

17 April 2020

**To**

Ms. Sri Mulyani Indrawati  
Minister of Finance of the Republic of Indonesia

Mr. Suryo Utomo  
Director General of Taxation  
Ministry of Finance of the Republic of Indonesia

Mr. Febrio Kacaribu  
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Ministry of Finance of the Republic of Indonesia

Mr. Wempi Saputra  
Chief of Staff to the Minister of Finance of the Republic of Indonesia

**Subject: AIC Submission on Government Regulation No. 1/ 2020 (PERPU-1) with Provisions on Digital Taxation**

The Asia Internet Coalition (AIC) and its members write to you with respect to Government Regulation No. 1/ 2020 (**PERPU-1**) ("**Regulation**") passed by the President of the Republic of Indonesia on March 31, 2020 with immediate effect.

The AIC is an industry association comprised of leading Internet and technology companies. AIC seeks to promote the understanding and resolution of Internet and ICT policy issues in the Asia Pacific region. Our member companies would like to assure the government that they will continue to actively contribute to the security of digital platforms, products and services in support of the digital economy goals of Indonesia. Our members are Airbnb, Amazon, Apple, Expedia Group, Facebook, Google, Grab, LinkedIn, LINE, Rakuten, Twitter and Yahoo (Verizon Media), and Booking.com. In these unprecedented times we also commend Indonesia's strategy in fighting the COVID-19 pandemic and express our solidarity with the government's efforts.

We understand that these are very trying times and that the Indonesia Government has taken a number of necessary measures to confront the COVID-19 crisis. We are of the view that many of the elements of PERPU-1 represent reasonable steps to address revenue concerns. For instance, we believe that there are well established principles for applying value added tax (**VAT**) to electronically supplied services and believe that is an effective way to tax overseas ecommerce activities.

We do, however, have concerns with other elements which we believe will lead to higher prices for consumers in Indonesia, increased fees for SMEs in Indonesia, and limit the innovation in the country. Specifically, the Significant Economic Presence (**SEP**) and Electronic Transaction Tax (**ETT**) provisions impose expansive, new tax obligations on sales of goods and services by foreign businesses to Indonesian customers carried out over the internet. It is therefore crucial that Indonesia strives for an effective and fair

tax system without creating unnecessary tax burdens and compliance obligations for foreign e-commerce players.

PERPU-1 casts a wide net of applicability and will cover any foreign businesses who provide electronic communication facilities used for trade transactions, foreign traders, and foreign service providers who carry out transactions with Indonesia customers through electronic systems. These would include online marketplaces, any service providers, retailers, and manufacturers, who are exporting their goods and services to Indonesia over the internet. PERPU-1 seeks to tax foreign businesses who meet the SEP provisions as a permanent establishment (**PE**) and subject these businesses to Indonesia corporate income tax.

Significant ambiguities exist regarding key aspects of the rules, including the scope, applicable rates of tax, and how taxpayers can comply. We understand that the Indonesia Ministry of Finance (**MOF**) has significant discretion to draft broad implementing regulations. While the MOF assesses provisions to include in any implementing regulations, we respectfully encourage the MOF to consider the concerns set forth below. As currently drafted, the SEP and ETT provisions in PERPU-1 could be interpreted as unilateral tax measures that do not align with existing international norms and practices, and are misaligned with the Indonesia Government's goal to forge stronger economic ties with other nations as well as develop Indonesia as a thriving digital economy.

The AIC fully supports Governments' current prioritization of measures that directly contribute to the economic and medical response to the COVID-19 outbreak but would strongly urge the Government of Indonesia to consider industry concerns and reconsider the scope of PERPU-1, refrain from enforcing its applicability on March 31, 2020 and not issuing any implementing regulations. This will help companies manage the difficulties they are generally facing managing compliance obligations during the current COVID-19 outbreak. Further, before any implementing regulations are issued, we recommend undertaking an impact assessment of such broad measures and the associated compliance burdens, including consideration of the significant amount of time (likely, at least 9 to 12 months) businesses will need to build new systems to facilitate compliance.

The regulation should aim to follow OECD guidelines and principles of neutrality, efficiency, certainty and simplicity. Given the OECD / G20 Inclusive Framework's ongoing work and commitment to reach an agreement on a consensus-based solution to address the tax challenges arising from digitization of the economy by end 2020, we respectfully urge the Indonesian Ministry of Finance to consider deferring the drafting of implementation regulations for Perpu 1/2020 until such a multilateral solution is obtained. Unilateral measures will run the risk of retaliation from other countries and damage international trade.

