



## Indonesia Tax Alert January 2022

### Implementing regulation on voluntary disclosure program issued

On 22 December 2021, Indonesia's Minister of Finance (MoF) issued Regulation Number 196/PMK.03/2021 (PMK-196) as the implementing regulation to the Voluntary Disclosure Program (*Program Pengungkapan Sukarela*) (VDP) that was introduced through Law Number 7 regarding Harmonization of Tax Regulations (*Undang-Undang Harmonisasi Peraturan Perpajakan* (UU HPP)) (for further details please refer to Indonesia [Tax Info October 2021](#) and [Tax Alert November 2021](#)).

PMK-196 provides details on the operation of the two available VDP schemes (VDP I and VDP II), including the application processes, investment procedures, reporting requirements, sanctions, and accounting for assets and liabilities disclosed under the VDP program. Applications to participate in the program must be made within the period of 1 January to 30 June 2022.

## Details of VDP schemes

There are two VDP schemes available depending on the type of the taxpayers.

### VDP I

VDP I is designated for taxpayers (individuals and corporates) that have participated in the previous Tax Amnesty (TA) program, but have not fully disclosed their assets acquired between 1 January 1985 and 31 December 2015, and that the Directorate General of Taxation (DGT) has not found any information on those assets.

The final tax rates applicable under VDP I are:

- 6% for assets located in Indonesia or located outside Indonesia but to be repatriated to Indonesia that will be invested in certain investment instruments;
- 8% for assets located in Indonesia or located outside Indonesia but to be repatriated to Indonesia that will not be invested in certain investment instruments; and
- 11% for assets located outside Indonesia that will not be repatriated to Indonesia.

The asset and liability values used for calculating the final tax would depend on their values and conditions as at the end of fiscal year (FY) 2015. The allowable liability is capped at 50% of the asset value for individual taxpayers and 75% of the asset value for corporate taxpayers. If the assets or liabilities are denominated in currencies other than the Indonesian Rupiah (IDR), the value must be converted to IDR using the exchange rate applicable on the last day of FY2015 as determined by the MoF.

### VDP II

VDP II is designated for individual taxpayers with net assets acquired between 1 January 2016 and 31 December 2020 that have not yet been reported in the 2020 annual income tax return (ITR).

The final tax rates applicable under VDP II are:

- 12% for assets located in Indonesia or located outside Indonesia but to be repatriated to Indonesia that will be invested in certain investment instruments;
- 14% for assets located in Indonesia or located outside Indonesia but to be repatriated to Indonesia that will not be invested in certain investment instruments; and
- 18% for assets located outside Indonesia that will not be repatriated to Indonesia.

The asset and liability values used for calculating the final tax would be based on the nominal value (for cash and cash equivalent) or acquisition cost of the assets. In the case the acquisition cost of the assets is unknown, the taxpayer uses the market value of the asset as at 31 December 2020 as the acquisition cost. If the assets or liabilities are denominated in currencies other than IDR, the value must be converted to IDR using the exchange rate applicable on 31 December 2020 as determined by MoF Decision Letter Number 56/KM.10/2020.

PMK-196 provides the details and administration procedures on the available VDP schemes.

The following conditions must be met by individual taxpayers participating in VDP II:

- The taxpayer is currently not being audited or under preliminary investigation for FY 2016 through FY 2020, or being investigated for a tax crime, undergoing a judicial process for a tax crime, and/or serving a sentence for a tax crime;
- The taxpayer must have a tax identification number (*Nomor Pokok Wajib Pajak*), have settled the final income tax for VDP II, have submitted the individual ITR for FY 2020, and have revoked any tax dispute procedures for all taxes for FY 2016 through FY 2020;
- Any revision to individual ITRs for any of the years between FY 2016 and FY 2020 submitted after 29 October 2021 by an individual taxpayer participating in VDP II will be disregarded; and
- If the taxpayer has not submitted the FY 2020 individual ITR by 29 October 2021, the return must be submitted. Information on assets and liabilities that have been reported in the previous year's ITR must remain the same, with the addition of assets and liabilities newly acquired in FY 2020. Any assets and liabilities that have not been reported in the previous year's ITR may be disclosed under VDP II.

## VDP application

Taxpayers wishing to participate in the VDP must submit a Declaration Letter of Asset Disclosure (*Surat Pemberitahuan Pengungkapan Harta (SPPH)*), along with the required supporting documents, electronically via the DGT's website between 1 January and 31 June 2022. The tax authorities will issue a statement letter electronically within one working day as a response to the SPPH submission.

Taxpayers may submit a second, third, or subsequent SPPH between 1 January and 30 June 2022, if:

- There is a mistake in the previously submitted SPPH;
- There are additional net assets to be disclosed;
- The taxpayers wish to retract the net asset that has been reported in the previous SPPH; or
- Another condition occurs that results in an incorrect SPPH disclosure previously submitted.

The statement letter issued by the DGT following the second, third, or subsequent SPPH overwrites the previous statement letter.

