













LAW NO. 7 OF 2021 REGARDING HARMONIZATION OF TAX REGULATIONS (HPP LAW) • OVERVIEW

When HPP Law Will Be Effective



RATIFIED AND PROMULGATED

The draft Harmonization of Tax Regulations Law (HPP Law) was officially approved as a Law by the Indonesian Parliament on 7 October 2021.

The HPP Law was ratified and promulgated on 29 October 2021.



The HPP law is **effective** starting from the promulgation date, i.e. **29 October 2021.**







Important Issues

The government will issue **Government Regulations and Minister of Finance Regulations as implementing regulations**of the HPP Law.

The HPP Law is structured as a list of **amendments**, **deletions or additions to several articles** to the existing Income Tax, VAT, KUP and Omnibus laws. However, we expect the DGT to issue a consolidated version of the entire law as an easy reference for taxpayers in the future.

The only transitional provision in the HPP Law relates to the Voluntary Disclosure Program which states that all implementing regulations for the 2016 Tax Amnesty relating to the disclosure of net assets are invalid if the disclosure is made from 1 January to 30 June 2022.













LAW NO. 7 of 2021 HARMONIZATION OF TAX REGULATIONS (HPP LAW) • INCOME TAX

There are 6 main changes for income tax under the HPP Law:

1. Benefits-in-Kind

Deductible by the employer and become taxable income for the employee. (Slides 9-12)

2. Final Income Tax

- Income from interest or discount on shortterm securities.
- Taxpayer who calculates income tax with final tax rate of 0.5%.

(Slide 13)

3. Individual Income Tax

Changes to rates and brackets. (Slide 14)

4. Corporate Income Tax

- Changes to corporate income tax rate.
- Allowance for doubtful debt.
- Updates in depreciation and amortization.

(Slide 15)

5. Transfer Pricing

Expansion of methods for transfer pricing review by DGT. (Slide 16)

6. Others

- Debt-Equity Ratio
- Tax treaty

(Slide 17)





Tax Treatment of Benefits-in-Kind

The treatment of benefits-in-kind (BIK) will change:

Description	Income Tax Law	HPP Law
Company	Non-deductible	Deductible
Employee	Non-taxable	Taxable

However, certain BIK will continue to be treated as non-taxable income for the employee:

- Provision of food/beverages for all employees
- · BIK in certain areas
- · BIK required for work, such as safety equipment or uniforms
- BIK sourced from the state budget
- BIK of certain types or limitations

Source: • Article 6.1

• Articles 4.1 and 4.3 • Article 9.1





CONSULTING

Tax Treatment of Benefits-in-Kind

Definition of BIK – (from Elucidation)

BIK include compensation in-kind (in the form of goods other than money) and compensation in the form of amenities (in the form of a right to use a facility or service).

There are no examples of BIK given in the HPP Law or its elucidation. However, BIK commonly consist of the following:

- Vehicles for certain employees → car rental (rental and related costs), car owned by company (depreciation and related costs)
- Medical facility → Hospitalization, doctors, medicine, medical check-up
- Housing facility → rental costs and related expenses (e.g. electricity, internet)

Source:

- Articles 4.1 & 4.3
- Article 6.1
- Article 9.1

Income Tax Art. 21 borne by the employer without gross-up → Is this a BIK? There is no specific tax regulation, but a DGT ruling states that PPh 21 borne by the employer is a BIK. If so, it should be grossed-up. (May need further clarification.)



Example Case - PPh 21 Calculation

Mr. A, an Indonesian employee with status of M/1, has worked for PT X since 2020. Mr. A receives the following salary and benefits from PT X:

Monthly Salary : IDR 40 million

Medical allowance : maximum 2 months salary/year (reimbursement mechanism)

Housing allowance : PT X rents an apartment for IDR 120 million/12 months

- PT X deducts Income Tax Art. 21 (PPh 21) on payment of salaries to Indonesian employees.
- With the HPP Law, it is agreed that PT X will bear the PPh 21 on BIK received by employees.
- In April 2022, Mr. A claims reimbursement of medical amounting to IDR 2 million.

