

TAXATION OF JOINT OPERATIONS – MOF REGULATION 79/2024

Minister of Finance Regulation No. 79/2024 (“MoF-79”) provides details for the taxation of Joint Operations (“JO”/Kerja Sama Operasi). This regulation provides further clarification regarding the tax treatment of a JO and its JO members. A JO is defined as an entity (unincorporated) formed through a joint arrangement between its members where the members have joint control or right to the assets, and obligations toward liability, in any name or form. One of the main features of a JO is that it is typically for a specific project.

Currently there are two types of JOs:

- 1. The JO is required to register as a taxpayer**, i.e., obtain a tax identification number (“NPWP”) and be confirmed as a VATable entrepreneur (“PKP”). This is referred to as a **“registered JO”** and uses a **profit-sharing scheme**.
- 2. The JO is not required to register as a taxpayer**, i.e., no NPWP or PKP. This is referred to as an **“unregistered JO”** and uses a **revenue sharing scheme**.

The essential change to note under MoF-79 is that a registered JO is now required to file a corporate income tax (“CIT”) return. This was not previously required as each of the members of the JO would file CIT returns separately.

This newsletter summarizes the taxation treatment for each type of JO under MoF-79. However, before going into the details of the regulation, a general overview of the commercial arrangements for registered and unregistered JOs is provided.

COMMERCIAL ARRANGEMENT OF JOINT OPERATION

A JO is commonly used for large-scale construction of infrastructure projects and real estate. However, a JO can be used for any type of temporary cooperation or partnership arrangement between two or more parties for a particular project. For example, a JO can be created for parties working together for trading and service business purposes.

Registered JO	Unregistered JO
- In a registered JO, the JO issues commercial and VAT invoices to the customer. The contract is between the customer and the JO. A JO agreement is normally prepared between the JO members to describe their scope of work, responsibilities, and profit-sharing ratio.	- In an unregistered JO, each JO member issues commercial and VAT invoices directly to the customer. The contract is between the customer and the JO members. Both the contract and the JO agreement between the members should mention the allocation of the scope of work, responsibility, and contract price of each JO member.

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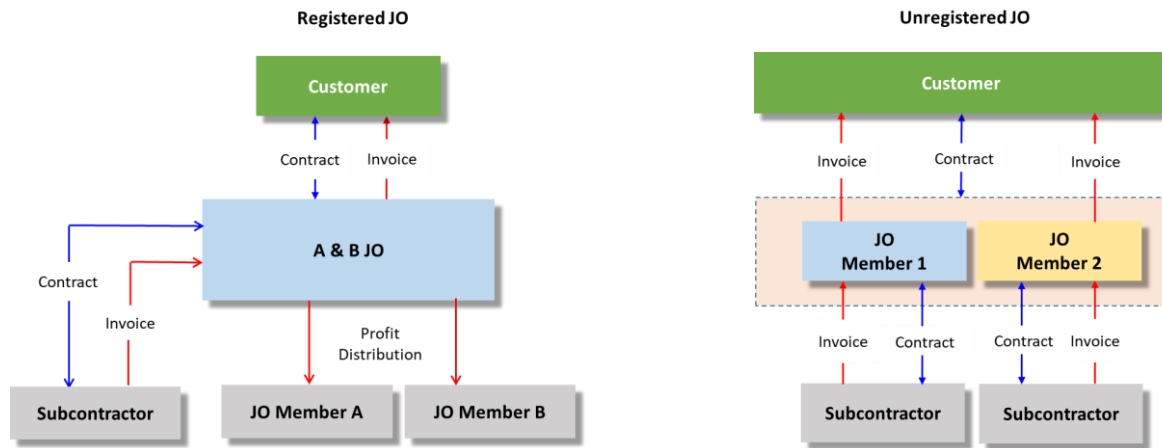
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Registered JO

- Contracts with subcontractors/suppliers are entered into by the JO.
- The JO maintains bookkeeping to record all costs and revenue earned by the JO. The profit of the JO will be shared among the JO members based on the agreed sharing ratio.

Unregistered JO

- Any contracts with subcontractors/suppliers are entered into by each JO member. The subcontractor/supplier issues commercial and VAT invoices to the respective JO member.
- Each JO member maintains its own records and bookkeeping.



The decision as to whether to enter a registered JO or an unregistered JO **normally depends on the wishes of the customer.**

- A customer will prefer a registered JO as it is administratively easier.
- The JO members typically prefer an unregistered JO as they do not need to disclose their actual profit to the other JO members.

If the customer is willing to accept multiple invoices (commercial and VAT invoices) from each JO member, then an unregistered JO can be applied. Otherwise, a registered JO will usually be selected.

One issue to be aware of, now that a registered JO is required to file a CIT return, concerns income subject to final tax, such as with a construction project. If a JO member contributes goods or services to the customer (acts as a subcontractor) that JO member will be subject to double tax (at the JO level and as a subcontractor). If income is subject to normal tax, this does not present an issue.

REGISTERED JO

Criteria and registration

A JO must obtain an NPWP if it does any of the following **in the name of the JO:**

- Delivers goods or services
- Receives or earns income
- Incurs costs or pays income to other parties

The NPWP must be obtained from the tax office where a member appointed to represent the JO (in the JO agreement or by letter of appointment) is domiciled. Registration must be made within one month after the JO is established or when the above activities are conducted.

