

Edisi April 2015

TAXGuide

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WAITING FOR THE LUCK OF #313 SPIRIT AND TAX AMNESTY

A large mass action took place in the entire Indonesia on Friday (31/3). This simultaneous action is not mere politics but more related to tax matters. Therefore, the mass was concentrated in Tax Offices throughout Indonesia.

Date 31 of March is regarded as a sacred number assuming a considerable significance either for Individual Taxpayers or Tax Authority. The date has become the deadline of the submission of Annual Income Tax Return for Individual Taxpayers. As if it became a tradition, the Individual Taxpayers will overrun the Tax Offices to submit the Annual Income Tax Return on the last days before deadline.

In many occasions, the Directorate General of Taxes (DGT) often considers the Taxpayer's non-compliance as a cause of tax revenue missing target. From 20.16 million of the targeted Taxpayers, it was only 12.7 million Taxpayers compliant to submit the Tax Return last year. Meanwhile this year, until 28 March 2017 there has been only 7.2 million Taxpayers having submitted the Tax Return.

The DGT has actually provided another medium for Tax Return submission in electronic form (e-Filing) since 2013. Yet, errors in the system have frequently occurred that many Individual Taxpayers opt to submit the Tax Return manually, which is by coming directly to the Tax Office. This problem has been the consideration for the DGT to "extend" the period of Income Tax Return submission in the recent years.

The Tax Return submission timing is actually a privilege of the Taxpayers as long as it is still within the period regulated in General Tax Provisions and Regulations (KUP Law). Even the Taxpayers are allowed to do the submission in the nick of time. Thus, there is no reason for DGT to be unprepared for the massive number of Tax Return submissions, either manually or through e-Filing.

Sanction

This year's #313 action seems to reflect stronger echo since 31 March 2017 is also the



cutoff point for Tax Amnesty program. It has been 9 (nine) months since the government has benevolently offered the amnesty for administrative and criminal sanctions of Taxpayers that have been neglectful or non-compliant with the obligation to report the additional assets. Under that condition, it is reasonable that the DGT gives tolerance for delay of the Individual Taxpayer's Income Tax Return submission until 21 April 2017.

There are 3 (three) purposes of tax amnesty that become the government's target, that are

to strengthen the tax basis, to trigger asset repatriation up to IDR1,000 trillion, and to increase tax revenue that among others derives from the redemption of IDR165 trillion.

In reality, based on the DGT's recent data, during these 9 (nine) months of tax amnesty: the incoming redemption in the State's Treasury has just reached IDR114 trillion or 69% of the target. Meanwhile, the Taxpayers' repatriated asset value is of IDR147 trillion or 14.7% of the target. The redemption is remitted by 965,983 Taxpayers upon the asset declaration and has been reaching up to IDR4,865.68 trillion.

The success of the Tax Amnesty program cannot be measured by the amount of redemption and asset repatriation. But it shall be seen from the outcome of taxpayers' asset data management and optimization, which shall be reflected from the increase of tax revenue sustainably.

One thing for sure is that the State's limit for tolerance towards the tax non-compliance has run out. The amnesty's door has been closed per 1 April 2017. Thus, the Taxpayers not utilizing the tax amnesty policy shall be ready to bear more serious consequences in the era of tax law enforcement.

Furthermore, the government has prepared the new provision and procedure for audit of Taxpayer's asset, especially for Taxpayers not signing up for the tax amnesty program. This new policy is the implementing regulation of Article 18 of Law No. 11/2016 on Tax Amnesty. In case of additional asset discovery by the tax official within the period of 1 January 1985 – December 2015, the assets will be deemed as additional income in the year of discovery and will be subject to Income Tax plus administrative sanction up to 200% from the tax payable.

In addition, Indonesian Government has committed to implementing the automatic financial information exchange between jurisdictions or Automatic Exchange of Information (AEOI) to trace assets hidden by the super riches in tax haven countries. The global commitment will also complete the government's effort to prevent and detect tax avoidance conducted by corporates through aggressive tax planning and profit shifting.

As we know that in the end of last year, PMK Number 213/PMK.03/2016 was issued to regulate the new format of transfer pricing documentation for Taxpayers having affiliated transactions. This regulation adopting BEPS Action 13 requires 3 (three) types of transfer pricing documents that shall be reported by certain business group, namely: Master File, Local File, and Country by Country Report (CbCR). After the application of the new format of transfer pricing documentation since Fiscal Year 2016, the taxpayers' cost of compliance must increase—particularly for the preparation of master and local file in the prime year, as it only gives four months to complete the files starting from the end of book year.