How to calculate PPh 21 of Mr. A for the period April 2022 under:

- Gross-up method
- Non gross-up method



Example Case - Answer

Description	Gross-up	Non Gross-up
Salary	40,000,000	40,000,000
Housing Allowance	10,000,000	10,000,000
Medical Allowance	2,000,000	2,000,000
Tax Allowance for BIK only	4,484,127	-
Total Gross Income	56,484,127	52,000,000
Position Allowance (5%)	(500,000)	(500,000)
Net Income	55,984,127	51,500,000
Annualized Net income	628,357,143	588,000,000
РТКР	(63,000,000)	(63,000,000)
Taxable Income	565,357,143	525,000,000
Income Tax Art.21 – annualized	113,607,143	101,500,000
Income Tax Art. 21 - monthly salary	6,104,167	6,104,167
Income Tax Art. 21 – monthly BIK	4,484,127	3,138,889
Total Income Tax Art. 21 April 2022	10,588,294	9,243,056
Employee Take Home Pay April 2022	33,895,833	33,895,833

Notes: Under gross-up PPh 21 is a deductible expense; otherwise it is non-deductible. If PPh 21 is determined to be a BIK by the DGT, then it should be grossed-up.





Income Subject to Final Tax

- Definition of interest income subject to final tax now includes interest or discount on short-term securities traded in the money market.
- For individual entrepreneurs who have certain gross turnover and calculate income tax using the final rate of 0.5% (GR 23/2018), the first IDR 500 million/year will not be subject to income tax. The threshold of gross turnover may be changed by a Minister of Finance Regulation.

- Article 4.2
- Article 7.2a
- Article 7.3



INDIVIDUAL INCOME TAX RATE

Changes to Tax Rates and Brackets

Lover	Income Tax Law		HPP Law	
Layer	Income Range	Rate	Income Range	Rate
I	0 - IDR 50 million	5%	0 - IDR 60 million	5%
П	>IDR 50 - 250 million	15%	>IDR 60 - 250 million	15%
Ш	>IDR 250-500 million	25%	>IDR 250-500 million	25%
IV	>IDR 500 million	30%	>IDR 500 million – 5 billion	30%
V	N/A	-	> 5 billion	35%

The amount of non-taxable income (PTKP) remains the same:

- Single individuals IDR 4.5 million/month or IDR 54 million/year.
- An additional IDR 4.5 million/year is given for a married individual.
- An additional IDR 4.5 million/year for each dependent (maximum 3).

- Article 7.1
- Article 17.1



CORPORATE INCOME TAX

Changes in Corporate Income Tax Rate

Changes in Allowance for Doubtful Debt, Depreciation and Amortization

• The CIT rate is set to remain at 22% and may be amended by a Government Regulation.

Fiscal Year	Omnibus Law Rate	HPP Law Rate
2020 – 2021	22%	N/A
2022	20%	22%

- Listed companies (PT Tbk) with at least 40% of shares traded on the Indonesian Stock Exchange and which meet certain criteria may lower the CIT rate by 3% (19% rather than 22%.
- The amount of allowance for doubtful debts, for banks and other business entities that provide credit, leases, finance and factoring companies, that may be deductible is calculated based on applicable financial accounting standards with certain limits after coordinating with the Financial Services Authority (OJK). The reference to the accounting standard and OJK is new.
- Depreciation/amortization of buildings/intangible assets with a useful life of more than 20 years
 can be carried out according to the useful life based on the categorization of
 buildings/intangible assets (group IV) or the actual useful life in accordance with taxpayer's
 bookkeeping. Previously the maximum useful life was 20 years.

- Article 9.1
- Article 11 (6a)
- Article 11a (2a)
- Article 17 (2) & (2b)



TRANSFER PRICING

Expansion of Methods used by DGT for transfer pricing review

DGT may re-determine the amount of arm's length income and costs where the taxpayer:

- Reports lower income than it should.
- Reports more costs than it should.
- Reports lower operating profit compared to other companies in similar industry.
- Reports unreasonable losses even though the taxpayer has been in commercial operation for 5 years.

