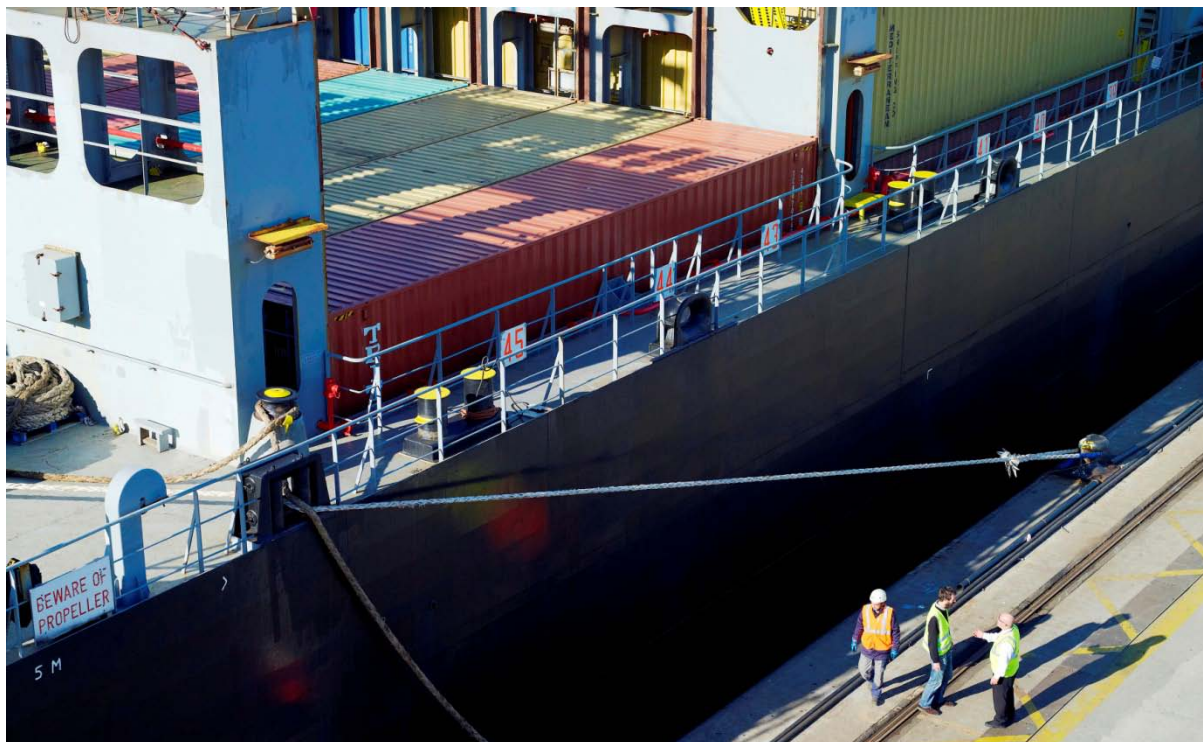


TaxFlash



Changes in the new regulation regarding interest compensations from the tax office

On 31 December 2013, the Minister of Finance (MoF) issued Regulation No.226/PMK.03/2013 (PMK-226) regarding the procedures for calculating and granting interest compensation to be paid by the Director General of Tax (DGT). PMK-226 is issued to accommodate changes in the relevant articles in General Tax Provisions (*Ketentuan Umum dan Tata Cara Perpajakan/KUP*) Law No.16/2009 and Government Regulation No.74/2011, as well as to revoke and combine the following old regulations regarding interest compensation into one detailed tax regulation:

- a) MoF Regulation No.195/PMK.03/2007 as amended by MoF Regulation No.12/PMK.03/20011 regarding interest compensation for tax years/periods from 2008 onwards;
- b) MoF Regulation No.40/PMK.03/2005 regarding interest compensation for tax years/periods 2007 and prior years; and
- c) MoF Regulation No.121/PMK.06/2005 regarding interest compensation in relation to Land and Building Tax (*Pajak Bumi dan Bangunan/PBB*).

Most of the provisions under PMK-226 remain the same as in the old regulations that cover a broad range of taxes, comprising income tax, Value Added Tax, Luxury-goods Sales Tax, and PBB. PMK-226 also covers a broad range of tax years/periods, where different tax years/periods may have a different scope depending on the KUP Law which is effective for the relevant tax year/period:

- a) KUP Law No.9/1994, applicable for tax years/periods 1995 up to 2000;
- b) KUP Law No.16/2000, applicable for tax years/periods 2001 up to 2007; and
- c) KUP Law No.16/2009, applicable for tax years/periods 2008 onwards.

Although adopting the old regulations, there are some notable changes in PMK-226 as follows:

- a) Interest compensation can be granted on Judicial Review decisions for tax years/periods prior to 2008 if the decisions are issued after 1 January 2012.
- b) Similar to the previous regulations, interest compensation can still be granted on tax refunds resulting from an Amendment Letter, Tax Assessment Reduction Letter or Tax Assessment Cancellation Letter which may partially or fully approve taxpayers' applications as stipulated in Article 27A (1a) of KUP Law. However, PMK-226 stipulates the following refunds where interest compensation cannot be granted: a) resulting from an Amendment Letter in relation to a Mutual Agreement (as a result of a Mutual Agreement Procedure); or b) resulting from a Tax Assessment Cancellation Letter in accordance with Article 6 (1) (d) of KUP Law.

