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THE VALID TAX GUIDES FOR EXPATRIATES IN INDONESIA

TaxPrime

FOREWORD

We thank God Almighty because the book "The Valid Tax Guides for Expatriates in Indonesia" can be adequately completed by His grace. In addition, we would also like to thank Pak Muhamad Fajar Putranto as the Managing Partner of TaxPrime, our Partners and colleagues, and all friends from the Directorate General of Taxes for their suggestions and support in completing this book.

This book explicitly addresses to expatriates whose status is a foreign citizen (WNA), but they have become resident taxpayers of Indonesia. Therefore, the discussion is mainly related to the ins and outs of taxation rights and obligations, especially regarding income tax. Thus, the detailed discussion contains guidelines on the filling of an Individual Annual Income Tax Return, paying taxes payable, and reporting the tax return electronically.

The discussion of this book is carried out in a structured and systematic ways, starting from tax subjects, tax identification number, rights and obligations of taxpayers, income, assets, debts, tax credits, and family dependents. In addition, some important things related to implementing taxpayer rights, risk mitigation, and tax audits are presented in complete explanation, so we hope this book can help expatriates to fill tax returns quickly and correctly, and free from tax sanctions.

Jakarta, April 2023

TaxPrime

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CHAPTER I

TAX SUBJECTS, TAXPAYERS, AND TAXABLE ENTREPRENEURS

Tax Subject

A tax subject is an individual or an entity that meets some criteria as a taxpayer and is required to fulfill tax obligations, such as paying taxes, reporting a tax return and/or carrying out bookkeeping or recording obligations. Based on Article 2 paragraph (1) of the Income Tax Law, tax subjects consist of 4 (four) types, namely:

Individual	Undivided inheritance as a unit in lieu of the beneficiaries
Entity	Permanent establishment

Note: A permanent establishment is a Tax Subject which, for taxation purposes, is treated as corporate taxpayer.

Furthermore, based on their domicile, tax subjects are classified into two, namely:

1. Resident Taxpayer

Resident taxpayers (domestic tax subjects) are generally grouped into three types: an individual, an entity, and undivided inheritance.

a. Resident taxpayer, which is a private person[1], is an individual, either an Indonesian citizen or a foreign citizen, who fulfills three requirements:
   - residing in Indonesia;
   - being in Indonesia for more than 183 days within 12 months; or
   - in a tax year is in Indonesia and intends to reside in Indonesia.

b. Resident taxpayer in the form of an entity[2]

   Entity established or domiciled in Indonesia, except part of government bodies which fulfills these criteria as follows:
   - Its establishment is pursuant to the laws;
   - Its expenditures financed by State Budget or Local Government Budget;
   - Its revenues are included in State Budget or Local Government Budget; and; and
   - Its book keeping is audited by the government auditor.

c. SPDN in the form of undivided inheritance

   The inheritance that has not been divided as a unit replaces the rightful one. The inheritance that has not been divided as a unit is a substitute tax subject, replacing those entitled, namely the heirs. The appointment of an undivided inheritance as a substitute tax subject is intended so that the imposition of tax on income derived from the inheritance can still be implemented.

   An undivided inheritance left by an individual subject to domestic tax is considered a domestic tax subject in the meaning of this Law following the status of the heir. As for the fulfillment of tax obligations, the

[1]In principle, individuals who are subject to domestic taxes reside or are in Indonesia. Included in the definition of an individual who resides in Indonesia are those who intend to reside in Indonesia.

[2] Entity is a group of people and/or capital that is a unit whether doing business or not doing business, including a limited liability company, other company, state-owned company, or regionally-owned business entity in whatever name and form, firm, joint venture, cooperatives, pension funds, partnerships, associations, foundations, mass organizations, socio-political organizations, or other organizations, institutions, and other forms of bodies including collective investment contracts and permanent establishments.

inheritance replaces the obligations of the entitled heirs. The tax obligations are transferred to the heirs if the inheritance has been divided.

Undivided inheritance left by an individual as a foreign tax subject who does not run a business or carry out activities through a permanent establishment in Indonesia is not considered as a substitute tax subject because the imposition of tax on the income received or earned by the individual is attached to the object.

2. Non-Resident Taxpayer

A non-Resident Taxpayer (foreign tax subjects) may include individuals or entities that meet the following criteria:

a. an individual who does not reside in Indonesia;

b. foreign nationals who stay in Indonesia for not more than 183 days in 12 months;

c. Indonesian citizen who has been outside Indonesia for more than 183 days in 12 months and fulfills the following requirements:
- residence;
- main activity center;
- place of practice.

