taxprime®

Vol. 01 February 2023

Tax Update

Changes in Application of Value Added Tax

Government Regulation number 44 year 2022 (referred as GR 44) is the implementing regulation of the Law Number 7 year 2021 concerning Harmonization of Tax Regulations (referred as HTR Law). Overall GR 44 contains further provisions of the principles already regulated in the HTR Law, especially related to rates, methods of calculation, use of certain amounts in collecting and depositing Value Added Tax (referred as VAT), as well as appointing other parties to collect, deposit, and/or tax reporting. In addition, GR 44 also revokes and replaces Government Regulation number 1 year 2012 (referred as GR 1) which is no longer in accordance with HTR Law and the administrative needs of VAT and Sales Tax on Luxury Goods.

The content of GR 44 consists of three components i.e. new substances that were not set forth by previous Government Regulations, refinement of the existing substances, and redaction improvements. The summary of important provisions in GR 44

consisting of new substances and refinement of the existing substances are explained below.

1. New substances in GR 44:

a. Appointment of Other Parties to Collect, Deposit and/or Report VAT or VAT and Sales Tax on Luxury Goods (Article 5)

Article 5 GR 44 stipulates that the Minister of Finance may appoint another party to collect, deposit and/or report VAT, or VAT and Sales Tax on Luxury Goods in accordance with statutory provisions.

Other parties are parties who directly involved in or facilitating transactions between transacting parties, including transactions conducted electronically in the form of traders, service providers, and/or Trade Operators Through Electronic Systems (referred as PPMSE). The provisions for collecting, depositing and/or reporting VAT and/or Sales Tax on Luxury Goods also apply when transacting or facilitating transactions with VAT collectors (Article 16A of the VAT Law).

Other parties are defined as traders or service providers who are private persons or entities residing or domiciled outside the customs area who conduct transactions with buyers or service recipients within the customs area through their own electronic system. PPMSE who resides or is domiciled in the customs area or outside the customs area is also included in the definition of other parties.

b. Submission Taxable Goods in the form of collateral (Article 10)

The provisions of Article 10 GR 44 further emphasize that the repossession of collateral by creditors, commonly referred to as Repossessed Collateral (AYDA), is not a delivery of Taxable Goods. Delivery of Taxable Goods is a delivery of rights over Taxable Goods due to an agreement. So that the delivery of the Taxable Goods occurs when the creditor delivers the Taxable Goods to the buyer.

Collateral is Taxable Goods taken over by creditors based on:

1. mortgage rights over land and objects related to land;
2. fiduciary guarantee;
3. mortgage;
4. pawn; or
5. other similar charges.

c. Delivery of Taxable Goods in sharia financing transaction scheme (Article 12)

The delivery of Taxable Goods in sharia financing transaction scheme is not changed in HTR Law and its definition has been regulated since Law Number 42 of 2009, namely the delivery of Taxable Goods is considered to be directly from the Taxable Entrepreneur to the party who needs the Taxable Goods. GR 44 in its elucidation explains more about the delivery of Taxable Goods as collateral for accounts payable as described in letter b and includes the delivery of Taxable Goods in sharia financing transaction scheme within the scope of its definition.

The addition of the definition above seems to intend to cover sharia financing transaction schemes that have not been covered in the VAT Law, namely sharia financing transactions in which the submitted Taxable Goods in the sharia financing transaction scheme will return to the party that originally submitted. Delivery of these Taxable Goods includes delivery of Taxable Goods in the context of issuance of " Sukuk" and delivery of Taxable Goods in the framework of a commodity trading scheme based on sharia principles on commodity exchanges.

d. Submission Taxable Goods/Taxable Services (JKP) carried out in operational and non-operational activities (Article 8)

In the old provisions, there are several definitions regarding the delivery of which VAT and/or Sales Tax on Luxury Goods are payable, which one of them is the delivery carried out in the context of business activities or work. GR 44 regulates further definitions of delivery in the context of business activities and work, namely the entire delivery of Taxable Goods and/or Taxable Services that are submitted in operational and non-operational activities. Even GR 44 defines

what is meant by operational and non-operational activities. Operating activities are the main revenue-generating activities, activities other than investing and financing activities, as well as transactions or events whose effects are considered in determining operating income.

e. Collect and deposit of VAT payable with certain amount (Article 15)

This arrangement replaces provisions related to guidelines for calculating input tax credits (ex DPP Other Values) for PKP whose business circulation does not exceed a certain amount and who carry out certain business activities. In addition, this provision adds to the criteria that can be subject to VAT with a certain amount, namely those who deliver certain Taxable Goods/Taxable Services.

With the enactment of HTR Law and GR 44, the guidelines for calculating input tax credits have been replaced with a certain amount. A certain amount is calculated by: (certain formula x VAT rate) x DPP. As with the previous provisions, input tax related to the delivery of Taxable Goods and/or Taxable Services carried out by PKP using a certain amount cannot be credited.

Apart from that, GR 44 is regulated in a certain amount that DPP can be set in the form of a certain value of Rp. 0.00 (zero rupiah) which is applied for self-use and/or free gifts.

f. Treatment of certain documents whose position is equal with tax invoices (Article 28)

The old provisions of treatment when certain documents whose position is equal with issuing tax invoices are regulated in the elucidation of PP 9 of 2021, through the provisions of GR 44, for all treatment is regulated in the body of regulation. The provision regulates that certain documents are issued no later than 3 (three) months from the time they should be made the same as the Tax Invoice. If the period of 3 (three) months has passed, it is deemed not to have made certain documents and for PKP buyers/recipients of VAT services listed in these certain documents constitute input tax that cannot be credited.

g. VAT rate changes (Article 29)

Regarding changes to VAT rates regulated in the HTR Law, GR 44 regulates how these rate changes are applied which are in principle based on when a tax invoice or certain document should have been made. As it is known that the change in VAT rate to 11% was enforced from April 1 2022 and to 12% from January 1 2025. In the event when VAT becomes payable and when a tax invoice or certain documents are made before the date of change in VAT rates comes into force, then the VAT rate applied used is the old rate of 10%. If the time when VAT is payable and when a tax invoice or certain document is made occurs after the date of the rate change, the VAT rate uses the new rate.