Applications for interest compensation under the old regulations that are not yet decided should be resolved in accordance with PMK-226.

Relaxation of Certificate of Domicile from the United States of America

In relation to the United States of America's (USA) Certificate of Domicile (Form 6166), the DGT has acknowledged the rotation possibility of the officer appointed by the Internal Revenue Service (IRS) as the Competent Authority to sign Form 6166 (serving as Field Director of the Philadelphia Accounts Management Center).

Through the issue of Circular Letter No.SE-48/PJ/2013 (SE-48) on 22 October 2013, the DGT announced this acknowledgement as well as stating that the DGT will no longer issue any Circular Letter regarding changes to the Competent Authority officer.

SE-48 revokes DGT Circular Letters No.SE-68/PJ/2008 and No.SE-83/PJ/2011 regarding the Competent Authority to sign Form 6166 which previously stipulated only one name as the Competent Authority officer to sign Form 6166 for a relevant period, otherwise the Form 6166 may be considered invalid. We see this as a positive development as it may not be practical for the DGT to issue a Circular every time there is a change of officer.

New import duty rates for free trade agreement

On 31 December 2013, the MoF issued Regulation No.208/PMK.011/2013 (PMK-208) that stipulates new import duty rates in relation to the Association of South East Asian Nations (ASEAN) – Australia – New Zealand Free Trade Area (AANZFTA).

Similar to other free trade agreements, AANZFTA is intended to increase trade within the region by reducing import duty rates on most goods to 0%. PMK-208 stipulates the new import duty rates for the years 2014 up to 2020, revoking the previous rates stipulated in MoF Regulation No.166/PMK.011/2011. A complete list of import duty rates is available on request from your usual PwC Indonesia contact.

The facility will only be provided to imported goods with a complete Certificate of Origin from the issuing authority in the origin country and the facility code of the preferential duty scheme is mentioned in the import declaration. Nevertheless, the general import duty rate based on domestic regulation will still be applicable if it is lower than the preferential duty rate.

Progressive export duty rates on mineral concentrates

On 11 January 2014, the Government released a series of regulations in relation to mandatory in-country minerals processing based on Mining Law No.4/2009, which are seen by many as a compromise position between a full export ban on unprocessed minerals and allowing exports of certain mineral concentrates to continue. The regulations are as follows:

- a) Government Regulation (GR) No.1/2014 as the second amendment to GR No.23/2010 (as further amended by GR No.242/2012) regarding mining activities;
- b) Minister of Energy and Mineral Resources Regulation No.1/2014 regarding mandatory in-country minerals processing; and
- c) MoF Regulation No.6/PMK.011/2014 (PMK-6) as the second amendment to MoF Regulation No.75/PMK.011/2012 (as further amended by MoF Regulation No.128/PMK.011/2013) regarding export duty on certain products.

PMK-6 stipulates that export duty will be imposed on processed mineral products (i.e. mineral ores should be processed at least to be concentrates and should satisfy the minimum minerals quality). Minerals under the scope of PMK-6 are copper, iron ore, manganese, lead, zinc, ilmenite and titanium whilst the export of mixed mineral ores is revoked from the imposition of export duty.

The new export duty rates are increased progressively on a semi-annual basis starting from 12 January 2014 up to 31 December 2016, with the rates ranging from 20% up to 60% of export revenues.

PMK-6 along with the other two regulations is expected to force mining license holders to process their mining products in Indonesia and to reduce the export of raw mineral ores. For more discussion in relation to this export ban issue on mineral products, please refer to our [Energy, Utilities and Mining NewsFlash No.50](#).

Latest development on PBB for oil and gas sector

The DGT issued Regulation No.PER-45/PJ/2013 (PER-45) on 20 December 2013 regarding imposition of PBB for the oil and gas and geothermal industries. This regulation serves as an implementing regulation to MoF Regulation No.76/PMK.03/2013 and revokes the previous implementing regulation No.PER-11/PJ/2013 (PER-11). This regulation governs the areas that are subject to PBB, and is effective from 1 January 2014.

Among other things, PER-45 includes a change in the definition of Other Offshore Area, which is not subject to PBB. Previously, PER-11 only defined Other Offshore Area

as an offshore area which is controlled by a third party and that has been subjected to PBB under another sector, or that constitutes a tax object which is not subject to PBB. The DGT previously provided an explanation which stated that an Other Offshore Area is an offshore area within a Working Area or similar area in relation to oil and gas, where rights have not been ('belum') obtained and/or have not been utilised for exploration and exploitation activities. This definition has now been altered in that an Other Offshore Area includes an offshore area within a Working Area or similar area which is not subject to PBB and/or the rights for such area are not ('tidak') obtained and no benefit is derived for oil and gas mining activities. This change may impact the size of area that is subject to PBB.

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