



TAX UPDATE 2023

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Speakers' Profile



Maria Novianna
Partner

Maria is a Partner in PB Taxand. With more than 15 years experience as tax consultant, she has been providing tax advisory to a wide range of industries on Corporate Restructuring including merger and acquisition, Bond Issuance, Initial Public Offering and KIK DIRE. She also has been dealing with a lot of tax dispute cases at tax audit, tax objection as well as tax appeal level and providing clients with other tax services such as tax due diligence and tax review service.

Maria holds a Bachelor Degree for Accounting from University of Tarumanagara and a Bachelor's Degree in Law Science from University of Pancasila. She expands her knowledge by participating in various Taxand Training Programs and conferences. She often requested to give in-house training by clients. She has Tax Certificate C as well as Tax Attorney license. She is a member of the Indonesian Tax Consultants Association (IKPI).



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Background



As a following action to the issuance of the Omnibus Law and the Harmonization Law, Indonesian government has been prepared further detail regulations in form of Government Regulation and Regulation of Finance Minister.

The further detail regulations are expected to provide clear explanation of what are generally regulated in the Laws for both the Taxpayers and Tax Officers.

Agenda :

1. Government Regulation No 44 year 2022
2. Government Regulation No 55 year 2022
3. Government Regulation No 49 year 2022
4. Regulation of the Finance Minister No. 177/PMK.03/2022
5. Excise on Plastic and Sweetened Beverages Products





Government Regulation (GR) No. 44 Year 2022 regarding the VAT and Sales Tax on Luxury Goods

GR No. 44 Year 2022



Highlight 1

IMPORTANT POINTS

The Application of
the Joint
Responsibility
Mechanism

Subject : the purchaser of taxable goods or the user of taxable services

The purchaser of taxable goods or the user of taxable services **shall be responsible jointly for the payment of VAT or Sales Tax on Luxury Goods** by the Seller or the Service Provider.

Before :

The VAT underpayment occurred due to the application of the Joint Responsibility Mechanism would be collected through the issuance of a Tax Underpayment Assessment Letter (called as SKPKB)

After :

The VAT underpayment occurred due to the application of the Joint Responsibility Mechanism could be settled using a Tax Payment Slip (SSP) or be collected through the issuance of a Tax Underpayment Assessment Letter (called as SKPKB)

GR No. 44 Year 2022



Highlight 1

IMPORTANT POINTS

The Application of
the Joint
Responsibility
Mechanism

The Joint Responsibility Mechanism shall be enforced in the event :

- 1 The tax payable **can't be collected** to Taxable Good Sellers or Taxable Services providers; **and**
- 2 Buyers and Service Recipients **can't show any proof of the VAT payment**

Note :

Further detail will be stipulated in a Regulation of the Finance Minister

GR No. 44 Year 2022



Highlight 2

IMPORTANT POINTS

Own use of the Taxable Goods or Taxable Services

The own use of the Taxable Goods or Taxable Services is subject to VAT and Sales Tax on Luxury Goods

Before :

The own use of the Taxable Goods or Taxable Services is divided into the own use for consumptive purpose and for productive purpose. VAT will not be imposed on the own use for productive purpose unless it relates to the production of goods or services which are VAT-exempted or eligible for non collected VAT facility.

After :

There is no more classification of consumptive and productive purpose, instead the definition of the own use is stipulated as :

“The usage or utilization for the interests of Entrepreneurs themselves, management, or employees, in either owned productions or non-owned production”

Notes :

The limitations and procedures for imposing VAT/Sales Tax on Luxury Goods on the own use will be stipulated in a Regulation of the Finance Minister

GR No. 44 Year 2022



Highlight 3

IMPORTANT POINTS

Further elaboration regarding free gift transaction

Before :

It was no clear elaboration yet.

After :

Free gift transaction is defined as giving something without receive any payment or reward in any name and in any form as a return.

Notes :

The limitations and procedures for imposing VAT/Sales Tax on Luxury Goods on the free gift will be stipulated in a Regulation of the Finance Minister

GR No. 44 Year 2022



Highlight 4

IMPORTANT POINTS

Equal treatment on documents which are considered as substitution of Tax Invoice

Before :

It was not clearly regulated yet.

