

Year End Edition



November - December 2017

# TAXGuide

Enrich your Knowledge

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Consulting Group

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Assalamulaiikum Wr. Wb. May peace and prosperity befall upon all of us. It has been a year since MUC Tax Guide has been coloring the Indonesian taxation world. All praise and thanks be to Allah that we can still consistently release the MUC Tax Guide in spite of its drawbacks.

In this Tax Guide of year-end edition, we retrace a number of interesting moments and taxation policy throughout the year 2017. Starting from the end of the tax amnesty program, the implementation of a new format of transfer pricing documentation, to the readiness of Indonesia to enter the era of financial information transparency for tax purposes or Automatic Exchange of Information (AEOI).

The topic that is also interesting to check is about PMK 165/PMK.03/2017 on Second Amendment to Ministry of Finance Regulation Number 118/PMK.03/2016 on Implementation of Law Number 11 Year 2016 on Tax Amnesty. Some amendments to the implementation will be discussed, among others about disclosure of undeclared/unreported assets in Asset Declaration or Tax Return; and exemption from Income Tax of Title Transfer.

The improvement of Indonesia's investment climate, which is reflected from the increase in Ease of Doing Business rank, is also unfolded in this edition of Tax Guide. Especially its relation with Paying Taxes indicator that declines in rank despite several policy reforms that have been performed.

Another intriguing issue to be discussed by entrepreneurs is the surge of Provincial Minimum Wage (Upah Minimum Provinsi/UMP). In this edition, Tax Guide points out entrepreneurs' rights and obligations in relation to wage payment, in which the right to postpone the UMP increase does not eliminate the obligation in the following years.

Furthermore, there is an elaboration of government regulation regarding system change of production sharing contract (PSC) in oil and gas sector, cost recovery scheme to be gross split scheme. Especially the implications for taxation policy.

Before entering the new year, we suggest reading the complete Tax Guide for our future improvement reference. We look forward to suggestions and critics from readers as the subject for evaluation and improvement in the upcoming Tax Guide.

Finally, thank you for your attention and willingness to read Tax Guide. We hope that our commitment to continuously sharing information and ideas in the field of taxation will always be maintained. Happy New Year 2018. Wassalamualaiikum, Wr. Wb.

Jakarta, November 2017

Sugianto

## Post-Amnesty Policy

# YEAR END SALE, TAX FREE TITLE TRANSFER AND ASSET DECLARATION WITHOUT PENALTY

December 31, 2017 can be the end of year that is either long-awaited or (perhaps) avoided by tax players in Indonesia. It is awaited as it can be a turning point to make a better tax resolution and policy in 2018. And it is avoided (perhaps) as it is the Government's tolerance limit to the taxpayers' non-compliance, signifying that there will be firm action against any forms of tax violation next year.

Moreover, the Government has issued Minister of Finance (MoF) Regulation Number 165 Year 2017, which amended MoF Regulation Number 118 Year 2017 on the Implementation of Law Number 11 Year 2016 concerning Tax Amnesty. The regulation makes it easier for the taxpayers to fulfil its tax obligation, particularly regarding the tax amnesty program.

There are two significant points of amendment to the MoF issued and effective on November 17, 2017. The first is the simplification of title transfer process for assets in the form of land and/or building disclosed in Asset Declaration Letter, from the nominee to the actual owner, in this case is the tax amnesty applicant.

The second is the last chance for taxpayers to declare their undisclosed assets through tax amnesty or Annual Income Tax Return without being subject to administrative sanction.

### Transfer of Rights

In regards to the transfer of rights on assets, the Government renders an Income Tax exemption facility for tax amnesty applicants conducting title transfer upon land and/or building reported in Asset Declaration Letter. The requirement is that the title transfer process shall be applied to the Official Certifier/Registrar of Title Deeds (*Pejabat Pembuat Akta Tanah/PPAT*) no longer than December 31, 2017.

In the previous regulations (MoF Regulation Number 118 Year 2017), the application of title transfer upon land and/or building to PPAT should be enclosed with Exemption Certificate of Income Tax. In other words, taxpayers should own Exemption Certificate from the Directorate General of Taxes (DGT), with a set of requirements to be met.

As the due date for the title transfer application is getting closer and the fulfilment of Exemption Certificate requirement is not quick, the Government through MoF Regulation Number 165 Year 2017 provides easier alternative for the taxpayers to obtain Income Tax exemption facility by merely attaching copy of Tax Amnesty Certificate in the title transfer application documents to PPAT, as regulated under Article 24 paragraph 4.

Other regulations added on the new MoF Regulations concern the assets that may and may not obtain Income Tax exemption facility. Title transfer upon land and/or building that may obtain Income Tax exemption covers the assets whose legal documents are still under the name of agent or nominee; grantor; heir, and/or one of the heirs if the land and building legacy has been bequeathed.



