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e-Court implementation at Supreme Court

On 28 September 2022, the Supreme Court issued Regulation No.PERMA-6¹ to govern administrative procedures for Cassation and Judicial Review requests and electronic proceedings at the Supreme Court.

Previously, PERMA-1² and PERMA-4³ were issued to regulate electronic administration proceedings for courts below the Supreme Court. As the implementation of these PERMAs were considered to be successful, PERMA-6 now largely extends the provision to the Supreme Court. In line with this, the Supreme Court has also issued PERMA-7⁴ as an amendment to PERMA-1.

The scope of PERMA-6 is to provide a framework to electronically file and proceed with Cassation and Judicial Review requests at the Supreme Court for the following legal disputes:

- Cassation or Review of General Civil Cases, Special Civil Cases, Religious Civil Cases, State Administration Cases or Arbitration Appeals;
- Cassation or Review of General Criminal Cases, Special Criminal Cases, *Jinayat*, or Military Crime Cases;
- Cassation for legal purposes for Criminal Cases, *Jinayat* or Military Crime Cases; and
- **Judicial Reviews with regard to Tax Court Decisions.**

For a Judicial Review on a Tax Court Decision, PERMA-7 make an exception on the implementation at the Tax Court, whereby the implementation is conducted based on the stipulation of the Head of the Tax Court. Therefore, the administration of proceedings at the Tax Court (including the filing of Judicial Reviews against Tax Court Decisions) will be conducted “as is” until the issuance of the regulation by the Head of Tax Court on the electronic administration.

¹ Supreme Court Regulation No.6 Year 2022 (PERMA-6) dated and effective from 28 September 2022

² Supreme Court Regulation No.1 Year 2019 (PERMA-1) dated 8 August 2019 and effective from 19 August 2019

³ Supreme Court Regulation No.4 Year 2020 (PERMA-4) dated and effective from 29 September 2020

⁴ Supreme Court Regulation No.7 Year 2022 (PERMA-7) dated and effective from 11 October 2022

Electronic Customs and Excise Objection procedure

On 13 September 2022, the Minister of Finance (MoF) issued Regulation No.PMK-136⁵ that governs Customs and Excise Objection procedures.

In general, PMK-136 stipulates the way in which the Customs and Excise Objection procedures are conducted to apply from 1 January 2023. This is for those activities carried out electronically through the Director General of Customs and Excise (DGCE) portal such as:

- filing objections;
- submitting supporting reasons/evidence;
- revocation of objections;
- the issuance of submission receipts and the DGCE Decision Letters.

In the event of an operational disruption (e.g. where the DGCE Portal cannot be operated), the procedures are to be carried out manually at the nearest customs office. In such cases, the submission receipt and the Objection Decision Letter will also be issued manually.

In general, the procedures and deadlines remain the same. However, PMK-136 stipulates that, since Objection Letters must be submitted electronically, the due date of Customs and Excise Objections will not be postponed to the next working day where this coincides with a Public Holiday.

With regard to the format of objection letters, the Bank Accounts and the Identification Number of Excisable Goods Entrepreneurs (*Nomor Pokok Pengusaha Barang Kena Cukai/NPPBKC*) is no longer required. This new regulation also introduces a format for an objection letter for a customs assessment with no financial claim such as Assessment Letters for Prohibited/ Restricted Goods (*Surat Penetapan Barang Larangan/Pembatasan/SPBL*).

All the Objection Letters or Revocation of Objections that were submitted before 1 January 2023 are still regulated under PMK-51⁶.

KITE Drawback – an update

On 21 October 2022, the MoF issued Regulation No.145⁷ to govern refunds of Import Duty paid on import of goods and materials to be processed, assembled or installed for export purposes (*Kemudahan Impor Tujuan Ekspor (KITE) Pengembalian*).

This drawback facility allows for the recovery of Import Duty paid on imported raw materials that are incorporated into finished products which are subsequently exported.

In general, there are no significant changes to the facilities provided. However, there are changes in the administrative requirements such as:

- the deadline to submit the required reports (e.g. annual financial statements) to be no later than 30 June of each year (previously no later than the end of the fourth month after the end of the fiscal year).
- the KITE drawback company is required to utilise closed circuit television (CCTV) that can be accessed directly and online by the DGCE for monitoring the importation, storage, and release of goods and materials.

