

PROCEDURES OF TRANSFERRING TAXPAYER'S ASSETS TO THE TERRITORY OF THE UNITARY REPUBLIC OF INDONESIA AND OF PLACING THEM IN INVESTMENT INSTRUMENTS IN THE MONEY MARKET WITHIN THE FRAMEWORK OF TAX AMNESTY

(Regulation of the Finance Minister No. 119/PMK.08/2016 dated July 18, 2016)

BY THE GRACE OF GOD ALMIGHTY

THE FINANCE MINISTER OF

THE REPUBLIC OF INDONESIA,

Considering :

- a. that to provide taxpayers with guide to transferring assets and investments to the territory of the Unitary Republic of Indonesia within the framework of tax amnesty, it is necessary to stipulate procedures of transferring taxpayer's assets to the territory of the Unitary Republic of Indonesia and of placing them in investment instruments in the money market within the framework of tax amnesty;
- b. that based on the consideration as referred to in letter a, and to implement provisions in Article 24 letter c of Law No. 11/2016 concerning Tax Amnesty, it is necessary to stipulate Regulation of the Finance Minister concerning Procedures of Transferring Taxpayer's Assets to the Territory of the Unitary Republic of Indonesia and of Placing Them in Investment Instruments in the Money Market within the Framework of Tax Amnesty;

In view of :

Law No. 11/2016 on Tax Amnesty (Statute Book of the Republic of Indonesia of 2016 No. 131, Supplement to Statute Book of the Republic of Indonesia No. 5899);

DECIDES :

To stipulate :

REGULATION OF THE FINANCE MINISTER CONCERNING PROCEDURES OF TRANSFERRING TAXPAYER'S

ASSETS TO THE TERRITORY OF THE UNITARY REPUBLIC OF INDONESIA AND OF PLACING THEM IN INVESTMENT INSTRUMENTS IN THE MONEY MARKET WITHIN THE FRAMEWORK OF TAX AMNESTY.

Article 1

Referred to in this Ministerial Regulation as:

1. Tax amnesty is the act of writing off tax due without imposing taxation administrative sanctions and criminal sanctions in the taxation field by declaring assets and paying redemption money as provided for in the Law on Tax Amnesty.
2. Taxpayer is an individual or body that has taxation rights and obligations in accordance with the law and regulation in the taxation field.
3. Asset is an accumulation of additional economic capability in the form of entire wealth, tangible or intangible, used for business or non-business activities, found inside and/or outside the territory of the Unitary Republic of Indonesia.
4. Debt is the amount of debt principal that has not been repaid in connection with the acquisition of assets.
5. Asset Declaration Form for Tax Amnesty, hereinafter called declaration form, is a form used by a taxpayer to report assets, liabilities, net asset value, calculation and payment of redemption money.
6. Statement of Tax Amnesty, hereinafter called statement, is a form issued by the Minister as evidence of granting tax amnesty.
7. Special account is the account of a taxpayer specially opened at an asset transfer perception bank to accommodate the transfer of the taxpayer's funds within the framework of tax amnesty.
8. Stock is securities in the form of debenture, commercial notes, shares, bonds, debt proof, collective investment contract participation unit, stock futures contract and each derivative of stock.
9. Bank is a commercial bank as referred to in the banking law.
10. Investment manager is a party whose business activity is to manage stock portfolio for customers or manage collective investment portfolio for a group of customers, except insurance company, pension fund and bank carrying out its business activities on its own based on the law and regulation.
11. Stock broker is a party engaged in stock trading in the interests of oneself or other party.
12. Manager of taxpayer's assets playing a role as a gateway for the transfer of taxpayer's asset, hereinafter called gateway is bank, investment manager, and stock broker appointed by the Minister as a gateway for the placement and management of taxpayer's funds in investment instruments within the framework of tax amnesty.

13. Conditional contract for the opening of account is a contract between taxpayer and bank appointed by the Minister as a gateway for the placement of funds within the framework of tax amnesty.
14. Contract for the management of stock portfolio in the interests of individual customer, hereinafter called contract for fund management, is a fund management service contract made by investment manager appointed by the Minister as a gateway to a certain customer in which based on a contract for stock portfolio management, investment manager is fully authorized by the customer to manage stock portfolio based on the said contract.
15. Collective investment contract is a contract between investment manager appointed by the Minister as a gateway and custodian bank that binds holder of participation unit in which investment manager is authorized to manage collective investment portfolio and custodian bank is authorized to realize collective custody.
16. Contract for the opening of customer stock account is a contract between taxpayer and stock broker appointed by the Minister as a gateway for the placement of fund within the framework of tax amnesty.
17. Minister is the minister in charge of carrying out government affairs in the field of state finance.
18. Director General of Taxation, hereinafter called the Director General, is a leader of echelon one unit at the Finance Ministry overseeing the taxation sector.
19. Unitary Republic of Indonesia, hereinafter abbreviated into NKRI, is the Unitary Republic of Indonesia as referred to in Article 25A of the 1945 Constitution.

