



Indonesia Tax Info September 2021

Tax treatment of employee-related expenses in response to COVID-19 pandemic clarified

On 5 August 2021, Indonesia's Directorate General of Taxation (DGT) issued Official Memorandum Number ND-183/PJ/PJ.03/2021 (ND-183) to clarify the tax deductibility of expenses incurred by employers to help protect their employees during the COVID-19 pandemic. Employers have made various expenditures to help prevent the spread of the pandemic, especially among their employees; however, there have been some uncertainties regarding the tax deductibility of those expenses.

ND-183 clarifies that expenses incurred by employers to ensure the safety and health of their employees during the pandemic are tax deductible as long as they are provided to employees regardless of their job positions. Those expenses include testing equipment for COVID-19, auxiliary items necessary for COVID-19 prevention (e.g., face masks and hand sanitizers), and employee vaccination expenses borne by the employers. ND-183 also clarifies that such expenses are not treated as income for the employees and, as a result, are not subject to Article 21 employee income tax.

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DGT clarifies approach to verifying VAT invoices to determine creditable input tax

Circular Letter Number SE-45/PJ/2021 (SE-45), issued by the DGT on 20 August 2021, is intended to provide a unified approach for the verification of VAT invoices.

The VAT shown on a VAT invoice is broadly creditable as input VAT if the following criteria are met:

- a. The VAT is not related to expenses regulated under Article 9(8) of the VAT Law (e.g., the purchase of taxable goods or taxable services without a direct connection to the business of the VAT-able entrepreneur (*pengusaha kena pajak* (PKP)), etc.);
- b. The VAT invoice meets the formal (administrative) criteria set out in Article 13(5) of the VAT Law (e.g., the seller's information is printed correctly on the VAT invoice, etc.); and
- c. The VAT invoice meets the material (substance) criteria (e.g., the information regarding the delivery of taxable goods or taxable services is genuine, etc.).

In practice, tax auditors have adopted different approaches to verifying VAT invoices during audits. Besides validating the criteria mentioned above, a tax auditor also verifies the VAT invoice to the tax office where the seller is registered. This process began when Indonesia operated a manual VAT system to confirm that VAT invoices were genuinely issued by the seller. Although Indonesia has now moved to an online and synchronized VAT system, this verification practice appears to remain in practice during an audit.

SE-45 now clarifies that, provided a VAT invoice satisfies the criteria in points a. to c. above, VAT shall be creditable regardless of the verification result from the seller's tax office. SE-45 also clarifies that the test for material criteria includes a test on the underlying transaction by testing the cash flow, goods or services flow, and document flow, as well as a confirmation of the VAT invoice via the DGT's information system.

SE-45 confirms that provided a VAT invoice satisfies the criteria for a creditable VAT invoice, the VAT invoice is creditable regardless of the verification result from the seller's tax office.

LST borne by government facility for sales of vehicles updated

To maintain consumer's enthusiasm and purchasing power in the automotive industry, the Minister of Finance (MoF) issued Regulation Number 120/PMK.010/2021 (PMK-120) on 13 September 2021, enhancing the LST borne by the government facility on the purchase of certain types of vehicle for the period of September to December 2021. The facility was originally introduced via Regulation Number 31/PMK.010/2021, which was then amended by Regulation Number 77/PMK.010/2021 (PMK-31) (please refer to [Tax Info April 2021](#) and [July 2021](#)).

PMK-120 updates the rates of LST borne by the government as follows:

Type of vehicle (diesel or semi-diesel)	LST rate	LST borne by the government	
		Under PMK-31	Under PMK-120
Sedans or station wagons with a cylinder capacity of up to 1,500 cc	30%	<ul style="list-style-type: none"> 100% (1 April to 31 May 2021) 100% (1 June to 31 August 2021) 25% (1 September to 31 December 2021) 	<ul style="list-style-type: none"> 100% (1 April to 31 May 2021) 100% (1 June to 31 August 2021) 100% (1 September to 31 December 2021) (changed)
Vehicles with a capacity of less than 10 people (other than sedans or station wagons), a single-axle drive system, and a 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 a 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) 	<ul style="list-style-type: none"> 50% (1 April to 31 August 2021) 50% (1 September to 31 December 2021) (changed)
Vehicles with a capacity of less than 10 people (other than sedans or station wagons), a double-axle drive system, and a 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 31 December 2021) 	<ul style="list-style-type: none"> 25% (1 April to 31 August 2021) 25% (1 September to 31 December 2021) (changed)

Since the new rates of LST borne by the government under PMK-120 comes into effect as from 1 September 2021, VAT invoices issued on or after that date, which are affected by the changes introduced by PMK-120, must be amended and the excess VAT collected from purchasers must be refunded.

