

Enforcement Date 11 June 2017

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Harmonization of Procedures for the Submission of Objections Within the Customs and Excise Sectors

In addition, an objection letter may also encompass other data and/or evidence which reinforce the reasoning behind the Applicant's objection. Upon receiving the objection documents, the relevant Officials will issue an official receipt as proof of acceptance ("Receipt").

With the ultimate goal of offering greater certainty as regards customs and excise services, the Ministry of Finance ("Ministry") has issued Regulation [No. 51/PMK.04/2017](#) on Objections Within the Customs and Excise Sectors ("Regulation 51/2017"), which has now combined procedures for the submission of objections for both sectors under a single framework.

Prior to the issuance of Regulation 51/2017, these procedures were addressed separately under the following regulations (collectively referred to as "Previous Regulations"):¹

1. Articles 9, 12 and 14 of Ministry Regulation [No. 51/PMK.04/2008](#) on Procedures for the Determination of Tariffs, Customs Value and Administrative Sanctions, as well as Provisions from the Director General of Customs and Excise or Customs and Excise Officials ("Regulation 51/2008");²
2. Articles 24 to 28 of Ministry Regulation [No. 214/PMK.04/2008](#) on the Collection of Export Duty ("Regulation 214/2008");³

¹ Art. 28, Regulation 51/2017.

² As amended several times, most recently by Ministry Regulation [No. 122/PMK/04/2011](#).

³ As amended several times, most recently by Ministry Regulation [No. 86/PMK.04/2016](#).

3. Art. 28 (4) of Ministry Regulation [No. 160/PMK.04/2010](#) on Customs Value for the Calculation of Import Duty, as well as Provision from the Director General of Customs and Excise or Customs and Excise Officials (“**Regulation 160/2010**”);⁴
4. Ministry Regulation No. 114/PMK.04/2008 on Objections Within the Excise Sector (“**Regulation 114/2008**”); and
5. Ministry Regulation [No. 217/PMK/04/2010](#) on Objections Within the Customs Sector (“**Regulation 217/2010**”).

Objections: Basis and Submission Periods

Individuals or legal entities may submit objections to the Director General of Customs and Excise (“**Director General**”) regarding decision made by officials at the Directorate General of Custom and Excise (“**Officials**”) as they relate to the following matters:⁵

| No. | Matter | Form of Decision |
|-----|--|---|
| 1. | Tariffs and/or customs-duty value for the calculation of import duties which result in underpayment. | a. Letter on the Provision of Tariff and/or Customs-Duty Value (SPTNP); b. Letter on the Provision of Payment of Import Duty, Excise and/or Tax (SPPBMCP); or c. Decision Letter on Customs Duty (SPP). |
| 2. | Matters other than tariffs and/or customs-duty value for the calculation of import duties. | a. SPP; or b. Letter on the Provision of Prohibition and Limitation of Goods (SPBL). |
| 3. | Imposition of administrative sanctions in the form of fines. | Letter on the Provision of Administrative Sanctions (SPSA). |
| 4. | Imposition of export duties. ⁶ | Letter on the Provision of Calculation of Export Duties (SPPBK). |
| 5. | Underpayment of excise | Collection letter for the excise sector |
| 6. | Imposition of administrative sanctions in form of fines (within the excise sector) | (STCK-1). |

It should however be noted that a person may only submit one objection for each provision letter.⁷

⁴ As amended by Ministry Regulation [No. 34/PMK.04/2016](#).

⁵ Arts. 2 and 3, Regulation 51/2017.

⁶ Previously, this issue was regulated separately under Regulation 214/2008.

⁷ Art. 4 (2), Regulation 51/2017.

All of the abovementioned objections must be submitted by no later than 60 days [for the matters described in numbers (1) to (4)] or 30 days [for the matters described in numbers (5) and (6)] after the date upon which the original provision letter were issued by the relevant Officials, or the right to submit such an objection will be invalidated.⁸

Objections: Submissions and Withdrawals

Any party which is looking to submit an objection to the Director General (“**Applicant**”) must first draw up an objection letter in writing using the format set out under Appendix A to Regulation 51/2017.⁹ Objection letters should also satisfy the following requirements:¹⁰

1. Must be written in the Indonesian language;
2. Must state the Applicant’s reasons for submitting the objection;
3. Must be signed by an authorized party [i.e. the Applicant (for individuals) or by another party appointed to represent the Applicant (for legal entities)];
4. Must attach the following documents:
 - a. A receipt for the acceptance of collateral or payment for any claims that should be paid, unless:
 - (i) The imported goods in question have not yet been removed from the relevant customs area;
 - (ii) The claims have already been paid; or (iii) the Official’s provision letter has not resulted in any underpayment;¹¹
 - b. A copy of the Official’s provision letter, which is to be used as the basis for the objection; and
 - c. Special power of attorney (*surat kuasa khusus*), if the objection is being submitted by proxies.

In addition, an objection letter may also encompass other data and/or evidence which reinforce the reasoning behind the Applicant’s objection. Upon receiving the objection documents, the relevant Officials will issue an official receipt as proof of acceptance (“Receipt”).¹²

In comparison with the Previous Regulations, Regulation 51/2017 now adds a new mechanism for the withdrawal of objections. However, an objection may only be withdrawn as long as the Director General has not yet issued any decision which relates to the objection in question.¹³

⁸ Art. 11 (1-3), Regulation 51/2017.

