

AMENDMENT TO REGULATION OF THE FINANCE MINISTER NO. 122/PMK.08/2016 CONCERNING THE PROCEDURE OF TRANSFERRING TAXPAYERS' WEALTH TO THE UNITARY STATE OF THE REPUBLIC OF INDONESIA AND ITS PLACEMENT IN INVESTMENT OUTSIDE THE FINANCIAL MARKET WITHIN THE FRAMEWORK OF TAX AMNESTY PROGRAM
(Regulation of the Finance Minister of the Republic of Indonesia No. 151/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. 122/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 outside 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 outside the financial market within the framework of Tax Amnesty Program have been stipulated;
- b. that to accommodate provisions on the transfer of taxpayers' wealth other than that in the form of fund to the territory of the Unitary State of the Republic of Indonesia (NKRI), the transfer of wealth in the form of fund done in stages to the territory of NKRI, the disbursement of credit collateral by bank for default taxpayers, investment through capital participation in limited liability companies in the territory of NKRI, the use of capital participation fund in limited liability companies according to corporate policies, and the need to revise 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 Amendment to Regulation of the Finance Minister No. 122/

PMK.08/2016 concerning the Procedure of Transferring Taxpayers' Wealth to the Unitary State of the Republic of Indonesia (NKTI) and Its Placement in Investment Instrument outside the Financial Market within the Framework of Tax Amnesty Program

In view of :

Regulation of the Finance Minister No. 122/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 outside the Financial Market within the Framework of Tax Amnesty Program (State Gazette of the Republic of Indonesia of 2016 No. 1061);

DECIDES :

To stipulate :

REGULATION OF THE FINANCE MINISTER CONCERNING AMENDMENT TO REGULATION OF THE FINANCE MINISTER NO. 122/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 OUTSIDE THE FINANCIAL MARKET WITHIN THE FRAMEWORK OF TAX AMNESTY PROGRAM.

Article I

Several provisions in Regulation of the Finance Minister No. 122/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 outside the Financial Market within the Framework of Tax Amnesty Program (State Gazette of the Republic of Indonesia of 2016 No. 1061) , shall be amended as follows:

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

Article 3

- (1) If the wealth disclosed is located outside the territory of NKRI as referred to in Article 2 paragraph (2)

letter b, taxpayers can transfer the wealth to the territory of NKRI.

(1a) 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.

(2) 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.

(2a) 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.

(3) 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.

(4) 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.

(4a) The transfer of wealth as referred to in paragraph (4) 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.

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

a. fund transferred to the territory of NKRI as referred to in paragraphs (3) and (4) letter b; and

b. fund as referred to in paragraph (4) 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.

- (5a) 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.
- (5b) If the transfer of wealth in the form of fund is done in stages as referred to in paragraph (2), 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.
- (6) The perception bank appointed as a gateway for investment outside the financial market as referred to in paragraph (5) shall be a bank already appointed as a gateway by the Minister in the financial market.

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

Article 3A

- (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 NKRI after December 31, 2015 until before Law No.11/2016 concerning Tax Amnesty was put into force as referred to in Article 3 paragraph (4) letter a, can choose to decide the wealth as wealth located :
- outside the territory of NKRI; or
 - 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 3B

- (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 (5b), 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), (3), (4), (5) and (6) of Article 5 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 5

- (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) If taxpayers have opened a special account to transfer fund from outside the territory of NKRI based on Regulation of the Finance Minister concerning the Procedure of Transferring Taxpayers' Wealth to the territory of NKRI and its placement in investment instrument in the financial market within the framework of tax amnesty and its amendment, the taxpayers shall use the special account to receive the transfer of fund from outside the territory of NKRI.
- (3) 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.
- (4) 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.
- (5) The branch office located outside the territory of NKRI as referred to in paragraph (4) 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.
- (6) 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 paragraph (4) of Article 7 shall be amended, and 1 (one) paragraph, namely paragraph (5) shall be added to it so that the article reads as follows:

Article 7

- (1) The movement from one perception bank appointed as a gateway to another can be done by taxpayers

- before an investment period of 3 (three) years as referred to in Article 3 paragraph (5) ends.
- (2) If taxpayers transfer fund from one perception bank appointed as a gateway as referred to in paragraph (1) to another, the placement of fund shall constantly be done through a special account at the perception bank appointed as a gateway.
- (3) If taxpayers transfer fund from one perception bank appointed as a gateway to another, the taxpayers shall file information to the perception bank appointed as a new gateway by enclosing the history of investment issued by the perception bank appointed as the previous gateway.
- (4) The history of investment as referred to in paragraph (3) shall contain at least :
- name of taxpayer;
 - taxpayer code number;
 - no. of taxpayer's special account in the perception bank appointed as a gateway when fund is transferred to the territory of NKRI;
 - date of transfer of fund to the special account at the perception bank appointed as a gateway;
 - recapitulation of dates of transfer and types of investment transferred from the previous gateway;
 - destination gateway; and
 - 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.

5. Provisions in paragraph (1) of Article 8 shall be amended and in-between paragraphs (1) and (2), 1 (one) paragraph, namely paragraph (1a) shall be inserted so that the article reads as follows:

Article 8

- (1) The investment as referred to in Article 6 paragraph (1) letters b and d shall be made through the mechanism of capital participation to a company in the form of limited liability company.
- (1a) The fund from the capital participation as referred to in paragraph (1) can be used by the executive board of company according to its policy.
- (2) The sectors which become the priority of the government for investment in the real sector as referred to in Article 6 paragraph (1) letter b cover the sectors contained in the Medium-Term National Development Plan.
- (3) The property as referred to in Article 6 paragraph (1) letter c does not include property subsidized by the government.

