

Preliminary VAT refunds
– an update ^{P1}

New Regional Tax Law ^{P1}

Preliminary VAT refunds – an update

On 30 December 2021, the Minister of Finance (MoF) issued Regulation No.PMK-209¹ which provides an update on the rules for preliminary Value-Added Tax (VAT) refunds.

Generally, certain VATable Entrepreneurs are eligible to request a preliminary VAT refund without being subject to a normal VAT audit prior to receiving the refund. PMK-209 adjusts the maximum for the VAT Refund amount eligible for the preliminary VAT refund process from IDR 1 billion to **IDR 5 billion**.

New Regional Tax Law

On 5 January 2022, the Government issued Law No.1 Year 2022 regarding Financial Relationships between the Central Government and the Regional Government (*Hubungan Keuangan antara Pemerintah Pusat dan Pemerintahan Daerah/HKPD*).

This law consists of two major areas. First is the imposition of Regional Taxes whilst the second is the financial relationship between the Central and Regional Governments. This TaxFlash only provides an overview of the changes to Regional Taxes.

The HKPD Law revokes PDRD Law², Law-33³, and several articles under the Omnibus Law⁴ and Law-23⁵ that are related to the first two laws.

The imposition of regional taxes under the HKPD Law is effective from 5 January 2022, except for the Motor Vehicle Tax (*Pajak Kendaraan Bermotor/PKB*), the Duty on the Transfer of Motor Vehicle Title (*Bea Balik Nama Kendaraan Bermotor/BBNKB*), and the Non-metal Minerals and Rocks Tax (*Pajak Mineral Bukan Logam dan Batuan/MBLB*) which will be effective on 5 January 2025.

¹ MoF Regulation No.209/PMK.03/2021 (PMK-209) dated on 30 December 2021 and effective from 1 January 2022, amending MoF Regulation No.39/PMK.03/2018 as lastly amended by MoF Regulation No.117/PMK.03/2019

² Law No.28 Year 2009 regarding Regional Taxes and Retribution (*Pajak Daerah dan Retribusi Daerah/PDRD*)

³ Law No.33 Year 2004 (Law-33) regarding Financial Balance between Central and Regional Government

⁴ Law No.11 Year 2020 on Job Creation (“Omnibus Law”)

⁵ Law No.23 Year 2014 (Law-23) on Local Government as lastly amended by the Omnibus Law

The HKPD Law stipulates the following transitional provisions:

- For taxpayers' rights and obligations that were not settled prior to 5 January 2022, the settlement is carried out based on the PDRD Law.
- Any Regional Government Regulations (*Peraturan Daerah/Perda*) issued under the PDRD Law remain valid until 5 January 2024. This is except for regulations on PKB, BBNKB, and Pajak MBLB which remain valid until 5 January 2025. After these periods the regulations must follow the HKPD Law.
- The implementing regulations of the PDRD Law are valid as long as they have not been replaced and do not contradict the provisions of the HKPD Law.
- The implementing regulations of the HKPD Law must be stipulated by 5 January 2024.

The Tax/Duty rates and “Opsen”

The tax and duty rates under the HKPD Law are in most cases lower than under the PDRD Law. However, the HKPD Law introduces an additional tax levied on a percentage of PKB, BBNKB, and Pajak MBLB which is referred to as “Opsen”.

Below is a summary of the tax rates under PDRD and HKPD Laws:

No.	Type of Tax/Duty	PDRD rate	HKPD rate
1	Rural and Urban Land and Building Tax (<i>Pajak Bumi dan Bangunan Perdesaan dan Perkotaan/PBB-P2</i>)	Max. 0.3%	Max. 0.5%
2	Duty on the Acquisition of Land and Building Rights (<i>Bea Perolehan Hak atas Tanah dan Bangunan/BPHTB</i>)	Max. 5%	Max. 5%
3	PKB		
	1 st ownership – general	1% - 2%	Max. 1.2%
	2 nd ownership onwards – general	2% - 10%	Max. 6%
	1 st ownership – Special Region		Max. 2%
	2 nd ownership onwards – Special Region		Max. 10%
	Specified uses (e.g. public transportation, fire trucks, school buses, ambulances, etc.)	0.5% - 1%	Max. 0.5%
	Opsen		66% of PKB
4	Heavy Equipment Tax (<i>Pajak Alat Berat/PAB</i>)	0.1% - 0.2%	Max. 0.2%
5	BBNKB		
	1 st ownership – general	20%	Max. 12%
	2 nd ownership onwards – general	1%	
	Special Region		Max. 20%
	1 st ownership – Heavy Equipment	0.75%	
	2 nd ownership onwards – Heavy Equipment	0.075%	
	Opsen		66% of BBNKB
6	Motor Vehicle Fuel Tax (<i>Pajak Bahan Bakar Kendaraan Bermotor</i>)	Max. 10%	Max. 10%