The taxpayers may cancel their participation in the VDP between 1 January and 30 June 2022. The cancellation will result in the taxpayers being treated as never having participated in the program. All tax rights under the VDP will be forfeited and the taxpayers may no longer be eligible to participate in the VDP. The DGT may pursue further tax procedures if a decision on an ongoing tax dispute of the taxpayers that cancel their participation in the VDP is issued.

The tax authorities may amend the statement letter if it is completed incorrectly or there is a mistake in a calculation in the letter. The tax authorities may also cancel the statement letter if they discover that (i) the declaration is not in accordance with the actual conditions or (ii) the taxpayers and/or the net asset disclosed is not eligible for the VDP.

Tax due on previously undisclosed assets declared via the VDP, which is underpaid, must be paid prior to the submission of the SPPH. Meanwhile, tax overpaid via the VDP may be refunded or credited against other tax liabilities.

Taxpayers must submit the SPPHs or the subsequent SPPHs or cancel their participation in the VDP between 1 January and 30 June 2022.

## VDP investment procedures

The taxpayers must fulfill their commitment to repatriate their offshore net assets into Indonesia by 30 September 2022 through banks. Assets declared in the SPPH, which are either already located in Indonesia or offshore assets that are repatriated into Indonesia, must be held in Indonesia for at least five years as from the date of the statement letter.

Taxpayers that have declared their intention to invest in eligible projects or instruments must make the investment by 30 September 2023. These eligible investment projects are:

- The natural resources processing and renewable energy sectors, either in the form of establishing a new company or a capital injection into a company as part of an initial public offering or rights issue. The eligible sectors will be further determined by the MoF; and
- State securities (i.e., government bonds and government/state sharia securities), purchased from a primary dealer (a bank or securities company appointed by the MoF) in a primary market using the private placement mechanism.

The taxpayers may switch their investments to other eligible investments twice after holding the initial investments for two years (or after 30 September 2025 in certain cases). Only one such switch may be made in a year. The “idle” period between the withdrawal from the previous investment and the participation in the new investment puts the investment holding period on hold. The idle period cannot exceed two years as the minimum investment holding period of five years must be completed within seven years as from the date when the investments are fully carried out (or seven years as from 30 September 2023 in certain cases).

## Reporting requirements

Taxpayers that have declared their intention to repatriate net assets from offshore into Indonesia and/or committed to invest in eligible investment projects or instruments must submit an annual repatriation and/or investment realization report electronically to the DGT until the required investment holding period has been fulfilled.

Assets and liabilities reported in the investment realization report must be based on the condition at the end of the fiscal year prior to the year in which the realization report is submitted.

The deadline for submitting the first year’s realization report is the due date for submission of the FY 2022 ITR, with the reports for the second and subsequent years due by the due date for submission of the FY 2023 and subsequent ITRs.

## Sanctions

Participation in VDP I will result in the waiver of tax and sanctions under the TA Law that would have been imposed if the DGT found the not fully disclosed assets beforehand.

For VDP II, the DGT will not issue tax assessment letters for FY 2016 through FY 2020 unless the DGT obtains information that there are additional assets that have not been fully disclosed via the program. In that case, the additional assets will be treated as income for FY 2022 and subject to final income tax of 30% and a tax

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surcharge at the reference interest rate issued monthly by the MoF for a maximum of 24 months.

For taxpayers that participate in the VDP but do not comply with the asset repatriation and/or investment requirements, the net assets will be treated as income for FY 2022 and subject to (additional) final income tax at rates ranging from 3% to 6% (VDP I) and 3% to 7% (VDP II), depending on specific circumstances. If the tax authorities issue a warning letter (*surat teguran*) seeking clarification on matters related to VDP compliance and the taxpayers do not respond to the letter, the tax authorities may audit the taxpayers and issue an underpaid tax assessment letter (*Surat Ketetapan Pajak Kurang Bayar (SKPKB)*). The (additional) final income tax rates arising from the issuance of the SKPKB range from 4.5% to 7.5% (VDP I) and 4.5% to 8.5% (VDP II). The deadline for the issuance of SKPKB is one year after the end of the investment holding period.

Taxpayers participating in VDP II cannot proceed with the tax dispute process for FY 2016 through FY 2020. Noncompliance will result in the VDP facility being revoked.

### Bookkeeping of assets and liabilities disclosed in the VDP

VDP participants that are required to maintain books of account must record the net assets disclosed in the SPPH as an additional item in retained earnings.

Assets and liabilities disclosed in the SPPH must be treated as assets and liabilities newly acquired on the date of the statement letter in the ITR for FY 2022. Disclosed assets may not be depreciated or amortized for tax purposes.

### Other matters

The DGT is unable to use data and information contained in an SPPH as the basis for carrying out tax crime investigation. However, if other institutions that conduct certain nontax related criminal investigations also obtain the data/information, they may use such data/information in their investigations.

Any tax dispute related to the VDP may be processed via a lawsuit (*gugatan*) to the tax court; whereas disputes related to the issuance of SKPKB follow the standard tax dispute procedures.

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