Moreover, the government will require the Taxpayer making tax planning to report its tax planning scheme to the Tax Authority. The draft of this regulation is the implementation of BEPS Action 12 on mandatory disclosure rules (MDR).

Whether or not the regulation exists, the compliance with the provision is the obligation of either the Taxpayers or the tax Authority. In practice, the existing package of regulations has clearly divide the dos and don'ts in the tax sector. The essence of those all policies is honesty, because it is the main key to the improvement of data basis and national tax system.

It is not only the Taxpayers that are demanded to be honest in submitting the Tax Return appropriately, the Tax Authority shall also be professional and compliant in performing the job as public servant. The Minister of Finance Sri Mulyani Indrawati deserves an appreciation to have forbidden the meeting of the Tax Authority and the Taxpayers outside office area. She has also forbidden the Tax Authority to conduct any audit under unclear findings. The point is, the Tax Auditors shall have valid data so that the Taxpayers does not have to face any arbitrary and groundless tax audit. To ensure that the procedure is conducted appropriately, the entire working area of the Tax Authority will be installed with security camera.

In principle, all policies and tax system improvement efforts aim to increase voluntary compliance of the Taxpayers as well as the professionalism of the Tax Authority. "Compliance" for the Taxpayer does not only mean submitting the Tax Return, but also reporting all assets and income in the Tax Return truthfully.

Speaking of the hustle on 31 March again, #313 spirit and tax amnesty are expected to be the symbol of the rise of national taxation.

*Brief version of this article is published in Harian Bisnis Indonesia, Monday, 3 April 2017.

EXCLUSIVE INTERVIEW



Director General of Customs and Excise,
Heru Pambudi

(Source: Directorate General of Customs and Excise)

A CLOSER LOOK AT DIRECTION OF CUSTOMS AND EXCISE REFORMATION

Directorate General of Customs and Excise (DGCE) occupies quite strategic role and function even though these things pose dilemma for DGCE itself. The reason is that this institution, which is supervised under Ministry of Finance, is not only responsible for the collection of tax revenue but also being the trade facilitator as well as conducting customs supervision (prevention of smuggled goods). All these tasks are performed by DGCE as tax authority without sacrificing its main tasks, which are service and supervision.

In performing the tasks, DGCE also encounters numbers of tougher challenges from revenue target increase, shifting import trend, economic slowdown, to sustainability of bureaucratic reformation. Armed not only with optimism, some strategies are also prepared by DGCE to ensure that all the tasks are performed. It is clearly described in **Tax Guide's** interview with **Director General of Customs and Excise, Heru Pambudi**, as follows:

How far is the implementation of bureaucratic reformation performed by DGCE?

As we know that the kick-off by Minister of Finance on 20 December 2016 marked the commencement of Reinforcement of Customs and Excise Reformation. The society's demand to DGCE that has been continuously increasing stimulates the reformation implementation. These export-import facilitation and privilege, logistic flow pace, protection against the entry of dangerous goods such as narcotics and other forbidden goods, to the optimization of state revenue have become DGCE's role of reinforcement through reformation that has been undergone. This ongoing reformation process has passed the first quarter. Achievements or quick wins as milestone, presenting that most programs arranged in the reinforcement of customs and excise reformation are achievable and have run on track, have been obtained and reported to Minister of Finance per 3 April 2017.

What is the focus of the reformation improvement?

Reinforcement of DGCE reformation in 2017 puts the reinforcement of organizational culture and integrity improvement as the spirit of change in

targeted areas. The purpose of change in the aforementioned programs is the improvement in Organization, Governance, Regulation, Human Resources, Supervision, Accountability, Public Service, and Mindset/cultural set.

Related to bureaucratic and institutional reformation, what aspects that should be strengthened by DGCE?

We realize that massive and organized internalization of Reinforcement of Customs and Excise Reformation Program, which has been applied to DGCE officers, is required to encourage the sense of engagement and ownership even to the lower officers. Furthermore, to make it even stronger, participation of external party of DGCE is needed through observer and adviser ranging from practitioner, academician, international organization, until business sector.

Bureaucratic reformation is not a new thing for DGCE. What distinguish this institutional reformation (from the formers)?

