



FINANCE MINISTER
THE REPUBLIC OF INDONESIA
COPY

REGULATION OF THE FINANCE MINISTER

NUMBER 176 / PMK.011 / 2009

ON

THE EXEMPTION FROM IMPORT DUTY ON THE IMPORTS OF
MACHINES, GOODS AND MATERIALS FOR THE ESTABLISHMENT
OR DEVELOPMENT OF INDUSTRY IN THE FRAME OF INVESTMENT

THE FINANCE MINISTER,

Having considered :

- a. that in order to increase domestic investment to strengthen the national economy which faces the global competition, it is necessary to grant an exemption from import duty on the imports of machines, goods and materials for the establishment or development of industry in the frame of investment;
- b. that pursuant to the provision of Article 18 of Law Number 25 of 2007 on Investment, to importation done for in the frame of investment may be granted an exemption from or reduction in import duty;
- c. that pursuant to the provisions of Article 26 paragraph (1) letter a, letter b, and letter c of Law Number 10 of 1995 on Customs as amended by Law Number 17 of 2006, an exemption from or reduction in import duty may be granted to the import of machines, goods and materials;
- d. that based on the considerations as referred to in letter a, letter b, and letter c, and in order to implement the provision of Article 26 paragraph (3) of Law Number 10 of 1995 on Customs as amended by Law Number 17 of 2006, it is necessary to enact the Regulation of the Finance Minister on the Exemption from Import Duty on the Import of Machines, Goods and Materials for the Establishment and Development of Industry in the frame of investment;

Having observed

1. Law Number 10 of 1995 on Customs (State Gazette of the Republic of Indonesia Number 75 of 1995, Supplement to State Gazette of the Republic of Indonesia Number 3612 of 1995) as amended by Law Number 17 of 2006 (State Gazette of the Republic of Indonesia Number 93 of 2006, Supplement to State Gazette of the Republic of Indonesia Number 4661 of 2006);
2. Law Number 25 of 2007 concerning Investment (State Gazette of the Republic of Indonesia Number 67 of 2007, Supplement to State Gazette of the Republic of Indonesia Number 4724);



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3. Presidential Regulation Number 27 of 2009 concerning One-Door Integrated Service (PTSP, *Pelayanan Terpadu Satu Pintu*) in Investment;
4. Presidential Decree Number 84/P of 2009;

HAS DECIDED:

To enact : REGULATION OF THE FINANCE MINISTER ON THE EXEMPTION FROM IMPORT DUTY ON THE IMPORTS OF MACHINES, GOODS AND MATERIALS FOR THE ESTABLISHMENT OR DEVELOPMENT OF INDUSTRY IN THE FRAME OF INVESTMENT

Article 1

For the purpose of this Regulation, the following words shall have the following meanings:

1. Establishment means the setting up of new companies or factories to produce goods and/or services.
2. Development means the development of existing companies or factories, including the expansion, modernization, rehabilitation, and/or restructuring of production equipment including the machinery to increase the quantity, types, and/or quality of productions.
3. Machinery means each machine, machinery, plant equipment, tools or apparatus, whether installed or not installed, which are used in the establishment or development of an industry.
4. Goods and materials mean all goods or materials, regardless of type and composition, which are used as the material or component to produce finished goods.
5. Company means a company which carries out the establishment or development of an industry in the frame of investment and particularly for Foreign Investment the company must be a limited liability company.
6. Investment means all kinds of investment activities by domestic and foreign investors to carry out business within the territory of the Republic of Indonesia.
7. Transfer means the transfer of rights, assets, change in the use of machine for activity other than the main business activity, export or disposal from a company's assets.
8. Force majeure means circumstances such as fire, natural disasters, riots, wars, or other matters which are beyond the control of human beings.
9. Minister means the Finance Minister of the Republic of Indonesia.



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Article 2

- (1) The imports of machines, goods and materials by a Company engaging in activities of:
 - a. an industry which produces goods: and/or
 - b. an industry which produces services,
may be exempted from import duty.
- (2) An industry which produces services as referred to in paragraph (1) letter b shall be as set forth in the Appendix of this Regulation of the Finance Minister which constitutes an inseparable part of this Regulation of the Finance Minister.
- (3) Exemption from import duty as referred to in paragraph (1) may be granted to the extent that the machines, goods and materials:
 - a. are not produced in Indonesia;
 - b. are produced in Indonesia but they do not meet the required specifications;
 - c. are produced in Indonesia but the quantity is not sufficient for the need of the industry,
pursuant to the list of machines, goods and materials as determined by the minister who is in charge of industry or the official who is appointed after the coordination with the relevant technical institution is done.

