

NEW FISCAL RELAXATION FOR PHARMACEUTICAL, UPSTREAM OIL & GAS AND TOURISM SECTORS



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ABOUT DDTC Newsletter

Published every two weeks, DDTC Newsletter provides a summary of key tax law changes, both the current modifications and changes in taxation regulations, particularly those pertaining to domestic policies.

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Pharmaceutical Wholesaler, Distributors of Medical Devices, and State-Owned Enterprises Subsidiary Can Speed Up the Tax Refund

The government has added the list of groups of enterprises that can utilize the speed-up tax refund facility. This addition is provided in Minister of Finance Regulation No. 117/PMK.03/2019 ([MoF Reg No. 117/2019](#)). Stipulated and effective as of 19 August 2019, this regulation changes several provisions that were listed in MoF Regulation No. 39/PMK.03/2018 concerning The Procedure of Preliminary Return for Tax Overpayment ([MoF Reg No. 39/2018](#)).

In such regulation, there are three additional categories of VAT Enterprise (*Pengusaha Kena Pajak*/PKP) that are listed as low-risk PKP. With this status, these groups get preliminary return (speed-up refund) for VAT overpayment in every tax period.

The scope of low-risk PKP is as follows: first, pharmaceutical wholesaler (*pedagang besar farmasi*/PBF); second, distributors of medical devices; and third, enterprises that are owned by State-Owned enterprises (*Badan Usaha Milik Negara*/BUMN) by more than 50% of ownership and have their financial statement consolidated with the parent using the general applicable accounting principle.

PBF allowed to utilize this facility should hold pharmaceutical distributor certificate or PBF license and certificate of good distribution practice for pharmaceutical products. Accordingly, distributors of medical devices should hold certificate of medical devices distribution or medical device distributor license and certificate of good distribution practice for medical devices.

This policy's purpose is to support National Health Insurance (*Jaminan Kesehatan Nasional*/JKN) program and cash liquidity of taxpayers who conduct transactions with VAT collector through preliminary return for VAT overpayment.

Regulation on VAT Reimbursement for Upstream Oil and Gas is Revised

The government has revised the regulation on the procedure of VAT and Sales Tax on Luxury Goods (STLG) reimbursement and for the acquisition of taxable goods and/or services to the contractors of upstream oil and gas activities.

The revision is conducted through the stipulation of MoF Regulation No. 119/PMK.02/2019 ([MoF Reg No.119/2019](#)). This regulation is stipulated and effective as of 16 August 2019 and automatically revokes [MoF Reg No. 218/PMK.02/2014](#) and [MoF Reg No. 158/PMK.02/2016](#).

In this regulation, the government explains that there are two factors considered. The first one refers to Article 90 (b) of Government Regulation No. 23/2015 concerning Joint Management on Natural Resources of Oil and Gas in Aceh.

The regulation provides the timing of formation of Badan Pengelola Migas Aceh (BPMA), rights, obligations and implications arisen from cooperation contract agreement of oil and gas profit sharing between Executive Work Unit of Oil and Gas Upstream Activity and Contractor of Cooperation Contract located in Aceh transferred to BPMA.

Second, it is necessary to adjust the country's part that are able to be utilized for VAT and STLG reimbursement settlement. The adjustment is conducted according to the arrangement in the Cooperation Agreement.

In relation to this, the government adds one provision in Article 3, which says the government would regulate the scheme if the arrangement concerning the rights of contractor in obtaining VAT and STLG reimbursement are differently regulated to the Cooperation Agreement. If so, the VAT and/or STLG reimbursement would be performed according to Cooperation Agreement.

The obtainment of reimbursement right can be proposed by the contractor after the payment is deposited to the government account. This payment is in the form of first tranche petroleum (FTP) deposit and equity to be split from contractor, as regulated in Cooperation Agreement. This provision is indifferent to the former regulation.

Similar to previous provision, the amount of reimbursement proposals does not exceed the number of the country's part that has been deposited. If the Cooperation Agreement regulates that the reimbursement using country's part does not include FTP, the maximum amount of the reimbursement would not exceed the equity value.

As an additional information, FTP refers to certain amount of crude oil and/or natural gas that are produced from a region within one calendar year that can be transferred to Special Working Unit (*Satuan Kerja Khusus*/SKK) Oil and Gas or BPMA and/or contractor for each calendar year. This is calculated prior being deducted by operational and own-use production costs.

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Meanwhile, equity denotes the production yields that are available to be shared between SKK Oil and Gas or BPMA and contractor after being deducted by FTP, investment incentive (if available) and operational cost reimbursement.

With the enactment of [MoF Reg No.119/2019](#), the processing of reimbursement proposal is conducted by BPMA for cooperation agreement of which the region of oil and gas activities is located within BPMA authority. Additionally, BPMA will process the reimbursement proposal for cooperation agreements signed by contractor with BPMA.

Beyond this scope, the reimbursement requests proposed by contractor of which oil and gas activities are within the region the BPMA authority – with such proposal has been posted to Directorate General of Budget prior the enactment of this regulation – will be processed according to [MoF Reg No.119/2019](#).

The Relaxation of VAT Refund Provision to Increase Foreign Tourist Spending

The provision regarding the relaxation of VAT return for foreign tourists who have visited Indonesia has been officially released. This is regulated in [MoF Regulation No. 120/PMK.03/2019](#) concerning Procedures for Submitting and Completing the Requests for Returning Value-Added Taxes of Personal Goods Owned by Foreign Passport Holders ([MoF Reg No. 120/2019](#)).

