

**THE AMEDNMENT TO REGULATION OF THE MINISTER OF  
FINANCE NUMBER 119/PMK.08/2016 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 FRAMEWORK OF  
TAX AMNESTY**

**(Regulation of the Minister of Finance Number 123/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 pursuant to Regulation of the Minister of Finance Number 119/PMK.08/2016 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, procedures for the transfer of assets of taxpayers into the territory of the Unitary State of the Republic of Indonesia in the framework of tax amnesty through gateway have been regulated;
- b. that in the framework of enhancing task and function of Gateway in the transfer and management of assets related to tax amnesty with regards to the transfer of investment between gateways, it is necessary to amend Regulation of the Minister of Finance Number 119/PMK.08/2016 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;
- c. that having regards to letters a and b, it is necessary to stipulate a regulation of the Minister of Finance on the Amendment to Regulation of the Minister of Finance Number 119/PMK.08/2016 regarding 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;

In view of:

1. 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);
2. Regulation of the Minister of Finance Number 119/PMK.08/2016 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 (State Gazette of the Republic of Indonesia Year 2016 Number 1046);

#### DECIDES :

To stipulate:

THE REGULATION OF THE MINISTER OF FINANCE ON THE AMENDMENT TO REGULATION OF THE MINISTER OF FINANCE NUMBER 119/PMK.08/2016 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 FRAMEWORK OF TAX AMNESTY.

#### Article I

Several provisions in Regulation of the Minister of Finance Number 119/PMK.08/2016 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 (State Gazette of the Republic of Indonesia Year 2016 Number 1046) shall be amended as follows:

#### Article 1

Referred to in this regulation as:

1. Tax Amnesty shall be the abolition of payable tax, 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. Liabilities shall be the amount of principal debt not yet paid, related directly to the acquisition of assets.
5. 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.
6. Certificate of Tax Amnesty hereinafter called Certificate shall be a letter issued by the Minister as evidence of the granting 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. Stock shall be securities in the form of debenture, commercial securities, share, bond, evidence of debt, participating unit of collective investment contract, future contract of stock and every derivative of stock.
9. Bank shall be the commercial bank as meant in the banking law.
10. 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.
11. Investment Manager shall be a party having business activity managing stock portfolio for customers or managing collective investment portfolio for a group of customers, excluding insurance firm, pension funds, and bank executing directly their business activity on the basis of legislation.
12. Broker of Stock Trade shall be a party selling and buying stock in the interest of the broker or other party.
13. Taxpayer Asset Management playing role as gateway of the transfer and/or management of taxpayer funds hereinafter called Gateway shall be bank, investment manager, or broker of stock trade appointed by the minister to receive the transfer of taxpayer assets and/or manage and place taxpayer funds in investment instrument in the framework of tax amnesty.
14. Agreement on Requirement for the Opening of Account shall be a contract between taxpayer and bank appointed by the Minister as Gateway for the placement of funds in the framework of tax amnesty.
15. Agreement on Stock Portfolio Management in the interest of customer interest individually hereinafter called Funds Management Contract shall be a contract of service for the management of funds executed by investment manager appointed by the Minister as Gateway for a specified customer wherein on the basis of agreement on stock portfolio management, investment manager is authorized fully by customer to manage stock portfolio on the basis of the agreement.
16. Collective Investment Contract shall be a contract between investment manager and custodian bank, which binds holder of participating unit, wherein investment manager is authorized to manage collective invest-

ment portfolio and custodian bank is authorized to execute collective consignment.

17. Agreement on the opening of customer stock account shall be a contract between taxpayer and broker of stock trader appointed by the Minister as Gateway for the placement of funds in the framework of tax amnesty.

18. Minister shall be the minister in charge of state finance affairs.

19. The Unitary State of the Republic of Indonesia hereinafter abbreviated to NKRI shall be the Unitary State of the Republic of Indonesia as meant in Article 25A of the Constitution of 1945.

2. A new paragraph is supplemented between paragraph (1) and paragraph (2) of Article 3 to become paragraph (1a) and paragraph (3a) is supplemented between (3) and paragraph (4) so that Article 3 reads as follows:

#### 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, taxpayers may transfer assets in the form of funds into the territory of NKRI.

(1a) The transfer of funds as meant in paragraph (1) shall be executed to special account at perception bank appointed as the same gateway.

(2) 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.