After :

To apply an equal treatment as the Tax Invoice, document which is considered as substitution of a Tax Invoice should be issued not later than 3 months since the VAT or Sales Tax on Luxury Goods is payable.

If the issuance of such document is exceed the maximum timeline of 3 months since the VAT or Sales Tax on Luxury Goods is payable, then :

- The document will be considered not exist
- The document cannot be used as a credit tax

Example:

If a certain document which is equal to Tax Invoice should has been made on September 30, the third month would be on 29 December. If a certain document which equal to Tax Invoice is issued on 30 December onwards, it will be considered as invalid and can not be credited

GR No. 44 Year 2022



Highlight 5

IMPORTANT POINTS

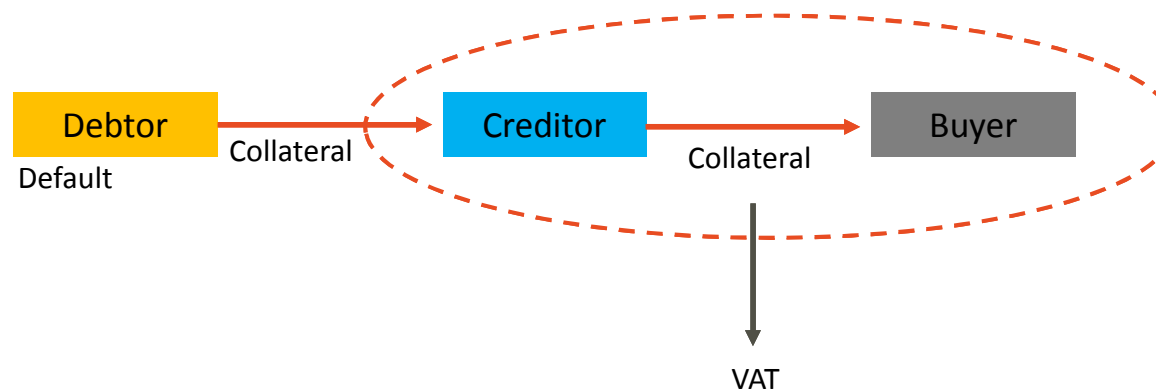
Transfer of
Taxable Goods
which previously
pledged as
debtor's collateral
by the Creditor

Before :

It was not regulated yet.

After :

The VAT would be imposed on the transfer of Taxable Goods which previously pledged as debtor's collateral and have been taken over by the Creditor.



GR No. 44 Year 2022



Highlight 6

IMPORTANT POINTS

Appointment of other party to collect, pay and report the VAT and Sales Tax on Luxury Goods

Before :

It was not regulated yet in GR level.

After :

Parties whose directly involved or acting as facilitator for other parties transactions, including transactions that conducted electronically could be appointed to collect, pay and report the VAT and Sales Tax on Luxury Goods.

Parties whose could be appointed as VAT collector covers as follows:

- Sellers or service providers both individual or agency that reside inside or outside the customs area and transact with Buyer or Service User inside the customs area through their own electronic system,
- Any sellers through the electronic system whose reside inside or outside the customs area



**Government Regulation (GR)
No. 49 Year 2022
regarding categories of Certain Taxable
Goods / Services and Certain Strategic
Taxable Goods / Services**

GR No. 49 Year 2022

Categories of VAT on Certain Taxable Goods / Services and Certain Strategic Taxable Goods / Services



Exempted VAT

- a. Import or Delivery of Certain Taxable Goods / Services
- b. Import or Delivery Certain Strategic Taxable Goods
- c. Delivery or Utilization of Certain Strategic Taxable Services

Not Collected of VAT/Luxury Sales Tax

- a. Import or Delivery of Certain Strategic Taxable Goods
- b. Delivery or Utilization of Certain Strategic Taxable Services
- c. Import Taxable Goods Exempt from Import Duty

