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TaxFlash

Relaxation of VAT rules for companies deemed to "have failed to produce"

The Minister of Finance (MoF) issued Regulation No.31/PMK.03/2014 (PMK-31) on 10 February 2014 regarding the timing of the calculation and the repayment procedures of Input Value Added Tax (VAT) that has been refunded by the Indonesian Tax Office (ITO) for companies deemed to "have failed to produce".

As stipulated in Article 9 paragraphs (6a) and (6b) of VAT Law No.42/2009 (Law-42), any Input VAT that has been claimed by a new VATable entrepreneur (*Pengusaha Kena Pajak/PKP*) and then refunded by the ITO should be repaid by the PKP if it failed to produce VATable goods and/or services. The PKP is deemed to "have failed to produce" if it has not yet delivered VATable goods and/or services within three years of the beginning of the Input VAT claim period. An interest penalty of 2% per month will be charged to the PKP on this repayment.

The above provisions were further regulated in MoF Regulation No.81/PMK.03/2010 (PMK-81) that differentiate timing of the VAT repayments to the ITO for producer companies and for non-producer companies, which are three years and one year respectively.

PMK-31 revokes PMK-81 and absorbs the provisions stipulated in PMK-81. The key additional provisions under PMK-31 are as follow:

1. Producers can claim Input VAT on capital goods incurred in the subsequent two years after the three years limit. This Input VAT can be credited and carried forward to the subsequent period or a refund can be requested to the ITO, and
2. Producers that have been crediting their Input VAT during the first three-year period can continue crediting or request a refund.

3. If the total time limit of five years has passed and a PKP has not yet delivered any VATable goods and/or services, the consequences will be as follow:
   a) The whole accumulated Input VAT cannot be claimed anymore (become cost)
   b) The Input VAT that has been claimed by the PKP and refunded by the ITO should be repaid, then an interest penalty of 2% per month will be charged on this repayment; and
   c) The PKP status of such taxpayers will be terminated.

VAT treatment for gold jewellery entrepreneurs has been streamlined

On 10 February 2014, the MoF issued Regulation No.30/PMK.03/2014 (PMK-30) streamlining the VAT treatment of gold jewellery entrepreneurs (i.e. manufacturers and traders) as follows:

- The VAT imposition base on deliveries of gold jewellery is 20% of the sale price or 20% of the gross margin if jewellery is exchanged with a 24-carat gold bar (as a replacement for the material used to produce the gold jewellery). Thus the effective VAT rate is 2%
- Input VAT related to deliveries of gold jewellery cannot be credited
- Entrepreneurs must be registered as PKPs and issue VAT invoices on the sales/deliveries of gold jewellery. This is also applicable for small entrepreneurs with revenue of less than Rp 4.8 billion per annum.

PMK-30 will be effective starting on 1 March 2014 and revokes the following regulations:

1. MoF Decree No.83/KMK.03/2002 regarding VAT on the delivery of gold jewellery by merchants
2. Article 2 point (l) and Article 3 point (c) of MoF Regulation No.75/PMK.03/2010 juncto MoF Regulation No.38/PMK.011/2013 regarding other values for the VAT imposition base, and
3. Article 1 point 4 (b) and Article 3 point (b), and Article 5 point (b) of MoF Regulation No.79/PMK.03/2010 (PMK-79) regarding guidance on calculating Input VAT claims for VATable Entrepreneurs in certain business activities (thus the estimated method based on "norm" to claim Input VAT by retail gold jewellery merchants is no longer applicable).

Tax on e-commerce

The Director General of Tax (DGT) recently issued Circular Letter No.SE-62/PJ/2013 (SE-62) dated 27 December 2013 providing guidance in determining the tax treatment on e-commerce businesses, which covers three main Indonesian taxation aspects: General Tax and Procedures, Income Tax, and VAT and Luxury-goods Sales Tax. SE-62 compiles current ITO practices with regard to e-commerce businesses, and also confirms that e-commerce is treated as common trading business for tax purposes.

SE-62 categorises e-commerce into four different business models. The descriptions of each business model are provided below:

No.	Models	Description
1	Online Marketplace	Activities related to space for business in the form of online shops in an online mall where merchants sell goods and/or services
2	Classified Ads	Activities related to providing a space and/or time for displaying content related to goods and/or services for advertisers to place ads aimed to advertisement users through a website provided by an organiser
3	Daily Deals	Activities related to providing a space for business on a website where merchants sell goods and/or services to buyers using vouchers as means for payment
4	Online Retail	Activities of selling goods and/or services by an organiser to buyers on a website, whereby the organiser is itself the merchant

Having descriptions of each business model makes it easier to pinpoint tax subjects and objects in e-commerce transactions.

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