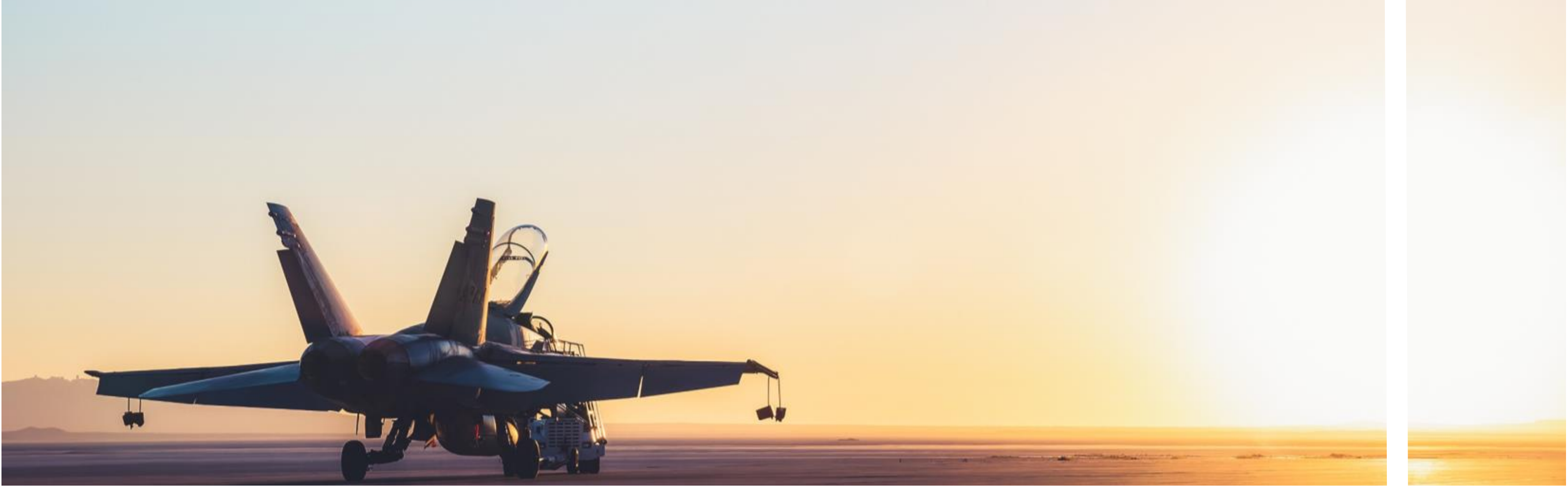

TaxFlash

Tax Indonesia / January 2024 / No. 03

Implementing rules of VAT exemption facilities for state defence/security needs

Following the issuance of Government Regulation (**"**GR**"**) No.GR-49[1] regarding the implementation of Article 16B of the Value Added Tax (VAT) Law, which is amended as part of the HPP Law[2], the Minister of Finance (**"**MoF") issued regulation No.PMK-157[3] regarding procedures for VAT exemption on the import or delivery of certain strategic taxable goods/services for state defence/security needs**,** which has been incorporated into GR-49. Please refer to [TaxFlash No.24/2022] for more details about this.

The facilities for this type of transaction were previously governed under GR-38[4] and KMK-370[5]. On top of outlining the facilities from GR-49, PMK-157 provide the following updates to the administrative procedures:

1. **Definition of certain goods**
   PMK-157 provides the definition for several eligible goods that were previously not specifically defined, such as the definitions of weapons, ammunitions, radar, etc.
2. **List of eligible goods**
   PMK-157 provides a more detailed list of the specification of eligible goods under the classifications of weapons, ammunition, bulletproof helmets/ jackets/vests, special land vehicles, radar, and their spare parts, including their respective Harmonised System (HS) Code.
3. **Scope of State-Owned Enterprises**
   The VAT exemption facility is available for certain components or materials that are imported or purchased by State-Owned Enterprises (SOEs) who are engaged in the national defence industry. PMK-157 defines SOEs as a business entity (either a company or a limited liability company (*Perseroan Terbatas/PT*)) in which more than 50% of its share capital is owned through direct or indirect participation by the government or a business entity (either a

[1] GR 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 regarding Harmonisation of Tax Regulations (*Harmonisasi Peraturan Perpajakan/HPP*)
[3] MoF Regulation No.157 Year 2023 (PMK-157) dated 28 December 2023 and effective from 1 January 2024. PMK-157 revokes KMK-370.
[4] GR No.38 Year 2003 (GR-38) dated and effective from 14 July 2003
[5] MoF Decree No.370/KMK.03/2003 (KMK-370) dated 21 August 2003 and effective from 14 July 2003

company or a PT) in which the government owns shares with special rights as stipulated in its articles of association.

