

SECOND ROUND OF AMENDMENT TO REGULATION OF THE FINANCE MINISTER NO.119/PMK.08/2016 CONCERNING THE PROCEDURE OF TRANSFERRING TAXPAYERS' WEALTH TO THE UNITARY STATE OF THE REPUBLIC OF INDONESIA AND ITS PLACEMENT IN INVESTMENT INSTRUMENT IN THE FINANCIAL MARKET WITHIN THE FRAMEWORK OF TAX AMNESTY PROGRAM

(Regulation of the Finance Minister of the Republic of Indonesia No. 150/PMK.08/2016 dated September 30, 2016)

BY THE GRACE OF ALMIGHTY GOD

THE FINANCE MINISTER OF THE REPUBLIC OF INDONESIA,

Considering :

- a. that based on Regulation of the Finance Minister No. 119/PMK.08/2016 concerning the Procedure of Transferring Taxpayers' Wealth to the Unitary State of the Republic of Indonesia and Its Placement in Investment Instrument in the Financial Market within the Framework of Tax Amnesty Program as already amended by Regulation of the Finance Minister No. 123/PMK.08/2016 concerning Amendment to Regulation of the Finance Minister No. 119/PMK.08/2016 concerning the Procedure of Transferring Taxpayers' Wealth to the Unitary State of the Republic of Indonesia and Its Placement in Investment Instrument in the Financial Market within the Framework of Tax Amnesty Program, provisions on the procedure of transferring taxpayers' wealth to the Unitary State of the Republic of Indonesia and Its placement in investment instrument in the financial market within the framework of Tax Amnesty Program have been stipulated;
- b. that to provide provisions on the transfer of taxpayers' wealth to the Unitary State of the Republic of Indonesia in the form of other than funds, the transfer of wealth in the form of funds done in stages to the Unitary State of the Republic of Indonesia, the disbursement of credit collateral by banks for default taxpayers, and the need to improve provisions on the withdrawal of investment gains by taxpayers, it is necessary to amend the Regulation of the Finance Minister as referred to in letter a;
- c. that based on the considerations as referred to in letters a and b, it is necessary to stipulate Regulation of

the Finance Minister concerning the Second Round of Amendment to Regulation of the Finance Minister No. 119/PMK.08/2016 concerning the Procedure of Transferring Taxpayers' Wealth to the Unitary State of the Republic of Indonesia and Its Placement in Investment Instrument in the Financial Market within the Framework of Tax Amnesty Program;

In view of :

Regulation of the Finance Minister No. 119/PMK.08/2016 concerning the Procedure of Transferring Taxpayers' Wealth to the Unitary State of the Republic of Indonesia and Its Placement in Investment Instruments in the Financial Market within the Framework of Tax Amnesty Program (State Gazette of the Republic of Indonesia of 2016 No. 1046) as already amended by Regulation of the Finance Minister No. 123/PMK.08/2016 concerning Amendment to Regulation of the Finance Minister No. 119/PMK.08/2016 concerning the Procedure of Transferring Taxpayers' Wealth to the Unitary State of the Republic of Indonesia and Its Placement in Investment Instruments in the Financial Market within the Framework of Tax Amnesty Program (State Gazette of the Republic of Indonesia of 2016 No. 1162);

DECIDES :

To stipulate :

REGULATION OF THE FINANCE MINISTER CONCERNING THE SECOND ROUND OF AMENDMENT TO REGULATION OF THE FINANCE MINISTER NO. 119/PMK.08/2016 CONCERNING THE PROCEDURE OF TRANSFERRING TAXPAYERS' WEALTH TO THE UNITARY STATE OF THE REPUBLIC OF INDONESIA AND ITS PLACEMENT IN INVESTMENT INSTRUMENT IN THE FINANCIAL MARKET WITHIN THE FRAMEWORK OF TAX AMNESTY PROGRAM.

Article I

Several provisions in Regulation of the Finance Minister No. 119/PMK.08/2016 concerning the Procedure of Transferring Taxpayers' Wealth to the Unitary State of the Republic of Indonesia and Its Placement in Investment Instruments in the Financial Market within the Framework of Tax Amnesty Program (State Gazette of the Republic of Indonesia of 2016 No. 1046) as already amended by Regulation of the Finance Minister No. 123/PMK.08/2016 concerning Amendment to Regulation of the Finance Minister No. 119/PMK.08/2016 concerning the Procedure of Transferring Taxpayers' Wealth to the Unitary State of the Republic of Indonesia

and Its Placement in Investment Instruments in the Financial Market within the Framework of Tax Amnesty Program (State Gazette of the Republic of Indonesia of 2016 No. 1162), shall be amended as follows:

