



COPY

PRESIDENT
OF THE REPUBLIC OF INDONESIA

GOVERNMENT OF THE REPUBLIC OF INDONESIA REGULATION

NUMBER 27 YEAR 2017

ON

REVISION TO GOVERNMENT REGULATION NUMBER 79 YEAR 2010
ON RECOVERABLE OPERATING COST AND THE TREATMENT OF
INCOME TAX IN THE UPSTREAM OIL AND GAS BUSINESS SECTOR

BY THE GRACE OF GOD ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that in order to increase the discovery of national Oil and Gas reserves and to stimulate the investment climate as well as to provide legal certainty to upstream oil and gas business activities, there is a need to align and improve Government Regulation Number 79 Year 2010 on Recoverable Operating Cost And The Treatment Of Income Tax In The Upstream Oil And Gas Business Sector;
 - b. that based on the consideration referred to in letter a, it is necessary to enact a Government Regulation on the Revision to Government Regulation Number 79 Year 2010 on Recoverable Operating Cost and the Treatment of Income Tax in the Upstream Oil and Gas Business Sector;

In view of ...



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- In view of :
1. Article 5 paragraph (2) of the 1945 Constitution of the Republic of Indonesia;
 2. Law Number 7 Year 1983 on Income Tax (State Gazette of the Republic of Indonesia of 1983 Number 50, Supplement to the State Gazette of the Republic of Indonesia Number 3263) as amended several times, last by Law Number 36 Year 2008 on the Fourth Amendment to Law Number 7 Year 1983 on Income Tax (State Gazette of the Republic of Indonesia Year 2008 Number 133, Supplement to the State Gazette of the Republic of Indonesia Number 4893);
 3. Law Number 22 Year 2001 on Oil and Gas (State Gazette of the Republic of Indonesia Year 2001 Number 136, Supplement to the State Gazette of the Republic of Indonesia Number 4152);
 4. Government Regulation Number 79 Year 2010 on Recoverable Operating Cost and Treatment of Income Tax in the Upstream Oil and Gas Business Sector (State Gazette of the Republic of Indonesia Year 2010 Number 139, Supplement to the State Gazette of the Republic of Indonesia Number 5173);

HAS DECIDED:

To Enact : GOVERNMENT REGULATION ON THE REVISION TO GOVERNMENT REGULATION NUMBER 79 YEAR 2010 ON RECOVERABLE OPERATING COST AND TREATMENT OF INCOME TAX IN THE OIL AND GAS BUSINESS SECTOR.

Article 1

A number of provisions in Government Regulation Number 79 Year 2010 on Recoverable Operating Cost and the Treatment of Income Tax in the Upstream Oil and Gas Business Sector (State Gazette of the Republic of Indonesia Year 2010 Number 139, Supplement to the State Gazette of the Republic of Indonesia Number 5173) are amended as follows:

1. The Provisions ...



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1. The provisions in Article 1 number 1, number 2, number 4, number 6, number 7, and number 8 are amended and added with number 20, hence reading as follows:

Article 1

1. Crude Oil, Natural Gas, Oil and Gas, Exploration, Exploitation, Cooperation Contract, Working Area, Indonesia Legal Mining Territory, and Upstream Business Activities, are as referred to under Law Number 22 Year 2001 on Oil and Gas.
2. Contractor means a business entity or a permanent business establishment which is appointed to conduct Exploration and Exploitation in a working area based on a Cooperation Contract with the Special Task Force for Upstream Oil and Gas Business Activities.
3. Operator means the Contractor or in the case of the Contractor consisting of several Participating Interest holders, one of the participating interest holders appointed by the other Participating Interest holders to represent them in accordance with the Cooperation Contract.
4. Petroleum Operations means activities covering the Exploration, Exploitation, transportation to the custody transfer point, well plug and abandonment and site restoration for Oil and Gas including activities in field processing, transportation, storage and sale of own production output as a continuation of Exploration and Exploitation.
5. Lifting means an amount of crude oil and/or natural gas which is sold or shared at the custody transfer point.

6. First ...



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6. First Tranche Petroleum, hereinafter abbreviated as FTP, is a certain amount of crude oil and/or natural gas produced from a Working Area in one calendar year, which may be taken and received by the Special Task Force for Upstream Oil and Gas Business Activities and/or Contractor in each calendar year, before the deduction of recoverable operating cost and production handling (own use).
7. The Incentive for Upstream Business Activities means the incentive provided to support the economics of a Working Area development.
8. Equity to be Split means oil and gas production available to be shared (Lifting) between the Special Task Force for Upstream Oil and Gas Business Activities and the Contractor after the deductions of FTP, investment incentives (if available) and recoverable operating cost.
9. Non Capital Cost means the cost spent for operating activities in the current year with less than 1 (one) year of useful life, including surveys and intangible drilling cost.
10. Capital Cost means the expenditure for equipment or goods with a useful life of more than 1 (one) year which is charged in the current year through depreciation.
11. Work Program and Budget means a plan of yearly activities and budget expenditures by the Contractor for Upstream Oil and Gas Business Activities in a Working Area.
12. Production Sharing Contract means a form of Cooperation Contract in the Upstream Business Activities based on the principle of production sharing.
13. Service Contract means a form of Cooperation Contract for the Exploitation of Oil and Gas, based on the principle of service fee/compensation on the resulting production.

