



Tax Officers May Obtain Access to Information from Financial Institutions

by Febi Jaya Conggih



To provide wider access for tax authorities to receive and obtain financial information for tax purposes, on 8 May 2017, the Government of Republic of Indonesia enacted Government Regulation in Lieu of Law No. 1 Year 2017 on the Access of Financial Information for Tax Purposes (“**Perppu No. 1/2017**”).

According to this Perppu No. 1/2017, the Director General of Taxes (“**DGT**”) is authorized to obtain access to financial information for tax purposes from financial services institutions conducting activities in banking, capital markets, insurance, other financial services institutions and/or other entities categorized as financial institutions (according to financial information exchange standards based on international agreements in the field of taxation). Further, according to Article 5 of Perppu No. 1/2017, the Minister of Finance is also authorized to exercise the exchange of information concerning the reports or statements/evidence

obtained from financial institutions with the competent authority in the state or other jurisdiction.

Financial institutions are required to submit reports to the DGT. Based on Article 2 paragraph (2) of Perppu No. 1/2017, the report provided by the financial institution to the DGT must contain financial information in accordance with the relevant standards of exchange of under international agreements in the field of taxation. This is for each financial account identified as a mandatory financial account, and must contain financial information for the purposes of taxation, which is managed by the Institute for one calendar year.

Perppu No. 1/2017 also expressly states that in the event that a financial institution is bound by a confidentiality obligation under the laws and regulations, that obligation is excluded in order to implement the provisions of Perppu No. 1/2017.

Licensing of Oil and Gas Business Activities

by Johannes Raymond Hasiholan



Indonesia has a long history of oil exploration, with the Dutch drilling in the late 1800s. Companies such as Shell have been operating in Indonesia for over 100 years. In the 1960s, under the former President Suharto, Pertamina (the main Indonesian state-owned oil and gas company) was set up to function as both an oil company and as the state's chief energy regulator. Pertamina both controlled and supervised oil and gas operations under various production sharing contracts. During this time, most of the companies exploring and producing oil in Indonesia were foreign companies, having invested billions of dollars setting up their operations.

The landscape of the oil and gas industry, both in Indonesia and globally, has experienced dramatic volatility in recent years. From its peak in mid-2008 (US\$145 per barrel) the oil price collapsed by more than 70%, and ended 2008 at approximately US\$40 per barrel following the global financial crisis. As market confidence returned, buoyed by confidence in growth in China and other emerging markets, crude prices rose to an average (annual basis) of approximately US\$94-98 a barrel (WTI) from 2011 to 2014. The oil price has since fallen by 70% to below US\$40 per barrel at the beginning of 2016. In a more local sense, investment in the oil and gas industry in Indonesia reached US\$22.2 billion in 2015 and was expected to be US\$23.9 billion in 2016. However, the industry's contribution to the state revenue has dropped from 14% in 2014 to 4.5% in 2015, and was expected to drop to below 4% in 2016. In 2014 there were seven new oil and gas contracts signed, with a further 12 contracts in 2015.

Until 2015, there were 104 different kinds of permits to obtain if businesses wanted to participate in Indonesia's oil and gas sector. In 2016, that number shrank to 42. Recently, the Minister of Energy and Mineral Resources simplified the permit process by further reducing that number to six. To improve the investment climate to one that is more conducive and to smooth the implementation of oil and gas business activities, it is necessary to arrange licensing of oil and gas business activities. For that reason, the Government issued the Regulation of the Minister of Energy and Mineral Resources

Number 29 of 2017 on Licensing in Oil and Gas Business Activities ("**Ministerial Regulation No. 29/2017**").

In 2015 the Ministry of Energy and Mineral Resource managed to cut 60 percent of its 104 licenses down to only 42 licenses. In 2016, the government targeted a further 89% licenses, which left only 10 licenses. The Ministry of Energy and Mineral Resource (ESDM) stated that this license simplification is in line with the vision of the President of Indonesia to reduce bureaucracy and increase Indonesian investment.

The National Exploration Committee proposed that the licensing procedures in oil and gas sector can be done in one integrated service, which would simplify licensing procedures in order to save time and money. Essentially, the government is the one who has the authority to give licenses, so it would be better if everything is conducted and controlled by the government themselves. The result is that the contractor can work only after the licenses are issued by the government. The Ministry of Energy and Mineral Resource (ESDM) has handed over symbolically the licensing process of oil and gas to the Center of One-stop Integrated Service (PTSP) investment license system center. This simplification of licensing procedures aims fundamentally to improve oil and gas management.

According to Indonesian Investment Coordinating Board (BKPM), this licensing process transfer will be followed by the arrangement of Standard Operation Procedures (SOP) and business process. Both are presented to make sure that all the licensing process will be clear, transparent, easy, and integrated with Center of One-stop Integrated Service (PTSP) in BKPM.

