

TaxFlash



Value Added Tax on toll road services is cancelled

As discussed in our TaxFlash No.09/2015, the Director General of Tax (DGT) has issued Regulation No.PER-10/PJ/2015 (PER-10) that regulates the procedure of Value Added Tax (VAT) collection on toll road services. PER-10 should have been effective since 1 April 2015, however, the DGT recently cancelled this regulation through the issue of Regulation No.PER-16/PJ/2015 on 31 March 2015. The reason for this cancellation is to create investment growth and avoid different opinions in the public.

Specific value as VAT base on travel agent services

VAT is calculated by applying the VAT rate (currently 10%) to a relevant tax base. In most cases, the tax base is the transaction value agreed between the parties concerned. For certain events or situations, other values must be used as the tax base. These other values have been specified in the Minister of Finance (MoF) Regulation No.75/PMK.03/2010 (PMK-75) as amended by Regulation No.38/PMK.011/2013.

Services delivered by tour and tourism agency is one of the events that use other values as a VAT base, i.e. 10% of the actual billing which leads to an effective VAT rate of 1%. To give certainty on the scope of travel and tourism services, the MoF made a second amendment to PMK-75 through the issue of Regulation No.56/PMK.03/2015 (PMK-56) on 19 March 2015. PMK-56 clarifies that this 1% effective VAT rate is applicable only for travel and tourism services whose deliveries are not based on commissions. Consequently, only Input VAT related to this type of travel and tourism services are non-creditable against output VAT.

Update in determining the domiciles of individuals and entities

On 10 March 2015, the DGT issued Regulation No.PER-12/PJ/2015 (PER-12) regarding determination of the residences of individuals and the domiciles of entities for the purpose of tax administration. PER-12 revokes the old DGT Decree No.KEP-701/PJ/2001.

In regard to entities, the place of domicile is determined based on where the offices of the management, the administrative and financial centres, or the business activities are located. Previously, the document that could be used as a basis to determine the entity's location was only the Article of Association or Deed of Establishment. PER-12 expands the types of permitted documents to also cover appointment letters from head office in regard to permanent establishment, or joint operation (JO) contracts for JO entities. If the actual location is different to the location mentioned in the above documents, the DGT has the authority to determine the entity's place of domicile.

Indonesia – China Tax Treaty Protocol and Memorandum of Understanding

Indonesia and China have signed the first protocol to the 2001 Indonesia - China income tax treaty in Beijing on 26 March 2015. It will enter into force once the exchange of ratification instruments has been completed by both countries.

The protocol stipulates that a resident of a Contracting State engaged in the operation of aircraft in international traffic in the other Contracting State shall be exempted from VAT or similar taxes in the other Contracting State.

In addition to the protocol, the officials also signed a Memorandum of Understanding (MoU) on the tax treaty on the same date. The MoU outlines the financial institutions that are controlled by governments which are exempt from interest withholding tax, they are as follows:

- a) in the case of China:
 - 1. the China Development Bank Corporation
 - 2. the Agricultural Development Bank of China
 - 3. the Export-Import Bank of China
 - 4. the National Council for Social Security Fund
 - 5. the China Investment Corporation.
- b) in the case of Indonesia:
 - 1. the Indonesia Investment Agency (or *Pusat Investasi Pemerintah*)
 - 2. the Indonesia Eximbank (or *Lembaga Pembiayaan Ekspor Indonesia*)
 - 3. the Indonesia Social Security Agency for Health (or *BPJS Kesehatan*)
 - 4. the Indonesia Social Security Agency for Man Power (or *BPJS Ketenagakerjaan*)

This MoU is applicable as an interpretation of the tax treaty from the date of entry into force of the tax treaty. However, any case that has been settled (where tax has been paid) prior to the date of this MoU shall remain unaffected.

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