



Implementing rules of
VAT facilities under
HPP Law ^{P1}

Input VAT crediting
mechanism ^{P5}

Implementing rules of VAT facilities under HPP Law

On 12 December 2022, the Government issued Regulation No.GR-49¹ to implement Article 16B of the Value Added Tax (VAT) Law as amended as part of the Harmonisation of Tax Regulations (*Harmonisasi Peraturan Perpajakan/HPP*) Law². The HPP Law made changes to the status of several “non-VATable” objects. This included shifting some goods and services from the negative list under Article 4A of the VAT Law (which are not subject to VAT) to those now granted VAT facilities under Article 16B under the HPP Law (which can be in the form of a VAT exemption or a VAT “not-collected” status).

GR-49 operates to consolidate all the VAT facilities previously governed under several regulations. Most of the goods and services governed under GR-49 originate from these previous regulations and continue with the same VAT facilities. There are however some additions shifted from the negative list and some new items. In addition, some goods are moved from PMK-198³.

In summary GR-49 revokes the following regulations:

- a) GR No.146 Year 2000 (GR-146) as lastly amended by GR No.38 Year 2003 (GR-38) on the Import and/or delivery of certain VATable goods and services that are exempted from VAT;
- b) GR No.81 Year 2015 (GR-81) as lastly amended by GR No.48 Year 2020 (GR-48) on the Import and/or delivery of strategic goods and services that are exempted from VAT;
- c) GR No.40 Year 2015 (GR-40) as lastly amended by GR No.58 Year 2021 (GR-58) on the Delivery of clean water that is exempted from VAT; and
- d) GR No.50 Year 2019 (GR-50) on the Import and/or delivery of certain means of transportation and the delivery and/or the use of related services upon which VAT is not collected.

However, all the relevant implementing regulations remain valid to the extent that they do not contradict GR-49.

¹ Government Regulation No.49 Year 2022 (GR-49) dated and effective from 12 December 2022

² Law No.7 Year 2021 dated and effective from 29 October 2021

³ Minister of Finance (MoF) Regulation No.198/PMK.010/2019 (PMK-198) which serves as the seventh amendment of MoF Regulation No.231/KMK.03/2001 on the import of VATable goods that are exempted from Import Duty upon which VAT and Luxury Goods Sales Tax (LST) is not collected

GR-49 classifies VAT facilities into five categories:

- a) the import and/or delivery of VATable goods and services that are exempted from VAT;
- b) the import and/or delivery of strategic goods that are exempted from VAT;
- c) the delivery of strategic services within the customs area and/or the use of strategic services from outside the customs area to within custom area that are exempted from VAT;
- d) the import and/or delivery of strategic goods, delivery of strategic services within custom area, and/or the use of strategic services from outside the custom area to within custom area, on which VAT is not collected; and
- e) the import of VATable goods that are exempted from Import Duty upon which VAT and LST is not collected.

A. Import and/or delivery of VATable goods and services that are exempted from VAT

Some of the goods and services under this category were moved from GR-38 (i.e. Polio vaccines, certain books, and construction services for places of worship). The rest are new supplies (i.e. COVID-19 vaccines, goods and services received by certain government bodies for national disaster relief). An Exemption Letter (*Surat Keterangan Bebas/SKB*) is not required to enjoy this facility.

B. Import and/or delivery of “strategic” goods that are exempted from VAT

Most of the goods under this category were moved from GR-48 (including machinery, electricity, factory equipment, cattle, etc.) along with certain goods moved as follows:

- a) from GR-38:
 - i. weapons, ammunitions, spare parts and other military equipment imported by or delivered through various government bodies, a State-Owned Entity, or the Indonesian National Army;
 - ii. public houses, student dormitories, etc. with limitations set by the MoF;
- b) from PMK-198 – being imported goods exempted from Import Duty in the form of:
 - i. goods for museums, zoos and similar public places as well as for nature conservation;
 - ii. goods imported by the government for public use;
 - iii. medicines imported using the State Budget;
 - iv. human therapy materials, blood grouping and tissue materials imported using the State Budget;
- c) the negative list under Article 4A of the VAT Law:
 - i. staple goods needed by the public such as rice, meat, eggs, etc.;
 - ii. mining and drilling products taken directly from source but not including coal;
- d) from GR-58 – clean water;
- e) Several new items being:
 - i. Presidential vehicles;
 - ii. consumption sugar;
 - iii. compressed natural gas.

For clean water, GR-49 now provides that the delivery of “refill” water (*air isi ulang*) cannot enjoy the exemption facility.

For mining products these were excluded from the negative list when the VAT Law was amended by the HPP Law and not explicitly listed under the amended Article 16B of the HPP Law (i.e. it appeared that mining products

were made VATable by the HPP Law). The GR now confirms that there will still be no VAT due on the delivery of these supplies. However, the status has changed from “not subject to VAT” to a “VAT exempt facility”.

It is worth noting that whilst the VAT outcome may be the same (i.e. no VAT is paid to the government) there may be different administrative procedures. For example, for goods which were previously subject to PMK-198 where VAT was not-collected, there may be different administrative procedures now that the facility is a VAT exemption. This change of administrative procedures may also be applicable for goods which were previously not subject to VAT under the negative list.

Some of the goods need an SKB to enjoy the facility whilst others do not. Please refer to GR-49 for the details on this.

