

TAX AMNESTY UPDATE

Since the Tax Amnesty Law was issued in July 2016, a number of implementing regulations have been released by the Minister of Finance ("MoF") and the Director General of Tax ("DGT") (see our July 2016 News Alert for a discussion of tax amnesty). The implementing regulations cover a number of procedural issues, such as documentation, filing locations, approved banks to receive redemption money and rules on indirect holdings in special purpose vehicles (a summary of tax amnesty regulations is provided at the end of this newsletter).

The government has high hopes this program will generate significant revenue for the country. It has been reported that more than 350,000 taxpayers have participated in the program thus far, with a number of high profile individuals joining recently. At the end of the initial period (July-September), the amounts which have been declared (onshore and offshore assets) total over 90% of the government's target; however, the amount repatriated from offshore is still very low. Below are the figures as of 30 September:

	Target (in IDR trillion)	30 Sept (in IDR trillion)	Achieved
State income	165	97.2	58.9%
Declared	4,000	3,621	90.5%
Repatriated	1,000	135	13.5%

Source: www.pajak.go.id/statistic-amnesti

ROUTINE TAX AUDITS: OVERREACHING BY THE DGT?

*Directorate of Audit and Collection
Letter S-1403/PJ.04/2016*

A letter was sent to the heads of tax offices on 18 August 2016 concerning on-going audits. The letter states that in the event an audit is underway on a taxpayer who is applying for tax amnesty, the audit is to be stopped. This is in accordance with the tax amnesty law.

However, a further statement says that with respect to routine audits on refund for overpayment on tax return, the tax office undertaking the audit should rigorously examine the paperwork and, if possible, issue an underpayment tax assessment letter rather than the refund.

There is no further explanation or rationale provided for this instruction. If a taxpayer has complied with the requirements, a refund should be granted; the decision should not be based on pressure applied through an instruction letter. Pending clarification, it is hoped tax officials will not implement this instruction unfairly, to the detriment of taxpayers.

NON-TAXABLE INCOME

*Minister of Finance Regulation
101/PMK.010/2016*

The MoF has increased the non-taxable income for calculating individual and employee income tax, with the expectation this will encourage consumer spending and boost the economy. The new amounts are effective retroactively to 1 January 2016.

Non-Taxable Income	Old Amount	New Amount
Individual taxpayer	36,000,000/year	54,000,000/year
Taxpayer's spouse	3,000,000/year	4,500,000/year
Each dependent (maximum 3)	3,000,000/year	4,500,000/year
For the wife whose income is combined with her husband's income	36,000,000/year	54,000,000/year

CHANGES TO LAND AND BUILDING TAX ON TRANSFER

Government Regulation ("GR")
No. 34 of 2016

GR 34/2016 regarding Income Tax for Income from Transfer of Rights Over Land and/or Building, and Binding Sale and Purchase Agreement of Land and/or Building and Its Amendments, was issued on 8 August 2016 and is effective 7 September 2016.

Income from the transfer of rights to land and/or building is now subject to final tax at the rate of 2.5% (previously 5%). Income from a transfer under a binding sale and purchase agreement ("BSPA") is now subject to final tax at the rate of 2.5% (previously this was subject to normal tax on capital gain).

The value for calculating the tax base has also changed. It is no longer the tax object sale value (NJOP) but is based on the particular event:

Event	Tax base
Transfer of right to Government	Value determined by authorized official
Transfer of right under auction	Value based on auction proceedings
Transfer of right to, or a BSPA with, a related party	Value that should have been received
Transfer of right to, or a BSPA with, a third party	Value actually received
Transfer of right by swap, waiver, conveyance, grant, inheritance or as otherwise agreed	Value that should have been received or obtained based on fair market value

The exemption from this final tax is now extended to include:

- ✓ A transfer of land and/or building in the framework of a merger, consolidation or spin-off that has been approved to use book value.
- ✓ A transfer under a build operate and transfer (BOT) or to utilize land/or building owned by the state.
- ✓ Individuals who are not classified as a tax subject.

TAX AMNESTY REGULATIONS

Since July 2016, the following implementing regulations of the Tax Amnesty Law have been issued:

Implementing Regulations	
MoF Regulation	<ul style="list-style-type: none">▪ No. 118/PMK.03/2016, as amended by No.141/PMK.03/2016 on the implementation of Law 11 on tax amnesty▪ No. 119/PMK.03/2016, as amended by No. 123/KMK.08/2016 on procedures for asset repatriation into Indonesia and placement in investment instruments <i>in the financial market</i>▪ No. 122/KMK.08/2016 regarding investment of repatriated funds <i>in the non-financial market</i>▪ No.127/PMK.010/2016, as amended by No.142/PMK.010/2016 regarding taxpayers who indirectly hold assets through a SPV
MoF Decree	<ul style="list-style-type: none">▪ No. 600/KMK.03/2016 regarding banks appointed to accept redemption money▪ No. 658/KMK.03/2016 regarding the appointed head office and regional tax office as the designated place for submission of the Statement Letter with respect to tax amnesty

TAX AMNESTY REGULATIONS

Implementing Regulations	
DGT Regulation	<ul style="list-style-type: none"> ▪ PER-06/PJ/2016 on the format of tax payment slips ▪ PER-07/PJ/2016, as amended by PER-10/PJ/2016 regarding tax amnesty documentation and guidelines for completing ▪ PER-08/PJ/2016 regarding registration and reactivation of tax ID outside Indonesia ▪ PER-11/PJ/2016 on the implementing regulation on tax amnesty ▪ PER-12/PJ/2016 on the administration guideline for gateway reporting of tax amnesty ▪ PER-13/PJ/2016 on the administration guideline for receiving the application during the last week of the first period of tax amnesty
Others	<ul style="list-style-type: none"> ▪ DGT Circular Letter No. SE-30/PJ/2016 on implementing guidelines ▪ DGT Letter No. S-184/PJ/2016 on announcement of the program ▪ DGT Letter No. S-872/PJ.09/2016 regarding counseling, service and socialization of tax amnesty



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