Article 3

- (1) Exemption from import duty on the import of machines for establishment of industry as referred to in Article 2 paragraph (1) shall be granted to the importation for a period of 2 (two) years calculated since the decision of the exemption from import duty comes into force.
- (2) The period of importation as referred to in paragraph (1) may be extended subject to the period required for the establishment of the industry as set forth in the investment approval letter.
- (3) Any company which has completed its establishment of industry as referred to in paragraph (1) and paragraph (2) and is ready for production may be granted an exemption from import duty on the imports of goods and materials for production for a maximum period of 2 (two) years, in accordance with the installed capacity within a period of importation for 2 (two) years calculated since the decision of the exemption from import duty comes into force.



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- (4) Any company which has obtained the facility in the form of an exemption from import duty as referred to in paragraph (3) but has not realized all the importation of goods and materials within a period of 2 (two) years may be granted an extension of period of importation for 1 (one) year calculated since the date of the expiration of the exemption from import duty as referred to in paragraph (3).

Article 4

- (1) The exemption from import duty on the import of machines to be used for the establishment of an industry shall be granted for a period of importation of 2 (two) years calculated since the decision of the exemption from import duty comes into force.
- (2) The period of importation as referred to in paragraph (1) may be extended subject to the period required for the establishment of the industry as set forth in the investment approval letter.
- (3) Any company which has completed the development of its industry, except an industry which generates services, to the extent that it expands its capacity at least 30% (thirty percent) of the installed capacity, may be granted an exemption from import duty on the import of goods and materials for production expansion for a maximum period of 2 (two) years, for a period of importation for 2 (two) years since the decision of the exemption from import duty comes into force.
- (4) The company which has obtained an exemption from import duty as referred to in paragraph (3) but has not realized all the importation within a period of 2 (two) years may be granted an extension of period of importation for 1 (one) year calculated since the date of the expiration of the exemption from import duty as referred to in paragraph (3).

Article 5

- (1) For a company which carries out the establishment or development, except an industry which generates services, using the locally-produced machines at least 30% of the total value of machines for its production, on the import of goods and materials an exemption from import duty as referred to in Article 2 paragraph (1) for the purpose of production/additional needs in the production may be granted for a period of 4 (four) years in accordance with the installed capacity, for a period of importation for 4 (four) years calculated since the decision of the exemption from import duty comes into force.



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- (2) The utilization and portion of the locally-produced machines for production as referred to in paragraph (1) shall be determined by the minister who is in charge of the field of the industry or the appointed official.

Article 6

Exemption from import duty as referred to as in Article 4 and Article 5 shall not be granted to industry of motor vehicle assembly, except for industry of motor vehicle components.

Article 7

- (1) In order to obtain an exemption of import duty on the imports of machines, goods and materials for the establishment of industry, the Company shall submit an application signed by the management of the Company to the Head of the Indonesian Investment Coordinating Board (BKPM).
- (2) The application for an exemption of import duty on the import of machines as referred to in paragraph (1) shall enclose the following documents:
- a. Company's deed of establishment;
 - b. Investment Approval Letter;
 - c. Taxpayer Identification Number (NPWP) and receipt of application for Taxable Entrepreneur;
 - d. Customs Identification Number (NIK);
 - e. Importer Identification Number (API/APIT/API-P);
 - f. List of machines specifying the quantity, type, detailed technical specifications of the machines; and
 - g. Brief description of the production process for industry which produces goods or brief description of the business activity in the service-generating industry.
- (3) The application for an exemption from import duty on the import of goods and materials as referred to in paragraph (1), shall enclose the following documents:
- a. A statement letter from the relevant technical agency containing a statement that the portion of the machines has fulfilled the requirements as referred to in Article 5 paragraph (2), in the event that the Company uses locally-produced machines for production.
 - b. List of goods and materials including the quantity, type, detailed technical specifications; and



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- c. Customs declaration of import of machines or purchase invoice for the locally-produced machines for the purpose of development as referred to in paragraph (2).

Article 8

- (1) In order to obtain an exemption from import duty on the imports of machines, goods and materials for the development of industry, the Company shall submit an application signed by the management of the Company to the Head of the Investment Coordinating Board.
- (2) The application for the exemption from import duty on the import of machines as referred to in paragraph (1) shall enclose the following documents:
 - a. Company's deed of establishment;
 - b. Investment Approval Letter;
 - c. Taxpayer Identification Number (NPWP) and receipt of application for Taxable Entrepreneur;
 - d. List of machines specifying the quantity, type, detailed technical specifications of the machines;
 - e. Customs Identification Number (NIK);
 - f. Importer Identification Number (API/API-IT/API-P); and
 - g. Brief description of the production process for industry which produces goods or brief description of the business activity in the service-generating industry.
- (3) The application for an exemption from import duty on the imports of goods and materials as referred to in paragraph (1), shall enclose the following documents:
 - a. A statement letter from the relevant technical agency containing a statement that the portion of the machines has fulfilled the requirements as referred to in Article 5 paragraph (2), in the event that the Company uses locally-produced machines for production.
 - b. List of goods and materials including the quantity, type, detailed technical specifications; and
 - c. Customs declaration of import of machines or purchase invoice for the locally-produced machines for the purpose of development as referred to in paragraph (2).

