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The new Stamp Duty Law

A new Stamp Duty Law No. 10 Year 2020 (Law-10) has been issued in response to, amongst other things, technology and communications developments as well as to cater for the needs of the digital era. Law-10, which revoked Law No. 13 Year 1985 (Law-13), was promulgated on 26 October 2020 and will be effective from 1 January 2021.

The basic rules of Stamp Duty under Law-10 remain largely unchanged. However, Law-10 makes some modifications on the structure, the level of details, and the wording around the Stamp Duty rules as well as adding several objects and exemptions. Highlights of Law-10 are as follows:

A. Stamp Duty Objects

Stamp Duty is imposed on the following documents:

a. Documents created to explain events of a civil nature; and
b. Documents to be used as evidence in Court.

Documents of a civil nature as intended in letter (a) above, include:

a. Agreements, certificates, statement letters, or similar documents along with copies thereof;
b. Notarial deeds and *grosse*, including copies and excerpts;
c. Deeds of a Land Deed Officer along with the copies;
d. Securities in any form and name;
e. Securities transaction documents including for futures contract transactions in any name or form; *– new*
f. Auction documents in the form of excerpts, minutes, copies and *grosse*; *– new*
g. Documents stating a sum of money above IDR5,000,000 (five million rupiah) which: *– new threshold*
    1. Describe the receipt of money; or
    2. Contain an acknowledgement of debt payment or settlement, either entirely or partially; and
h. Other documents stipulated by Government Regulation (GR). *– new*

With regard to the meaning of “Agreements” as in point a above, these are no longer restricted to situations where used as evidence or not. Another example is in respect of documents in point g, which no longer includes documents stating a deposit of money in a bank or a bank account balance. In practice, these modifications may make a difference on whether or not a document is subject to Stamp Duty.

The documents not subject to Stamp Duty under Law-10 remain largely the same as in Law-13. These include diplomas, salary receipts, tax receipts, etc. However, Law-10 adds documents issued by the Central Bank of Indonesia.

B. Taxable event, rate and payment

Law-13 categorises a taxable event based on who creates the document and where the document is created. Law-10 categorises the taxable event for each type of document based on the process, including when the document is signed, completed, given to the addressee of the document, submitted as evidence to court, or used in Indonesia (for documents made overseas).

Stamp Duty is imposed once for each document with a flat rate of IDR10,000 as opposed to layered rates under Law-13. This rate and also the threshold for documents in point g above, could be lowered or increased through a GR according to the needs of the national economy.

The means of payment of Stamp Duty remains the same being through the use of a stamp or a tax payment slip. In addition to sticky stamps and other stamp forms (produced by a digital clamp machine, computerised system, printing technology, etc.), Law-10 introduces electronic stamps which will have a unique code and identifier to be further stipulated in a Minister of Finance (MoF) Regulation.

C. Stamp Duty Collector

The new Law introduces the concept of a Stamp Duty Collector including who has an obligation to collect, remit, and report the Stamp Duty to the Directorate General of Taxes (DGT). Further provisions on this will be stipulated in an MoF Regulation.

D. Stamp Duty Exemption Facility

Law-10 introduces Stamp Duty exemption facilities for:
- Documents on the transfer of Land and Building rights within a framework of accelerating the process of handling and restoring social conditions due to natural disasters;
- Documents on the transfer of Land and Building rights solely for religious or non-commercial activities;
- Documents on the implementation of Government programs and monetary or financial policies; and/or
- Documents related to the implementation of International Agreements under binding international treaties or reciprocal laws.

E. Transitional provisions

Law-10 sets out several transitional provisions:
- Stamp Duty on dutiable documents made up to 31 December 2020 continue to follow Law-13;
- Stamp Duty which has been printed based on Law-13 can be used for a year after the effective date of this Law with a total value of minimum IDR9,000. These stamps cannot be exchanged for money, etc.

Exemptions from Luxury-Goods Sales Tax on yachts for tourism businesses

The Government issued Regulation No.GR-61[1] concerning luxury goods subject to Luxury-Goods Sales Tax (LST) – other than motor vehicles – which will be effective 60 days after enactment (i.e. 15 December 2020).

Goods that are subject to LST remains the same. However, GR-61 provides a new exemption for yachts which are normally subject to 75% LST rate, as long as they are used for tourism businesses.

GR-61 stipulates a claw back if the yacht enjoying the exemption is misused or transferred to other party within four years of being imported or acquired. The unpaid Value Added Tax/LST must then be repaid within one month of the misuse or transfer, otherwise the taxpayer will be subject to late payment penalties.