7	Pajak MBLB		
	General	Max. 25%	Max. 20%
	Special Region		Max. 25%
	Opsen		25% of Pajak MBLB
8	Surface Water Tax (<i>Pajak Air Permukaan</i>)	Max. 10%	Max. 10%
9	Cigarette Tax (<i>Pajak Rokok</i>)	10%	10%
10	Advertisement Tax (<i>Pajak Reklame</i>)	Max. 25%	Max. 25%
11	Groundwater Tax (<i>Pajak Air Tanah</i>)	Max. 20%	Max. 20%
12	Swallow's Nest Tax (<i>Pajak Sarang Burung Walet</i>)	Max. 10%	Max. 10%
13	Certain Goods and Services Tax (<i>Pajak Barang dan Jasa Tertentu/ PBJT</i>)		
	Food and Beverage	Max. 10%	Max. 10%
	Electric Power		
	General use of electricity	Max. 10%	Max. 10%
	Electricity from other sources by industries and Oil and Gas mining	Max. 3%	Max. 3%
	Self-produced electricity	Max. 1.5%	Max. 1.5%
	Hotel services	Max. 10%	Max. 10%
	Parking services	Max. 30%	Max. 10%
	Art and Entertainment services		
	General	Max. 35%	Max. 10%
	Karaoke, night clubs, etc.	Max. 75%	40% - 75%
	Traditional/folk	Max. 10%	

Notable changes

We highlight below some of the notable changes under the HKPD Law.

PBB-P2

The HKPD Law added the following types of land and buildings to the negative list that are not subject to PBB-P2:

- Where used for railway lines, Mass Rapid Transit, Light Rail Transit, or the like;
- Where used for other residential buildings of a certain sales value of the tax object (*Nilai Jual Objek Pajak/NJOP*) as determined by the Head of the relevant Region.

The NJOP used to calculate the PBB-P2 due now range from 20% to 100% (previously 100%).

The HKPD Law also stipulates that if a taxpayer owns or controls multiple PBB objects in one area, the non-taxable NJOP is only applied once for each fiscal year.

BPHTB

Generally, the non-dutiable threshold amount varies by region. The HKPD Law increases the general minimum threshold to IDR 80 million (previously IDR 60 million) whilst the threshold for inheritance remains at IDR 300 million.

Taxes and duty on motor vehicle and heavy equipment

The HKPD Law adds motor vehicles using renewable energy under the exceptions to PKB and BBNKB.

Under the PDRD Law, heavy equipment was subject to PKB and BBNKB. Under the HKPD Law, the tax is carved out from PKB and becomes a new tax (namely PAB), and BBNKB is no longer imposed on heavy equipment.

PBJT

There are five types of consumption-based taxes under the PDRD Law that are merged into PBJT. The scope of these taxes largely remains the same.

The PBJT objects under the HKPD Law are for:

- Food and Beverage services (previously named Restaurant Tax);
- Electric Power (previously named Street Lighting Tax);
- Hotel services;
- Parking services;
- Art and Entertainment services.

The HKPD Law also expands the scope of tax objects to cover, for example, valet parking, recreational objects, rental of sports facilities and infrastructure. The HKPD Law also provides an elaboration on the type of service that falls under VAT objects rather than PBJT, e.g. food and beverages sold in an outlet that does not provide dine-in facilities (i.e. tables, chairs, etc.).

Retribution Object

In general, the Retribution object categories remain the same, namely:

- General Services (e.g. retribution for medical services, cleaning services);
- Business Services (e.g. retribution for wholesale market/shop, recreation);
- Certain Licensing (e.g. building construction permits).

However, the number of Retribution objects was decreased to 18 types of services. This is intended to reduce the burden on the community in accessing basic public services which is part of the obligations of the Local Government. Further provisions shall be set out in Government Regulation.

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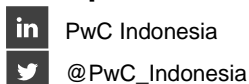
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