

## Final tax on construction services

### Changes in tax rates and service classification

The Government has recently issued Government Regulation No. 9/2022 (GR 9/2022) regarding final income tax on construction services, amending GR 51/2008 as amended by GR 40/2009. GR 9/2022 reclassify construction services into three categories in accordance with prevailing law and regulations regarding construction services and electricity: construction consulting, construction work, and integrated construction work. Each of construction consulting and construction work can be of a general or specialist type.

The overall tax rates range is lowered a little from 2%-6% span to 1.75%-6% with service provider's certification rewarded a lower tax rate for each category (Box). It is noted that construction work gets the tax rate reduced from 2% to 1.75% if conducted by a certified small business or individuals and from 4% to 3.5% if conducted by a certified business provider of a medium or large qualification.

**Final income tax rate for construction services (GR 9/2022)**

Service type	Business Qualification (S, M, L)	Certified (Y/N)	Tax rate (%)
Construction work	S, incl. individual	Y	1.75
	S, M, L, incl. individual	N	4
	M, L, incl. specialist	Y	2.65
Integrated construction work	n/a	Y	2.65
	n/a	N	4
Construction consulting	n/a	Y	3.5
	n/a	N	6

In the past, certification referred to a certificate (SIUJK) issued by the Construction Service Development Institution (LPJK). Under GR 9/2022, for a body corporate service provider, it refers to a "Construction Business Certificate" (*SBU Konstruksi*) acknowledging the business capability classification and the business qualification issued by:

- Certification body established by business association accredited by the Ministry of Public Works and People Housing;
- Certification body established accredited by the Ministry in charge of energy and mineral resources; or
- The Minister in charge of energy and mineral resources.

For an individual construction service provider, certification refers to "a work competence certificate" acknowledging the individual's competence to carry out construction services issued by the Construction Service Development Institution (LPJK).

Three elements of a construction service contract are redefined in GR 9/2022, apparently to enhance clarity and verifiability. **A service user** is considered equivalent to the owner or giver of the construction work who uses or consumes the construction service which can be either an individual person or a body corporate including a permanent establishment (PE). **A service provider** is redefined into “an individual person or a corporate body including a PE [who acts] as the construction service provider”. **A contract value** of a construction service is redefined into “the value which is stated or should be stated in the overall Construction Service Contract”.

The services comprising a construction service are also clarified. **Construction consulting** is the entire activities or parts of activities ranging from a feasibility study, planning, designing, and supervision of building construction performance to the management thereof. **Construction work** spans the activities from construction, operation, maintenance, and demolition of a building to reconstruction of a building. If construction consulting is combined with construction work, or any parts thereof, into a single construction service, the resulting work is referred to as **integrated construction work**.

GR 9/2022 came into effect from the enactment date, i.e. 21 Feb. 2022. However, for construction service contracts signed before then, its actual effect is determined by the dates at which contract payments are made or received:

- For contract payments made or received before 21 Feb. 2022, the final income tax should be calculated based on GR 51/2008 as amended by GR 40/2009, i.e. by reference to the old set of tax rates;
- For contract payments made or received on or after 21 Feb. 2022, the final income tax should be calculated based on GR 9/2022, i.e. the new set of tax rates stated in the Box above.

If a construction business earns income from activities other than construction services, consistent with the on-going treatment, the income tax should be dealt with in accordance with the general income tax provisions, not the final tax regime. On the contrary, foreign exchange gains or loss resulting from construction service business should be included as the Contract Value subject to the final income tax.

GR 9/2022 indicates that the final income tax for construction service may not prevail forever. It states that it will be evaluated in three years of the GR enactment, 21 Feb 2022. Based on the evaluation, it continues, income from construction service may be brought into the general income tax regime (i.e., non-final income tax) as provided by Art. 17 of the Income Tax Law.

Please contact us to get more insight.

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