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Tax Information Exchange Agreement with the Bahamas

Indonesia has ratified its Tax Information Exchange Agreements (TIEA) with the Bahamas through the issuing of Presidential Regulation No.29 Year 2019 on 9 May 2019. This TIEA will be effective after the exchange of ratification documents has been completed.

A TIEA is a bilateral agreement under which territories agree to co-operate on tax matters through an exchange of information process. Once effective, the TIEA with the Bahamas will be added to the list of TIEAs that Indonesia has already entered into. These are currently with Bermuda, Guernsey, the Isle of Man, Jersey, and San Marino.

Tax relaxation on luxury residences

To stimulate growth in the high-end property business, the Minister of Finance (MoF) has issued the following new tax regulations:

1. MoF Regulation No.86/PMK.010/2019 (PMK-86) dated 11 June 2019 as an amendment to MoF Regulation No.35/PMK.010/2017 (PMK-35) regarding the Luxury-goods Sales Tax (LST) on luxury goods other than motor vehicles; and
2. MoF Regulation No.92/PMK.03/2019 (PMK-92) dated 19 June 2019 as the second amendment to the MoF Regulation No.253/PMK.03/2008 (PMK-253) regarding Article 22 Income Tax on very luxury goods.

The key points from each regulation are outlined below.

LST on luxury residences

Luxury residences are subject to LST at 20%. PMK-86 has updated the minimum threshold for the imposition of LST on luxury residences as follows:

Luxury residences	Old	New
Houses and town houses with non-strata title	Selling price ≥ IDR 20 bn	Selling price ≥ IDR 30 bn (disregarding the type of title)
Apartments, condominiums, town houses with strata title, and the like	Selling price ≥ IDR 10 bn	

Article 22 Income Tax on very luxury residences

In addition to Value Added Tax (VAT) and LST, Article 22 Income Tax also applies to the purchase of very luxury residences. PMK-92 has updated the minimum threshold for the imposition of Article 22 Income Tax on very luxury residences as follows:

Very Luxury residences	Old	New
Landed houses	<ul style="list-style-type: none"> Selling price > IDR 5 bn; or Building area > 400 m² 	<ul style="list-style-type: none"> Selling price > IDR 30 bn; or Building area > 400 m²
Apartments, condominiums, and the like	<ul style="list-style-type: none"> Selling price > IDR 5 bn; or Building area > 150 m² 	<ul style="list-style-type: none"> Selling price > IDR 30 bn; or Building area > 150 m²

The Article 22 Income Tax rate on the purchase of these very luxury residences has also been reduced to 1% from the previous 5%. This tax constitutes a prepayment of the buyer's income tax liability for the current year.

Update on ASEAN – India Free Trade Area

The MoF has issued Regulation No.96/PMK.010/2019 (PMK-96), amending MoF Regulation No.27/PMK.010/2017 (PMK-27) regarding preferential Import Duty rates under the agreement of ASEAN – India Free Trade Area.

PMK-96 has adjusted Import Duty rates on cane sugar from India to 5% in order to obtain reciprocal benefits for marketing Indonesian products in India.

PMK-96 is dated 24 June 2019 and will come into effect for Customs Declarations listed for registration at the Directorate General of Customs and Excise (DGCE) from 8 July 2019.

Update on deliveries from Free Trade Zones

On 29 May 2019, the MoF issued Regulation No.84/PMK.04/2019 (PMK-84), updating the procedure on deliveries to and from Free Trade Zones (FTZs). PMK-84 serves as the second amendment to MoF Regulation No.47/PMK.04/2012 (PMK-47) and is aimed at supporting national trading activities and strengthening company competitiveness in FTZs.

The updates in PMK-84 are summarised below.

Release of goods from FTZ which originate from outside the Customs Area

Certain goods and raw materials may be subject to special Import Duties such as “anti-dumping” Import Duty, compensation Import Duty, safeguard Import Duty, and/or requital Import Duty which are also exempted upon importation. PMK-84 regulates that these special Import Duties will be collected upon releasing the raw materials from FTZ to other places within the Customs Area, except in the event that the raw materials:

1. have been processed into new goods and/or form part of goods produced in FTZ; or
2. have been used to repair other goods, therefore becoming an inseparable part of these goods.

Release of goods produced in FTZ to other places within the Customs Area

Goods produced in and released from a FTZ to other places within the Customs Area are subject to Import Duty, excise, VAT, and Article 22 Income Tax. PMK-84 sets the imposition base of these taxes to **the selling price** of finished goods upon being released from the FTZ.

FTZ companies may use the **original customs value** of the initial goods or raw materials (instead of the finished goods’ selling price) when releasing the finished goods as long as the following requirements are satisfied:

1. the FTZ company has a reliable and consistent conversion measurement for the use of goods or raw materials originating from outside the Customs Area; and
2. a sale and purchase transaction was in place when the goods or raw materials **entered** the FTZ.

Authorised officers from the DGCE and the Directorate General of Tax may jointly run a test on the conversion, as mentioned earlier in point (1), on the basis of risk management.

Update on penalty for customs violation

The Government has set a new penalty standard for “violations” based on the Customs Law through the issuing of Regulation No.39 Year 2019 (GR-39) on 16 May 2019. GR-39 is intended to set a more gradual penalty standard that has a deterrent effect yet still supports business sustainability.

GR-39 specifically updates the penalty applicable on underpaid Import Duty or Export Duty. The penalty will be imposed based on the percentage of the underpaid Import/Export Duty from the total Import/Export Duty that has been paid (discrepancy).

No.	Old		New	
	% of discrepancy	% of penalty	% of discrepancy	% of penalty
1	Up to 25%	100%	Up to 50%	100%
	25% up to 50%	200%		
2	50% up to 75%	400%	50% up to 100%	125%
	75% up to 100%	700%		
3	More than 100%	1,000%	100% up to 150%	150%
4			150% up to 200%	175%
5			200% up to 250%	200%
6			250% up to 300%	225%
7			300% up to 350%	250%
8			350% up to 400%	300%
9			400% up to 450%	600%
10			More than 450%	1,000%

GR-39 amends Government Regulation No.28 Year 2008 (GR-28) and will come into effect starting 15 July 2019. Penalties based on GR-28 will still be applicable for any violations found in Customs Declarations that have been listed for registration at the DGCE.

Further provisions regarding this penalty calculation will be regulated further in a MoF Regulation.

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