

**THE MINISTER OF FINANCE OF THE REPUBLIC OF
INDONESIA REGULATION
NUMBER 193/PMK.010/2021**

CONCERNING

**EXCISE DUTY RATES FOR TOBACCO PRODUCTS IN THE FORM OF E-
CIGARETTES AND OTHER TOBACCO PROCESSING PRODUCTS**

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

Considering

- a. that the provisions on tobacco excise duty rates have been regulated under the Minister of Finance Regulation Number 198/PMK.010/2020 concerning Tobacco Excise Duty Rates;
- b. that tobacco excise duty rates are assessed in a planned, fair and sustainable manner while taking into account the impact and fairness for society and to accommodate developments in legal requirements in the field of excise duty rates for tobacco products in the form of e-cigarettes and other tobacco processing products, it is necessary to regulate excise duty rates separately;
- c. that the government together with the House of Representatives of the Republic of Indonesia agreed on the excise revenue target for 2022 on 28 September 2021;
- d. that based on the consideration referred to in letter a to letter c as well as to implement the provisions under Article 5 paragraph (5) and Article 6 paragraph (3) of Law Number 39 of 2007 concerning the Amendment to Law Number 11 of 1995 concerning Excise, it is necessary to stipulate a Minister of Finance Regulation concerning Excise Duty Rates for Tobacco Products in the Form of E-Cigarettes and Other Tobacco Processing Products;

In View of

1. Article 17 paragraph (3) of the 1945 Constitution of the Republic of Indonesia;
2. Law Number 11 of 1995 concerning Excise (State Gazette of the Republic of Indonesia of 1995 Number 76, Supplement to the State Gazette Number 3613) as amended by Law Number 39 of 2007 concerning the Amendment to Law Number 11 of 1995 concerning Excise (State Gazette of the Republic of Indonesia of 2007 Number 105, Supplement to the State Gazette Number 4755);
3. Law Number 39 of 2008 concerning State Ministries (State Gazette of the Republic of Indonesia of 2008 Number 166, Supplement to the State Gazette of the Republic of Indonesia Number 4916);
4. Presidential Regulation Number 57 of 2020 concerning the Ministry of Finance (State Gazette of the Republic of Indonesia of 2020 Number 98);
5. Minister of Finance Regulation Number 118/PMK.01/2021 concerning the Organisation and Work Procedures of the Ministry of Finance (Official Gazette of the Republic of Indonesia of 2021 Number 1031);

HAS DECIDED:

To stipulate

MINISTER OF FINANCE REGULATION CONCERNING EXCISE DUTY RATES FOR TOBACCO PRODUCTS IN THE FORM OF E-CIGARETTES AND OTHER TOBACCO PROCESSING PRODUCTS.

Article 1

Referred to herein this Ministerial Regulation:

1. Person is an individual or legal entity.
2. Manufacturer is a person running a factory.

3. Tobacco Products in the form of E-Cigarettes and Other Tobacco Processing Products hereinafter are referred to as Tobacco Products.
4. E-Cigarettes are Tobacco Products in the form of liquid, solid or other forms, from the processing of tobacco leaves made through extraction or other methods according to technological developments and consumer tastes, regardless of substitute materials or auxiliary materials used in the manufacture, provided to end consumers in retail sales packaging, consumed by heating using an electric heater and subsequently inhaled.
5. Other Tobacco Processing Products, hereinafter abbreviated to HPTL, are Tobacco Products made from tobacco leaves other than Cigarettes, Cigars, Cornhusk Cigarettes, Cut Tobacco and E-Cigarettes which are manufactured in other methods according to technological developments and consumer tastes, regardless of substitute materials or auxiliary materials used in the manufacture.
6. Solid E-Cigarettes are e-cigarettes in solid form from the processing of tobacco leaves made through extraction or other methods according to technological developments and consumer tastes regardless of substitute materials or auxiliary materials used in the manufacture, provided to end consumers in retail sales packaging and consumed by heating using an electric heater and subsequently inhaled.
7. Open System Liquid E-Cigarettes are liquid e-cigarettes from the processing of tobacco leaves made through extraction or other methods according to technological developments and consumer tastes regardless of substitute materials or auxiliary materials used in the manufacture, provided to end consumers in retail sales packaging and consumed by heating using an electric heater and subsequently inhaled.
8. Closed System Liquid E-Cigarettes are e-cigarettes in the form of liquid from the processing of tobacco leaves made through extraction or other methods according to technological developments and consumer tastes regardless of substitute materials or auxiliary materials used in the manufacture, contained in a container in one unit that cannot be refilled, provided to end consumers in retail sales packaging and can only be by heating using an electric heater and subsequently inhaled.
9. Molasses tobacco is another tobacco processing product from the processing of tobacco leaves made and shaped in such a manner according to technological developments and consumer tastes regardless of substitute materials or auxiliary materials used in the manufacture, heated using a shisha/hookah (a long pipe filled with water to smoke tobacco) or similar tools, consumed by inhaling.