Indonesian Industrial Standard Classifications 2020: A First Step towards the New Licensing Regime

In order to align with the development, diversity and detailed economic activities in Indonesia, the Chief of the Statistical Bureau has issued Regulation No. 2 Year 2020 concerning the Indonesian Industrial Standard Classifications (*Klasifikasi Baku Lapangan Usaha Indonesia/KBLI*) 2020. This regulation was issued on 24 September 2020 as a refinement to the previous KBLI 2017.

In KBLI 2020 there are 216 new business classifications and the removal of six business classifications that were present in KBLI 2017. The additional business classifications mainly concern six business sectors i.e. financial services, leases and manpower, manufacturing/industry, education, professional services and trading. The business classifications that have been removed from the list concern mining and tourism/accommodation.

Along with the additions and removals, KBLI 2020 also features amendments and reclassifications of the existing business classifications and their descriptions.

Together with the enactment of Job Creation Law No. 11 Year 2020, the issuance of KBLI 2020 is an important step towards the adoption of a Risk-Based Approach that will be implemented by the Government to replace the Licensing Approach to granting licences for businesses.

Under the Risk-Based Approach, the Government will determine whether a business classification, as described by its five-digit KBLI Code, should be considered low, medium, or high risk. This rating will help to determine whether a company must only register for and obtain a standard certification or whether it must also obtain business licences to engage in such business classifications.

The KBLI Code described in KBLI 2020 is also being used as a reference for other important matters such as the eligibility basis for fiscal facilities (e.g. tax holidays, tax allowances, import duties) and tax exemptions.

Companies must monitor whether the issuance of KBLI 2020 has resulted in any change to the KBLI Code of their existing business as this may require them to adjust their current business licences. Companies should also assess

[1] Government Regulation No. 61 Year 2020 (GR-61) dated 16 October 2020

whether there is any potential to expand their business given the additional business classifications introduced in KBLI 2020.

Your PwC Indonesia contacts:

Abdullah Azis
abdullah.azis@pwc.com

Adi Poernomo
adi.poernomo@pwc.com

Adi Pratikto
adi.pratikto@pwc.com

Alexander Lukito
alexander.lukito@pwc.com

Ali Widodo
ali.widodo@pwc.com

Amit Sharma
amit.xz.sharma@pwc.com

Andrias Hendrik
andrias.hendrik@pwc.com

Anton Manik
anton.a.manik@pwc.com

Antonius Sanyojaya
antonius.sanyojaya@pwc.com

Ay Tjhing Phan
ay.tjhing.phan@pwc.com

Brian Arnold
brian.arnold@pwc.com

Dexter Pagayonan
dexter.pagayonan@pwc.com

Enna Budiman
enna.budiman@pwc.com

Gadis Nurhidayah
gadis.nurhidayah@pwc.com

Gerardus Mahendra
gerardus.mahendra@pwc.com

Hasan Chandra
hasan.chandra@pwc.com

Hendra Lie
hendra.lie@pwc.com

Hisni Jesica
hisni.jesica@pwc.com

Hyang Augustiana
hyang.augustiana@pwc.com

Kianwei Chong
kianwei.chong@pwc.com

Lukman Budiman
lukman.budiman@pwc.com

Mardianto
mardianto.mardianto@pwc.com

Margie Margaret
margie.margaret@pwc.com

Oki Octabiyanto
oki.octabiyanto@pwc.com

Omar Abdulkadir
omar.abdulkadir@pwc.com

Otto Sumaryoto
otto.sumaryoto@pwc.com

Parluhutan Simbolon
parluhutan.simbolon@pwc.com

Peter Hohtoulas
peter.hohtoulas@pwc.com

Raemon Utama
raemon.utama@pwc.com

Runi Tusita
runi.tusita@pwc.com

Ryuji Sugawara
ryuji.sugawara@pwc.com

Soeryo Adjie
soeryo.adjie@pwc.com

Sujadi Lee
sujadi.lee@pwc.com

Sutrisno Ali
sutrisno.ali@pwc.com

Suyanti Halim
suyanti.halim@pwc.com

Tim Watson
tim.robert.watson@pwc.com

Tjen She Siung
tjen.she.siung@pwc.com

Turino Suyatman
turino.suyatman@pwc.com

Yessy Anggraini
yessy.anggraini@pwc.com

Yuliana Kurniadjaja
yuliana.kurniadjaja@pwc.com

Yunita Wahadaniah
yunita.wahadaniah@pwc.com

www.pwc.com/id

PwC Indonesia

@PwC_Indonesia

pwc