Yes, one of the distinguishing factor of this reformation from the previous reformations is the synergy between the tax authority of Directorate General of Taxes (DGT) and DGCE. The realization of this synergy is in the form of joint program between DGCE and DGT, from joint data, joint analysis, joint audit, to joint collection. This synergy is expected to create optimization of joint supervision by DGCE and DGT so it may reduce the evasion of tax and import duty/export duty/excise that may give impacts to the state revenue increase.

Related to joint data, it has run well so far. The regulation as legal protection has been made between DGCE and DGT.

Has there been any complaint from user or business sector related to customs and tax data integration?

Until now, there has not been any complaint.

Besides cooperation with DGT, DGCE also cooperates with Ministry of Maritime Affairs and Fisheries. How is it?

Basically, cooperation between DGCE and Ministry of Maritime Affairs and Fisheries (MMAF) has run several times with various themes such as illegal fishing, improvement of supervision on import and export of sea products that are protected through CITES forum, intelligence cooperation enhancement, and information exchange on illegal trading in the sector of fishery and sea product.

It is proven by some DGCE's findings on sea product commodities, such as illegal baby lobster export, which is a part of cooperation between DGCE and MMAF, including other preventions of illegal sea product export. The cooperation will be maintained and improved by considering cooperation with law enforcement institutions such as Indonesian National Police and Indonesian National Armed Forces (TNI).

However, until now, this good cooperation between DGCE and MMAF has not been specifically made into a Memorandum of Understanding (MoU) or other forms of agreement. The written cooperation between DGCE and MMAF is limited to MoU with Ministry of Trade, Food and Drugs Supervisory Agency (BPOM) and Quarantine in commodity in which the commerce and the supervision of goods in circulation has been regulated, as well as the cooperation of anti-illegal fishing task force (Satgas) by MMAF. However, in the near future, through Indonesia Single Risk Management (ISRM) program, DGCE, together with other Ministries/Institutions including MMAF, will form a cooperation in the improvement of supervision and service in the form of integrated risk management. Through this program, hopefully, the supervision and the service of DGCE and MMAF especially in the field of Maritime Affairs and Fisheries will improve.

How DGCE balances protection concern and stimulation of revenue through the attempt of supporting business sector on every policy?

One of the policies to answer this question is the development of Service User's Compliance System (Sistem Kepatuhan Pengguna Jasa/SKPJ) that has currently been built. SKPJ is the development of ISRM that is tools engine owned by DGCE to map out the risk of importer/service users so it may balance the service and the supervision. SKPJ encourages more service users that are obedient so that they can obtain fast and excellent service with minimum and careful supervision. Therefore, it is expected that the interest to conduct protection by focusing on revenue can be balanced in line with the attempt of supporting the business sector and maintaining conducive investment atmosphere.

Table of Customs and Excise Revenue in 2017

Type of Revenue	Targeted State Budget (APBN) in 2017 (in IDR trillion)	Realization of First Quarter (in IDR trillion)	%
Import Dut	33.7	7.72	22.9
Export Duty	0.34	0.84	248
Excise Dut	157	6.92	4.4
Total	191.23	15.48	12.7

How is the impact of the increase of tobacco excise band tariff policy on revenue so far?

The policy of tobacco excise band tariff prevailing in 2017 with average increase by 10.54% has not given positive impact on excise revenue in the first quarter. It happened in regard to the shifting excise revenue pattern of tobacco since PMK-20/PMK.04/2015 prevailed. Based on the data, tobacco excise revenue in the first quarter decreased by 12.85% (yoy). It is expected that the positive impact on the excise policy toward the revenue performance will be stable in the second and the third quarter, and will increase significantly by the end of the year.

How about the target in 2017, is DGCE still optimistic to achieve the target until the end of the year?

DGCE stays optimistic that the revenue target in 2017 of IDR191.23 trillion will be achieved by the end of the year. It is based on several matters such as import duty revenue until the first quarter in 2017 of IDR7.72 trillion or 22.9% of the target. Import foreign exchange as tax base of import duty revenue in the first quarter of 2017 has increased by 13.9% and is forecast to increase until the end of the year (higher than that of 2016) in line with economic growth assumption of 5.1%. Although, the Free Trade Agreement (FTA) utilization also has increased—from 26.6% in 2016 to 27.4% in 2017—and is potential to decrease revenue from import duty, with extra effort and the enhancement of supervision as well as the enforcement of illegal goods that has been vigorously held, DGCE is optimistic that (the target of) revenue from import duty in 2017 may be achieved.

