

Parliament passes the  
New Job Creation Law<sup>P1</sup>

VAT on the delivery of  
foreclosed assets by a  
creditor to a buyer<sup>P1</sup>

## Parliament passes the New Job Creation Law

Under Constitutional Court Decision No.91/PUU-XVIII/2020 dated 3 November 2021, the Government was required to revise Law-11<sup>1</sup> (the original Job Creation Law) within two years. The revision was to correct Constitutional Issues associated with Omnibus Laws per se which were dealt with via Law-13<sup>2</sup>.

In addition, the government issued Perppu-2<sup>3</sup> dated 30 December 2022 as a revision to the original Job Creation Law. This passed into Law-6<sup>4</sup> and was officially released on 31 March 2023.

Law-6 revokes Law-11 and makes certain changes to the content in the previous Law-11. This means that Law-6 operates to amend the other existing tax laws which were last amended by the Harmonisation of Tax Regulations (*Harmonisasi Peraturan Perpajakan*) Law.

For the taxation component of Law-6 there are however no substantial changes. In addition, the implementing regulations to the previous Law-11 continue to prevail to the extent that they do not contradict with Law-6 which, as indicated there are no substantial/policy changes.

## VAT on the delivery of foreclosed assets by a creditor to a buyer

The Minister of Finance (MoF) issued PMK-41<sup>5</sup> to implement GR-44<sup>6</sup> in relation to the imposition of Value Added Tax (VAT) on the delivery of foreclosed assets by a creditor to a buyer. PMK-41 will be effective on 1 May 2023.

Under GR-44, the delivery of foreclosed assets by a creditor to a buyer falls under the delivery of rights to taxable goods under an agreement. PMK-41 further defines foreclosed assets as assets taken over by creditors for credit settlement, financing based on sharia principles, or loans based on pawning arrangement.

<sup>1</sup> Law No.11 Year 2020 (Law-11) dated and effective from 2 November 2020

<sup>2</sup> Law No.13 Year 2022 (Law-13) dated and effective from 16 June 2022

<sup>3</sup> Government Regulation in lieu of Law No.2 Year 2022 (Perppu-2) dated and effective from 30 December 2022

<sup>4</sup> Law No.6 Year 2023 (Law-6) dated on 31 March 2023

<sup>5</sup> MoF Regulation No.41 Year 2023 (PMK-41) dated on 13 April 2023 and effective from 1 May 2023

<sup>6</sup> Government Regulation No.44 Year 2022 (GR-44) dated and effective from 2 December 2022

Under PMK-41, the delivery of foreclosed assets is subject to a VAT rate set a specified amount (i.e. via the “Final VAT regime” mechanism). The Final VAT payable on the delivery of foreclosed assets is collected, remitted, and reported by the creditor. The Final VAT is collected when the creditor receives payment from the buyer. The Final VAT rate is set at 1.1% of the tax base (i.e. of the selling price of foreclosed assets).

Creditors who are VATable Entrepreneurs (*Pengusaha Kena Pajak/ PKP*) are required to issue a VAT Invoice for the delivery of foreclosed assets. However, Commercial Invoices or similar documents can be treated as equal to a VAT Invoice where they contain the following information:

- a) the number and date of the document;
- b) the creditor's name and tax identification number (*Nomor Pokok Wajib Pajak/ NPWP*);
- c) the debtor's name and NPWP/residential identification number (*Nomor Induk Kependudukan/ NIK*);
- d) the buyer's name and NPWP/NIK;
- e) a description of the goods – specifically for land/buildings, which must be filled in with the complete address of the land/buildings;
- f) the tax base; and
- g) the VAT amount collected.

A VAT Invoice is not issued upon the takeover of foreclosed assets by a creditor from a debtor.

As with other Final VAT regime situations, the Input VAT on the acquisition of taxable goods/services in relation to the delivery of foreclosed assets cannot be credited by the creditor. However, buyers who are PKPs can credit the VAT on the purchase of the foreclosed assets.

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