

PETRO TAX NOTES



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Administration of Oil & Gas LBT, PMK-26/PMK.03/2015 (Amendment of PMK-63/PMK.03/2013)

OVERVIEW

Procedure and administration in fulfilling LBT obligation for Upstream Petroleum Industry has been regulated in PMK-63/PMK.03/2013. The regulation defines object of the Oil & Gas LBT, pointing PSC companies as the tax payers, LBT settlement, obligations to file LBT Returns (SPOP) along with the integrated exhibits (LSPOP). PMK-63 is still in force for 2015 LBT obligation but some of the terms are revised and some new provisions are added.

In 10th February 2015, Ministry of Finance (MoF) commenced a new regulation, PMK-26/PMK.03/2015, provides some amendment to PMK-63.

THE CHANGES

PMK-26 basically provides some additional provisions such as LBT Returns obligation and supporting document, LBT obligation when any transfer of PSC, LBT obligation on PSC termination, LBT Returns (SPOP and LSPOP) verification and clarification, and guidance on coordination between DGT and Ministry or agency who regulates or manages the upstream industry.

SPOP and LSPOP Obligation

Emphasize clause that regulates obligation to prepare and fill SPOP and LSPOP clearly, correctly, and completely and supported with the related document. Unfortunately, the Regulation doesn't provide detail of the document must be attached. In previous clause (PMK-63), PSC is only required to attach working area map.

There is also requirement to provide Power of Attorney (PoA) if the returns are not signed by the tax payers.

LBT Obligation on PSC Transfer or Termination

In the case of any changes in Tax Payer on the LBT (PSC transfer or changes of PSC contractors), the LBT rights and obligations will be also transferred to the new contractors (the new Tax Payer). When PSC Companies submit termination proposal, they shall advice related tax office for

the termination, by the end of respective fiscal year at the latest. Response in regards of tax payer status will be given within 1 month since notification submission.

Verification and Clarification

An additional procedure introduced in the new regulation that DGT will run verification on the submitted SPOP and LSPOP and could be proceeded to clarification process. Tax Payers must provide response within 10 working days. Response is submitted through Ministry or Agency who regulates the industry and further submitted to DGT within 5 working days. Responses could be either stating the SPOP/LSPOP has been correct or stating any mistake on the SPOP and attach the revision.

Coordination between DGT and MoEMR or the Agency who manage upstream sector (SKK Migas)

Coordination is expanded to support verification and clarification activity done by DGT, to provide information of tax payer existence, information in regards of any changes in operatorship, transfer of PSC or any information related to PSC termination.

Enforce A Observations

Since GR-79/2010 is implemented, LBT for Upstream Oil & Gas gains significant attention. The new regulation expresses DGT significant attention on LBT. Requirement and activity on LBT filing and documentation may heavier than few years ago.

LBT Obligation for PSC Contractors

Oil & Gas LBT is mainly regulated under MoF Regulation (PMK) No.76/PMK.03/2013 and DGT Regulation (PER) No.45/PJ./2013. LBT is an official assessment tax which is assessed by Tax Officer based on data (LBT Tax Return) filed by PSC Contractors reflecting the situation at the beginning of respective fiscal year. Post GR-79 PSC is obliged to pay LBT.

New Export Regulations for Upstream Petroleum Product

MoT Regulations No. 03/M-DAG/PER/1/2015 and No. 04/M-DAG/PER/1/2015

Government recently has issued 2 important regulations that further govern and tighten of oil and gas export and import. Ministry of Trade (MoT) Regulation No.03/M-DAG/PER/1/2015 provides tighter control of oil, natural gas and other fuel export and import. The regulation will be fully enforced since April 7, 2015. The other is MoT Regulation No. 04/M-DAG/PER/1/2015, will be effective since April 1, 2015, require L/C payment for some key commodities export including crude oil and natural gas.

WHAT'S NEW?

