



Guarantee for customs and excise activities ^{P1}

Exemption from import duty and/or non-collection of import tax on the import of goods for geothermal activities ^{P3}

Guarantee for customs and excise activities

On 22 November 2022, the Minister of Finance (MoF) issued Regulation No.PMK-168¹ to update the Guarantee (*Jaminan*) requirements for customs and excise activities. PMK-168 revokes and streamlines two previous MoF Regulations, i.e. PMK-68² and PMK-259³ and adds several new provisions.

Guarantee is defined as a guarantee for the payment of state collection and for fulfilment of other obligations in the context of customs and excise activities.

The main state collection elements of customs and excise consists of:

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| 1) import duty; | 8) export duty; |
| 2) anti-dumping import duty; | 9) export duty administration fines; |
| 3) return duty; | 10) export duty interest; |
| 4) import duty safeguard measures; | 11) other customs revenue; |
| 5) retaliatory duty; | 12) tobacco product excise; |
| 6) import duty in the context of ease of imports for the production of goods to be fully exported (<i>Kemudahan Impor Tujuan Ekspor</i>); | 13) ethyl alcohol excise duty; |
| 7) customs administration fines; | 14) excise duty on beverages containing ethyl alcohol; |
| | 15) excise administration fines; and |
| | 16) other excise revenue. |

Other state collection consists of import taxes, i.e. Value Added Tax (VAT), Article 22 Income Tax, Luxury Goods Sales Tax (LST), and other state collection collected by the Directorate General of Customs and Excise (DGCE).

The Guarantee will be used to settle any default of the state collection payments for which the Guarantee was submitted, including administrative sanctions.

We highlight below the key changes under PMK-168 which will be effective on 1 January 2023.

¹ MoF Regulation No.168/PMK.04/2022 (PMK-168) dated 22 November 2022 and effective from 1 January 2023

² MoF Regulation No.68/PMK.04/2009 (PMK-68) dated 8 April 2009 and effective from 7 June 2009

³ MoF Regulation No.259/PMK.04/2010 (PMK-259) dated 31 December 2010 and effective from 30 January 2011

Type of Guarantees

The regulation includes types of Guarantees as under the previous regulations, but adds two new types of Guarantees, as follows:

- a) cash Guarantee;
- b) bank Guarantee;
- c) Guarantee from the insurance company;
- d) Guarantee from the Indonesian Export Financing Agency;
- e) Guarantee from the guarantor institution;
- f) corporate Guarantee;
- g) written Guarantee;
- h) tangible asset guarantee – *new*; and
- i) other Guarantees – *new*.

The provisions of Guarantees in letter a) to g) above are largely similar with provisions stipulated in the previous regulations, although the parties who may use the corporate Guarantee and written Guarantee have been expanded.

New tangible asset Guarantees

This Guarantee is in the form of land and/or buildings belonging to the company and/or company management proven by ownership certificates. The maximum value of the tangible asset Guarantee is the sale value of the guaranteed tangible asset tax object (*nilai jual objek pajak*).

Other Guarantees

This cover Guarantees other than those referred to in letter a) to h) above, which may be used for customs and excise activities including but not limited to:

- a) temporary import of foreign tourist ships (vessel declaration);
- b) temporary import of motor vehicles through cross-border control posts (vehicle declaration); or
- c) temporary import using carnet documents.

Administrative and transitional provisions

The application to use Guarantees, issuance of proof of receipt of Guarantee, application of adjustment of Guarantee, etc. are conducted electronically through the DGCE Portal. In the event that the DGCE Portal is not yet available or is experiencing operational disruptions, the activities may be carried out manually.

Starting 1 January 2023:

- a) Guarantee for single use that has been received prior to 1 January 2023, may still be used until the Guarantee period expires;
- b) Guarantee for continuous use that has been received prior to 1 January 2023, may still be used until the issuance of a new Guarantee; and
- c) Corporate guarantees that have obtained a Ministerial Decree regarding the licence to use corporate guarantees prior to 1 January 2023 may still be used on a limited basis for activities as stated in that Ministerial Decree until it is revoked.

Exemption from import duty and/or non-collection of import tax on the import of goods for geothermal activities

On 23 November 2022, the MoF issued Regulation No.PMK-172⁴ to amend PMK-218⁵ which regulates the exemption from import duty and/or non-collection of import tax on the import of goods for geothermal activities. The regulation is effective from 23 December 2022.

The exemption from import duty as well as the non-collection of VAT/LST and/or Article 22 Income Tax may be granted on the import of goods for the operation of geothermal activities.

The import duty exemption may be given to:

- Joint Operation Contract Contractor (*Kontraktor Kontrak Operasi Bersama*);
- Business entity, consisting of:
 - geothermal resource concession powerholder;
 - geothermal resource concession permit holder;
 - geothermal permit holder;
 - executor of Preliminary Survey and Exploration Assignment (*Penugasan Survei Pendahuluan dan Eksplorasi/PSPE*), where PSPE is defined as an assignment given by the Ministry of Energy and Mineral Resources to carry out preliminary survey and exploration activities;
 - recipient of Exploration Support Assignment (*Penugasan Dukungan Eksplorasi*), where it is defined as special assignment to provide and implement the Exploration Support (i.e. geothermal development support provided in order to obtain geothermal data and information needed for preparation and tender of work areas) – *new*;
- Ministries/Institutions (i.e. state ministries or non-ministerial Government agencies that carry out geothermal activities) or Local Governments (i.e. governors, regents or mayors, and regional apparatuses as elements of regional Government administration) – *new*;
- Universities (i.e. educational unit that organises higher education) – *new*; or
- Research institutions (i.e. an institution that organises research and development, one of which is in the field of geothermal energy) – *new*.

The facility may also be applied on the import of goods by vendors who import the goods to be supplied to the above parties.

The import duty exemption is granted through the issuance of an MoF Decree. Previously, the MoF Decree may still be amended prior to the import realisation only with regards to the Customs Office in charge of the port of entry of imported goods or mistakes caused by a human error (i.e. miscalculation or typo). PMK-172 now allows amendments to be made on the quantity and/or type of goods.

In addition, under the previous rule, the imported goods that are granted import duty exemption cannot be transferred within two years from the date of import customs notification, with certain exception events. PMK-172 adds an exception event, which is where the goods are transferred to be a state property.

Transitional provisions

Starting 23 December 2022, the Exploration Support Assignment Letters that have been issued prior to 23 December 2022, may be used as a basis for

⁴ MoF Regulation No.172/PMK.04/2022 (PMK-172) dated 23 November 2022 and effective from 23 December 2022

⁵ MoF Regulation No.218/PMK.04/2019 (PMK-218) dated 31 December 2019 and effective from 29 February 2020

granting import duty exemption and/or non-collection of import tax on imported goods for geothermal operations up to the expiration date of the Letter.

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