14. Participating ...



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14. Participating Interest means the rights and obligations of a Cooperation Contract's Contractor, either directly or indirectly in a Working Area.
 15. Uplift means the compensation received by Contractor in connection with providing the upfront funds for the operating expenditures of the production-sharing contract, which should have been the cost obligation of other participating contractors in one Cooperation Contract.
 16. Domestic Market Obligation hereinafter abbreviated as DMO means the obligation to deliver the Contractor share of oil and/or gas to meet domestic demand.
 17. DMO Compensation means the compensation paid by Government to Contractor for the delivery of oil and/or gas to meet domestic demand based on a price determined by the Minister whose roles and responsibilities include Oil and Gas business activities.
 18. Government means Central Government.
 19. Minister means the minister who administers government affairs in the Oil and Gas business activities.
 20. The Special Task Force for Upstream Oil and Gas Business Activities hereinafter abbreviated as SKK Migas means the task force that carries out management of the Upstream Oil and Gas Business Activities under the guidance, coordination and oversight of the Minister.
2. The provision of Article 3 paragraph (1) is revised, hence reading as follows:

Article 3

- (1) The Contractor is obligated to bring funds and technology and to assume the risks related to the execution of Petroleum Operations based on the Cooperation Contract in a Working Area.

(2) The execution ...



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- (2) The execution of Petroleum Operations as referred to in paragraph (1) shall be conducted based on the principles of effectiveness and efficiency, the principle of fairness as well as good business and engineering practices.
3. The provision of Article 4 paragraph (1) is revised, hence reading as follows:

Article 4

- (1) All goods and equipment procured by Contractor to undertake Petroleum Operations become state property under the custody of the Government and management by SKK Migas.
 - (2) In relation to the recovery of operating cost, the goods and equipment as referred to in paragraph (1) cannot be re-appraised.
4. The provision of Article 8 paragraph (2) is erased, hence reading as follows:

Article 8

- (1) The Minister determines the minimum amount of government share in a Working Area related to Lifting in the approval to the plan of development of the field as referred to in Article 7 paragraph (2)
 - (2) Erased.
5. The provisions of Article 10 paragraph (1) and paragraph (2) are revised and 2 (two) paragraphs added namely paragraph (3) and paragraph (4) hence Article 10 reads as follows:

Article 10

- (1) To increase production, support economic growth and assure revenues for the state, the Minister determines the amount and the allocation of FTP.

(2) To stimulate ...



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- (2) To stimulate the development of the Working Area, the Minister may determine the form and amount of Incentives for Upstream Business Activities
 - (3) On the Incentive for Upstream Business Activities in the form of DMO Holiday, the Minister may determine such incentive after obtaining approval from the Minister of Finance
 - (4) To help improve the economics of Upstream Business Activities, the Minister of Finance may provide tax incentives and incentives for non-tax state revenues in accordance with the provisions of applicable laws and regulations.
6. Between Article 10 and Article 11 is inserted 1 (one) article, namely Article 10A, hence reading as follows:

Article 10A

The Minister may determine the amount for the sliding scale split in the Cooperation Contract.

7. The provision of Article 11 paragraph (3) letter b is revised, hence reading as follows:

Article 11

- (1) Operating cost consists of :
 - a. Exploration cost;
 - b. Exploitation cost; and
 - c. other cost.
- (2) Exploration cost as referred to in paragraph (1) letter a consists of:
 - a. Drilling cost consisting of:
 1. Exploration drilling cost; and
 2. development drilling cost;

b. geological ...



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- b. geological and geophysical cost consisting of:
 - 1. cost of geological studies; and
 - 2. cost of geophysical studies;
 - c. general and administration cost in Exploration activities; and
 - d. depreciation cost.
- (3) The Exploitation cost as referred to in paragraph (1) letter b consists of :
- a. direct production cost for:
 - 1. Crude Oil; and
 - 2. Natural Gas.
 - b. cost related to the activity of Natural Gas processing up to the custody transfer point;
 - c. utility cost consisting of:
 - 1. cost of production devices and maintenance of equipment; and
 - 2. cost for steam, water and electricity;
 - d. general and administration cost in Exploitation activities; and
 - e. depreciation cost.
- (4) General and administration cost in the Exploration and Exploitation activities as referred to in paragraph (2) letter c and paragraph (3) letter d consists of:
- a. administration and finance cost;
 - b. staff cost;
 - c. material service cost;
 - d. transportation cost;
 - e. general office cost; and
 - f. indirect tax, regional tax, and regional retribution.

(5) Other ...



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- (5) Other cost as referred to in paragraph (1) letter c consists of:
- a. cost for the transfer of gas from the production point to the custody transfer point; and
 - b. cost for post-operation activities in Upstream Business Activities.
8. The provisions of Article 12 paragraph (1) letter d and paragraph (2) letter e are revised, and the elucidation of Article 12 paragraph (1) letter a is erased, hence Article 12 reads as follows:

Article 12

- (1) Operating Cost that can be recovered in the calculation of production share and Income Tax shall meet the following conditions:
- a. disbursed to obtain, invoice and maintain income in accordance with provisions in the laws and regulations and directly related to Petroleum Operations activities in the Contractor's Working Area in Indonesia;
 - b. use fair value not influenced by special relations as referred to in the Income Tax Law;
 - c. the execution of Petroleum Operations is in accordance with the principles of good business and engineering practices;
 - d. Petroleum Operations activities are carried out in accordance with the Work Program and Budget which has been approved by the Head of SKK Migas as referred to in Article 5 and Article 6.
- (2) Disbursed cost directly related to Petroleum Operations as referred to in paragraph (1) letter a shall meet the following conditions:

- a. for depreciated ...



