

GMS Flash Alert

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Indonesia – New Tax Amnesty Law Enters into Force

After a lengthy period of discussions, on 28 June 2016, the Indonesian parliament approved the long-awaited and controversial Tax Amnesty Law ("the Law"). Law No. 11/2016, which was subsequently signed by President Joko Widodo, entered into effect on 1 July 2016.

WHY THIS MATTERS

For individual taxpayers whose tax affairs are not in order consequent to not having declared certain assets to the tax authorities or having mis-stated their assets, this new Law should provide an advantageous opportunity to put their "tax house" in order and re-establish their compliance record with Indonesia's tax authorities.

During the time between the submission of the taxpayer's Declaration Letter and the formal Tax Amnesty Approval by the Indonesian tax authorities, the taxpayer will not be subject to tax audits, preliminary evidence audits, and/or tax crime investigations for tax periods up to and including the latest tax year. In addition, any running tax audits, preliminary evidence audits, and/or tax crime investigations will be suspended.

Requirements for Participants

In order for a taxpayer to qualify for participation in the Tax Amnesty, the following requirements must be fulfilled:

- Availability of a tax ID number (NPWP) – it is still possible to register now before participating;
- Payment of the Clearance Levy;
- Settlement of all outstanding tax liabilities;

- Submission of taxpayer's latest income tax return in accordance with the financial year and tax regulations;
- Revocation of all outstanding on-going legal (tax) procedures, e.g., refunds for tax over-payments, reduction or cancellation of administrative sanctions in tax assessment letters, tax collection letters, tax objections, tax appeals, tax lawsuits, judicial reviews, etc.

The signed Declaration Letter and its attachments must be filed with the Ministry of Finance, through the local tax office where the taxpayer is registered (or any other place to be determined by the Ministry of Finance). The taxpayer should obtain a receipt.

Highlights of the Law

We highlight some of the Law's provisions below:

Benefits of participation	Consequences of non-participation or for submitting incomplete information
Waiver of any: (i) taxes due, (ii) administrative sanctions and (iii) tax criminal sanctions regarding assets reported in the Declaration Letter for any open tax obligations up to the last tax year.	If the ITO has information on any unreported assets from 1 January 1985 to 31 December 2015, they would be deemed as "additional assets" subject to normal treatment under the tax laws.
The Clearance Levy rates are significantly lower than the normal tax rates (25% for corporate and 30% for individual taxpayers).	The tax payable as a result of the above would be subject to: - <i>For non-participation</i> : corporate income tax and tax penalties in accordance with the current tax laws for the whole amount; - <i>For submitting "incomplete" information</i> : the difference would be subject to corporate income tax at the normal rate, plus an administration sanction of 200%.
Tax audits, preliminary evidence investigations, and/or tax investigations would not be conducted up to the last tax year.	
Coverage of the Law concerns Income Tax, Value Added Tax and Sales Tax on Luxury Goods.	
Applicable to all taxpayers, including taxpayers that have not registered, except for taxpayers currently being investigated by the Prosecutor, under a judicial process in Court, and/or already sentenced for criminal charges in taxation.	
Outstanding tax audits, preliminary evidence investigations and tax investigations would be stopped.	
Any related tax liabilities on transferring the title of tangible properties, i.e., land and buildings and	

shares, would be waived provided it is done not later than 31 December 2017.	
A Declaration Letter can be submitted more than once, up to a maximum of three times until March 2017.	

KPMG NOTE

By participating in this tax amnesty, all of the taxpayer's previous outstanding tax obligations would be deemed final and would continue with certainty in the following years.²

There are still some important matters in respect of the Law which are unclear, and these need to be addressed in the implementing regulations – such as how to justify the fair value of the assets, what kind of acceptable evidence is needed to support the existence of the assets, use of on-shore funds for personal purposes, etc.

Because of the complexities and implications of the Tax Amnesty Law, we recommend that concerned parties consult with their qualified legal and tax advisers before proceeding with the submission of a Declaration Letter.

RELATED RESOURCE

For more details, please refer to "[Tax Amnesty Indonesia 2016](#)," in *TaxNewsFlash* (July 2016), a publication of the KPMG International member firm in Indonesia.

FOOTNOTES:

1 Tax Amnesty Bill (*RUU tentang Pengampunan Pajak*) became Tax Law 11/2016 on 1 July 2016. For the Law (in Indonesian), see: <http://www.pajak.go.id/sites/default/files/info-pajak/UU-11-2016-Pengampunan-Pajak-Penjelasan.pdf>.

In addition, the Minister of Finance has issued two regulations related to the Law:

- Minister of Finance Regulation No. 118/PMK.03/2016 dated July 15, 2016 regarding Implementation of Law No. 11 of 2016 regarding Tax Amnesty, and
- Minister of Finance Regulation No. 119/PMK.08/2016 dated July 18, 2016 regarding Procedures for Transferring Taxpayer Assets to the Territory of Republic of Indonesia and the Placement of Investment Instruments in the Financial Market.

2 After a taxpayer participates in the tax amnesty, the tax office will look no further into the tax returns up to tax year 2015. All the reporting and assessments (if any) made before the amnesty are considered final and the taxpayer may be certain that there will not be any further query, reassessment, or investigation in respect of those tax returns.

Contact us

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