

# ***TaxFlash***



## ***Filing of Annual Income Tax Returns***

On 5 December 2012, the Director General of Tax (DGT) issued Regulation No.PER-26/PJ/2012 (PER-26) as a new administrative regulation in relation to the submission/filing and processing of Annual Income Tax Returns (AITRs) (for individuals and corporate entities). PER-26 revokes the previous DGT Regulation No.PER-48/PJ/2011.

Following the issue of PER-26, the DGT also issued Circular Letter No.SE-55/PJ/2012 (SE-55) that provides technical guidance for processing AITRs. Both PER-26 and SE-55 will be effective from 1 January 2013. Highlights of the regulations are listed below.

### Highlights:

1. Taxpayers may file an AITR through the following methods:
  - a) directly to a Tax Service Office (TSO), either a TSO where the taxpayer is registered or any other TSO reachable by the taxpayer;
  - b) via the post office by registered mail addressed to the TSO where the taxpayer is registered;
  - c) by courier service addressed to the TSO where the taxpayer is registered;
  - d) by use of the e-Filing system through the Directorate General of Tax website or a dedicated Application Service Provider.
2. In the following cases AITRs must be submitted directly to the TSO where the taxpayer is registered:
  - a) where the AITR shows an overpayment position;
  - b) where the AITR is an amendment;
  - c) where the AITR is late; and/or
  - d) where the AITR in e-SPT format.
3. An AITR is considered incomplete if, among other things, the filed printed version is not completed with the e-SPT digital data or the content of the printed AITR is different to the e-SPT digital data.
3. Details of the transfer pricing methodologies applied to set/test the price of the company's related party transactions and the rationale for the selection of these methodologies (noting that the acceptable transfer pricing methodologies are the Comparable Uncontrolled Price, Resale Price Method, Cost Plus Method, Profit Split Method and the Transactional Net Margin Method); and
4. Disclosures regarding what transfer pricing documentation the company has prepared to demonstrate that its related party transactions adhere to the arm's length principle. This includes disclosures on whether documentation covering the following has been prepared:
  - a) the company's business profile, functions and ownership structure;
  - b) the types of transactions with related parties and an analysis of any similar transactions with independent parties;
  - c) an analysis of the comparability factors ("comparability analysis");
  - d) the selection of an arm's length transfer pricing method (or methods) and the rationale for why the method(s) was selected; and
  - e) the analysis applied to the selected transfer pricing method to test whether the transactions are arm's length including third party comparable data/benchmarking.

Based on the above, AITRs should be submitted directly to the TSO where the taxpayer is registered if the taxpayer is using the e-SPT system and to mitigate the risk of rejection of the AITR.

### **Reminder of related party disclosure attached to Corporate Income Tax Return**

As readers will be aware, the filing of a company's 2012 annual Corporate Income Tax Return (CITR) for the financial year ended 31 December 2012 is due by 30 April 2013. The CITR form will require completion of the related party disclosure attachment.

The attachment requires disclosure on whether the company has documentation which demonstrates that transactions with related parties comply with the arm's length principle. The disclosures include:

1. Details of the related parties that the company transacted with;
2. Details of the nature and value of the company's related party transactions;

Preparation of formal transfer pricing documentation is mandatory for the following related party transactions:

1. those which are cross-border and with a value of more than IDR 10 billion per annum (approximately USD 1.1 million) per counter-party; and
2. those within Indonesia where there is an opportunity to utilise different tax rates (e.g. transactions with a company that is subject to final tax) and again with a value of more than IDR 10 billion per annum per counter party.

With such comprehensive disclosure obligations, companies need to commence planning and prepare early in order to ensure appropriate documentation disclosures can be made. This is especially true if the company has not previously prepared any transfer pricing documentation.