MoT Reg. No 03/M-DAG/PER/1/2015

The new regulation is intended to replace previous regulation No. 42/M-DAG/PER/9/2009. There are at least 3 main changes from the previous regulation or from the current practice as follows:

1. Obligation to register in Ministry of Trade or obtaining acknowledgement as a Registered Exporter (ET-Ekspertir Terdaftar). This is extra step must be taken by exporter. Current practice only requires export permit/approval and recommendation for export.
2. Export Permits or Approval both for exporting Contractor's share or exporting Government share if the Contractor is appointed to sell the Government share.
3. Export verification or inspection by independent surveyor before export can be proceed

MoT Reg. No 04/M-DAG/PER/1/2015

MoT Regulation No.04/2015 introduced a new payment method for export, in which Government requires exporter to use Letter of Credit (L/C) effective since April 1, 2015. This rule effects coal, oil and gas, palm and palm-kernel oil, and minerals including tin.

REGISTERED EXPORTER (ET) ACKNOWLEDGEMENT

Indonesian business entity and Permanent Establishment who engage in upstream petroleum business ("PSC Contractors") are allowed to export crude oil and natural gas. First step shall be taken is to register in Ministry of Trade to obtain acknowledgement as a Registered Exporter. A written application must be submitted to MoT or

Directorate General of Foreign Trade completed by copy of business license, copy of Tax ID, and Copy of Certification of Business Registration (TDP). MoT will issue acknowledgement within 5 working days and will last 3 years since issuance date.

EXPORT APPROVAL (PE)

Export Approval from MoT is mandatory for PSC Contractors to be allowed to ship product. Approval is required both for shipping Contractor share and/or Government share. A written application must be submitted to MoT supported with Recommendation Letter from MoEMR (both for Contractor share and Government share export volume), ET Acknowledgement, copy of business license, Tax ID, Customs ID, TDP, and Report of previous export realization. PE will be in force following validity period of MoEMR Recommendation Letter.

EXPORT VERIFICATION

Export can be proceeded after a verification or technical inspection has been conducted by an independent surveyor. Surveyor Inspection Report is necessary to complete export documentation. Cost of inspection/verification shall be borne by Government, or could be charged to the exporter in case no fund is available.

REPORTING OBLIGATION

Exporters are obliged to file report on their export activities both for the realized value and unrealized value. Monthly regular report must be submitted by 15 following months at the latest. Penalty for not submitting could be administration, postponement of export, or revocation of ET.

L/C PAYMENT REQUIREMENT

L/C payment method is mandatory in exporting oil & gas. Transaction will not be permitted if the exporter does not use L/C payment. The use of L/C must be stated in the Export Document (PEB), reflected actual value of transaction, and shall be accepted by local bank.

Enforce A Note

L/C payment requirement may cause downside impact for export activity. It will take longer time, additional cost and may lowering trust between parties.

Preparing 2014 Individual Tax Return

DGT Regulation PER-19/PJ./2014 dated 3 July 2014

March 31, 2015 will be the latest submission time for 2014 Individual Income Tax Return. Directorate General of Taxes (DGT) has issued a revision on the Forms of 2014 Annual Tax Returns, through regulation No. PER-19/PJ./2014.

FORMS OF TAX RETURNS

1. Form 1770 SS

This is the simplest form addressed to individual who has annual income of IDR 60 million at the highest and the income is non-business activity or non-professional services source of income

2. Form 1770 S

Form 1770 S is filled by individual who earn income from employment in which the tax payable has been withheld by the employer, domestic income, and/or other income that subject to final tax. Some revision has been made on the form, such as declaration of tax obligation settlement between husband and wife, spouse Tax ID, and a

standard form of husband and wife tax calculation (PH-MT Calculation Form).

3. Form 1770

Form 1770 is the most comprehensive form used by individual who earn income from business activity or professional services (self-employed), receive foreign income, and/or other income that subject to final tax. For a PH-MT status, a standardize PH-MT calculation form must be attached.

The other revision made to the Asset and Liability Form/Exhibit by introducing a standardized code on asset and liability.

METHODS OF SUBMISSION

1. Direct submission to related tax office
2. By post office or courier services
3. Drop box
4. E-filing

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About Us

Enforce A is a national tax consultant who is focusing on providing tax advisory to upstream oil & gas industry, coal & mining, as well as financial services industry. Our services cover day to day tax advisory, strategic tax planning, tax due diligence, compliance services, tax function outsourcing, tax audit, tax objection and litigation, tax refund, International Tax and Transfer Pricing documentation. Supported by experienced team with related industrial background, we understand client business better and able to deliver solutions right to the heart of the problem. Our government officer experiences and litigation will complete our view in providing comprehensive and practical solutions to our client.

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