Asia Pacific Industrials, Manufacturing & Transportation Webinar Series

14 July 2022 | 1:00 to 2:00 pm (JKT)
The session is being recorded; all webinar materials will be shared post-event.

Please use the Q&A function at the bottom of your screen to submit your questions. Questions will be answered at the end of session or post-event.
Welcome & Introduction

Yaeko Hodaka
Co-chair, Asia Pacific IMT Industry Group,
Baker McKenzie, Tokyo
Speakers

Baker McKenzie

Yaeko Hodaka
Co-chair, Asia Pacific IMT Industry Group
Baker McKenzie, Tokyo
yaeko.hodaka
@bakermckenzie.com

Riza Buditomo
Partner, Tax & Trade
HHP Law Firm*, Indonesia
rizabuditomo
@bakermckenzie.com

*Hadiputranoto, Hadinoto & Partners is a member firm of Baker & McKenzie International
Agenda

1. Welcome & Introduction  
   Yaeko Hodaka

2. Customs Audit 101 in Indonesia  
   Case Studies  
   Riza Buditomo

3. Q&A

4. Closing & Wrap Up  
   Yaeko Hodaka
Customs Audit 101 – Indonesia
General Overview

Legal Basis:
- Customs Law No. 10 of 1995 as last amended by No. 17 of 2006
- Customs and Excise Regulation Number 35/BC/2017 on Customs Audit Procedure

Objective:
- To optimize state revenue by checking the tax, customs and/or excise compliance of Auditees.

Common Industry Targets:
- Chemical Industry, Tobacco Industry, Trading, Mining Industry, Automotive Industry, IT Industry, Oil and Gas Industry, Other Industries that uses customs facilities such as KITE Users, Bonded Zone Users, Masterlist Users

Carried out by Audit department of the Indonesian Directorate of Customs and Excise
## Customs and Excise Revenue

### Based on APBN 2021 and APBN 2022

<table>
<thead>
<tr>
<th></th>
<th>APBN 2021</th>
<th>APBN 2022</th>
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<tbody>
<tr>
<td><strong>Customs and Excise Revenue</strong></td>
<td></td>
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<tr>
<td><strong>State Budget (&quot;APBN&quot;) 2021</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Target Revenue</td>
<td>Rp215 trillion</td>
<td></td>
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<tr>
<td>Realized Revenue</td>
<td>Rp269 trillion*</td>
<td></td>
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<tr>
<td><strong>APBN 2022</strong></td>
<td></td>
<td></td>
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<tr>
<td>Target Revenue</td>
<td>Rp245 trillion</td>
<td></td>
</tr>
<tr>
<td>Realized Revenue (April 2022)</td>
<td>Rp108.4 trillion*</td>
<td></td>
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### Comparison Table on the State’s Income

<table>
<thead>
<tr>
<th></th>
<th>APBN 2021</th>
<th>APBN 2022*</th>
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<tbody>
<tr>
<td>Customs and Excise Revenue (in trillion Rupiah)</td>
<td>215</td>
<td>245</td>
</tr>
<tr>
<td>Target Revenue</td>
<td>269</td>
<td>108.4</td>
</tr>
<tr>
<td>Realized Revenue</td>
<td></td>
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</tbody>
</table>

**Notes:**
*realized revenue as per April 2022, amounting 44.2% of the total targeted revenue (source: Ministry of Finance (MOF) official website)
Auditees and Auditor

Who is audited?

Any importers, exporters, entrepreneurs of temporary stockpiling places, entrepreneurs of bonded storage places, customs brokers or shipping/carrier line companies.

Audit Quality Supervisor (Pengawas Mutu Audit/PMA), an Audit Technical Supervisor (Pengawas Teknis Audit/PTA), and a Chief of Audit, and may also include one or more officials from the Customs Authority and other agencies.
Example of Audit Assignment Letter
When and Period

No standardized timing of when a company will be audited by Customs Authority. It depends on the priority of the Authority, the historical profile of the company or certain conditions that need further investigation through an audit. For example companies with multiple assessment letters.

Customs Authority is authorized to re-assess the customs value and tariff classification within two years after submission of import declaration forms (Pemberitahuan Impor Barang/PIB).