DGT may re-determine the amount of arm's length income and costs by using the following methods:

- Comparable Uncontrolled Price
- Resale Price
- Cost-Plus
- Profit Split
- Transactional Net Margin Method
- Comparable Uncontrolled Transaction
- Tangible Asset and Intangible Asset Valuation
- · Business Valuation
- Comparison of Financial Performance with Taxpayers in Similar Industry (benchmarking)

The difference between the arm's length amount and the non arm's length amount will be deemed as a dividend and subject to income tax • Secondary adjustment of WHT 26 on dividend?



Source: Article 18.3



Debt-Equity Ratio, Allowance for Doubtful

Debt, and Tax Treaty

The Minister of Finance can determine the amount of interest expense that can be deductible by using the following methods:

- · Debt-Equity Ratio
- EBITDA
- Other methods

The government is authorized to perform bilateral and multilateral taxation agreements for:

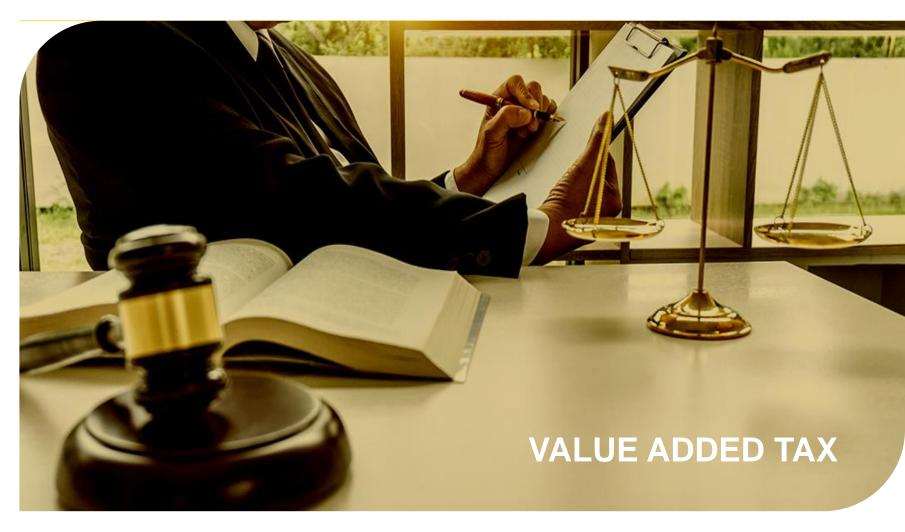
- 1. Tax treaty and prevention of tax avoidance
- 2. Prevention of erosion of the tax base and shifting of profits (BEPS)
- 3. Tax information exchange
- 4. Tax collection assistance
- 5. Other tax cooperation





- Article 18.1
- Article 32A







HPP LAW • VAT

There are 4 important updates for VAT in the HPP Law:

1. Non-VATable Goods & Services

Type of goods and services which are not subject to VAT are reduced. (Slide 20)

2. Exemption of VAT Objects

Certain basic-needs goods and services that previously were not subject to VAT can be exempted from VAT by Government Regulation. (Slide 21)

3. Changes to VAT Rate

VAT rate will change. (Slide 22)

4. Creditable Input VAT

Update on input VAT treatment. (Slide 23)





Non-VATable Goods & Services

In order to expand the VAT base, the goods and services which are not subject to VAT are reduced to the following:

- Food and beverages provided by hotel, restaurant and the like *
- Money, gold bar for country reserve and marketable securities
- · Religious services
- Art and entertainment services *
- Hotel services *
- Parking services *
- Government services
- Catering services *
- * Already subject to regional tax

However, certain basic-needs goods and services that previously were not subject to VAT can be exempted from VAT by Government Regulation as follows:

- Essential commodities highly needed by the public
- Medical health services
- Social services
- Financial services
- Insurance services
- Educational services
- Public transportation services on roads and water as well as domestic air transportation services
- Manpower services

VAT EXEMPTIONS



- Articles 4A.2 & 4A.3
- Article 16B.1a



VAT EXEMPTIONS (CONT.)