Article 2

- (1) Tax amnesty is granted to taxpayers disclosing their assets in a statement.
- (2) The assets as referred to in paragraph (1) cover assets found :
 - a. inside the territory of NKRI; and/or
 - b. outside the territory of NKRI.
- (3) Extra assets and liabilities forming net asset value reported in the statement as referred to in paragraph (1) to which a statement has been issued shall be treated as the acquisition of new assets and the acquisition of new debts of the taxpayer in accordance with the statement.

Article 3

- (1) If assets disclosed are found outside the territory of NKR as referred to in Article 2 paragraph (2) letter b, the taxpayer can transfer the assets in the form of fund to the territory of NKRI.

- (2) If assets in the form of fund as referred to in paragraph (1) are transferred to the territory of NKRI, the assets shall be invested by the taxpayer in the territory of NKRI.
- (3) If assets in the form of fund as referred to in paragraph (1) have been placed by the taxpayer in the territory of NKRI:
 - a. after December 31, 2015; and
 - b. before a letter of statement is issued, the assets shall be treated as assets outside the territory of NKRI transferred to the territory of NKRI and shall be invested within the framework of tax amnesty.
- (4) Investment in the territory NKRI as referred to in paragraphs (2) and (3) shall be made as early as 3 (three) years after the funds have been transferred by the taxpayer to the special account through a perception bank appointed by the Minister as a gateway within the framework of tax amnesty.

Article 4

- (1) To accommodate the funds transferred as referred to in Article 3 paragraph (1), the taxpayer shall open a special account at a perception bank as referred to in Article 2 paragraph (4).
- (2) The opening of the special account as referred to in paragraph (1) shall be done after the taxpayer has received a letter of statement in accordance with the regulation and provision issued by the relevant authority.
- (3) The transfer of funds by the taxpayer shall be done through a perception bank as referred to in Article 3 paragraph (4) found in the territory of NKRI and/or a branch of the perception bank outside the territory of NKRI.
- (4) The branch of perception bank found outside the territory of NKRI as referred to in paragraph (3) shall remove the taxpayer's funds to the perception bank as referred to in Article 3 paragraph (4) in the territory of NKRI no later than the following working day.
- (5) The perception bank as referred to in Article 3 paragraph (4) shall convey a report to the Directorate General of Taxation about the opening of special account and transfer of funds by the taxpayer to the perception bank.

Article 5

The funds that have been transferred and placed in the special account as referred to in Article 4 can be invested in investment instruments.

Article 6

- (1) The investment of funds transferred as referred to in Article 5 is made in the form of :
- a. SBN of the Republic of Indonesia;
 - b. bonds issued by state-owned companies;
 - c. bonds of financing institution held by the government;
 - d. financial investment at a perception bank;
 - e. bonds issued by private companies whose trading is supervised by the Financial Service Authority;
 - f. infrastructure investment through cooperation between the government and corporate body;
 - g. investment in the real sector based on the priority set by the government; and/or
 - h. other legal investments according to the law and regulation.
- (2) The investments as referred to in paragraph (1) letters a, b, c, d, e and h, are made in investment instruments as follows:
- a. debenture stocks, including medium term notes;
 - b. sukuk;
 - c. shares;
 - d. mutual fund participation unit;
 - e. asset-backed stocks;
 - f. investment fund participation unit in real estate;
 - g. deposits;
 - h. savings;
 - i. giro; and/or
 - j. other money market investment instruments including insurance product, financing company, pension fund or venture capital approved by the Financial Service Authority.
- (3) The placement in investment instruments as referred to in paragraph (2) shall be done through a gateway.
- (4) The procedure of investing in investment instruments as referred to in paragraph (2) shall follow the procedures and provisions prevailing in each gateway.
- (5) The investments as referred to in paragraph (1) letters f, g and h are to be provided for in a special Regulation of the Minister.

Article 7

- (1) Investment made by taxpayer in investment instruments as referred to in Article 6 paragraph (2) can be

used as insurance to obtain credit facilities from the bank appointed by the Minister as a gateway.

- (2) The approval to grant credit facilities as referred to in paragraph (1) shall follow provisions prevailing in the bank appointed by the minister as a gateway.

Article 8

- (1) To serve as a gateway as referred to in Article 6 paragraph (3), bank, investment manager, and/or stock broker shall meet the following criteria:

a. for bank:

- 1) it must be a perception bank declared by the Minister and belong to the category of commercial banks of business group 4 and commercial banks of business group 3; and
- 2) besides the qualification as referred to point 1) the perception bank must :
 - a) secure a seal of approval to carry out custodian activity with trust;
 - b) hold a letter of approval of bank as a custodian from the Financial Service Authority; and/or
 - c) become administrator of customers' fund accounts.

b. for investment manager:

1) Investment manager :