Article 9

- (1) To the application as referred to in Article 7 and Article 8, the Head of Investment Coordinating Agency on behalf of the Minister shall grant an approval or a rejection.



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- (2) In the event that the application is approved, the Head of Investment Coordinating Agency on behalf of the Minister shall issue a decision which grants the exemption from tax by attaching a list which at least includes the details of the quantity, type, specifications and estimated prices of the machines, goods and materials to which the exemption from import duty is granted as well as the name of the port of entry.
- (3) In the event the application is rejected, the Head of Investment Coordinating Agency on behalf of the Minister shall issue a letter of rejection specifying the reasons for such rejection.
- (4) A copy of the decision on the exemption from import duty as referred to in paragraph (2) and/or the revocation of the decision on the exemption from import duty shall be delivered to the Director General of Customs and Excise and the Head of Customs Office covering the point of entry of goods.
- (5) Approval or rejection as referred to in paragraph (1) shall be granted at the latest of 7 (seven) business days since the application and all attachments are received.

Article 10

Amendments to the decision which grants the exemption from import duty as referred to in Article 9 paragraph (2) may only be made if:

- a. the machine, good, and material has not been imported yet;
- b. it is still in the period of exemption.

Article 11

To the import of machines, goods and materials to which the exemption from import duty, the restrictions and limitations pursuant to the laws and regulations shall apply.

Article 12

- (1) The quantity and/or type of imported machines, goods and materials shall match the quantity and/or type of machines, goods and materials as contained in the decision on the exemption from import duty as referred to in Article 9 paragraph (2).
- (2) In the event there is an excess in the quantity and/or a discrepancy in the type of machines, goods and materials between the total quantity of the import and the decision on the exemption from import duty, on such an excess and/or discrepancy in the type, the Company shall pay the import duty.

Article 13

Any company obtaining an exemption from import duty shall submit a report to the Head of Investment Coordinating Board on the realization on the imported machines, goods and materials to which the exemption from import duty for establishment or development shall apply.



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Article 14

- (1) Machines and/or goods and materials which have obtained an exemption from import duty as referred to in Article 3 and Article 4 shall be used in accordance with the relevant Company's purpose of import.
- (2) Machines as referred to in article (1) shall be exempted from assessment of outstanding import duty in the event:
 - a. a transfer is made after 5 (five) years since the date of the customs declaration of import;
 - b. a transfer is made less than 5 (five) years since the date of the customs declaration of import and the transfer is made by the receiving Company to another facility by that receiving Company which is followed by transfer of responsibility of the receiving party over the exemption from import duty.
 - c. *force majeure* occurs, so the machines become severally damaged and no longer usable; or
 - d. they are exported.
- (3) Transfer of machines which is made less than 5 (five) years since the date of the customs declaration of import to a Company which is not granted with an exemption from import duty results in a serious consequence to the exemption from import duty which is granted and the Company shall pay:
 - a. the outstanding import duty on imported machines and/or goods and services (supporting materials) in the amount in proportion to the size of the capacity of the machines to be transferred; and
 - b. interest at the rate of 2% (two percent) per month for a maximum of 24 (twenty four) months imposed on the outstanding import duty as referred to in letter a, since the date of the customs declaration of import to the date of its payment and the a month is calculated as 1 (one) month.
- (4) Transfer of machines which is made due to *force majeure* or export as referred to in paragraphs (2) and (3) shall be made upon consent from the Director General of Customs and Excise on behalf of the Minister.
- (5) For a transfer of machines which is made due to *force majeure* or export as referred to in paragraphs (2) and (3) shall be made upon consent from the Director General of Customs and Excise on behalf of the Minister, the Company shall pay:
 - a. the outstanding import duty on the imported machines and/or goods and services (supporting materials) in the amount proportion to the size of the capacity of the machines which have been transferred.