Indicative list of goods and services that can be exempted from VAT by Government Regulation:

Source: Article 16B.1a

Medical Health Services



- Health services covered by the national health insurance
- Doctors, dentists, midwives
- Psychologists and psychiatrists

Social Services



- Orphanage and nursing home services
- Fire fighting services
- Rehabilitation agency services
- Funeral services
- Sport services

Financial Services



- Financing services
- Lending services
- Guarantee services

Essential Commodities



- Rice, grain, corn
- · Salt, soy, milk
- Meat, egg, fruits, vegetables

Insurance Services



- Loss insurance services
- Life insurance services
- Reinsurance services

Educational Services



- School education services
- Out-of-school education services

Manpower Services



- Labor services
- Training services for workers
- Manpower supply services



VAT RATE

Changes to VAT Rate

The VAT rate is changed to the following:

VAT Law		HPP Law	
Validity	Rate	Validity	Rate
Up to March 2022	10%	Beginning 1 April 2022	11%
N/A	N/A	Beginning 1 January 2025 at the latest	12%

Certain VAT Rates

In order to ease VAT administration, VATable Entrepreneurs who:

- have turnover in 1 year that does not exceed a certain amount
- · conduct certain business activities
- conduct delivery of certain taxable goods/services are subject to certain VAT rates, such as 1%, 2% or 3% from turnover, which will be regulated in a Minister of Finance Regulation. Example: gold trader, used car dealer

- Article 7.1
- Article 9A.1





CREDITABLE INPUT VAT







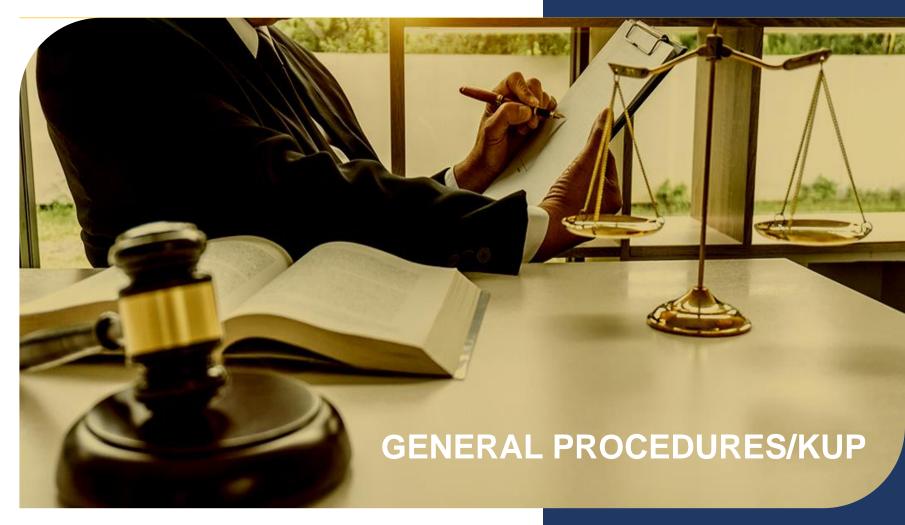


Changes to input VAT treatment are:

Description	VAT Law	HPP Law
VAT on acquisition of taxable goods and services, imports, offshore intangible goods and services that use "Other Value" as VAT base	-	Creditable
VAT on acquisition and maintenance of sedans and station wagons	Non-creditable	Creditable?
VAT on acquisition of taxable goods and services for certain VATable entrepreneurs that are subject to certain VAT rates	-	Non-creditable