C. Delivery of strategic services within the Customs Area and/or the use of strategic services from outside the Customs Area to within the Customs Area that are exempted from VAT

Under this category, most of the services are moved from those which were excluded from the negative list by the HPP Law. There were 11 services excluded from the previous VAT Law but only seven (i.e. medical, financial, insurance, educational, social, public transportation, and labour services) were explicitly listed in the new Article 16B under the HPP Law. This GR now confirms that the remaining four types of services (i.e. non-advertisement broadcasting, postal, public phone, and money transfers by postal service) are now in this category.

In addition, two services were moved from GR-38 as follows:

- a) rental of public flats and housing;
- b) services received by the Defence Ministry or the Indonesian National Army for certain purposes.

GR-49 also provides examples of services that can enjoy the public transportation by reason of having a “foreign” route exemption. This includes domestic air transport services where this is an integral part of a foreign transport service (i.e. where issued as one ticket for both domestic and international routes).

D. Import and/or delivery of strategic goods, delivery of strategic services within the Customs Area and/or the use of strategic services from outside the Customs Area to within the Customs Area, on which VAT is not collected

Under this category, most VATable goods/services are moved from GR-50 (all items). In addition, gold bars, other than for the government’s reserves, are included in this category. As with the mining category under point B above, this category of gold bars was excluded from the previous negative list without explicitly being moved to the new Article 16B under the HPP Law.

E. Import of VATable goods exempted from Import Duty on which VAT and LST is not collected

Certain VATable goods with an Import Duty exemption facility can also enjoy a VAT and LST not-collected facility under PMK-198. All of the goods previously governed under this PMK are moved into this category. This is except for the items listed in point B above, and for goods imported by foreign country representatives, international organisations, or their officials.

The non-collection of VAT for this category is granted without using a Certificate of Non-Collection (*Surat Keterangan Tidak Dipungut*).

F. Input VAT credit

Input VAT in relation to the domestic delivery of VATable goods/services with a VAT exemption facility (i.e. under point A, B, and C above) cannot be credited by the seller. The Input VAT in relation to the domestic delivery of VATable goods/services with a VAT not-collected facility (i.e. under point D) can be credited by the seller.

G. Transitional provisions

GR-49 stipulates that the facility under the GR is applicable retroactively from 1 April 2022. For transactions which occurred from 1 April 2022 to 11 December 2022 with a VAT exemption or not-collected status and where the VAT is already collected or paid then the following will apply:

- a) For sellers:
 - i. the VAT collected must still be paid to the State Treasury;
 - ii. the Input VAT relating to domestic deliveries which should have enjoyed the VAT exemption facility cannot be credited. The Input VAT relating to domestic deliveries which should have enjoyed VAT not-collected can however be credited.
- b) For buyers (e.g. importers, recipients of services, etc.):
 - i. if the buyer is a VATable Entrepreneur (*Pengusaha Kena Pajak/ PKP*) the Input VAT can be credited;
 - ii. if the buyer is a non-PKP the VAT paid is considered as tax that should not be payable (and perhaps refundable).

GR-49 stipulates that if within four years from the import or acquisition of goods falling under points B and D above being granted with VAT facilities the taxpayer conduct either of the following then the taxpayer must pay the exempted or not-collected VAT:

- a) where the goods are not utilised in accordance with the initial purpose stated when importing/acquiring the goods;
- b) the goods are transferred to other party, either in part or in whole.

Exceptions apply for the following transfers:

- a) from a headquarters to a branch (and vice versa), and for inter-branch deliveries;
- b) for transfers of ships/vessels by companies in the field of national shipping, fisheries, ports, or for vessels to be replaced with a vessel of the same type with a larger size or capacity; or
- c) by State Owned Enterprises for the purpose of paid-up capital in substitute of shares otherwise required through a business structuring.

Further provisions related to procedures will be issued by an MoF Regulation.

Lastly, any VAT Exemption or VAT/LST Non-Collection facility regulated in this GR can be reviewed and may be changed in the consideration of economic conditions and their impact on State Revenues.

Input VAT crediting mechanism

On 12 December 2022, the MoF issued PMK-186⁴ to replace the MoF regulations⁵ which govern the crediting of Input VAT for a PKP who makes VATable and non-VATable deliveries.

PMK-186 categorises deliveries to align with the changes under the HPP Law as follows:

- a) a VATable delivery where Input VAT is creditable;
- b) a VATable delivery where Input VAT is not creditable;
- c) a Non-VATable delivery.

The example calculation in the attachment incorporates a new category of delivery under point b) above being a delivery under the "Final" VAT regime where the delivery is VATable whilst the Input VAT is not creditable. However, there are no changes in the crediting rules. This include the formula to calculate creditable Input VAT when the PKP makes VATable and non-VATable deliveries and where the Input VAT related to the VATable delivery cannot be determined with certainty.

⁴ MoF Regulation No.186/PMK.03/2022 (PMK-186) dated and effective from 12 December 2022

⁵ MoF Regulation No.78/PMK.03/2010, as lastly amended by MoF Regulation No.135/PMK.011/2014

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



@PwC_Indonesia

If you would like to be removed from this mailing list, please reply and write UNSUBSCRIBE in the subject line, or send an email to id_contactus@pwc.com.

DISCLAIMER: This content is for general information purposes only and should not be used as a substitute for consultation with professional advisors.

© 2022 PT Prima Wahana Caraka. All rights reserved. PwC refers to the Indonesian member firm, and may sometimes refer to the PwC network. Each member firm is a separate legal entity. Please see www.pwc.com/structure for further details.

