

# Tax Alert



## Tax Treatment of Electronic Commerce Trading

### Summary

On 31 December 2018, the Minister of Finance (MoF) issued regulation No. 210/PMK.010/2018 (PMK - 210) to regulate the tax treatment of Electronic Commerce (E-Commerce) trading. The stated purpose of the regulation is to provide equal treatment between e-commerce trading and conventional trading and to provide convenience for e-commerce traders in fulfilling their tax obligations.

PMK-210 is one of the implementing steps under Presidential Regulation No. 74 of 2017 regarding E-Commerce Road Map for 2017 up to 2019. PMK-210 will be effective on 1 April 2019. It will be of interest to anyone operating an online market platform, or making sales through online channels.

The regulation does not appear to alter the tax treatment of any e-commerce transaction but does require new information disclosures by online market place companies.

This alert aims to provide the main substance of PMK-210.

### 1. Scope of taxes regulated by PMK-210

The scope of tax treatments regulated by PMK-210 covers:

- a. Value Added Tax (VAT), Luxury Goods Sales Tax (LGST) and Income Tax on transactions within the Indonesian Customs Area (ICA); and
- b. Import duty and/ or Import Taxes (i.e. VAT, LGST and income taxes withheld) on imported goods.

### 2. VAT, LGST and income tax treatments on e-commerce trading within the ICA

E-commerce trading within the ICA can be conducted through:

- a. Marketplace Platform; or
- b. Non-Marketplace Platform, which can be in the form of online retail, classified ads, daily deals, or social media.



PMK-210 defines:

- a. Marketplace Platform as a mean of electronic communication through a place in a form of application, website, and/ or other internet content services that are used to conduct or to facilitate e-commerce trading;
- b. Marketplace Platform Provider as an individual, corporate or permanent establishment (PE) that is domiciled or has business within the ICA, which provide a platform in a form of marketplace, including Over the Top for transportation business within the ICA;
- c. Trader and Service Provider as an individual, corporate or PE that is domiciled or have business in the ICA, which conducted transaction with a buyer or a service user by using platform facility provided by the Marketplace Platform Provider; and
- d. Transaction Value as transaction value payment made by the buyer, not including shipping charges, service costs, and VAT or LGST.

### **2.1 Tax treatment for Marketplace Platform Provider (MPP)**

An MPP, whether or not it meets the criteria as a Small-Scale Entrepreneur, must have Tax ID Number and be registered as a VAT-able Entrepreneur. The MPP must conduct its income tax obligations in accordance with the prevailing Income Tax Law.

Payments by customers for delivery of taxable goods and/ or services made by a Trader or Service Provider and received by MPP, would typically consist of Transaction Value and VAT or LGST. In that case, the MPP must provide a reconciliation of the trade transactions conducted by the Trader or Service Provider through MPP to the Directorate General of Taxation (DGT). This reconciliation should be attached to the MPP's monthly VAT return. Therefore, the new regulations impose a reporting obligation on the platform to provide the DGT with details of the income earned by sellers on the platform.

An MPP that:

- a. Provides a Marketplace Platform service to a Trader or Service Provider;
- b. Delivers taxable goods and/ or services, through the Marketplace Platform; and/ or
- c. Delivers taxable goods and/ or services other than (a) and (b) above,

must collect VAT on the Marketplace Platform service provision and delivery of taxable goods and/ or services. Therefore, it must also prepare VAT invoice and report the VAT collected in its monthly VAT return.

The VAT, LGST and income tax treatments of e-commerce trading in the form of online retail, classified ads, daily deals, or social media should be conducted in accordance with the prevailing tax laws. An MPP can provide data and information to the DGT on the such e-commerce trading.

### **2.2 Tax Treatment for Trader or Service Provider**

A Trader or Service Provider, whether or not it has been registered as a VAT-able Entrepreneur, must notify its Tax ID Number to the MPP. For a Trader or Service Provider that does not yet have a Tax ID Number:

- a. It can register to obtain the Tax ID Number through Tax ID Number on-line registration application provided by DGT or the MPP; or
- b. It must notify the MPP of its Resident ID Number ("NIK").

A Trader or Service Provider that conducts e-commerce trading through MPP must conduct its income tax obligations in accordance with the prevailing Income Tax Law.

A Trader or Service Provider that has not registered as a VAT-able Entrepreneur but has exceeded the Small-Scale Entrepreneur limitation (i.e. currently at gross revenue of IDR 4.8 billion per annum) must register itself as a VAT-able Entrepreneur, and for Trader or Service Provider that has not yet exceeded the Small-Scale Entrepreneur limitation, it can choose to register as a VAT-able Entrepreneur.