The realization of excise revenue until the first quarter in 2017 has reached IDR6.92 trillion or 4.4% of the target in 2017. The excise revenue is considerably low in the first quarter as the impact of MoF Regulation Number 20/2015 on excise settlement. However, the data of revenue per 14 April 2017 showed that the excise revenue has been rebounded reaching IDR12.14 trillion or 7.72% higher than the same period in 2016. The increase of tobacco excise tariff (CHT) in 2017 with weighted-average of 10.54% is expected to stimulate the achievement of excise target in 2017, although the tobacco production is predicted to decrease by 2%. The collection of other excises (plastic

package) until the first quarter in 2017 has become obstacles because there is no approval from People's Representative Council (Dewan Perwakilan Rakyat/DPR).

Meanwhile, the export duty revenue until the first quarter in 2017 has reached IDR0.84 trillion or 248% of the target in 2017. This condition is because the drafting of export duty target assumes the prohibition of mineral export in 2017. Through the mineral export relaxation policy, the export duty revenue will exceed the target stipulated in the State Budget 2017, considering that PT AMNT has conducted export since the beginning of April 2017 and PT Freeport has obtained temporary Special Mining Business License (Izin Usaha Pertambangan Khusus/IUPK) approval (may conduct export until 10 October 2017), which is predicted to start in May 2017.

What policy that should be introduced to stimulate customs and excise revenue?

Some policies to stimulate revenue in 2017 are as follows:

- a. Intense monitoring of economic condition (export import) and preparation of the mitigation
- b. Provision of procedural stimulus (enhancement in smoothness of goods flow) for credible importer
- c. Enhancement of the enforcement on illegal excisable goods
- d. Stimulation of the increase of object in new excisable goods
- e. Enhancement of the supervision for goods export subject to export duty (Type and Level Test)
- f. Improvement of revenue collection process through reformation program of DGCE:
 - Verification of tariff and customs value stipulation
 - Examination of physical check
 - Strengthening of repeated research
 - Validation of Certificate of Origin (SKA) utilization for import issue using FTA scheme.

How about the plan for excise object expansion? Is there any new excisable item in the near future?

Year 2017 has been stipulated in the State Budget with target revenue of other excise revenue of IDR1.6 trillion. Related to this issue, Ministry of Finance in terms of DGCE and Fiscal Policy Institution (Badan Kebijakan Fiskal/BKF) has been arranging the regulation of excise imposition on plastic bags. Meanwhile, new items which are potential becoming new excise object are still being discussed.

DGCE has prepared legal instrument of excisable object goods collection, but until now, it is still hindered by principle license of DPR RI. Based on the meeting result with Commission XI of DPR RI on 18 April 2017, there will be another discussion within this short time related to the addition of new excisable objects between government and Commission XI of DPR RI.



MANDATORY DISCLOSURE RULE

GLOBAL ACTION CURBS AGGRESSIVE TAX PLANNING

Life should come with a plan, even for an organization or a company. Planning is crucial for management function in order to reach the targets or the goals of the company. However, the planning shall be made rationally and systematically, and not only based on intuition and speculation.

From tax perspective, tax planning is acceptable for taxpayers to ensure that the tax to be paid will not exceed the fair amount. In other words, tax planning is considered legal as long as it is made using the methods complying with the tax laws and not intended to dodge the tax payment.

However, in practice, there are not a few taxpayers who intentionally use the tax planning to run away from the tax obligation. Those committing it are mostly corporate taxpayers and business doers who are aggressively using the loopholes of tax regulation considerably loose—or even adjustable—in some tax haven countries. The modus is among others by shifting the profits to countries not entered into Double Tax Avoidance Agreement (DTAA). This practice is notoriously called aggressive tax planning, which is actually legal before the law but the appropriateness is questioned speaking of the etiquette.

In global context, aggressive tax planning has been the big concern of the disadvantaged countries. It is because the tax that should be derived into the state treasury is evaporating and reducing the revenue base.

The loss of the tax potential is considerably material if it is seen from the illicit financial flows in global market. Global Financial Integrity (GFI), in its report in December 2015, estimated that the total of the illicit financial outflows from the developing countries during 2004-2013 has reached USD7.8 trillion. The value is still increasing, with growth rate of 6.5% per year or nearly twice faster compared to the global PDB growth. The fund is considered illicit or unlawful since it is correlated with the practice of tax avoidance, money laundering, corruption, and other prohibited financial activities. The destination is the tax-free jurisdictions that guarantee banking data confidentiality.

