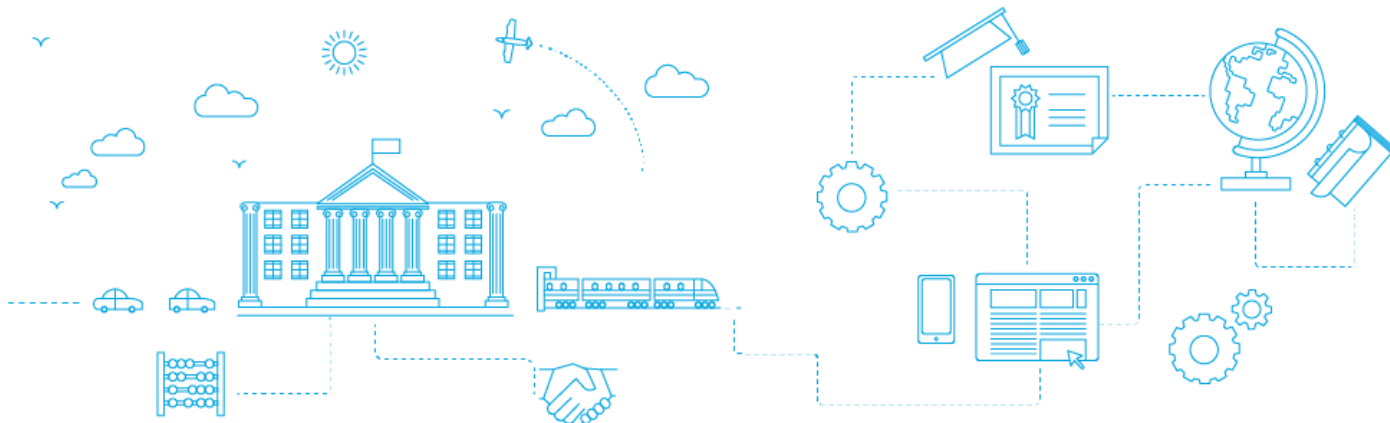




VAT Obligations for Foreign e-Commerce Businesses in Indonesia

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On 5 May 2020, the Minister of Finance issued Regulation No. 48/PMK.02/2020 ("PMK-48/2020") to implement the expansion of the VAT regime for foreign e-commerce businesses as per Government Regulation in Lieu of Law No. 1 Year 2020 ("Perppu-1/2020").

PMK-48/2020 is effective starting 1 July 2020.

WHAT TRANSACTIONS ARE INCLUDED?

The transactions subject to VAT are intangible goods (including digital goods) and taxable services (including digital services) provided by foreign e-commerce businesses (Perdagangan Melalui Sistem Elektronik or "PMSE"), that are utilised by individuals or organisations that meet any of the following criteria:

- Their place of residence or domicile is in Indonesia (based on correspondence or billing address and/or country selection during the registration process with the e-commerce business)
- Payment is made using debit, credit or other payment facilities that are provided by an institution in Indonesia
- The transaction uses an internet protocol (IP) address in Indonesia or uses a telephone number with the Indonesian country code

Other transactions involving intangible goods and services from overseas that are not delivered through a PMSE are still subject to the existing obligations to self assess and pay PPN Luar Negeri. For example, the provision of consulting advice by an overseas adviser would be subject to PPN Luar Negeri and not VAT on foreign e-commerce transactions.

WHO IS REQUIRED TO CHARGE & COLLECT THE VAT?



PMK-48/2020 applies for foreign e-commerce businesses that do not have a Permanent Establishment ("PE") in Indonesia. If the business has a PE in Indonesia then it is required to comply with the general VAT law and regulations, in addition to other tax laws and regulations.

E-commerce business actors ("Pelaku Usaha Perdagangan Melalui Sistem Elektronik") that exceed certain activity criteria can be appointed as e-Commerce VAT Collectors by the Minister of Finance, and are then required to collect VAT.

E-commerce business actors can be any individual or organisation that undertakes business in the e-commerce sector as a foreign seller, foreign service provider, foreign e-commerce marketplace or domestic e-commerce marketplace.

The activity criteria are to be stipulated by the Director-General of Taxation ("DGT") and will be based on:

1. The value of transactions in Indonesia within a 12-month period and/or
2. The amount of traffic or users within a 12-month period.

The Minister of Finance has delegated authority to the DGT to appoint e-commerce business actors as e-Commerce VAT Collectors.

Where the transaction involves a direct sale or provision of services then the foreign seller or service provider can be appointed. If the transaction is conducted via an e-commerce marketplace provider (foreign or domestic) then the foreign seller or service provider, foreign e-commerce marketplace provider or domestic e-commerce marketplace provider can be appointed.

The e-Commerce VAT Collector will then receive an identification number for the purposes of tax administration.

The obligation to collect VAT commences the month following the date of appointment.

Foreign e-commerce businesses that meet the activity criteria, but are not yet appointed by the DGT can request registration.

WHAT IS THE RATE OF VAT & TAX BASE?

The rate of VAT is 10%. This is to be collected on the amount payable by the buyer or user of the intangible goods or services sold or provided by the foreign e-commerce business.

The e-Commerce VAT Collector is required to provide evidence to the customer of the collection of VAT in its invoice or other transaction document. This evidence is considered similar to a Faktur Pajak and therefore an input credit can be claimed, subject to the prevailing regulations.

WHEN IS THE VAT TO BE CHARGED, PAID AND REPORTED?

The VAT must be collected commencing the month after the e-commerce business was appointed as an e-Commerce VAT Collector.

The obligation to collect VAT occurs on the date of payment by the resident buyer or user. The VAT must then be paid before the end of the following month through e-billing using Indonesian Rupiah, USD or such other currency as is stipulated by the DGT.

Reporting of total customers, transactions and the VAT collected and paid shall be on a quarterly basis. In addition the DGT can request the detailed transactions for each calendar year.

RSM comments

1. The implementation of PMK-48/2020 remains subject to the DGT stipulating the value of transactions in Indonesia and the amount of traffic or users within a 12-month period that are the threshold for appointing an e-commerce business actor as an e-Commerce VAT Collector.

The DGT's regulation will also cover the method for payment and reporting, and whether the quarterly reporting will follow the appointment date or a standard annual calendar (e.g. January-March).

2. At present, taxes can only be paid from within Indonesia due to the requirement to use the e-billing code. Therefore it is likely the e-Commerce VAT Collectors will need to appoint a local representative to attend to the payment and reporting.
3. If the e-commerce transaction involves both overseas parties and a domestic marketplace then the domestic marketplace can be appointed as the e-Commerce VAT Collector and will need to ensure VAT is collected on all qualifying transactions through its system.
4. Customers need to remember the potential obligation to self-assess PPN Luar Negeri if the e-commerce business is not appointed as an e-Commerce VAT Collector (or fails to provide the evidence of VAT collection).

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