(3) In the case of assets in the form of the 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 outside the territory of NKRI, which are transferred into the territory of NKRI and shall be invested in the framework of tax amnesty.

(3a) The transfer of assets as meant in paragraph (3) shall be proven by the authorized authorities.

(4) The investment inside the territory of NKRI as meant in paragraph (2) and paragraph (3) shall be realized in no faster than 3 (three) years as from the transfer of the funds by taxpayer into special account through perception bank appointed by the minister as Gateway in the framework of tax amnesty.

3. A new article is supplemented between Article 3 and Article 4 to become Article 3A, which reads as follows:

## Article 3A

- (1) In the case of the funds as meant in Article 3 paragraph (3) being already invested into the territory of NKRI in the form of the investment already governed in Law Number 11 Year 2016 on Tax Amnesty, the investment shall have the management transferred through Gateway.
  - (2) In the case of the investment executed by taxpayer as meant in paragraph (1) being placed in investment instrument in the financial market, the investment shall be transferred to account specially designed for gateway in the interest of investment.
  - (3) The investment as meant in paragraph (1) shall be done in no faster than 3 (three) years as from the transfer of the investment to the special account as meant in paragraph (2).
  - (4) In the case of the investment executed by taxpayer paragraph (1) being placed in investment outside the financial market, the investment shall follow the provision in Regulation of the Minister of Finance on Procedures for Transferring Assets of Taxpayer into the territory of the Unitary State of the Republic of Indonesia and Placement in Investment outside the Financial Market in the framework of tax amnesty.
4. The provisions in paragraph (2), paragraph (4), and paragraph (5) of Article 6 are amended and four new paragraphs are supplemented between paragraph (3) and paragraph (4) to become paragraph (3a), paragraph (3b), paragraph (3c), and paragraph (3d) so that Article 6 reads as follows:

## Article 6

- (1) The transferred funds as meant in Article 5 shall be invested in the form of:
  - a. SBN of the Republic of Indonesia;
  - b. bond of state-owned business entity;
  - c. bond of state-owned financing institution;
  - d. financial investment at perception bank;
  - e. private company bond having trade supervised by the Financial Service Authorities;
  - f. infrastructure investment through public and private partnership;
  - g. real sector investment on the basis of priorities determined by the government; and/or
  - h. other legal investment form according to the provision of legislation.
- (2) The investment as meant in paragraph (1) letter a, letter b, letter c, letter d, letter e, and letter h, shall be placed in the following investment instruments:
  - a. debt equity stock, including Medium Term Notes;



- b. sukuk;
- c. share;
- d. participating unit of mutual funds;
- e. asset-backed stocks;
- f. participating unit of real estate investment funds;
- g. deposit;
- h. saving;
- i. giro;
- j. future contracts traded at future exchange in Indonesia; and/or
- k. other financial market investment instrument, including insurance product linked to investment, financing company, pension funds or venture capital securing approval from the Financial Service Authorities.

(3) The placement in the investment instruments as meant in paragraph (2) shall be done through Gateway.

(3a) The investment by taxpayer in the investment instrument as meant in paragraph (2) shall be placed at account specially designed for gateway in the interest of investment as meant in Article 3A paragraph (2) and/or Indonesia Stock Central Custodian.

(3b) The account specially designed for gateway in the interest of investment shall consist of account of funds, account of stocks and/or account of customer funds.

(3c) The investment by taxpayer in the investment instrument as meant in paragraph (2) may not be transferred to other country before the period as meant in Article 3 paragraph (4) expires.

(3d) Procedures for investing in the investment instruments as meant in paragraph (2) letter j shall follow the provision and regulation on future contract exchange in Indonesia.

(4) Procedures for investing in the investment instrument as meant in paragraph (2) letter a, letter b, letter c, letter d, letter e, letter f, letter g, letter h, letter i, and letter k shall follow the effective procedures and provisions in each Gateway.

(5) The investment as meant in paragraph (1) letter f and letter g as well as letter h, which has not been regulated in this regulation shall be regulated separately in a ministerial regulation ruling procedures for the transfer of assets of taxpayers into the territory of the Unitary State of the Republic of Indonesia and placement in investment outside the financial market in the framework of tax amnesty.