Besides requesting for further clarification and guidance on the regulations, we also urge your office to initiate a closed-door stakeholder consultation with all impacted stakeholders – domestic and foreign – to ascertain the appropriate way forward. Indonesia's digital ecosystem deserves an enabling regulatory environment and a supportive taxation regime that takes into account the implications of policy measures. We believe that the objectives of the Indonesia Government could be better met by measures that are less intrusive and are very happy to participate in a deliberative exercise to identify these.

As such, please find appended to this letter detailed comments, recommendations for implementing regulations and best practices, which we would like the Government of Indonesia and the Ministry of Finance to consider. Furthermore, we welcome the opportunity to offer our inputs and insights on

industry best practices, directly through meetings and discussions and help shape the dialogue for the advancement of the digital ecosystem in Indonesia.

Should you have any questions or need clarification on any of the recommendations, please do not hesitate to contact me directly at [Secretariat@aicasia.org](mailto:Secretariat@aicasia.org) or +65 8739 1490. Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "Paine".

**Jeff Paine**  
**Managing Director**  
**Asia Internet Coalition (AIC)**

## SECTION A

### A. Specific concerns with respect to PERPU-1 are listed below

1. **PERPU-1 has been enacted with no consultation with industry.** PERPU-1 was introduced and passed to be effective March 31, 2020 without any discussion with industry stakeholders. This approach does not align with the general principles of transparent law making. While we understand that the new law was enacted in an expedited manner due to the extraordinary circumstances created by the COVID-19 epidemic, we believe it is still essential to consult with industry to appropriately consider the impact of the rules to both Indonesian and non-Indonesian business and understand practical challenges for the business community. We request that the Indonesian Government create opportunities to obtain industry perspectives, and that such input be carefully considered before issuing any implementing regulations under the new law. Implementing regulations will also need to provide taxpayers with sufficient time to build new systems that facilitate compliance, which often takes at least 9 to 12 months. This will help to ensure that the Indonesian Government's policy goals underpinning PERPU-1 can be achieved while avoiding unintended adverse impacts on the Indonesian economy.
2. **The scope of PERPU-1 is overly expansive, discriminatory, and will negatively impact the economy:**

The scope of PERPU-1 is discriminatory as it unfairly targets non-resident online marketplaces, retailers that sell to Indonesian customers over the Internet, manufacturers that operate online sales portals, and any non-resident online service providers when compared to local Indonesian businesses. If the ETT provision is implemented as a revenue-based tax measure, it appears to impose a tariff for doing business in Indonesia rather than creating a recognized tax category under the existing international tax framework and global norms. Local Indonesian businesses pay tax on profits earned and many low-margin or loss making businesses may not be paying any Indonesian income tax. Applying ETT does not level the playing field between local and non-resident businesses. These types of unilateral measures act as a deterrent for international businesses to invest in Indonesia by increasing the cost of providing goods and services to Indonesian customers and in many cases, penalizes such businesses for doing business in Indonesia. This, in turn, deprives the Indonesian business community and broader public of the latest innovations and technologies available over the internet and is likely to stifle Indonesian business growth. Impacted businesses will be forced to consider whether to stop serving Indonesians in order to ensure compliance while others will be forced to pass the additional costs along to Indonesian customers.
3. **Provisions of PERPU-1 conflict with Indonesia's international tax and trade commitments:** The Government of Indonesia has made international commitments to other countries through its international agreements and membership in multilateral organizations like the World Trade Organization (WTO) and the World Customs Organization (WCO). Indonesia's tax treaties prescribe clear rules regarding how to allocate taxing rights. The SEP provision creates an entirely new income tax right in cases where a foreign company meets certain prescribed rules based on the company's consolidated group turnover, sales into Indonesia, and number of active digital media users. The ETT provisions of PERPU-1 expand Indonesia's taxing rights even further by creating a unilateral taxing right, the nature of which remains unclear, but which is solely applicable to non-Indonesian businesses who would otherwise benefit from a bilateral income tax treaty. Indonesia's attempt to circumvent global tax norms and tax treaties it concludes that allocate taxing right among countries is likely to result in retaliatory measures by its trading partners.

