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On 19 December 2018, the Minister of Finance (MoF) issued Regulation No.166/PMK.03/2018 (PMK-166) to appoint certain mining companies in the mineral sector as Value Added Tax (VAT) Collectors. VAT Collectors are taxpayers who are required to remit VAT and/or Luxury-goods Sales Tax (LST) due on their purchases from VATable enterprises (vendors) directly to the government, rather than to the vendor. VAT Collectors currently consist of the State Treasury, State Owned Enterprises (Badan Usaha Milik Negara/BUMN) and some of their subsidiaries, and Production Sharing Contract companies in the oil and gas sector.

As outlined in Government Regulation No.37 Year 2018 (see [PwC Energy, Utilities & Resources NewsFlash No.64/2018](#)), specific taxation rules were introduced for various mineral mining concessions. These included the special licences for those mineral mining companies falling under a Special Mining Business Licence for “Production Operations” (*Izin Usaha Pertambangan Khusus Operasi Produksi/IUPK-OP*) issued no later than 31 December 2019 and originating from the conversion of an “active” Contract of Work (CoW).

The IUPK-OP is a type of mining licence granted for various stages of operation and production (i.e. not just the actual mining but also construction, processing and/or refining, transportation and sales) generally within a State Reserve Area.

PMK-166 sets out a compliance mechanism similar to most other VAT Collectors, whereby:

- a) the applicable VAT and/or LST rates follow prevailing regulations;
- b) the vendors should prepare a VAT Invoice for every transaction and report this in their monthly VAT returns;
- c) the IUPK-OP holder should remit the VAT and/or LST by the 15th day of the following month and report this in their specific monthly VAT returns.

The VAT Collector obligations do not apply to the following:

- a) payments with a value of up to IDR 10 million (inclusive of VAT and/or LST) that are paid in full;
- b) payments for goods or services upon which VAT is not collected or exempted;
- c) payments for the purchase of oil and non-oil fuels from Pertamina;

- d) payments for phone bills
- e) payments for air transportation services provided by airline companies; and/or
- f) other payments for the use of goods or services not subject to VAT and/or LST.

In these cases, the standard VAT mechanism will apply whereby the vendor will charge and collect VAT and/or LST from the IUPK-OP holder.

Update on BIKs provided in remote areas

Under long-standing provisions, benefits-in-kind (BIKs) provided in remote areas are treated as deductible expenses for employers and not taxable in the hands of the employee. Companies located in remote areas should submit an application to the Director General of Tax (DGT) to get a validation that their place of business is indeed located in a remote area.

The MoF issued Regulation No.167/PMK.03/2018 (PMK-167) that adds specific provisions for IUPK-OP holders. This regulation is dated and effective starting 19 December 2018. Remote area approval for IUPK-OP holders is granted for a period of ten years and can be extended for another ten years. This timeline is longer than the standard validity period for non IUPK-OP holders of a maximum ten years (i.e. five years, extended by another five years).

The IUPK-OP licence should fulfil criteria that it originates from the conversion of an “active” CoW and that CoW includes a provision regarding the deductibility of BIKs during the contract period.

PMK-167 revokes MoF Regulation No.83/PMK.03/2009 (PMK-83) and sets out the following transitional provisions:

- a) Remote area approvals based on PMK-83 are still applicable up to the end of their validity period.
- b) Applications for remote area approval which were received by the DGT prior 19 December 2018 but not yet decided, will be processed based on PMK-167.

Updated Certificate of Domicile for Indonesian tax residents

The DGT has released a new Certificate of Domicile (CoD) for Indonesian tax residents through the issue of Regulation No.PER-28/PJ/2018 (PER-28) on 14 December 2018. PER-28 will be effective starting 1 February 2019 and revokes DGT Regulation No.PER-08/PJ/2017 (PER-08).

In order to obtain a CoD, Indonesian tax residents should submit an application through a specific DGT electronic system (previously, through manual submission). A CoD application can be made for:

- a) Current tax year or tax period, where the Indonesian tax residents must have submitted the latest Annual Income Tax Return (AITR); or
- b) Prior tax years as long as they have not passed the statute of limitation, where the Indonesian tax residents must have submitted AITR for that respective tax year.

If the Indonesian tax resident is excluded from the obligation to submit AITR, that taxpayer should submit a statement confirming this status which will be deemed as equivalent to the AITR submission requirement. The DGT will issue CoD in electronic format upon the receipt of complete CoD application.

If there is a problem in the DGT electronic system, application for CoD may be submitted manually to the tax office where the Indonesian tax resident is

registered. The respective tax office will issue a Decision within five working days upon the receipt of complete CoD application.

No changes have been made to the content of the CoD format. The Indonesian tax resident still needs to provide information of the offshore counterpart as part of the statement that validates its Indonesian residency. An electronic CoD is valid up to every 31st December on the year of issuance.

PER-28 only provides a single CoD format, and no longer provides specific CoD templates for Indonesian banks, capital markets, insurance, pension funds, leasing, and other financial services (collectively referred to as “Financial Services”) which do not require the information of the offshore counterparts. Therefore, these Financial Services will now be required to use the new CoD format and follow the validity period. Previously, the specific CoD for Financial Services was valid for 36 months after the issuance date.

Similar to current provisions, Indonesian tax residents that have obtained an electronic CoD may apply for legalisation of a Special Form which is a specific CoD form which may be required by an offshore tax authority. The DGT will process this application within five working days.

Indonesian tax residents may re-submit electronic CoD and Special Form applications if the first application was rejected due to provision of incomplete information.

PER-28 sets out the following transitional provisions:

- a) Any ongoing CoD and Special Form applications in place prior 1 February 2019 should be concluded based on PER-08.
- b) Valid CoDs and Special Forms based on PER-08 are still applicable up to the end of their validity period (including specific CoD for Financial Services).

Indonesia – Serbia tax treaty comes into force

The tax treaty between Indonesia and Serbia was signed on 28 February 2011 and was ratified by Presidential Regulation No.75 Year 2018 on 17 September 2018. The sending of diplomatic notes from Indonesia to Serbia on 13 December 2018 marked the entry into force of this tax treaty. The tax treaty will affect income paid or credited on or after 1 January 2019.

The tax treaty stipulates that dividends are taxable at 15%. Interest and royalties are taxable at a maximum rate of 10% and 15%, respectively. Only the beneficial owners of such income are acknowledged as the parties that are entitled to the tax treaty benefits.

The Branch Profit Tax rate is 15%. This rate is not applicable for production sharing contracts in the oil and gas sector, nor it is applicable to state agencies and state owned enterprises in these specific industries.

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