

## e-Commerce

### Six foreign players appointed as pioneers to collect e-commerce VAT

The Director General of Taxation (DGT) announced in a press conference in early July 2020 that it had appointed six foreign e-commerce players to pioneer as e-commerce value added tax (VAT) Collectors: Amazon Web Services Inc., Google Asia Pacific Pte. Ltd., Google Ireland Ltd., Google LLC, Netflix International B.V., and Spotify AB. E-commerce VAT, as set out in Government Regulation in Lieu of Law No. 1/2020 ("PERPU 1") and further elaborated by MoF Reg. 48/PMK.03/2020 ("PMK 48") and DGT Reg. No. PER-12/PJ/2020 ("PER 12"), refers to the VAT due on the use or consumption in Indonesian customs area of digital products or digital services originated from outside Indonesian customs area transacted electronically through an e-commerce platform. Pursuant to the appointment, they are to commence collecting e-commerce VAT effective from 1 August 2020.

Apart from VAT, the Government has actually also targeted income tax on the same sets of e-commerce transactions, or "electronic transaction tax" if prohibited by the permanent establishment provisions of the tax treaty in force. Nevertheless, justified is the urgent need in light of COVID 19 pandemic, as a member of the countries seeking for multilateral resolutions to the BEPS issues, the Government appears to refrain from making a unilateral measure on this matter pending an agreed-upon resolution or compromise among member countries.

Depending on the arrangement, e-commerce transactions governed by PERPU 1 typically involve two or three parties: a foreign vendors or a service provider, an e-commerce platform provider, and a domestic buyer or a service user. A foreign vendors or service provider may sell its digital product or provide digital service directly to an Indonesian buyer or user. Alternatively, it may do it through an e-commerce platform provided by a foreign or domestic third party. The prevailing regulations allow the DGT to appoint either the foreign vendor or service provider or the e-commerce platform provider (foreign or domestic alike) as an e-commerce VAT collector provided that each has passed the stipulated threshold:

- Annual transactions with Indonesian buyers or consumers of more than Rp600 million (Rp50 million a month); and/or
- Annual traffics with Indonesian users of more than 12 thousand (1000 traffics a month).

E-commerce VAT is to be charged at 10% of the transaction amount and must be collected upon payment by the domestic buyer or user. The collected VAT must be deposited by the e-commerce VAT collector to the State Treasury by the month end following the month of collection. Settlement may be made in Indonesian Rupiah, US Dollar or, subject to the DGT's decision, in other foreign currencies. VAT reporting is to be made quarterly. The VAT return for

a quarter must be filed by the month end following the end of the quarter. VAT reporting for the first quarter (January-March), for instance, must be filed by 30 April of the same year.

Prepared properly, the VAT payment or VAT collection documents (commercial invoice, billing document, order receipt, etc.) are considered to bear the status as a tax invoice which the buyer or service user can claim as an input VAT. As a minimum, it must contain the tax ID number (NPWP) of the buyer. Alternatively, the document should have the same email address of the buyer as that registered with the DGT office.

E-commerce players (foreign digital product vendors and/or digital service providers or e-commerce platform providers) who have passed the threshold, may voluntarily notify the DGT and request for the appointment as an e-commerce VAT collector.

## COVID 19

# Tax incentives to weather the pandemic impacts: extended, expanded and simplified

The Minister of Finance (MoF) issued Regulation No. 86/PMK.03/2020 (PMK 86) on 16 July 2020 to replace MoF Reg. No. 44/PMK.03/2020 (PMK 44) regarding tax incentives to weather COVID 19 pandemic impacts. While the two provide similar tax incentives (Government-borne payroll tax and SME final tax, PPh 25 reduction, Import tax (WHT22) exemption, and earlier VAT refund), there are some changes in PMK 86 as compared to PMK 44:

- Extended coverage to also include the months of October-December 2020. Under PMK 44, the incentives should not go beyond September 2020;
- Expanded business lines ("KLU"). 721 KLUs under PMK 86 compared to 431 under PMK 44 for import tax (WHT22) exemption; 1013 KLUs compared to 846 for PPh 25 reduction; and 716 KLUs compared to 431 for early VAT refunds;
- Simplified procedures to make use of the incentives. Government-borne payroll tax may be enjoyed by employees working for either the head office or the branch of a company. But only the head office needs to submit notification to the DGT. For SME's final tax, "Explanation Letter" is no longer required. Users need only to file realization reports

There is also a change in the way realization reports are to be filed. Under PMK 44 realization reports must be filed on a quarterly basis. For the last three months up to June 2020, it must be filed by 20 July 2020. For the months of July-December 2020, it must be filed on a monthly basis, i.e. by the 20<sup>th</sup> of the month following the month of the incentive usage.

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