



New Final Income Tax rates for Construction Services ^{P1}

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The Government has recently issued GR-9¹ regarding Income Tax on Construction Services. GR-9 serves as the second amendment to GR-51² as amended by GR-40³.

Tax rate changes

GR-9 lowers the final tax rate for construction service providers with relevant certification and qualifications. In addition, GR-9 redefines the type of services so as to align with the scope governed under Law-2⁴ regarding Construction Services (i.e. GR-9 and Law-2 now have consistent definitions).

Under GR-9 the types of services are categorised as:

1. **Construction work**

This covers actual construction activities including those relevant to operations, maintenance, dismantling, and the reconstruction of buildings.

2. **Construction consultation**

This covers construction services such as comprehensive or partial assessments, planning, design, supervision, and the management of construction work on buildings. This category expands the category of construction planning and supervision as was outlined under GR-51.

3. **Integrated construction work**

This covers any combination of construction work and construction consultation including those following Engineering, Procurement, and Construction (EPC) and Design and Build service models. Previously, this category of integrated construction work fell under the construction work category in GR-51. This new separation does not however impact the tax treatment as the applicable final tax rate for this integrated category is the same as for construction work category under GR-9.

¹ Government Regulation No.9 Year 2022 (GR-9) dated and effective from 21 February 2022

² Government Regulation No.51 Year 2008 (GR-51) dated on 23 July 2008 and effective from 1 January 2008

³ Government Regulation No.40 Year 2009 (GR-40) dated on 4 June 2009 and effective from 1 August 2008

⁴ Law No.2 Year 2017 (Law-2) dated and effective from 12 January 2017

Each of the above categories can also now be classified into a “general” and “specialist” scope of work. The scope of work referred to follows the laws governing construction services and electricity.

As with GR-51 and GR-40, the applicable tax rate is based on the certification and qualification of the service providers. To enjoy the lower tax rate, individual service providers must have a work competency certificate, whilst companies must have a business size qualification on top of the certificate.

The applicable final income tax rates are as follows:

Type of service	GR-51		GR-9	
	Classification	Rate	Classification	Rate
Construction work	small business qualification	2%	<ul style="list-style-type: none"> • small business qualification • individuals with work competency certificate 	1.75%
	no business qualification	4%	companies and individuals with no certificate	4%
	other than the above	3%	other than the above*	2.65%
Construction consulting (previously ‘planning or supervision’ under GR-51)	with business qualification	4%	companies and individuals with certificate	3.5%
	no business qualification	6%	companies and individuals with no certificate	6%
Integrated construction work (previously part of construction work under GR-51)	small business qualification	2%		
	no business qualification	4%	Service providers with no company certificate	4%
	other than the above	3%	Service providers with company certificate	2.65%

*This is for service providers with medium or large qualifications, or specialists.

GR-9 also updates the authorised parties who can issue the certification and qualifications (including skills equalisation for foreign construction service providers). These are as follows:

- institutions formed by business associations accredited by the Ministry of Public Works and Housing, and registered under the Institution for the Development of Construction Services (*Lembaga Pengembangan Jasa Konstruksi/LPJK*);
- the Minister of Energy and Mineral Resources (MEMR) or institutions accredited by the MEMR.

Transitional rules

The application of the tax treatment operates as follows:

- on payments for contracts, or part of contracts, prior to 21 February 2022 – based on GR-51 jo. GR-40;
- on payments for contracts, or part of contracts, from 21 February 2022 – based on GR-9.

Implementing regulations of GR-51 and GR-40 remain valid to the extent that they do not contradict the provisions of GR-9.

The implementation of this final income tax will be evaluated by the Ministry of Finance after three fiscal years from 21 February 2022. Construction service fees may on a go-forward basis, be taxed under general tax rules as per Article 17 of Income Tax Law based on the result of the evaluation.

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