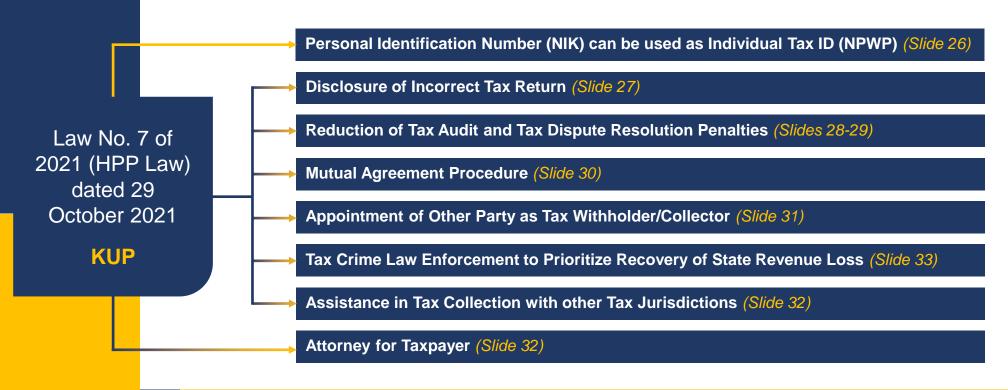
- Article 8A.3
- Article 9.8
- Article 9A.2







LAW NO. 7 of 2021 REGARDING HARMONIZATION OF TAX REGULATIONS (HPP LAW) • KUP





HPP LAW • KUP



Personal Identification Number (NIK) can be used as Tax ID (NPWP)

- In the context of using NIK as NPWP, the Minister of Home Affairs is to provide population data to the Minister of Finance to be integrated with the taxation database. The procedures for data integration will be further regulated through a Government Regulation.
- The use of NIK as NPWP will not cause every individual to have to pay taxes. Income tax is only payable if the following criteria are met:
 - Annual income is above the non-taxable income threshold (PTKP); or
 - Gross turnover is above IDR 500 million/year for businesses which pay 0.5% final income tax (GR-23/2018).

Source: Articles 2.1a and 2.10





Disclosure of Incorrect Tax Return

- Under the KUP Law, during a tax audit a taxpayer can amend an incorrect tax return as long as a tax assessment letter (SKP) has not been issued, limited to the following situations:
 - Tax underpayment becomes larger or smaller;
 - o Tax loss becomes larger or smaller;
 - o Total assets become larger or smaller; or
 - o Total equity becomes larger or smaller.
- In the HPP Law, during a tax audit a taxpayer can disclose an incorrect tax return as long as a notification letter of tax audit result (SPHP) has not been issued. Unlike in the KUP Law, no conditions apply.
- To confirm the taxpayer's disclosure, the audit process will continue until it is completed.



Source: Article 8.4





Reduction of Tax Audit and Tax Dispute Resolution Penalties

Tax audit and tax dispute resolution penalties are reduced as follows:

DESCRIPTION		KUP LAW	HPP LAW
 Taxpayer does not submit a return. There is VAT and PPnBM that should not have been carried forward or should not be subject to 0% rate. Taxpayer does not maintain bookkeeping. 	Underpaid income tax	50%	(Benchmark interest rate+20%) / 12 (max. 24 months)
	Underwithheld income tax	100%	(Benchmark interest rate+20%) / 12 (max. 24 months)
	Income tax withheld but not deposited	100%	75%
	Underpaid VAT and PPnBM	100%	75%
After dispute resolution in which the objection, Tax Court, or Supreme Court verdict is in favor of the DGT.	Objection	50%	30%
	Appeal	100%	60%
	Judicial Review	-	60%

- Articles 13.3, 13.3b, and 13.3c
- Article 25.9
- Articles 27.5d and 27.5f



Example of Judicial Review Sanction

HPP LAW • KUP



CIT Return

Taxpayer's CIT return shows tax underpayment of IDR 400 million.



Audit

Tax office issues SKPKB FY 2020 of IDR 3 billion.

In the closing conference, the taxpayer agrees to the tax underpayment of IDR 600 million and pays the agreed SKPKB before submitting the objection.



Objection

DGT rejects all of the taxpayer's objection and maintains the tax underpayment of IDR 3 billion.