Due to the global health crisis, the WTO and WCO are encouraging their members (Indonesia included) to avoid disruptions to cross-border trade in goods by carefully considering adding any new permanent measures that would inhibit cross-border trade activities. The international trade bodies issued a joint statement providing that any new trade measures should be targeted, proportionate, transparent, and non-discriminatory. PERPU-1 does not meet this standard as the law discriminates against non-Indonesian companies and acts as a trade barrier for the export of goods and services to Indonesia.

- 4. PERPU-1 contradicts Indonesia’s commitment to the efforts of the Organization for Economic Co-operation and Development (OECD) to address the tax challenges arising from the digitalization of the economy:** As a member of the Inclusive Framework on BEPS, Indonesia has been actively engaged in the ongoing OECD-led process to achieve a multilateral, consensus-based solution to address concerns with the current international tax framework. The imposition of unilateral measures, which target non-Indonesian businesses before the OECD process is even concluded, does not consider the negative impact these measures will have on achieving multilateral agreement. Unilateral measures contradict the OECD approach which is consultative in nature. Such measures lead to a lack of trust among the negotiating countries and may encourage other nations to adopt retaliatory measures by increasing tariffs or levying taxes on exports from Indonesia. The creation of a negative negotiating environment risks adversely impacting the effort to achieve a consensus-based solution to these global tax challenges. One of the conditions for countries signing onto the OECD consensus solutions was that they drop any unilateral measures like DST that have been passed in the interim. Considering the significant costs of developing systems that would be required to collect information and income tax due under Indonesia’s SEP/ ETT, this again suggests that Indonesia should wait to review OECD’s agreed solution before making any significant tax laws changes on the direct tax side, and should instead focus on updating its VAT rules as applied to digital services in the interim.
- 5. PERPU-1 undermines the growth of Indonesian Small and Medium sized-businesses (SMBs):** Most of Indonesia’s startups and SMBs leverage the opportunities offered by the internet and use non-Indonesian digital suppliers including software providers, app stores, software-as-a-service (SaaS) providers, and cloud service providers, as well as infrastructure, and social networking sectors to access the best of the world technology at lower costs. Access to such services is key to the development of the startup and SMB sector and contributes to the growth of these businesses in Indonesia. Imposing an additional tax on goods and services provided to these Indonesian businesses will only serve to increase their costs and stymie growth. SMEs who operate in low-margin businesses (such as the retail sector) may be forced to pass these additional costs along to their Indonesian customers. Indonesian businesses and consumers will be left with limited access and choice in online services, thereby lagging behind their contemporaries in other countries. The Indonesian government should seek to encourage the growth of Indonesian business opportunities by enacting tax policies that facilitate the growth of SMBs and encourage the expansion of this important economic sector.

## SECTION B

### B. Key Recommendations

#### 1. Hold further implementation of digital income tax and encourage Indonesia to continue to work through OECD on redefining the criteria of Permanent Establishment

We would like to reiterate that the Government of Indonesia should continue to work through the OECD process to ensure its interests are represented, find a globally agreed solution on the taxation of the digital economy and therefore avoid unilateral measures falling outside the scope of the avoidance of double taxation treaties, such as digital tax, income tax based on SEP and ETT. Indonesia's unilateral measure which specifically targets non-resident online vendors is likely to be inconsistent with global norms, including OECD standards. Unilateral measures will run the risk of retaliation from other countries that may target Indonesian digital companies that have an international presence, damage Indonesia's international trade position, and impact Indonesia's standing in the ease of doing business index. Most countries in APAC are awaiting guidance/ consensus from the OECD, rather than imposing unilateral measures, such as digital services tax or ETT. We encourage Indonesia to do the same, especially given that consensus on Pillars One and Two is expected at the OECD level by this year. We therefore suggest that Indonesia delay on issuing implementing regulations on SEP and ETT ahead of a consensus solution at the OECD.

