

TaxFlash



Robust sanctions for issuers of illegal VAT invoices

In Regulation No.PER-19/PJ/2017 (PER-19), the Director General of Tax (DGT) has determined that a Value Added Tax (VAT) Invoice (Faktur Pajak/FP) will be illegal under the following conditions:

- a. If the FP is not in accordance with the actual transaction; and/or
- b. If the FP is issued by a taxpayer that has not been registered as a VATable Entrepreneur (*Pengusaha Kena Pajak/PKP*).

PER-19 sets sanctions for issuers of illegal FPs and subsequent impact for customers if they receive illegal FPs. On 25 June 2018, the DGT amended PER-19 through the issue of Regulation No.PER-16/PJ/2018 (PER-16) that sets tougher sanctions for issuers of illegal FPs. An illegal FP will result in the revocation of the taxpayer's PKP registration as compared to the old sanction that only revoke taxpayer's VAT Electronic Certificate in the DGT system. Under these circumstances, taxpayers will need to reapply for VAT registration for future transactions.

Suspension of taxpayers' account

A Taxpayer will be suspended from issuing FPs based on the following indications:

- a. information available to the Indonesian Tax Office (ITO);
- b. analysis of Information, Data, Reports, and Complaints managed by the Directorate of Tax Intelligence (DTI) under the DGT;
- c. information obtained during a tax audit as preliminary evidence of a tax crime;
- d. information obtained during a tax investigation;
- e. information obtained during a tax audit on preliminary evidence of a tax crime conducted on another taxpayer; or
- f. information obtained during a tax investigation conducted on another taxpayer.

Through a Decree, the DGT will suspend the taxpayer's ability to issue FPs if they fail to pass the ITO's examination of the following criteria:

- a. validity of identity documents;
- b. existence of the taxpayer and appropriateness of the taxpayer's profile;
- c. existence and appropriateness of business location; and
- d. conformity with disclosed business activity.

Once suspended, a taxpayer may not issue FPs. PER-16 clarifies that this DGT Decree has the immediate effect of a temporary suspension of the taxpayer's PKP account in the DGT system by way of deactivating the taxpayer's VAT Electronic Certificate.

Clarification by taxpayers

To overturn this temporary suspension, taxpayers must submit written clarification to the Head of Regional Tax Office (RTO) using the format prescribed in PER-16. This clarification must be completed with necessary documents and submitted within 30 days of the date of DGT Decree deeming Suspend Status.

Within 30 days of receiving the completed clarification:

- a. the DTI must approve the taxpayer's clarification based on recommendation from the Head of RTO by issuing a DGT Decree that revoke Suspension Status; or
- b. the Head of RTO must reject the taxpayer's clarification by issuing a notification to the taxpayer. This will lead to revocation of the taxpayer's PKP registration on an ex-officio basis.

If the taxpayer did not submit or did not submit a complete clarification within the 30-day deadline, the DGT will revoke the taxpayer's PKP registration on an ex-officio basis.

Treatment for taxpayers under tax audit on preliminary evidence of a tax crime or tax investigation

The above clarification avenue cannot be applied if the taxpayer is undergoing a tax audit on preliminary evidence of a tax crime or tax investigation.

Tax officers that conduct a tax audit on preliminary evidence of a tax crime or tax investigation may submit a recommendation to DTI to revoke a DGT Decree deeming Suspend Status if it is not proved that the taxpayer has issued illegal FPs. As a result, the DTI will subsequently issue a DGT Decree to revoke Suspend Status within 60 days of the date of the DGT Decree deeming Suspend Status.

However if the tax officers do not provide a recommendation to revoke Suspend Status within 60 days of the date of DGT Decree deeming Suspend Status, the taxpayer's PKP registration will be revoked on an ex-officio basis.

Treatment based on Court Decision

If based on a court decision it is proved that a taxpayer has issued illegal FPs, its PKP registration will be revoked on an ex-officio basis without going through suspension period.

Consequences for customers

Input VAT collected using illegal FPs will have the following impact for customers:

- a. the FPs cannot be credited in the monthly VAT Return; and
- b. the FPs cannot be deducted or capitalised as an asset in the annual Income Tax Return.

If an illegal FP has been used in either case, the customer must amend the respective monthly VAT Return and/or annual Income Tax Return.

Transitional provisions

PER-16 sets out the following transitional provisions:

- a. Taxpayers should prepare clarification based on PER-16 (i.e. addressed to the Head of RTO instead of to the DTI) if they have not submitted clarifications on DGT Decree deeming Suspend Status issued prior 25 June 2018;
- b. DTI will still process taxpayers' clarifications accepted prior 25 June 2018 in accordance with PER-16.

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