Appeal

Tax Court grants the appeal in part, to become tax underpayment of IDR 600 million.

No tax must be paid by the taxpayer based on the Tax Court verdict and no administrative penalties apply.



Judicial Review

The Supreme
Court verdict
grants the DGT's
judicial review and
determines there
is a tax
underpayment of
IDR 3 billion.

Penalty:

- IDR 3 billion IDR 600 million: IDR 2.4 billion x 60% = IDR 1.44 billion
- Penalty will be collected through STP issued within 2 years



Mutual Agreement Procedure

Mutual Agreement Procedure (MAP) is incorporated in the HPP Law. MAP is an administrative procedure to prevent or resolve problems that arise in the application of a tax treaty. The main points of MAP in the HPP Law are:

- Request for MAP implementation may be submitted together with an objection, an appeal, or a reduction or cancellation of an incorrect SKP.
- If the disputed issue which was decided in the appeal or Supreme Court case is different to the issue in MAP, the MAP negotiation may continue.
- If the issue in the appeal or Supreme Court verdict is similar to that in the MAP negotiation, the verdict may be used as an argument in the MAP negotiation or the negotiation can be stopped.
- MAP decision will be the basis for the tax refund or tax collection.



Source: Article 27C

CONSULTING



Appointment of Other Party as Tax Withholder/Collector

The government can appoint a party as an income tax withholder or a VAT collector. This will apply to a party which facilitates transactions, e.g. a party providing transaction facilities or media, including electronic transactions. Example:

- R Inc. is a video streaming platform which pays income to Mr. C, a content creator who is an Indonesian tax subject. In this scheme, R Inc. is a party which can be appointed as the income tax withholder on income paid to Mr. C.
- PT DEF is a marketplace platform. PT PQR is a VATable company which sells goods through DEF's platform. Mr. Z buy goods sold by PT PQR through DEF's platform. PT DEF may be appointed as a VAT collector of VAT payable on the delivery of VATable goods by PT PQR to Mr Z.



POLICY
GUIDELINES
PRACTISES
STANDARDS
RULES
REGULATIONS
COMPLIANCE

Source: Article 32A





Other

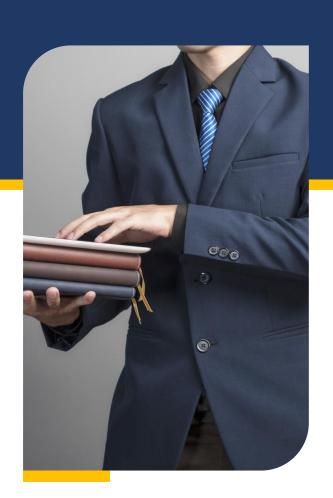
Assistance in Tax Collection with other Tax Jurisdictions
 MoF can cooperate with other countries regarding assistance in
 tax collection. A request can be made to or by another country
 for assistance in tax collection, based on a reciprocal bilateral or
 multilateral agreement such as a tax treaty.

Attorney for Taxpayer

A power of attorney may be given to **anyone with competence in the field of taxation.** An exception is given for a spouse or relative of two degrees.

Need to see whether MoF will impose additional requirements such as Brevet/Tax Consultant License as currently regulated.

- Article 20A
- · Article 32.3a







Tax Crime Law Enforcement to Prioritize Recovery of State Revenue Loss

- In the KUP Law, avoidance of imprisonment for a tax crime is only possible at the investigation stage. Under the HPP Law, avoidance of imprisonment is extended to the court stage, as long as the taxpayer pays the underpaid tax and the administrative penalties.
- Changes to the administrative penalties that must be paid are shown below.



