

AMENDMENT TO REGULATION OF THE FINANCE MINISTER NO.218/PMK.02/2014 CONCERNING THE PROCEDURE OF REIMBURSING VALUE ADDED TAX OR VALUE ADDED TAX AND LUXURY SALE TAX ON THE ACQUISITION OF TAXABLE GOODS AND/OR TAXABLE SERVICES TO CONTRACTORS IN UPSTREAM OIL AND GAS BUSINESS ACTIVITIES (Regulation of the Finance Minister of the Republic of Indonesia No.158/PMK.02/2016 dated October 25, 2016)

BY THE GRACE OF ALMIGHTY GOD
THE FINANCE MINISTER OF
THE REPUBLIC OF INDONESIA,

Considering :

- a. that the procedure of reimbursing Value Added Tax or Value Added Tax and Luxury Sale Tax on the acquisition of taxable goods and/or taxable services to contractors in upstream oil and gas business activities has been provided for in Regulation of the Finance Minister No. 218/PMK.02/2014 concerning the Procedure of Reimbursing Value Added Tax or Value Added Tax and Luxury Sale Tax on the Acquisition of Taxable Goods and/or Taxable Services to Contractors in Upstream Oil and Gas Business Activities;
- b. that to better provide legal certainty about the value limit of the reimbursement of Value Added Tax or Value Added Tax and Luxury Sale Tax, it is necessary to amend the regulation of the Finance

Minister as referred to in letter a;

- c. that based on the considerations as referred to in letters a and b, it is necessary to stipulate Regulation of the Finance Minister concerning the Amendment to Regulation of the Finance Minister No. 218/PMK.02/2014 concerning the Procedure of Reimbursing Value Added Tax or Value Added Tax and Luxury Sale Tax on the Acquisition of Taxable Goods and/or Taxable Services to Contractors in Upstream Oil and Gas Business Activities;

In view of :

Regulation of the Finance Minister No. 218/PMK.02/2014 concerning the Procedure of Reimbursing Value Added Tax or Value Added Tax and Luxury Sale Tax on the Acquisition of Taxable Goods and/or Taxable Services to Contractors in Upstream Oil and Gas Business Activities (State Gazette of the Republic of Indonesia of 2014 No. 1878);

DECIDES :

To stipulate :

REGULATION OF THE FINANCE MINISTER CONCERNING AMENDMENT TO REGULATION OF THE FINANCE MINISTER NO. 218/PMK.02/2014 CONCERNING THE PROCEDURE OF REIMBURSING VALUE ADDED TAX OR VALUE ADDED TAX AND LUXURY SALE TAX ON THE ACQUISITION OF TAXABLE GOODS AND/OR TAXABLE SERVICES TO CONTRACTORS IN UPSTREAM OIL AND GAS BUSINESS ACTIVITIES

Article I

Several provisions in Regulation of the Finance Minister No. 218/PMK.02/2014 concerning the Procedure of Reimbursing Value Added Tax or Value Added Tax and Luxury Sale Tax on the Acquisition of Taxable Goods and/or Taxable Services to Contractors in Upstream Oil and Gas Business Activities (State Gazette of the Republic of Indonesia of 2014 No. 1878), shall be amended as follows:

1. Article 1 point 5 is scrapped, points 7 and 8 are amended, and one point, namely point 15 is added to it so that the article reads as follows:

Article 1

Referred to in this Regulation of the Finance Minister as :

1. Upstream Oil and Gas Regulatory Special Task Force, hereinafter called SKK Migas, is a unit set up in accordance with Presidential Regulation No. 9/2013 concerning the Management of Upstream Oil and Gas Business Activities.
2. Cooperation contract is a production sharing contract or cooperation contract in other form in exploration and exploitation activities which benefits more the Republic of Indonesia and its outcome is used for the greatest benefit of the people's prosperity.
3. Contractor is a corporate body or permanent business establishment designated to conduct exploration and exploitation in a working area based on a cooperation contract in accordance with the law and regulation.
4. Working area is a certain area within the Indonesian legal mining territory to conduct exploration and exploitation.
5. Scrapped.
6. First Tranche Petroleum, hereinafter abbreviated into FTP, is a certain quantity of crude oil and/or natu-

ral gas produced from a working area within one calendar year, which can be taken and received by SKK Migas and/or contractor in each calendar year, before being reduced by operational cost recovery and production handling (own use).

