

Tax News Flash

July 2022

Implementing regulations of VAT Laws regards several changes in the Omnibus Law

The Harmonization of Tax Regulations Law (Law No. 7 Year 2020, “UU-7/2020”), which was issued following the issuance of the Omnibus Law emphasizes the new and amended provisions of the VAT Laws that were first introduced in UU-7/2020. Ministry of Finance Regulation No. 18 Year 2021 was then issued as the implementing regulation, followed by fourteen Ministry of Finance regulations¹ (“PMKs”) that contain VAT treatments on several sectors. On the same day, 31 March 2022, Directorate General of Tax Regulation No. PER-03 Year 2022 (“PER-03/2022”) regards the administration of VAT invoices was also issued in alignment with UU-7/2022. Two PMKs on the tax treatment for trading of crypto assets and financial technology transactions became effective on 1 May 2022. The other PMKs are effective as of 1 April 2022.

The notable changes and key takeaways from the new implementing regulations of the VAT Laws are summarized below.

VAT on foreign e-commerce transactions

Ministry of Finance Regulation No. 60 Year 2022 (“PMK-60/2022”) provides more detailed guidance on the VAT mechanism and administration for e-commerce transactions, while staying basically in line with earlier guidance, i.e., Ministry of Finance Regulation No. 48 Year 2020 and Directorate of General of Tax Regulation No. 12 Year 2020.

Highlighted points:

- PMK-60/2022 confirms that the VAT rate applicable to e-commerce transactions follows the prevailing common VAT rate. This means it will also increase to 12 percent starting from 1 January 2025 (from the current rate of 11 percent).
- The following details of VAT-able transactions are now required to be included in the monthly reporting made by the e-commerce VAT collector:
 - (i) number and date of each VAT collection slip;
 - (ii) the VAT base;
 - (iii) the amount of VAT collected; and
 - (iv) the name and VAT ID of the Indonesian end customers (users) if stated in the VAT collection slip.The reporting of this additional information has not been accommodated in the existing DGT e-commerce reporting platform. Modification of the existing platform is expected to occur soon.

VAT on sales of certain liquefied petroleum gas, tobacco products, subsidized fertilizer for the agriculture sector (Other VAT base regime)

Of the fourteen new PMKs, three of them regard the “Other VAT” base for the delivery of certain VAT-able goods.

¹ Three of the fourteen PMKs regulate not only the VAT treatment, but also income tax treatments. They are:

(i) Ministry of Finance Regulation No. 58 Year 2022 pertaining to the appointment of electronic platform providers as tax collectors and administration of tax withholding, payment and reporting on the procurement of goods and/or services through the government procurement information system;

(ii) Ministry of Finance Regulation No. 68 Year 2022 pertaining to VAT and income tax treatments on the trading of crypto assets; and

(iii) Ministry of Finance Regulation No. 69 Year 2022 pertaining to income tax and VAT treatments on the provision of financial technology.

