when the income is received or obtained, whichever is earlier.
- Other offshore income: in the fiscal year when the income is received.

FTC can be credited in the fiscal year when the offshore income is combined with taxable income based on type of income and source country/jurisdiction. The amount of creditable FTC is the lower of:

- a. amount of income tax that should be due, paid, or withheld abroad in consideration of the available tax treaty;
- b. amount of income tax abroad; and
- c. certain amount based on comparison

There are also rules regarding FTC of husband and wife who carry out their tax obligations separately.

PMK-192 also introduces principles where available tax treaty provision should be used as basis in calculating the claimable FTC, and if the tax treaty stipulates that the income shall be taxable only in Indonesia, then the FTC paid in source country will be void and cannot be claimed in Indonesia.

There are no more requirements for the taxpayer to file application to the DGT to claim the foreign tax credit. Upon request from the tax office, the taxpayer would need to present copy of tax payment, withholding tax slip or other documents evidencing that FTC was already paid.

Certain Mining Companies with Special Mining Business Permit Appointed as VAT Collector

The MoF has appointed certain mining companies holding Special Mining Business Permit for Production Operations (*Izin Usaha Pertambangan Khusus Operasi Produksi / "IUPK OP"*) as VAT Collector through Regulation number 166/PMK.03/2018.

IUPK OP holders shall be the mining companies that satisfy the following criteria:

- Mining companies whose previous business permit is in the form of a Contract of Work that has not yet expired; and
- Engaged in mineral mining business activity; and
- Has its IUPK OP issued by the Ministry of Energy and Mineral Resources up to 31 December 2019.

These IUPK OP holders are required to maintain VAT administration as generally required from a VAT Collector from 19 December 2018.

Update on Certificate of Domicile ("COD") for Resident Taxpayers

The DGT has updated the procedures for resident taxpayers who wish to obtain the COD through Regulation number PER-28/PJ/2018 ("PER-28"). PER-28 replaces Regulation number PER-08/PJ/2017 ("PER-08") and will be effective from 1 February 2019.

Some key updates in PER-28 are as follows:

1. Taxpayers can now submit their application electronically via the DGT's website or certain channels authorized by the DGT. If application cannot be submitted electronically, taxpayers may still be able to submit the application manually through tax office in which they are registered. The timeframe of the decision is 5 days since the application is completed.
2. The COD will be issued electronically via the DGT website or certain channels authorized by the DGT and will be valid until December 31 of the issuance year.
3. PER-28 provides the procedures for taxpayers who wish to legalize the electronic COD.

Applications submitted before PER-28 became effective will be processed according to PER-08 procedures. CODs that have been issued under PER-08 remain valid for period stipulated in the respective COD.

Customs Focus

Exemption from Import Duty and VAT or VAT and Sales Tax on Luxury Goods Not Collected on Import of Goods and Material to Be Processed, Assembled or Installed on Other Goods for the Purpose of Export

The MoF has issued Regulation number 160/PMK.04/2018 ("PMK-160") to revoke MoF Regulation number 254/PMK.04/2011 ("PMK-254") concerning Exemption from Import Duty on Import of Goods and Material to Be Processed, Assembled or Installed on Other Goods for the Purpose of Export as amended by MoF Regulation number 176/PMK.04/2013 ("PMK-176").

The main points of PMK-160 are as follows:

1. Adds a new policy in the form of exemption from Additional Import Duty, i.e. antidumping import duty, countervailing import duty, safeguard import duty, and retaliatory import duty as exemptions included in the Facility of Import for Export Purposes – Exemption ("KITE Pembebasan");
2. Adds the KITE Pembebasan facility for sample goods that may be provided to a business entity for the purpose of use to support production process activities whose production output is for the purpose of export;
3. Adds a policy that a company with KITE Pembebasan may subcontract activities of processing, assembly and/or installation to a subcontractor outside the customs territory in the case that technically the subcontract work cannot be performed within the customs territory or would not fulfil the quality standard if the work were performed within the customs territory;
4. Adds a policy regarding reimport of production output by a company receiving the KITE Pembebasan facility. Re-importation may be done with the following provisions:
 - a. Reimported to be repaired;
 - b. Rejected by the purchaser abroad; or
 - c. Force majeure occurs in the export destination country.Production output that is reimported must be re-exported within no longer than 3 (three) months from the date of the reimport declaration and may be extended for a maximum of 3 (three) months with the approval of the Head of Regional Office or Main Service Office (KPU).

PMK-160 will come into force on 17 February 2019.

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