KPMG

Tax News Flash

December 2016

New Amendment to Procedures for PSC VAT Reimbursements

In our March 2015 Tax News Flash ("TNF"), in relation to Ministry of Finance Decree No. 218/PMK.02/2014 ("PMK 218"), we discussed the procedures for VAT reimbursements to production sharing contractors under upstream oil and gas activities.

In response to objections from the industry and to accommodate Production Sharing Contracts ("PSCs") which specifically address VAT reimbursement, on 25 October 2016, the Government issued an amendment to PMK 218, with the issuance MoF Decree No. 158/PMK.02/2016 ("PMK 158").

The major points in PMK 158 are:

a. The Government Share is no longer to exclude the Government's entitlement to First Tranche Petroleum ("FTP"). This means that any PSC contractor whose contract includes a FTP provision and is in the production stage, but with no equity to be split yet, should be able to obtain VAT reimbursement. However the maximum amount of VAT reimbursement is as much as the Government Shares.

b. Input VAT from LNG expenses cannot be credited, unless it is provided for in the PSC contractual terms and/or other regulations.

KPMG Comments:

It is encouraging that the Government has accommodated concerns raised by the industry regarding FTP; however, there are some important issues that remain outstanding:

- Tax Office involvement in the issuance of Tax Clearance Certificates; and

- Timing of reimbursements supposed to be settled within 60 days under PSC contractual terms.

As we all understand, VAT reimbursement is not a tax related issue – it is a contractual matter agreed to by the PSC parties. Therefore, the Government must ensure the right of contractors to receive reimbursement of their paid VAT within the time provided for under their PSC contractual terms.

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