In GFI report, Indonesia ranks number nine in the list of countries with biggest illicit financial outflow in the world, with average per year of approximately USD18.07 billion or equivalent to IDR240.85 trillion (rate IDR13,328/USD). The number comprises the unrecorded trade transaction or known as misinvoicing trade/Gross Excluding Reversals (GER) of approximately USD16.75 billion or equivalent to IDR223.27 trillion and the speculative fund (hot money) of approximately USD1.31 billion or IDR17.45 trillion.

Base Erosion and Profit Shifting (BEPS) is now becoming an issue that has been combated by the world society. However, the information asymmetry becomes the obstacles for the tax authority to track the traces of tax avoidance in foreign countries.

This global concern is then answered by the Organisation for Economic Co-operation and Development (OECD) by releasing 15 action plans to counteract BEPS. One of those plans is Mandatory Disclosure Rule (MDR), which is the 12th Anti-BEPS action plan.

This provision has pushed the tax authority to force the taxpayers or other parties initiating the aggressive tax planning (the promoters) to report the planning scheme to the tax authority. The promoters stated thence are, among others, tax consultants, financial consultants, banks and lawyers.

MDR is basically not a new provision. Numbers of countries have implemented it to detect the risk of aggressive tax planning scheme earlier. They are, among others, United States, Canada, United Kingdom, Ireland, Australia, South Korea, and South Africa.





The Indonesian Government has indicated the plan to follow those countries by adopting the Anti-BEPS Action 12. Yet, it is still unclear how the MDR will be applied in Indonesia since it is still under review. So far, the Directorate General of Taxes (DGT) has conducted comparative research to British Government in studying the implementation of MDR.

Learning from British Government

In United Kingdom, MDR has been known since 2004 under the name of Disclosure of Tax Avoidance Schemes (DOTAS). DOTAS was designed by HM Revenue and Customs (HMRC) in order to keep up with the development of tax avoidance modus.

The promoters targeted by DOTAS are any individuals or parties mutually connected with tax planning, such as banks, property securities, accountants, and International Fiscal Association (IFA) or professional enterprises that are also formulating the tax planning scheme.

DOTAS provision can also apply to taxpayers if the promoter is based in foreign country and is the lawyer having special rights, or if the tax planning is prepared without using the assistance of another party (promoter).

Through DOTAS, the British Tax Authority automatically has access to monitor, and if necessary, to amend the legislation to block any tax planning scheme considered aggressive and unfair by the government.

Technically, after the promoter discloses the tax planning scheme, HMRC will issue DOTAS number. The DOTAS number shall be inputted by the taxpayers into their Tax Return. To ensure that the provision runs effectively, HMRC prepares the penalty sanction both for the taxpayers and the promoters who fail to comply with the DOTAS regime.

Initially, starting from 1 August 2004, the DOTAS regulates only the disclosure of tax planning scheme on Value Added Tax (VAT). Then, on 1 August 2006, the scope broadened to comprise the tax planning scheme on Income Tax, corporation tax or profit tax. A year later, exactly on 1 August 2007, the DOTAS scope was expanded to reach the tax planning scheme on national insurance premium. And, from April 2011, HMRC has targeted the tax planning scheme related to property ownership.

Related to VAT planning, the taxpayers or the promoters registered in United Kingdom shall report the tax planning scheme to HMRC.

It excludes the annual revenue of taxpayer or business group amounting less than GBP600,000.

Unlike for VAT non-registered taxpayers, who are automatically categorized as "marked", DOTAS excludes the third party or the promoter who has voluntarily disclosed the tax planning scheme to HMRC or the holder of Voluntary Registration Scheme (VRS) number. The exclusion of the reporting is also given to the business group having annual revenue less than GBP10 million. The sanction that has been arranged is in the form of penalty of 15% from the VAT especially for the "registered" scheme and administration sanction up to GBP5,000 for the "marked" scheme.

Meanwhile for the disclosure of tax planning related to the direct taxes (Income Tax, corporation tax, profit tax, inheritance tax, and property tax) and national insurance premium, the individuals or the taxpayers comprised in this category shall inform HMRC within 5 days at the latest after the scheme is implemented. The sanction for the taxpayers violating this provision is in the form of penalty up to GBP600 per day of late payment. If this sanction does not work, the taxpayers shall pay penalty up to GBP1 million.

