TaxFlash

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The use of “other values” as a VAT imposition base for certain agricultural products

On 27 July 2020, the Minister of Finance (MoF) issued Regulation No.89/PMK.010/2020 (PMK-89) regarding the use of “other values” as the Value Added Tax (VAT) imposition base for certain agricultural products.

The applicable agricultural products are listed in Attachment A to the regulation and include products relating to plantations, crops, ornamental plants, medicines and forestry (both wood and non-wood products).

The seller of these products may choose to use, as the value of the VAT imposition base, an amount equal to 10% of the sales price, effectively reducing the value of the VAT to 1% of the sales price (i.e. the 10% VAT rate x the imposition base of 10% of the sales price). Under this approach however, the seller cannot claim Input VAT in relation to the goods that use other value as the VAT imposition base.

Sellers who choose to use this “other value” as the VAT imposition base are required to submit a notification to the Head of the Tax Office where they are registered. This notification must be submitted by the submission deadline for the first VAT return of the fiscal year for which the “other value” regime is applied.

If the goods are sold by a seller under the “other value” regime to an industrial business that carries out processing on agricultural, plantation or forestry products, then the buyer is automatically appointed as a VAT collector and must collect the VAT from the seller.

A seller under the “other value” regime can return to the “normal” VAT rate of 10% after the completion of an entire fiscal year of using the “other value” regime. To revert, the seller must also submit a notification by the submission deadline for the first VAT return of the fiscal year after the “other value” regime has ended. In this situation, the seller can no longer apply the “other value” regime.

Provisions on aid/donations and grants that are not subject to Income Tax

On 21 July 2020, the MoF issued Regulation No.90/PMK.03/2020 (PMK-90) on aid/donations and grants that are not subject to Income Tax. PMK-90 outlines the relevant taxation aspects from the perspective of both donors and recipients.

Qualifying Recipients

The tax treatments – elaborated upon below in the donor and recipient sections – will be applicable to the following qualifying recipients:

a. first-degree vertical blood relatives (i.e. biological parents and children);
b. religious organisations;
c. educational organisations;
d. social organisations including foundations;
e. cooperatives; or
f. individuals who run micro and small businesses.

PMK-90 provides definitions of each party from (a) to (f) above. PMK-90 also states that religious, social and educational organisations should be non-profit in terms of their scope.

Special relationship provisions

PMK-90 provides the following definition of special relationships:

- a “business” relationship is deemed to exist if there are routine transactions between the donor and the recipient.
- an “employment” relationship is deemed to exist if there is direct or indirect employment, the provision of a service, or the implementation of activities between the donor and the recipient.
- an “ownership” relationship is deemed to exist if there is a direct or indirect capital investment between the donor and the recipient, as governed under Article 18(4) of the Income Tax Law (ITL).
- a “control” relationship is deemed to exist if there is any control between the donor and the recipient as governed under Article 18(4) of the ITL.

Provisions for Donors

Under long-standing existing provisions, grants or aid/donations can be deducted, under certain conditions, in accordance with the ITL and related regulations.

On the other hand, any gains resulting from a transfer of assets pursuant to aid/donations or grants are generally taxable in the hands of the donor. These gains will be calculated according to the difference between the market value of the asset and:

a. the fiscal book value if the donor is obliged to maintain bookkeeping; or
b. the acquisition value if the donor is not obliged to maintain bookkeeping.

The application of the Final Income Tax on transfers of Land and/or Buildings (L&B) for aid/donations or grants follows the prevailing tax regulations.

However, these gains may be excluded as a taxable object if:

a. the aid/donations or grants are given to qualifying recipients; and
b. there is no business, employment, ownership or control relationship between the donor and the recipient.

If there is an ownership or control relationship, the gain is still treated as a non-taxable object if both the donor and the recipient are religious, educational or social organisations.

Provisions for Recipients

Aid/donations are non-taxable in the hands of the recipient if there is no business, employment, ownership or control relationship between the parties concerned.

Grants are non-taxable if:

a. it is received by qualifying recipients; and
b. there is no business, employment, ownership or control relationship between the donor and the recipient.

If there is an ownership or control relationship, the aid/donation or grant is still treated as a non-taxable object if the recipient is a religious, educational or social organisation.

The recipient of aid/donations or grants must record the assets with the acquisition value using:

a. the fiscal book value if the donor is obliged to maintain bookkeeping; or
b. a separate value if the donor is not obliged to maintain bookkeeping, as follows:
    - for L&B assets – the Sale Value of the Tax Object (*Nilai Jual Objek Pajak*) as stated in the L&B Tax Due Notification Letter (*Surat Pemberitahuan Pajak Terhutang/SPPT*) in the tax year when the transfer occurs or a value in the statement letter from the Government institution in charge of regional tax where the L&B is registered, if there is no SPPT.
    - for non-L&B assets – the Market Value when the transfer occurs.

Business-related assets with a useful life of more than one year are deductible through either depreciation or amortisation.

Types of religious services that are not subject to VAT

Under the VAT Law, some religious services are not subject to VAT. These religious services cover the following:

a. services relating to houses of worship;
b. services relating to the performance of sermons or preaching;
c. services for organising religious activities; and
d. other services in a religious field.

On 23 July 2020, the MoF issued Regulation No.92/PMK.03/2020 (PMK-92), which will be effective from 22 August 2020, in order to govern the implementation of other services in a religious field (see point d above).

Other services in the religious field that are not subject to VAT are to cover travel services relating to pilgrimages where provided by the Government or travel agents.

The qualifying pilgrimage destinations for each religion have been specified in PMK-92. If the pilgrimage also covers non-qualifying destinations (other than for transit) then the non-qualifying leg is subject to VAT at 10%.

The tax bases for calculating the VAT on these types of services are to be determined as follows:

a. 10% (effective VAT of 1% of the invoice value) if the invoice can be divided between the portion for the religious pilgrimage and the portion for the trip to the other destination; or
b. 5% (effective VAT of 0.5% of the invoice value) if the invoice cannot be divided.

Similar to the current treatment of the VAT credit mechanism for travel agent services, travel agents cannot claim Input VAT in relation to the delivery of the VAT-able services above.

Tax Allowance – an update

On 27 July 2020, the MoF issued Regulation No.96/PMK.010/2020 (PMK-96), which serves as an amendment to Regulation No.11/PMK.010/2020 (PMK-11). Please refer to our TaxFlash No.03/2020 for discussion on PMK-11. PMK-96 will be effective from 11 August 2020.

The changes to this PMK mainly relate to internal administrative processes within the Ministry of Finance in order to streamline a number of bureaucratic processes, such as the submission of proposals for granting tax facilities. Essentially, the initial application process now moves directly from the Online Single Submission (OSS) system to the MoF. There are no changes to the requirements on the taxpayer's part.

Transitional provisions

The procedures under PMK-96 will be applicable to:

a. applications to start utilising this facility, for taxpayers who have obtained approval prior to 11 August 2020.
b. taxpayer applications that have been submitted but have not issued a decision prior to 11 August 2020.

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