4. **Procedures of Tax Exemption Letter**
   PMK-157 stipulates who will be the relevant applicant for the Tax Exemption Letter (*Surat Keterangan Bebas/SKB*) to apply the VAT Exemption for each eligible transaction. This PMK also stipulates the SKB processes (i.e. application, rejection, replacement, and cancellation) in detail, including the required information/documents to be submitted for each condition. The SKB processes are conducted electronically unless the electronic system is not available, in which case they will be done manually.

5. **Additional exclusion if goods are not utilised in accordance with the initial purpose, or the goods are transferred to other parties**
   GR-49 stipulates a four-year period where the goods enjoying the facility must be utilised in accordance with the initial purpose and must not be transferred to another party. Failure to fulfil this requirement will render the facility to be revoked. However, GR-49 provides an exception to the transfer prohibition. This exception is applicable for a transfer by an appointed SOE engaged in the national defence industry to:
   - ministries or government agencies that carry out government affairs in the field of defence or state security;
   - non-ministerial government agencies that have duties and functions in the field of prevention and eradication of abuse and illicit trafficking of narcotics, psychotropic substances and precursors and other addictive substances**,** except addictive substances for tobacco and alcohol.

6. **Breach of implementation**
   If there is a breach of the provisions stipulated in this PMK, taxpayers need to pay a sanction, in addition to the VAT payable. PMK-157 further stipulates the taxable events for each condition.

Income Tax and VAT treatment for taxpayers under certain gross turnover threshold

The MoF issued regulation No.PMK-164[6] regarding the Income Tax and VAT treatment for taxpayers**,** whose annual gross turnover is up to IDR 4.8 billion ("small taxpayer").

The income tax treatment and the criteria of taxpayers that can use this Final Tax regime are largely the same as the existing rule. The update is mainly to accommodate a change in the legal basis and new rules under GR-55[7] and the HPP Law, i.e. the non-taxability of the annual gross turnover of IDR 500 million for individuals with certain gross turnover, which are subject to final tax. In addition, PMK-164 also added Village-Owned Enterprises (*Badan Usaha Milik Desa/BUMD*) or Joint Village-Owned Enterprises (*Badan Usaha Milik Desa Bersama/BUMDB*) under the eligible corporate taxpayer for this tax treatment.

The key highlights of the VAT treatment are set out below.

Requirement to be appointed as a PKP

PMK-164 stipulates the requirements to be appointed as a VATable Entrepreneur (*Pengusaha Kena Pajak/PKP*) surrounding this small taxpayer.

---

[6] MoF Regulation No.164 Year 2023 (PMK-164) dated and effective from 29 December 2023 and revokes MoF Regulation No.197/PMK.03/2013 on the Limitation on Small Entrepreneur for VAT and MoF Regulation No.99/PMK.03/2018 on the implementation of GR No.23 Year 2018 regarding the Income Tax on income from taxpayers having certain gross turnover
[7] GR No.55 Year 2022 (GR-55) dated and effective from 20 December 2022

In principle, a taxpayer is obliged to report their business to be appointed as a PKP if their gross income exceeds IDR 4.8 billion ("threshold limit") in a Fiscal Year (FY). The determination as PKP can be conducted through the submission of an application or by *ex-officio*.

This PMK introduce new provisions related to VAT reporting obligations in relation to small taxpayers whose annual gross turnover exceed the threshold limit, as follows:

1) If the annual gross turnover exceeds the threshold limit in a FY:
   - The small taxpayer has to report their business and submit an application to be appointed as PKP no later than the end of that FY.
   - Based on this application, the tax office will appoint the taxpayer as a PKP.
   - The obligation to collect, remit and report VAT/Luxury-goods Sales Tax (LST) will start from the first tax period of the following FY.