7. Value Added Tax, or Value Added Tax and Luxury Sale Tax, hereinafter called PPN or PPN and PPnBM, is tax imposed based on Law No. 8/1983 concerning Value Added Tax and Sales Tax on Luxury Goods as already several times amended the latest by Law No. 42/2009 concerning Amendment to Law No. 8/1983 concerning Value Added Tax and Sales Tax on Luxury Goods.
8. Reimbursement of PPN or PPN and PPnBM is the reimbursement of PPN or PPN and PPnBM on the acquisition of taxable goods and/or taxable services to a contractor for PPN or PPN and PPnBM already paid to the state treasury in accordance with a cooperation contract signed before the coming into force of Government Regulation No. 79/2010 concerning Reimbursable Operating Cost and Treatment of Income Tax in the Upstream Oil and Gas Business Field as well as the law and regulation.
9. Depkeu k Account/Oil Output Contract of Work for Production Sharing No. 600.000411980 in Bank Indonesia, hereinafter called Oil and Gas Account, is an account in USD currency to accommodate all revenues and pay expenditures related to upstream oil and gas businesses.
10. Over Lifting Contractor is the excess of oil and gas returned by contractor compared to its right as provided for in the cooperation contract for a certain period of time.
11. State Revenue Transaction Number, hereinafter abbreviated into NTPN is a number showing that payment has been made to the state treasury as contained in evidence of state revenues issued by the settlement system.
12. Bank Transaction Number, hereinafter abbreviated into NTB, is a number showing state revenue payment transaction issued by a bank as a perception bank.
13. Post Transaction Number, hereinafter abbreviated into NTP is a number showing state revenue payment transaction issued by a post office as a perception post office.
14. Evidence of State Revenues, hereinafter abbreviated into BPN, is a document issued by a perception bank/post office for state revenue transactions with NTPN and NTB/NTP as other administrative means which has the same position as payment form.
15. Equity To Be Split, hereinafter called equity, is production output after being reduced by FTP and reimbursed operating cost and later is divided for a contractor and SKK Migas based on a cooperation contract.

2. Article 2 is amended so that it reads as follows:

Article 2

- (1) Contractors that operate working areas shall have the right to receive the reimbursement of PPN or PPN and PPnBM for the acquisition of taxable goods and/or taxable services.
- (2) The right to receive the reimbursement of PPN or PPN and PPnBM as referred to in paragraph (1) can be proposed by a contractor after payment of state portion has been received in the account of the state treasury.
- (3) The state portion as referred to in paragraph (2) is in the form of FTP and/or Equity payment from the contractor as provided for in the cooperation contract.
- (4) The proposed amount of reimbursed PPN or PPN and PPnBM shall not exceed the amount of state portion already paid by the contractor as referred to in paragraph (3).
- (5) If the cooperation contract states that the reimbursement of PPN or PPN and PPnBM uses state portion excluding FTP, the value of reimbursed PPN or PPN and PPnBM to the contractor shall not exceed equity.

3. Paragraph (2) letter b of Article 3 is amended so that the article reads as follows:

Article 3

- (1) Any contractor can apply for the reimbursement of PPN or PPN and PPnBM to SKK Migas for the amount of PPN or PPN and PPnBM already paid to the state treasury through a perception bank/perception post office.
- (2) PPN or PPN and PPnBM as referred to in paragraph (1) cannot be reimbursed for spending on :
 - a. PPN or PPN and PPnBM exempted in accordance with the law and regulation for the import and/or delivery of taxable goods and/or taxable services;
 - b. PPN or PPN and PPnBM due for the operating cost of liquefied natural gas (LNG) as a further processing of gas until its sale, except otherwise stipulated in the cooperation contract and/or the law and regulation; and/or
 - c. PPN or PPN and PPnBM on the procurement of goods and/or services which cannot be charged to the operating cost in accordance with the law and regulation.
- (3) The application for the reimbursement of PPN or PPN and PPnBM as referred to in paragraph (1), if PPN or PPN and PPnBM is collected by the contractor, shall be accompanied by at least the following documents:

