

PROCEDURES FOR THE TRANSFER OF ASSETS OF TAXPAYERS INTO THE TERRITORY OF THE UNITARY STATE OF THE REPUBLIC OF INDONESIA AND THE PLACEMENT IN INVESTMENT OUTSIDE FINANCIAL MARKET IN THE FRAMEWORK OF TAX AMNESTY

(Regulation of the Minister of Finance Number 122/PMK.08/2016, dated August 8, 2016)

BY GRACE OF GOD THE ALMIGHTY

THE MINISTER OF FINANCE OF THE REPUBLIC OF INDONESIA,

Considering:

- a. that in order to implement the provision of Article 24 huruf c of Law Number 11 Year 2016 on Tax Amnesty, it is necessary to regulate provision on the transfer of assets of taxpayers into the territory of the Unitary State of the Republic of Indonesia and the placement in investment outside financial market in the framework of tax amnesty;
- b. that having regards to letter a, it is necessary to stipulate a regulation of the Minister of Finance on Procedures for the transfer of assets of taxpayers into the territory of the Unitary State of the Republic of Indonesia and the placement in investment outside financial market in the framework of tax amnesty;

In view of:

Law Number 11 Year 2016 on Tax Amnesty (Statute Book of the Republic of Indonesia Year 2016 Number 131, Supplement to Statute Book of the Republic of Indonesia Number 5899);

DECIDES :

To stipulate:

THE REGULATION OF THE MINISTER OF FINANCE ON PROCEDURES FOR THE TRANSFER OF ASSETS OF TAXPAYERS INTO THE TERRITORY OF THE REPUBLIC OF INDONESIA AND THE PLACEMENT IN INVESTMENT OUTSIDE FINANCIAL MARKET IN THE FRAMEWORK OF TAX AMNESTY.

Article 1

Referred to in this regulation as:

1. Tax Amnesty shall be the abolition of tax payable, not subject to taxation administrative sanction and penalty in the field of taxation, by declaring assets and paying redemption money as governed in the tax amnesty law.
2. Taxpayer shall be individual person or entity having taxation right and obligation in accordance with the provision of taxation legislation.
3. Asset shall be the accumulation of additional economic capability in the form of the whole assets, either tangible or intangible, movable or immovable, used for business or not, located inside and/or outside the territory of the Unitary State of the Republic of Indonesia.
4. Letter of Statement of Assets for Tax Amnesty hereinafter called Letter of Statement shall be a letter used by taxpayer to report assets, liabilities, net asset value, calculation and payment of redemption money.
5. Certificate of Tax Amnesty hereinafter called Certificate shall be a letter issued by the Minister as evidence of the granting of tax amnesty.
6. Perception Bank shall be a commercial bank appointed by the Minister to receive the remittance of state revenue on the basis of the tax amnesty law, which is appointed to receive the remittance of redemption money and/or funds transferred into the territory of the Unitary State of the Republic of Indonesia in the framework of the implementation of tax amnesty.
7. Special Account shall be taxpayer account specially opened at perception bank appointed as gateway by the Minister to collect the transfer of funds of taxpayer in the framework of tax amnesty.
8. Investment Outside Financial Market shall be investment choice other than investment executed in financial marker as governed in the regulation of the Minister of Finance on procedures for transferring assets of taxpayers into the territory of the Unitary State of the Republic of Indonesia and placement in investment instrument in the financial market in the framework of tax amnesty.
9. Minister shall be the minister in charge of state finance affairs.
10. Unitary State of the Republic of Indonesia hereinafter called NKRI shall be the unitary state of the Republic of Indonesia as meant in Article 25A of the constitution of 1945.

Article 2

- (1) Tax Amnesty shall be granted to taxpayer declared their assets in letter of statement.

(2) The assets as meant in paragraph (1) shall include assets located:

- a. inside the territory of NKRI; and/or
- b. outside the territory of NKRI.

