



## Harmonisation of Tax Regulations

On 29 October 2021, the Government of Indonesia issued Law No.7/2021 regarding *Harmonisasi Peraturan Perpajakan (HPP)* / Harmonization of Tax Regulations. This new law replaces and updates stipulations previously governed under *Ketentuan Umum Perpajakan (KUP)* Law, Income Tax Law, Value Added Tax Law, and Excise Law. This new law also adds new stipulations on *Program Pengungkapan Sukarela* / Voluntary Disclosure Program and Carbon Tax.

### A. KUP Law

- **Taxpayer Rights and Obligations**

1. **Tax ID (NPWP)**

To implement Single Identification Number (SIN) for Indonesia, the HPP Law stipulates that the Citizen Registry Number (Nomor Induk Kependudukan) will be used as Tax ID (NPWP) for individual taxpayers.

2. **Voluntary Disclosure (*Pengungkapan Ketidakbenaran*)**

Voluntary Disclosure can be made prior to the issuance of Tax Audit Finding Notification Letter (Surat Pemberitahuan Hasil Pemeriksaan). Previous stipulation in KUP Law allows the use of mechanism prior the issuance of Tax Assessment Letter (SKP).

3. **Taxpayer's Proxy**

HPP Law stipulates that the tax competency requirements is not required if a proxy is the spouse or family member by blood or marriage up to the second degree.

4. **Appointment of Tax Withholders / Collectors**

HPP Law enables DGT to appoint "Other Party" as Tax Withholder / Tax Collector. Other Party are entities "directly involved" or "facilitates" the transactions of a particular transactions. The mechanisms and procedures in relation with tax assessment, collection, dispute, and administrative penalty will be similar to regular taxpayer in *Mutatis Mutandis* legal principle.

- **Administrative Penalty**

No	Clause	Tax Penalty	
		KUP Law	HPP Law
1	Underpayment Tax Assessment Letter (SKPKB) due to: - Unreported Tax Return - Invalid VAT Compensation - Invalid use of 0% VAT - Unfulfilled Bookkeeping requirements		
	Income Tax Underpayment	50% Penalty	(MoF Rate+20%)/12 Max 24 Months



No	Clause	Tax Penalty	
		KUP Law	HPP Law
	Uncollected / Unwithhold Income Tax or under Collected / Withhold Income Tax	100% Penalty	(MoF Rate+20%)/12 Max 24 Months
	Collected / Withhold Income Tax with unsettled or lack of settlement to State Treasury	100% Penalty	75% Penalty
	VAT Underpayment	100% Penalty	75% Penalty
2	Rejected / Partial Rejection Tax Objection	50%	30%
3	Rejected / Partial Rejection Tax Appeal	100%	60%
4	Rejected Judicial Review Decision	N/A	60%
5	Termination of Tax Crime Investigation related to Negligence on Tax Return Submission or Incorrect Information as per Art.38	3x	1x
6	Termination of Tax Crime Investigation related to Intentional Non-Compliance as per Art.39	3x	3x
7	Termination of Tax Crime Investigation related to VAT Invoice, WHT Slip, Tax Payment Slip as per Art.39A	3x	4x

- **Tax Dispute Process**

1. **Judicial Review**

HPP Law stipulates that:

- The filing of a Judicial Review to the Supreme Court does not defer or cease the implementation of the Tax Court Decisions.
- Tax Underpayment due to Judicial Review decision will be subject to 60% Tax Penalty through the issuance of a Tax Collection Letter (STP) within 2 (two) years of the Judicial Review Decision received by the DGT.

2. **Mutual Agreement Procedure (MAP)**

HPP Law stipulates that if MAP process has yet to reach an agreement by the time of Tax Court Decision or Judicial Review Decision has been announced, DGT will:

- Resume negotiations if the content of the Tax Court or Judicial Review Decision is not related to the MAP case; or
- Refer to the Tax Court or Judicial Review Decision during MAP negotiation or propose the cessation of negotiation, if the content is related to the MAP case.



**B. Income Tax Law**

- **Final Tax**

HPP Law adds interest or discounts on short-term securities traded in the money market as a final tax object.

