

Very Luxurious Goods Subject to Withholding Tax - Updated

Back in 2008, the Minister of Finance issued Regulation No. 253/PMK.03/2008 ("PMK-253/2008") primarily regarding withholding tax requirements on selling goods classified as 'very-luxurious' goods.

Unlike the general concept of withholding tax, i.e., that the withholding tax agent is the buyer or user, under this regulation, the withholding tax agent is the seller.

Please note that the Withholding Tax Article 22 ("PPh Art. 22") withheld tax amount is a prepaid tax for both corporate and individuals buyers.

PMK-258/2008 was amended recently by Regulation No. 90/PMK.03/2015. Effective 5 May 2015, the following transactions are subject to a 5% PPh Art. 22 which is based on their selling price, **excluding**¹ both Value Added Tax and Sales Tax on Luxury Goods:

Very Luxurious Goods	Thresholds
Cruisers, yachts and the like	No threshold
Private aircraft and helicopters	No threshold
Houses and land	<ul style="list-style-type: none"> Selling/transfer price is above IDR 5 billion; or Building area is larger than 400 m²
Apartments, condominiums and the like	<ul style="list-style-type: none"> Selling/transfer price is above IDR 5 billion; or Total unit area is larger than 150 m²
4-wheel automobiles carrying less than 10 persons, i.e., sedans, jeeps, sport utility vehicles (SUVs), multi-purpose vehicles (MPVs), mini-buses and the like	<ul style="list-style-type: none"> Selling price is above IDR 2 billion; or Cylinder capacity is more than 3,000 cc
2 or 3-wheel motorcycles	<ul style="list-style-type: none"> Selling price is above IDR 300 million or Cylinder capacity is more than 250 cc

This PPh Art. 22 payable is imposed at the point of sale, i.e., upon the signing of a preliminary sale and purchase agreement (perjanjian pengikatan jual beli) for selling houses, apartments and condominiums and based on the accounting records of a corporate seller selling other very-luxurious goods listed above.

Applications to the Tax Office for exemption from these PPh Art. 22 obligations can be made by a potential buyer if it:

- is in a tax loss position,
- has available tax loss carryforwards,
- makes income tax payments during the year that would exceed its tax payable at year end,
- has income only subject to final tax, and/or
- is an individual taxpayer whose income is solely from employment income and income tax payable is deducted by his/her employer.

KPMG comments:

This PPh Art. 22 is a prepaid tax for the buyer, but please note that a claim for refund would be subject to tax audit prior to its refund.

Therefore, it is advisable to obtain a tax exemption letter from the Tax Office whenever possible.

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¹ Director General of Taxation Regulation No. PER - 24/ PJ/ 2015