



## IMPLEMENTING REGULATION ON VAT

The Government issued several implementing regulations for various tax provisions under the Law on Harmonization of Tax Regulations in December 2022. We previously reported on Government Regulation (“GR”) No. 49/2022 on VAT exemptions and GR No. 55/2022 on income tax (see our January News Alerts No. 1 and No. 2 for details).

In this News Alert we report on implementing regulation GR No. 44/2022 (“GR-44”) on VAT and sales tax on luxury goods. This GR includes several points regulated under GR No. 1/2012 that are unchanged. Only the significant changes and clarifications under GR-44 are covered here.

### Joint responsibility for payment of VAT

A buyer of VATable goods or services will be jointly responsible for the payment of VAT if:

- The VAT cannot be charged to the seller/service provider; **and**
- The buyer cannot show proof of making a VAT payment to the seller/service provider.

Payment is made using a tax payment slip (*SSP/surat setoran pajak*) or payment can be collected through a tax underpayment assessment letter (*SKPKB/surat ketetapan pajak kurang bayar*). Previously, the underpayment of VAT could only be collected through the issuance of a SKPKB.

Further details on the procedures for payment will be issued in a Minister of Finance (“MoF”) regulation.

### Appointment of other parties to collect, deposit, or report VAT

The MoF can appoint other parties as VAT collectors if they are involved in or facilitate transactions, including transactions conducted electronically. If such other parties enter transactions with VAT collectors appointed under Article 16A of the VAT Law, the other parties are responsible for collecting, depositing and reporting the VAT.

### Own use or free gift of VATable goods or services

VATable goods or services for own use or given as a free gift are subject to VAT.

- Previously, own use was divided into personal use for consumption or productive purposes, with own use of goods or services for productive purposes not subject to VAT. GR-44 clarifies that own use is limited to use by the company, management or employees, whether originating from own production or not.
- A free gift is defined as a VATable good or service given without any payment or reward.

Further provisions on the limitations and procedures will be provided in a future MoF regulation.

### VAT on delivery for operational and non-operational activities

A delivery of VATable goods or services within the customs area for business activities is subject to VAT. GR-44 clarifies that VAT applies to a delivery for operational as well as non-operational activities. The meaning of operational activity is principal revenue producing activities. Non-operational activity is an activity other than operational activity.

## Delivery of collateral assets by a creditor to a buyer

The delivery of collateral assets by a creditor to a buyer is subject to VAT. Collateral assets are defined as VATable goods taken over or repossessed by a creditor based on mortgage rights, fiduciary guarantee, pawn, or similar arrangements. Further details are to be provided in a future MoF regulation.

## VAT payable at a certain rate

The MoF may determine an effective VAT rate that is lower than 11% for VAT collected by a VATable entrepreneur which:

- Has business turnover in one fiscal year that does not exceed a certain amount;
- Conducts certain business activities (e.g., has difficulty administering input VAT or conducts transactions through a third party); or
- Delivers certain VATable goods or services (e.g., goods needed by many communities).

The VAT payable is based on a particular formula multiplied by the VAT base (sale price, reimbursement, or specific value). If a transfer is made between the head office and a branch or between branches, the VAT base is IDR Nil.

Input VAT related to delivery of goods or services subject to the effective VAT rate cannot be credited by the seller/service provider. The input VAT can be credited by the buyer/service recipient in accordance with the crediting input VAT regulation.

## Tax base and VAT payable based on audit results

If, based on a tax audit, it is found that a VATable entrepreneur did not collect VAT, either in part or in full, the tax base used to calculate the VAT payable is determined based on the audit result. Previously, the tax base was limited to sale price, replacement, or other value. Even before issuance of GR-44, using the VAT base based on a tax audit has been the practice.

## Documents equivalent to a VAT invoice

The DGT can determine that certain documents are equivalent to a VAT invoice. However, if the VAT invoice equivalent is made more than three months from the time it should have been made, it is not treated as a VAT invoice and the input VAT cannot be credited.

## Other

GR-44 revokes GR No. 1/2012 and Article 5 of GR No. 9/2021. All implementing regulations of GR-1 and GR-9 remain in effect to the extent they do not conflict with GR-44.

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