- **Benefit-In-Kind (BIK)**

BIK previously categorized as Non-Deductible Expense are now Deductible Expense, due to HPP Law stipulates that BIK is now taxable to employees. The types of BIK which are non-taxable and deductible for CIT purpose are limited as follows:

1. Food and Beverages provided for all employees;
2. BIK in certain areas;
3. BIK required to be provided for work execution;
4. BIK provided under regional / state revenue budget; or
5. Certain types of BIK with certain threshold

The above will be further regulated through the issuance of a Government Regulation

- **Bad Debt Provision for Financial Service Entities**

HPP Law stipulates that bad debt provisions for banks and loan providers, financial leasing companies with option rights, consumer finance companies and factoring companies should be calculated based on relevant account standard with certain limits after coordination with Financial Services Authority (OJK)

- **Non-Taxable Threshold for Individual Taxpayer with Certain Gross Turnover**

HPP Law stipulates a threshold of non-taxable gross turnover of up to IDR 500 million in a fiscal year for individuals with certain gross turnover subject to final tax.

- **Useful Life for Permanent Building and Intangible Asset**

Depreciation for permanent building or Amortization of intangible assets with useful life of more than 20 years can be calculated using the straight line method of 20 year period or the actual useful life based on taxpayer's bookkeeping.

- **Income Tax Rate**

1. **Individual Income Tax Rate**

The HPP Law increase the income threshold for the 1<sup>st</sup> layer with 5% rate and adds a new layer of 35% rate for income more than 5 billion IDR as summarized below:

Taxable Income	Tax Rate
0 - 60.000.000	5%
60.000.001 - 250.000.000	15%
250.000.001 - 500.000.000	25%
500.000.001 - 5.000.000.000	30%
5.000.000.001 - ∞	35%



## **2. Corporate Income Tax Rate for FY 2022 onwards**

The HPP Law stipulates that the CIT rate will not be reduced to 20% and will remain at 22% for FY 2022 onwards.

### **• Interest Expense Deductibility**

HPP Law stipulates that the limit cap for interest expense deductibility should be calculated with the use of the following method:

- Debt to Equity Ratio
- Percentage of EBITDA
- Other methods

### **• Transfer Pricing**

HPP Law stipulates that the government reserve the right to prevent tax avoidances practice such as:

- Transactions not based on actual condition or not in line with substance over form principle
- Lower reported profit compared to the financial performance of taxpayer in similar industry
- Unreasonable reported loss for companies that has been in commercial operation for more than 5 (five) years

DGT will benchmark against comparable entities to re-calculate the tax payable for the above to ensure arm's length principle has been applied.

HPP Law recognizes the following transfer pricing method for arm's length principle determination as listed below:

- a. Comparable Uncontrolled Price Method (CUPM)
- b. Resale Price Method (RPM)
- c. Cost Plus Method (CPM)
- d. Other Method, such as:
  1. Profit Split Method (PSM)
  2. Transactional Net Margin Method (TNMM)
  3. Comparable Uncontrolled Transaction Method (CUTM)
  4. Tangible Asset and Intangible Asset Valuation
  5. Business Valuation

Difference between Arm's Length price compared to related parties transaction value is deemed as dividends.

HPP Law requires the issuance of a Government Regulation to stipulate on criteria of related party and implementation of arm's length principle for related party transactions.



### C. Value Added Tax Law

- **Non-Taxable Goods/Services changed into Taxable Goods/Services**
  1. Mining or Drilling products taken directly from the source;
  2. Gold Bars (excluding government forex reserve)
  3. Non-advertisement broadcasting services
  4. Postal services
  5. Public phone services
  6. Money transfer by postal services
  
- **Non-Taxable Goods/Services with certain requirements**
  1. F&B served in hotels and restaurants subject to regional tax
  2. Hotel, parking, catering, art and entertainment services subject to regional tax
  3. Services provided by the Government which cannot be provided by other entities
  
- **Taxable Strategic Goods/Services with exemption facilities**
  1. Basic necessity products highly needed by public (Sembako)
  2. Medical services under national health insurance program
  3. Financial services
  4. Insurance services
  5. Education services
  6. Non-Profit Social services
  7. Public transportation services
  8. Labour services
  
- **VAT Rate**
  - 11% VAT Rate effective since 1 April 2022
  - 12% VAT Rate effective since 1 January 2025
  
- **Input VAT Credit Mechanism**
  - Confirmation on Input VAT for acquisition of Goods/Services with “Other Value” VAT Base can be credited by the customer.
  - Input VAT for purchase of Sedan and Station Wagon (not for trade or rental) is removed from the list of Non-Creditable Input VAT
  - Stipulation on Input VAT Credit Mechanism for Taxable Entrepreneur with both Taxable and Non-Taxable deliveries.
  