VAT object	Other VAT base									
<p>1. Sales of certain liquefied petroleum gas (“LPG”) products</p> <p>Sales of certain LPG products in the local market are subsidized by the government. VAT due on the subsidized portion (representing the transfer price from the common taxpayer to the state-owned oil & gas company, PT Pertamina (Persero) (“Pertamina”) as the sole appointed LPG distributor) is borne by the government. The VAT due on the non-subsidized portion is borne by the buyers.</p> <p>Based on PMK No. 62 Year 2022, VAT due on the non-subsidized portion is calculated by reference to the following VAT base:</p> <ul style="list-style-type: none"> – Tier 1 – Sales made by Pertamina to the appointed agent: $(100/100+t) \times$ retail price amount (net without VAT) – Tier 2 – Sales made by the agent to the terminal (e.g., jetty, quay): profit margin (the difference between agent sales price less retail price amount, net without VAT) – Tier 3 – Sales made by the terminal to the end customers: profit margin (the difference between terminal sales price less agent sales price, net without VAT). <p>Input VAT at Tier 1 is creditable under the common Output VAT-Input VAT credit mechanism. Input VAT at Tier 2 and Tier 3 is not creditable.</p>	<ul style="list-style-type: none"> – Retail price amount^{*)} – Profit margin^{*)} – Profit margin^{*)} <p>^{*) Excludes VAT}</p>									
<p>2. Sales of tobacco products</p> <p>PMK No. 63 Year 2022 was issued to clarify the VAT rate applicable on the sales of tobacco products (previously regulated under PMK No. 174 year 2015 and its amendment) – which follows the prevailing VAT rate.</p> <p>The Other VAT base for the sales of tobacco products is the retail price amount (excluding VAT).</p> <p>Considering the prevailing VAT rate, the effective VAT rate applicable for the sales of tobacco products by the producer/importer to the buyer is 9.9 percent (applicable on the retail price amount including VAT), which will increase to 10.7 percent (on the gross retail price amount (including VAT) as of 1 January 2025).</p> <p>The creditability of Input VAT remains the same in that if it is incurred by the producer/importer, it is creditable. If it occurs by the distributor (or at any stage after that) then the input VAT is non-creditable. This is because VAT is only due one time on the sales of tobacco products by the producer/importer, while sales of tobacco products by the distributor to the agent, retailer, etc. are not subject to VAT.</p>	<ul style="list-style-type: none"> – Retail price amount (excludes VAT) 									
<p>3. Sales of subsidized fertilizer for the agriculture sector</p> <p>VAT due on the sale of subsidized fertilizer is borne by the government, while VAT due on the sale of non-subsidized fertilizer is borne by the buyer. Based on Ministry of Finance Regulation No. 66 Year 2022, the Other VAT base for the sales of subsidized and non-subsidized portions of fertilizer products for agriculture are calculated as follows:</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center;"><u>Subsidized portion:</u></td> <td></td> <td style="text-align: center;"><u>Non-subsidized portion:</u></td> </tr> <tr> <td style="text-align: center;">$\frac{100}{(100 + t)}$</td> <td style="text-align: center;">x</td> <td style="text-align: center;">$\frac{100}{(100 + t)}$</td> </tr> <tr> <td></td> <td style="text-align: center;">Sales price of the subsidized fertilizer</td> <td style="text-align: center;">x Retail sales price</td> </tr> </table> <p>The creditability of Input VAT remains the same – if it occurs by the producer, it is creditable. If it occurs by the distributor (or at any stage after that), it is non-creditable. This is because VAT is only due one time on the sales of subsidized fertilizer by the producer, while sales of subsidized fertilizer by the distributor to another distributor, retailer or farmer are not subject to VAT.</p>	<u>Subsidized portion:</u>		<u>Non-subsidized portion:</u>	$\frac{100}{(100 + t)}$	x	$\frac{100}{(100 + t)}$		Sales price of the subsidized fertilizer	x Retail sales price	<p>Sales price of the subsidized portion^{*)}</p> <p>Retail price^{*)}</p> <p>^{*) Excludes VAT}</p>
<u>Subsidized portion:</u>		<u>Non-subsidized portion:</u>								
$\frac{100}{(100 + t)}$	x	$\frac{100}{(100 + t)}$								
	Sales price of the subsidized fertilizer	x Retail sales price								

VAT on self-construction activity and sales of certain agricultural products, used motor vehicles and certain VAT-able services (final VAT regime)

The implementation of the final VAT regime is made with reference to Article 9A of UU-7/2020. The final VAT regime is not a new concept, as in the past it was regulated under the Other VAT base regime (except for (re)-insurance agents/brokerages) – whereby the VAT base is determined at a certain rate of the gross amount of the VAT-able sales of goods/services (i.e. the deemed VAT base). Therefore, the associated Input VAT is not creditable.

Application of the final VAT regime for certain sectors and the effective tax rate.

VAT object	Effective VAT rate*	
1. Self-construction activity	2.2%	PMK-61 Year 2022
2. Sales of certain agricultural products	1.1%	PMK-64 Year 2022
3. Sales of used motor vehicles	1.1%	PMK-65 Year 2022
4. Sales of:		PMK-67 Year 2022
– Insurance agency services	1.1%	
– (Re)-insurance brokerage services	2.2%	
5. Sales of certain VAT-able services		PMK-71 Year 2022
– Package delivery services	1.1%	
– Travel agency (including travel package)	1.1%	
– Religious travel services (including travel services to non-religious places):		
a. Religious travel portion – if the religious travel portion can be identified	0.55%	
b. Both religious and non-religious travel – if the religious travel portion cannot be identified	1.1%	
– Freight forwarding services	1.1%	
– Provision of certain services involving the use of vouchers, which are not based on commissions and with no margin:		
a. Marketing services involving the use of vouchers	1.1%	
b. Payment services relating to voucher distribution	1.1%	
c. Customer loyalty/reward programs	1.1%	
<i>Note:</i>		
*Calculated based on the current 11% VAT rate		

VAT-able and non-VAT-able goods and services subject to regional tax

Ministry of Finance Regulation No. 70 Year 2022 provides clarification of the sales of food and beverages, catering services, art and entertainment services, hotel services and parking services that are subject or not subject to VAT. In general, sales of food and beverages, catering services, art and entertainment services, hotel services and parking services are subject to VAT, unless they have been subjected to regional tax.

Important points for determining whether or not sales of food and beverages, catering services, art and entertainment services, hotel services and parking services are subject to VAT:

- Sales of food and beverages that are subject to VAT:
 - a. Sales of food and beverages by supermarkets which also sell products other than food and beverages
 - b. Sales of factory-made food and beverages by the producer
 - c. Sales of food and beverages that are served at an airport lounge.
- Catering services are subject to VAT unless they are provided in the following circumstances:
 - a. Procurement of materials, semi-finished goods, process, storage and serving is based on a customer's order

b. The service of the food and beverages is at a location instructed by the customer that is different from the location where the food and beverages are prepared and stored, and

c. The serving is done with or without tableware and the waitress.