In term that the taxpayer conducting the tax avoidance scheme is an employer, the penalty may reach GBP5,000 for every employee not included in the year-end report. The further sanction will be GBP600 per day per employee in case the failure to comply continues after the first sanction is imposed.

Meanwhile, sanction for the promoters is in the form of sanction up to GBP5,000 for every client who fails to provide reference number of tax planning scheme. Further sanction reaching up to GBP600 per day per client may be levied in case the failure to comply continues after the first sanction is imposed.

Reflecting from the DOTAS regime, the MDR provision is very complicated and may confuse the taxpayers or the end users of tax planning service. This condition shall be taken into account by the Indonesian Government prior to the implementation of the plan.

It surely has good purpose, which is to increase the taxpayers' compliance. However, if in the execution it is burdensome for many parties, it will work the other way round. Thus, the MDR provision shall be made as simple as possible and initiated with a proper and effective socialization.

AVOID SANCTION THROUGH CAREFUL PREPARATION OF FOREIGN VAT INVOICE



When we speak of tax obligation, we cannot only speak about an obligation substantively, but also about fulfilling the tax obligation administratively. This is important to take into account because of not a few taxpayers still preparing their tax administration inaccurately, especially related to the filling of Tax Payment Slip (SSP) of Value Added Tax (VAT) on the utilization of Intangible Taxable Goods and/or Taxable Service from overseas.

When a taxpayer commits a utilization of Intangible Taxable Goods or Taxable Service from overseas, one of the tax obligations arisen from the transaction is the VAT remittance. In this case, notwithstanding which party bearing or paying the tax, the taxpayer is mandatory to collect and remit the VAT upon the transaction in accordance with the prevailing tax provision. The tax remittance, as stipulated in the VAT Law, shall be done through the form of SSP or Electronic Payment Slip (SSE). The SSP or State Revenue Receipt (BPN) received by taxpayers as Foreign VAT payment slip may be used as Tax Invoice

Customs Area). The errors may occur due to the lack of technical knowledge related to the SSP filling as well as thoroughness in reading the instruction of the SSP filling.

The errors in the Foreign VAT SSP that seem insignificant and mere administrative actually may result in serious consequences that can affect the taxpayers' obligation. And, the level of the consequences depends on the type of error that is found in the SSP filling whether it is in the verification phase or the audit phase.

Article 6

(1)

Value Added Tax payable as stated in Article 3 shall be fully collected and remitted to the State Treasury through Post Office or Designated Bank by using the Tax Payment Slip by individuals or corporates utilizing intangible Taxable Goods and/or Taxable Service from Outside Customs Area, at the latest on the 15th of the following month after the tax payable period as stated in Article 4.

Article 6

(2)

Tax Payment Slip as stated in Article (1), using the Tax Payment Slip in accordance with the laws regulating the taxation general provision and procedure, with conditions as follows:

- a. The columns "Name of Taxpayers" and "Address of Taxpayers" are filled out with name and address of the individuals or corporates having domicile or location outside Customs Area and transferring intangible Taxable Goods and/or Taxable Service inside Customs Area.
- b. The column "Taxpayer Identification Number" is filled out with number 0 (zero), except Tax Office code that is filled out with the Tax Office code from the party utilizing the intangible Taxable Goods and/or Taxable Service.
- c. The box "Taxpayer/Payer" is filled out with the name and Tax Identification Number of the party utilizing intangible Taxable Goods and/or Taxable Service.

(document equivalent to Tax Invoice under PER-10/PJ/2010 jo. PER-33/PJ/2014) thus the VAT In already paid may be credited by the taxpayers who have been confirmed as VAT Registered Person.

Minister of Finance (MoF) Regulation Number 40/PMK.03/2010 on Procedure of Calculation, Collection, Remittance, and Reporting of VAT on Utilization of Intangible Taxable Goods and/or Taxable Service from Outside Customs Area, has stipulated the procedure of remittance and SSP form filling, as follows:

However, in practice there are still numbers of taxpayers making errors in the SSP filling, especially in Name, Address, and Tax Identification Number (NPWP) of taxpayers. The taxpayers commonly make the error in filling those columns by stating their own identity. Meanwhile, based on the provision PMK-40/PMK.03/2010 above, the columns shall be filled out with the identity of the counterparty of the taxpayers (the party transferring the intangible Taxable Goods and/or Taxable Service inside

Verification Phase

In the verification phase, the Tax Office will only conduct document check in brief. This phase is a routine process commonly conducted by the Tax Office following the taxpayers' Tax Return reporting. If the error of the SSP filling is found in this phase, for example where identity of the Foreign Service provider is not stated, the SSP will be deemed inaccurate.