- a) must be held by a state-owned company or a subsidiary of state-owned company;
 - b) must manage asset under management by reaching the top ten rating for the last reporting period, other than investment manager owned by a state-owned company or a subsidiary of state-owned company;
 - c) manage mutual fund in the form of collective investment contract of limited participation with the real sector as underlying project with the amount of asset under management reaching at least Rp200,000,000,000.00 (two hundred billion rupiah); or
 - d) manage real estate investment fund in the form of collective investment contract.
- 2) Besides the qualification as referred to in point 1), investment manager must never receive an administrative sanction in the form of restriction on business activities from the Financial Service Authority in the past 1 (one) year before this Ministerial Regulation takes effect.

c. for stock broker :

stock broker

- 1) must be registered as a member of the Indonesia Stock Exchange;
- 2) must never receive an administrative sanction in the form of frozen business activities from the

- Financial Service Authority in the past 1 (one) year before this Ministerial Regulation takes effect;
- 3) has served retail customers having customer fund account before this Ministerial Regulation takes effect;
 - 4) has posted operating profit based on the 2015 annual financial statement of the parent entity alone;
 - 5) has an average net adjusted working capital in 2015 amounting to at least Rp75,000,000,000.00 (seventy-five billion rupiah); and
 - 6) has positive equities in the past 3 (three) years before this Ministerial Regulation takes effect.
- (2) The appointment of bank, investment manager, and stock broker as a gateway shall be done by the Minister.

Article 9

(1) Gateway has the obligation as follows:

- a. preparing special accounts and/or sub-special accounts for taxpayers investing funds in the territory of NKRI within the framework of tax amnesty;
- b. reporting the special accounts and/or sub-special accounts as referred to in letter a to the Directorate General of Taxation;
- c. ensuring that funds transferred from outside the territory of NKRI will be invested in the territory of NKRI;
- d. ensuring that taxpayers will place funds in investment instruments as referred to in Article 6 paragraph (2);
- e. ensuring that investment instruments as referred to in Article 6 paragraph (2) and underlying assets will be issued and/or traded in the territory of NKRI;
- f. ensuring that funds resulting from the issuance of investment instruments as referred to in Article 6 paragraph (2) letters a, b, c, d, e, f and/or j, will be used in the territory of NKRI if the taxpayer makes investment through the primary market;
- g. making and signing an investment contract with taxpayer covering:
 - 1) conditional contract for the opening of accounts for bank;
 - 2) contract for the opening of accounts for investment in investment portfolio through a collective investment contract or fund management contract for investment manager; or
 - 3) contract for the opening of customer stock account for stock broker.

- h. reporting the position of taxpayer's investment to the Directorate General of Taxation on a periodic basis and any time when there is transfer of customer's assets among gateways; and
 - i. avoiding/refraining from activities hampering tax amnesty, either activities conducted at home or overseas.
- (2) The document of investment contract as referred to in paragraph (1) letter g, shall contain at least provisions that :
- a. investment can only be made for stocks issued in the territory of NKRI;
 - b. funds from the issuance of stocks can only be used in the territory of NKRI; and
 - c. approval from the taxpayer to a gateway to provide a periodic report as referred to in paragraph (1) letter h to the Directorate General of Taxation.
- (3) To ensure that the tax amnesty program will run smoothly, gateways shall familiarize the public with investment instruments within the framework of tax amnesty.

Article 10

- (1) Gateway shall convey a report on the position of taxpayer's realized transfer and investment every month and/or any transfer of the taxpayer's assets among gateways.
- (2) The report as referred to in paragraph (1) shall be made by gateway for 3 (three) years since funds were transferred by the taxpayer to a special account through a perception bank as referred to in Article 3 paragraph (4).
- (3) The report conveyed by gateway may serve as an input for the Directorate General of Taxation to monitor the realization of investment by taxpayer during an investment period as referred to in paragraph (2).

Article 11

- (1) The Directorate General of Taxation may ask for clarification from gateway if the gateway does not meet provisions as referred to in Article 9 and Article 10 paragraphs (1) and (2).
- (2) Based on the result of clarification as referred to in paragraph (1) the Directorate General of Taxation may propose to the Minister to impose a sanction to bank, investment manager, and/or stock broker as a gateway.
- (3) The sanction as referred to in paragraph (2) may come in the form of warning or revocation of appointment as a gateway.
- (4) The revocation of appointment as a gateway by the Minister as referred to in paragraph (3) shall be made

public and conveyed to the relevant authority.

Article 12

This Ministerial Regulation shall come into force as from the date of promulgation.

For public cognizance, this Ministerial Regulation shall be promulgated by placing it in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta

On July 18, 2016

THE FINANCE MINISTER OF THE REPUBLIC OF INDONESIA,

sgd.

BAMBANG P. S. BRODJONEGORO

Promulgated in Jakarta

On July 18, 2016

THE DIRECTOR GENERAL OF
LAWS AND REGULATIONS OF
THE LAW AND HUMAN RIGHTS MINISTRY OF
THE REPUBLIC OF INDONESIA,

sgd.

WIDODO EKATJAHJANA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA
OF 2016 NO. 1046

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