



Forestry Products: New Regulations

by Pratiwi Widyastuti

The introduction of the Online Single Submission (**OSS**) has revolutionized Indonesia's regulatory regime. As a centralized system, many different government departments have had to amend its regulations in order to bring its administrative procedures in line with the new system.

Recently, the Ministry for the Environment and Forestry has issued Regulation 19*, which amends its regulations relating to the Primary Industrial Business License for Forestry Products (*Izin Usaha Industri Primer Hasil Hutan / UIIPHH*) (the **Forestry License**).

Regulation 19 introduces new procedures to bring the Forestry License application procedures in line with the new OSS system. Regulation 19 names the OSS system as the issuer of the license rather than the local government representative, as was the case prior to Regulation 19.

Regulation 19 introduces two different types of Forestry Licenses; a forestry license for those businesses whose products are wood and those whose products are primarily made from other materials.**

The obligations attaching to both types of Forestry Licenses are broadly the same and include that the license holder must:

- a) comply with any conditions and obligations set out in the license;
- b) apply to extend the license if the license holder's business grows such that its production capacity increases by 30% or more or grows to include other industries;
- c) submit its Raw Materials Compliance Plan (Rencana Pemenuhan Bahan Baku Industri / RPBBi) to the relevant local authority;
- d) submit a monthly report to the relevant local authority setting out its compliance with the Raw Materials Compliance Plan;
- e) comply with all applicable laws when carry out its business; and



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- f) notify the relevant local authority in writing if there is any amendment its contact details or business.

For license holders whose main products are main primarily from wood, there are obligations to ensure that it employs suitably qualified technical personnel. For those license holders whose products are primarily made from forestry materials other than wood, there are obligations relating to the sustainability of source materials.

The penalties for breach of the obligations set out in a Forestry License range from minor administrative penalties up to imprisonment.

*The amendments are set out in the Decree of the Minister for the Environment and Forestry Number P.1/MENLHK/SETJEN/KUM.1/1/2019 of 2019.

** The Primary Industrial Business License for Forestry Products made from Wood (*Izin Usaha Industri Primer Hasil Hutan Kayu / UIIPHHK*) and the Primary Industrial Business License for Products made from materials other than wood (*Izin Usaha Industri Primer Hasil Hutan Bukan Kayu / UIIPHHBK*).

E-commerce Tax: New Regulations

by A.A.A.Reditha Saras



On 31 December 2018, the Minister for Finance issued new regulations on taxation for e-commerce transactions* (**the Regulations**). The Regulations will come into force on 1 April 2019. The Regulations introduce some welcome clarity for the taxation of electronic transactions.

Primarily, the Regulations were introduced to govern Value Added Tax (*Pajak Pertambahan Nilai/PPN*), Luxury Goods Sales Tax (*Pajak Penjualan atas Barang Mewah/PPnBM*), and Income Tax (*Pajak Penghasilan/PPH*) arising from e-commerce transactions. The Regulations also include obligations in relation to taxes and duties for goods imported into Indonesia via e-commerce.

The Regulations provide clarity that revenue from e-commerce will be taxed in essentially the same way as that made through more traditional methods. The Regulations apply to all revenue generated from e-commerce including that generated by e-commerce market place providers. The Regulations cover not only the more traditional forms of e-commerce, for example, online shops, but also revenue generated from online classified advertisements and social media. The Regulations apply to e-commerce market place providers whose domicile or business activities are in Indonesia. The Regulations provide that an e-commerce market-place providers must:

- have a Taxpayer Registration Number (NPWP);
- be confirmed as a taxable entrepreneur; and
- provide a report setting out the details of all transactions to the General Directorate of Taxation along with the tax report (SPT) for the PPN period.

The Regulations provide that e-commerce merchants and service providers must:

- have a Taxpayer Registration Number (NPWP);
- create tax invoices as proof of Luxury Sales Tax collection; and
- provide the relevant authority with a tax report for the tax collection period.

The tax treatment for imported goods depends on the customs value and the status of the marketplace platform provider. If the marketplace platform provider is registered with the General Directorate of Customs and Excise and the customs value of the imported goods is less than USD1,500, then the Regulations apply. Otherwise, it is subject to the prevailing importation laws. If the Regulations apply, the marketplace platform provider must calculate the import duty on goods. The Marketplace platform provider must then use the delivery duty paid scheme and submit to the General Directorate of Customs and Excise an e-invoice and an e-catalog for each delivery.