The important differences between domestic taxpayers and foreign taxpayers lies in the fulfillment of their tax obligations, including:

Resident Taxpayer	Non-Resident Taxpayer
a. subject to tax on income either received or obtained from Indonesia or from outside Indonesia b. taxed based on net income at the general rate	a. subject to tax only on income originating from sources of income in Indonesia b. taxed based on gross income at the commensurate tax rate

c. shall register to get a TIN	c. no need to register to get a TIN
d. shall submit Periodic SPT and Annual Income Tax SPT as a means to determine the tax payable in a tax year	d. not required to submit Periodic SPT and Annual Income Tax SPT because the tax obligations are fulfilled through final tax deductions

Taxpayer

A taxpayer is an individual or an entity, including a tax withholder, and a tax collector, who has tax rights and obligations under the provisions of Indonesian Tax Laws. In other words, a taxpayer can also be defined as a resident taxpayer that has fulfilled the provisions to carry out taxation rights and obligations. Some examples of tax obligations for taxpayers in general, such as:

a. pay tax;
b. submit a tax return;
c. prepare certain record of the revenue is not more than Rp. 4.8 billion in a year;
d. withholding and/or collecting taxes, if the status is a tax withholder/collector;
e. perform bookkeeping if the business income exceeds Rp. 4.8 billion
f. and others.

Concerning income tax, the so-called taxpayers have fulfilled their subjective and objective tax obligations, namely having earned income in one year exceeding tax exemption (PTKP).

Tax Identification Number

A Taxpayer Identification Number (TIN) is a certain number given to a taxpayer as an instrument of tax administration which is used as a personal identification or identity of the taxpayer in exercising his tax rights and obligations. While, in Indonesia, TIN is the same with NPWP (*Nomor Pokok Wajib Pajak*). There are two types of TIN, such as:

a. Individual TIN

   A TIN which is given to an individual who is a resident taxpayer, provided that their income in one year has exceeded the tax exemption.

b. Corporate TIN

   A TIN which is issued to an entity that established or domiciled in Indonesia

To obtain a TIN, an individual or an entity must submit an application electronically or in writing, which can be done by:

a. come directly to the tax office;

b. by post with proof of mail delivery; or

c. through an expedition service company or courier service with proof of mail delivery.

Documents that need to be attached are:

Individuals who do not carry out business activities or independent work	Individuals who carry out business activities or independent work
a. ID card for Indonesian citizens b. Passport for foreigners	a. ID Card (KTP) for Indonesian citizens or passport for foreigners; b. documents of the existence of business activities or free work of the Taxpayer for each place of business activity or independent work; and c. documents of the place of business activity or independent work of the Taxpayer.

If an individual or entity does not apply to obtain a TIN, the Tax Authority may issue a TIN in ex officio. The procedure is carried out based on a certain audit or another certain procedure based on data and/or information owned or obtained by the Directorate General of Taxes, including data and/or information obtained from extensification activities.

1. **TIN Online Registration**

   The steps for making an online TIN go to page *https://ereg.pajak.go.id/login*

2. **TIN Elimination**

   If a taxpayer no longer meets the subjective and/or objective requirements of the tax provisions, as stated below, he needs to apply for the elimination of his TIN. For example:

   a. An individual taxpayer who has died and has not left an inheritance;

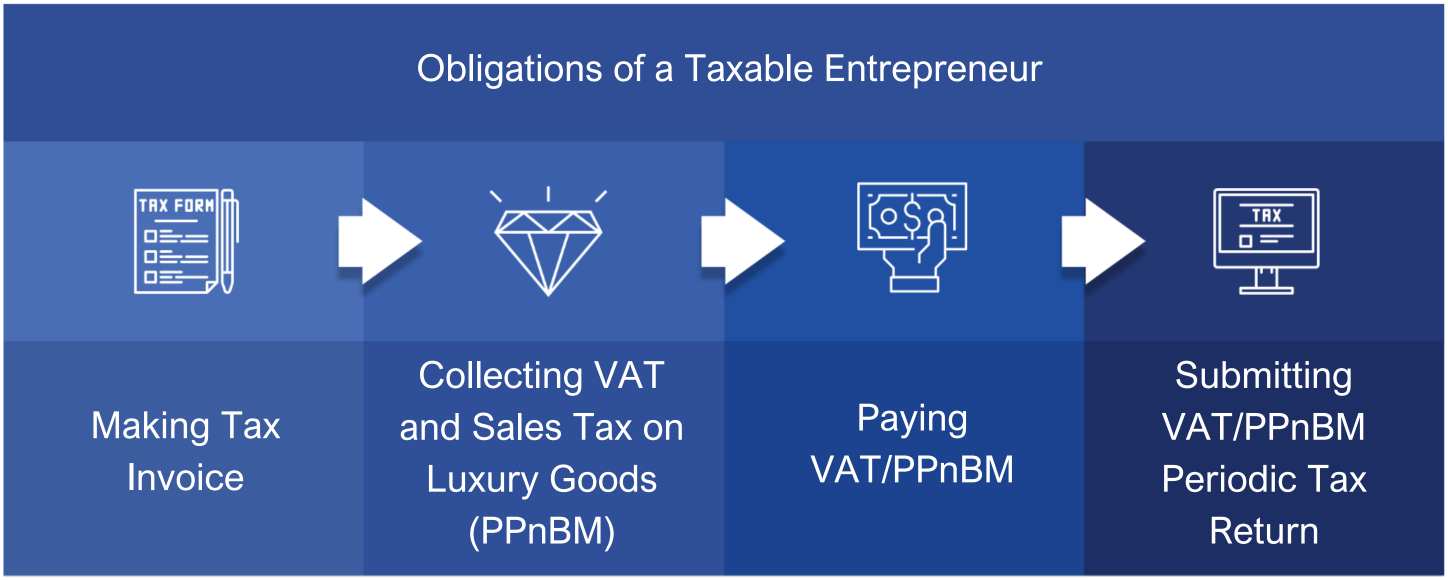
   b. An individual taxpayer who has left Indonesia for good;

