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DDTC
Sets the Standards and Beyond

CHANGES IN THE TAXATION PROVISIONS OF INTERNATIONAL TRADE AND DIGITAL ECONOMY



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DDTC is a research and knowledge based taxation institution and a center of a number of taxation activities units with high standards that serve as main references in the field of taxation.

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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.

Contents

- **Changes in Customs Provisions in the Export Sector**
- **Import Duty Policy for Import Products: the Government's Protection for Domestic Industries**
- **AEoI as the Spearhead of 2019 Government Revenue**
- **Efforts to Increase the Competitiveness of Service Export through VAT Policies**
- **The Latest Regulation of Taxation on E-Commerce Annulled**

Changes in Customs Provisions in the Export Sector

Indonesia's export procedure in terms of customs was initially regulated in 2007, namely through Minister of Finance Regulation (MoF Regulation) Number 145/PMK.04/2007 (MoF Regulation No. 145/2007) concerning the Customs Provisions in the Export Sector. This regulation was later amended by MoF Regulation Number 148/PMK.04/2011 (MoF Regulation No. 148/2011). Furthermore, in order to improve the accuracy of export data and supervision on exports of shipments using freight forwarding services, the regulation was later changed to MoF Regulation Number 145/PMK.04/2014 (MoF Regulation No. 145/2014).

Moreover, in 2019, changes were made once again over the regulation in order to increase exports and to improve the supervision of exported goods. The custom provisions in the export sector are now regulated by MoF Regulation Number 21/PMK.04/2019 concerning the Third Amendment to MoF Regulation Number 145/PMK.04/2007 concerning the Customs Provisions in the Export Sector (MoF Regulation No. 21/2019).

One of the fundamental changes in exports customs pertains to the export customs declaration (*pemberitahuan pabean ekspor*). In general, the export customs declaration shall be submitted by the Exporter or his proxy to the loading Customs Office no later than before the goods enter the customs area at the loading place. However, there are specific provisions for the deadline for export customs declaration for exports of bulk goods.

Prior to the issuance of MoF Regulation No. 21/2019 in March 2019, the export customs declaration for the export of bulk goods could be carried out before the departure of the means of transport. However, the new regulation stipulates that the provisions of export customs declaration that is to be submitted prior to the departure of the means of transport also apply for the export of Complete Built Up motor vehicles without containers. Table 1 summarizes the main technical changes in export customs based on MoF Regulation No. 21/2019.

Import Duty Policy for Import Products: the Government's Protection for Domestic Industries

As a form of the government's protection for domestic industries, the government has issued two new policies related to antidumping import duties (*Bea Masuk Antidumping*/BMAD). The two BMAD regulations impose an 'extra' rate on the import duty of goods. The regulations were published on 18 March 2019 with a validity period of up to the next five years.

The recently issued two regulations are Minister of Finance Regulation (MoF Regulation) Number 24/PMK.010/2019 concerning the Imposition of Anti Dumping Import Duty on the Import of Products of H Section and I Section from the People's Republic of China (MoF Regulation No. 24/2019) and MoF Regulation Number 25/PMK.010/2019 concerning the Imposition of Anti-Dumping Import Duty on the Import of Flat-rolled Products of Iron or Non-alloy Steel from the People's Republic of China, India, Russia, Kazakhstan, Belarus, Taiwan, and Thailand (MoF Regulation No. 25/2019).

Previously, BMAD for these two types of products has been stipulated through MoF Regulation Number 242/PMK.010/2015 (MoF Regulation No. 242/2015) for I Section and H Section products and MoF Regulation Number 169/PMK.011/2013 (MoF Regulation No. 169/2013) for flat-rolled products of iron or non-alloy steel. However, the validity period of the previous BMAD, both MoF Regulation No. 242/2015 and MoF Regulation No. 169/2013, ended in December 2018.

