

TAX AMNESTY ON THE BASIS OF LAW NUMBER 11 YEAR 2016 ON TAX AMNESTY FOR TAXPAYERS HAVING INDIRECT ASSETS THROUGH SPECIAL PURPOSE VEHICLE (Regulation of the Minister of Finance Number 127/PMK.010/2016, dated August 23, 2016)

BY GRACE OF GOD THE ALMIGHTY
THE MINISTER OF FINANCE OF
THE REPUBLIC OF INDONESIA,

Minister of Finance on Tax Amnesty on the basis of
Law Number 11 Year 2016 on Tax Amnesty for
Taxpayers Having Indirect Assets through Special
Purpose Vehicle;

Considering:

- a. that the provision on the implementation of Law Number 11 Year 2016 on Tax Amnesty has been regulated in Regulation of the Minister of Finance Number 118/PMK.03/2016 on the Implementation of Law Number 11 Year 2016 regarding Tax Amnesty;
- b. that in the framework of providing better legal certainty about tax amnesty on the basis of Law Number 11 Year 2016 on Tax Amnesty for Taxpayers having indirect assets through special purpose vehicle, it is necessary to regulate separately the issue by a regulation of the Minister of Finance;
- c. that having regards to letters a, b and c and in order to implement the provision of Article 24 letter a of Law Number 11 Year 2016 on Tax Amnesty, it is necessary to stipulate a regulation of the Min-

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);

D E C I D E S :

To stipulate:

REGULATION OF THE MINISTER OF FINANCE ON
TAX AMNESTY ON THE BASIS OF NUMBER 11 YEAR
2016 ON TAX AMNESTY FOR TAXPAYERS HAVING
INDIRECT ASSETS THROUGH SPECIAL PURPOSE
VEHICLE.

Article 1

Referred to in this ministerial regulation as:

1. Tax Amnesty Law shall be Law Number 11 Year 2016 on Tax Amnesty.
2. 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.
3. Taxpayer shall be individual person or entity having taxation right and obligation in accordance with the provision of taxation legislation.
4. 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.
5. Liabilities shall be the amount of principal debt not yet paid, related directly to the acquisition of assets.
6. Redemption Money shall be a specified amount of money paid to the state cash in order to secure tax amnesty.
7. 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.
8. The last Annual Income Tax Return hereinafter called the last SPT PPh shall be:
 - a. Annual Income Tax Return of Tax Year 2015, in the case of taxpayer having the book year ending in the period of July 1, 2015 up to December 31, 2015; or
 - b. Annual Income Tax Return of Tax Year 2014 in the case of taxpayer having book year ending in the period of January 1, 2015 up to June 30, 2015.

Article 2

- (1) Every taxpayer shall reserve a right to secure the tax amnesty as meant in the tax amnesty law.
- (2) The tax amnesty as meant in paragraph (1) shall be granted to taxpayer through the declaration of their assets in a letter of statement.
- (3) The definition of the declared assets as meant in paragraph (2) shall include
 - a. assets inside the territory of the Unitary State of the Republic of Indonesia, which are owned by taxpayers indirectly through special purpose vehicle;
 - b. assets outside the territory of the Unitary State of the Republic of Indonesia which are owned indirectly by taxpayers through special purpose vehicle;
- (4) The special purpose vehicle as meant in paragraph (3) shall constitute an intermediary company which:
 - a. is established solely to perform special function in the interest of the founder, such as the purchase

and/or financing of investment; and

b. does not undertake active business activity.

Article 3

- (1) Taxpayers submitting the letter of statement containing the declaration of assets as meant in Article 2 paragraph (3) shall declare the ownership of the assets along with liabilities directly related to the acquisition of assets, which are declared in attachment to the submitted letter of statement.
- (2) In the framework of the declaration of the asset ownership s meant in paragraph (1):
 - a. in the case of taxpayers not yet reporting assets in the form of the share ownership in the established special purpose vehicle in the last SPT PPh, the value of assets owned by the taxpayers indirectly through special purpose vehicle shall be as much as the value of assets owned indirectly by the taxpayers through the special purpose vehicle;
 - b. in the case of taxpayers already reporting assets in the form of the share ownership in the established special purpose vehicle in the last SPT PPh, the value of additional assets owned by the taxpayers indirectly through special purpose vehicle shall be as much as the value of assets owned indirectly by the taxpayers through the special purpose vehicle subtracted by the value of share ownership in the special purpose vehicle, which has been reported in the last SPT PPh multiplied by the value proportion of each asset indirectly owned through SPV.
- (3) In the case of the indirect assets through special purpose vehicle being owned by more than one taxpayer, the value of assets for each taxpayer along with liabilities directly related to the assets declared by the taxpayer shall be counted proportionally in accordance with the portion of ownership of each taxpayer in the special purpose vehicle.
- (4) In the case of taxpayer granting loan to the established special purpose vehicle , assets recorded by taxpayer and liabilities recorded by t special purpose vehicle shall be negated.
- (5) In the case of:
 - a. taxpayer having assets directly or indirectly through special purpose vehicle in the form of funds placed in the third party; and
 - b. the third party granting debt directly or indirectly to taxpayer through special purpose vehicle, the value of the assets as meant in letter b may be subtracted from the value of the assets as meant in letter f to determine the net asset value as the basis for the calculation of redemption money.