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- b. administrative sanction in the form of fine pursuant to the laws and regulations in customs.
- (6) Goods and materials as referred to in paragraph (1) shall be exempted from the liability to pay the outstanding import duty after obtaining prior consent from the Director General for Customs and Excise on behalf of the Minister if:
- a. A force majeure results in serious damage and the goods and materials are unusable; or
 - b. They are exported.
- (7) For any misuse of goods and materials as referred to in paragraph (1) other than pursuant to the conditions as referred to in paragraph (6), the Company shall pay the outstanding import duty and be subject to administrative sanction in the form of fine pursuant to the laws and regulations on customs.
- (8) The provisions on the procedure for the transfer of machines and/or goods and materials shall be further governed by the Decision of the Director General of Customs and Excise.

Article 15

- (1) The Head of Investment Coordinating Board shall deliver a report on the granting of exemptions from import duty to the Minister through the Head of Fiscal Policy Agency.
- (2) The report as referred to in paragraph (1) is delivered once every 6 (six) months: for the first semester in July in the current year and for the second semester in January in the subsequent year.
- (3) The report as referred to in paragraph (2) shall contain a list of exemptions from import duty during the relevant semester and shall contain the following:
- a. Number and Date of the Investment Approval;
 - b. Company's Name and NPWP;
 - c. Type of Industry;
 - d. Amount of Investment;
 - e. Number and Date of the Master List (RIB);
 - f. General Description of Goods to be Imported;
 - g. Estimated Amount of Customs Value of the Master List.
- (4) The implementation of this Regulation of the Finance Minister shall be evaluated not later than 2 (two) years since this Regulation comes into effect.



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Article 16

The provisions on the procedure for the granting of exemption from import duty shall be further contained in the Regulation of Head of Investment Coordinating Board.

Article 17

By the operation of this Regulation of the Finance Minister, the Company which is granted the reduction in import duty on the import so machines, goods and materials pursuant to the Decision of the Finance Minister Number 135/KMK.05/2000 as amended several times and last by the Regulation of the Finance Minister Number 47/PMK.04/2005, to machines, goods and materials which have obtain reduction in import duty the import of which has not been realized may use the exemption from import duty pursuant to this Decision of the Finance Minister by submitting a new application to the Head of Investment Coordinating Board and the copy of the application shall be sent to the Director General of Customs and Excise.

Article 18

By the operation of this Regulation of the Finance Minister:

- a. Decision of the Finance Minister Number 298/KMK.05/1997 on the Provisions on the Transfer of Capital Goods for Company with Foreign Investment (PMA)/Domestic Investment (PMDN) and non PMA/PMDN as amended by Decision of the Finance Minister number 394/KMK.05/1999;
- b. Decision of the Finance Minister Number 135/KMK.05/2000 on Reduction in Import Duty on the Imports of Machines Goods and Materials in the frame of Establishment/Development of Industry/Service Industry as amended several times and last by Regulation of the Finance Minister Number 47/PMK.04/2005; and
- c. Decision of the Finance Minister Number 456/KMK.04/2002 on the Extension of the Period of Imports of Machines, Goods and Materials Having Obtained the Facility Pursuant to Decision of the Finance Minister Number 135/KMK.05/2000 on the Reduction in Import Duty on the Imports of Machines Goods and Materials in the frame of Establishment /Development of Industry/Service Industry as amended by Regulation of the Finance Minister Number 63/PMK.011/2007;

shall be revoked and no longer in effect.

Article 19

This Regulation of the Finance Minister shall come into effect 30 (thirty) days since the date of its promulgation.



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In order that this Regulation is known to the general public, it is hereby ordered that this Regulation be promulgated in the Official Gazette of the Republic of Indonesia.

Enacted in Jakarta

On 16 November 2009

FINANCE MINISTER

(signature)

SRI MULYANI INDRAWATI

Promulgated in Jakarta

On

MINISTER OF JUSTICE AND HUMAN RIGHTS,

PATRIALIS AKBAR

OFFICIAL GAZETTTE OF THE REPUBLIC OF INDONESIA NUMBER OF 2009



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APPENDIX
REGULATION OF THE FINANCE
MINISTER NUMBER 176/PMK.011/2009
THE EXEMPTION FROM IMPORT
DUTY ON THE IMPORTS OF
MACHINES, GOODS AND MATERIALS
FOR THE ESTABLISHMENT OR
DEVELOPMENT OF INDUSTRY IN
THE FRAME OF INVESTMENT

LIST OF SERVICE-GENERATING INDUSTRIES WHICH MAY OBTAIN
EXEMPTION FROM IMPORT DUTY

NO.	SERVICE INDUSTRY
1.	Tourism and culture
2.	Transportation (for public transportation services)
3.	Public health services
4.	Mining
5.	Construction
6.	Telecommunication
7.	Port

FINANCE MINISTER

(signed)

SRI MULYANI INDRAWATI