

TaxFlash



New regulations on tax administration

On 30 September 2015, the Minister of Finance (MoF) issued a series of new tax administration regulations that either amend or revoke the previous MoF regulations, as follows:

No.	MoF Regulation No.		Concerning procedures on
	New	Old	
1.	182/PMK.03/2015 (PMK-182)	73/PMK.03/2012 (revoked)	The registration or revocation of Tax ID and VAT-able Entrepreneurs
2.	183/PMK.03/2015 (PMK-183)	145/PMK.03/2012 (amended)	The issuance of Tax Assessment Letter and Tax Collection Letter
3.	184/PMK.03/2015 (PMK-184)	17/PMK.03/2013 (amended)	Tax audit
4.	185/PMK.03/2015 (PMK-185)	16/PMK.03/2011 (amended)	General tax refund
5.	186/PMK.03/2015 (PMK-186)	226/PMK.03/2013 (revoked)	Interest compensation
6.	187/PMK.03/2015 (PMK-187)	10/PMK.03/2013 (revoked)	Refund of taxes which should not have been paid

We noted that some of the above regulations are intended to implement some of the Supreme Court Decision No.73P/HUM/2013 (PUT-73) that revokes several articles in Government Regulation No.74/2011 (GR-74) based on judicial review filed by the Indonesian Chamber of Commerce and Industry (*Kamar Dagang dan Industri Indonesia/KADIN*).

The above regulations have not covered all items being revoked from GR-74. The items that are accommodated in the new regulations are as follows:

a) *Elimination of Verification*

As PUT-73 revokes all verification wordings in the provisions stipulated in GR-74, the relevant new regulations (i.e. PMK-182, PMK-183, PMK-184 and PMK-187) stipulate the new avenue to administer the above events, i.e. either through a tax audit or a tax examination (*penelitian*).

b) *Interest compensation where a Judicial Review is filed against a Tax Court decision*

GR-74 was narrowing the conditions eligible for interest compensation for the taxpayer by delaying the process when a Judicial Review is filed against a Tax Court decision. This is considered not to be in line with the KUP Law, and therefore PMK-186 eliminates this clause. It means the interest compensation shall be granted upon an Appeal Decision, regardless of whether a Judicial Review is filed against it.

Tax refund for foreign taxpayers

PMK-187 governs all types of refunds of taxes which should not have been paid. While most procedures remain the same, PMK-187 put more detailed provisions on refunds for foreign taxpayers, especially on income tax being over withheld in relation to the application of a tax treaty, which may be caused by:

- a. Incorrect application of the tax treaty
- b. Delay in fulfilling the administrative requirements which are done after the tax has been withheld/collected
- c. Mutual Agreement

With regards to this, in addition to standard documents required for the refund application, the respective applicant should also attach these additional supporting documents in relation to this cross-border tax refund:

- a. Statement letter from the foreign taxpayer that the tax asked to be refunded has not been credited or deducted from the tax payable in the taxpayer's home country and/or has not been charged as an expense in calculating its taxable income
- b. Certificate of Domicile of the foreign taxpayer in accordance with the tax regulations
- c. Copy of the Mutual Agreement (when applicable)
- d. Other supporting documents

An Overpaid Tax Assessment Letter (*Surat Ketetapan Pajak Lebih Bayar*) will be issued to the applicant once the tax examination has been done and the tax office approves the application. The applicant can be the foreign taxpayer's Permanent Establishment in Indonesia, the tax withholder, or the foreign taxpayer itself, depending on the circumstances.

The refunded amount will be settled to a bank account in Indonesia using IDR currency in the name of the foreign taxpayer or local individual/company that is appointed by the foreign taxpayer.

VAT exemption on certain port services

On 1 October 2015, the Government issued a new Government Regulation No. 74 Year 2015 (GR-74) concerning VAT exemption on certain port services rendered to sea transport companies that are serving international routes. GR-74 is dated 1 October 2015 and will be effective 30 days after its enactment date.

The VAT exempted port services are as follows:

- a. Ship services (i.e. docking service (*jasa labuh*), pilotage service (*jasa pandu*), tug boat service (*jasa tunda*) and mooring service (*jasa tambat*).
- b. Cargo services (i.e. container loading and unloading services from the ships to the stockpiling yard and *vice versa*).

The VAT exemption on these services does not require Tax Exemption Letter (*Surat Keterangan Bebas*).

To be eligible for the VAT exemption, the ships (either operated by domestic or foreign shipping companies) cannot carry passengers and/or goods from one port to other port within Indonesian territory. Furthermore, the origin country of a foreign shipping company must also provide reciprocal treatment on Indonesian ships. Failure to fulfil these requirements will trigger the exempted VAT to be payable within one month from the triggering event. If the one month deadline is passed, the Director General of Tax (DGT) will issue a tax underpayment assessment letter/*Surat Ketetapan Pajak Kurang Bayar*.

For tax administration purposes, the VAT-able Entrepreneur who renders these services must issue VAT invoices (*Faktur Pajak*) with a stamp or notice that the VAT due is exempted based on this GR. Consequently, the relevant input VAT cannot be credited by the port service provider.

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