The MoF Regulation No. 24/2019 itself was issued due to the findings of the Indonesian Anti-Dumping Committee's investigation (*Komite Anti Dumping Indonesia*/KADI) that practices of dumping are still found on H Section and I Section products imported from the People's Republic of China. Therefore, the government decided to re-enact BMAD starting 14 days as of 19 March 2019. Table 2 shows some points of comparison between MoF Regulation No. 24/2019 and the previous MoF Regulation (MoF Regulation No. 242/2015).

Furthermore, there is no change of MoF Regulation No. 169/2013 in terms of the imports tariff of flat-rolled products of iron or non-alloy steels from seven countries subject to BMAD. The sole change in the new MoF Regulation is the HS Code imposed with BMAD for these products. Table 3 shows the change in the HS Code subject to BMAD based on MoF Regulation No. 25/2019.

1 The previous regulations are MoF Regulation No. 145/2007, MoF Regulation No. 148/2011, and MoF Regulation No. 145/2014.

2 The current governing regulation is MoF Regulation No. 214/PMK.04/2008 of 2008 concerning the Collection of Export Duties.

Table 1 – Changes of Customs Provisions in the Export Sector Based on MoF Regulation No. 21/2019 Compared to Previous Regulations[1]

No	Area of Changes	Previous MoF Regulations	MoF Regulation No. 21/2019
1	The export customs declaration is to be submitted no later than the departure of the means of transport.	Only applied for the exports of bulk goods.	Applieds for the exports of bulk goods and Complete Built Up motor vehicles without containers.
2	Criteria for physical examination of exported goods.	Six criteria.	Seven criteria.
3	The phrase of criteria for physical examination of exported goods with fiscal facilities.	Exported goods of which the import was intended to be processed, assembled, or installed on other goods by obtaining exemption or drawback facilities.	Exported goods with Import Tax Waiver for Materials for Export Oriented Goods (Kemudahan Impor Tujuan Ekspor/KITE), namely KITE exemption, KITE drawbacks; and/or KITE for small and medium industries.
4	Additional criteria for the physical examination of exported goods.	-	Physical examination can be conducted for exported goods that are recommended from relevant ministries/institutions along with consideration of the Directorate General of Customs and Excise (Direktorat Jenderal Bea dan Cukai/DGCE) or for exported goods based on the recommendations from the DGT's internal units which are stipulated by the Director General of Customs and Excise on behalf of the Minister of Finance.
5	Screening process for the physical examination.	1. Based on the results of the DGCE's risk management assessment.	1. Based on the results of the DGCE's risk management assessment; or 2. Based on the legislation stipulating the collection of Export Duties.[2]
6	Export reconciliation process.[3]	Carried out by the computer system and/or customs and excise officials.	Carried out by the computer system.
7	The deadline of the reporting of export cancellation.	Within three (3) working days since: 1. the departure of the means of transport listed in the customs declaration.	Within three (3) working days since: 1. the departure of the means of transport listed in the customs declaration; or 2. the estimated date of the export if the departure of the means of transport is canceled.

AEoI as the Spearhead of 2019 Government Revenue

The Directorate General of Taxes (DGT) has gained access to the financial information of Indonesian citizens in 94 jurisdictions this year. The data is obtained in the context of Automatic Exchange of Information/AEoI) in order to increase tax revenue.

The list of jurisdictions is stipulated in the Announcement of DGT No. PENG-04/PJ/2019 concerning the List of Participating Jurisdictions and Reportable Jurisdictions for the Purpose of Automatic Exchange of Financial Account Information signed on 25 March 2019.

In addition to 94 participating jurisdictions that are to send information to the Indonesian authorities, this announcement also contains a list of 81 jurisdictions that are to obtain information concerning their citizens who have accounts in Indonesia. The number of jurisdictions has increased from last year, a total of 66 participating jurisdictions and 54 reportable jurisdictions.