In contrast, Income Tax exemption facility is forbidden for land and/or building whose ownership is a result of buy-and-sell transaction between taxpayers and developers and/or whose title is not yet transferred from the developers to the taxpayers.

For instance, company A owns assets in the form of land and building amounting to IDR1 billion, in which the ownership status is still under another party's name. If the asset title is successfully transferred before the end of December and declared pursuant to the tax amnesty procedure, company A as a corporate taxpayers will be exempted from final Income Tax principal upon the conveyance of land and/or building.

Whereas, upon failure in following the title transfer procedure as required in the tax amnesty program, conveyance of land and building of company A will be subject to final Income Tax of 2.5% from the asset value or equal to IDR25 million.

### Asset Declaration

Meanwhile, for the second point, i.e. the declaration of unreported net assets in Asset Declaration Letter and/or Tax Return, the Government promises an exemption from administrative sanction for taxpayers declaring their assets by submitting Periodic Final Income Tax Return. The disclosure shall also be performed before the end of December.

The point is that the taxpayers declaring assets that have not been fully disclosed in the Tax Return or the Asset Declaration Certificate for tax amnesty program will not be imposed by any penalty. It is under a circumstance that the DGT has not conducted any audit on the assets.

The assets will then be considered as income for FY 2016 and subject to Income Tax with final rate as regulated under Government Regulation Number 36 Year 2017 as follows:

Taxpayer	Income Tax Rate
Corporation	25%
Individual	30%
Certain Taxpayers	12.5%

Calculation formula for Income Tax that shall be paid is by multiplying net assets that will be declared with the final rate in accordance with the types of taxpayers. Furthermore, the determination of asset value will be expressed based on the types of assets that will be declared.

There are several asset categories determined by this MoF Regulation, namely: cash and cash equivalent, land and building, vehicle, and shares traded in Indonesia Stock Exchange, as well as other assets. Meanwhile, the determination of the value is conducted by public appraiser or the DGT.

In the event of Periodic Final Income Tax Return submission, the taxpayers shall attach several supporting documents, as follows:

- Payment slip of Final Income Tax on net assets; and
- List of Net Asset Details considered as income that becomes the calculation base.

As an illustration, company A successfully declares all of its assets in the amount of IDR1 billion through the tax amnesty program. Thus, company A shall only need to pay small amount of redemption and is exempted from criminal sanction and tax penalty.

On the other hand, for instance, company B as the affiliated party of company A fails to declare all of its net assets timely as it exceeds December 31, 2017. Under the assumption that the undisclosed net asset is of IDR1 billion, company B shall prepare for the consequence by paying Income Tax arrears plus penalty up to 200% from unpaid tax.

Or, another example, company C is a Corporate Taxpayer not utilizing tax amnesty program. Under the assumption that its undisclosed net asset in Tax Return is of IDR1 billion, company C is subject to administrative sanction of 2% per month for maximum of 24 months if that the asset is discovered by the tax authority.

Under the issuance of MoF Number 165, company B and C are not subject to any administrative penalty or sanction. They just need to disclose their assets through Income Tax Return and pay the final tax rate of 25% from the net asset value, or equal to IDR250 million.

The end of tax amnesty program and the beginning of financial information openness era under Automatic Exchange of Information (AEOI) will be a new chapter for Indonesian taxation to become more transparent and fair, while remain strict.

Hence, the policy in MoF Regulation Number 165 Year 2017 is a good news that should be immediately and wisely responded by taxpayers, as its utilization period almost ends. Moreover, the Government has affirmed many times that after this policy, they will no longer be soft to taxpayers' non-compliance and there will be no more tax amnesty program in the future. So, what are you waiting for?





# INDONESIA'S BUSINESS CLIMATE UNDER THE WORLD'S SPOTLIGHT

**Ease of Doing Business (EODB) 2018**, a global business convenience research initiated by World Bank, has placed Indonesia at the 72<sup>nd</sup> from 190 (one hundred ninety) countries tested. Indonesia has climbed 19 ranks compared to the previous year's survey result, which was the 91<sup>st</sup>.

However, Indonesia's position is still behind peer countries in Southeast Asia region, such as Singapore (2), Malaysia (24), Thailand (26), Brunei Darussalam (56), and Vietnam (68). Indonesia is ranked only ahead of the Philippines (113), Cambodia (135), Myanmar (171), and Timor Leste (178).

In this year's Doing Business survey, World Bank measures the policy impact on 11 business environments. The 10 areas that become the assessment indicators are the survey results and another one is the evaluation of labour regulation. Unfortunately, this survey entitled Reforming to Create Jobs was only conducted in two big cities, namely Jakarta and Surabaya.

Based on the survey results, the eight indicators show improvement on business climate in Indonesia. They are: cost of starting a business (increasing 7 ranks), process of construction permits (increasing 8 ranks), cost of getting electricity (increasing 11 ranks), cost of registering property (increasing 12 ranks), access on credit (increasing 7 ranks), protection of minority shareholder (increasing 27 ranks), contract enforcement (increasing 21 ranks), and resolution of insolvency case (increasing 28 ranks).

