

Tax and Customs

Enhancing the Competitiveness of the Indonesian Export Service

After almost 10 years, it is known by many that the Indonesian export service does not encourage competition due to the fact that zero Value Added Tax rate ("0% VAT") is only applicable to limited types of export service, i.e. toll manufacturing service, repair and maintenance service connected to or engaged for movable goods utilized outside of the Indonesian Customs Area, and construction service connected to or for immovable goods located outside of the Indonesian Customs Area. As a result, an export of service outside of Indonesia may be subject to double taxation whenever the service is utilized in other jurisdictions that imposed VAT or GST under their taxation laws.

With the aim of improving the Indonesian economic condition by enhancing the export service and improving the competitiveness of the national services industry, on 29 March 2019, the Minister of Finance issued the Minister of Finance Regulation No. 32/PMK.010/2019 on Limitation of Activities and Types of VAT-able Services whose Export is Subject to Value-Added Tax ("PMK-32/2019"/"New Regulation"), which expands the types of export service that is subject to 0% VAT.

The New Regulation entered into effect on 29 March 2019 and revokes the previous MoF Reg. No. 70/PMK.03/2010 as amended by MoF Reg. No. 30/PMK.03/2011 which became effective since 1 April 2010.

The key issues from the New Regulation are outlined below.

Type of Export Services Activities Subject to 0% VAT

Under the New Regulation, the Export Services Activities defines as service activities in the Indonesia Customs Area which causes certain goods, facilities, conveniences, or rights to be available for utilized outside of the Indonesia Customs Area.

The type of export services subject to 0% VAT are as follows:

1. Service activities connected to moveable goods exported and to be utilized outside of the Indonesia Customs Area, includes:
 - a) toll manufacturing services (*jasa maklon*);
 - b) repair and maintenance services; and
 - c) freight forwarding services in relation to exported goods.
2. Service activities connected to immovable goods located outside of the Indonesia Customs Area, i.e. construction consultation services which includes feasibility study, planning, and design of the construction of building or building masterplan located outside of the Indonesia Customs Area.

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3. Any activities other than the activities above in points 1 and 2, where the outcomes/deliverables of which are delivered to be used outside of the Indonesia Customs Area, based on the request of recipient of the export services through:
 - a) direct or indirect delivery, among others, post service and electronic channel; or
 - b) the provision of a right to be used (access) outside of the Indonesia Customs Area.

The service activities under this category shall include:

- 1) technology and information services;
- 2) research and development services;
- 3) lease of transportation equipment services in the form of a lease of an airplane and/or ship for international flight or shipping activities;
- 4) business and management consultation services, legal consultation services, interior and architectural design consultation services, human resources consultation services, engineering services, marketing services, accounting and bookkeeping services, financial audit services, and tax services;
- 5) trading services to find the suppliers within the Indonesia Customs Area for export purposes; and
- 6) interconnection, satellite provider and/or communication/data connectivity services.

Administrative Requirements

The Export Services Activities are subject to 0% VAT if fulfilled the following requirements:

1. The service is based on an engagement or a written agreement between the Indonesia services provider with a recipient of the exported VAT-able services which clearly states:
 - a) the type of services;
 - b) the detail of the activities to be performed by the Indonesia services provider within the Indonesia Customs Area to be used outside of Indonesia Customs Area by recipient of the exported services; and
 - c) the amount or value of compensation of the exported services.
2. There are payments supported by a valid evidence of payment from the recipient of the exported services to the Indonesia services provider in relation to the above exported services.

Failure to fulfil the above requirements, the provision of services to customers outside of the Indonesia Customs Area will be deemed as a domestic transaction that is subject to the 10% VAT.

The taxable event of the Export Service Activities remains the same with the previous regulation, i.e. when the compensation is recorded or recognized as receivable or income.

The VAT-able Entrepreneur (“**Pengusaha Kena Pajak**”/“PKP”) is required to prepare the Export Declaration of Taxable Services (“**Pemberitahuan Eskpor Jasa Kena Pajak**”) along with the sales

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invoice and they should report the export services in their monthly VAT returns. The input VAT which directly related to the exported services are creditable as stipulated based on the VAT Law.

Conclusion

In conclusion, we believe that the New Regulation will enhance the competitiveness of the national services industry and it is expected that the biggest impact will be felt by the Indonesian export services providers, who would be able to compete with other services providers in other jurisdictions.

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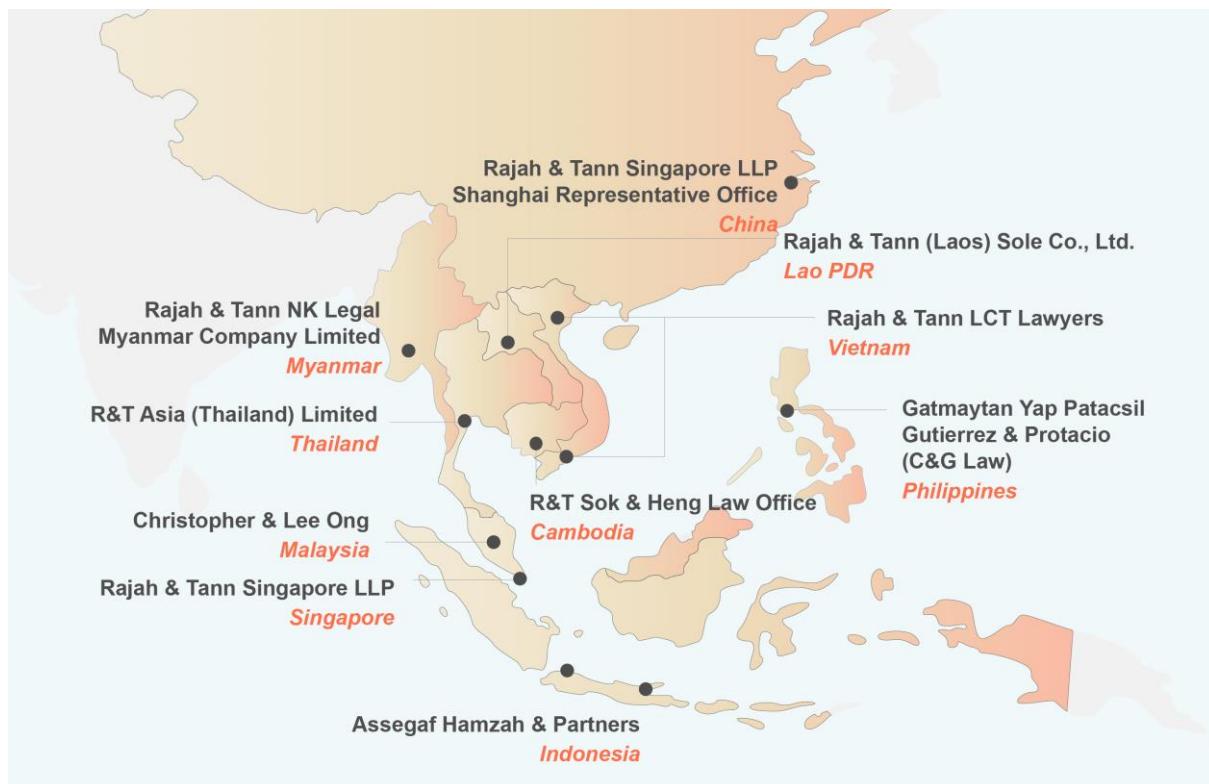
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