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- a. for depreciated cost applicable only to goods and equipment utilized for Petroleum Operations which become state property;
- b. for direct headquarter office cost charged to projects in Indonesia and originating from outside the country, only for activities that;
 1. cannot be performed by domestic institutions/agencies;
 2. cannot be performed by the Indonesian workforce; and
 3. are non-routine;
- c. for work-related rewards given to staff/employees in the form of benefits in kind, conducted in accordance to the provisions of laws and regulations on taxation;
- d. for donations for natural disasters on behalf of the Government, conducted in accordance to provisions of laws and regulations on taxation;
- e. for community and environmental development cost spent during the Exploration and Exploitation periods;
- f. for expenditures of allocated indirect head office cost with the following conditions:
 1. utilized to support business or activities in Indonesia;
 2. Contractor submits the audited head office consolidated financial report, and the basis for the allocation; and
 3. the amount does not exceed the limit imposed by the Minister of Finance Regulation after receiving due consideration from the Minister.

(3) The maximum ...



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- (3) The maximum cost limit related to the remuneration of foreign staff is determined by the Minister of Finance Regulation after receiving due consideration from the Minister.
9. The provisions of Article 13 letter b, letter j, letter p, letter q and letter r are revised, and Article 13 letter l, letter t number (1), and letter w are erased, and the elucidation of Article 13 letter x is erased, hence Article 13 reads as follows:

Article 13

Categories of operating cost that are non-recoverable in the calculation of production sharing and Income Tax include:

- a. cost charged or disbursed for personal interest and/or family of the employee, management, holders of Participating Interest, and shareholders;
- b. the formation or accumulation of reserve funds, unless it is for cost of plug and abandonment and site restoration, which is kept in a joint account of SKK Migas and Contractor in a Government of Indonesia commercial bank located in Indonesia;
- c. donated assets;
- d. administrative sanctions in the form of interest, fines, and raises as well as criminal sanctions in the form of penalties related to the execution of tax laws and regulations as well as claims or fines arising from Contractor's fault due to willful misconduct or negligence;
- e. depreciation cost of utilized goods and equipment which are not state property;
- f. incentives, payment of pension funds, and insurance premiums for the personal and/or family interest of expatriate employees, management, and shareholders;

g. cost ...



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- g. cost of expatriate employees not in compliance with the procedures established in the Expatriate Manpower Utilization Plan (RPTKA) or not in possession of expatriate employee work permit (IKTA);
- h. cost of legal consultants not directly related to Petroleum Operations in the Cooperation Contract;
- i. cost of tax consultants;
- j. marketing cost for Contractor share of oil and/or gas, except for marketing costs of natural gas which have been approved by the Head of SKK Migas;
- k. representative cost, including entertainment cost under any name or form unless accompanied by a nominative list indicating the recipients of the benefits and their tax identification number (NPWP);
- l. erased;
- m. cost of technical training for expatriates;
- n. cost related to mergers, acquisitions or cost for the transfer of Participating Interest:
- o. cost for interest on loans;
- p.
 - 1. Employee Income Tax borne by the Contractor, except those paid as tax allowance;
 - 2. Income Tax which is required to be deducted or collected on third party domestic income which is borne by the Contractor or grossed-up;
- q.
 - 1. Procurement of goods and services and other activities which do not conform to fairness principles and rules of good technical practice;
 - 2. cost exceeding 10% (ten percent) of the authorized financial expenditure value, unless for certain costs in accordance with provisions and procedures determined by the Minister;
- r. surplus ...



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- r. surplus material which is not in accordance with approved plans;
 - s. book value and operating cost of utilized assets which are no longer operational due to Contractor's negligence;
 - t. transactions which:
 - 1. erased;
 - 2. do not go through the tender process in line with provisions in the laws and regulations, unless under certain circumstances; or
 - 3. are in conflict with laws and regulations;
 - u. bonus paid to the Government;
 - v. costs incurred prior to contract signing;
 - w. erased; and
 - x. cost of commercial audit.
10. The provision of Article 16 paragraph (4) is revised and added with 1 (one) paragraph namely paragraph (5) hence Article 16 reads as follows:

Article 16

- (1) Depreciation on expenditures for tangible assets with a useful life of more than 1 (one) year is determined based on a declining balance over its useful life which is calculated by applying a depreciation rate on the remaining net book value and at the end of the useful life the remaining net book value is depreciated all at once.
- (2) Depreciation commences in the month in which such asset is placed into service.
- (3) Depreciation is calculated according to group, tariff and useful life, as listed in the Supplement which is an inseparable part of this Government Regulation.

(4) In ...



