



## Indonesia Tax Info

### Update on Tax Regulations Post Tax Amnesty

The Government and the Directorate General of Taxes (DGT) have issued a series of regulations following the implementation of the tax amnesty program, as follows:

- a. Income tax treatment on net assets which are considered as income as stipulated in Government Regulation number 36 of 2017 ("GR-36"), where the guidelines on valuation the non-cash assets for tax amnesty purpose are further stipulated under DGT Circular number SE-24/PJ/2017 ("SE-24")
- b. Supervision of taxpayers following the tax amnesty as stipulated in DGT Circular number SE-20/PJ/2017 ("SE-20")
- c. Procedure on revision of tax amnesty approval letters as stipulated in DGT Regulation number PER-14/PJ/2017 ("PER-14")

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#### a. Income Tax Treatment on Net Assets Which Are Considered as Income

GR-36 is issued to stipulate the imposition of income tax on certain assets following the implementation of the tax amnesty program. It is intended to apply to taxpayers who:

1. participated in the tax amnesty but are found to be not in compliance with the tax amnesty rules; and
2. did not participate in the tax amnesty but are found to have net assets that were not reported in their income tax returns.

## 1) Taxpayers participating in the tax amnesty

There are two categories of non-compliance stipulated in GR-36 for taxpayers who participated in the tax amnesty:

- *Taxpayer who fails to comply with the asset repatriation rules*  
When the taxpayer fails to retain the additional assets (TA assets) in Indonesia for three years, or did not repatriate the TA assets to Indonesia within the stipulated time frame, or has repatriated the TA assets to Indonesia but failed to retain and invest them in Indonesia for three years, the TA assets reported in the declaration letter will be deemed as income that is subject to income tax ("income tax base").

Even if only some part of the TA assets fall under the above condition (while there are no issues for the rest of the TA assets), the entire TA assets reported in the declaration letter will be treated as the income tax base.

- *Taxpayer who has not reported or under-reported net assets in the declaration letter*  
The unreported or under-reported net assets under this category include but are not limited to:
  - Where a taxpayer submitted the latest year income tax return (generally Fiscal Year 2015) after 1 July 2016 (i.e. commencement of tax amnesty) and the DGT's calculation of net assets movement does not reconcile with the total net income plus additional capital reported in that return. For instance, a taxpayer reported his income tax return for fiscal year 2015 in August 2016 and the return shows change in net assets from the previous year totalling IDR 2 billion. On the other hand, the total net income and additional capital for that year is only IDR 1.5 billion. The discrepancy between the two amounts, i.e. IDR 500 million, will be deemed as income.
  - Any unreported or underreported assets as a result of the adjustment of net asset value due to the revision of the tax amnesty approval issued by the DGT.

The DGT does not set a fix deadline to deem the above net assets as income of the taxpayer.

## 2) Taxpayers who did not participate in the tax amnesty

If, prior 1 July 2019, the DGT finds that there are net assets obtained by a taxpayer between 1 January 1985 and 31 December 2015 which were not reported in the Income Tax Returns, such unreported assets will be deemed as income.

### **Tax Rate**

All assets found under this category will be deemed as income of the taxpayer and subject to a final income tax and penalty. The tax rates applied are as follows:

<b>Taxpayer</b>	<b>Final Tax Rate</b>
Individual	25%
Corporate	30%
Certain Taxpayer *)	12.5%

\*) There are specific conditions to be able to apply the 12.5% rate (for example, it is applicable to an individual or corporate taxpayer who received gross income from business and/or freelance work in the fiscal year before the Tax Amnesty of a maximum of IDR 4.800.000.000, etc.)

### **Value of Net Assets**

The value of the net assets which will be deemed as income is determined by reference to the following:

- a. nominal value, if the asset is in cash
- b. DGT's valuation amount, for non-cash assets.

For the purpose of determining the value of non-cash assets, the DGT has issued SE-24 as the guidelines for valuation of assets for tax amnesty purpose. SE-24 regulates the category of assets, method of valuation, procedure of valuation, and also the steps of the asset valuation process.