Pursuant to Circular of DGT Number SE-147/SE/2010, in term of any VAT SSP filling on the utilization of Intangible Taxable Goods and/or Taxable Service from overseas that does not meet PMK-40/PMK.03/2010, the VAT payment shall not be creditable. Thus, in practice, the Tax Office will send a notice to the taxpayers to re-remit the foreign VAT based on the value that shall be paid.

Meanwhile, MoF Regulation Number 242/PMK.03/2014 stipulates the taxpayers' rights to conduct overbooking in case

of error in the SSP form filling. For instance, there are errors in the filling of tax account code and/or payment type code, tax period and/or tax year, payment amount, and/or NPWP, and/or name of Taxpayer.

By referring to the provision, many taxpayers may consider conducting the overbooking to solve the error on the SSP of VAT on the utilization of Taxable Goods and/or Taxable Service from overseas. Unfortunately, PMK-242/PMK.03/2014 also stipulates that the overbooking may not be made for the payment of VAT on tax objects that shall be self-remitted by the taxpayers by using the SSP equivalent to Tax Invoice. Thus, in this case, the overbooking from the account of VAT on Intangible Taxable Goods and/or Service from overseas into the VAT from the same type cannot be performed. As a consequence, the taxpayers shall re-remitt the amount of VAT payable with the correct SSP filling.

Ideally, the re-remittance shall be done immediately after the error in the SSP filling by still paying attention to the deadline of remittance of VAT on the utilization of Intangible Taxable Goods and/or Services from overseas (on the 15th of the following month after the VAT payable period). However, the new VAT remittance will be deemed late, thus, administrative sanction shall be charged upon the late remittance in the form of fine/interest at 2% of the tax imposition base.

Audit Phase

The next phase is the audit that is commonly conducted due to overpayment or other reasons. In this phase, the error in SSP filling is usually treated as tax auditor's finding, which is often conducted years after the VAT payable period. Unfortunately, in this phase, the taxpayers can no longer conduct the re-remittance of Foreign VAT since it is no longer possible for the VAT remittance when the audit has run. In this case, the tax auditor will directly make a correction to the Foreign VAT that has been credited by the taxpayers as VAT In.

The consequence may vary depending on the taxpayers' condition. If the correction results in an underpayment, the sanction may reach 100% of the VAT In that has been compensated.

Prevent the Error

The numerous consequences arisen from the error in the Foreign VAT SSP filling surely may lead to a company's loss. Because, the company's cash flow may be hampered due to the re-remittance of VAT or administrative sanction payment—especially since the foreign transaction is a transaction involving a material amount of money.

Therefore, the best way to prevent the error in the Foreign VAT SSP is by reading the instruction of the SSP filling thoroughly in compliance with the prevailing provision. The provision related to the Foreign VAT filling that shall be taken into account by the taxpayers is MoF Regulation Number 40/PMK.03/2010 and Circular of DGT Number SE-147/PJ/2010.

Seeing the dynamics and the up-to-date nature of tax regulations, changes in the regulations—including that regulating the Foreign VAT SSP—is considered common. Therefore, the taxpayers shall pay a close attention to the changes of regulation, or may consider being proactive to the assigned tax consultant regarding any regulation updates.

Case Sample :

PT KMIA (NPWP 01.234.567.8-011.000 is the VAT Registered Enterprise engaging in chemical industry sector. PT KMIA requests for the assistance in the form of technical and management service to New Chemical Ltd from United States.

On 10 February 2012, a contract was entered into and states that the fee on technical and management service will be paid to New Chemical Ltd of USD43,000 (KMK rate per 10 February = IDR8,977)

VAT Base : USD43,000 x IDR8,977 = IDR386,011,000

VAT Payable : 10% x IDR386,011,000 = IDR38,601,100

To be remitted on 15 March 2012 at the latest.