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- (4) In the case of the tangible asset as referred to in paragraph (1) that can no longer be utilized due to damage from natural factors or force majeure, the remaining book value of the tangible asset can directly be charged as operating cost.
 - (5) To assure production levels, the Minister may determine a different depreciation calculation than as set forth in paragraph (3).
11. The provision of Article 19 paragraph (2) is revised hence reading as follows:

Article 19

- (1) Charges for all work expenditures are deferred until there is a field on commercial production in the Working Area, as referred to in Article 7 paragraph (1).
 - (2) To secure state income, besides the deferral as referred to in paragraph (1), the Minister may decide on policy related to field development, in coordination with other related ministries.
12. The provisions of Article 24 paragraph (1), paragraph (2), paragraph (3), paragraph (4), and paragraph (5) are revised and added with 1 (one) paragraph namely paragraph (10), hence Article 24 reads as follows:

Article 24

- (1) In the absence of FTP and Upstream Business Activities Incentives in the form of Investment Credit, the Equity to be Split is calculated based on Lifting less recoverable operating costs as referred to in Article 20.
- (2) In the event FTP is available but there is no Incentive for Upstream Business Activities in the form of Investment Credit, the Equity to be Split is calculated based on Lifting less FTP less recoverable operating cost.

(3) In ...



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- (3) In the event both FTP and Incentives for Upstream Business Activities in the form of Investment Credit are available, the Equity to be Split is calculated based on Lifting less FTP less Incentive for Upstream Business Activities in the form of Investment Credit less recoverable operating cost.
- (4) In the event FTP is not available but Incentive for Upstream Business Activities in the form of Investment Credit is available, the Equity to be Split is calculated based on Lifting less Incentive for Upstream Business Activities in the form of Investment Credit less recoverable operating cost.
- (5) Incentives for Upstream Business Activities and recoverable operating cost in accordance with provisions in the laws and regulations, are converted to:
 - a. Crude Oil, at the average price of Indonesia crude oil as referred to in Article 22; or
 - b. Natural Gas, at the price agreed upon in the gas sales contract.
- (6) The Contractor Share under the cooperation contract is calculated based on the percentage share of the Contractor before Income Tax as set forth in the Cooperation Contract, multiplied by the Equity to be Split.
- (7) The Government Share under the cooperation contract is calculated based on the percentage share of the Government as set forth in the Cooperation Contract, multiplied by the Equity to be Split not including outstanding Income Tax of the Contractor.
- (8) The Contractor shall fulfill the DMO by delivering 25% (twenty five percent) of its share of Crude Oil and/or Natural Gas production to meet domestic demand.
- (9) The Contractor ...



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- (9) The Contractor is entitled to receive DMO compensation for the delivery of Crude Oil and/or Natural Gas as referred to in paragraph (8) at a price determined by the Minister.
 - (10) SKK Migas performs control and monitoring of profit share calculation.
13. The provisions of Article 25 paragraph (1), paragraph (8), and paragraph (9) are revised and 1 (one) paragraph namely paragraph (7a) is inserted between paragraph (7) and paragraph (8); paragraph (10) and paragraph (11) are erased and 2 (two) paragraphs namely paragraph (12) and paragraph (13) are added, hence Article 25 reads as follows:

Article 25

- (1) Taxable income for 1 (one) fiscal year for the Contractor under the Production Sharing Contract is calculated based on income under the Production Sharing Contract as referred to in article 9 paragraph (2) less Non-Capital Cost for the current year less depreciation of Capital Cost for the current year less unrecovered operating costs from previous years as referred to in Article 20 paragraph (1).
- (2) In the event the sum of deductions as referred to in paragraph (1) exceeds the income as referred to in Article 9 paragraph (2), the remaining balance shall be accounted for in the following fiscal year through the end of the contract.
- (3) The amount of Contractor's outstanding Income Tax is calculated based on the taxable income as referred to in paragraph (1) multiplied by the tax rate determined in accordance to the provisions of income tax laws.
- (4) The amount of Contractor's outstanding Income Tax for a contract that has been executed before the enactment of this Government Regulation, is calculated based on the corporate tax rate or the Income Tax rate at the time the contract was executed.

(5) On ...



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- (5) On taxable income as referred to in paragraph (1) after Income Tax deductions as referred to in paragraph (3) or paragraph (4), the outstanding Income Tax is in accordance with the provisions in the laws and regulations.
- (6) In the case of Contractor being an Indonesian legal entity, the taxable income as referred to in paragraph (1) after subtraction of Income Tax as referred to in paragraph (3) is treated as available dividend to be paid and with outstanding Income Tax in accordance to the provisions in the laws and regulations.
- (7) Upon the fulfillment of the Income Tax obligation as referred to in paragraph (3), paragraph (4), paragraph (5), and paragraph (6), a tax assessment letter (SKP) for Crude Oil and Natural Gas Income Tax will be issued after a tax audit is conducted.
- (7a) The tax audit on the fulfillment of Income Tax obligation as referred to in paragraph (7) up to the issuance of the tax assessment letter, is conducted within a maximum time period of 12 (twelve) months after the Annual Tax Return is accepted completely by the Directorate General of Tax.
- (8) Before the issuance of the tax assessment letter for Crude Oil and Natural Gas Income Tax, a provisional tax payment letter for Crude Oil and Natural Gas Income Tax may be issued.
- (9) The provisions on the issuance of tax assessment letter for Crude Oil and Natural Gas Income Tax as referred to in paragraph (7) and provisional tax payment letter for Crude Oil and Natural Gas Income Tax as referred to in paragraph (8) is governed by the Regulation of the Directorate General of Taxes.
- (10) Erased.
- (11) Erased

(12) Income ...