GR No. 49 Year 2022

Examples - VAT of Certain Strategic Taxable Goods and Import Taxable Goods



Exempted VAT

Machineries and factory equipment, not including spare parts

Not Collected VAT
and
Exempted Import
Duty

Goods that have been exported and then re-imported in the same quality as when they were exported

Goods that have been exported for the purposes of repair, work, and testing, and then re-imported

Temporary Import

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GR No. 49 Year 2022

Certain Strategic Taxable Services exempted from the imposition of Value Added Tax



- a. medical health services;
- b. social services;
- c. mail delivery services with postage;
- d. financial services;
- e. insurance services;
- f. educational services;
- g. non-advertisement broadcasting services;
- h. public land and water transportation services as well as domestic air transportation services that constitute an inseparable part of foreign transportation services;
- i. manpower services;
- j. public telephone services using coins;
- k. money transfer services by postal money orders;



Government Regulation (GR) No. 55 Year 2022 regarding Regulatory Adjustments for the Income Tax

GR No. 55 Year 2022



Highlight 1

IMPORTANT POINTS

Depreciation and Amortization of Assets

Before :

Fiscally, assets in the form of Permanent Buildings and Group-4 Intangible Asset have to be depreciated and/or amortized for 20 years

After :

If the permanent building and/or group 4 intangible asset have more than 20 years of useful life, the Taxpayer has the options to fiscally depreciate/amortize the asset based on its actual useful life by referring to the commercial book. For permanent building and/or group 4 intangible asset which acquired before fiscal year 2022, the Taxpayer could apply the depreciation/amortization of the asset based on its actual useful life as stated above by submitting a **Notification to the Director General of Taxes** before the end of FY 2022

Example :

Fiscal year of the Taxpayer is April 2022 to March 2023.

The notification to apply depreciation/amortization based on the actual useful life for assets in form of Permanent Buildings and/or group 4 intangible asset (acquired before FY 2022) could be submitted before the end of March 2023.

GR No. 55 Year 2022



Highlight 2

IMPORTANT POINTS

Benefit in Kind

Before :

Tax treatment on the benefit in kind is as follows:

- Non deductible expense for Corporate that provides the benefit in kind
- Non taxable for the employee who receive the benefit in kind

After :

Tax treatment on the benefit in kind is revised as follows:

- Deductible expense for Corporate that provides the benefit in kind **as long as the expense relates to activity of obtaining, collecting, and maintaining the income**
- Taxable for the employee who receive the benefit in kind

GR No. 55 Year 2022

Benefits-in-Kind



Benefits-in-kind **excluded from Object to Income Tax:**

Food and Beverages **provided for all employees**

- a) Food and/or beverage provided by the employer at the workplace;
- b) Food and/or beverage vouchers for employees who cannot take advantage of provisions on point a; and/or
- c) Food / beverage ingredients for all employees **with a certain value threshold**

Will be further regulated in Minister of Finance Regulation

Benefit in Kind **provided in certain areas**

Facilities and infrastructure at the workplace in the form of:

- a) Residence, including housing;
- b) Healthcare services;
- c) Education;
- d) Worship;
- e) Transportation; and/or
- f) Sport, excluding golf, power boating, horse racing, gliding or motorsports.

Will be further regulated in Minister of Finance Regulation

GR No. 55 Year 2022

Benefits-in-Kind



Benefits-in-kind **excluded from Object to Income Tax:**

Benefits-in-kind **in the implementation of work**

Must be relating to security, health, and/or safety of Employees, such as:

- a) Uniform;
- b) Equipment for work safety;
- c) Employee shuttle service;
- d) Lodging for crew members;
- e) Benefits-in-kind provided in order to handling endemic, pandemic, or a national disaster

Benefits-in-kind with **a certain value threshold**

- a) The type and/or threshold value of the benefit in kind; and/or
- b) The criteria for the recipient of benefit in kind

Will be further regulated in a Minister of Finance Regulation

GR No. 55 Year 2022

List of Benefits-in-kind with a certain value threshold that will be excluded as object of Income Tax refer to the draft of Finance Minister Regulation (PMK)