The correct SSP filling based on the above is as follows:



LAMPIRAN I
PERATURAN DIREKTUR JENDERAL PAJAK
NOMOR PER-38/PJ/2009 TENTANG
BENTUK FORMULIR SURAT SETORAN PAJAK

DEPARTEMEN KEUANGAN R.I. DIREKTORAT JENDERAL PAJAK		SURAT SETORAN PAJAK (SSP)	LEMBAR 1 Untuk Arsip Wajib Pajak
NPWP : 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 <small>Diisi sesuai dengan Nomor Pokok Wajib Pajak yang dimiliki</small>			
NAMA WP : New Chemical Ltd			
ALAMAT WP : United State of America			
NOP : [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] <small>Diisi sesuai dengan Nomor Objek Pajak</small>			
ALAMAT OP : [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] []			
Kode Akun Pajak 4 1 1 1 2 1 1 1	Kode Jenis Setoran 1 0 2	Uraian Pembayaran : Setoran PPN JKP dari luar Daerah Pabeaan	
Masa Pajak		Tahun Pajak	
Jan	Feb	Mar	Apr
Mei	Jun	Jul	Ags
Sep	Okt	Nov	Des
<small>Beri tanda silang (X) pada kolom bulan, sesuai dengan pembayaran untuk masa yang berkenaan</small>		2 0 1 2 <small>Diisi Tahun terutangnya Pajak</small>	
Nomor Ketetapan : [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] <small>Diisi sesuai Nomor Ketetapan: STP, SKPKB atau SKPKBT</small>			
Jumlah Pembayaran : Rp 38.601.100 <small>Diisi dengan rupiah penuh</small>		Terbilang : Tiga puluh delapan juta enam ratus satu ribu seratus rupiah	
Diterima oleh Kantor Penerima Pembayaran Tanggal : [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] [] <small>Cap dan tanda tangan</small>		Wajib Pajak/Penyetor Jakarta , Tanggal 15-Mar-12 <small>Cap dan tanda tangan</small> PT KMIA 01.234.567.8-011.000 ttt Nama Jelas : Budiman	
<small>" Terima Kasih Telah Membayar Pajak - Pajak Untuk Pembangunan Bangsa " Ruang Validasi Kantor Penerima Pembayaran</small>			
F.2.0.32.01			

Ready for

TAX AUDIT

Tax Audit is the duty of Tax Authority intended to test the Taxpayers' compliance and/or for other purposes. Non-compliance may lead to the consequence of tax underpayment for the Taxpayers. Nevertheless, the Taxpayers do not have to worry about the tax audit as long as the Taxpayers understand and implement their rights and obligation properly.

AUDIT PURPOSE

To Test the Taxpayers' Compliance

- Overpaid Tax Return
- Tax Return in Loss Position
- Tax Return not/late submitted (warning letter)
- The conduct of merge, acquisition, expansion, liquidation, or departure from Indonesia permanently; and
- Conformity to the Tax Return selection criteria and, under the analysis results, an indication of unfulfilled tax obligation based on taxation regulations.

Other Purposes

- Ex Officio Provision of Tax Identification Number (NPWP);
- NPWP revocation;
- Confirmation and revocation (re-registration) of VAT-Registered Person (Pengusaha Kena Pajak/ PKP);
- Taxpayers' application for objection;
- Collection of material to arrange the Deemed Net Income Calculation;
- Reconciliation of data or evidence;
- Determination of the Taxpayers' remote area;
- Determination of VAT Payable location; and
- Audit in terms of tax collection.

Taxpayers' Rights

- Request the Identity Card of the Tax Auditor and Tax Audit Warrant;
- Request a written notice regarding audit;
- Acknowledge the rationales and purposes of audit;
- Receive Notification of Tax Audit Findings;
- Attend the Closing Conference;
- File for Closing Conference request by Tax Auditor;
- Fill in assessment in the Tax Audit questionnaire form;
- Business data confidentiality guarantee.

Taxpayers' Obligation

- Attending tax audit and it must not be represented
- Show/lend records, bookkeeping documents, and other files related to income, business activity, independent job, or Tax Payable object;
- Render access and/or download electronic data;
- Render permission for the Tax Auditor to check place/room, movable and/or immovable goods intended to keep books/recordings, bookkeeping documents, other documents, money, and/or goods indicating the Taxpayers' income.
- Render assistance for the good conduct of the audit;
- Convey written response to Notification of Tax Audit Findings;
- Render required verbal and/or written statement.