⁵ MoF Regulation No.136/PMK.04/2022 (PMK-136) dated 13 September 2022 and effective from 1 January 2023. PMK-136 amends MoF Regulation No.51/PMK.04/2017

⁶ MoF Regulation No.51/PMK.04/2017 (PMK-51) dated 12 April 2017 and effective from 11 June 2017

⁷ MoF Regulation No.145/PMK.04/2022 (PMK-145) dated 21 October 2022 and effective from 1 November 2022. PMK-145 revokes MoF Regulation No.161/PMK.04/2018

- the implementation of a customs audit may now be extended to include tracing goods and materials at the subcontracting company level.

KITE Exemption – an update

On 27 October 2022, the MoF issued Regulation No.149⁸ to govern the exemption of Import Duty and not-collected Value-Added Tax (VAT)/Luxury Goods Sales Tax on the import of goods and materials to be processed, assembled or installed on other goods for export purposes (*KITE Pembebasan*).

As with the KITE Drawback, PMK-149 stipulates administrative changes. However, there are some facility changes including for goods which enter a Free Trade Zone to a KITE Exemption user whereby the VAT now has to be paid.

In addition, KITE Exemption facilities are no longer provided for sample goods as regulated in PMK-160.

⁸ MoF Regulation No.149/PMK.04/2022 (PMK-149) dated 27 October 2022 and effective from 1 November 2022. PMK-149 revokes MoF Regulation No.160/PMK.04/2018

Your PwC Indonesia Contacts:

Abdullah Azis
abdullah.azis@pwc.com

Hasan Chandra
hasan.chandra@pwc.com

Runi Tusita
runi.tusita@pwc.com

Adi Poernomo
adi.poernomo@pwc.com

Hendra Lie
hendra.lie@pwc.com

Ryuji Sugawara
ryuji.sugawara@pwc.com

Adi Pratikto
adi.pratikto@pwc.com

Hisni Jesica
hisni.jesica@pwc.com

Soeryo Adjie
soeryo.adjie-c@pwc.com

Adrian Hanif
adrian.hanif@pwc.com

Hyang Augustiana
hyang.augustiana@pwc.com

Sujadi Lee
sujadi.lee@pwc.com

Alexander Lukito
alexander.lukito@pwc.com

Kianwei Chong
kianwei.chong@pwc.com

Sukma Alam
sukma.alam-c@pwc.com

Ali Widodo
ali.widodo@pwc.com

Lukman Budiman
lukman.budiman@pwc.com

Surendro Supriyadi
surendro.supriyadi-c@pwc.com

Andrias Hendrik
andrias.hendrik@pwc.com

Made Natawidnyana
made.natawidnyana@pwc.com

Susetiyo Putranto
susetiyo.putranto@pwc.com

Anton Manik
anton.a.manik@pwc.com

Mardianto
mardianto.mardianto@pwc.com

Sutrisno Ali
sutrisno.ali-c@pwc.com

Antonius Sanyojaya
antonius.sanyojaya@pwc.com

Margie Margaret
margie.margaret@pwc.com

Suyanti Halim
suyanti.halim@pwc.com

Avinash Rao
a.rao@pwc.com

Marlina Kamal
marlina.kamal@pwc.com

Tim Watson
tim.robert.watson@pwc.com

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

Nicholas Sugito
nicholas.sugito@pwc.com

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

Brian Arnold
brian.arnold@pwc.com

Nikolas Handradjid
nikolas.handradjid@pwc.com

Turino Suyatman
turino.suyatman@pwc.com

Dexter Pagayonan
dexter.pagayonan@pwc.com

Oki Octabiyanto
oki.octabiyanto@pwc.com

William Christopher
william.christopher@pwc.com

Enna Budiman
enna.budiman@pwc.com

Omar Abdulkadir
omar.abdulkadir@pwc.com

Yessy Anggraini
yessy.anggraini@pwc.com

Esa Perdana
esa.perdana@pwc.com

Otto Sumaryoto
otto.sumaryoto@pwc.com

Yuliana Kurniadjaja
yuliana.kurniadjaja@pwc.com

Gadis Nurhidayah
gadis.nurhidayah@pwc.com

Peter Hohtoulas
peter.hohtoulas@pwc.com

Yunita Wahadaniah
yunita.wahadaniah@pwc.com

Gerardus Mahendra
gerardus.mahendra@pwc.com

Raemon Utama
raemon.utama@pwc.com

www.pwc.com/id



PwC Indonesia



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