Action	KUP Law	HPP Law
Negligent tax crime (Article 38)	3 x underpaid tax	1 x underpaid tax
Deliberate tax crime (Article 39)	3 x underpaid tax	3 x underpaid tax
Submitting a fictitious VAT invoice or WHT slip (Article 39A)	3 x underpaid tax	4 x underpaid tax

Source: Article 44B





Delegation of Authority

Further provisions regarding:

- ✓ Use of NIK as NPWP
- ✓ Assistance in tax collection with other tax jurisdictions
- ✓ MAP procedure
- ✓ Attorney for taxpayer
- ✓ Appointment of other party as tax withholder/collector
- ✓ Settlement of state revenue losses

will be regulated through a Minister of Finance Regulation.

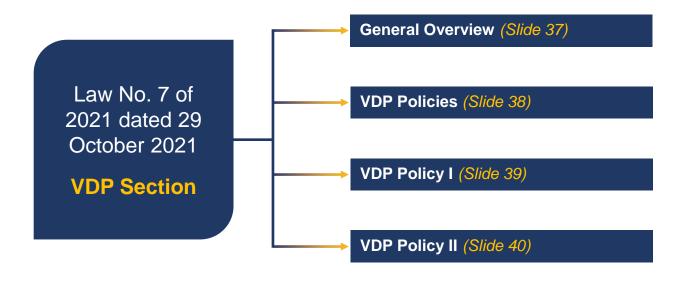
Source: Article 44e



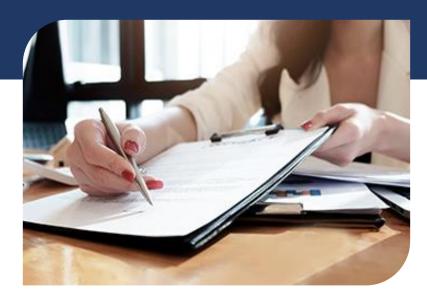




LAW NO. 7 of 2021 REGARDING HARMONIZATION OF TAX REGULATIONS (HPP LAW) • VDP









VDP is implemented for 6 months (1 January 2022 to 30 June 2022)

General Overview

- Voluntary Disclosure Program (VDP) provides opportunities for taxpayers to disclose net assets that have not been disclosed previously and have not been discovered by the DGT.
- Net assets (asset value minus associated debt/amount payable)
 are considered as additional income and subject to final income tax.
- There are two types of VDP: Policy I and Policy II.
- Information or data disclosed by taxpayers through VDP cannot be used as a basis for investigation or criminal charges, whether related to tax crimes or other crimes.
- Further provisions regarding procedures to repatriate assets and investments will be regulated through a MoF Regulation.

VDP Policies

HPP LAW • VDP

Description	Policy I	Policy II	
Subject	Taxpayers who participated in the previous Tax Amnesty Program (Corporate and Individual)	Individual Taxpayers	
Asset Base	Assets acquired from 1 Jan 1985 – 31 Dec 2015	Assets acquired from 1 Jan 2016 – 31 Dec 2020 which were not reported in the 2020 annual tax return	
Final Income Tax Rate	 6% for repatriated offshore assets and onshore assets which are invested in SBN (government securities) or natural resource processing or renewable energy 8% for repatriated offshore assets and onshore assets which are not invested 11% for offshore assets and not repatriated 	 12% for repatriated offshore assets and onshore assets which are invested in SBN (government securities) or natural resource processing or renewable energy 14% for repatriated offshore assets and onshore assets which are not invested 18% for offshore assets and not repatriated 	

- The repatriation of offshore assets should be conducted by
 30 September 2022 at the latest.
- The investment in regulated sectors should be conducted by 30 September 2023 at the latest, for a 5 year period.
- Taxpayers should submit a Notification Letter to report the assets disclosed to the DGT between 1 January 2022 and 30 June 2022.





Policy |

- Taxpayers who participate in VDP Policy I will not be subject to the 200% administrative sanction in the Tax Amnesty Law.
- Taxpayers who fail to repatriate or invest the assets within the deadline will be subject to additional final income tax of:
 - o 4.5% 7.5%, through issuance of a Tax Assessment Letter; or
 - 3% 6%, if the taxpayer self-discloses the asset/income and pays the final income tax.