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- (12) Income tax on FTP is calculated at such time the accumulated FTP received by Contractor is greater than the remaining operating cost yet to be recovered.
 - (13) The provision on the methodology of calculation and remittance of Income Tax on FTP as referred to in paragraph (12) will be further stipulated by a Regulation of the Director General of Tax.
14. Between Chapter V and Chapter VI is inserted 1 (one) other, namely Chapter VA, hence reading as follows:

CHAPTER VA

TAX FACILITIES

Article 26A

In the Exploration phase in Petroleum Operations, Contractor is granted the following facilities:

1. Exemption from Import Duty on imported goods utilized for Petroleum Operations;
2. Value Added Tax or due Value Added Tax and Sales Tax on Luxury Goods are not levied on:
 - a. the procurement of certain Taxable Goods and/or certain Taxable Services;
 - b. the import of certain Taxable Goods;
 - c. the utilization of certain Intangible Taxable Goods within the Custom Area from outside the Custom Area; and/or
 - d. the utilization of certain Taxable Services within the Custom Area from outside the Custom Area;which are utilized for Petroleum Operations.
3. Income Tax Article 22 shall not be levied on imported goods which have received exemption facility from Import Duty as referred to in number 1; and/or

4. A reduction ...



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4. A reduction of 100% (one hundred percent) on Land and Building Tax of due Oil and Gas Land and Building Tax as stated in the Notice of Due Land and Building Tax through the Exploration period.

Article 26B

- (1) In the Exploitation phase, including activities for field processing, transportation, storage, and sale of own production output as a continuation of Upstream Oil and Gas Business Activities in Petroleum Operations, Contractor may be given the following facilities:
 - a. Exemption from Import Duty on imported goods utilized for Petroleum Operations; and/or;
 - b. Value Added Tax or due Value Added Tax and Sales Tax on Luxury Goods is not levied on:
 1. procurement of certain Taxable Goods and/or certain Taxable Services;
 2. the import of certain Taxable Goods;
 3. the utilization of certain Intangible Taxable Goods within the Custom Area from outside the Custom Area; and/or
 4. the utilization of certain Taxable Services within the Custom Area from outside the Custom Area;which are utilized for Petroleum Operations;
 - c. Income Tax Article 22 is not levied on imported goods which have been granted Import Duty exemption facilities as referred to in letter a; and/or

d. A reduction ...



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- d. A reduction of maximum 100% (one hundred percent) on Land and Building Tax of due Oil and Gas Land and Building Tax as stated in the Notice of Land and Building Tax Due.
- (2) Tax facilities as referred to in paragraph (1) shall be granted by the Minister of Finance based on project economics considerations from the Minister.

Article 26C

- (1) In the event excess capacity is available in field processing facilities, transportation, storage and sales, then with the approval of SKK Migas Contractor may exploit such excess capacity to be utilized by other Contractors, based on the principle of charging operating cost of shared facilities(cost sharing).
- (2) Charging Operating Cost of Shared Facilities (Cost Sharing) as referred to in paragraph (1) is allocated from one Contractor to other Contractors who receive benefits from such operating cost, with the sum of the cost charged to each Contractor being the same as the total cost expended overall.
- (3) Charging Operating Cost of Shared Facilities (Cost Sharing) by the Contractor for the utilization of State Property in the upstream Oil and Gas sector is exempted from Income Tax and is not subject to Value Added Tax, provided it meets the following criteria:
 - a. Goods utilized and procured or bought by Contractor in the execution of Cooperation Contract which constitute as State Property;
 - b. The utilization of State Property as shared facility has received approval from SKK Migas; and

c. The utilization ...



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- c. The utilization of such shared facility is not for the purpose of profit and/or gain.

Article 26D

The expense of allocated indirect Head Office cost as referred to in Article 12 paragraph (2) letter f is not an object of Income Tax and Value Added Tax in accordance with the provisions in laws and regulations in taxation.

Article 26E

Further provisions on the granting of tax facilities as referred to in Article 26A, Article 26B, Article 26C, and Article 26D shall be further stipulated by the Minister of Finance.

15. Between Article 27 paragraph (1), paragraph (2) and paragraph (3) are inserted 2 (two) paragraphs, namely paragraphs (1a) and (2a) hence Article 27 reads as follows:

Article 27

- (1) On Contractor's other income in the form of Uplift or other similar compensation as referred to in Article 9 paragraph (4) letter a, a final Income Tax is levied at a rate of 20% (twenty percent) of the gross total.
- (1a) Income Tax is not levied on Taxable Income less Income Tax of a final nature originating from Uplift or other similar compensation as referred to in paragraph (1).
- (2) On Contractor's income from transfer of Participating Interest as referred to in Article 9 paragraph (4) letter b, a final Income Tax is levied with a rate:
 - a. 5% (five percent) of gross total, for transfer of Participating Interest during the Exploration period; or

b. 7% ...