#### 2. Clarify the nature of Electronic Transaction Tax in Indonesia

Currently, the nature of ETT in Indonesia is unclear – whether it will be treated as an income tax or an indirect tax. In Article 6(6) of PERPU No. 1/ 2020, foreign suppliers who meet the SEP provisions may be treated as a permanent establishment (PE) and subject to income tax. On the other hand, if the PE cannot be established due to the tax treaty provisions, it mandates that ETT will be applied and replaces this income tax. Therefore, ETT should similarly be treated as a form of income tax. Moreover, if ETT is enacted as a revenue-based income tax, it will violate the existing principles that direct tax should apply to profit. Therefore, the enactment will put low-margin businesses at a disadvantage, which are already subject to VAT. Hence, we recommend that the government provide clarification that the ETT is an income tax and is a tax on net profit as opposed to a tax on gross revenue. The ETT discriminates against low margin / loss making companies as it's a tax based on sales revenue / turnover. As this is a form of transaction tax, the revenue derived from digital services would have been subject to Indonesian VAT under the current regulation. Similar taxes shall not be imposed twice on a single transaction.

#### 3. Recommend simplified registration model for extraterritorial VAT

We understand that the government will be issuing the implementing regulation for the VAT registration. As such, we would like to recommend the simplified registration model that has been widely adopted by the EU and other APAC countries with extraterritorial VAT. The simplified VAT registration allows non-residents to electronically register, report and pay VAT quickly and easily. Also, there is no physical filing of documents or requirement for local agents/ representatives. Moreover, in Australia, Singapore and New Zealand, the registration of the non-resident for VAT is not a criterion in determining whether an entity has a permanent establishment in the country for income tax purposes. In other words, registering for VAT in the country does not give rise to a permanent establishment status for the non-resident. Further, any VAT rules should be easy for foreign companies to comply with in a scalable and consistent manner without having the burden of

individualized local requirements. For example, Indonesia could refer to the legislation implemented by Singapore which provides simplicity of compliance such as:

- Electronic registration and compliance;
- Simple ‘pay only’ model with no input credits;
- Make away with invoicing requirements; and
- Registering for VAT in the country should not give rise to a permanent establishment status for the non-resident.

#### **4. Clarifying the implementation of VAT collection in Indonesia**

We recommend the government to adopt the overseas supplier registration (OSR) model for VAT collection, in which the foreign suppliers would need to register for VAT and charge local VAT to B2C customers if the value of supplies exceeds an annual turnover registration threshold. In Australia and Singapore, the VAT collection obligation should be subject to a reasonable annual threshold based on actual prior sales in the jurisdiction. In which, the threshold should achieve an appropriate balance between the amount of VAT raised compared to the administrative costs imposed on both the taxpayer and the tax administration collecting the VAT. In the case of online marketplace, we recommend that the implementing regulations provide details on the party who is liable for the collection and reporting of VAT in order to avoid double taxation on VAT. Such regulation has been included by Australia, in which the criteria for the party liable for the VAT for imported services and digital products are clearly outlined.

Secondly, we recommend that the government clarify the requirements for reporting frequency, remittance process and record keeping. This is to ensure that the VAT collection process will not create unnecessary or long administrative burdens. Countries like Australia, Singapore, South Korea, New Zealand require VAT reporting and payment to be submitted and paid on a quarterly basis. In those countries, VAT remittance can be processed through the transfer of funds from an overseas bank account so that a non-resident enterprise is not obliged to open a local bank account. Furthermore, the non-resident enterprise is not required to maintain accounting books and records in the taxing jurisdiction or in the local language to ensure that the VAT collection method remains simplified.

#### **5. Narrowing and clarifying the scope of Foreign Suppliers**

We would like to clarify with the government on the scope of foreign trader, foreign service provider and foreign Trade Operators through Electronic Operators/ PPMSE (collectively referred to as “foreign suppliers”) who will be subject to the implementing regulations of PERPU No. 1/ 2020as the current definitions are too general and not specific.

##### **VAT**

- We recommend that the scope of the VAT regime or taxable supply be narrowed. Other countries that have implemented a similar concept explicitly indicate which types of services are in scope (e.g., digital ads services, or cloud computing services). The scope of the rules should also exclude B2B transactions, as per the practice in other jurisdictions. In other APAC countries, B2B (business to business) transactions are exempted because, similar to Indonesia, the local service recipient is required to reverse charge and report the VAT to Tax Authorities. Hence, it will be redundant to impose extraterritorial tax collection obligations beyond B2C

supplies. Furthermore, in these countries, the determination of B2B or B2C is determined by their VAT registration status or based on the tax ID availability.

**ETT**

- The implementing regulations should explicitly enumerate which types of digital goods and services are subject to the ETT, including clarity on carve-outs and de-minimis thresholds where certain foreign suppliers will not be subject to ETT.

