

WHT & VAT

Prizes, awards, and other trading-related considerations

Selling efforts are typically carried out with some sweeteners, especially for consumer goods. To boost sales, a vendor may offer a range of incentives to distributors, retailers, or consumers. Cash back may be granted to distributors for achieving a sale or purchase target. Prizes may be available for consumers buying products during campaign periods. Events may be organized from which buyers are granted prizes based on a lottery.

By law, as shown in the implementing regulations (GR 132 and PER 11), the sweeteners qualify as income to the recipients and, for the sake of WHT and VAT, are characterized as either lottery prizes or some other types of prizes or appreciation depending on the reason for granting the sweeteners (Fig. 1). By default, the vendor is held responsible to withhold or collect the tax and subsequently pay the tax to the State Treasury.

Tax (%) on prizes and achievement appreciation ¹

(GR 132/2000 and DGT Reg. PER-11/PJ/2015)

Description	WHT4.2	WHT21/23 ¹⁾	WHT26 ²⁾	VAT ³⁾
Lottery prizes	25	-	-	10/-
Competition prizes ⁴⁾	-	15	20	10/-
Activity-based prizes ⁴⁾	-	15	20	10/-
Achievement appreciation ⁴⁾	-	15	20	10/-

Notes:

1. Applies only if earned by a domestic taxpayer. WHT23 at 15% if the recipient is a corporate body, or WHT21 if it is an individual taxpayer.
2. Applies only if received by foreign taxpayers (subject to the DTA in force)
3. VAT at 10% if provided in-kind; no VAT if provided in cash.
4. WHT not applicable if prizes/appreciation are provided to *all* consumers/end users and delivered at the same time as the purchase of goods or services.

It is noted that apart from the lottery prizes which are very distinctive, the difference between the other three categories of prizes or appreciation is blurred. There appears little or no care about the vague categorization because, when it comes to WHT and VAT, the three bear the same tax treatment.

In late November 2018, the DGT issued **SE-24/PJ/2018** (SE 24) to address a range of considerations flowing from vendors to buyers in (a series of) trading transactions. These may be provided by vendors in the forms of cash, goods (in kind), or liability reduction. While some qualify as prizes or appreciation as meant by PER 11, other considerations do not. Confusion in the tax treatment appears to have come up in practice leading to the issuance of SE 24.

As a solution, SE 24 puts forward four categories of conditions driving the provision of the considerations: achievement of specified conditions, space or "other equipment" provision, risk materialization, and specified trading-related arrangements (Fig. 2). Considerations for the achievement of specified conditions have the same characteristics as prizes or appreciation as meant by PER 11 and accordingly have similar tax treatment to the prizes or appreciation. WHT23 is due at 15% on the prizes or appreciation if provided to domestic corporate taxpayers. So is VAT at 10% if provided in kind but not if in cash or in the form of liability reduction. Included in the prizes, SE 24 asserts, are bonuses granted by vendors to distributors for achieving a specified sales/purchase target.

Where a “[written] cooperation agreement” is in place between the vendor and the buyer calling for performance of service activities such as promotion accompanied by the buyer’s recognition of the service fee income or bills of the fees, the considerations are characterized as management fees. WHT23 is due at 2% thereon if payable to a domestic corporate taxpayer. In any case, VAT is always due at 10%. SE 24 categorizes management fees in this context as appreciation for “achieving specified conditions”. It is debatable, though, whether it is really the “achievement” that drives the provision of the “appreciation” or just performance of certain service activities (without necessarily achieving a target). Anyway, there

may be little or no care about the characterization given the WHT decrease from 15% to 2% though VAT becomes unavoidable.

Tax (%) on trading-related compensation to buyers (SE-24/PI/2018)					
Reasons	Considerations ¹⁾	WHT4.2	WHT21/23 ²⁾	WHT26 ³⁾	VAT ⁴⁾
Achievement of specified conditions ⁵⁾	Prizes	-	15	20	10/-
	Management fee	-	2	20	10
Space/ equipment provision	Rentals	10	2	20	10
Price fluctuation and shipment delay risks	Price protection/ penalty compensation	-	-	-	-
Specified program ⁶⁾	Interest compensation	-	-	-	-

Notes:

1. None are not price discounts and accordingly not covered in the commercial or tax invoices.
2. Applies only if earned by a domestic taxpayer. WHT23 at 15% for prizes or at 2% for management fees and rentals (other than land and buildings) if the fee or prize recipient is a corporate taxpayer, or WHT21 if the recipient is an individual taxpayer.
3. Applies only if received by foreign taxpayers (subject to the DTA in force).
4. 10%-VAT for prizes in kind (taxable goods); none if provided in cash or liability reduction.
5. By default regarded as prizes. Considered “management service fee” if a “cooperation agreement” is in place and [the buyer] either recognizes the service fee income or bills the fees.
6. By way of example, buyers prepay interest to a financial institutions as part of the arrangement to buy goods from the vendor which subsequently compensates the interest to buyers.

Space provision refers especially to letting of buildings areas (floors) to store goods while “other equipment” includes shelves, hangers, etc. for goods display. SE 24 characterizes considerations for space provisions earned by domestic taxpayer buyers as rental income subject to final income tax (WHT4.2) at 10% if the space qualifies as buildings or lands or WHT23 at 2% if it is “other equipment”.

By way of example, SE 24 states that vendors may compensate if certain risks,

such as price drops or shipment delays, materializes. The considerations qualify as income for the buyers but do not attract any WHT and VAT obligations. Another arrangement may also be made under which buyers prepay interest to a financial institution as part of (a series of) trading transactions with a vendor which subsequently compensates the interest to the buyers. The interest compensation qualifies as income for the buyers, but, like the risk protection compensation, does not attract any WHT and VAT obligations.

SE 24 also suggests that sale discounts should be covered in the relevant sale invoices and, in turn, tax invoices. None of the considerations discussed in SE 24 qualify as sale discounts because they are accounted for outside the sale invoice.

Foreign tax credits

Clarity on how to claim

Under residence-based tax system, domestic taxpayers are liable to income tax in respect of its worldwide income. Income earned abroad must be accounted for as part of taxable income. However, income tax paid/due abroad thereon can be claimed as a foreign tax credit (FTC).

In the past, the procedures to claim FTC was governed by MoF Decree No. 164/KMK.03/2002 (KMK 164). In late December 2018, the MoF issued Regulation No. 192/PMK.03/2018 (PMK 192) to replace KMK 164 which took effect immediately.

PMK 192 serves mostly to clarify certain issues not adequately addressed or completely not covered in KMK 164 such as:

- Income source rule – generally in line with the OECD Model tax convention;
- The FTC amount claimable – it shall not exceed the amount paid/due abroad and or the overall tax due (in Indonesia). This implies that none can be claimed as an FTC is the overall taxable income is negative (loss position);
- Confirmation that whenever a tax treaty is in force, tax paid abroad not in line with the tax treaty cannot be claimed as an FTC.
- Income from foreign trusts must be accounted for as part of the taxable income. Tax due/paid thereon is claimable as an FTC;
- Tax payment evidence: any legitimate evidence such as tax payment slip, withholding slips, etc.
- The foreign exchange rates to convert income in currencies other than allowable currencies (IDR or US\$). By default, foreign income in currencies other IDR must be converted into IDR by the “KMK Exchange Rates” applicable at the date the foreign tax is due, paid, or withheld. For those allowed to maintain books in US\$, foreign income in currencies other than US\$ must be converted into US\$ using BI middle rates or the spot rate at the international market.

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