Meanwhile, another two indicators are having a fall-off, which are tax payment (decreasing 10 ranks) and trading across borders (decreasing 4 ranks).

Subject	Rank				
	2014	2015	2016	2017	2018
Starting a Business	158	163	167	151	144
Dealing with Construction Permits	150	110	113	116	108
Getting Electricity	101	45	61	49	38
Registering Property	112	131	123	118	106
Getting Credit	67	71	70	62	55
Protecting Minority Investors	43	87	69	70	43
Paying Taxes	158	160	115	104	114
Trading Across Borders	61	104	113	108	112
Enforcing Contracts	171	170	171	166	145
Resolving Insolvency	71	73	74	76	38

### Policy Reform

The great improvement of Indonesia's Doing Business rank is linked to a series of policy reform that has been performed by government within the last one-year period. First, the cost of starting a business becomes cheaper because of the revocation of provision on Limited Liability authorized capital minimum limits, which is previously determined by IDR50 million at minimum adjusted by the agreement of the company's founders.

Second, cost of getting electricity is also becoming more affordable after the government lowered the costs of line certification and internal cable. The cost of getting electricity is currently 276% from per capita income, decreasing from 357%. In Jakarta, through the shorter process of new line request, electricity may also be obtained easily.

Third, the current property registration is cheaper following the cutting of final income tax rate on sales of non-subsidized land and building, from 5% to 2.5%. Upon the survey result, this policy reduces cost component, which is previously 10.8% to 8.3% from assets' value.

Fourth, the access on credit in Indonesia is considered easier since the forming of new credit agent.

Fifth, protection on investor is considered better. It is related to the rights of minority shareholders that are strengthened by the improvement on their roles in the company's decision as well as the improvement on the company's transparency.

Sixth, related to policy of cross border trading, the import activity is considered quicker through the introduction of electronic and integrated systems of taxes, customs

and excise, and non-tax state revenue collection. Because of this single collection system, the period of getting, preparing, processing, and sending documents during import is lessened from 133 hours to 119 hours. However, this policy is not enough to improve Indonesia's position, which fell 4 ranks in this indicator.

Seventh, the indicator of paying taxes is improved. This indicator reflects the total taxes and contribution paid, payment method, frequency of payment, and number of interested institutions. Several government's policies considered significant, among others, are by promoting online tax submission and reporting system as well as decreasing the tax rate on profits (capital gain). This indicator also takes into account the government's policy on increasing health insurance limit (National Health Care Security).

### Declining Taxes Indicator

Despite considered getting better, Indonesia's Paying Taxes position is lower 10 ranks this year. Based on last year's survey, the rank of Indonesia's Paying Taxes was the 104th, meanwhile this year's position has plunked to 114 from 190 (one hundred ninety) countries.

Referring to 2016 tax system, the survey result records 43 types of tax payment in Indonesia. The amount is quite bigger compared to the average of 21.8 payment types in East Asia and Pacific regions, and the average of 10.9 types in high-income economy countries of Organisation for Economic Cooperation and Development (OECD) members. For this variable, Hong Kong is a country having the best tax system with only 3 (three) types of tax to be paid by entrepreneurs.

Meanwhile, the period required to prepare, submit, and pay (or defer) income tax, value added tax (VAT) or sales tax, and labour tax (including taxes on income and social security premium)

reaches 207.1 hours per annum on average. Although it has been better than the previous year's survey result, which was 221 hours per annum on average, it still takes longer time compared to the average time needed in Asia Pacific region (189.2 hours/annum) and OECD countries (160.7 hours/annum). Luxembourg is recorded as the country with the shortest period in tax administration, which is only 55 hours per annum on average.

From perspective of total tax rate, which measures the amount of tax and mandatory contribution to be paid by entrepreneurs in the second year of operation and which is considered as part of commercial profit, the aggregate percentage in Indonesia amounts to 30% of profit. This percentage is lower than the average in East Asia and Pacific regions (33.6%) and in OECD member countries (40.1%).

### Homework

Although this year there have been seven policy reforms conducted, Indonesia is unable to maintain its position on the top 10 most improvised countries as the previous year. In that report, this year's top 10 most improvised developing countries are Brunei Darussalam, Thailand, Malawi, Kosovo, India, Uzbekistan, Zambia, Nigeria, Djibouti, and El Salvador.

Brunei and Thailand succeed in representing Association of Southeast Asian Nations (ASEAN) countries in the list of top 10 most improvised developing countries after each of them conducted reforms on the eight indicators.

At least, World Bank records Indonesia that has reformed the ease of doing business as much as eight times in 15 years or since 2003. As a result, the duration to start a new business in Jakarta has diminished from previously 188 days (Doing Business 2004) to 22 days. However, the procedures to register a new business remain high, which are 11 procedures, compared to five procedures in high-income economy countries of OECD members.