If a JO member contributes VATable goods or services to the JO, the type of such goods/services and contribution value must be stated in the JO agreement.

Taxation treatment

Type of Tax	Description
VAT/ Sales Tax on Luxury Goods	For both the JO and JO members ▪ The delivery of VATable goods/services, whether by JO members to the JO (if any) or the JO to customers, are subject to VAT and sales tax on luxury goods ("STLG"). ▪ Taxable event: When the goods/services are delivered by the JO to the customer. ▪ Tax base: For a JO member to the JO, the contribution value stated in the JO agreement which specifies the goods/services delivered by each member. ▪ Issuance of VAT invoice: For a JO member to the JO, no later than when the JO issued the VAT invoice to the customer. ▪ Input VAT can be credited by the JO or JO member. ▪ STLG is payable one time, at the time of delivery from the JO to the customer. ▪ The JO and JO members must remit and report the VAT and STLG.
Income Tax	For the JO Income received by the JO can be subject to final or non-final income tax, depending on the prevailing regulation, with the following treatment: <i>Income subject to final tax</i> ▪ Final income tax is calculated by applying the final tax tariff on the tax imposition base. ▪ Any cost incurred related to final income cannot be charged as a deductible cost. <i>Income subject to normal CIT (non-final tax)</i> ▪ Taxable income is calculated based on the amount of income earned deducted by expenses incurred to obtain, collect and maintain income. ▪ Deductible costs: Include JO's costs as well as those incurred based on member contributions, based on the value agreed in the JO agreement with the type of goods/services which are provided by each member specified. ▪ Tax losses: Losses incurred by the JO can only be offset by the JO, not its members. This also applies to losses incurred when the JO is dissolved. For the JO members ▪ Costs incurred by the JO in connection with member contributions represent income for the JO members, which are recognized when the JO: – Receives income from the customer and recognizes the cost as based on the member's contribution (for income subject to non-final tax). – Receives income from the customer (for income subject to final tax). ▪ Losses on JO member income can only be offset by the member itself, including losses from income and expenses outside the JO's business. ▪ Profit distribution from the JO to JO members is treated as follows: – If the JO member is an Indonesian limited liability company: The profit is not subject to income tax and is reported in the member's annual CIT return. – If the JO member is a permanent establishment (PE): The profit is subject to branch profit tax, unless it is re-invested in Indonesia. The profit should be reported in the member's annual CIT return. – If the JO member is a foreign taxpayer: The profit is subject to withholding tax (WHT) Art. 26. Both the JO and the JO members are required to file a corporate income tax return.

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Type of Tax	Description
Withholding Tax	For the JO ▪ A JO is required to withhold and pay income tax on income, purchases/imports, and exports. ▪ The income tax withheld or self-assessed can be: – Credited in the annual corporate income tax return (for income subject to non-final tax). – Treated as settlement of income tax (for income subject to final tax). ▪ If a JO receives income from construction services, withholding is done at the highest income tax rate applicable to the member based on the construction services regulation. For the JO members ▪ Income of JO members received based on their contribution is not subject to withholding or collection by the JO. However, if the member is a foreign taxpayer, the income is subject to WHT Art. 26. ▪ The members' income is subject to normal income tax and income subject to final tax is paid on a self-assessment basis. If the income is from the transfer of land or building, the self-assessed income is settlement of the member's income tax.

UNREGISTERED JO

Criteria and registration

A JO is not required to register as a taxpayer (NPWP) or VATable entrepreneur (PKP) if the following are conducted **under the name of the individual JO members**:

- Delivers goods or services
- Receives or earns income
- Incurs costs or pays income to other parties

Thus, the JO has no tax rights or obligations and is not required to submit a corporate income tax return. However, each member is responsible for their own tax obligations and must register for an NPWP and be confirmed as a PKP (if applicable).

Taxation treatment

Type of Tax	Description
VAT/STLG	▪ A delivery of VATable goods or services by a JO member to a customer is subject to VAT and STLG. ▪ A JO member which is a PKP is required to prepare a VAT invoice in accordance with the existing VAT regulations. ▪ Input VAT may be credited by the JO member. ▪ JO members must remit and report VAT/STLG in accordance with the existing VAT regulations.
Income Tax	▪ Income received is calculated, accounted for, paid and reported by each JO member based on the proportion set out in the agreement with a customer and in accordance with the tax regulations.
Withholding Tax	▪ Income tax is withheld/collected or self-assessed by each JO member.

TRANSITIONAL PROVISIONS

A JO which had an NPWP before 18 October 2024 (the effective date of MoF-79) and is required to register under MoF-79 is obliged to:

- Apply for relocation of the JO's registered place of business (if necessary)
- Be confirmed as a PKP if it meets the requirements under MoF-79
- Collect VAT and STLG for the tax period after MoF-79 came into effect (i.e., after October 2024)
- Withhold/collect income tax from January 2025
- Calculate, account for, pay, and report income tax from the 2025 tax year

A JO which had an NPWP prior to 18 October 2024 but is not required to register as a taxpayer under MoF-79 must apply to revoke its NPWP and PKP.

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