Based on MoF Regulation Number 19/PMK.03/2018 concerning the Second Amendment to MoF Regulation Number 70/PMK.03/2017 concerning the Technical Guidance on Access to Financial Information for Tax Purposes (MoF Regulation No. 19/2018), a participating jurisdiction is a foreign jurisdiction legally bound with the Indonesian Government under international agreement which is obliged to deliver financial information on an

3 Reconciliation is the process of matching several data elements between the export customs registered documents and the customs declaration of the departure of the means of transport.

Table 2 – The Comparison of BMAD Provisions for H Section and I Section Products

No	Comparison	MoF Regulation No. 242/2015	MoF Regulation No. 24/2019
1	BMAD rate.	11.93%	11.93%
2	HS Code[4] of H Section products imposed with BMAD.	7216.33.00.00	7216.33.11 and 7216.33.19
3	HS Code of I Section products imposed with BMAD.	7216.32.00.00	7216.32.10 and 7216.32.90.

Table 3 – The Comparison of HS Code Subject to BMAD for Flat-rolled Products from Iron or Non-Alloy Steel

No	Comparison	MoF Regulation No. 242/2015	MoF Regulation No. 24/2019
1	Flat-rolled Products of Iron or Non-alloy Steel HS Code.	7208.10.00.00; 7208.25.00.00; 7208.26.00.00; 7208.27.10.00; 7208.27.90.00; 7208.36.00.00; 7208.37.00.00; 7208.38.00.00; 7208.39.00.00; and ex. 7208.90.00.00.	7208.10.00; 7208.25.00; 7208.26.00; 7208.27.11; 7208.27.19; 7208.27.91; 7208.27.99; 7208.36.00; 7208.37.00; 7208.38.00; 7208.39.10; 7208.39.90; ex.7208.90.10; ex.7208.90.20; and ex.7208.90.90.

automatic basis. Meanwhile, a reportable jurisdiction is participating jurisdiction which is the destination for the Indonesian government to carry out the obligation to deliver financial information on an automatic basis.The new list contains eight jurisdictions that are also included on the EU tax haven blacklist. Such jurisdictions are obliged to provide financial information to the Indonesian authorities. Those jurisdictions are Samoa, Aruba, Barbados, Belize, Bermuda, Marshall Islands, United Arab Emirates, and Vanuatu. Of these eight countries, reciprocal exchanges only apply to Samoa, Aruba, Barbados, Belize, and Vanuatu. Thus, Indonesia is not obliged to supply financial information of citizens of Bermuda, Marshall Islands, and the United Arab Emirates residing in Indonesia.[4]

4 Harmonized System (HS)

Efforts to Increase the Competitiveness of Service Export through VAT Policies

The government has officially extended the imposition of 0% on Value-Added Tax (VAT) on service exports. This is regulated in MoF Regulation No. 32/PMK.010/2019 concerning the Limitations of Activities and Types of Taxable Services of which the Exports are Subject to VAT (MoF Regulation No. 32/2019). This regulation was signed by the Minister of Finance, Sri Mulyani Indrawati and promulgated on 29 March 2019. The regulation was issued with the intention to improve the economic growth by encouraging service exports and increasing the competitiveness of the national service industry.

The types of Taxable Services (*Jasa Kena Pajak*/JKP) subject to 0% rate were previously regulated by MoF Regulation Number 70/PMK.03/2010 concerning the Limitations of Activities and Types of Taxable Services of which the Exports are Subject to VAT (MoF Regulation No. 70/2010) as amended by the MoF Regulation Number 30/PMK.03/2011 concerning the Amendments to the MoF Regulation Number 70/PMK.03/2010 concerning theLimitations on Taxable Activities and Service Types of which Exports are Subject to VAT (MoF Regulation No. 30/2011).

