

CHANGES TO FINAL INCOME TAX RATES FOR CONSTRUCTION SERVICES

Government Regulation No. 9/2022

Government Regulation No. 9 of 2022 (“GR-9”) was issued on 21 February 2022 and reduces the final income tax rates on construction services. This change was made in order to help construction companies deal with the impact of COVID-19 on their business. GR-9 amends Government Regulation No. 51 of 2008, as amended by Government Regulation No. 40 of 2009 (“GR-51”).

The most significant changes are explained below.

Definitions

Construction services are:

- **Construction consulting**, which includes the evaluation, planning, design, supervision, and management of the construction of a building.
- **Construction work**, which includes construction, operation, maintenance, demolition, and redevelopment of a building.
- **Integrated construction work**, which covers a combination of construction work and consulting, which includes planning, procurement and construction (EPC model) as well as planning and construction.

Income tax rates

As before, the tax rate depends on whether or not the service provider (entity or individual) has a particular certification and qualification. The certifications and qualifications are issued by the following authorized parties:

- A certification agency formed by a business association accredited by the Ministry of Public Works and Housing and registered by the Construction Services Development Institute (*Lembaga Pengembangan Jasa Konstruksi/LPJK*)
- Minister of Energy and Mineral Resources or a certification agency accredited by that Ministry

Note that under GR-9 the imposition of final tax on a service provider does not negate the obligation to obtain certification.

The rates are set out in the following table:

Type of Service	GR-51		GR-9	
	Classification	Tax rate	Classification	Tax rate
Construction consulting (planning or supervision in GR-51)	Certified service provider	4%	<ul style="list-style-type: none"> ▪ Certified service provider ▪ Individual business with certificate of work competency 	3.5%
	Non-certified service provider	6%	Non-certified service provider	6%
Construction work	Certified, small-scale service provider	2%	<ul style="list-style-type: none"> ▪ Certified, small-scale service provider ▪ Individual business with certificate of work competency 	1.75%
	Certified, non small-scale service provider	3%	Certified, non small-scale service provider or specialist	2.65%
	Non-certified service provider	4%	Non-certified service provider	4%
Integrated construction work	Not applicable		Certified service provider	2.65%
			Non-certified service provider	4%

Other

Under GR-9, the contract value is the value stated or that should be stated in the contract. This wording could be interpreted to allow a tax auditor to scrutinize the contract value and impose a different value than that stated in the contract. It remains to be seen how this might be handled in practice.

The tax treatment for contracts signed before 21 February 2022 is as follows:

- For payments made before 21 February 2022, the rate is based on GR-51
- For payments made on or after 21 February 2022, the rate is based on GR-9

The implementing regulations of GR-51 remain valid provided they do not contradict GR-9.

The Ministry of Finance will evaluate GR-9 three fiscal years after 21 February 2022. Based on the result of that evaluation, construction services could be subject to normal corporate income tax (Income Tax Law Art. 17).

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