- **VAT Treatment for Taxable Entrepreneur with Certain Turnover Threshold and Certain Industry**

Taxable Entrepreneur with Certain Turnover Threshold and Certain Industry can collect and settle Output VAT based on amount as stipulated by MoF. Input VAT under this treatment is non-creditable by the customer.





**D. Voluntary Disclosure Program**

- **Voluntary Disclosure Program I**

- Available for participants of Tax Amnesty program
- Net Asset disclosure for 1985 – 2015 acquisition year
- Final Income Tax Rate

The disclosed Net Asset are deemed as income subject to Final Income Tax with applicable rate as shown in the table below:

Option	Final Tax Rate			Remarks
	Disclosure	Penalty on Investment / Repatriation Failure		
		SKPKB Issuance	Voluntary Payment	
Domestic Declaration w/ Investment Commitment	6,00%	4,50%	3,00%	
Domestic Declaration w/o Investment Commitment	8,00%			
Offshore Declaration w/ Repatriation and Investment Commitment	6,00%	4,50%	3,00%	Investment Failure
		7,50%	6,00%	Repatriation and Investment Failure
Offshore Declaration w/ Repatriation Commitment	8,00%	5,50%	4,00%	Repatriation Failure
Offshore Declaration	11,00%			

- To benefit from lower tax rate, the deadline for offshore repatriation into Indonesia is 30 September 2022.
- Eligible investment for the lower tax rate are as follows:
  - a. Business activity in processing natural resources or renewable energy in Indonesia; and/or
  - b. Government Debt Securities (SBN)
 Investments should be realized by 30 September 2023 at the latest with holding period of 5 (five) years
- Investment or Repatriation fail to be realized by the corresponding deadline is subject to additional final income tax for FY 2022
- Asset Value Determination  
Net Asset value to be used in the Asset Declaration Letter (SPPH) are as follows:
  - a. Nominal Value for cash or cash equivalents
  - b. Sale Value for land and building (NJOP) and motor vehicles (NJKB)
  - c. Antam price for gold and silver



- d. IDX for listed shares/warrants
- e. Penilai Harga Efek Indonesia index for SBN, debt securities and corporate sukuk
- f. Valuation from public appraiser if reference value is not available
  
- Declaration Procedure  
Participants shall submit SPPH attached with the following documents:
  - a. Tax payment slip
  - b. List of Asset and Liabilities
  - c. Statement Letter regarding repatriation or investment in eligible investment (if applicable)DGT will issue approval in the form of Certificate (SK) after submission of SPPH. SK may be amended or revoked if upon examination DGT encounters discrepancies between the declarations compared to the actual condition.
  
- Benefit  
Participants receiving SK will receive the following benefit:
  - a. Taxpayer will not be subject to 200% tax penalty under Article 18(3) Tax Amnesty Law
  - b. Data and information declared in SPPH cannot be used for tax investigation and/or criminal prosecution
  
- **Voluntary Disclosure Program II**
  - Available for Individual Taxpayer
  
  - Net Asset disclosure for 2016 – 2020 acquisition year
  
  - Eligibility  
All individual taxpayer excluding taxpayer undergoing:
    - a. Tax Audit for FY 2016 – 2020
    - b. Tax Audit on Preliminary Evidence for FY 2016 – 2020
    - c. Tax Investigation
    - d. Court Proceeding
    - e. Tax Crime Punishment
  
  - Requirements  
Participants are required to:
    - a. Have a Tax ID
    - b. Pay Final Income Tax
    - c. Submit 2020 Income Tax Return
    - d. Revoke any ongoing tax process as follows:
      1. Tax refund
      2. Reduction or cancellation of tax penalty
      3. Reduction or cancellation of incorrect tax assessment letter
      4. Reduction or cancellation of incorrect tax collection letter
      5. Tax objection



- 6. Tax amendment
- 7. Tax appeal
- 8. Lawsuit
- 9. Judicial Review

- Final Income Tax Rate

The disclosed Net Asset are deemed as income subject to Final Income Tax with applicable rate as shown in the table below:

Option	Final Tax Rate			Remarks
	Disclosure	Penalty on Investment / Repatriation Failure		
		SKPKB Issuance	Voluntary Payment	
Domestic Declaration w/ Investment Commitment	12,00%	4,50%	3,00%	
Domestic Declaration w/o Investment Commitment	14,00%			
Offshore Declaration w/ Repatriation and Investment Commitment	12,00%	4,50%	3,00%	Investment Failure
		5,50%	7,00%	Repatriation and Investment Failure
Offshore Declaration w/ Repatriation Commitment	14,00%	6,50%	5,00%	Repatriation Failure
Offshore Declaration	18,00%			