Policy |

- The criteria to apply VDP Policy II:
 - The taxpayer is not undergoing a tax audit or preliminary investigation audit for 2016 – 2020.
 - The taxpayer must cancel the ongoing tax dispute resolution process, e.g. objection, appeal, lawsuit, judicial review, etc.
- By participating in VDP, a taxpayer will not be subject to tax audit for FY 2016 – FY 2020, unless there remain undisclosed assets that are discovered by the DGT. In that event, the DGT will impose 30% final income tax and interest penalty.
- Taxpayers who fail to repatriate or invest the assets within the deadline will be subject to additional final income tax of:
 - o 4.5% 8.5%, through issuance of a Tax Assessment Letter; or
 - 3% 7%, if the taxpayer self-discloses the asset/income and pays the final income tax.









HPP LAW • CARBON TAX

- A carbon tax is imposed on carbon emissions that have a negative impact on the environment.
- A carbon tax subject is an individual or entity who buys goods that contain carbon or conducts activities that produce a certain amount of carbon emissions.
- The carbon tax is payable:
 - At the time of purchase of goods that contain carbon;
 - At the end of the calendar year for activities that produces carbon emissions; or
 - As otherwise regulated.
- The carbon tax rate is set higher or equal to the carbon price in the carbon market with a minimum rate of IDR 30.00/kg of carbon dioxide equivalent (CO2e).
- The first implementation will be on 1 April 2022 for coal-fired power plants with a "cap and tax" scheme.



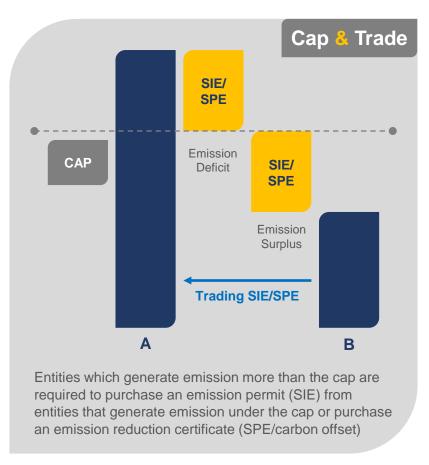


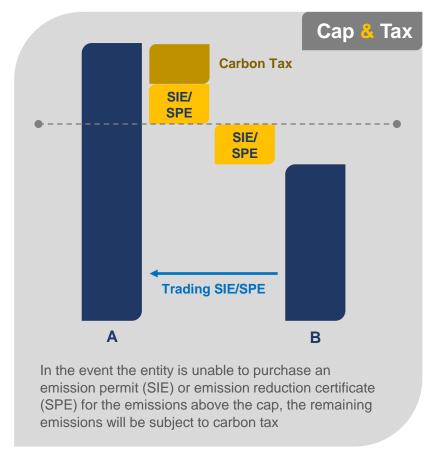
A Carbon Tax subject is an individual or entity that purchases carbon-containing goods or engages in activities that produce carbon emissions.



HPP LAW • CARBON TAX

Carbon Tax Scheme • Cap & Trade and Cap & Tax





Source: Ministry of Finance



Carbon Tax Road Map

HPP LAW • CARBON TAX



- Discussion and determination of the HPP Law.
- Finalization of the Presidential Regulation on Carbon Economic Value.
- Development of technical mechanism for carbon tax and carbon exchange.
- Piloting of carbon trading in the power sector by the Ministry of Energy and Mineral Resources with an average price of IDR 30,000/t CO2e.



- Determination of the cap for the coal powered generating sector by the Ministry of Energy and Mineral Resources.
- From 1 April 2022, the application of a carbon tax (cap & tax) will apply to coal-fired power plants at a rate of IDR 30,000/t CO2e.
- The cap (upper limit of emissions) used is the upper limit applicable to the piloting of the power plant carbon trade.



- Full implementation of carbon trading through carbon exchange.
- Expansion of the sectors subject to a carbon tax in stages according to sector readiness.
- Determination of implementing regulations for carbon tax management (cap & tax) for other sectors.

Source: Ministry of Finance



Thank You

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