Article 4

- (1) The rate of redemption money for the assets owned indirectly by taxpayer through special purpose vehicle as meant in Article 2 paragraph (3) shall be as much as the rate as meant in:
- Article 4 paragraph (1) of tax amnesty law, in the case of:
 - the assets as meant in Article 2 paragraph (3) letter a; and/or
 - the assets as meant in Article 2 paragraph (3) letter b, which are transferred into the territory of the Unitary State of the Republic of Indonesia and invested into the territory of the Unitary State of the Republic of Indonesia in no faster than 3 (three) years as from the transfer; or
 - Article 4 paragraph (2) of the tax amnesty law, in the case of the assets as meant in Article 2 paragraph (3) letter b being not transferred into the territory of the Unitary State of the Republic of Indonesia and being not invested into the territory of the Unitary State of the Republic of Indonesia.
- (2) The amount of the redemption money for the assets owned by taxpayer indirectly through special purpose vehicle as meant in Article 2 paragraph (3) shall be counted by multiplying the rate as meant in paragraph (1) with the basis for the imposition of redemption money, as meant in Article 5 of the tax amnesty law.

Article 5

- (1) Taxpayers submitting letter of statement by declaring the whole assets owned by the taxpayers indirectly through special purpose vehicle as meant in Article 2 paragraph (3) shall dissolve or release the ownership right to special purpose vehicle by transferring the right to the assets:
- from previously in the name of special purpose vehicle to become in the name of taxpayer submitting the letter of statement; or
 - from previously in the name of special purpose vehicle to become in the name of legal entity in Indonesia through asset transferring process using book value.
- (2) The legal entity in Indonesia as meant in paragraph (1) letter b shall be legal entity in the form of limited liability company having share owned by the same taxpayer as the taxpayer submitting letter of statement by declaring the while whole assets owned by the taxpayers indirectly through special purpose vehicle as meant in Article 2 paragraph (3).
- (3) The transfer of the right to the assets as meant in paragraph (1), shall be declared in attachment to letter of statement by providing information or explanation related to the transferring process of the assets.

Article 6

(1) The transfer of right to the assets as meant in Article 5 paragraph (1) in the form of:

- a. immovable assets in the form of land and/or building in Indonesia; and/or
- b. share,

shall be exempted from income tax in the case of agreement on the transfer of right to the assets being signed in no later than December 31, 2017.

(2) If the agreement on the transfer of right as meant in paragraph (1) is signed after December 31, 2017, the transfer of the right shall be subject to tax in accordance with the provision of income tax legislation.

Article 7

In the case of tax amnesty for taxpayers having indirect assets through special purpose vehicle that fails to meet the provision as meant in Article 2 paragraph (4), the provision as meant in Regulation of the Minister of Finance Number 118/PMK.03/2016 on the implementation of Law Number 11 Year 2016 on Tax Amnesty along with the amendment thereto shall apply.

Article 8

Procedures for the granting of tax amnesty, obligation to invest the declared assets, reporting, legal measures as well as data and information management for taxpayers having indirect assets through

special purpose vehicle as meant in this regulation shall refer to Regulation of the Minister of Finance Number 118/PMK.03/2016 on the Implementation of Law Number 11 Year 2016 regarding Tax Amnesty along with the amendment thereto.

Article 9

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 23, 2016

THE MINISTER OF FINANCE OF
THE REPUBLIC OF INDONESIA

sgd

SRI MULYANI INDRAWATI

Promulgated in Jakarta

On August 23, 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 1238

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