Furthermore, PMK-120 confirms that, notwithstanding Regulation Number 73 of 2019 (as amended by Regulation Number 74 of 2021) (PP-73) regarding LST on hybrid and other types of electric vehicle that will come into effect as from 16 October 2021 (please refer to [Tax Info July 2021](#)), sales of vehicles under PP-73 are also eligible for the facility under PMK-120.

Implementing regulation for changes to LST on goods other than vehicles issued

In October 2020, the Indonesian government issued Regulation Number 61 of 2020 (PP-61) to re-regulate the imposition of LST on luxury goods other than vehicles. PP-61 reduces the number of luxury goods subject to LST and the LST rates. In addition, to support the tourism industry development, PP-61 includes an exemption from LST for the import and delivery of luxury yachts for use in the tourism business.

The implementing regulation for PP-61, Regulation Number 96/PMK.03/2021 (PMK-96), has been issued by the MoF and has come into effect as from 26 July 2021.

PMK-96 provides a new list of luxury goods other than vehicles that are subject to LST, with rates ranging from 20% to 75%.

Under PMK-96, the import and delivery of the following luxury goods are exempted from LST:

- a. Firearms and ammunition for firearms for use by the armed forces;
- b. Certain aircraft for use by the armed forces or commercial air transport;
- c. Cruise ships, excursion ships, and other similar vessels designed to transport people, and ferries and yachts for state use or public transport; and
- d. Yachts for use in the tourism business.

For imports or deliveries of items within categories a. to c. above, the exemption from LST is granted automatically if a VAT not-collected/exemption facility has already been granted; otherwise, the importer or eligible purchaser must first obtain an LST exemption letter (*Surat Keterangan Bebas Pajak Penjualan atas Barang Mewah* (SKB PPnBM)) prior to the date of import or delivery. For import or delivery of yachts for use in the tourism business, an SKB PPnBM is required to benefit from the LST exemption facility. PMK-96 also provides details of the procedures to apply for an SKB PPnBM, along with details on the utilization of the LST exemption facility and the associated restrictions and sanctions.

Taxpayers with transactions subject to LST should review the impact of PMK-96 on their transactions. LST on delivery of vehicles is regulated separately by PP-73 (please refer to [Tax Info July 2021](#)).

For import or deliveries of yacht for use in the tourism business, an SKB PPnBM is required to benefit from the LST exemption facility.

Customs Focus

Amendment to administration of bonded zones

The Directorate General of Customs and Excise (DGCE) has issued Regulation Number PER-9/BC/2021 (PER-9) concerning administration of bonded zones as an amendment to Regulation Number PER-19/BC/2018 (PER-19). PER-9 has come into force since 9 August 2021. PER-9 is issued to provide legal certainty for business actors in Bonded Zones, where the DGCE has added and amended the policies regulated in the previous PER-19.

The salient points of the amendments and additions are as follows:

Subject	Previous regulation (PER-19)	New regulation (PER-9)
<p>Entry of goods originating from outside the customs area from:</p> <ul style="list-style-type: none"> • Bonded Stockpiling Areas (<i>Tempat Penimbunan Berikat</i> (TPB)); • Free Zones; • Special Economic Zones (SEZs); or • Other Economic Zones determined by the government to Bonded Zones 	<ul style="list-style-type: none"> • The entry of such goods will receive facilities in the form of: <ul style="list-style-type: none"> – Deferment of import duty; – Exemption from excise duty; – Non-collection of Tax in the Context of Imports (<i>Pajak Dalam Rangka Impor</i> (PDRI)); and/or – Non-collection of VAT or VAT and LST. • The entry of goods belonging to foreign tax subjects (<i>Subjek Pajak Luar Negeri</i> (SPLN)) has not been regulated. 	<ul style="list-style-type: none"> • Facilities are given to goods belonging to SPLN, including raw materials, auxiliary materials, and/or packaging or packaging aids that are imported into Bonded Zones and intended for export by processing or merging first in the Bonded Zones, as long as the goods remain in the Bonded Zones until their export. • The goods mentioned above must remain in the Bonded Zones except for the delivery process between Bonded Zones and/or for temporary release.
<p>Release of goods originating from outside the customs area to other places within the customs area (<i>Tempat Lain Dalam Daerah Pabean</i> (TLDDP)) for the purpose of being imported for use</p>	<p>The release of goods belonging to SPLN has not been regulated.</p>	<ul style="list-style-type: none"> • Entrepreneurs within Bonded Zones (<i>Pengusaha Dalam Kawasan Berikat</i> (PDKB)) are required to settle import duty, excise, PDRI, and/or VAT or VAT and LST on goods belonging to SPLN, including the results of their processing and merging released to TLDDP, which, at the time of entry, are given facilities, and the PDRI and/or VAT or VAT and LST settled cannot be credited. • Goods belonging to SPLN released to TLDDP are subject to PDRI and/or VAT or VAT and LST at the time of releasing the goods. VAT or VAT and LST payable must be collected and deposited into the state treasury by the person receiving the goods, prior to the registration of customs notification document for the release of goods, using a tax payment slip. Such tax payment can be credited. • Import duty, excise, PDRI, and/or VAT or LST must have been settled at the time of registration of customs documents for the release of goods. If it is settled after the time it is payable, the PDKB shall be subject to sanctions for late deposit.
<p>Entry of goods originating from TLDDP to Bonded Zones from other places in the customs area, other TPB, Free Zones, SEZs; and/or other Economic Zones determined by the government</p>	<ul style="list-style-type: none"> • The entry of such goods will be granted exemption from excise duty and/or non-collection of VAT or VAT and LST. • Goods belonging to SPLN have not been regulated. 	<ul style="list-style-type: none"> • Facilities are given to goods belonging to SPLN, including raw materials, auxiliary materials, and/or packaging or packaging aids that are intended for export by processing or merging first in the Bonded Zones, as long as the goods remain in the Bonded Zones until their export.