– Art and entertainment services

There are twelve types of services that are included as non-VAT-able art & entertainment services, including art performances and exhibitions. Provision of golf facilities, i.e., areas and equipment, and provision of movie or other audio-visual streaming through the internet or electronic channels are not included.

– Hotel services

There are eleven hotel services that are included in the negative list of non-VAT-able services, including hotel, villa, guesthouse, resort, cottage and glamping. Excluded from the definition of hotel services that are not subject to VAT are:

- (i) space rentals that are not meant for a hotel related function, e.g., space used for ATM, banking representative office, pharmacy etc.;
- (ii) unit or space rental (including related facilities) in an apartment, condominium, etc.; and
- (iii) travel services provided by hotel management.

– Parking services

There are two parking services that are included in the negative list of non-VAT-able services. They are:

- (i) the provision of parking space; and
- (ii) parking valet services. Management of parking services is excluded from the definition of the provision of parking services, and hence is subject to VAT.

Tax administration on transactions with the government

PMK No. 58 Year 2022 and PMK No. 59 Year 2022 are two references for the implementation and administration of tax withholding and VAT on transactions with government entities, especially for transactions that are concluded through the government procurement information system (*Sistem Informasi Pengadaan Pemerintah*). These references provide guidance for the appointment of the electronic platform provider (“PPMSE”) as the VAT collector and administration of tax withholding, payment and tax reporting.

Trading of crypto assets

Crypto assets are defined as intangible property in the form of digital goods, using cryptography, peer-to-peer network and a distributed ledger to manage the creation of new units, verifying the transaction and securing the transaction without third party involvement.

VAT implications on the trading of crypto asset schemes (based on PMK No. 68 Year 2022²) are summarized in the following table.

VAT object	Seller	VAT due	VAT collector	Input VAT
1. Sales of crypto assets	Seller of crypto asset – If the seller is a crypto asset physical trader* – Other cases	– 0.11% of the transaction value**, excl. VAT – 0.22% of the transaction value**, excl. VAT	Seller, unless the transaction is concluded via an e-commerce platform, then the PPMSE is the VAT collector	Non-creditable
2. Provision of electronic trading platform	E-commerce entrepreneur who has registered as e-commerce VAT collector	11%*** of the fees/ commission (in any form) received**, excl. VAT	PPMSE	Creditable

²This regulation covers not only VAT implications regard the trading of crypto assets, but also income tax implications. This publication specifically focuses on the VAT aspect.

VAT object	Seller	VAT due	VAT collector	Input VAT
3.Provision of verification services of crypto asset transaction and/ or management services of crypto assets	Crypto asset miners (i.e., individuals/ companies engaged in such activities individually or in a group)	1.1%/1.2%*** of the transaction value**, excl. VAT	Miner (service provider)	Non-creditable
<p><i>Note:</i></p> <p>* The party whose appropriate license and authority to carry out crypto asset transactions for self use or to facilitate the trading of crypto assets.</p> <p>** If the transaction value is in another currency, the VAT base is the IDR converted amount of the transaction value based on the conversion rate issued by the Ministry of Finance for tax purposes.</p> <p>*** The VAT rate will increase to 12% starting from 1 January 2025.</p>				

Financial technology (fintech)

The provision of fintech services is also subject to VAT. Fintech services include payment settlement (e.g. e-money, e-wallet, fund transfer), peer-to-peer lending and digital financial support, among others (based on PMK No. 69 Year 2022).³

VAT in this regard is due at an 11 percent rate (the VAT rate will be 12 percent starting from 1 January 2025) on the gross compensation (in any form) received by the service provider.

VAT invoice and administration

The issuance of PER-03/2022 means to ensure alignment with the changes of the VAT Law post the Omnibus Law. It is basically a compilation of regulations related to VAT invoice administration, with a few additional clauses to clarify the existing guidance, e.g., disclosure of necessary information in VAT invoices. A new transaction code "05" is introduced for transactions that are subject to VAT under the final VAT regime.

Some of the critical changes are summarized below:

1. The address stated in the VAT invoice should be the actual address instead of the address stated in the VAT registration letter of the counterparty. Failure to state the actual address will lead to a 1 percent administrative sanction for the seller and result in an uncreditable Input VAT for the buyer.
2. VAT invoices should be uploaded into the VAT system at the latest on the 15th of the following month, otherwise it will not be considered as a "valid" VAT invoice.
3. The negative confirmation approach conducted in the tax audit process has been eliminated.

KPMG notes:

The issuance of the above-mentioned 15 regulations (14 PMKs and PER-03/2022) are within the framework of the Indonesia tax reform. We expect there are more changes to come to provide clarification and/or guidance needed for the implementation of the reformed VAT Law, for instance VAT on the sales of electricity.

³This regulation covers not only VAT implications on financial technology, but also income tax implications. This publication specifically focuses on the VAT aspect.

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