**SECTION C**

**C. Detailed comments by Articles**

Article	Comments	Recommendations for the Upcoming Implementing Regulation
<b>Article 6(1)(a)</b>	<ul style="list-style-type: none"> <li>• We would like to seek some clarifications on the scope of the impacted subjects to these regulations – whether it will only be limited to the foreign service operators who are conducting B2C sales and which specific digital services and goods are covered under this regulation.</li> <li>• Moreover, we trust that the implementation regulations/ guidelines will be open for consultation to ensure that business communities are given the opportunity to clarify and provide inputs to the government</li> </ul>	<ul style="list-style-type: none"> <li>• The VAT regime should be limited to B2C (business-to-consumer) supplies of digital goods and services. Given that B2B consumers usually account for VAT through a reverse charge mechanism, there is no reason to impose extraterritorial tax collection obligations beyond B2C supplies.</li> <li>• The regulation should explicitly enumerate which digital services are subject to the ETT. Otherwise, it will be challenging for companies to comply with the taxation, as every industry sector has electronic sales channels. Other countries that have implemented a similar concept explicitly indicate which types of services are in scope (e.g., digital ads services, or cloud computing services).</li> <li>• We recommend implementing a simplified registration model for extraterritorial VAT. Please refer to best practices outlined in the attached annex on best practices and recommendations</li> </ul>
<b>Article 6(1)(b)</b>	<ul style="list-style-type: none"> <li>• In Article 6(1)(b) – the regulation seeks to impose income tax or ETT (electronic transaction tax) on foreign principals that are deemed to have a significant economic presence, as defined in Article</li> </ul>	<ul style="list-style-type: none"> <li>• We recommend that Indonesia delay the implementing regulation until there is a multilateral OECD solution, which Indonesia is also involved in negotiating. Unilateral measures taken</li> </ul>

Article	Comments	Recommendations for the Upcoming Implementing Regulation
	<p>6(7), through activities or trade conducted through Electronic Systems</p> <ul style="list-style-type: none"> <li>• However, the regulation fails to address whether ETT is still applicable in the event that a foreign service operator is already subject to a withholding income tax on service income delivered through electronic system when it sells to B2B customers. Hence, we would like to clarify on the process to prevent double taxation. For example, most B2B sales of software related services (e.g. SaaS, software subscription) are subject to withholding tax as royalties in current practice</li> <li>• On top of that, we would also like to clarify whether the paid ETT would be refunded in the event that a foreign service operator who have previously qualified to pay for ETT is now treated as a permanent establishment in the same financial year</li> <li>• We would also like to note that OECD has aimed to deliver a global consensus solution by the end of this year on Pillars one and two, where countries can proceed to adopt and implement a consensus-based solution</li> </ul>	<p>ahead of OECD consensus could trigger retaliatory measures from other countries which could impact the Indonesian economy. If Indonesia still decides to issue implementing regulations on SEP and ETT ahead of OECD’s consensus solution, we recommend the inclusion of a “sunset clause” provision similar to that adopted by Italy, which indicates that any unilateral measures such as the ETT would only apply if multilateral forums such as OECD and G20 fail to reach a consensus on the BEPS Action Plan 1 that they are set out to do.</p>
<p><b>Article 6(4), 6(5) and 6(6)</b></p>	<ul style="list-style-type: none"> <li>• The definitions of foreign traders, foreign service providers and foreign providers of e-commerce (PPMSE) (collectively referred to as “foreign suppliers”) who will be subject to Government Regulation in Lieu of Law No. 1/2020 are wide and not specific. This makes the application hard to administer and difficult for taxpayers to comply with</li> </ul>	<ul style="list-style-type: none"> <li>• We would like to clarify the scope of e-commerce activities and foreign suppliers subject to this regulation</li> </ul>
<p><b>Article 6(7)</b></p>	<ul style="list-style-type: none"> <li>• The thresholds considered by OECD for the determination of Amount A under Pillar 1 are still under consideration and have not been agreed to. The OECD’s proposal also includes de minimis tests and carve-out provisions where companies do not meet certain de</li> </ul>	<ul style="list-style-type: none"> <li>• In consideration of the thresholds to apply when determining whether a foreign supplier is subject to Indonesia’s Significant Economic Presence and ETT, Indonesia should reference such thresholds to the globally agreed thresholds under the</li> </ul>

