



Import Duty Tariffs: New Guidelines

by A.A.A.Reditha Saras



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On 6 February 2019, the Minister of Finance issued new regulations (**Regulation No. 11**).^{*} Regulation No. 11 amends the current regulations^{**} relating to guidelines on import duty tariffs imposed on goods imported in accordance with international agreements or treaties.

The guidelines clarify the imposition of Preference Tariffs on certain classes of goods. Preference Tariffs are favourable duties (or in some cases, no duty at all) that are charged on goods imported in accordance with international agreements or treaty.

Generally, Preference Tariffs apply to goods imported from countries that Indonesia has given most favoured nation status. Certain goods from those countries will not be subject to import duty. However, even goods that do not have any duty charged on them must still be compliant with the regulatory requirements of the Provision of Origin of Goods guidelines.

In order to be eligible for a Preference Tariff, those importing goods must submit a Certificate of Origin to the relevant authority. Regulation No. 11 introduces provisions relating to the electronic submission of Certificates of Origin.

There are some exceptions to this rule. Regulation No. 11 states that Preference Tariffs apply to goods, without the need for a Certificate of Origin, if the goods originate from a state that is a member of a mutual importation agreement with Indonesia and each item has a value of less than USD200 or is imported from Palestine, with a value of less than USD200.

These exceptions in relation to the need for a Certificate of Origin arise from a number of different international agreements including the Memorandum of Understanding entered into between the Government of the Republic of Indonesia and the Government of the State of Palestine on the Trade of Certain Products Originating from the Palestinian Territories, and the First Protocol to Amend the Agreement Establishing the ASEAN-Australia-New Zealand Free Trade Area.

^{*}Regulation of the Minister of Finance Number 11/PMK.04/2019

^{**}Regulation of the Minister of Finance Number 229/PMK.04/2017

Shariah Financing: New Regulations

by Pratiwi Widyastuti



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On 26 February 2019, the Indonesian Financial Services Authority (the **OJK**), issued new regulations relating to the implementation of Shariah financing law (the **Regulation**)*. The Regulation states that Shariah financing must be implemented with fairness.

The Regulation covers the financing of sales and purchases, investments and services. It also includes regulations concerning the akad of each type of financing. Akad, means the written covenant between a Shariah Bank and another party setting out the rights and obligations of each party according to Shariah principles. The Regulation states that Shariah companies submit all akad to the OJK and must obtain OJK approval for the use of any new akad.

The Regulation reiterates a number of obligations for Shariah companies and introduced new ones. Reiterated obligations include limits on financing (50% maximum equity of the com-

pany), risk mitigation obligations and Shariah qualifications of employees. The Regulation introduces new obligations for Shariah companies including the requirement to:

- establish a product committee to review, among other things, the activities of the Company to ensure compliance with Shariah principles;
- set limits on incentives to third parties (not to exceed 17.5% of income under relevant Shariah financing agreement);
- publish certain information about the Shariah company including the level of profit sharing (nisbah);
- keep clear and accurate records; and
- implement anti-fraud strategies.

The Regulation sets out sanctions for breach of the obligations. These sanctions vary in severity from warnings to the revocation of the Shariah company's business licence.

**Regulation POJK 10/POJK.05/2019. This regulation revokes the previous regulation, POJK No. 31/POJK.05/2014.*

Alternative Markets: Transactions Outside The Stock Exchange

by Shaskia Putri Ramadhani



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Indonesia's Financial Services Authority (the **OJK**) has issued Regulations Concerning Alternative Market Administrators (**Regulation No. 8**).^{*} The OJK intends that Regulation No 8 will regulate alternative securities trading to stimulate capital market liquidity.

Regulation No. 8 extends the scope of the Government's Decision concerning Government Bond Trading (the **Decision**)^{**}. The Decision concerned only state bonds, however, Regulation No. 8 extends the Decision's reach to include debt securities and sukuk. Regulation No. 8 provides that all securities may be traded either on the stock exchange, by direct negotiation between the parties or through an alternative market administrator.

Regulation No. 8 sets out the requirements for alternative market administrators including that it must;

- be a limited liability company;
- have at least two board members and a commissioner, all of whom have passed an assessment by the OJK;
- have a paid-up capital for no less than one hundred billion Rupiah; and
- be domiciled and conduct business in Indonesia.

Its purpose is to bring together securities transactions with service users, such as securities broker or other financial authorities and may conduct derivative securities trading.

Regulation No. 8 sets out detailed obligations for alternative market administrators, which implement certain principles including transparency, fairness, corporate governance and risk management. The penalties for failure to comply with these obligations can include written warnings, fines and the withdrawal of alternative market administrator status.

Prior to Regulation No. 8, only Indonesian citizens could be shareholders in alternative market administrators. However, Regulation No. 8 now allows certain foreign legal entities to hold up to 20% of the total shares, directly or indirectly, in alternative market administrators. Foreign legal entities eligible to hold shares in Indonesian alternative market administrators must either apply for a permit from the Indonesian government or be able to demonstrate that they are supervised by their own country's financial services authority.

** Regulation of the OJK No. 8/POJK.04/2019 concerning Alternative Market Administrator. Regulation No. 8 was enacted on February 19, 2019 and shall come into effect on February 21, 2019 by revoking the Decision of The Chairman of The Capital Market Supervisory Board No. KEP-02/PM/2004 and its Appendix No. III. D. 1 concerning Government Bond Trading Administrator.*

Tax Update: Import Duty Exemption

by Nadindra Arina Aswonoputro



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On 13 February 2019, the Director General at the Ministry of Finance issued new regulations (**Regulation 1**) * relating to, among other things, import duty, VAT and luxury goods tax.

Regulation 1 includes details on the implementation of many aspects of those taxes including procedures surrounding administration of the Import Facility for Export Purposes (KITE) Exemption.

The KITE Exemption, administered by the Director General of Customs and Excise, provides an exemption from import duties on certain imported goods.

Companies may apply for a KITE Exemption by following the procedures set out in Regulation 1 including submitting a detailed form to the Regional Office in which the relevant factory is located. This form may be submitted online through the Online Single Submission system.

Regulation 1 sets out the obligations that attach to the grant of a KITE Exemption, these include the requirement that the Company must:

- ensure that its inventory is accessible online by the Directorate of General Customs and Excise within 1 year after the date that the KITE Exemption has been issued;

- install a sign at each KITE Exemption facility to show the name of the company and the fact that the facility has a KITE Exemption;
- ensure that goods to which the KITE Exemption apply are distinguishable from those goods which are not eligible for the KITE Exemption; and
- submit certain reports to the Directorate of General Customs and Excise including annual financial reports.

A company's facility may lose KITE Exemption status in certain circumstances including if the Company:

- does not import any KITE Exemption goods for 1 year; or
- breaches any of its statutory obligations in relation to the KITE Exemption.

**Regulation of the Director General of Customs and Excise No. PER-4 / BC / 2019 concerning Implementation Guidelines for the Regulation of the Minister of Finance of the Republic of Indonesia Number 160 / PMK.04 / 2018 relating to Exemption of Import and Non-Collection of Value Added Tax or Value Added Tax and Sales Tax on Luxury Goods for the Import of Goods and Materials for Processing, Assembled, or Installed on Other Items with a Purpose to be Exported.*