Subject	Previous regulation (PER-19)	New regulation (PER-9)
	<ul style="list-style-type: none"> There is no confirmation regarding the treatment of not-collected VAT or VAT and LST. 	<ul style="list-style-type: none"> The goods mentioned above must remain in the Bonded Zones except for the delivery process between Bonded Zones and/or for temporary release. The two conditions below must be fulfilled by every Bonded Zone Entrepreneur and/or PDKB: <ul style="list-style-type: none"> The treatment of not-collected VAT or VAT and LST on the entry of goods. The use of tax invoices in accordance with the provisions of taxation laws and regulations for not-collected VAT or VAT and LST on the entry of goods. <p>In the event that these two conditions are not met, the payment of VAT or VAT and LST that should not be collected cannot be credited.</p>
Goods originating from TLDDP that are released from Bonded Zones to TLDDP for the purpose of being imported for use	The release of goods belonging to SPLN has not been regulated.	<ul style="list-style-type: none"> In the case of goods belonging to SPLN, Bonded Zone Entrepreneurs or PDKB issuing the goods are required to pay import duty, excise, PDRI, and/or VAT or VAT and LST to which the facilities are provided at the time of entry. The obligation to pay VAT or VAT and LST payable is at the time of entry of goods and it cannot be credited. The settlement of VAT or VAT and LST conducted after the time it is payable is subject to sanctions for late deposit. The settlement must use tax payment slip or its designated equivalent, in the form of proof of state revenue. VAT or VAT and LST shall be payable at the time of release of goods belonging to SPLN to a person in TLDDP, which must be collected by the person receiving the goods prior to the registration of customs documents using a tax payment slip, and it can be credited as long as it is accompanied by a customs notification.
Basis used in calculating import duty, excise, PDRI, and VAT or VAT and LST on the release of goods belonging to SPLN from Bonded Zones to TLDDP	The release of goods belonging to SPLN has not been regulated.	<ul style="list-style-type: none"> Import duty is calculated based on: <ul style="list-style-type: none"> Customs value in accordance with the selling price at the time of releasing the goods from Bonded Zones to TLDDP; Classification of goods released from Bonded Zones to TLDDP; and Charges at the time of import customs notification to be used for registration. Excise is calculated based on the provisions of the excise law. PDRI is calculated based on the selling price and tariff at the time of releasing the goods from Bonded Zones to TLDDP. VAT or VAT and LST are calculated based on the selling price and tariff at the time of releasing the goods from Bonded Zones to TLDDP.

Subject	Previous regulation (PER-19)	New regulation (PER-9)
Other provisions	N/A	<ul style="list-style-type: none"> • In the event that Bonded Zone Entrepreneurs or PDKB carry out their VAT or VAT and LST obligations centrally, the Bonded Zone permits shall include the Taxpayer Identification Number (<i>Nomor Pokok Wajib Pajak</i> (NPWP)) of the central company/head office and the NPWP of branch companies/offices. • The release of capital goods originating from TLDDP shall be exempted from the obligation to pay VAT or VAT and LST, which, at the time of entry, are not collected if the capital goods have been imported into the Bonded Zones for more than four years. • As a guarantee, Bonded Zone Entrepreneurs or PDKB with low risk profile can use corporate guarantee that needs to be submitted to fulfil the Ministerial Regulation on Bonded Zones. • Access to information technology for the management of the entry and release of goods (IT inventory) by the DGT is carried out through the Head of Customs Office with a request by a DGT official who, based on the provisions stipulated by the DGT, is allowed to access the IT Inventory.

Related companies are expected to pay attention to changes and additions to policies contained in PER-9 in order to maintain the flow of activities and legal certainty in doing business in Bonded Zones, which aims to prevent violations of applicable regulations. Our team can provide customs advice and review for companies located in Bonded Zones, and assist companies in obtaining Bonded Zone permits.

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