

Material for Presentation

On

Problems in the implementation of tax and facilities issues for projects at the Ministry of Public Works : Sharing Experiences



Jakarta, 31 August 2010

MINISTRY OF PUBLIC WORKS
SECRETARIAT GENERAL
PLANNING AND INTERNATIONAL COOPERATION BUREAU



1. Some taxes applied to Projects of the Ministry of Public Works financed by foreign loan and/or grant.

- ❑ Tax for Individual Consultant.
- ❑ Tax for Consultant/Contractor companies (Corporate Tax).
- ❑ Free tax facilities for imported material/equipment for the implementation of Government Projects financed by foreign loan and/or grant.

2. References for Tax and Custom

- a. Tax for Individual Consultant - PPh 21 Law No.7/1983 on “Income Tax” as further revised by Law No. 17/2000.
- b. Tax for Consultant/Contractor companies (Corporate Tax) - PPh 23 Law No. 17/2000.
- c. Free tax facilities for imported material/equipment imposed for the implementation of Government Projects financed by foreign loan and/or grant :
 - Law No. 17/2006 on “Customs”.

- Government Regulation No. 42/1995 as further revised by Government Regulation No. 25/2001 on “Custom, Supplemental Custom fee, Value Aided tax, and selling tax for luxury material/equipment imposed in the framework of the implementation of Government projects financed by foreign grant and/or loan”.

d. Temporary Imported facilities for re-export material/equipment - Law No. 17/2006 on “Custom” section 10D paragraph (7) as further described by Minister of Finance decree No. 140/PMK.04/2007 especially on section 1(1) “Temporary import means imported material into custom areas for re-export within a maximum of three (3) years period” as further clarified in section 3 paragraph 2q “Imported materials described in section (1) which are given free custom fee are solely used to support the implementation of Government projects financed by foreign loan”.

3. Lesson Learned

- a. Tax imposed for Individual Consultants is handled by themselves.
- b. Corporate Tax imposed for Consultant/Contractor contract: PPn will be provided by Government through annual DIPA provision; while for PPh is not deducted. However, for sub-contract all applicable taxes (PPn and PPh) are applied.
- c. Imported material/equipment is processed in accordance with the existing regulations (but sometime takes such quite longtime):
 - Law No. 17/2006 section 10D(3): “Temporary imported material/equipment could be given free or extra custom fee”.

- Law No. 17/2006 section 26(1)j: “Free or extra custom fee could be given to the imported material/equipment needed for Government Projects which are financed by foreign loan and/or grant”.
- Government Regulation No. 42/1995 section 1: “Outstanding Custom fee and Supplemental Custom fee as of 1 April 1995 and beyond imposed on the import of material/equipment for the implementation of Government projects are free”.

- Government Regulation No. 42/1995 section 2: “Value Aided tax and selling tax on luxury material/equipment as of 1 April 1995 and beyond imposed on imported and hand over of material and services in the framework of the implementation of Government projects are not deducted”.
- Government Regulation No. 42/1995 section 3 as further revised by Government Regulation No. 25/2001: “Outstanding Income taxes of Contractor, Consultant and Supplier received on its involvement in the implementation of Government projects financed by foreign loan and/or grant and beyond are covered by Government budget”.

4. Another Information should be known by Contractor and Consultant

- ❑ No problems, for expert assignment less than six (6) months, its income tax is payable in their own country, for assignment more than six (6) months, its income tax is payable in Indonesia”.
- ❑ Contract should be performed in Joint Venture or Joint Operation in order to get tax free facility (PPn and PPh).
- ❑ The sub-contractor (level 2), all applicable taxes (PPn and PPh) are deducted.

- ❑ Administration process for temporary imported material and equipment needed for construction of Government projects financed by foreign loan and/or grant should be done at least three (3) months earlier as described by Minister of Finance decree No. 140/2007 section 9(2) to avoid any unnecessary handling and warehouse costs.
- ❑ Temporary import license should not more than three (3) years period as regulated through Minister of Finance decree No. 140/2007 section 10 “The period for temporary import is given based on request in accordance to its utilization for a period of not more than three (3) years as of its registration date”.

5. Expectation

- ❑ There is a need of clear, standard and applicable procedure arrangements in processing the import of material/equipment.
- ❑ There is a need of socialization or training on taxes and custom to those project officers.
- ❑ Matters regarding tax on the Tender Document or Standard Contract should be clearly stipulated to avoid any misinterpretation, for example on Chapter II General Condition of Consultant Contract point 1.10 “The Consultant, Sub-consultant and Personnel shall pay such indirect taxes, duties, fees and other imposition levied under the ***Applicable Law*** as specified in the SC” - which applicable law?.

Thank You