

Tax News Flash

April 2022



Changes on the Withholding Taxes of Construction Services

Government Regulation No. 9 year 2022 ("PP-9/2022") dated 21 February 2022 was issued as the second amendment to the Government Regulation No. 51 year 2008 ("PP-51/2008") pertaining the Taxation on Income from Construction Services.

Payments for construction services made post the release of PP-9/2022 are subject to the provisions of PP-9/2022. This is regardless the respective contract was signed and/or the services were delivered prior to the release of PP-9/2022. The implementing regulation(s) of PP-51/2008 are still valid as long as they are not conflicting with the provisions of PP-9/2022.

The Ministry of Finance shall re-evaluate the taxation of construction services within three years after the release of PP-9/2022.

The taxation of construction services under PP-9/2022 and PP-51/2008

The following is the summary of the taxation of construction services under PP-9/2022 and the previous treatment under PP-51/2008.

Type of construction service	Business classification of the contractor					PP-9/2022	PP-51/2008 ^(iv)
	Corporate with small business qualification	Individual with work competency certificate	Corporate with no business qualification	Individual with no work competency	Corporate with large or medium business qualification or specialist	Tax rate ^(iv)	Tax rate ^(v)
Construction consulting ⁽ⁱ⁾	√	√				3.50%	4.00%
			√	√		6.00%	6.00%
Construction work ⁽ⁱⁱ⁾	√	√				1.75%	2.00%
			√	√		4.00%	4.00%
					√	2.65%	3.00%
Integrated construction work ⁽ⁱⁱⁱ⁾	√	N/A		N/A	√	2.65%	Refer to the taxation of construction work
		N/A	√	N/A		4.00%	

Note:

- Construction consultation includes assessment, planning, design, inspection, and management of construction work.
- Construction work includes the construction, operation, maintenance, dismantling, and re-construction.
- Integrated construction is the mixture of the construction consultation and construction work (e.g., EPC contract).
- While the tax treatment is generally the same (except for the integrated construction work), PP-9/2022 specifically differentiates the category of corporate with small business qualification from individual with work competency certificate. This differentiation was not clear in PP-51/2008.
- The tax rate applies on the gross service fee amount (including the associated foreign exchange). Foreign construction service provider operates through a Permanent Establishment in Indonesia is subject to additional Branch Profit Tax in accordance with the prevailing tax regulations or tax treaty, if applicable.

PP-9/2022 added one service type category (i.e., integrated construction work to be in line with the construction service categories regulated under Law No. 2 Year 2017 which was dated and effective starting from 12 January 2017). PP-51/2008 did not have this type of service category. Under PP-51/2008, the taxation of the integrated services was done by reference to the taxation of construction work.

Business qualification and work competency certificate (including for a branch of foreign construction services providers) refers to the qualification and certificate issued by:

- a. The certification body established by business association accredited by the Ministry of Public Works and Housing and registered under the Institution for the Development of Construction Services (*Lembaga Pengembangan Jasa Konstruksi/LPJK*)
- b. The certification body accredited by the Ministry of Energy and Mineral Resources
- c. The Ministry of Energy and Mineral Resources.

KPMG notes:

The issuance of PP-9/2022 is generally part of the tax reformation that the Government initiated to create a more conducive environment for inbound investment. Business taxpayers must diligently monitor the changes and updates of the tax regulatory (at least those relevant to the business) as to ensure good management of tax compliance and avoid extra tax costs resulting from the lack of knowledge in the changes and development of tax regulations.



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