The period is counted backwards from the assignment date of the audit. For instance, if the audit assignment letter is dated 1 June 2022, then the period of assessment would be from 1 June 2020 until 31 May 2022.
Requested Audit Data

For a general customs audit, the Customs Authority usually asks for the following documents:

**Legal Documents**

1. Company’s deed of establishment and the amendments
2. TDP/SIUP/UI License*
3. Basic import license document, i.e., Business Identification Number (Nomor Induk Berusaha/NIB) or General Import Identification Number (APIU)/Producer Import Identification Number (APIP)
4. Tax ID Number (Nomor Pengusaha Wajib Pajak/NPWP) and PKP (Tax Entrepreneur Registration Number)
5. Complete organization chart
6. Company profile
7. ID and Tax ID/KITAS of Directors and Commissioners
8. Other import approvals
9. Manual books system or flowchart for procurement

**Legal Documents**

10. Manual books system or flowchart for incoming and outgoing goods to and from a warehouse
11. Manual books system or flowchart for payment of goods
12. One set of samples of import documents
13. One set of samples of export documents

**Finance and Tax Documents**

**Accounting Data**

14. Chart of accounts and trial balance
15. Financial statements for the last two years (audited is preferable)
16. General ledger for all accounts in softcopy, usually the important ones are inventory, cash and bank, accounts payable, accounts receivable, purchases, sales
17. Subsidiary ledger related to import, accounts payable, bank (all accounts)

* Company Registry Certificate/Trading Business License/Industrial License
### Requested Audit Data

<table>
<thead>
<tr>
<th>Tax Data</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>18</td>
<td>e-SPT (e-submission payment proof) of value added tax for the audit period</td>
</tr>
<tr>
<td>19</td>
<td>Corporate income tax return for the last 2 years</td>
</tr>
<tr>
<td>20</td>
<td>Recapitulation of income tax articles 22 and 26</td>
</tr>
</tbody>
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<thead>
<tr>
<th>Cash and Bank Documents</th>
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<tbody>
<tr>
<td>21</td>
<td>Bank Statements of the audit period, particularly related to purchase of goods</td>
</tr>
<tr>
<td>22</td>
<td>TT Payment/LC</td>
</tr>
<tr>
<td>23</td>
<td>Debit note/credit note</td>
</tr>
<tr>
<td>24</td>
<td>Recapitulation of purchase orders and sales contracts</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Others</th>
<th></th>
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</thead>
<tbody>
<tr>
<td>25</td>
<td>Transfer pricing documents for the last two years</td>
</tr>
<tr>
<td>26</td>
<td>Royalty or License agreement</td>
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<thead>
<tr>
<th>Customs Documents</th>
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<tbody>
<tr>
<td>27</td>
<td>PI Bs</td>
</tr>
<tr>
<td>28</td>
<td>Back-up data from Electronic Data Interchange system</td>
</tr>
<tr>
<td>29</td>
<td>Good receiving notes</td>
</tr>
<tr>
<td>30</td>
<td>Hardcopy and softcopy of Free Trade Agreement documents, including the relevant PI Bs and supporting documents (e.g., invoice, bill of lading)</td>
</tr>
<tr>
<td>31</td>
<td>Customs Authority stipulation letter on tariff and customs value (SPTNP) and the results/decisions on objection against the SPTNP (if any)</td>
</tr>
<tr>
<td>32</td>
<td>Product catalogue/image/MSDS/certificate of analysis related to the imported goods</td>
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<tr>
<th>Other</th>
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<tbody>
<tr>
<td>33</td>
<td>Any other relevant documents for the audit period</td>
</tr>
</tbody>
</table>

*Telegraphic transfer payment/Letter of Credit*
Areas of Assessments

- Internal Control
- Customs Valuation
- Classification
- Type and Quantity
- Customs Facilities
- Excise / Export Duty*
### Fields of assessment

<table>
<thead>
<tr>
<th>Areas of Assessments</th>
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<tbody>
<tr>
<td><strong>Fields of assessment</strong></td>
</tr>
<tr>
<td>Internal control</td>
</tr>
<tr>
<td>Customs value declaration</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Tariff and classification declaration</td>
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<tr>
<td></td>
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<tr>
<td>Type and quantity of goods declaration</td>
</tr>
<tr>
<td>Improper use of customs facilities (e.g., masterlist facility, bonded stockpiling places facility, KITE&lt;sup&gt;12&lt;/sup&gt; facility)</td>
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</tbody>
</table>
Audit Phase/Steps

- Assignment Letter
- Start of Audit (Field Assessment)
- Temporary/Preliminary Findings
- Closing Meeting(s)
- Issuance of Audit Report
Customs Authority will issue a DTS and ask the Auditee to provide a response within seven working days.

