



Implementing rules of
VAT under HPP Law^{P1}

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On 2 December 2022, the Government issued Regulation No. GR-44¹ to implement the Value Added Tax (VAT) and Luxury Sales Tax (LST) provisions introduced under the Harmonisation of Tax Regulations (*Harmonisasi Peraturan Perpajakan/HPP*) Law. GR-44 revokes GR-1² and all VAT provisions in GR-9³.

Below are the highlights of the changes stipulated in GR-44.

VAT on the delivery of foreclosed assets by creditors

The delivery of foreclosed assets by a creditor to a buyer is included in the delivery of rights to a taxable good under an agreement that is subject to VAT. Foreclosed assets are defined as taxable goods taken over by a creditor based on mortgage rights, fiduciary guarantees, pawn or other similar arrangements.

The limitation on foreclosed assets, the taxable event, and the procedure to collect, pay and report the VAT will be set out in a separate Minister of Finance (MoF) regulation. The elucidation provides examples of the VAT imposition on the delivery of foreclosed assets by a bank and a finance company.

Non-taxable delivery of collateral in relation to Sharia transactions

Under the VAT Law the delivery of taxable goods as collateral is not treated as a VATable delivery. GR-44 elaborates that this includes the delivery as collateral under Sharia financing transactions. This is as long as the taxable goods are eventually returned to the party that initially delivered them.

The elucidation indicates that the scope of this includes:

- a) the delivery of goods under a Sukuk issuance including the delivery of taxable goods to and from the Sukuk issuer (i.e., special purpose vehicle); and
- b) the delivery of goods to a Sharia-based commodity trading scheme on commodity exchanges with a trading mechanism with follow-up sales on Sharia commodity markets to fulfil Sharia principles.

¹ Government Regulation No.44 Year 2022 (GR-44) dated and effective from 2 December 2022

² Government Regulation No.1 Year 2012 (GR-1) dated and effective from 4 January 2012

³ Government Regulation No.9 Year 2021 (GR-9) dated and effective from 2 February 2021

Confirmations relating to the “Final” VAT regime

The HPP Law introduced a “Final” VAT regime where the prevailing VAT rate is multiplied by a designated percentage resulting in an effective “Final” VAT rate. GR-44 provides detail on this regime as follows:

- a) **Input VAT for the buyer** – Whilst the relevant Input VAT cannot be credited by the seller, the elucidation to this GR confirms that the “Final” VAT charged to a buyer can be credited as Input VAT by the buyer.
- b) **Delivery of strategic goods/services under “Final” VAT regime** – If a VATable Entrepreneur (*Pengusaha Kena Pajak/PKP*) delivers strategic goods or services that are subject to this “Final” VAT regime, then the VAT rate used is the “Final” VAT rate and the VAT is still exempted or not collected under the strategic goods/services facility. In this situation, the Input VAT is not creditable.
- c) **Internal deliveries, own use and free gifts** – If a PKP under the “Final” VAT regime conducts a delivery of goods from the headquarters to a branch (or vice versa) and the inter-branch delivery the tax base used is IDR zero (*not rupiah*). The elucidation also stipulates that the application of *not rupiah* as a tax base is used for the delivery of own use and free gifts under the Final VAT regime.

The determination of VAT rate to be used during a rate change

In the event that there is a change in the applicable VAT rate then the former VAT rate is used when:

- a) the timing of the VAT due date is prior to the effective date of the revised VAT rate change; and
- b) the VAT Invoice or equivalent document is made prior to the effective date of the VAT rate change.

The new VAT rate is applicable if any of the two events occur since the effective date of the VAT rate change.

Other provisions

GR-44 provides several minor confirmations and changes as follows:

- a) **Joint responsibility (*tanggung jawab renteng*) mechanism**
Buyers of taxable goods or recipients of taxable services are jointly responsible for any underpaid VAT if the VAT cannot be charged to the seller and the buyer cannot show proof that the VAT has been paid to the seller. GR-44 stipulates that a VAT underpayment in this situation is due by the buyer using a tax payment slip (*Surat Setoran Pajak*). Otherwise, payment can be collected via an Underpaid Tax Assessment Letter (*Surat Ketetapan Pajak Kurang Bayar/SKPKB*). Previously, the underpayment was directly collected through a SKPKB.
- b) **Transactions between Other Parties and VAT Collectors**
The HPP Law authorises the Directorate General of Taxes (DGT) to appoint “Other Parties” as tax collectors. GR-44 stipulates that if this “Other Party” carries out transactions or facilitates a transaction with a VAT Collector (appointed under Article 16A of VAT Law) then the party that has the obligation to collect, pay and report VAT is the Other Party.
- c) **Confirmation of the scope of business of a PKP that is subject to VAT**
The VAT Law stipulates that a delivery by a PKP within the customs area is subject to VAT where it is carried out within the framework of its business activities. GR-44 further confirms that the business activities cover the entire delivery of taxable goods or services arising from operational activities (i.e.,

from principal revenue producing activities excluding investing and financing activities) as well as from non-operational activities.

d) Confirmation on the foreign exchange rate to be used for VAT Invoices

GR-44 stipulate that for foreign currency transactions the VAT and LST payable should be converted into Rupiah using the exchange rate stipulated by the MoF (MoF rate) applicable at the time that the VAT Invoice (or equivalent document) was required to be made. This provision is applicable when the VAT Invoice is not made on time or when there is an amendment to a VAT Invoice, whereby the actual timing of making the VAT Invoice may differ from the time it was required to be made.

e) Financial administration for PKPs under VAT Centralisation arrangements

Under GR-44 a PKP under a VAT Centralisation arrangement must carry out the financial administration in the selected centralised locations on top of the sales administration.

f) Confirmation on the calculation deadline to issue a VAT invoice

If a PKP issues a VAT Invoice later than three months after the required date, then the VAT Invoice is not treated as valid and cannot be credited. GR-44 emphasises that the three-month deadline ends on the date following three months prior to the initial due date. That is if a VAT Invoice should have been made on 30 September, then the three months would be 29 December. If the VAT Invoice is made on 30 December or after, then the VAT Invoice is not treated as valid.

g) Documents equivalent to a VAT Invoice

The DGT can determine certain documents to be equivalent to a VAT Invoice. GR-44 confirms that the timing to issue these documents follows the timing to issue a VAT Invoice in general. This means that when the VAT is due may differ depending on the type of goods or services and the taxable event.

h) Definition of business expansion (*pemekaran usaha*)

Under the VAT Law, transfers in relation to certain corporate restructurings are not treated as taxable deliveries. In the previous GRs, a business expansion (*pemekaran usaha*) was given a specific definition without reference to the Company Law. GR-44 now defines a business expansion and the splitting of a business (*pemecahan usaha*) within the definition of a 'demerger (*pemisahan usaha*)' according to the Company Law.

Transitional provisions

Starting 2 December 2022, all implementing regulations to GR-1 as amended by GR-9 remain valid to the extent that they do not conflict with the provisions in GR-44.

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