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TaxFlash



Real estate company taxation update

Determination of gross value for the 5% final tax on land and buildings transfer

On 3 July 2013, the Director General of Tax (DGT) issued Circular Letter No.SE-30/PJ/2013 (SE-30) to revoke the previous DGT Circular Letter No. SE-80/PJ/2009 regarding final income tax procedures for real estate companies and gross value used in calculating final income tax on land and buildings transfers.

SE-30 adds the new provision that gross value used as the final tax base should be the actual transaction value and be supported by valid documents. If the actual value is higher or lower than the sales value of the tax object (*Nilai Jual Objek Pajak/NJOP*) according to the Land and Buildings Tax (*Pajak Bumi dan Bangunan/PBB*) assessment or the value stated in the land and/or buildings transfer notarial deed, the tax base should use the actual value. This new provision is intended to combat tax avoidance done by modifying the transaction value in the transaction documents. This effort is in line with the 2013 tax audit priorities which also list real estate companies as one of the tax audit targets.

Place of Value Added Tax reporting

The place of Value Added Tax (VAT) reporting for real estate companies is now specifically determined by the DGT in Regulation No.PER-25/PJ/2013 dated 3 July 2013 (PER-25).

If a real estate company is already registered under the Tax Service Offices (TSOs) of Jakarta, Large Taxpayers and Medium-sized Taxpayers, but has business activities located outside Jakarta, then the company should also be registered with the tax offices where the business activities are located.

Should the real estate company have previously obtained VAT centralisation status from the DGT, the decision becomes void and the company should follow the provisions of PER-25.

VAT/Luxury-goods Sales Tax reporting on the delivery of motor vehicles

VAT-able Entrepreneurs in the motor vehicle distribution chain (i.e. importers, sole agents, assembling industry companies, distributors, dealers, sub-dealers and showrooms), have a standard obligation to report VAT and Luxury-goods Sales Tax (LST) collection in the List of Motor Vehicle Details and submit this to the TSOs together with the monthly VAT return for the same tax period with the relevant VAT invoices.

For ease of data reconciliation as regards motor vehicle sales and VAT/LST collection, the DGT through the issuance of Circular Letter No.SE-31/PJ/2013 on 5 July 2013 requires the Head of each TSO to provide the reported List of Motor Vehicle Details in Excel format to the Head of External Data Processing of the Directorate General of Tax.

VAT/LST exemption for foreign country representatives and international organisations

As an implementing regulation to the Elucidation of Article 16B (1) (b) of Law No.42/2009 regarding VAT and LST, the Government issued Regulation No.47/2013 (GR-47) on 17 June 2013 to provide VAT and/or LST exemption on the import of taxable goods and on the delivery of taxable goods/services to foreign country representatives and international organisations, including their foreign officers.

The tax facility will be provided by the Minister of Finance (MoF) through the issuance of a Tax Exemption Letter after considering the following criteria:

- a. for foreign country representatives: the facility is provided on a reciprocal basis with the recommendation of the Minister of Foreign Affairs
- b. for international organisations: the organisation should not be considered as an Income Tax subject according to prevailing regulations and should have a recommendation from the Minister of State Secretariat

VAT and/or LST can be refunded if it has already been paid by the foreign country representative or international organisation. However, the exempted tax must be repaid if the relevant taxable goods are transferred within four years, or any time for taxable services, and the repayment must be made within one month of the transfer. The exempted tax does not need to

be repaid if the transfer is made between foreign country representatives or international organisations.

An MoF Regulation will be issued detailing procedures regarding: a) the issue of Tax Exemption Letters; b) refunds of VAT and/or LST; and c) repayments of VAT and/or LST.

Latest update on the obligation to report tax-related information for several government institutions and associations

On 28 June 2013, the MoF again expanded the list of government institutions and associations that are obliged to report tax-related information to the DGT through the issuance of MoF Regulation No.95/PMK.03/2013 (PMK-95), which adds the following nine government institutions and associations:

1. PT Jakarta International Container Terminal
2. PT Mustika Alam Lestari
3. PT Terminal Peti Kemas Koja
4. PT Terminal Peti Kemas Surabaya
5. Centre of Electronic Procurement Service of the Ministry of Finance (*Pusat Layanan Pengadaan secara Elektronik/Pusat LPSE*)
6. Directorate General of Oil and Gas (DGOG) of the Ministry of Energy and Mineral Resources
7. Special Task Force for Upstream Oil and Gas Business Activities (*Satuan Kerja Khusus Pelaksana Kegiatan Usaha Hulu Minyak dan Gas Bumi/SKK Migas*)
8. PT Perusahaan Listrik Negara (Persero)
9. Development Centre of Accountant and Appraiser of the Secretariat General – Ministry of Finance (*Pusat Pembinaan Akuntan dan Jasa Penilai/PPAJP*)

Previously, the MoF had released two regulations (i.e. Regulation No.16/PMK.03/2013 (PMK-16) and Regulation No.79/PMK.03/2013 (PMK-79)) which listed 14 and five government institutions and associations, respectively. Therefore, up to now the MoF has identified 28 government institutions and associations that are obliged to report tax-related information to the DGT. Please refer to our Tax Flashes No.03/2013 and No.08/2013 for our discussion of PMK-16 and PMK-79.

The information required is specific to the scope of each government institution or association (e.g. oil and gas production and sales records from DGOG; data on VAT reimbursement and Production Sharing Contract Transfers from SKK Migas; and public accountants' client lists from PPAJP). The details of the information required from each government institution and association are available upon request, from your usual PwC Indonesia contact.

Your PwC Indonesia contacts

Abdullah Azis
abdullah.azis@id.pwc.com

Adi Poernomo
adi.poernomo@id.pwc.com

Adi Pratikto
adi.pratikto@id.pwc.com

Ali Mardi
ali.mardi@id.pwc.com

Ali Widodo
ali.widodo@id.pwc.com

Andrias Hendrik
Andrias.hendrik@id.pwc.com

Anthony J. Anderson
anthony.j.anderson@id.pwc.com

Anton Manik
anton.a.manik@id.pwc.com

Antonius Sanyojaya
antonius.sanyojaya@id.pwc.com

Ay Tjhing Phan
ay.tjhing.phan@id.pwc.com

Brian Arnold
brian.arnold@id.pwc.com

Engeline Siagian
engeline.siagian@id.pwc.com

Gadis Nurhidayah
gadis.nurhidayah@id.pwc.com

Hendra Lie
hendra.lie@id.pwc.com

Irene Atmawijaya
irene.atmawijaya@id.pwc.com

Ita Budhi
ita.budhi@id.pwc.com

Ivan Budiarnawan
ivan.budiarnawan@id.pwc.com

Laksmi Djuwita
laksmi.djuwita@id.pwc.com

Mardianto
mardianto.mardianto@id.pwc.com

Margie Margaret
margie.margaret@id.pwc.com

Michelle Mianova
michelle.mianova@id.pwc.com

Nigel Hobler
nigel.hobler@id.pwc.com

Parluhutan Simbolon
parluhutan.simbolon@id.pwc.com

Ravi Gupta
ravi.r.gupta@id.pwc.com

Sutrisno Ali
sutrisno.ali@id.pwc.com

Suyanti Halim
suyanti.halim@id.pwc.com

Tim Watson
tim.robert.watson@id.pwc.com

Tjen She Siung
tjen.she.siung@id.pwc.com

Yessy Anggraini
yessy.anggraini@id.pwc.com

Yuliana Kurniadjaja
yuliana.kurniadjaja@id.pwc.com

www.pwc.com/id

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