⁹ Arts. 4 (1) and 1 (7), Regulation 51/2017.

¹⁰ Art. 4 (3), Regulation 51/2017. Previously, Regulation 217/2010, Regulation 114/2008 and Regulation 214/2008 only required a copy of a receipt for the acceptance of collateral and the Official’s provision letter/collection letter [Art. 3 (2), Regulation 217/2010; Art. 3 (1), Regulation 114/2008; and Art. 24 (1), Regulation 214/2008].

¹¹ Art. 5 (4), Regulation 51/2017.

¹² Art. 4 (5), Regulation 51/2017.

¹³ Art. 14 (1), Regulation 51/2017.

In order to withdraw their objections, Applicants should submit withdrawal applications which should meet the following requirements:¹⁴

1. Must be written in the Indonesian language in accordance with the format which is set out under Appendix C to Regulation 51/2017;
2. Must be signed by an authorized party, for which a special power of attorney is required if the application is being submitted by proxies;
3. Must be submitted to the relevant Custom and Excise Office; and
4. Must attach a copy of the original objection letter and its Receipt.

Collateral

Any parties submitting objections regarding provision letter which relate to customs duty [i.e. as specified in numbers (1) to (4) in the first section] must provide collateral of an amount which is equal to the payable claim amount and which is in a form specified under Ministry Regulation [No. 259/PMK.04/2010](#) on Collateral for Customs Purposes.¹⁵

Meanwhile, collateral for any objections which relate to excise matters [i.e. as specified in numbers (5) and (6) in the first section] must be equal to the amount of the shortage-margin of the excise and/or the fine amount and may take any of the following forms:¹⁶

1. Cash;
2. Bank drafts (*warkat*) or sureties;¹⁷ or
3. Insurance, in form of excise bonds.¹⁸

All such collateral will have a 60-day guarantee period dating from the delivery of the relevant Receipt and will have a claims submission period of 30 days.¹⁹

Objections: Settlements and Decisions

In settling any dispute which relates to an objection, the Director General is now authorized to undertake various measures, as follows:²⁰

1. Borrow any of the Applicant's records, data and/or information, provided that it relates to the matter under dispute;
2. Request that Applicants provide evidence or information which relate to the matter under dispute;

¹⁴ Art. 14 (2), Regulation 51/2017.

¹⁵ Art. 5 (1-2), Regulation 51/2017.

¹⁶ Art. 7 (1-2), Regulation 51/2017.

¹⁷ Art. 9 (1), Regulation 51/2017.

¹⁸ Art. 10 (1), Regulation 51/2017.

¹⁹ Arts. 5 (3) and 7 (3), Regulation 51/2017.

²⁰ Art. 15 (1), Regulation 51/2017. Previously, the Director General was only authorized to request explanations or additional data and/or information from persons or related parties [Art. 6 (4), Regulation 217/2010 and Art. 6 (2), Regulation 217/2010].

3. Request that third parties provide evidence or information which relate to the matter under dispute;
4. Undertake field examinations; and/or
5. Discuss the dispute with the Applicants.

The Director General must settle any such objection by no later than 60 days after the date of issuance of the Receipt, otherwise the objection will be deemed to have been approved.²¹ Based on the matters addressed in any objection, decisions are classified into the following:²²

| Matter | Content of Decision |
|----------------|--|
| Customs | <ol style="list-style-type: none"> 1. The objection is approved in its entirety; 2. The objection is either entirely or partially rejected; or 3. Another decision is rendered. |
| Excise | <ol style="list-style-type: none"> 1. The objection is approved in its entirety; 2. The objection is rejected; or 3. Another decision is rendered.²³ |

Consequences and Remedies

Any decisions which address objections within the customs sector will result in the following measures being implemented:²⁴

1. Return of the overpaid amount;
2. Return of any collateral; and/or
3. Removal of goods from the relevant customs area.

Meanwhile, decisions for objections within the excise sector will result in the return of the relevant collateral (if the objection is approved) or the use of said collateral for the payment of either the excise shortage margin or any fines which are imposed.²⁵

By way of contrast, Regulation 51/2017 now allows Applicants to submit appeals to the tax court in relation to any objections which are rejected. An appeal must be submitted within 60 days of the Director General rendering the rejection in question.²⁶

Regulation 51/2017 came into force on the 11 June 2017 and repeals and replaces all Previous Regulations.^{RP}

²¹ Arts. 17 and 19 (1), Regulation 51/2017.

²² Art. 18 (1-2), Regulation 51/2017.

²³ This decision was not previously described under the Previous Regulations.

²⁴ Art. 21 (1-2), Regulation 51/2017.

²⁵ Art. 22 (1) and (5), Regulation 51/2017.

²⁶ Art. 25, Regulation 51/2017. Appeals were not previously regulated under either Regulation 217/2010 or Regulation 114/2008 but were briefly mentioned in Art. 28 (4), Regulation 160/2010.

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