With this simplification, the government is expected increase in production and investment in the oil and gas sector. This is in line with the discovery of the National Exploration Committee regarding the availability of additional potency of the new oil and gas reserve as much as 5.2 billion barrels. This potential reserve consists of 2.7 billion barrels of oil and 14 trillion feet of cubic natural gas. Those 5.22 billion barrels come from 108 well structures that have already been tested for oil and gas. The potency of this reserve can increase to 21.8 billion barrels and still need more research and investigation to add to the country's oil reserve. The arrangement through oil and gas regulation is one of the ways to increase the potency.

The Indonesian Petroleum Association (IPA) said that they put their trust in the transparency of government right now, and that the simplification of licensing procedures will be followed by other related institutions. This movement from the Ministry of Energy and Mineral Resource (ESDM) is considered as a real deal to solve field problems faced by investors in the oil and gas sector within Indonesia.

If all goes according to plan, Indonesia's oil and gas business could soon become an easier and more transparent industry to join. This in turn should attract more foreign and local investors to the archipelago.

Amendment to Minister of Energy and Mineral Resources Regulation on Increasing Added Value Through Domestic Processing Activity and Minerals Refinement

by Vincent Yap

On 30 March 2017, the Minister of Energy and Mineral Resources (“**MEMR**”) issued MEMR Regulation No. 28 of 2017 on the Amendment to MEMR Regulation No. 5 of 2017 on Increasing Added Value Through Domestic Processing Activity and Minerals Refinement (“**MEMR Regulation No. 28/2017**”). MEMR Regulation No. 28/2017 was promulgated on 31 March 2017.

Essentially, MEMR No. 28/2017 regulates the need for the holder of a Contract of Work (locally known as *kontrak karya* or “**KK**”) that intends to export raw mineral materials to build a refinery and processing facility for raw mineral materials (“**Facility**”) domestically, as well to amend the mining business license from a KK to a Production Operation Special Mining Permit (locally known as *Izin Usaha Pertambangan Khusus Operasi Produksi* or “**IUPKOP**”).

The MEMR Regulation No. 28/2017 specifically only amends 1 (one) article from the previous regulation, which is Article 19.

Article 19 paragraph (1) MEMR Regulation No. 28/2017 takes out the specific wording on the revocation of the KK. It states that the change in the form of mining business shall be conducted through the application to the MEMR to change the form of the mining business to a IUPKOP. As based on the previous regulation, it states that in the event of change of mining business, the change shall be conducted through the application of the IUPK and leads to the revocation of the KK.

Moreover, under the new regulation, MEMR Regulation No. 28/2017 stipulates that the IUPKOP issued by the MEMR may be issued for as long as the expiration date of KK or for the term it takes for the operation continuation adjustment. The benchmark for the operation continuation adjustment is not regulated in this amendment.

Under Article 19 paragraph (3) MEMR Regulation No. 28/2017, it states that in the event a IUPKOP is issued by the MEMR for the KK holder, the KK area shall automatically



shift to a Production Operation Special Mining Permit Area in Special Mining Area (locally known as *Wilayah Izin Usaha Pertambangan Khusus dalam Wilayah Usaha Pertambangan Khusus Operasi Produksi* or “**WIUPK Operasi Produksi**”). The issuance of a IUPKOP shall not affect the existing metal mineral KK as well as any other agreements between the Government and the holder of a metal mineral KK.

The Government through the MEMR shall conduct supervision of the applicability and effectivity of this regulation. If within 6 (six) months as of the promulgation date of MEMR Regulation No. 28/2017, there are still no signs showing the construction or else the commitment to construct the Facility, the MEMR will restore the mining business to a KK.

The New Regulation on the Territory Development Plan

by Jessica Tjendana



The Indonesian government continues its pledge to expedite the development of its infrastructure. On 2nd May 2017, the government enacted Government Regulation No. 13 Year 2017 ("**GR No. 13/2017**") which amended Government Regulation No. 26 Year 2008 ("**GR No. 26/2008**") regarding Territory Development Plan (Rencana Tata Ruang Wilayah). This regulation has extended the old scope of the national development plan to include all national projects such as the development of the national rail, road tolls, airports, ports amongst others.

The GR No. 26/2008, does not include national projects such as railway tracks, toll roads, and airport development in its territory development scope. The non-inclusion of such projects has resulted in delays to some national development projects such as the Jakarta-Bandung railway project. Due to land clearance issues and local government approval, the Jakarta-Bandung railway projects have progressed slowly and may not be done in the expected time. With the inclusion of national development projects such as the railway tracks and ports in the GR No. 13/2017, the Jakarta-Bandung fast rail project may finally be expedited.

In addition, any local government regulations which have not accommodated the national development plan in its regulation will be overruled by the new GR No. 13/2017. This means that in the future, land clearances for a national development project would be much simpler.

Whilst the process of land clearances would be simpler, the GR No. 13/2017 also sets a limitation on the use of land area for development projects. The regulations stipulates that some land area will be reserved for environmental protection purposes. The total areas are varied for each island.

The publication of GR No. 13/2017 was enacted with the purpose of expediting the development of infrastructure throughout Indonesia. It is hoped that with the introduction of GR No. 13/2017, the infrastructure development will expand throughout the nation and it may attract further foreign investment in Indonesia.