5. Two articles are supplemented between Article 6 and Article 7 to become Article 6A and Article 6B, which read as follows:

#### Article 6A

- (1) Profit resulting from the investment in the placement in the investment instruments as meant in Article 6 paragraph (2) may be withdrawn in every first quarter of the following year or when the minimum investment period as from the placement of funds in special account expires.
- (2) The withdrawable profit as meant in paragraph (1) shall constitute a positive difference of the initial investment value in Gateway, after costs spent in investment are included.

#### Article 6B

- (1) The change in investment instruments and gateway may be executed by taxpayer before the expiration of the investment period for 3 (three) years.
- (2) In the case of taxpayers changing in investment instrument, the placement of investment shall continue to be executed through account specially designed for gateway in the interest of investment.
- (3) In the case of taxpayer changing in investment between gateway, the taxpayer shall submit information to new gateway by enclosing certificate of investment history issued by 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 at perception bank;
  - d. date of transfer and nominal value of the funds transferred to special account at perception bank;
  - e. final balance of the value of investment in old gateway;
  - f. objective of new gateway; and
  - g. the value of investment transferred to new gateway.

6. The provision in paragraph (1) of Article 8 is amended and a new paragraph is supplemented between (1) and paragraph (2) to become paragraph (1a) so that Article 8 reads as follows:

#### Article 8

- (1) In order to secure the appointment as Gateway as meant in Article 6 paragraph (3), Bank, investment manager and/or broker of stock traders shall meet the following criteria:
  - a. In the case of bank:

- 1) constituting perception bank stipulated by the Minister and coming into the category of commercial bank of Business Class 4 or Commercial Bank of Business Class 3;
  - 2) besides the requirement as meant in point 1), perception bank is obliged to:
    - a) secure approval to undertake consignment activity with management (trust);
    - b) have letter of approval of bank as custodian from the Financial Service Authorities; and/or
    - c) become administrator of customer fund account; and
  - 3) besides the requirements as meant in point 1) and point 2), especially for bank not having Indonesia legal entity, submitting letter of statement signed by the authorized official of the head office or branch office in Indonesia, which contains:
    - a) approval from the head office to act as Gateway;
    - b) commitment of the head office to not undertaking activity impeding the implementation of tax amnesty in the country and abroad; and
    - c) the readiness of head office to bear the whole consequences if the bank is proven to commit activity impeding the implementation of tax amnesty in the country and abroad.
- b. in the case of investment manager:
- 1) Investment manager has to:
    - a) be owned by BUMN or subsidiary of BUMN;
    - b) manage the managed funds up to top ten rating for the last reporting period, other than investment manager owned by BUMN or subsidiary of BUMN;
    - c) manage mutual funds in the form of collective investment contract of limited participation with real sector project underlying with the managed funds minimally Rp 200,000,000,000 (two hundred billion rupiah); or
    - d) manage real estate investment funds in the form of collective investment contract.
  - 2) Besides the requirement as meant in point 1), investment manager has never been subject to administrative sanction in the form of the restriction of business activity by the Financial Service Authorities in the last one year before the enforcement of this regulation.
- c. in the case of broker of stock trader:
- 1) having registered as member of the Indonesia Stock Exchange;
  - 2) never subject to administrative sanction in the form of the freezing of business activity by the Financial Service Authorities and/or suspension by the Indonesia Stock Exchange in the last one year before the enforcement of this ministerial regulation;



- 3) already serving retail customers having customer fund account before the enforcement of this regulation;
- 4) already securing operating profit in the basis of the annual financial statement of 2015, for principal entity alone;
- 5) having the average adjusted new working capital minimally Rp75,000,000,000 (seventy five billion rupiah) in 2015; and
- 6) having positive equity in the last 3 (three) years before the enforcement of this regulation.

(1a) The Minister shall appoint bank, investment manager and broker of stock traders by considering:

- a. the fulfillment of the criteria as meant in paragraph (1);
- b. the quantity of Gateway needed by the government; and/or
- c. the effectiveness of the realization of funds investment transferred from outside the territory of NKRI into the territory of NKRI.

(2) The appointment of bank, investment manager and broker of stock trader as Gateway shall be done by the minister.