Even though the transfer pricing documentation is required to be submitted only upon request during a tax audit, preparation of a formal transfer pricing documentation in a timely manner is critical for companies in the following situations:

1. those who are expecting to report a tax overpayment and therefore expect to request a tax refund;
2. those that have related party transactions which must be supported with formal transfer pricing documentation (as outlined above); and
3. those that have received a transfer pricing assessment in past years.

Our experience is that the tax office is moving towards the systematic targeting of taxpayers for transfer pricing audits. Not responding appropriately in the disclosure attachment would increase a taxpayer's risk of audit. Preparation of documentation that supports the arm's length nature of a company's related party transactions is generally an effective mechanism by which to manage transfer pricing risk during audits.

Please contact either your regular PwC contact or any of the individuals mentioned at the back of this publication if you need assistance on any aspects of your transfer pricing arrangements.

## ***Amendment of the tax deductible provision expense regulation***

The Ministry of Finance (MoF) issued Regulation No.PMK-219/PMK.011/2012 (PMK-219) on 21 December 2012 to amend Regulation No.PMK-81/PMK.03/2009 regarding the establishment or accumulation of a provision that can be deductible. PMK-219 is applicable starting fiscal year 2012.

The main changes in PMK-219 are to add three institutions that are entitled to claim deductible provisions, namely:

1. Lembaga Pembiayaan Ekspor Indonesia
2. Infrastructure financing companies
3. PT Perusahaan Pengelola Aset

There are three additional articles to provide guidelines on how to calculate deductible provisions for these three institutions. The calculation method is similar to the banking, i.e., using a different percentage for each receivable's collectability. As some of these institutions do not have a collectability category for their receivables, this may raise a practical issue on how the collectability categories will be defined.

## ***New Value Added Tax regulations***

### **A. Natural gas not subject to Value Added Tax**

The MoF has issued Regulation No.252/PMK.011/2012 (PMK-252) dated 28 December 2012 stipulating types of natural gas that are not subject to Value Added Tax (VAT). These include natural gas transported through pipelines, Liquefied Natural Gas (LNG) and Compressed Natural Gas (CNG). PMK-252 also confirms that Liquefied Petroleum Gas (LPG) in cylinders is taxable.

PMK-252 could have an impact on un-integrated LNG plants, where the companies can now only expense their Input VAT. It is not clear what will happen if the companies are VAT-able entrepreneurs and have previously obtained VAT refunds. Further clarification may need to be obtained from the tax office regarding this matter.

### **B. Timing of issuing VAT invoices on goods with certain characteristics**

The MoF has issued Regulation No.238/PMK.03/2012 (PMK-238) that stipulates the timing for issuing VAT invoices on the delivery of taxable goods with certain characteristics. PMK-238 is dated 26 December 2012 and will come into effect 30 days after the enactment of the regulation (i.e., 25 January 2013).

What is determined as taxable goods with certain characteristics are taxable goods that fulfil the following criteria:

1. the sales price of the taxable goods fluctuate to alongside the standard price applicable either in the domestic or international market;
2. the quality or valuable content of the taxable goods may change due to weather conditions that normally occur during shipment from seller to buyer and not because of damage, negligence or natural disaster; and/or
3. the quantity of the taxable goods may change due to weather conditions that normally occur during shipment from seller to buyer and not because of damage, negligence or natural disaster.

Mining products that contain minerals and chemical products are included as taxable goods with these certain characteristics.

A VAT invoice on the delivery of this type of good shall be issued at the latest when income from sale can be reliably measured. However, the VAT invoice shall be issued upon the receipt of payment in the case where payment is received within the above timeline.

This timing of issuing VAT invoices shall be applicable if the sales agreement stipulates:

1. that the title of taxable goods is transferred to the buyer after delivery from the seller's site; and
2. a clause regarding an amendment of the invoice amount due to change in sales price, quality and/or quantity of the products that lead to adjustment in the final commercial invoice.

A detailed example of the timing for issuing VAT invoices in regard to the delivery of taxable goods with certain characteristics is attached in PMK-238.

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