Article 3

- (1) In the case of the declared assets being located outside the territory of NKRI as meant in Article 2 paragraph (2) letter b, taxpayer may transfer assets in the form of funds into the territory of NKRI.
- (2) The transfer of funds as meant in paragraph (1) shall be executed to special account at perception bank appointed as the same gateway.
- (3) In the case of assets in the form of the funds as meant in paragraph (1) being transferred into the territory of NKRI, the assets shall be invested by taxpayer inside the territory of NKRI.
- (4) In the case of the assets in the form of funds as meant in paragraph (1) being already placed by taxpayer inside the territory of NKRI:
 - a. after December 31, 2015; and
 - b. before the issuance of certificate,
 the assets shall be treated as assets located outside the territory of NKRI, which are transferred into the territory of NKRI and shall be invested in the framework of tax amnesty, having transfer proven by the authorized authorities.
- (5) The investment inside the territory of NKRI as meant in paragraph (3) and paragraph (4) shall be done in no faster than 3 (three) years as from the moment when the funds are transferred by taxpayer into special account through perception bank as gateway in the framework of tax amnesty.
- (6) Perception bank acting as gateway for investment outside financial market as meant in paragraph (5) shall constitute bank already appointed gateway by the Minister for investment in the financial market.

Article 4

- (1) In the case of the funds as meant in Article 3 paragraph (4) being already invested into the territory of NKRI in the form of investment already regulated in Law Number 11 Year 2016 on Tax Amnesty, the investment shall have the management transferred through perception bank appointed as gateway.
- (2) The investment as meant in paragraph (1) shall be done in no faster than 3 (three) years as from the transfer of the funds into special account at perception bank appointed as gateway or the transfer of management to other perception bank appointed as gateway.

Article 5

- (1) In order to collect the transferred funds as meant in Article 3 paragraph (3), taxpayer shall open special account at perception bank appointed as gateway as meant in Article 3 paragraph (2).
- (2) In the case of taxpayer already opening special account for the transfer of funds from outside the territory of NKRI on the basis of the regulation of the Minister of Finance on procedures for the transfer of assets of taxpayers into the territory of the Unitary State of the Republic of Indonesia, and the placement in investment instrument in the financial market in the framework of tax amnesty along with the amendment, the taxpayer shall use the special account to receive the transfer of funds from outside NKRI.
- (3) The opening of special account as meant in paragraph (1) shall be done after taxpayer receives certificate and in accordance with regulation and/or provision of the related authorities.
- (4) The transfer of funds by taxpayer shall be done through the perception bank appointed as gateway as meant in Article 3 paragraph (5), which is located inside the territory of NKRI and/or branch of the perception bank appointed as gateway outside the territory of NKRI.
- (5) The branch of perception bank appointed as gateway outside the territory of NKRI as meant in paragraph (4) shall be obliged to transfer funds of taxpayer into perception bank appointed as gateway inside the territory of NKRI in no later than the ensuing working day.
- (6) Perception bank appointed as gateway shall submit report to the Directorate General of Taxation the opening of special account and the transfer of funds by taxpayer to perception bank appointed gateway.

Article 6

- (1) The funds already transferred and placed in the special account as meant in Article 5 paragraph (1) may be invested in the form of:
 - a. infrastructure investment through public and private partnership;
 - b. real sector investment on the basis of priorities stipulated by the government;
 - c. investment in property in the form of land and/or building established thereon;
 - d. direct investment in company in the territory of NKRI;
 - e. investment in precious metal in the form of gold bar; and/or
 - f. other legal investment form outside financial market in accordance with the provision of legislation.
- (2) The investment as meant in paragraph (1) shall be executed through perception bank appointed as gateway on the basis of the Regulation of the Minister of Finance on procedures for transferring assets of taxpayers

into the territory of the Unitary State of the Republic of Indonesia and placement in investment instrument in the financial market in the framework of tax amnesty.

- (3) The investment as meant in paragraph (1) may not be transferred to other country before the period as meant in Article 3 paragraph (5) expires.
- (4) The investment as meant in paragraph (1) may only be transferred inside the territory of NKRI through selling/buying transaction or commercial activity.
- (5) The investment as meant in paragraph (1) may be done as long as perception bank appointed as gateway may facilitate the investment.
- (6) Procedures for the settlement of the transaction and monitoring of investment of taxpayer as meant in paragraph (1) shall follow the effective procedures and provisions in each perception bank appointed as gateway.