7. The provision of Article 9 is amended so as to ready as follows:

#### Article 9

(1) Gateway shall have obligation as follows:

- a. providing special account and/or sub-special account for taxpayers investing funds into the territory of NKRI in the framework of tax amnesty;
- b. reporting the special account and/or sub-special account as meant in letter a to the Directorate General of Taxation;
- c. ascertaining that the funds transferred from outside the territory of NKRI are invested into the territory of NKRI;
- d. ascertaining the placement of funds by taxpayer in the investment instrument as meant in Article 6 paragraph (2);
- e. ascertaining the investment as meant in Article 6 paragraph (2) and/or the underlying assets in the form of:

- 1) investment instruments issued in the territory of NKRI; and/or
- 2) SBN of the Republic of Indonesia, or debt equity stock /Sukuk issued by BUMN or subsidiary of BUMN in foreign current on the international maiden market and/or traded on the secondary

market, which is managed by custodian in the territory of NKRI;

- f. ascertaining that funds resulting from the issuance of investment instrument as meant in Article 6 paragraph (2) letter a, letter b, letter c, letter d, letter e, letter f, letter j, and/or letter k, are used in the territory of NKRI, in the case of taxpayer investing through the maiden market;
- g. formulating and signing investment agreement documents with taxpayer, covering:
  - 1) agreement on requirement for the opening of account for bank;
  - 2) agreement on the opening of account for investment in investment portfolio through collective investment contract or fund management contract, in the case of investment manager; or
  - 3) agreement on the opening of customer stock account in the case of broker of stock trader;
- h. reporting the investment position of taxpayer to the Directorate General of Taxation periodically and the transfer of investment between Gateway;
- i. avoiding/not committing activity impeding the implementation of tax amnesty in the country and abroad;
- j. preparing certificate of investment history and submitting it to taxpayer in the case of taxpayer transferring investment between Gateway; and
- k. transferring funds of taxpayer into special account in Gateway in accordance with choice of taxpayer, in the case of gateway having the appointment revoked by the Minister.

(2) The investment agreement documents as meant in paragraph (1) letter g, shall contain at least the following provision:

- a. investment may only be done in investment instruments issued in the territory of NKRI and/or investment in SBN of the Republic of Indonesia or debt equity stock/Sukuk issued by BUMN or subsidiary of BUMN in foreign current on the international maiden market and/or traded on the secondary market, which is managed by custodian in the territory of NKRI;
- b. abolished; and
- c. clause with regards to the approval of taxpayer to gateway to fulfill the provision on the transparency of data and information to the authorized party or related party in the framework of taxpayer investment.

(3) In order to support the smooth execution of tax amnesty program, Gateway shall socialize investment instruments in the framework of tax amnesty.

8. The provision of paragraph (1) of Article 10 is amended and five paragraphs are supplemented between

paragraph (1) and paragraph (2) to become paragraph (1a), paragraph (1b), paragraph (1c), paragraph (1d), and paragraph (1e) so that Article 10 reads as follows:

#### Article 10

(1) Gateway shall submit report to the Directorate General of Taxation about:

- a. the opening of special account at perception bank appointed as Gateway and the transfer of funds into the account;
- b. the opening of account specially designed for Gateway in the interest of investment and the transfer of investment instrument to the account; and
- c. the investment position of taxpayer:

1) every month; and/or

2) any change in the transfer of investment between Gateway.

(1a) The report on the opening of special account and the transfer of funds as meant in paragraph (1) letter a shall be submitted in no later than 5 (five) working days in the following month.

(1b) The report on the opening of account specially designed for gateway and the transfer of the investment instrument as meant in paragraph (1) letter b shall be submitted in no later than 5 (five) working days in the ensuing month, in the case of taxpayer already investing the assets as meant in Article 3 paragraph (1).

(1c) The report on the investment position as meant in paragraph (1) letter c point 1) shall be in the form of report on the investment position of taxpayer as of the last working day every month and submitted in no later than 5 (five) working day in the following month.

(1d) The report on the transfer of investment between Gateway as meant in paragraph (1) letter c point 2) shall be submitted in no later than 5 (five) working days after the assets are transferred into the new gateway.

(1e) The report as meant in paragraph (1) shall be made in accordance with specimen of format as contained in the attachment constituting an integral part of this regulation.

(2) The report as meant in paragraph (1) shall be prepared by Gateway for 3 (three) years as from the transfer of funds by taxpayer into special account through the perception bank as meant in Article 3 paragraph (4).

(3) The report submitted by gateway may be used as substance for the Directorate General of Taxation to monitor to the realization of investment executed by taxpayer during the investment period as meant in paragraph (2).

## Article II

The ministerial 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 YEAR 2016 NUMBER 1162

Editor's note:

- Due to technical reason, the attachment is not published.

(R)