1. Provisions in paragraphs (1), (1a), (2), (3), (3a) and (4) of Article 3 shall be amended, in-between paragraphs (1a) and (2), 2 (two) paragraphs, namely paragraphs (1b) and (1c) shall be inserted, and 2 (two) paragraphs, namely paragraph (5) and (6) shall be added, so that the article reads as follows:

Article 3

(1) If the wealth disclosed is located outside the territory of the Unitary State of the Republic of Indonesia (NKRI) as referred to in Article 2 paragraph (2) letter b, taxpayers can transfer the wealth to the territory of NKRI.

(1a) If the wealth transferred by taxpayers to the territory of NKRI as referred to in paragraph (1) covers but is not limited to:

- a. fund; and/or
- b. investment in the form of stocks (bonds/sukuk) issued by the Indonesian government or issuer in foreign currency in the international primary market and/or traded in the secondary market.

(1b) The wealth in the form of fund as referred to in paragraph (1a) letter a shall be transferred to the special account at the perception bank appointed as the same gateway, and can be transferred in stages by taxpayers according to the deadline for transfer as provided for in Law No. 11/2016 concerning Tax Amnesty.

(1c) The transfer of wealth as referred to in paragraph (1a) letter b, shall be done by transferring its administration from the custodian outside the territory of NKRI to the custodian of the perception bank appointed as a gateway.

(2) If wealth in the form of fund as referred to in paragraph (1a) letter a is transferred to the territory of NKRI, the wealth shall be invested by taxpayers in the territory of NKRI.

(3) If wealth in the form of fund as referred to in paragraph (1a) letter a has been placed by taxpayers in the territory of NKRI:

- a. after December 31, 2015 until Law No. 11/2016 concerning Tax Amnesty was put into force, the wealth may be treated as wealth located in the territory of NKRI;
- b. after Law No. 11/2016 concerning Tax Amnesty was put into force until before a Written Statement was issued, the wealth shall be treated as wealth located outside the territory of NKRI transferred to the territory of NKRI and shall be invested within the framework of tax amnesty program.

(3a) The transfer of wealth as referred to in paragraph (3) shall be proven by :

- a. the bank receiving the transfer of taxpayers' fund from outside the territory of NKRI; and
- b. the authorized agency, if needed.

(4) The period of investment in the territory of NKRI for:

- a. fund transferred to the territory of NKRI as referred to in paragraphs (2 and (3) letter b; and
- b. fund as referred to in paragraph (3) letter a, if the fund is treated as fund transferred to the territory of NKRI, shall be a minimum of 3 (three) years since the fund was transferred by taxpayers to the special account through the perception bank appointed as a gateway within the framework of tax amnesty program.

(5) The period of investment in the territory of NKRI as referred to in paragraph (1a) letter b shall be a minimum of 3 (three) years since taxpayers transferred the administration of the wealth to the custodian of the perception bank appointed as a gateway.

(6) If the transfer of wealth in the form of fund is done in stages as referred to in paragraph (1b), the minimum investment period of 3 (three) years shall be calculated after the nominal value of fund contained in the Written Statement has been entirely paid by taxpayers to the special account at the perception bank appointed as a gateway within the framework of transferring taxpayers' wealth.

2. In-between Articles 3A and 4, 2 (two) articles, namely Articles 3B and 3C shall be inserted as follows:

Article 3B

(1) Taxpayers that have received a Written Statement containing wealth in the form of fund as wealth located outside the territory of NKRI and has been placed in the territory of NKR after December 31, 2015 until before Law No.11/2016 concerning Tax Amnesty was put into force as referred to in Article 3 paragraph (3) letter a, can choose to decide the wealth as wealth located :

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

(2) Taxpayers that choose to decide wealth as wealth located in the territory of NKRI as referred to in paragraph (1) letter b, shall file an application for the correction of Written Statement to the Director General of Taxation.

(3) The procedure of making correction and the period of completing a letter of correction are to be provided for in a Regulation of the Director General of Taxation.