Based on the previous regulation, only three types of taxable services were subject to a 0% rate, namely tolling manufacturing services, repair and maintenance services of movable property, and construction services. In addition to the three types of services, the supply of taxable services outside the customs area (VAT territorial scope) was regulated through the Director General of Taxes Circular Number SE-49/PJ/2011 concerning the Submission of MoF Regulation Number 30/PMK.03/2011 concerning the Amendments to MoF Regulation Number 70/PMK.03/2010 concerning the Limitations on Taxable Activities and Service Types of which Exports are Subject to VAT.

Under the latest regulation, the government divides services (service activities) which are subject to 0% VAT in three categories. ***First,*** activities with respect to movable property utilized outside the customs area. ***Second,*** activities with respect to immovable property outside the customs area.

Third, other activities of which results are supplied to be utilized outside of the customs area by direct/indirect supply (including through post and electronic channels) or in the form of providing rights of access outside the customs area. Further information regarding the type of taxable services subject to a 0% rate is indicated in Table 4.

Ideally, all exports of taxable services should be subject

Table 4 – Types of Taxable Services Subject to a 0% Rate Based on MoF Regulation No. 32/2019

No	Categories of Taxable Services	Subcategories of Taxable Services
1	Activities with respect to movable property which utilization is outside the customs area.	1. Tolling manufacturing services; 2. Repair and maintenance services; and 3. Freight forwarding services pertaining to goods for export.
2	Activities with respect to immovable property outside the customs area.	Construction services which include the assessment, planning, and design of construction related to buildings or building plans outside the customs area.
3	Service activities of which the results are supplied to be utilized outside of the customs area.	1. Technology and information services, including a. computer system analysis services; b. computer system design services; c. computer system and/or websites creation services using programming languages; d. IT security services; e. contact center services; f. technical support services; g. cloud computing and web hosting services; and h. content creation services using information technology support. 2. Research and development services; 3. Rental services of transportation equipment in the form of aircraft and/or ships rentals for international flights or shipping activities 4. Consulting services: a. business and management consulting services; b. legal consulting services; c. architectural and interior design consulting services, d. human resource consulting services; e. engineering services; f. marketing services g. accounting or bookkeeping services; h. financial statement audit services; and i. tax services; 5. services in the form of services of finding sellers of goods in the customs area for export purposes; and 6. interconnection, satellite operations, and/or communication/data connectivity services: a. interconnection services for international calls and/or messages carried out briefly by domestic telecommunication operators to foreign telecommunication operators; b. satellite transmitter and responder (transponder) services carried out by domestic satellite providers to recipients of services abroad, insofar as the earth station used by the service recipient is outside the customs area c. satellite control services carried out by the state for the satellite of foreign satellite operators, insofar as the controlling earth station used by the domestic satellite operators is within the customs area; and/or d. global internet connection services through public or private networks conducted by domestic network providers to recipients of services abroad.

to a 0% VAT rate in order to retain VAT neutrality and country competitiveness. In fact, the majority of countries have implemented such policy. The limitation of types of taxable service exports which subject to 0% VAT rate as in the case of Indonesia may result problems in the context of international trade. Furthermore, this existing condition can also lead to the absence of principle of neutrality and destination principle for the implementation of VAT in Indonesia.[5]

MoF Regulation No. 32/2019 has put forward the principle of the destination principle with the phrase "... utilized outside the customs area..." concerning the types of taxable services. The destination principle itself is a cross-jurisdiction taxation scheme in which goods and/or services will be taxed where the goods and/or services are utilized. Based on this scheme, exported products will be subject to 0% VAT while imported products will be subject to VAT with the same rate as domestic product sales. This is a strong indicator of the government's efforts to improve the competitiveness of service exports in Indonesia through taxation policies.

5 Darussalam, "Menyoal Kebijakan PPN atas Ekspor Jasa di Indonesia,"*Perspektif DDTCNews* (25 Juni 2018). Internet, can be accessed at: https://news.ddtc.co.id/menyoal-kebijakan-ppn-atas-ekspor-jasa-di-indonesia-12964.