The period to provide a response may be extended one time upon request with an additional period of seven working days in maximum.
A closing meeting will be held by all of the audit team as well as the key persons of the company (e.g., a director of the company, the logistics manager, the finance manager).

The agenda of the meeting is to discuss the findings and reasoning (including the evidence), when an Auditee disagrees with some or all of the findings:

- Closing meeting summary (Risalah Pembahasan Akhir)
- Closing meeting results (Hasil Pembahasan Akhir)
- Audit result minutes (Berita Acara Hasil Audit/BAHA)

The following documents will be issued:
The outcome would be in the form of Final Audit Report. If there are findings, the report will be attached with following possible assessments:

- Customs Stipulation Letter (Surat Penetapan Pabean ("SPP"))
- Letter of Stipulation of Administrative Sanctions (Surat Penetapan Sanksi Administrasi ("SPSA"))
- Letter of Re-stipulation on Tariffs and/or Customs Value (Surat Penetapan Kembali Tarif dan/atau Nilai Pabean ("SPKTNP"))
The objection against Customs assessment in the form of e.g., **SPP, SPSA** should be submitted to **Customs Office**.

Findings on administrative mistake or findings other than customs valuation and classification

**SPP, SPSA**

Objection must be submitted to Customs. If it is rejected, the objection can be further appealed in Tax Court

However, objection (appeal) against e.g., **SPKTNP** must be submitted to **Tax Court** within **60 days** as of the SPKTNP is issued.

After customs audit, there are findings on classification issue or customs value issue

**SPKTNP**

Appeal must be submitted directly to Tax Court
Case Studies
Case Study 1
Related party transaction

Customs deemed that Method 1 cannot be applicable

- The price fluctuates for polyester or plastics materials
- The current import price is more than 5% lower than the previous or current market price
- Auditee can prove that the payment reflects the commercial invoice price, but it cannot prove that the relationship between seller and buyer does not affect the transaction price.
- Customs re-determined the customs value using similar goods value based on its price database
Example – Case Study 2 – AJCEP

Transshipped in Hong Kong

Change vessel (unload and reload of cargo. There is no further process on the imported goods)

Vessel A

Vessel B

Importer is only supported by a statement letter from the shipping company mentioning that there is a change of vessel without any further process on the goods. This proof is still rejected

Vessel B
In an audit, customs found that the goods are being transited/transshipped in a non-member FTA countries without proof of documents.

- Direct consignment criteria is not fulfilled according to Customs.
- Difficulties: in practice, sometime the importer does not aware if the goods are being transited/transshipped by the shipper.
- OCP or procedure of direct consignment in the AKFTA, JIEPA and AJCEP actually do not stipulate a specific document to proof of transshipment. However, the Customs (and judges at the tax court) are of the view that "Through Bill of Lading" is mandatory for transshipment.
- For transit issue, the judges still accept "other documents" to proof the transit.
Case Study 3

Voluntary Disclosure (VD) on intangible goods (i.e., software)

Referring to MOF Regulation 201, in an audit, the Customs deemed that the software installed later on should be voluntarily declared in the form of Voluntary Payment (VP).

- MOF Regulation 201 basically has no specific provision on VP of intangible goods. VP is available for customs valuation components e.g., royalty, proceeds, assist.
- So, it was unclear on what form of VP that should be used. If the auditor regarded this software license as "assist" or "royalty", then the VP that they meant would be VP for customs valuation.
- There is no further implementing regulation on VD and VP, particularly on intangible goods.
- We argued that the software are not related to the imported goods at all, so it the value of software should not be added to customs value of imported goods
- Customs eventually dropped the findings on software that are not related to imported goods.
Questions
Closing & Wrap-up

Yaeko Hodaka
Co-chair, Asia Pacific IMT Industry Group,
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