Article 3C

- (1) If fund transferred in stages to the territory of NKRI has been entirely paid by taxpayers to the special account as referred to in Article 3 paragraph (6), the perception bank appointed as a gateway where the taxpayers transfer fund shall send a letter of notification to the taxpayers stating that the transferred fund has been entirely paid by the taxpayers to the special account.
 - (2) If taxpayers transfer investment to other gateway, the taxpayers shall send a letter of notification as referred to in paragraph (1) to the gateway.
3. Provisions in paragraphs (1), (2), (3), (4) and (5) of Article 4 shall be amended, in-between paragraphs (1) and (2), 2 (two) paragraphs, namely paragraphs (1a) and (1b) shall be inserted, so that the article reads as follows:

Article 4

- (1) If taxpayers transfer wealth in the form of fund as referred to in Article 3 paragraph (1a) letter a, the transfer of wealth shall be done by transferring fund to the territory of NKRI through a special account.
 - (1a) The special account as referred to in paragraph (1) shall be opened by taxpayers at the perception bank appointed as a gateway.
 - (1b) The transfer of wealth in the form of fund to the territory of NKRI through a special account as referred to in paragraph (1) shall be done after the taxpayers receive a Written Statement from the Directorate General of Taxation.
- (2) The opening of special account as referred to in paragraph (1a) shall be done according to the regulation and/or rule issued by the related authority.
- (3) The transfer of fund by taxpayers can be done through the perception bank appointed as a gateway located in the territory of NKRI or branch office located outside the territory of NKRI.
- (4) The branch office located outside the territory of NKRI as referred to in paragraph (3) shall transfer taxpayers' fund to the perception bank appointed as a gateway located in the territory of NKRI no later than the following working day.
- (5) The perception bank appointed as a gateway shall send a report to the Directorate General of Taxation regarding the opening of special account as referred to in paragraph (1a).

4. Provisions in Article 6A shall be amended, so that the article reads as follows:

Article 6A

(1) Gains on investment in instrument as referred to in Article 6 paragraph (2) can be withdrawn by taxpayers anytime.

(2) Gains that can be withdrawn as referred to in paragraph (1) shall be a surplus of initial investment value for each type of investment in a gateway, after calculating costs incurred in investment.

5. Provisions in paragraphs (2) and (4) of Article 6B shall be amended, and 1 (one) paragraph, namely paragraph (5) shall be added to it so that the article reads as follows:

Article 6B

(1) The movement from one investment instrument to another and the movement from one gateway to another can be done by taxpayers before an investment period of 3 (three) years ends.

(2) If taxpayers move from one investment instrument to another, the placement of investment shall constantly be done through an account specially made for the purpose of investment.

(3) If taxpayers move from one gateway to another, the taxpayers shall file information to the new gateway by enclosing the history of investment issued by the previous gateway.

(4) The history of investment as referred to in paragraph (3) shall contain at least :

- a. name of taxpayer;
- b. taxpayer code number;
- c. no. of taxpayer's special account in the perception bank appointed as a gateway when fund is transferred to the territory of NKRI;
- d. date of transfer of fund to the special account at the perception bank appointed as a gateway;
- e. recapitulation of dates of transfer and types of investment transferred from the previous gateway;
- f. destination gateway; and
- g. investment or nominal value of fund transferred from the previous gateway.

(5) The format of the history of investment as referred to in paragraph (4) is contained in Attachment I which is an integral part of this Ministerial Regulation.

6. 1 (one) paragraph, namely paragraph (3) shall be added to Article 7 so that the article reads as follows:

Article 7

(1) Investment made by taxpayers in the investment instrument as referred to in Article 6 paragraph (2) can be used as a collateral for credit facilities from the bank appointed by the Minister as a gateway.

(2) Approval to provide the credit facilities as referred to in paragraph (1) shall follow provisions prevailing at the bank appointed by the Minister as a gateway.

(3) Investment used as a collateral for credit facilities as referred to in paragraph (1) can be disbursed by the bank appointed as a gateway if the taxpayers are default.

7. Provisions in paragraphs (1) and (2) of Article 9 shall be amended so that the article reads as follows:

Article 9

(1) A gateway has the obligation to :

- a. provide special accounts and/or accounts specially made for the purpose of investment for taxpayers investing fund in the territory of NKRI within the framework of tax amnesty program;
- b. report the opening of special accounts and/or accounts specially made for the purpose of investment as referred to in letter a to the Directorate General of Taxation;
- c. ensure that fund transferred from outside the territory of NKRI has been invested in the territory of NKRI;
- d. ensure that fund has been placed by taxpayers in investment instrument as referred to in Article 6 paragraph (2);
- e. ensure that the investment as referred to in Article 6 paragraph (2) and/or underlying asset are in the form of :
 - 1) investment instrument issued in the territory of NKRI; and/or
 - 2) investment in the form of stocks (bond/sukuk) issued by the Indonesian government or issuer in foreign currency in the international primary market and/or traded in the secondary market;

f. ensure

to be continued

(S)