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- b. 7% (seven percent) of gross total, for transfer of Participating Interest during the Exploitation period.
 - (2a) Income Tax is not levied on Taxable Income less Income Tax of a final nature as referred to in paragraph (2).
 - (3) The levy of Income Tax as referred to in paragraph (2) letter b is exempted only for the discharge of obligation to transfer Participating Interest in accordance with the Cooperation Contract to a national company as stated in the Cooperation Contract.
 - (4) Provisions on the procedures for Income Tax deductions and payments as referred to in paragraph (1), paragraph (2), and paragraph (3) are stipulated by a Minister of Finance Regulation.
16. The provisions of Article 30 paragraph (1) and paragraph (3) are revised and added with paragraph (4) and paragraph (5), hence reading as follows:

Article 30

- (1) For tax calculation purposes, the Directorate General of Tax determines the cost figures in the Exploration phase and Exploitation phase annually for the upstream Oil and Gas business sector after receiving recommendations from SKK Migas.
- (2) Prior to determining the cost figures as referred to in paragraph (1), the Director General of Tax and/or a Government auditor on behalf of the Directorate General of Tax, shall conduct an audit.
- (3) In the event the cost figure recommended by SKK Migas as referred to in paragraph (1) differs from the cost figure resulting from the audit conducted by the Government auditor as referred to in paragraph (2), the Government auditor and SKK Migas shall resolve such differences.

(4) The audit ...



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- (4) The audit conducted as referred to in paragraph (2) and Article 25 paragraph (7) shall be stipulated in a guideline for joint audit execution.
 - (5) Other matters on the submittal of recommendations, resolution of differences in cost figures as a result of the audit, and guideline for joint audit execution shall be stipulated in a Minister of Finance Regulation.
17. The provisions of Article 31 paragraph (1) letter d and paragraph (2) are revised, hence reading as follows:

Article 31

- (1) Every contractor in a Working Area shall:
 - a. register to obtain a tax ID;
 - b. keep accounting books and records;
 - c. submit Annual Income Tax Returns;
 - d. pay monthly tax installments for the current year at the latest on date 15 (fifteen) of the following month, and calculated against taxable income from actual Lifting of the contractor share in a calendar month;
 - e. meet other provisions in accordance with provisions in laws and regulations in taxation.
- (2) in the event of transfer of participating interest or transfer of shares, Contractor shall report the value to the Director General of Oil and Gas and the Director General of Tax.
- (3) In the event of transfer of participating interest, tax rights and obligations shall be transferred to the new Contractor.
- (4) The form and content of Annual Income Tax Returns as referred to in paragraph (1) letter c is stipulated by Regulation of the Director General of Tax.

18. The provisions...



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18. The provisions of Article 34 are revised, hence reading as follows:

Article 34

- (1) SKK Migas shall issue the guidelines for the control of the operating cost of Upstream Oil and Gas Business Activities.
- (2) SKK Migas shall submit a financial report on the execution of recoverable operating cost to the Minister of Finance and the Minister periodically every year and as needed.

19. Article 35 is erased.

20. Between Article 37 and Article 38 is inserted 1 (one) article, namely Article 37A hence reading as follows:

Article 37A

Cooperation Contracts executed before the enactment of Law Number 22 Year 2001 on Oil and Gas, as well as Cooperation Contracts executed after the enactment of Law Number 22 Year 2001 on Oil and Gas and before the enactment of Government Regulation Number 79 Year 2010 on Recoverable Operating Cost and the Treatment of Income Tax in the Upstream Oil and Gas Business Sector, remain in effect until the expiry date of said contracts while still meeting obligations on matters not yet stipulated or not yet stipulated explicitly enough in the Cooperation Contract on:

1. the amount of government share;
2. the requirements for recoverable operating cost and for operating cost charging norms;
3. non-recoverable operating cost;
4. the appointment of an independent third party to conduct financial and technical verifications;

5. the issuance ...



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5. the issuance of Income Tax assessment letter;
 6. the exemption of import duty and tax in the import of goods for Exploration activities and Exploitation activities;
 7. Contractor Income Tax in the form of Oil and/or Gas volumes from Contractor share; and
 8. income external to Cooperation Contracts in the form of Uplift and/or transfer of Participating Interests.
21. Between Article 38 and Article 39 are inserted 4 (four) articles, namely Article 38A, Article 38B, Article 38C and Article 38D, hence reading as follows:

Article 38A

At the time this Government Regulation comes into force:

- a. Cooperation Contracts executed before the enactment of Law Number 22 Year 2001 on Oil and Gas remains in effect until the expiry date of said contracts.
- b. Cooperation Contracts executed after the enactment of Law Number 22 Year 2001 on Oil and Gas and before the enactment of Government Regulation Number 79 Year 2010 on Recoverable Operating Cost and the Treatment of Income Tax in the Upstream Oil and Gas Business, remain in effect until the expiry date of said contracts.
- c. Cooperation Contract Contractors as referred to in letter a and letter b may elect to follow the provisions of the Cooperation Contract or make an overall adjustment with the provisions in this Government Regulation by adjusting the Cooperation Contract within at the latest 6 (six) months after this Government Regulation is enacted.

Article 38B ...