In the regulation that promulgated on 23 August 2019 and will be implemented effectively per 1 October 2019 the minimum value of VAT that can be refunded by foreign tourists is still IDR500,000. It means that the spending for individual should reach at least IDR5 million.

The main distinguishing factor of this new policy is that the value of VAT as of IDR500,000 could come from a combination of several special VAT invoices (*Faktur Pajak Khusus/FPK*) with the timeframe of a month before the departure. Thus, the request of refund itself can be submitted with various FPKs from different retail stores and on different transactional dates.

One of the government's considerations of this tax relaxation provision is to attract foreign passport holders (tourists) to visit Indonesia and encourage the domestic economy through increasing the participation in the retail business sector.

In addition, MoF Regulation No. 120/2019 is objected to provide legal certainty and to improve the quality of services in the implementation of provision on the

procedure for filing and completing requests for VAT return for personal goods carried by individual passport holder from abroad.

Presently, there are five locations for foreign tourists in order to request the VAT return. Those points of return are at Kualanamu Airport (Medan), Soekarno-Hatta Airport (Jakarta/Tangerang), Adisucipto Airport (Yogyakarta), Juanda Airport (Surabaya) and Ngurah Rai Airport (Denpasar).

Upstream Oil and Gas Business Obtains Fiscal Incentives

The government has again provided fiscal facilities for the activities of exploration and exploitation carried out by upstream oil and gas for production sharing contracts. This is regulated through MoF Regulation No. 122/PMK.03/2019 ([MoF Reg No. 122/2019](#)). There are several fiscal reliefs in the regulation that will take effect 30 days after 27 August 2019.

First, in the form of non-collected VAT or non-collected VAT and STLG. This facility is provided for the acquisition of certain taxable objects and/or certain taxable services, the utilization of certain intangible taxable objects, and the utilization of certain taxable services in the exploration and exploitation stages.

Second, the tax deduction of 100% from the owed oil and gas land and building tax (*PBB Migas*) as contained in the Tax Due Notification Letter. This facility is provided both for exploration and exploitation stages.

Moreover, for the contractors at the exploitation stage who cannot achieve the internal rate of return and have working areas with certain criteria such as located in the deep sea or intended for developing the unconventional field also have chances for similar tax facility. However, they are only provided the 100% tax deduction of *PBB Migas* for earth's body which is located under the earth surface.

Third, the exemption of withholding income tax. This facility is provided for the cost charging of operation in the form of shared facilities (cost sharing) by the contractor in the context of utilizing state-owned goods in the upstream oil and gas sector. In addition, the submission of taxable services from this operational activity is also not subject to VAT.

Fourth, the expenditure of indirect cost allocation from the contractor's headquarter would not be considered as the object of withholding income tax and the object of VAT collection if the expenditure meets the criteria listed in this regulation.

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As information, this provided facility is an implementing regulation of [Government Regulation No. 27 of 2017](#) concerning refundable operating costs and the treatment of income tax for upstream oil and gas sector.

Holder of Mineral and Coal Contract of Work May Conduct Bookkeeping in Foreign Language

To provide legal certainty to taxpayers who conduct business in the field of mineral and coal mining, the government has released MoF Regulation No. 123/PMK.03/2019 ([MoF Reg No. 123/2019](#)). This regulation, which was stipulated on 27 August 2019, adds the list of taxpayers who can use bookkeeping in English and currency unit of US dollars.

The taxpayers refer to those in the coal contract of work (*Perjanjian Kerjasama/Karya Pengusahaan Pertambangan Batubara/PPKP2B*), Contract of Work (CoW) and PKP2B whose contract is extended and turned into a Special Mining Business Licence (*Izin Usaha Pertambangan Khusus/IUPK*).

In this regulation, taxpayers in the CoW operating based on contract/agreement with government in accordance with statutory provisions in the field of mineral and coal mining may use English and US Dollar currency in their bookkeeping.

In addition, there are seven other groups of taxpayers who can conduct bookkeeping in foreign language and other currencies aside from Rupiah. These seven groups have not been changed from the provisions in the previous regulation.

First, taxpayers of foreign capital investment. *Second*, taxpayers who are contractors with cooperation contract (*kontraktor kontrak kerjasama/KKKS*) in the field of oil and gas. *Third*, permanent establishment (*Badan Usaha Tetap/BUT*). *Fourth*, taxpayers who enrol their shares issuance partially or wholly in foreign stock exchanges.

Fifth, the collective investment contract (*kontrak investasi kolektif/KIK*) that issues mutual funds denominated in US dollars and obtained a Letter of Effective Notification of Registration Statement (*Surat Pemberitahuan Efektif Pernyataan Pendaftaran*) from an independent institution appropriate with the provisions concerning Financial Services Authority.

Sixth, taxpayers who are subsidiary companies owned and/or controlled by an affiliated overseas parent company. *Seventh*, taxpayers who present financial statement in their functional currency use unit of US dollars in accordance with financial accounting standards in force in Indonesia.

This regulation is the third changes of MoF Regulation No. 196/PMK.03/2017 ([MoF Reg No. 196/2007](#)) and it has started to take effect since its enactment date.

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