Indonesia is also considered having performed a significant improvement on resolving insolvency and, it is surely the best achievement.

However, Indonesia still needs improvement on Contract Enforcement field in order to create a better business climate. Therefore, in case of any legal matters on investors related to their investment in Indonesia, they will receive a legal protection and certainty.

In terms of contract enforcement, Indonesia's score is still below 50 or becomes the lowest in Southeast Asia with the Philippines. Although the cost to settle commercial dispute through district court in Jakarta decreases almost half of 135.3% (year 2003) to 74%, it is still quite higher than the average of 21.5% in high-income countries of OECD members.

Currently, the contract enforcement in Indonesia ranks the 145th from the total of 190 with 45 points, which is the lowest point from other indicators obtained by Indonesia.

As a comparison, Thailand and Brunei Darussalam, as countries with the best EODB rank increase among East Asia and Pacific countries, have implemented online contract enforcement system. So that investors obtain convenience and certainty in handling contract that is in legal dispute.

Government assumes that the low contract enforcement indicator in Indonesia was caused by difference of law system adhered. Indonesia has been practicing Civil Law court system, while EODB survey refers to Common Law system that becomes the world's standard.

No matter what, the government's effort deserves appreciation in improving the investment climate in Indonesia. However, we cannot be lulled by EODB rank because the improvement on public service policy should still be maintained whenever possible, with or without the "rank."



# OIL, TAX, AND PEOPLE'S INTERESTS

Indonesia's economy has once been in a golden era because of oil boom. It was exactly when the crude oil price was rocketing as a result of Iran Revolution and when Organization of the Petroleum Exporting Countries (OPEC) agreed to cut the oil production in 70's era. As a consequence, the revenue of the New Order government soared, owing to the oil export. And, it allows the public sector to play a bigger role in economy.

It makes Indonesia's economy dependency on natural resources exploitation especially for oil and gas become higher. As if this phenomenon has been lulling domestic economy for several decades before eventually crushed as a consequence of global economy crisis.

Those great eras have passed. The lulls of oil price is not a thing that can be counted on anymore. Recently, the world's crude oil price has plunged into the lowest level following the trend of global economy slowdown. Subsequently, the investment in extractive industries becomes no longer interesting, national oil production sinks, and Indonesia is eliminated from the list of world's biggest crude oil exporters (OPEC).

Ironically, the national crude oil resource is still very high. Geological Agency of Ministry of Energy and Mineral Resources (EMR) states that



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Indonesia's proven oil reserve with P1 status is estimated to reach 3.6 billion barrel. It does not include reserve potential that has not been proven (P2) in 27 basins, which are forecast to reach 3.8 billion barrel. The government is also forced into thinking to prove it as well as to bring back the glory of Indonesia's oil and gas sector.

The policy in upstream industry also changes following the dynamics and demands. The latest issue emerging from oil and gas sector is the change of production sharing contract (PSC), from cost recovery to gross split scheme.

The fundamental difference between gross split and cost recovery scheme is in the determination of its production sharing. Minister of EMR Regulation Number 52 Year 2017 on the Amendment to Minister of EMR Regulation Number 8 Year 2017 on Gross Split PSC emphasizes that the amount of base split between the government and the contractors of partnership contracts (*Kontraktor Kontrak Kerja Sama/ KKKKS*) is 57%:43% for crude oil and 52%:48% for natural gas. Previously, with the cost recovery scheme, the proportion of production sharing between the government and the KKKKS is 85%:15%.

In this new scheme, the production sharing is determined in the beginning, which is the gross revenue is directly shared between the government and the contractors. Furthermore, operating costs either in exploration or exploitation stage

are entirely borne by the oil and gas contractor. This scheme will inevitably affect the efficiency policy for oil and gas contractors.

Not only offers the bigger portion of production sharing for the contractors, the government also guarantees additional incentive to attract investor's interest. For example, the portion of production sharing for contractors is added up to 3% for the second oil well development. In the previous regulation, the production sharing addition is only given for the first oil well development.

Moreover, the government also gives additional production sharing if the sector does not reach any specific economy principle. In this this case, Minister of EMR is granted an unlimited right of discretion. On the contrary, if the economy principle of a sector is considered high, the government reserves the right to decrease the split. Previously, the discretion is restricted only by plus/minus 5% based on the sector's economy principle.

There are several other split additional incentives, which among others are based on production phase (up to 10%), H2S content (up to 5%), cumulative production aspect (up to 10%), and movement of oil and gas prices (plus/minus 7.5%). At least, there are 12 components influencing the portion of production sharing for contractors, consisting of 10 variables and two progressive components.