Article	Comments	Recommendations for the Upcoming Implementing Regulation
	<p>minimis amounts are not subject to Amount A determinations</p>	<p>OECD's work, including carving out foreign enterprises who will not be subject to Indonesia's SEP and ETT when they do not meet de minimis amounts.</p>
<p><b>Article 6(8) and 6(9)</b></p>	<ul style="list-style-type: none"> <li>● It is not clear what is the nature of the electronic transaction tax (ETT), whether it is an income tax or an indirect tax. Article 6(6) provides that foreign traders, foreign service providers and foreign providers of e-commerce who meet the SEP provisions may be treated as a permanent establishment (PE) and subject to income tax. On the other hand, if the PE cannot be established due to the tax treaty provisions, it mandates that ETT will be applied and replaces this income tax. Hence, ETT should similarly be treated as a form of income tax</li> <li>● If ETT is enacted as a revenue-based income tax, it will violate the existing principles that direct tax should apply to profit. Therefore, the enactment will put low-margin businesses (e.g. retail industry) at a disadvantage which are already subject to VAT. This practice will likely lead to the ETT being passed onto Indonesian consumers, raising prices on everyday goods</li> <li>● Moreover, we would like to recommend that the value of goods sold online should be excluded from ETT as these transactions are typically low margin and the goods are already subject to duties and VAT in Indonesia.</li> </ul>	<ul style="list-style-type: none"> <li>● Indonesia needs to clarify that ETT is an income tax and is a tax on net profit as opposed to a tax on gross revenue. We also recommend that Indonesia confirms that where tax treaties apply, relief from double taxation will apply, where applicable.</li> <li>● The regulation should clarify that the ETT would only be applicable to the sale of digital services by non-resident service providers to customers with a billing address in Indonesia. The determination will be based on the information provided by customers to the non-resident entity. In the case where customers provide a misrepresentation on the information, the sanctions should be on customers.</li> </ul>
<p><b>Article 6(10)</b></p>	<ul style="list-style-type: none"> <li>● Article 6(10) provides that where foreign traders, foreign service providers and foreign provider of e-commerce is subject to income tax as a PE as a result of having a SEP in Indonesia or ETT, they are required to pay and report tax in Indonesia. Under current Indonesia tax laws, foreign</li> </ul>	<ul style="list-style-type: none"> <li>● If foreign suppliers must register in Indonesia to get a tax ID to comply with tax reporting and tax payment requirements, Indonesia needs to provide clear guidance on how foreign suppliers may obtain tax IDs and the process for getting the tax IDs must be streamlined and efficient. Indonesia should also confirm that such</li> </ul>

Article	Comments	Recommendations for the Upcoming Implementing Regulation
	<p>enterprises are not able to register for a tax ID</p>	<p>registration by itself does not create a tax nexus or permanent establishment for the foreign supplier in Indonesia.</p> <ul style="list-style-type: none"> <li>• We also recommend that Indonesia provide for a simple mechanism for foreign suppliers to report and pay tax in Indonesia. For example, Indonesia should not mandate foreign suppliers to provide audited segmented financial statements. This simplifies reporting burdens for the foreign suppliers, is in line with global best practices, and encourages compliance.</li> <li>• Indonesia should also allow foreign suppliers to pay its tax electronically and not mandate that foreign suppliers have to maintain a bank account in Indonesia in order to pay the tax</li> </ul>
<b>Article 6(11)</b>	<ul style="list-style-type: none"> <li>• Indonesia should also not mandate that foreign suppliers must appoint a local representative, and this should be left to the decisions of the foreign suppliers based on their needs</li> <li>• Otherwise, we would also like to clarify which entities can act as the local representative that can be appointed (e.g. foreign representative office)</li> </ul>	<ul style="list-style-type: none"> <li>• Indonesia needs to clarify that the appointment of a local representative as provided under this paragraph does not create a permanent establishment for foreign suppliers in Indonesia</li> </ul>
<b>Article 6(12) and 6(13)</b>	<ul style="list-style-type: none"> <li>• We urge that Indonesia defers issuing any implementing regulations on Significant Economic Presence (SEP) or ETT until the OECD has the opportunity to complete its work at the global level. Instead, Indonesia should continue to focus on participating in the OECD discussions to ensure that its interests are represented. This is what many countries, including Southeast Asian countries are doing</li> </ul>	<ul style="list-style-type: none"> <li>• If Indonesia implements this concept, Indonesian companies may be subject to retaliatory measures by other countries that would derive similar significant economic presence rules that discriminate against Indonesian digital services companies (such as Go-Jek which has an international sales presence).</li> </ul>
<b>Article 7</b>	<ul style="list-style-type: none"> <li>• As the foreign suppliers are not based in Indonesia, there needs to be an efficient avenue for the foreign suppliers to provide further explanation and object to the imposition of VAT or the income</li> </ul>	<ul style="list-style-type: none"> <li>• The implementing regulations should clearly provide for how foreign suppliers who are regarded to be non-compliant will be notified, the recourse measures available to foreign</li> </ul>