- To benefit from lower tax rate, the deadline for offshore repatriation into Indonesia is 30 September 2022.
- Eligible investment for the lower tax rate are as follows:
  - a. Business activity in processing natural resources or renewable energy in Indonesia; and/or
  - b. Government Debt Securities (SBN)
 Investments should be realized by 30 September 2023 at the latest with holding period of 5 (five) years
- Investment or Repatriation fail to be realized by the corresponding deadline is subject to additional final income tax for FY 2022
- Asset Value Determination  
Net Asset value to be used in the Asset Declaration Letter (SPPH) are as follows:
  - a. Nominal Value for cash or cash equivalents
  - b. Acquisition Cost for other assets





- Declaration Procedure  
Participants shall submit SPPH attached with the following documents:
  - a. Tax payment slip
  - b. List of Asset and Liabilities
  - c. Statement Letter regarding repatriation or investment in eligible investment (if applicable)DGT will issue approval in the form of Certificate (SK) after submission of SPPH. SK may be amended or revoked if upon examination DGT encounters discrepancies between the declarations compared to the actual condition.
  
- Benefit  
Participants receiving SK will receive the following benefit:
  - a. No tax assessment will be issued for FY 2016 – 2020 unless new data or information on assets that have yet to be disclosed is found
  - b. Data and information declared in SPPH cannot be used for tax investigation and/or criminal prosecution
  
- Limitation  
Revision of FY 2016 – 2020 ITR submitted after the effective date of HPP Law are deemed as not submitted. If the individual has yet to submit the 2020 ITR, the taxpayer can only report assets which has been submitted in the latest ITR for FY prior 2020 and prior the effective date of HPP Law plus assets derived from income in FY 2020

#### E. Carbon Tax

Effective since 1 April 2022, the Carbon Tax is introduced in HPP Law with summary as follows:

- **Tax Object**  
Carbon Emission which have negative impact on environment. The Carbon Emission is subject to Carbon Tax may be expanded through the issuance of a Government Regulation.
  
- **Tax Subject**  
Entities purchasing goods containing carbon or conducting activities which result in carbon emissions exceeding certain threshold within a certain period.
  
- **Tax Rate**  
The rate of Carbon Tax shall not be less than IDR 30/kg CO<sub>2e</sub>
  
- **Timing**  
Carbon Tax is payable on:
  - a. Purchase of goods containing carbon
  - b. End of each calendar year in which carbon emitting activity is conducted within that fiscal year
  - c. Other timing as stipulated in Government Regulation



- **Implementation Schedule**

Year	Objective
2021	Development of the carbon trading mechanism
2022 - 2024	Imposition of the Carbon Tax against coal-fired power plant projects through the “cap and tax” mechanism. Where such projects produce carbon emissions above the carbon limit/cap determined by the Government, Carbon Tax shall be imposed on such “excess”.
2025 onwards	Full implementation (in stages) of carbon trading and the expansion of Carbon Taxation will occur according to the readiness of the relevant sectors, economic conditions and/or the scale of implementation

- **Carbon Offset**

Taxpayers who participate in trading and offsetting carbon emissions, as well as other mechanisms in accordance with laws and regulations in the environmental sector, can be granted:

- a. Carbon Tax reduction and/or
- b. Other benefits

**F. Excise Law**

- Electronic Cigarette is now included as one of tobacco products subject to excise
- The HPP Law also provides mechanism to stop ongoing dispute for violations related to:
  - a. Permits
  - b. Release of excisable goods
  - c. Excisable goods not being packaged
  - d. Excisable goods originating from criminal acts
  - e. Sale and purchase of excise tapes.

The implication will be different depending on the stage of the dispute process as follows:

- If the violation is still under an examination process, the case will not be escalated to the investigation process if the taxpayer pays the administrative sanctions of 3 (three) times the excise value that should be paid.
- If the violation is already under an investigation process, the Attorney General can terminate the investigation process if the taxpayer pays the administrative sanctions of 4 (four) times the excise value that should be paid.

In both situations, the excisable goods related to the violation will be confiscated by the state whilst the other related goods may also be confiscated by the state.



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