Components	Description	Plus/(minus) split
1 Status of field	Already or currently developed	(5%)–5%
2 Field location	Land or sea, sea depth (0-1000 m)	0-16%
3 Depth of reservoir	0 > x > 2500	0–1%
4 Infrastructure availability	Road, harbour access, etc.	0–2%
5 Types of reservoir	Conventional or non-conventional	0–16%
6 CO2 content	>5% up to > 60%	0–4%
7 H2S content	<100 ppm up to > 500 ppm	0–1%
8 Oil density (API)	< 25 up to < 25	0–1%
9 Domestic component (TKDN)	<3-% up to > 70%	
10 Production stage	Primary, secondary, tertiary (OER)	0–5%
11 Oil price	< USD40 up to > USD115	7.5%–(7.5%)
12 Cumulative oil production	<1 up to > 150 mboe	0–5%

Source: [www.esdm.co.id](http://www.esdm.co.id)

## Tax Implication

In addition, the change of PSC scheme also alters the tax treatment. If in the previous, prevailing tax is fixed during the contract period despite the tax system changes (nail down), through this new regulation, it is more prevailing or the tax obligation depends on the prevailing general tax regulation over time. If previously, with nail down approach, oil and gas contractors are subject to Income Tax of 30% or the rate is in accordance with the prevailing Tax Law at the time of contract execution, now because of prevailing nature, the tax rate will fall into 25% pursuant to the prevailing provision.

However, the oil and gas company may not be equalized to company in general so it requires special tax regulations. Tax approach ideally considers activity stages in oil and gas company, starting from the exploration activity and various survey activities to find oil reserve until drilling. In other words, oil and gas contractors need extra time to earn profits, thus it will be irrelevant if they are taxed too early.

Referring to Income Tax Law, oil and gas company may only postpone Income Tax payment on loss borne for 5 years at maximum. The loss carry forward is considered inadequate regarding oil and gas production stages that take time.

To follow up this matter, the government considers to issue a special tax regulation on the implementation of oil and gas production sharing mechanism with gross split scheme. This legal protection equivalent to the Government Regulation will also be related to Regulation Number 27 Year 2017, which is the revision of Government Regulation Number 79 Year 2010 on operating cost that may be refunded and tax income treatment in oil and gas upstream business field.

There are two important points that until now are necessary to be discussed by Minister of Finance and Minister of EMR to be stipulated in this new Government Regulation. First, the limit of loss carry forward that will be extended to 10 years.

Second, Minister of EMR and Minister of Finance are also rumoured to have agreed on tax facility for contractors in exploration stage. The aforementioned incentive is among others in the form of indirect tax refund that is paid by contractors during exploration, such as Value Added Tax (VAT). The government will replace the indirect tax paid by contractors through production sharing (split). The contractors will receive additional split in the same amount as the paid indirect tax. Furthermore, depreciation on asset acquisition during the exploration stage may also be calculated as expense.

Besides tax exemption in exploration stage, the contractors will also obtain tax exemption in exploitation stage. The taxes

exempted are Customs Duty, VAT, and Sales Tax on Luxury Goods.

But, it is still a matter of discussion so far. The written legality is still awaited by the contractors.

## Revenue and Loss

The escalation of cost recovery, which is not accompanied by production increase, becomes the government's strong argument to change the production sharing scheme in oil and gas sector. Based on the findings of State Audit Board (Badan Pemeriksa Keuangan/BPK) in the second semester of 2013, there is a state loss of IDR994.8 billion as a result of oil and gas contractors' disobedience to cost recovery and tax provisions. The disobedience indication impacts the fall of state revenue due to the costs not supposed to be borne by the government that is instead included in the cost recovery component (Detik Finance, 2014).

Moreover, there is also an interest in simplifying business decision making process to be quicker and more efficient. Because this new scheme significantly reduces the involvement of government as well as minimizes budgeting political negotiation in the parliament due to elimination of cost recovery.

If the Ministry of EMR has cut the amount of licenses from 48 licenses to six licenses, how about other ministries and local governments? There are too many tangles that should be untied by the government, especially related to the complicated licensing. For example, environment license in Ministry of Environment and Forestry, land procurement license, and other licenses related to regional autonomy framework.

Nevertheless, it should be taken into account that the government's control on oil and gas production will be eroded significantly. In the context of national energy resilience, the gross split scheme will complicate the government to increase the oil and gas exploration pursuant to short, middle, and long term targets. Moreover, issues of human resources development target, technology transfer, and level of domestic resource level, will be difficult to implement at the end.

Regardless of those things, the most important thing is providing legal certainty for all parties. It is closely linked to policy durability, which is not only more effective, but also timeless and unaffected by authority change. Not to mention, chaotic policy in the upstream sector will also give impact to the increasing society's energy cost. In brief, oil is not only certain people's interest but also of many parties.