- a) **Parcel**, example: holiday gifts;
- b) **Work equipment and facilities** provided for work purposes example: computers, laptops, cellphones, and their supports (phone credit and internet);
- c) **Health and medical services at work**;
- d) **Sports facilities** other than golf, horse racing, power boating, gliding, paragliding, or sports automotive;
- e) **Residential facilities** intended to accommodate and be used jointly by employees (communal).
Example: Employees Housing, dormitory and hostel; and
- f) **Vehicle facilities** received by non-employees who hold managerial position

GR No. 55 Year 2022

The Taxable amount of Benefits in Kind



Remunerations in-kind



Based on **the market value**



Remuneration in the form of benefits



Based on the amount of **costs incurred or should be incurred by the provider**

GR No. 55 Year 2022

Transitional provisions related to Benefit In Kind



Shall be effective as of **1 January 2022**
and following the accounting year the employers who
provide benefits in kind

FY 2022

The Recipient of benefits-in-kind must calculate, pay and report
tax in their individual income tax return

FY 2023

The Employers who provide benefits-in-kind have the
obligation to withhold Income Tax start from January 1st, 2023

GR No. 55 Year 2022



Highlight 3

IMPORTANT POINTS

Anti Tax Avoidance Rules

The Minister of Finance is authorized **to prevent tax avoidance practices** to **reduce, avoid, or delay** the payment of tax **that should be payable**

Before :

Indonesia adopt Specific Anti Avoidance Rule (SAAR). thus Indonesia apply specific anti avoidance instruments such as CFC Rules, Debt to Equity Ratio, Transfer Pricing on related parties transactions, and anti avoidance instrument on Special Purpose Company.

After :

Indonesia still adopt Specific Anti Avoidance Rule (SAAR).

However, in the elucidation of Art. 32 of GR 55, it is stipulated that in the case specific anti tax avoidance instrument could not be applied, DGT could apply “substance over the form” principle. By allowing the application of “substance over the form”, implicitly Indonesian government also apply the GAAR (General Anti Avoidance Rule)

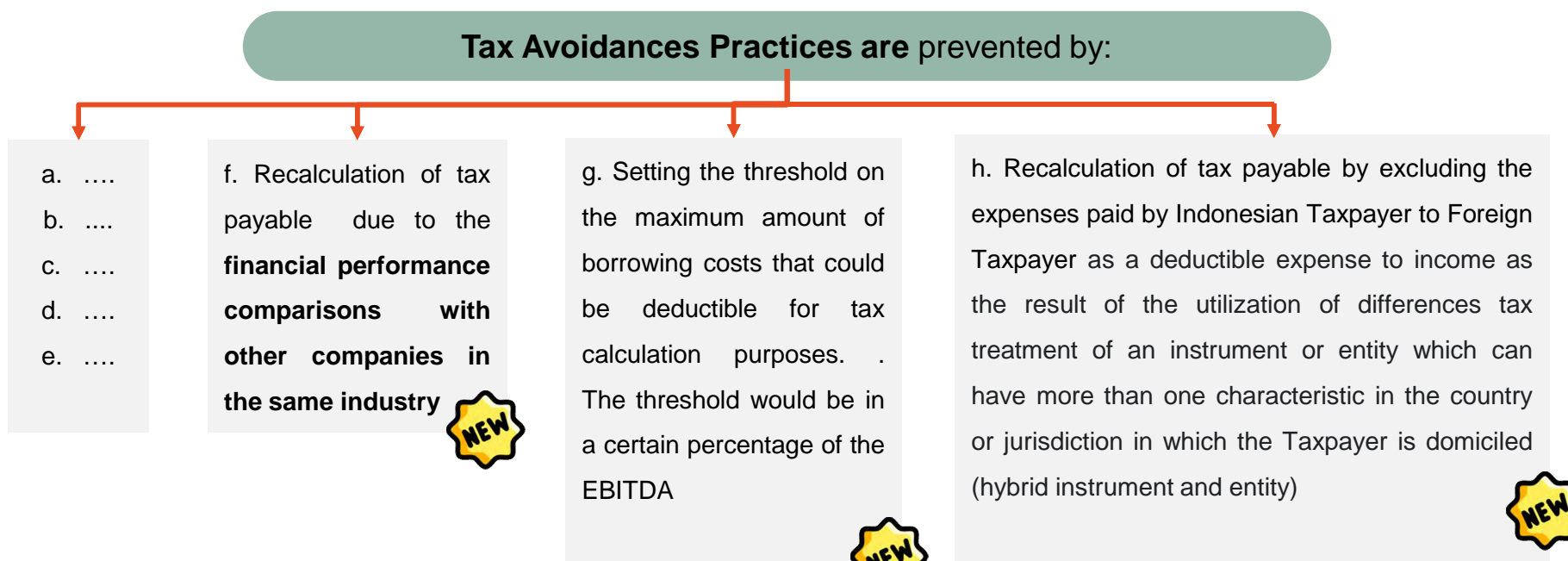
There are three (3) new specific anti tax avoidance instruments regulated in GR 55 year 2022.

