

Tax News Flash

November 2019



Tax Facilities on Import of Goods under Contract of Work ("CoW") or Coal Contract of Work ("CCoW")

The Minister of Finance issued Regulation/PMK No. 116/PMK.04/2019 ("PMK-116") to clarify the provisions regarding tax facilities available on import duty and import VAT on goods imported in relation to CoW/CCoW, previously regulated under PMK No. 259/PMK.04/2016 ("PMK-259").

PMK-116 replaces PMK-259 and became effective on 11 October 2019.

Import Tax Facilities for Activities Under CoW/CCoW

The tax facilities, in the form of import duty exemptions or reductions and import VAT exemptions on goods, can only be provided to CoW/CCoW Contractors whose contracts indicate:

1. the import duty exemption or reduction; and
2. the import VAT exemption of goods; and
3. the time period of these tax facilities.

These tax facilities will be given according to the time period as mentioned in the contract.

Should the contract only indicate point 1 and 2 above, but there is no indication of point 3, which is the period of these tax facilities, then these import tax facilities would only be provided to the CoW/CCoW Contractor starting from when the contract was signed until the 10th year of their production period.

In addition, the import duty exemption or reduction applies only until the end of the contract period for the following **CCoW Contractors**:

- a. Those whose contracts were signed before 1990;
- b. Those whose contracts indicate import duty exemption or relief;
- c. Those whose contracts do not indicate the time period of import duty exemption or relief; and
- d. Those who imported State-owned assets.

The Head of Capital Investment Coordinating Board

("BKPM"), or an official appointed on behalf of the Minister of Finance, will issue a decree in the form of Minister of Finance Decision/KMK (known as a Master list) for the imported goods that can utilize these tax facilities.

Transfer, Re-export, or Destruction of Goods That Have Been Granted with Import Tax Facilities

In general, any transfer, re-export or destruction of goods that had been imported with exemptions can only be done after 2 years and requires approval from the Customs Office with recommendations from related ministries and departments if to be performed before a five-year period. Failure to meet these requirements will result in import duty and import VAT becoming payable, plus associated penalties and administrative sanctions.

An exclusion for settling the underpayment is applicable if made after 5 years for import duty and after 4 years for import VAT.

KPMG Comment:

PMK-116 provides in more specific detail who are CoW/CCoW Contractors who qualify to obtain the tax facilities and their eligibility period. The Contractors should be more aware of the requirements and plan for the expenses that may occur after the eligible time period of these tax facilities end.

It also provides the timeline requirements that must be followed to protect tax facilities previously obtained before transferring, re-exporting and destroying goods that received tax facilities.

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