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Article 38B

- a. Cooperation Contracts executed after the enactment of Government Regulation Number 79 Year 2010 on Recoverable Operating Cost and the Treatment of Income Tax in the Upstream Oil and Gas Business Sector, remain in effect until the expiry date of said contracts.
- b. Cooperation Contract Contractors as referred to in letter a may adjust with the provisions in this Government Regulation by adjusting the Cooperation Contract within at the latest 6 (six) months after this Government Regulation is enacted.

Article 38C

New Cooperation Contracts or Cooperation Contract Extensions executed after the enactment of this Government Regulation shall comply with the provisions in this Government Regulation.

22. Article 39 is erased.

Article II

1. All “Executive Body” terms as referred to in Government Regulation Number 79 Year 2010 on Recoverable Operating Cost and the Treatment of Income Tax in the Upstream Oil and Gas Business Sector, shall mean “SKK Migas”.
2. This Government Regulation shall come into force on the date of promulgation.

For public...

For public cognizance, this Government Regulation shall be promulgated in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta

On 15 June 2017

PRESIDENT OF THE REPUBLIC OF INDONESIA,

signed.

JOKO WIDODO

Promulgated in Jakarta

On 19 June 2017

STATE MINISTER OF LAW AND HUMAN RIGHTS

REPUBLIC OF INDONESIA,

signed.

YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2017 NUMBER 118

Copy in accordance with the original.
MINISTRY OF STATE SECRETARIAT
REPUBLIC OF INDONESIA
Assistant Deputy Economic Sector,
Deputy Legal Sector and Laws
(Stamped, signed)

Lydia Silvanna Djaman



PRESIDENT
OF THE REPUBLIC OF INDONESIA

ELUCIDATION
OF THE
GOVERNMENT OF INDONESIA REGULATION
NUMBER 27 YEAR 2017
REGARDING

REVISIONS TO GOVERNMENT REGULATION NUMBER 79 YEAR 2010 ON
RECOVERABLE OPERATING COST AND THE TREATMENT OF INCOME
TAX IN THE UPSTREAM OIL AND GAS BUSINESS SECTOR

I. GENERAL

The developing paradigm in Oil & Gas management is to increase energy security, drive the success of high priority economic sectors on a national scale in Upstream Oil and Gas Business Activities that support the provision of strategic goods, and to increase economic growth in Indonesia. In support, there is need for flexibility in the determination of profit sharing and in the provision of fiscal and non-fiscal incentives for Upstream Business Activities.

Additionally, to increase activities in Oil and Gas Exploration and Exploitation, to increase discovery of national Oil and Gas reserves, to enhance the investment climate and to provide more legal certainty in the Upstream Oil and Gas Business Activities, Government Regulation Number 79 Year 2010 on Recoverable Operating Cost And The Treatment Of Income Tax In The Upstream Oil And Gas Business Sector is considered no longer aligned with current times and is in need of revision.

II. ARTICLE ...



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II. ARTICLE BY ARTICLE

Article 1

Number 1

Article 1

Sufficiently clear.

Number 2

Article 3

Paragraph (1)

With regards to the cooperation contract in the Oil and Gas upstream business activities, the Government provides the natural resources and the Contractor is obligated to bring capital and technology. Consequently, the Contractor is not allowed to charge interest or royalty or other similar cost into the recoverable operating cost.

Paragraph (2)

Sufficiently clear.

Number 3

Article 4

Paragraph (1)

Basically, all goods and equipment procured by the Contractor is state property, and these expenses are deemed operating cost which can be returned by the Government to the Contractor based on their acquisition costs.

Paragraph (2)

Sufficiently clear.

Number 4

Article 8

Sufficiently clear.

Number 5 ...



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Number 5

Article 10

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Incentives for the Upstream Business Activities are in the form of, among others, investment credit, DMO compensation, and accelerated depreciation.

Investment Credit means a certain amount of additional Capital cost recovery which is directly related to production facilities, granted as an incentive for the development of certain oil and/or gas fields.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

The incentive for non-tax government income is, among others, in the form of the policy regarding the utilization of state property by the Contractor in their Petroleum Operations, and other facilities.

Number 6

Article 10A

The determination of a dynamic profit split aims to share risk and reward in the event of changes that impact activities in Oil & Gas, among others: changes in Oil and/or Gas price, the level of production of Oil and/or Gas, the ratio of revenue to Petroleum Operating cost.

Number 7 ...



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Number 7

Article 11

Paragraph (1)

In the Cooperation Contract, the cost which can be deducted from revenue is the same cost which the Government will return to contractor, and similarly vice versa. This principle is commonly known as the uniformity principle.

The operating cost as it relates to this provision is the cost which forms the basis for the calculation of profit share and the calculation of Taxable Income.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Letter a

Sufficiently clear.

Letter b

Included in the cost related to activities for processing Natural Gas up to the delivery custody point is, among others, the cost to process Liquefied Natural Gas (LNG).

Letter c

Sufficiently clear.

Letter d

Sufficiently clear.

Letter e

Included in the depreciation costs, among others, are those for:

1. production facilities;
2. office buildings, warehouses, housing;
3. machines and equipment.

Paragraph (4) ...



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Paragraph (4)

Sufficiently clear.

Paragraph (5)

Letter a

Included in the cost to move gas from the production point to the custody delivery point is the marketing cost.

Letter b

Sufficiently clear.