2. Changes/improvements to the old provisions:

a. Joint responsibility for payment of VAT and/or Sales Tax on Luxury Goods (Article 4)

Joint responsibility has long been regulated in statutory provisions related to VAT and/or Sales Tax on Luxury Goods and previously in the old provisions this joint responsibility could only be carried out through the issuance of Underpaid Tax Assessment Letters and regulated with negative sentences ("not enforced in thing"). In GR 44 this joint responsibility has been perfected/changed, namely its implementation since the time of voluntary compliance through tax payment slips and the use of positive sentences ("enforced in cases").

b. Self-use of Taxable Goods/Taxable Services (Article 6)

Self-use provisions in GR 44 are changes and improvements to self-use in the old provisions. The old provisions regulate self-use for productive and consumptive purposes where for productive purposes VAT is not subject to VAT unless those used to make deliveries are not subject to VAT or receive exempt facilities. In GR 44, the self-use of Taxable Goods/Taxable Services is included in the definition of delivery of Taxable Goods which are subject to VAT and/or Sales Tax on Luxury Goods and their definitions are changed or perfected to use or utilization for the benefit of the entrepreneur himself, administrators, or employees, whether self-produced or non-self-produced.

However, even though it is included in the definition of delivery of Taxable Goods subject to VAT, the calculation and deposit of VAT for own use uses a certain amount which is calculated by: (certain formula x VAT rate) x DPP. Meanwhile, the DPP for self-use is set at a certain value of Rp. 0.00 (zero rupiahs). Therefore, with GR 44, self-use and free giving are free even though they are subject to VAT, but the VAT value is IDR 0.00.

c. Right of return on VAT and/or Sales Tax on Luxury Goods that was wrongly collected (Article 20)

In the event of an error in collecting VAT and/or Sales Tax on Luxury Goods based on the old provisions, the excess collection can be requested back by the collected party. In GR 44 the phrase can be requested again is changed to being able to apply for a refund of overpaid taxes. This further confirms that errors in the collection of VAT and/or Sales Tax on Luxury Goods can be submitted for a refund of the overpayment of tax by the collected party to the DGT.

d. Currency conversion in calculating VAT and/or Sales Tax on Luxury Goods payable (Article 21)

In the previous provisions it has been regulated that in the transaction of import of Taxable Goods, delivery of Taxable Goods within the customs area, delivery of Taxable Services within the customs area, utilization of Intangible Taxable Goods from outside the customs area, and/or utilization of Taxable Services from outside the customs area using a currency other than rupiah, the calculation of VAT and/or Sales Tax on Luxury Goods must be converted into rupiah currency using the KMK Exchange Rate when making a tax invoice. With this provision, if there is a Tax Invoice that is late issued but is still within the 3-month time limit, the exchange rate used is the KMK rate that was in effect at the time the tax invoice was made.

With GR 44 the old provisions mentioned above are refined/amended to include certain documents whose position is equated with tax invoices and the KMK exchange rate used is the exchange rate that applies when tax invoices and certain documents are

supposed to be made. This has implications for tax invoices and certain documents that are late in making but are still within 3 months where the exchange rate used is not the exchange rate at the time the tax invoice and certain documents are made but the exchange rate that applies when both are supposed to be made.

Our Experts

Soewito
soewito@taxprime.net

Muhamad Fajar Putranto
fajar@taxprime.net

Wawan Setiyo Hartono
wawan@taxprime.net

Machfud Sidik
machfudsidik@taxprime.net

Robert Pakpahan
robertpakpahan@taxprime.net

Isnaeni
isnaeni@taxprime.net

Emanuel Dewo Adi W.
dewo@taxprime.net

Nurul Chalik Wardojo
chalik@taxprime.net

Abdurahman
abdurahman@taxprime.net

Saut Hotma H. Sibarani
saut@taxprime.net

Aries Prasetyo
ariesprasetyo@taxprime.net

Prio Saptomo
wawan@taxprime.net

Teguh Wisnu Purbaya
teguh@taxprime.net

Mandra Komara
mandra@taxprime.net

Henny
henny@taxprime.net

Firman Muttaqien
firman@taxprime.net

Januar Ponco
ponco@taxprime.net

Awalludin Anthon B.
awal@taxprime.net

Suharno
suharno@taxprime.net

Muhamad Noprianto
noprianto@taxprime.net

Nur Yadin
nuryadin@taxprime.net

Penni Arumdati
penni@taxprime.net

Anang Febita K.
anang@taxprime.net

Bayu Rahmat Rahayu
bayu@taxprime.net

Bobby Savero
bobby@taxprime.net

Raden Agus S.
agus@taxprime.net

Eneng Shopuroh
eneng@taxprime.net

Alvian Yanuar Yasin
alvian@taxprime.net

Dwi Prasetyo
prasetyo@taxprime.net

Dinda Natasha
dinda@taxprime.net

Lita Hanifa R.
lita@taxprime.net

Muh. Fahri
fahri@taxprime.net

Ridho Atma Mulia
atma@taxprime.net

www.taxprime.net

Copyright © 2023 TaxPrime. All rights reserved.

No part of this publication may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher, except in the case of brief quotations embodied in critical reviews and certain other noncommercial uses permitted by copyright law. For permission requests, please contact TaxPrime directly through our website.