

# Tax News Flash

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## Certain Strategic Goods Purchases VAT Exemption - Update

Last year the Government issued Government Regulation GR No. 81 Year 2015 ("GR-81/2015"), regarding the import and/or delivery of certain taxable goods classified as strategic goods and exempt from VAT, which revoked GR-12/2001 and its amendment and became effective 8 January 2016.

To implement GR-81/2015, the Ministry of Finance ("MoF") has issued several regulations, one of which is MoF Regulation No. 268/PMK.03/2015 ("PMK-268/2015"), which revoked MoF Regulation No. 363/KMK.03/2002 and its amendment and provides the procedures for granting the VAT exemption facility on import and/or delivery of certain taxable goods classified as strategic goods and the procedures for repayment of the exempt-VAT and penalty

Below is a summary of this regulation:

### Strategic Goods Exempt from VAT

1. Machinery and factory equipment, excluding spare parts, installed or uninstalled, directly used by a company in producing its taxable (VAT-able) goods;
2. Goods resulting from business activities in the fields of maritime affairs and fisheries, both catching and aquaculture, as set out in an Appendix;
3. Raw hides and skins, which are not tanned;
4. Livestock, as specified by the MoF regulation;
5. Seeds and/or parent stocks of agricultural, plantation, forestry, animal husbandry and fishery products;
6. Animal feed, excluding pet food;
7. Fish feed;
8. Feed material for the manufacture of animal feed and fish feed, but not including feed additives and supplementary feed, as specified by the MoF regulation;
9. Raw material of silver in the form of silver granules and/or in the form of silver bars; and
10. Electricity, except for housing with power of above 6,600 (six thousand and six hundred) watt.



## Requirements and procedures

1. VAT Exemption Certificate:
  - a. VAT payable on purchasing qualifying machinery and/or factory equipment, either through import or local purchase, will only be exempted by obtaining an Exemption Certificate issued by the Directorate General of Tax before the purchase is made; and
  - b. No VAT Exemption Certificate is required for VAT exemption on purchasing the other strategic goods listed above.
2. If VAT on imported machinery and/or factory equipment has been collected or paid:
  - a. The VAT that has been collected must be remitted to the State Treasury; and
  - b. The VAT amount paid can be claimed as a tax credit by a VAT-able company (the purchaser or importer) or a refund can be requested if it was paid by a non-VAT-able company.
3. Input VAT on the purchase of other goods and/or services used to produce strategic goods is not creditable.
4. Transferring machinery and/or factory equipment which was exempt from VAT upon purchase:
  - a. Machinery and/or factory equipment acquired with the VAT exemption facility must be used for their intended purposes and cannot be transferred to other parties until 4 years after the year of import or acquisition.

If a transfer or unintended use occurs, the VAT payable that had been considered exempt must be paid within 1 month after the machinery and/or factory equipment are used for unintended purposes or transferred to other parties.

- b. The VAT that is paid on a transfer or unintended use is not creditable against VAT output.

### KPMG Comments:

This VAT exemption facility for purchasing strategic goods can be used to reduce cash out flows. However, obtaining an Exemption Certificate before making a purchase or import is required to avoid paying VAT upon making the investment and the time consuming process of obtaining a VAT refund.

Please note that under the old regulation GR-12/2001 the VAT exemption was granted to the import and/or local purchase of "capital goods, including machinery and factory equipment (excluding spare parts), installed or uninstalled, directly used by a company in producing its taxable goods". However, under GR-81/2015, the reference to "capital goods" has been removed.

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