10. Snuff Tobacco is another tobacco processing product from the processing of tobacco leaves made and shaped in such a manner according to technological developments and consumer tastes regardless of substitute materials or auxiliary materials used in the manufacture, consumed by snuffing.
11. Chewing Tobacco is another tobacco processing product from the processing of tobacco leaves made and shaped in such a manner according to technological developments and consumer tastes regardless of substitute materials or auxiliary materials used in the manufacture, consumed by chewing.
12. Office of the Directorate General of Customs and Excise, hereinafter referred to as the Office, is the Prime Customs and Excise Office or the Customs and Excise Office within the Directorate General of Customs and Excise.
13. Importer of Excisable Goods in the form of Tobacco Products, hereinafter referred to as the Importer, is a Person admitting excisable goods in the form of Tobacco Products into the customs area.
14. Retail Selling Price is the price determined as the basis for calculating the amount of excise duty.
15. Market Transaction Price is the amount of sales transaction price that occurs at the end consumer level.
16. Tobacco Products Brand, hereinafter referred to as Brand, is letters, numbers or a combination of both in a certain way of writing and pronouncing on the packaging of other tobacco processing products declared as an identity of the Tobacco Products by the Manufacturer of other tobacco processing products or the Importer in the context of assessing excise duty rates.
17. Minister is the minister who administers government affairs in the field of finance.
18. Director General is the Director General of Customs and Excise.
19. Customs and Excise Officials are employees of the Directorate General of Customs and Excise who are appointed in certain positions to carry out certain tasks pursuant to Law Number 11 of 1995 concerning Excise as amended by Law Number 39 of 2007 concerning the Amendment to Law Number 11 of 1995 concerning Excise.

Article 2

E-Cigarettes include:

- a. Solid E-Cigarettes;
- b. Open System Liquid E-Cigarettes; and
- c. Closed System Liquid E-Cigarettes;

Article 3

Other Tobacco Processing Products include:

- a. Molasses Tobacco;
- b. Snuff Tobacco; and
- c. Chewing Tobacco.

CHAPTER II EXCISE DUTY RATES AND RETAIL SELLING PRICE

Article 4

- (1) Tobacco excise duty rates for domestic production and imports are assessed using the amount in rupiah for each millilitre or gram of Tobacco Products.
- (2) The amount of tobacco excise duty rates referred to in paragraph (1) is based on the details of the types of Tobacco Products referred to in Article 2 and Article 3.
- (3) Tobacco excise duty rates referred to in paragraph (1) and the minimum Retail Selling Price threshold per unit of Tobacco Products are listed in the Appendix which constitutes an integral part of this Ministerial Regulation.

Article 5

The Retail Selling Price per millilitre, cartridge or gram for each type of Tobacco Products referred to in Article 2 and Article 3 for export purposes is set the same as the Retail Selling Price per millilitre, cartridge or gram for types of Tobacco Products of the same types and Brands of Tobacco Products, intended for domestic marketing.

Article 6

Retail Selling Price per retail sales packaging must be rounded up in multiples of IDR25.00 (twenty-five rupiah).

CHAPTER III THE ASSESSMENT OF TOBACCO EXCISE DUTY RATES

Article 7

- (1) The Tobacco excise duty rates referred to in Article 4 paragraph (1) for each Tobacco Product Manufacturer or Importer are assessed by the Head of the Office by issuing a decision on the assessment of tobacco excise duty rates.
- (2) The assessment of Tobacco excise duty rates referred to in paragraph (1) is a decision of the Head of the Office in the context of implementing this administrative and fiscal Ministerial Regulation and is not a protection of ownership of a Brand.

Article 8

- (1) The assessment of Tobacco excise duty rates referred to in Article 7 shall be declared invalid, if for more than 6 (six) consecutive months, the Tobacco Product Manufacturer or Importer concerned has never realised:
 - a. the order of tax stamps using the documents for the order of tax stamps; or
 - b. the export of Tobacco Products using the declaration documents for the release of excisable goods whose excise has not been paid from the Tobacco Products factory for export purposes;

- (2) To reuse the assessment of Tobacco excise duty rates declared invalid referred to in paragraph (1), the Tobacco Product Manufacturer or Importer must re-apply for the assessment of excise duty rates pursuant to statutory provisions.
- (3) Application for the assessment of the rate referred to in paragraph (2), shall be submitted after 6 (six) months since the submission of the last order of tax stamps or the realisation of the last export.
- (4) If a Tobacco Product Brand is related to a crime in the field of excise, the provisions referred to in paragraph (3) do not apply and the application for the assessment of rates may only be submitted after 2 (two) years from the court decision which has permanent legal force.

