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Tax & Customs Update

Free Trade Zone Regulation Tightened, Export Transaction Subject to Tax

The Government has revised the regulation related to the tax obligations arising from company's transactions of goods and service in Free Trade Zone (FTZ) by issuing Minister of Finance Regulation (*Peraturan Menteri Keuangan/PMK*) Number 171 Year 2017.

The regulation amended is PMK Number 62 Year 2012 on Procedure for Supervision, Administration, Payment, and Settlement of Value Added Tax (VAT) and/or Sales Tax on Luxury Goods upon Release and/or Transfer of Taxable Goods from the FTZ to Other Places Inside the Customs Area and Entry and/or Transfer of Taxable Goods and/or Services from Other Places Inside the Customs Area to the FTZ.

The FTZ is a trade zone and port outside the customs area. Thus, it is free from the imposition of customs duty, VAT, Sales Tax on Luxury Goods, and excise.

In general, the provision regarding transaction of taxable goods has not been amended significantly but only limited to the reinforcement. The amendment is made, among others, to the release of goods, the transfer of service by companies outside the FTZ to those inside the FTZ, as well as in relation to physical examination (endorsement).

Principally, all transfer of services and release of goods from the FTZ are subject to VAT. This condition applies except for the release of certain goods delivered via certain ports, in which the government exempts it from the VAT payment obligation.

One of the release of certain goods exempted from VAT is the release of taxable goods that are related to the company's business activities—which will re-enter the FTZ for a certain period—in the form of machine and/or equipment for the purpose of production or infrastructure project execution. The types of machine include: manufacturing machine, as well as the equipment as the inseparable part of the manufacturing machine.

In relation to the goods entering the FTZ, the government also makes some amendments. That is, among others, related to the terms and conditions of tax invoice preparation.

In PMK Number 62 Year 2012, it is explained that the goods entering the FTZ is not subject to tax, if it is completed with the documents that have been provided with endorsement from the authorized officials or staff of Directorate General of Taxes (DGT). Endorsement is a statement from DGT officials or staff, which is related to the entry of goods.

In the new provision, endorsement may be provided through electronic system or e-endorsement. This applies under the condition that the DGT has obtained electronic data to ensure that the goods

delivered have factually entered the FTZ. In case the DGT has not obtained the data, the endorsement may be made manually. Furthermore, if the endorsement request is rejected, the transaction is still subject to either VAT or Sales Tax on Luxury Goods.

The procedure for submitting endorsement request manually is as follows:

Requirements	<ul style="list-style-type: none"> • Photocopy of approval for release of goods (<i>Surat Persetujuan Pengeluaran Barang/SPPB</i>); • Photocopy of tax invoice; • Photocopy of Bill of Lading, Airway Bill, or Delivery Order; and • Photocopy of invoice.
Period	Documents are submitted to DGT officials/staff that are authorized to give endorsement in 7 (seven) working days at the latest, since the date of SPBB.
The request is rejected when	<ul style="list-style-type: none"> • Documents are not submitted; • The request is submitted in more than 7 (seven) working days; and • VAT-Registered Person applying for the endorsement does not provide or request written clarification to the DGT.

Physical Examination

In this new provision, physical examination may be performed upon every taxable good obtaining the exemption facility from VAT and Sales Tax on Luxury Goods when entering the FTZ. This provision is not regulated in the previous PMK.

The physical examination will be performed based on risk management, intelligence note in the field of taxation or intelligence note in the field of customs and excise. The physical examination will be performed in the period of 10 (ten) days after the DGT has conveyed the examination notice to the VAT-Registered Person.

The purpose of physical examination is to ensure that the goods entering the FTZ have complied with those stated in the document. If otherwise, or the goods are not similar, the VAT-Registered Person still has to pay VAT and Sales Tax on Luxury Goods.

Service Provision Affirmed

Every service received by the companies inside the FTZ from the companies outside the FTZ is subject to VAT. This includes when the service provision is conducted by the companies inside the Bonded Warehouse and special economic zone.

Previously, the service provision conducted by the companies outside the FTZ is subject to VAT only when the service provision is conducted outside the FTZ. Through this amendment, the government affirms that any transactions conducted either inside or outside the FTZ are still subject to VAT, as long as the service provision is conducted by the company outside the FTZ.

VAT exemption only applies upon transactions between companies inside the FTZ. In addition, VAT will not be collected if the service rendered is certain type of service regulated in separate PMK, even though the service is rendered by the companies outside the FTZ to the companies inside the FTZ.

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