GR No. 55 Year 2022

Anti-tax avoidance instruments



There are three (3) new specific anti tax avoidance instruments regulated in GR 55 year 2022



GR No. 55 Year 2022



Highlight 4

IMPORTANT POINTS

Definition and Elaboration of Related Party

The Related Party is defined as a state dependence or attachment of one party to another caused by:

1. Equity ownership,
2. Control, and
3. family relationship

In the Article 33 of GR 55 year 2022, there is additional criteria for parties to be considered to have a relationship through a control as follow:

“A party who controls another party **through management or the use of technologies** will be considered as related party”

In Minister of Finance Regulation No 22/PMK.03/2020, relationship through management or the uses of technologies was not clearly elaborated yet

GR No. 55 Year 2022

Related Party



Equity Ownership

- a) The Taxpayer has direct / indirect equity (min 25%);
- b) The relationship between the Taxpayer with equity participation (min 25%) in two or more Taxpayers`

Control

- a) One party controls another party;
- b) Two or more taxpayer under the same control
- c) One party controls another party through management or the use of technologies***
- d) Same people who are participating on another parties
- e) Parties that known in the same business group
- f) One party claims to have a special relationship with another party

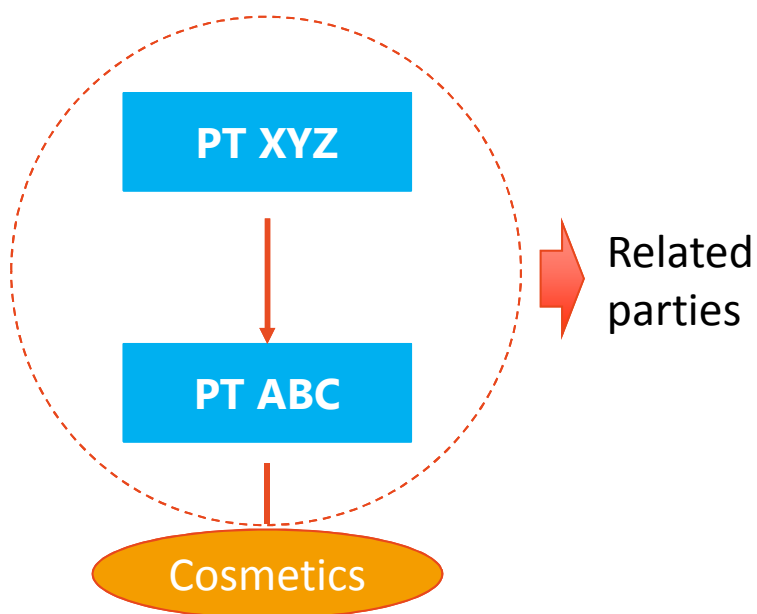
Notes: * Addition PP 55 Year 2022

Family Relationship

If there is a vertical or horizontal familial relationship, by blood or marriage, in one degree of direct lineage

GR No. 55 Year 2022

Related Party - Illustration



- There is no ownership between PT XYZ and PT ABC
- PT XYZ owns a formula to make cosmetics
- PT ABC produces cosmetics using the formula
- PT ABC pays fee to PT XYZ

PT XYZ and PT ABC are considered as related parties



**Minister of Finance Regulation
No. 177/PMK.03/2022
regarding Tax Audit of Preliminary
Evidence (BUKPER)**

177/PMK.03/2022

Tax Audit of Preliminary Evidence (called as BUKPER) Process



Compare to the previous regulation no. 239/PMK.03/2014 there are some changes in the preparation and proses level of a tax audit of preliminary evidence or BUKPER.

