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## Value Added Tax on foreign e-Commerce

Government Regulation in Lieu of Law (*Peraturan Pemerintah Pengganti Undang-Undang*) No.1 Year 2020 (Perppu-1) introduced a set of new tax policies to be further implemented through regulations. One such policy is the imposition of Indonesian Value Added Tax (VAT) on certain intangible goods and services provided online to Indonesian customers from overseas.

Accordingly, the Ministry of Finance (MoF) has issued Regulation No.48/PMK.03/2020 (PMK-48) that further sets out the procedures on VAT collection, payment, and reporting for such transactions. PMK-48 will enter into effect on 1 July 2020.

### Scope of transactions

VAT on e-commerce will be applied in cases where foreign intangible goods or services are provided and used in Indonesia through an e-commerce system. E-commerce is defined as commercial trade transactions conducted through electronic devices and procedures.

The scope of such intangible goods and services, as well as factors of how to determine if they are provided/used in Indonesia are included in the regulation, as broadly set out below.

### Foreign intangible goods

Utilisation of foreign intangible goods under PMK-48 shall cover:

- a. utilisation or right to utilise the copyright in the field of literature, art, or scientific work, patent, design or model, plan, formula or confidential process, trademark, or intellectual/industrial properties or other equal rights;
- b. utilisation or right to utilise industrial, commercial, or scientific equipment/tool;
- c. utilisation of know-how or information in the field of science, engineering, industrial, or commercial;
- d. utilisation of additional or supplemental assistance in relation to the utilisation or right to utilise the rights as referred to in sub-paragraph (a), (b), or (c), in the form of:

1. receipt or right to receive images and/or audio recording, which is transmitted to public through satellite, cable, optic fiber, or similar technology;
2. receipt or right to receive images and/or audio recording for television program, which is broadcasted through satellite, cable, optic fiber, or similar technology;
3. utilisation or right to utilise a part of or overall spectrum of radio communication;
- e. utilisation or right to utilise motion picture films or video tape for television program, or audio tape for radio program;
- f. overall or partial acquisition of rights in relation to the utilisation or the granting of intellectual/industrial property rights or other rights as mentioned above;
- g. Digital goods, which are defined as intangible goods in the form of electronic or digital information, either as a result of conversion or transformation or originally in an electronic form, including but not limited to software, multimedia, and/or electronic data.

### ***Foreign services***

Utilisation of foreign services also covers digital services sent through the internet or electronic network, which is automatic or involves minimal human intervention, and is impossible to deliver without information technology, including but not limited to software-based services.

### ***Utilisation in Indonesia's Customs Area***

Utilisation of foreign intangible goods or services in Indonesia shall be determined based on the location of the buyers/service recipient (collectively referred to as "users"), regardless of whether they are individuals or entities, as follows:

- a. user is residing or domiciled in Indonesia that can be proven by:
  1. correspondence/billing address in Indonesia; or
  2. the country selected upon registration on the e-commerce system is Indonesia;
- b. payments are made via debit, credit, or other payment facilities provided by institutions in Indonesia; or
- c. transactions using internet protocol addresses in Indonesia or using telephone numbers with Indonesian telephone codes.

### **Scope of e-commerce VAT Collector**

If the activities of foreign sellers, foreign service providers, or foreign e-commerce marketplaces (collectively referred to as "foreign e-commerce players") or domestic e-commerce marketplace fulfils specific criteria they will be appointed as a VAT Collector:

- a. transaction value with users in Indonesia exceeds a certain threshold within a period of 12 months; or
- b. traffic or access volume exceeds a certain threshold within a period of 12 months.

The specific thresholds will be further regulated by the Director General of Tax (DGT).

### **VAT compliance for e-commerce VAT Collector**

As stipulated in Perppu-1, VAT due on e-commerce transactions will be collected, paid, and reported by VAT Collectors appointed by the MoF (i.e. foreign e-commerce players or domestic e-commerce marketplaces).

PMK-48 sets the following standard for this VAT compliance:

- a. VAT due on direct transactions between foreign sellers/service providers and users in Indonesia is to be collected by the foreign sellers/service providers appointed as e-commerce VAT Collectors.
- b. VAT due on transactions between foreign sellers/service providers and users in Indonesia's Customs Area through foreign or domestic e-commerce marketplace can be collected by the foreign e-commerce players or domestic e-commerce marketplace appointed as e-commerce VAT Collectors.

Users in Indonesia should self-assess VAT on the utilisation of foreign intangible goods or services for transactions other than as described above. This should cover utilisation of intangible goods or services that is not carried out through e-commerce.

### ***VAT registration***

Under PMK-48, authorisation to appoint a VAT Collector is given to the DGT. Once appointed by the DGT, the e-commerce VAT Collector will be provided with a VAT Collector ID and such appointment will be effective from the beginning of the following month.

Foreign e-commerce players and domestic e-commerce marketplace that have satisfied the VAT Collector criteria but have not yet been appointed as e-commerce VAT Collector can submit a notification to the DGT requesting this status.

### ***VAT collection***

Upon transactions with users in Indonesia's Customs Area, e-commerce VAT Collectors must issue VAT collection slips providing information on VAT collection and payment. This VAT collection slip must be issued in accordance with the DGT guidance, and can be in the form of commercial invoice or similar document that will be treated equally as a VAT Invoice.

### ***VAT payment***

E-commerce VAT Collectors must remit the collected VAT to the Indonesian government through an electronic tax payment channel by the end of the month following the transaction period. Remittances shall be made using Indonesian Rupiah, US Dollar, or other foreign currencies as determined by the DGT.

### ***VAT reporting***

E-commerce VAT Collectors must submit a quarterly report on VAT collection and payment by the end of the following month. This VAT report must provide at least the following information for each tax period:

- a. number of users in Indonesia;
- b. amount of payments;
- c. amount of VAT collected; and
- d. amount of VAT settled to the government.

The DGT can request for a detailed VAT report for each calendar year that should provide at least the following information:

- a. number and date of VAT collection slips;
- b. amount of payments;
- c. amount of VAT collected; and
- d. name and Tax ID of users in Indonesia's Customs Area if the information is provided in the VAT collection slip.

These VAT reports are to be submitted through the designated electronic tax filing system provided by the DGT.

We will provide more comprehensive guidance of this taxation once the implementing DGT regulation is issued.

### **New Economic Policy in response to COVID-19 is passed into Law**

The government issued Perppu-1 dated 31 March 2020 regarding State Financial Policy and Financial System Stability for Handling COVID-19 Pandemic and/or in the Context of Facing Threats that Harm National Economy and/or the Financial System Stability. Perppu-1 governs new economic policy in the areas of taxation, government spending, and financing.

After a series of intensive discussions, the Parliament and Government passed Perppu-1 into Law No.2 Year 2020 which was officially released on 18 May 2020.

Please refer to our [TaxFlash No. 09/2020](#) for our discussion of Perppu-1.

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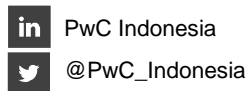
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