2) If the small taxpayer in point (1) reports his business after the end of the FY or being appointed as a PKP *ex-officio*:
   - The obligation to collect, remit, and report VAT/LST starts from the tax period where the taxpayer is appointed as a PKP.
   - However, VAT/LST is still due from the first tax period following the FY where the annual gross turnover exceeds the threshold limit. The settlement of the VAT/LST due from the first tax period up until the taxpayer is appointed as a PKP is carried out by submitting a VAT Return.
   - The Director General of Taxes is authorised to issue a Tax Assessment Letter (*Surat Ketetapan Pajak*) or Tax Collection Letter (*Surat Tagihan Pajak*) if the requirements above are not fulfilled.

3) If the small taxpayer in point (1) wishes to be appointed as PKP prior to the first tax period following the FY where the annual gross turnover exceeds the threshold limit:
   - They need to submit an application before the end of that FY to be appointed as PKP and state the desired tax period to start collecting, remitting, and reporting VAT/LST.
   - Based on this application, the tax office will appoint the taxpayer as a PKP.
   - They should collect, remit, and report VAT/LST starting from the desired tax period as stated in the PKP appointment letter.

PMK-164 also incorporate the general rule that a small taxpayer may choose to be appointed as a PKP even though their annual gross turnover does not exceed the threshold limit.

Several examples regarding the time of commencement for the PKP's obligation to collect, remit, and report VAT/LST are provided in the attachment to this PMK.

Transitional provisions

PMK-164 provides the following transitional provisions:
1. For small taxpayers whose annual gross turnover has exceeded the threshold limit in the month prior to the enactment of PMK-164 but has not been appointed as a PKP, their VAT reporting obligations are carried out in accordance with the provisions in PMK-164.
2. Elaboration on the income tax obligations for BUMD/BUMDB.

Your PwC Indonesia Contacts:

Abdullah Azis
abdullah.azis@pwc.com

Adi Poernomo
adi.poernomo-c@pwc.com

Adi Pratikto
adi.pratikto@pwc.com

Adrian Hanif
adrian.hanif@pwc.com

Alexander Lukito
alexander.lukito@pwc.com

Ali Widodo
ali.widodo@pwc.com

Andrias Hendrik
andrias.hendrik@pwc.com

Anton Manik
anton.a.manik@pwc.com

Antonius Sanyojaya
antonius.sanyojaya@pwc.com

Avinash Rao
a.rao@pwc.com

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

Brian Arnold
brian.arnold@pwc.com

Dexter Pagayonan
dexter.pagayonan@pwc.com

Enna Budiman
enna.budiman@pwc.com

Esa Perdana
esa.perdana@pwc.com

Gadis Nurhidayah
gadis.nurhidayah@pwc.com

Gerardus Mahendra
gerardus.mahendra@pwc.com

Hasan Chandra
hasan.chandra@pwc.com

Hendra Lie
hendra.lie@pwc.com

Hyang Augustiana
hyang.augustiana@pwc.com

Irene Satyanagara
irene.satyanagara@pwc.com

Kianwei Chong
kianwei.chong@pwc.com

Lukman Budiman
lukman.budiman@pwc.com

Made Natawidnyana
made.natawidnyana@pwc.com

Mardianto
mardianto.mardianto-c@pwc.com

Margie Margaret
margie.margaret@pwc.com

Marlina Kamal
marlina.kamal@pwc.com

Nicholas Sugito
nicholas.sugito@pwc.com

Nikolas Handradjid
nikolas.handradjid@pwc.com

Novie Mulyono
novie.mulyono@pwc.com

Oki Octabiyanto
oki.octabiyanto@pwc.com

Omar Abdulkadir
omar.abdulkadir@pwc.com

Otto Sumaryoto
otto.sumaryoto@pwc.com

Peter Hohtoulas
peter.hohtoulas@pwc.com

Raemon Utama
raemon.utama@pwc.com

Runi Tusita
runi.tusita@pwc.com

Ryuji Sugawara
ryuji.sugawara@pwc.com

Sujadi Lee
sujadi.lee@pwc.com

Sukma Alam
sukma.alam-c@pwc.com

Surendro Supriyadi
surendro.supriyadi-c@pwc.com

Susetiyo Putranto
susetiyo.putranto@pwc.com

Sutrisno Ali
sutrisno.ali-c@pwc.com

Suyanti Halim
suyanti.halim@pwc.com

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

Turino Suyatman
turino.suyatman@pwc.com

William Christopher
william.christopher@pwc.com

Yessy Anggraini
yessy.anggraini@pwc.com

Yuliana Kurniadjaja
yuliana.kurniadjaja@pwc.com

Yunita Wahadaniah
yunita.wahadaniah@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**.