CHANGES IN THE TAXATION PROVISIONS OF INTERNATIONAL TRADE AND DIGITAL ECONOMY

The Latest Regulation of Taxation on E-Commerce Annulled

The government's efforts to conduct tax extensification through the issuance of taxation provisions on e-commerce was annulled after the Press Release of DGT was published on 29 March 2019.[6] The latest provisions regarding the taxation of e-commerce regulated through MoF Regulation Number 210/PMK.010/2018 concerning the Taxation on Trade Transactions through Electronic Systems (E-Commerce) (MoF Regulation No. 210/2018) was supposed to come into effect as of 1 April 2019.

One of the reasons beyond the government's decision is the obscurity and vagueness concerning the e-commerce taxes. This new rule is wrongly perceived as imposing new types and rates of taxes for e-commerce players whereas this MoF Regulation is actually arranged to emphasize that there is no difference in the field of taxation between online and conventional business transactions. Hence, this regulation will guarantee the equality of a level playing field.

The tax liabilities regulated by this MoF Regulation are the same types of taxes also applied to businesses that are run conventionally, namely Income Tax (*Pajak Penghasilan*/PPh), Value Added Tax (*Pajak Pertambahan Nilai*/PPN), and customs and excise in accordance with prevailing regulations.[7] However, due to concerns that this regulation would be unproductive because of the public misconception, the government has decided to implement more comprehensive coordination and synchronization between ministries/agencies.

More intensive aspects of socialization and communication with all stakeholders also underlie the annulment of this MoF Regulation in which the association is the key player. The Indonesian government still awaits the results of a survey from the Indonesian E-Commerce Association (IdEA) regarding the market share of Indonesia's digital economy scheduled to be completed by the end of this year. In the foreseeable future, the government hopes that there will be no misconception or resistance from business player in terms of the tax provisions for digital activities.

6 The Ministry of Finance of the Republic of Indonesia, *"Tarik PMK e-Commerce, Menkeu Tegaskan Komitmen Dorong Ekosistem Ekonomi Digital," Press Release* (29 March 2019), Internet, can be accessed at: https://www.kemenkeu.go.id/publikasi/siaran-pers/siaran-pers-tarik-pmk-e-commerce-menkeu-tegaskan-komitmen-dorong-ekosistem-ekonomi-digital/.

7 Hence, the taxation provisions on e-commerce transactions still refer to the Director General of Taxes Circular Number SE-62/PJ/2013 concerning the Affirmation of Taxation Provisions on E-Commerce Transactions and SE-06/PJ/2015 concerning the Withholding of Income Tax on E-Commerce Transactions.

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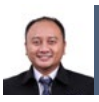
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For further information and advice related to taxation, please contact:


David Hamzah Damian, S.Sos., ADIT., BKP
Partner of Tax Compliance & Litigation Services
david@ddtc.co.id


Romi Irawan S.E., M.B.A., LL.M Int. Tax
Partner of Transfer Pricing Services
romi@ddtc.co.id


B. Bawono Kristiaji, S.E., M.S.E., M.Sc. IBT., ADIT
Partner of Tax Research & Training Services
kristiaji@ddtc.co.id


Yusuf Wangko Ngantung, LL.B., LL.M Int. Tax., ADIT
Senior Manager of International Tax / Transfer Pricing Services
yusuf@ddtc.co.id


Ganda Christian Tobing, S.Sos., LL.M. Int. Tax
Senior Manager of Tax Compliance & Litigation Services
christian@ddtc.co.id


Khisi Armaya Dhora, S.I.A., BKP
Manager of Tax Research & Training Services
khisi@ddtc.co.id

MENARA DDTC

Jl. Raya Boulevard Barat Blok XC 5-6 No. B
Kelapa Gading Barat, Kelapa Gading
Jakarta Utara 14240 - Indonesia

Phone: +6221 2938 2700, Fax: +6221 2938 2699

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