### **b. DGT's Supervision on Taxpayers**

The DGT has issued SE-20 to provide guidelines on supervision of taxpayers following implementation of the tax amnesty program. In SE-20, the DGT has set the following priorities:

1. Supervision on taxpayers that did not participate in the tax amnesty  
DGT will supervise taxpayers who did not participate in tax amnesty on the discrepancy of data and/or information related to the assets. If, based on its review, the DGT finds any asset which was obtained by the taxpayer in the period 1 January 1985 up to 31 December 2015 and this asset has not been reported in the Income Tax Return, the DGT may use this finding as a basis to issue a tax audit instruction letter ("SP2") to the taxpayer concerned. The DGT is given a deadline to issue SP2 no later than 30 June 2019.
2. Supervision on taxpayers that participated in the tax amnesty  
This focuses on the following aspects (in the order of priority):
  - a. Monthly and annual tax compliance obligations following implementation of tax amnesty;
  - b. Discrepancy of data and information related to the additional assets reported in the declaration letter

In conducting the supervision activity, the DGT will review and compare all data that contains information of a taxpayer's assets, and will issue a recommendation on whether it is necessary for them to conduct an audit on the taxpayer.

### **c. Procedure on Revision of Tax Amnesty Approval**

PER-14 is issued by the DGT to facilitate the procedure for revising the tax amnesty approval letter, which can be triggered upon the taxpayer's request or ex-officio by the DGT. The amendment is limited to typo errors and/or calculation errors.

Typo error is an error that does not affect the asset type, asset value, liabilities value and/or net asset value. Meanwhile, error in calculation is an error in:

- addition, subtraction, multiplication and/or division of a number
- application of tax rate
- calculation of liabilities due to miscalculation of the threshold of liabilities amount which can be deducted against the asset value, only for liabilities whose supporting documents have been attached in the statement letter.

## **Extension of Income Tax Borne by Government on Certain Income in 2017 State Budget**

The Ministry of Finance (MoF) has issued Regulation number 126/PMK.010/2017 ("PMK-126") to stipulate the annual facility of income tax borne by Government on certain income under the 2017 State Budget. Last year, a similar facility under the 2016 State Budget was also regulated under MoF Regulation number 91/PMK.010/2016.

In substance, no changes were made in PMK-126, including the types of certain income for which income tax is borne by the Government in the 2017 state budget, which are reiterated as follows:

1. Income in the form of interest or yield on Government Bonds (including discount on state securities) which are issued in the international market (securities issued in foreign currency and outside the territory of Indonesia);
2. Income to third parties from their services to the Indonesian Government in issuance and/or buyback/redemption of state securities in the international market (securities issued in foreign currency and outside the territory of Indonesia). Such buyback/redemption shall be made before maturity date in cash or exchange offer. The third parties include, among others, sale agent, buying/exchanging agent, foreign stock exchange, trustee, business administration agent, paying agent, rating agency, and international legal consultant; and
3. State Sharia Bonds or Government Sukuk, which were issued based on sharia principles, as proof of a share of participation in assets of state sharia securities, in foreign currency, in accordance with Law Number 19 of 2008 regarding Sharia State Securities.

PMK-126 is effective retroactively from 1 January 2017.

# **Indirect Tax and Customs Focus**

## **Facility of Deferred Payment of Import Duty, Export Duty, and Customs Fines**

The Minister of Finance has issued regulation number 122/PMK.04/2017 ("PMK-122") concerning deferred payment of import duty, export duty, and customs fines based on decision letter of the Directorate General of Customs and Excise ("DGCE") concerning underpayment of import or export duty and administrative penalties. The purpose of PMK-122 is to provide convenience to importer and exporter companies that are experiencing financial difficulties. The decision on deferment will be made through examination of the applicant's financial statements and its credibility. Through PMK-122, a company that is facing financial difficulties can be facilitated through deferred payment by way of extension of payment deadline or payment through instalments.

To obtain this facility, a company can submit a request letter to the DGCE, which must provide its decision to approve or reject the application within 15 days after it is submitted. If the application is approved, the company must submit a guarantee in the form of a bank guarantee or customs bond. The payment that is deferred must be completed within 12 months from the day after the DGCE's determination letter is issued, and will be subject to interest at 2% per month.

PMK-122 is effective from 5 October 2017.

# Contact Persons

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