# PROVINCIAL MINIMUM WAGE TO SURGE, COMPANIES MAY CALL FOR POSTPONEMENT

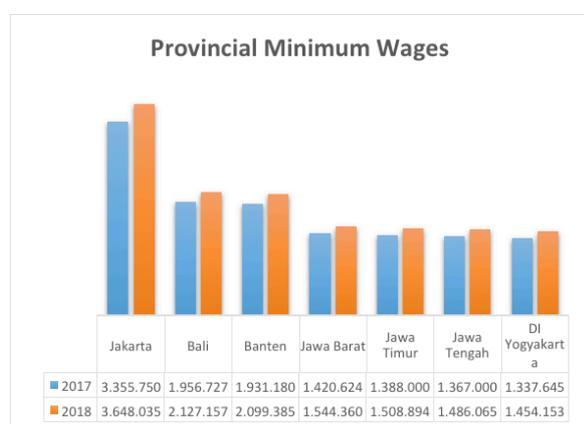


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Stipulation of Provincial Minimum Wage (*Upah Minimum Provinsi/UMP*) is a routine that workers/labors and companies long every end of year. It always comes along with hopes and worries. Workers surely hope that their wages will increase in line with the inflation and the decent living needs, while the companies worry that the UMP increment will exceed their companies' financial ability.

Therefore, government policy through Ministry of Manpower is highly required in mediating and maintaining harmonious industrial relations between both parties. For next year (2018), the Ministry of Manpower has stipulated the UMP increment of 8.71%. The policy refers to the assumption of national inflation of 3.72% and the economic development of 4.99%, as stated on Ministry of Manpower Circular Number B.337/M.NAKER/PHIJSK-UPAH/X/2017 on Dissemination of 2017 National Inflation Rate and Gross Domestic Product Development. The policy is the implementation of Article 44 Paragraph 1 and 2 of Government Regulation Number 78 Year 2015 on Wages.

Thus, as of January 1, 2018, the companies shall raise their workers' wages at minimum equal to the determined percentage by the government. This obligation also refers to Article 90 of Manpower Law, in which the companies are forbidden to pay wages lower than the minimum wages.



Should a company fails to pay the workers' wages as determined by the government, the temporary solution is stipulated under Decision of Ministry of Manpower and Transmigration No. KEP-231/MEN/2003 Year 2003 on Procedure for the Application of Minimum Wage.

### Requirements

Based on the policy, the companies may call for postponement of minimum wage no later than 10 days prior to the effective date of the minimum wage. However, there are steps and a set of requirements that shall be conducted and met by the companies to be able to conduct the postponement.

First, the companies shall make written consent with the workers or the labor union. It means that bipartite agreement shall still be made between the companies and the workers. Second, the companies shall call for minimum wage postponement to the Governor through an institution in charge of provincial manpower sector, enclosed by supporting documents.

Further, the postponement that can be rendered by the government is in the following forms:

- Payment of the minimum wage that equals to the previous minimum wage;
- Payment of the minimum wage higher than the previous amount but lower than the new minimum wage; or

- Gradual increment of the minimum wage.

### Postponement Period

Provincial Employment Service Office can only render the UMP increment postponement to the companies for 12 months. It shall be taken into account that the minimum wage payment shall not instantly remove the obligation of the companies to pay the unpaid minimum wage during the postponement period to the workers. In other words, the unpaid minimum wage during the postponement period will be the companies' liability that shall be paid to the workers. The mechanism of the wage underpayment settlement shall be a material stated in the consent between the companies and the workers.

In case that the companies do not conduct the minimum wage increment neither call for postponement, they will be subject to penalty in the form of imprisonment for one year at minimum and four years at maximum and/or fine of IDR100 million at minimum and IDR400 million at maximum. Hence, the companies shall wisely respond to the wage increment and, in achieving mutual benefit, the workers shall increase their productivity.

### Mutual Interest

Under the industrial relationship context, the companies and the workers basically share common interest in ensuring the company's going concern and development. Both parties even need each other. Even so, one thing to bear in mind is that each party has their own perception and interpretation that may differ and may cause conflict, notably concerning the determination of the UMP rate.

There is nothing wrong with the workers demanding a high wage as long as it is in line with the contribution to the business development and taking into account the company's financial ability. The same applies to the companies that they are allowed to conduct the postponement of wage increment provided that they are supported by strong rationales and approved by the majority of workers (union).

The key is that there should be a constructive dialogue and the government shall be present as the mediator that embraces both parties. And, an industrial conflict should not result in bankruptcy and termination of employment that ultimately may give loss to both the companies and the workers.

#### Postponement Application Document Requirements:

- Original written consent between the companies and the labor union or the workers of the company;
- The company's financial statements comprising balance sheets, loss/profit calculation along with the explanation for the last two years that have been audited by Public Accountant;
- Copy of the company's Deed of Establishment;
- Wage data based on worker/labor's position in the company;
- Number of all workers/labors and number of workers/labors on whom the minimum wage implementation postponement is applied;
- Development of production and marketing for the last two years, as well as the production and marketing planning for the next two years.