- a. the original or photocopy of tax payment form already given NTPN, NTB/NTP, or a photocopy of tax payment form stamped and signed by the perception bank/perception post office for electronic tax payment form; and
 - b. a letter of confirmation on state revenues issued by the local office of the State Treasury, if the contractor pays PPN or PPN and PPnBM without using a billing system; and
 - c. the original of tax clearance certificate.
- (4) The application for the reimbursement of PPN or PPN and PPnBM as referred to in paragraph (1), if PPN or PPN and PPnBM is not collected by the contractor, shall be at least accompanied by the original of tax invoice and/or certain document having the same status as the tax invoice stamped "paid on the date of ..." and validated by the contractor, as well as the original of tax clearance certificate.
- (5) The tax clearance certificate as referred to in paragraph (3) letter c and paragraph (4) is a document issued by the Director General of Taxation containing information on the fulfillment of taxation obligations by the taxpayer/contractor for a certain tax period and year.
- (6) SKK Migas shall verify the application for the reimbursement of PPN or PPN and PPnBM as referred to in paragraphs (3) and (4).
- (7) To conduct the verification as referred to in paragraph (6), SKK Migas shall:
- a. conduct a research to ensure that PPN or PPN and PPnBM has been paid based on a tax payment form validated by the perception bank/perception post office;
 - b. ask for confirmation on the reporting of tax invoice or certain document having the same status as the tax invoice to the Directorate General of Taxation in this case the Oil and Gas Tax Service Office at the Directorate of Taxation Information Technology; and/or the Tax Service Office where the counterpart is declared as taxable company; and
 - c. conduct a research to ensure the original of tax clearance certificate.
- (8) The application for confirmation to the Directorate General of Taxation as referred to in paragraph (7) letter b, shall be filed by SKK Migas in writing by enclosing data for which confirmation is requested in the form of hard copy and soft copy.
4. Paragraph (1) letter c of Article 8 is amended so that the article reads as follows:
- Article 8
- (1) In connection with the application for the reimbursement of PPN or PPN and PPnBM as referred to in Article 5, the Directorate General of Budget shall check whether:

- a. the application for the reimbursement of PPN or PPN and PPnBM as referred to in Article 5 paragraph (1) is appropriate;
 - b. data in the form of information as referred to in Article 5 paragraph (2) is complete; and
 - c. the amount of reimbursed PPN or PPN and PPnBM requested is in proportion to the amount of state portion paid as referred to in Article 2 paragraph (4).
- (2) If based on the check the provisions as referred to in paragraph (1) are not met, the Directorate General of Budget cannot process the application for the reimbursement of PPN or PPN and PPnBM.
 - (3) If the application for the reimbursement of PPN or PPN and PPnBM cannot be processed as referred to in paragraph (2), the Directorate General of Budget shall convey a notification to SKK Migas.
 - (4) The application for the reimbursement of PPN or PPN and PPnBM which cannot be processed as referred to in paragraphs (2) and (3) can be filed again after correction is made in accordance with the notification as referred to in paragraph (3) by observing the procedure of applying for the reimbursement of PPN or PPN and PPnBM provided for in this Ministerial Regulation.
 - (5) If the result of the check as referred to in paragraph (1) is met, the Directorate General of Budget shall issue a payment order accompanied by a list of NTPN in accordance with the tax invoice or certain document having the same status as the tax invoice for which reimbursement is applied to the Directorate General of Treasury.
 - (6) The application for the reimbursement of PPN or PPN and PPnBM as referred to in paragraph (4) shall be filed no later than 7 (seven) working days after the provisions as referred to in paragraph (1) have been met.

Article II

This Ministerial Regulation shall come into force as from the date of promulgation.

For public cognizance, this Ministerial Regulation shall be promulgated by placing it in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

On October 25, 2016

THE FINANCE MINISTER
OF THE REPUBLIC OF INDONESIA,

sgd.

SRI MULYANI INDRAWATI

Promulgated in Jakarta

On October 26, 2016

THE DIRECTOR GENERAL
OF LAWS AND REGULATIONS
OF THE LAW AND HUMAN RIGHTS MINISTRY
OF THE REPUBLIC OF INDONESIA,

sgd.

WIDODO EKATJAHJANA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA
OF 2016 NO. 1595

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