Article 7

- (1) The transfer of funds between perception banks appointed as gateway may be executed by taxpayer before the expiration of the investment period as long as 3 (three) years as meant in Article 3 paragraph (5).
- (2) In the case of taxpayer transferring funds between perception banks appointed as gateway as meant in paragraph (1), the placement of funds shall continue to be executed through special account at perception bank appointed as gateway.
- (3) In the case of taxpayer transferring funds between perception banks appointed as gateway, taxpayer shall submit information to perception bank appointed as new gateway by enclosing certificate of investment history issued by perception bank appointed as the previous gateway.
- (4) The certificate of investment history as meant in paragraph (3) shall contain at least:
 - a. name of taxpayer;
 - b. taxpayer code number;
 - c. special account number of taxpayer at perception bank appointed as gateway upon the transfer of funds into the territory of NKRI;
 - d. date of the transfer and nominal value of the funds transferred to special account of taxpayer at perception bank appointed as gateway upon the transfer of funds into the territory of NKRI;
 - e. final balance;
 - f. objective of perception bank appointed as new gateway; and
 - g. value of funds transferred to perception bank appointed as new gateway.

Article 8

- (1) The investment as meant in Article 6 paragraph (1) letter b and letter d shall be done through capital participation mechanism.
- (2) Sectors becoming the priority of the government in the real sector investment as meant in Article 6 paragraph (1) letter b shall include sectors stipulated in National Medium-Term Development Plan.
- (3) The property as meant in Article 6 paragraph (1) letter c shall exclude property securing subsidy from the government.
- (4) The precious metal as meant in Article 6 paragraph (1) letter e shall be gold bar with the purity content 99,99% (ninety nine point ninety nine percent).
- (5) The gold bar as meant in paragraph (4) shall constitute gold produced in Indonesia and securing accreditation and certification from Indonesia National Standard a (SNI) and/or London Bullion Market Association (LBMA).

Article 9

- (1) In the case of taxpayer divesting, selling or transferring investment ownership, the value of principal investment or profit resulting from the investment shall be remitted to special account at perception bank appointed as gateway where the taxpayer invests.
- (2) The profit resulting from investment as meant in paragraph (1) may be withdrawn every quarter of the ensuing year or in the minimum period of investment as from the placement of funds in special account has expired.
- (3) The withdrawal of the profit as meant in paragraph (2) shall be done after counting costs spent in the investment.

Article 10

- (1) In the framework of the investment as meant in Article 6 paragraph (1), taxpayer shall submit power of attorney to perception bank appointed as gateway.
- (2) The power of attorney as meant in paragraph (1) shall contain at least the granting of approval of taxpayer to perception bank appointed as gateway to:
 - a. settle investment transaction executed by taxpayer from special account to other parties;
 - b. save investment documents or evidences related to investment executed by taxpayer; and

- c. receive funds resulting from the sales, which are related to investment executed by taxpayer to special account.
- (3) Taxpayer may not take off or revoke power of attorney granted to perception bank appointed as gateway, unless otherwise the period of investment in the framework of tax amnesty as meant in Article 3 paragraph (5) has expired or funds resulting from divestment, sales or transfer of ownership are wholly transferred to other perception bank appointed as gateway.
- (4) The perception bank appointed as gateway may not be demanded by taxpayer and/or whomever party in the case of any dispute with other party in the framework of the implementation of investment, unless otherwise the misuse of authority by perception bank appointed as gateway.

Article 11

- (1) The investment as meant in Article 6 paragraph (1) letter c and letter e may be used as collateral in securing credit facility from perception bank appointed as gateway.
- (2) The approval of the granting of credit as meant in paragraph (1) shall be in accordance with the provision effective at perception bank appointed as gateway.