PREPARATION LEVEL

In Article 1 there is an additional term of “other activities” as follows:

The audit of Preliminary Evidence shall be carried out based on information, data reports and complaints received by the DGT. Such information, data, reports, and complaints will be developed and analyzed through :

- ***intelligence activities and/or ;***
- ***other activities***

The terminology of **Other activities** covers surveillance activities, audit, development of audit of preliminary evidence or development investigation

Previous regulation: there was no terminology of other activities

177/PMK.03/2022

Tax Audit of Preliminary Evidence (called as BUKPER) Process



PROCESS LEVEL

Additional changes in the process of Tax Audit of Preliminary Evidence (BUKPER)

- The DGT can halt a closed tax audit and carry out an open tax audit **taking into account the risks in obtaining Evidence Materials and/or recovering losses incurred on the state revenue.**

The provision was not regulated in the previous regulation, PMK 239/2014

- Changes in the application for an extension of tax audit period
Before : maximum of 24 months after the expiry period
After : maximum of 12 months after the expiry period



177/PMK.03/2022 - 3/3

Audit of Preliminary Evidence Process



RESULT

Result of a Tax Audit of Preliminary Evidence would be :

Tax Investigation

In the case that Directorate General of Taxes discovered valid preliminary evidence of a tax crime

Cessation

Directorate General of Taxes may cease the process of Audit of Preliminary Evidence if they do not discover any preliminary evidence of a tax crime

Regular Tax Audit

If no evidence of tax crime is discovered, the Directorate General of Taxes can also continue a regular tax audit process

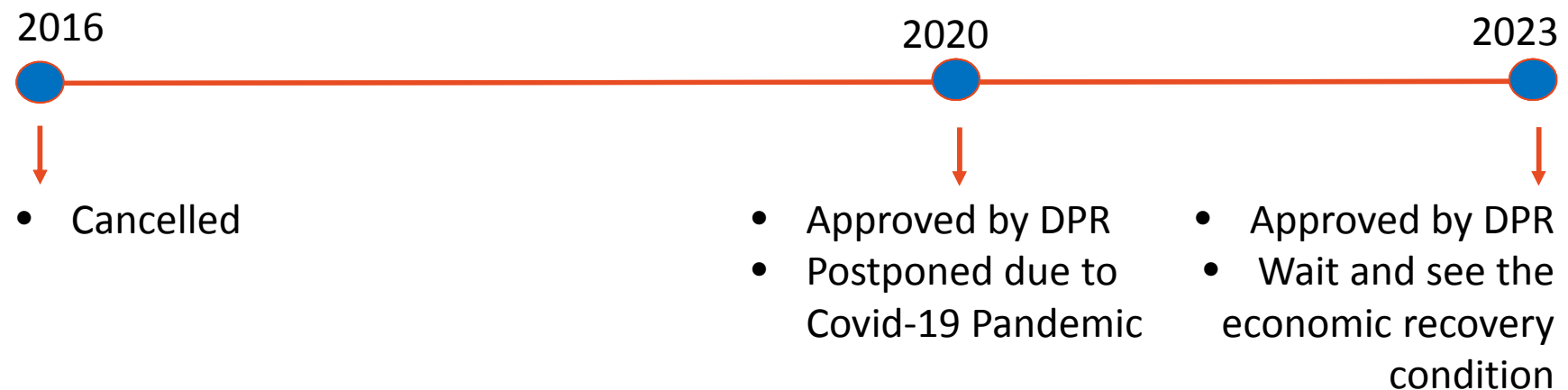


Excise on Plastic and Sweetened Beverages Products

Excise on Plastic and Sweetened Beverages Products



Timeline of the Government's plan to apply excise on Plastic and Sweetened Beverages Products :





- THANK YOU -



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