(4) The precious metal as referred to in Article 6 paragraph (1) letter e shall be gold ingot/bullion with a purity content of 99.99% (ninety nine point ninety nine percent).

(5) The gold ingot/bullion as referred to in paragraph (4) shall be gold produced in Indonesia, and shall secure accreditation and certification from the Indonesian National Standard (SNI) and/or the London Bullion Market Association (LBMA).

6. Provisions in paragraphs (2) and (3) of Article 9 shall be amended so that the article reads as follows:

Article 9

(1) If taxpayers divest, sell or transfer the ownership of investment, the principal of investment or gains from the investment shall be paid to the special account at the perception bank appointed as a gateway where the taxpayers make the investment.

(2) Gains from investment placed in investment instrument as referred to in paragraph (1) can be withdrawn anytime by taxpayers from the special account.

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

7. Provisions in Article 11 shall be amended by adding 1 (one) paragraph, namely paragraph (3), so that the article reads as follows:

Article 11

(1) The investment as referred to in Article 6 paragraph (1) letters c and e can be used as a collateral for credit facilities from the perception bank appointed as a gateway.

(2) Approval to extend credit facilities as referred to in paragraph (1) shall follow the rules prevailing at the perception bank appointed as a gateway.

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

8. Provisions in paragraphs (1) and (2) of Article 12 shall be amended so that the article reads as follows:

Article 12

(1) The perception bank appointed as a gateway has the obligation to :

- a. debit fund from the special account of taxpayers to the related parties for the purpose of the placement of investment as referred to in Article 6 paragraph (1);
 - b. keep documents and/or evidence of investment related to investment made by taxpayers as referred to in Article 6 paragraph (1) and/or to help the perception bank appointed as a gateway monitor compatibility with provisions as referred to in Article 3 paragraph (5);
 - c. receive fund from the divestment, sales or transfer of investment and pay it to the special account under the name of taxpayers;
 - d. send reports to the Directorate General of Taxation on :
 - 1) the opening of special account to receive fund from outside the territory of NKRI to the territory of NKRI;
 - 2) the transactions/activities of special account; and
 - 3) the position of special account and investment;
 - e. sign an agreement with taxpayers within the framework of investment made by the taxpayers;
 - f. make a written statement concerning the history of investment and submit it to taxpayers if the taxpayers transfer fund from one perception bank appointed as a gateway to another;
 - g. transfer fund, documents and/or evidence of investment related to investment made by taxpayers as referred to in Article 6 paragraph (1) to other perception bank appointed as a gateway according to the taxpayers' choice, if the Minister revokes the appointment of the perception bank appointed as a gateway; and
 - h. send a letter of notification to taxpayers if fund transferred in stages to the territory of NKRI has been entirely paid by the taxpayers to the special account as referred to in Article 3B paragraph (1).
- (2) The agreement between the perception bank appointed as a gateway and the taxpayers as referred to in paragraph (1) letter c shall contain:
- a. a written statement on the taxpayers' approval of data and information disclosure to the related authority, including exchange of data among related authorities, if needed; and
 - b. a written statement on the taxpayers' approval of data and information disclosure to the perception bank appointed as a gateway where the taxpayers make investment or related parties within the framework of the taxpayers' investment.
- (3) To ensure the smooth realization of tax amnesty program, the perception bank appointed as a gateway shall familiarize the public with the model of investment outside the financial market within the framework of tax amnesty.

9. Provisions in paragraphs (1), (2), (6), (7) and (8) of Article 13 shall be amended, and paragraphs (3), (4) and (5) shall be scrapped so that the article reads as follows:

Article 13

- (1) The perception bank appointed as a gateway shall file a report to the Directorate General of Taxation on :
 - a. the opening of special account to receive fund from outside the territory of NKRI to the territory of NKRI;
 - b. a report on the transactions/activities of the special account; and
 - c. a report on the position of special account and investment.
 - (2) The report as referred to in paragraph (1) shall be sent no later than 5 (five) working days in the following month.
 - (3) Scrapped.
 - (4) Scrapped.
 - (5) Scrapped.
 - (6) The report as referred to in paragraph (1) shall follow the format as contained in Attachment II which is an integral part of this Ministerial Regulation.
 - (7) The report as referred to in paragraph (1) shall be made by the perception bank appointed as a gateway during the investment period as referred to in Article 3 paragraphs (5), (5a) and (5b).
 - (8) The report filed by the perception bank as a gateway can be used by the Directorate General of Taxation as an input to monitor the realization of investment made by taxpayers during the investment period as referred to in paragraph (7).
10. Attachment to Regulation of the Finance Minister No. 122/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 outside the Financial Market within the Framework of Tax Amnesty Program (State Gazette of the Republic of Indonesia of 2016 No. 1161) shall be amended to become as contained in Attachment II which is an integral part of this Ministerial Regulation

Article II

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 September 30, 2016

THE FINANCE MINISTER

OF THE REPUBLIC OF INDONESIA,

sgd.

SRI MULYANI INDRAWATI

Promulgated in Jakarta

On October 5, 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. 1483

Editor's notes :

- Attachments are not carried for technical reasons.

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