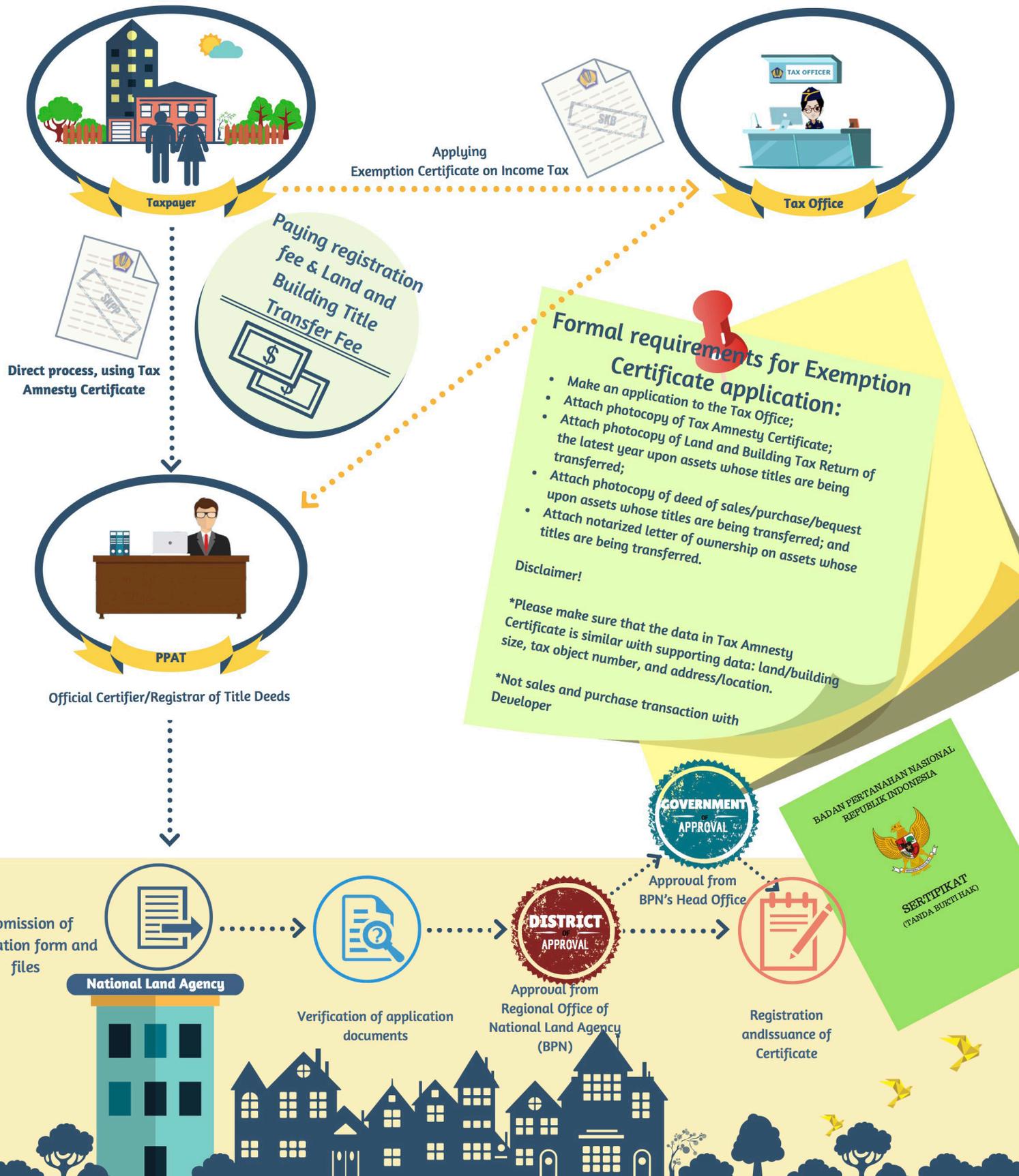


TAX AMNESTY

At the latest on  
December 31, 2017

# LAND & BUILDING TITLE TRANSFER: TAX FREE

Taxpayers participating in Tax Amnesty Program have the chance to obtain Tax Amnesty facility for Income Tax upon title transfer on immovable asset, such as land and building. However, there are some requirements and procedures for Title Transfer that should be understood, as follows:



# TAX HARDSHIP GIVES COLOR

## 2017 KALEIDOSCOPE

- The third period of Tax Amnesty commenced.
- CBC Report was officially adopted, Transfer Pricing Documentation of business group shall apply the new format.

JANUARI



FEBRUARI

- In boosting the revenue, giant digital companies (over the top) were hunted by the Tax Authority (DGT SE-04/PJ/2017).
- Customs regulation changed, the base of export duty on mineral and import duty was adjusted (MoF Number 13/PMK.010/2016).



MARET

- Indonesia welcomed the information transparency era (AEoI) by the issuance of MoF Number 39/PMK.03/2017
- Tax Amnesty ended, declared assets for tax amnesty shall be reported in the 2016 Annual Income Tax Return



APRIL

- MoF Number 39/PMK.03/2016 was revoked, the DGT cancelled the credit card transaction data tracking.
- The Financial Service Authority obliged financial institutions to report their overseas customers' data.