Article	Comments	Recommendations for the Upcoming Implementing Regulation
	tax or electronic transaction tax remotely before the Director General of Tax imposes any penalties, sanctions, etc.	suppliers and notice period that will be provided to clarify or rectify the non-compliance before administrative sanctions and/ or penalties are issued

## SECTION D

### D. Recommended best practices on VAT to consider

Country	Topic	Best Practice
Name of country (e.g. Germany/ Japan)	(e.g. VAT registration/ VAT collection/ import duty on digital goods/ e-commerce tax)	Detailed information on best practices from other countries
Australia, Singapore, New Zealand	VAT Registration	<b>Group Registration.</b> Allowing two or more associated business entities with common ownership to operate as a group, rather than individual registration.
Australia, Singapore, South Korea, New Zealand	VAT Registration	<b>Simplified Registration.</b> Allowing non-residents to apply for simplified GST Registration instead of standard GST Registration. The simplified GST Registration allows non-residents to electronically register, report, and pay GST quickly and easily.
Australia, Singapore, New Zealand	VAT Registration – PE Determination.	<b>PE determination.</b> The registration of the non-resident for VAT/GST purposes is not a criteria in determining whether an entity has a permanent establishment in the country for income tax purposes. In other words, registering for VAT in the country doesn't give rise to a PE status for the non-resident.
South Korea	VAT Collection – Invoicing Documents	<b>Simplified Tax Invoicing.</b> Similar to Indonesia (i.e., Faktur Pajak), South Korea has a local tax invoicing requirement under its local regulation. However, under the simplified business registration regime, non-residents are not required to issue local tax invoices for its sales to local customers.  Other APAC countries (such as Australia, Japan, Singapore, New Zealand) have no local tax invoicing requirement under its local regulation.

Country	Topic	Best Practice
Australia, Japan, Singapore, South Korea, New Zealand	VAT Collection – Scope of Supply	<p><b>Scope of Taxable Supply.</b> Non-resident VAT collection only applicable for B2C sales.</p> <p>Non-resident companies are required to collect VAT <u>on sales for B2C customers only</u>. B2B transactions are exempted because, like in Indonesia, the local service recipient is required to reverse charge and report the VAT to Tax Authorities.</p> <p>In most of these countries (such as Australia, Singapore, New Zealand), the determination of B2B vs B2C is determined by their GST registration status or based on the tax ID availability, i.e., if customer provided their Singapore GST-Registration number to the seller then the sales are as B2B sales.</p>
Australia, Singapore	VAT Collection – Online marketplace	<p><b>Liable party for Sales through Online Marketplace.</b> To avoid double taxation on the GST, only one party is liable for the collection and reporting of GST on a taxable sale. Online marketplace operator is responsible for collecting and reporting GST for all sales in its marketplace, regardless whether the sales are made by overseas or local merchants.</p> <p>For imported services and digital products,</p> <ul style="list-style-type: none"> <li>- If the sales are made <u>directly</u> by overseas merchant to AU customers: overseas merchant is responsible for collection and reporting of GST</li> <li>- If the sales are made by overseas merchant to AU customers through Electronic Distribution Platform (EDP) or online marketplace: EDP operator is responsible for collection and reporting of GST</li> </ul> <p>For Australian-based merchant selling digital services or digital products (i.e., local sales) through EDP, the EDP operator is responsible for GST on the local sales.</p>
Australia, Singapore, South Korea, New Zealand	VAT Reporting	<p><b>VAT Return Reporting and Payment.</b> The VAT Return reporting and payment is required to be submitted and paid on a quarterly basis.</p>