Article 9

- (1) The Head of the Office may revoke the decision on the assessment of Tobacco excise duty rates based on:
 - a. the application for revocation of the assessment of Tobacco excise duty rates by the Manufacturer or Importer;
 - b. the court decision which has permanent legal force; or
 - c. results of further verification by the Head of the Office, if:
 1. the said packaging design resembles the packaging design of another Tobacco Product Manufacturer or Importer formerly owned by another Tobacco Product Manufacturer or Importer and is registered with the administration of the Directorate General of Customs and Excise, thereby, not easy to distinguish;
 2. the Brand has the same spelling or pronunciation as the Brand formerly owned by another Tobacco Product Manufacturer or Importer and is registered with the administration of the Directorate General of Customs and Excise; or
 3. based on the results of field supervision, the packaging of the said Tobacco Products is found to not comply with the provisions on trade in excisable goods.
- (2) Based on the provisions referred to in paragraph (1), the Head of the Office issues a decision to revoke the assessment of Tobacco excise duty rates.

Article 10

Further provisions on procedures for the assessment of Tobacco excise duty rates are stipulated by the Director General.

CHAPTER IV MONITORING OF MARKET TRANSACTION PRICE

Article 11

- (1) Customs and Excise Officials periodically monitor the Market Transaction Price in their respective work areas during the monitoring period.
- (2) The Market Transaction Price referred to in paragraph (1) is monitored by comparing the Market Transaction Price and the Retail Selling Price stated in the tax stamps of Tobacco Products.
- (3) The monitoring results referred to in paragraph (2) are submitted to the director at the Directorate General of Customs and Excise who carries out duties and functions in the technical field and excise facilities.

CHAPTER V OTHER PROVISIONS

Article 12

Tobacco Products which are imported together with the equipment for consuming them, are treated as commodities/goods separate from the equipment used for consuming them.

CHAPTER VI TRANSITIONAL PROVISIONS

Article 13

- (1) When this Ministerial Regulation comes into force:
- a. Tobacco Product Manufacturers or Importers of Other Tobacco Processing Products in the form of tobacco extract and essence regulated under the Minister of Finance Regulation Number 198/PMK.010/2020 concerning Tobacco Excise Duty Rates apply for the assessment of excise duty rates for new Brands, with the following provisions:
 - 1) the application for the assessment of excise duty rates for new Brands shall be submitted by taking into account the details of the type of Tobacco Products referred to in Article 2;
 - 2) excise duty rates for which the application is submitted are as per the Appendix which constitutes an integral part of this Ministerial Regulation; and
 - 3) the Retail Selling Price submitted in the application must not be lower than the minimum Retail Selling Price threshold listed in the Appendix which constitutes an integral part of this Ministerial Regulation.

 - b. the Head of the Office re-assesses excise duty rates for Brands of Other Tobacco Processing Products in the form of Molasses Tobacco, Snuff Tobacco and Chewing Tobacco regulated under the Minister of Finance Regulation Number 198/PMK.010/2020 concerning Tobacco Excise Duty Rates, with the following provisions:
 - 1) excise duty rates are re-assessed by taking into account the details of the type of Tobacco Products referred to in Article 3;
 - 2) excise duty rates are re-assessed as per the Appendix which constitutes an integral part of this Ministerial Regulation; and
 - 3) the re-assessed Retail Selling Price must not be lower than the minimum Retail Selling Price threshold listed in the Appendix which constitutes an integral part of this Ministerial Regulation.

- (2) The assessment of excise duty rates for new Brands and the re-assessment of excise duty rates referred to in paragraph (1) come into force as of 1 January 2022.

Article 14

In the context of tax stamps and export services, the following provisions apply:

- a. excise duty rates assessed pursuant to the provisions under the Minister of Finance Regulation Number 198/PMK.010/2020 concerning Tobacco Excise Duty Rates remain valid for documents for the order of tax stamps and the declaration documents for the release of excisable goods whose excise duty has not been settled from the Tobacco Products factory for export purposes until 31 December 2021;
- b. the assessment of excise duty rates for new Brands and the re-assessment referred to in Article 13 may be used for the provision of tax stamps after the promulgation of this Ministerial Regulation with due observance of the provisions on the provision and order of tax stamps; and
- c. the deadline for attaching tax stamps that have been ordered until 31 December 2021 at the rates referred to in the Minister of Finance Regulation Number 198/PMK.010/2020 concerning Tobacco Excise Duty Rates may be attached no later than 1 February 2022.

Article 15

The provisions on Tobacco excise duty rates and the minimum Retail Selling Price threshold per unit type of domestically produced and imported Tobacco Products listed in the Appendix which constitutes an integral part of this Ministerial Regulation come into force as of 1 January 2022.

CHAPTER VII CLOSING PROVISIONS

Article 16

This Ministerial Regulation comes into force on the date of promulgation.

For public cognisance, this Ministerial Regulation shall be promulgated by placement in the Official Gazette of the Republic of Indonesia.

Stipulated in Jakarta

on 17 December 2021

MINISTER OF FINANCE OF THE REPUBLIC OF INDONESIA,

signed

SRI MULYANI INDRAWATI

Promulgated in Jakarta

on 20 December 2021

DIRECTOR GENERAL OF LEGISLATION

THE MINISTRY OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA,

signed

BENNY RIYANTO

OFFICIAL GAZETTE OF THE REPUBLIC OF INDONESIA OF 2021 NUMBER 385