Article 12

- (1) Perception bank appointed as gateway shall have obligation as follows:
 - a. debiting funds from special account of taxpayer to related party in the interest of the placement of investment as meant in Article 6 paragraph (1);
 - b. saving investment documents or evidences related to the investment executed by taxpayer as meant in Article 6 paragraph (1) and/or in the framework of supporting the monitoring by perception bank appointed as gateway with regards to the conformance to the provision as meant in Article 3 paragraph (5);
 - c. receiving funds resulting from the divestment, sales or transfer of investment and remitting the funds to special account in the name of taxpayer;
 - d. reporting to the Directorate General of Taxation periodically every month and/or every divestment, sales or transfer of investment between perception banks appointed as gateway;
 - e. making agreement with taxpayer in the framework of investment executed by taxpayer;
 - f. preparing certificate of investment history and submitting it to taxpayer in the case of taxpayer transferring funds between perception banks appointed as gateway; and

- g. transferring funds of taxpayer into special account at other perception bank appointed as gateway in accordance with choice of taxpayer in the case of the perception bank appointed as gateway having the appointment revoked by the Minister.
- (2) The agreement between perception bank appointed as gateway and taxpayer as meant in paragraph (1) letter e, shall contain clause regarding the granting of approval of taxpayer to perception bank appointed as gateway to fulfill the provision on the transparency of data and information for the authorized parties or related parties in the framework of taxpayer investment.
- (3) In the framework of supporting the smooth execution of tax amnesty program, perception bank appointed as gateway shall socialize model of investment outside financial market in the framework of tax amnesty.

Article 13

- (1) Perception bank appointed gateway shall be obliged to submit report to the Directorate General of Taxation about the opening and transfer of funds in special account as well as investment position of taxpayer every month and/or every transfer of funds of taxpayer between perception banks appointed as gateway.
- (2) The report on the opening and transfer of funds into special account as meant in paragraph (1) shall be submitted in no later than 5 (five) working days in the ensuing month.
- (3) The report on the investment position every month as meant in paragraph (1), shall be report on the investment position of taxpayer per last working day every month.
- (4) The report on the investment position as meant in paragraph (3), shall be submitted in no later than 5 (five) working days in the ensuing month.
- (5) The report on the transfer of assets of taxpayer between perception banks appointed as gateway as meant in paragraph (1) shall be submitted in no later than 5 (five) working days as from the transfer of the funds to perception bank receiving the funds, which is appointed as gateway.
- (6) The report as meant in paragraph (1) shall be prepared in accordance with the format as contained in the attachment which constitutes a part inseparable from this regulation.
- (7) The report as meant in paragraph (1) shall be submitted by perception bank appointed as gateway for 3 (three) years as from the transfer of funds of taxpayer to special account through perception bank appointed as gateway.
- (8) The report submitted by perception bank appointed as gateway may be used as substance for the Directorate General of Taxation to monitor the realization of investment executed by taxpayer during the investment period as meant in Article 3 paragraph (5).

Article 14

- (1) The Directorate General of Taxation may seek written clarification from perception bank appointed as gateway in the case of the perception bank appointed as gateway fails to meet the provision as meant in Article 12 and Article 13.
- (2) Based on result of the written clarification as meant in paragraph (1), the Directorate General of Taxation may recommend to the Minister to impose sanction on the perception bank appointed as gateway.
- (3) The sanction as meant in paragraph (2) may be in the form of warning or revocation of the appointment of perception bank as gateway.
- (4) The revocation of the appointment as perception bank as gateway by the Minister as meant in paragraph (3) shall be announced to the public and submitted to the related authorities.

Article 15

The regulation shall come into force as from the date of promulgation.

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

Stipulated in Jakarta

On August 8, 2016

THE MINISTER OF FINANCE OF THE REPUBLIC OF INDONESIA,

sgd

SRI MULYANI INDRAWATI

Promulgated in Jakarta

On August 8, 2016

THE DIRECTOR GENERAL OF LEGISLATION OF THE
MINISTRY OF LAW AND HUMAN RIGHTS OF THE
REPUBLIC OF INDONESIA

sgd

WIDODO EKATJAHJANA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA
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Editor's note:

- Due to technical reason, the attachment is not published

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