A Trader or Service Provider that delivers taxable goods and/ or taxable services electronically (e-commerce) through MPP must collect, pay and report the VAT payable (at the rate of 10% of the delivery of taxable goods and/ or service value); or LGST payable (at the applicable rates in accordance with the prevailing tax laws). A Trader or Service Provider that has been registered as a VAT-able Entrepreneur must prepare VAT invoices as evidence of VAT collected, and it must report its e-commerce trading through MPP in its VAT return on a monthly basis.

### **3. Import duty and/ or import taxes treatment of goods imported through e-commerce trading**

#### **3.1 Goods imported through MPP**

Where there are imported goods, for which the transaction is conducted through an MPP that is registered with the Directorate General of Customs and Excise (DGCE), the goods are shipped through postal organizer and have customs value of up to Free on Board (FOB) USD1,500, the tax treatments are in accordance with the provisions under PMK-210.

However, for imported goods where the transaction is conducted through MPP, that have customs value of more than FOB USD1,500, or do not use Delivery Duty Paid (DDP) scheme, they should be conducted in accordance with the provisions of the prevailing laws on imported consigned goods.

#### **3.2 Import procedures for MPP**

An MPP should file an application to register with the Customs office where there is a high frequency of importation transactions conducted through the MPP. The application filed by MPP must include at least the following information:

- a. Tax ID Number;
- b. VAT-able Entrepreneur confirmation letter number; and
- c. Taxpayer registration statement letter number.

Upon the application filed by the MPP, the Head of Customs office shall issue an approval or a rejection letter within one business day after the complete application is received. The approval letter issued by the said Customs office is valid nationally.

After the MPP is approved by DGCE, MPP must provide electronic invoice (e-invoice) for all shipments on the imported goods through its platform, and electronic catalog (e-catalog). The e-catalog must at least contain the following information:

- a. Goods descriptions;
- b. Goods code;
- c. Goods category;
- d. Goods specifications;
- e. Goods price;
- f. Seller's identity; and
- g. Country of origin of the goods.

MPP must also update the information of goods when there is a change in goods price.

MPP must:

- a. use DDP scheme;
- b. calculate the import duty and/ or import taxes on the imported goods through its platform; and
- c. be responsible in paying the said import duty and/ or import taxes.

Entities operating in this industry will need to review their transaction flows carefully to understand the importation processes and how MPPs will address the new obligations under these rules.

#### **4. Subsequent audit and/ or possible sanctions**

DGT may perform an audit on the tax obligations on e-commerce transactions in accordance with the prevailing tax laws based on:

- a. Financial information obtained from financial service institutions, other financial services institutions, and/ or other entities;
- b. Data and information obtained from Government institutions, private institutions, associations and other parties; and/ or
- c. Data and information provided in the DGT's information system.

The Head of Customs office shall freeze the approval given to the registered MPP in case the MPP does not meet its obligations to pay import duty and/ or import taxes. The freezing of the said approval will be conducted until the MPP meets its obligation to pay import duty and/ or import taxes. If the MPP has met its obligation to pay import duty and/ or import taxes, the Head of Customs office will issue a revocation letter to unfreeze the approval.

The Head of Customs office shall revoke the approval given to the registered MPP if:

- a. MPP does not use DDP scheme within 12 months consecutive period;
- b. The business license as MPP has no longer valid or has been revoked;
- c. It has evidence that the MPP has conducted customs infringement;
- d. It has received a request from the MPP; or
- e. The MPP has been declared bankrupt by the Commercial Court

#### **5. Implementing regulations**

DGT will issue the implementing regulations for PMK-210 on the following:

- a. The procedures for Trader or Service Provider to obtain Tax ID Number through MPP's on-line registration application; and
- b. The reporting form and procedures to report the reconciliation by MPP on the transactions conducted by Trader or Service Provider through MPP.

DGCE will issue the implementing regulations for PMK-210 on the following:

- a. The procedures and application format for MPP to register with the Customs office, and the format of approval letter that will be issued by the Head of Customs office;
- b. The procedures to submit e-catalog and e-invoice for MPP on the transactions conducted through its platform;
- c. The procedures to freeze the approval given to the registered MPP by DGCE; and
- d. The procedures to revoke the approval letter for the registered MPP by DGCE.

The E-Commerce Association of Indonesia are discussing the impact of the regulation with the Ministry of Finance and there could be more development or clarification in the future.

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