Number 8

Article 12

Paragraph (1)

Letter a

Deleted.

Letter b

Sufficiently clear.

Letter c

Sufficiently clear.

Letter d

Sufficiently clear.

Paragraph (2)

Letter a

Sufficiently clear.

Letter b

“head office direct cost charged to the project” is cost directly related to Petroleum Operation activities in Indonesia with the caveat that such activities:

1. cannot ...



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1. cannot be performed by domestic institutions/ agencies;
2. cannot be performed by an Indonesian workforce; and
3. are non-routine.

Letter c

Sufficiently clear.

Letter d

Sufficiently clear.

Letter e

Sufficiently clear.

Letter f

Sufficiently clear.

Paragraph (3)

The Minister of Finance Regulation at the very least sets the timing for the enactment of the remuneration.

Number 9

Article 13

Letter a

Sufficiently clear.

Letter b

Sufficiently clear.

Letter c

Donated assets cannot be charged as cost because such assets are deemed to be state property.

Letter d

Sufficiently clear.

Letter e

Sufficiently clear.

Letter f ...



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Letter f

Sufficiently clear.

Letter g

Sufficiently clear.

Letter h

Sufficiently clear.

Letter i

Sufficiently clear.

Letter j

Sufficiently clear.

Letter k

Sufficiently clear.

Letter l

Erased.

Letter m

Sufficiently clear.

Letter n

Costs related to mergers and acquisitions among others:

- a. Personnel and consultant costs related to due diligence activities;
- b. external costs for press release, promotions, and the replacement of company logo;
- c. costs related to the staff separation program and retention program, costs related to information system technology (as long as the previous system has not been fully depreciated), costs related to office moves, and costs arising from changes in policy in on-going projects;

Letter o ...



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Letter o

“interest on loan” means interest on loans to fund Petroleum Operations.

Letter p

Sufficiently clear.

Letter q

Sufficiently clear.

Letter r

Sufficiently clear.

Letter s

“Contractor negligence” means gross negligence or willful misconduct which has gone through the process of dispute resolution based on the related Cooperation Contract.

Letter t

Number 1

Erased.

Number 2

In this provision, “not going through the tender process” means all procurement for goods and services in accordance with prevailing requirements is mandated to go through a tender process; however the procurement of goods and services for emergency needs may be exempted from the tender process.

Number 3

Sufficiently clear.

Letter u

Sufficiently clear.

Letter v ...



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Letter v

Sufficiently clear.

Letter w

Erased.

Letter x

Erased.

Number 10

Article 16

Paragraph (1)

Sufficiently clear.

Paragraph (2)

"placed into service" means the instant a physical asset is utilized and has met the requirements set by the Executive Body of the Oil and Gas Upstream Business Activities.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Number 11

Article 19

Sufficiently clear.

Number 12

Article 24

Sufficiently clear.

Number 13 ...



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Number 13

Article 25

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

In this provision "tax rate", in accordance with the provisions in Income Tax laws and regulations, means the application of a tax rate in accordance with the tax rate figure elected by the Contractor, which is the prevailing tax rate at the time the Cooperation Contract was enacted or the tax rate in accordance with the provisions in applicable tax laws and regulations which can change at any time.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Paragraph (6)

Sufficiently clear.

Paragraph (7)

“Tax assessment letter for Crude Oil and Natural Gas Income Tax” means the tax assessment letter issued by the Director General of Tax after conducting the audit.

Paragraph (7a)

Sufficiently clear.

Paragraph (8) ...



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Paragraph (8)

“Provisionary tax payment letter for Crude Oil and Natural Gas Income Tax” means the Income Tax payment letter issued by the Director General of Tax before conducting the audit, which is used for, among others, the internal interests of the head office management.

Paragraph (9)

Sufficiently clear.

Paragraph (10)

Erased.

Paragraph (11)

Erased.

Paragraph (12)

Sufficiently clear.

Paragraph (13)

Sufficiently clear.

Number 14

Article 26A

Sufficiently clear.

Article 26B

Sufficiently clear.

Article 26C

Sufficiently clear.

Article 26D

Sufficiently clear.

Article 26E

Sufficiently clear.

Number 15 ...



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Number 15

Article 27

Paragraph (1)

Sufficiently clear.

Paragraph (1a)

Sufficiently clear.

Paragraph (2)

Sufficiently clear.

Paragraph (2a)

Sufficiently clear.

Paragraph (3)

The participating interest is executed based on laws and regulations.

Paragraph (4)

Sufficiently clear.

Number 16

Article 30

Sufficiently clear.

Number 17

Article 31

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

If the interest in a Working Area is owned by Contractor A, Contractor B, and Contractor C, and later the interest of Contractor A is transferred to Contractor D, the tax obligation on that interest becomes the obligation of Contractor D starting from the effective date of the transfer of interest.

Paragraph (4) ...



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Paragraph (4)

Sufficiently clear.

Number 18

Article 34

Sufficiently clear.

Number 19

Sufficiently clear.

Number 20

Article 37A

Sufficiently clear.

Number 21

Article 38A

Sufficiently clear.

Article 38B

Sufficiently clear.

Article 38C

Sufficiently clear.

Number 22

Sufficiently clear.

Article II

Sufficiently clear.

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF
INDONESIA NUMBER 6066