* Minister of Finance Regulation No. 210/PMK.010/2018 concerning Tax Treatment for Trade Transaction Through Electronic Systems

Finance Law: New Foreign Currency Rules

by Nadindra Arina Aswonoputro



The Government has issued new banking regulations in relation to foreign currency debts, replacing previous regulations on the subject.* The new rules, Regulation 1**, are designed to bring banks' activities in line with the Government's commitment to the principles of best practice banking standards including transparency and risk management. The hope is that these rules will increase confidence in the banking system and strengthen the economy.

Regulation 1 expands Bank Indonesia's ability to regulate banks' external debt and foreign currencies liabilities. Regulation 1 significantly increases the scope of the types of foreign currency liabilities banks can incur including risk participation transactions. Regulation 1 defines risk participation transactions to mean providing foreign currency loans that are carried out in line with a master risk participation agreement and which comply with certain technical requirements.

Regulation 1 has kept the requirement for banks to limit its short-term foreign currency exposure to not more than 30% of their capital. Similarly, Regulation 1 has kept the requirement for banks to obtain approval from Bank Indonesia before incurring a long-term foreign currency debt.

Regulation 1 introduces rules to implement the principles of transparency into its foreign currency dealings. One of these new obligations includes the requirement that banks must submit to Bank Indonesia an application for approval before first entering into the foreign currency market.

Regulation 1 sets out the issues that Bank Indonesia must consider in deciding whether to accept a bank's application to enter the foreign currency markets including the health of the economy, financial markets and of the applicant bank. In considering whether to approve a bank's application, Bank Indonesia will also consult the Financial Services Authority for further information and recommendations.

Regulation 1 imposes a supervisory role on Bank Indonesia, which will now oversee banks' compliance with Regulation 1. Bank Indonesia now has the power to coordinate with the Financial Services Authority and request information from banks. Under Regulation 1, banks are obliged to provide Bank Indonesia with any requested information.

Regulation 1 imposes significant new sanctions on banks that breach the obligations. These sanctions vary in severity from written warnings up to a prohibition on entering a specific money market.

**Bank Indonesia Regulation No. 7/1/PBI/2005 concerning Bank Foreign Loans that have undergone several changes, with the latest amendments to Bank Indonesia Regulation No. 16/7/PBI/2014.*

*** Regulation No. 21/1/PBI/2019 on Offshore Bank Loans and Other Bank Liabilities in Foreign Currencies*

New Ministerial Regulations: A Better Guidance for Patent Applications in Indonesia

by Melisa Kristian

On 28 December 2018, the Minister of Law and Human Rights (the **Minister**) promulgated a new Regulation* concerning implementation of patent Law No. 13 of 2016**. The new Regulation provides further clarity on the patent application process for both simple patents and patents.

A simple patent is a patent can be used to apply for the protection of only one invention or to protect new developments to an existing patented invention. By contrast, a traditional patent may be used to apply for the protection of multiple inventions, which together, form a whole and for the protection of new inventions.

One of the benefits of applying for a simple patent is that the application process is less onerous and the assessment and acceptance process takes less time than a patent application.

Under the Regulation, all applications must be filed in writing and in the Indonesian language, but applicants may now choose to file electronically or non-electronically. The applicant must provide information relating to the inventors, the applicant, and its power of attorney (if any). Along with such information, the applicant must set out specific information relating to the invention, such as the title, description, claims, abstract, and pictures of the invention. The format of the application is specified in the Regulation.

An application may be filed by the relevant inventor or other parties. If it is filed by parties other than the inventor, the applicant must provide a letter declaring the assignment of ownership of the invention from the inventor to the applicant.

The Regulation also specifies the guidelines for applications based on the Patent Cooperation Treaty. This procedure is aimed to ease and speed up the application process by allowing an applicant in Indonesia to file their application in other contracting countries and vice versa. This provision was first brought up under the regime of the previous Indonesian pa-



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tent law, but the comprehensive steps were not set out until Law No. 13 of 2016.

An application may be amended based on the initiative of the applicant and/or as suggested by the Minister. The amendment can be performed to change the information provided in the application or to change the patent application into simple patent application (or vice versa). The Regulation also allows an application to be withdrawn.

As the last step of the application, the Minister will issue a certificate following the approval of the patent application. The Regulation now allows the certificate to be amended and the relevant patent holder to amend the data relating to the patent, such as the name of the patent holder or the inventor.

* Minister Regulation No. 38 of 2018.

** Law No 13 of 2016 concerning Patents.