MEI

- The Governments of Indonesia and the Netherlands renewed the protocol for the Tax Treaty.
- AEoI is officially adopted, the DGT could access customer deposit data above IDR1 billion (resident taxpayers) or USD250,000 (non-resident taxpayers)
- The DGT issued a new regulation on the procedure for tax audit (SE-10/PJ/2017), by obliging the taxpayers to be directly present (not represented) in the tax audit process

Momentum of Indonesia's economic growth is relatively maintained throughout 2017 in spite of the stagnant condition at around 5%. Improvement in export and investment become the main national economic drivers in line with the increase in commodity price and global demand.

ECONOMIC GROWTH (%)



It is closely linked with the achievement of the Government in raising the national investment competitiveness through a set of economic policies. The success has also gained global recognition, among others, reflected by the increase in Indonesia's Ease of Doing Business rank to the 72th level (from 91st in 2016) and the investment grade award from three leading rating institutions.

From the fiscal viewpoint, the bigger Government infrastructure expenditure has also stimulated the investment growth, notably in machinery and construction sectors. Generally, the role of government consumption towards the improvement of domestic economy is getting better despite its moderate growth.

Tax Amnesty	Realization	Target
Asset Declaration	IDR 4,707 Trillion	IDR 4,000 Trillion
Asset Repatriation	IDR 147 Trillion	IDR 1,000 Trillion
Redemption	IDR 114 Trillion	IDR 165 Trillion
Preliminary Evidence Payment	IDR 1.75 Trillion	-
Tax Arrear Payment	IDR 18.6 Trillion	-

JUNI



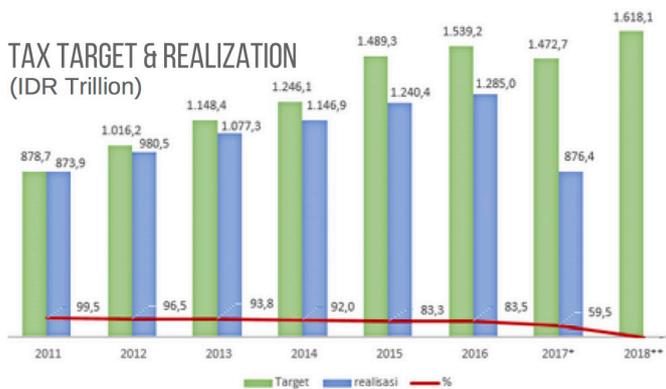
The Regulation on the Sanctions for Late Reporting of Tax Return was revised (MoF Number 68 Year 2017).

# TO ECONOMIC STAGNANCY

The hardest fiscal challenge was actually not only on the Government expenditure efficiency, but also the state revenue accomplishment that was still far below the expectation. The reform and reconciliation attempts in taxation, e.g. Tax Amnesty program held until March 31, 2017, seems not too effective in boosting the state revenue within short term. The solution was by raising the expenditure target to cover the deficit of increasing state budget.

Despite its growth, the Indonesian economic condition throughout 2017 was actually not solid enough, especially regarding the weakening of people's purchasing power that hindered the household consumption role for economic growth. It was worsened by the uncertainty in global economic and geopolitics situation. Those made the society, particularly corporation, prone to become cautious in doing expansion, as well as those have answered the issues arising in taxation sectors that have been suffering in reaching their targets.

TAX TARGET & REALIZATION (IDR Trillion)



Speaking of taxation, there have been many important events accompanying the Government's moves in 2017 fiscal year. So, MUC Tax Guide highlights the number of events through the 2017 Taxation Kaleidoscope as an evaluation and improvement material for the upcoming taxation system.

## JULI

The CFC Rules were issued, the stipulation when the dividend is acquired was emphasized (MoF No.107/PMK.03/2017).



## AGUSTUS

- The Roadmap E-commerce was launched, taxation became one of the focuses (President Regulation Number 74 Year 2017).
- VAT-exempted food commodity increases into 13 items (MoF No. 116/PMK.010/2017). Details: rice, corn, sago, soybean, salt for consumption, meat, egg, dairy, fruits, vegetables, tubers, spices, and sugar for consumption.

## OKTOBER

Virtual office may be a place for registering a VAT-Registered Person (MoF Number 147/PMK.03/2017).

## SEPTEMBER

- Post-Tax Amnesty, additional assets are subject to Final Tax (MoF 165/PMK.03/2017) :
  - Corporate Taxpayers 25%
  - Individual Taxpayers 30%
  - Certain Taxpayers 12,5%

## NOVEMBER

- Free Trade Zone regulation tightened, export transaction subject to tax (MoF Number 171/PMK.010/2017).
- Title transfer and asset declaration procedure are simplified (MoF Number 118 Year 2017)
- Ken Dwijugasteady retired, Robert Pakpahan was assigned to be the new Director General.

## DESEMBER

- Starting January 2018, the government will impose import duties on intangible goods, including software and e-books purchased online from abroad.