c. A taxpayer who has more than 1 (one) TIN;
d. An individual taxpayer who has the status as an administrator, a commissioner, a shareholder or an owner and an employee who have been given a TIN through his employer/government treasurer and whose net income does not exceed the tax exemption;
e. a woman who previously had a TIN and married without agreeing on the separation of assets and income and does not want to exercise her rights and fulfill her tax obligations separately from her husband; or
f. a married woman who has a TIN that is different from her husband's TIN, and the exercise of her tax rights and obligations is combined with the exercise of her husband's taxation rights and obligations.

A taxpayer is obliged to provide certain documents showing that he no longer meets the subjective and/or objective requirements and fulfil the relevant tax regulations.

Taxable Entrepreneur

If a taxpayer runs a business or runs his own business, the turnover or circulation of his business in one year has exceeded Rp. 4.8 billion, then he is obliged to register himself as an entrepreneur who must collect VAT. In terms of the VAT Law, entrepreneurs with these criteria are referred to as Taxable Entrepreneurs (PKP). Article 1 paragraph (5) of the KUP Law defines PKP as an entrepreneur who delivers Taxable Goods and/or delivers Taxable Services subject to tax based on the 1984 Value Added Tax Law and its amendments. Therefore, for individual taxpayers whose status is sole as an employee or a person who works for another party, there is no obligation to register as a PKP.


Obligations of a Taxable Entrepreneur
TAX FORM
Making Tax Invoice
Collecting VAT and Sales Tax on Luxury Goods (PPnBM)
Paying VAT/PPnBM
TAX
Submitting VAT/PPnBM Periodic Tax Return

CHAPTER II

SCOPE OF TAXATION FOR EXPATRIATES

Definition of Expatriate

According to Government Regulation Number 34 of 2021, Foreign Workers (TKA) are foreign citizens holding visas to work in Indonesian territory. The government aims to allow foreign workers to accelerate national development, which is carried out with specific requirements and restrictions. For example, foreign workers will be hired by determining a particular position and time. Therefore, if investment requires foreign workers, foreign workers are directed to accelerate the national development process through technology transfer and transfer of expertise from foreign workers to Indonesian workers.

The Central Government and Regional Governments carry out the development and supervision of the use of foreign workers in order to create a conducive investment climate to create the broadest possible employment opportunities for Indonesian workers and law enforcement and administrative sanctions to Employers of Foreign Workers for violations of the norms for the use of Foreign Workers.

Employment Provisions on Expatriates

According to Government Regulation Number 34 of 2021, Foreign Workers (TKA) are foreign citizens holding visas to work in Indonesian territory. The government aims to allow foreign workers to accelerate national development, which is carried out with specific requirements and restrictions. For example, foreign workers will be hired by determining a particular position and time. Therefore, if investment requires foreign workers, foreign workers are directed to accelerate the national development process through technology transfer and transfer of expertise from foreign workers to Indonesian workers.

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Government or private agencies that can use foreign workers are:

a. government agencies, representatives of foreign countries, and international agencies;
b. foreign trade representative offices, representative offices of foreign companies, and foreign news agencies conducting activities in Indonesia;
c. foreign private companies operating in Indonesia;
d. a legal entity in the form of a limited liability company or foundation established under Indonesian law or a foreign business entity registered with the competent authority;
e. social, religious, educational, and cultural institutions;
f. financial service business; and
g. business entities as long as permitted by law.

The requirements to become a foreign worker in Indonesia are:

a. diploma degree;
b. certificate of competence or work experience;
c. work agreement or other agreement;
d. statement letter as guarantor of foreign workers; and
e. checking/savings account.

Data on Expatriates in Indonesia

The number of Foreign Workers (TKA) in Indonesia until May 2021 reached 92,058 TKA. This number has decreased for three years since 2018, which is the highest number, namely 95,335 foreign workers. Previously, since 2010, the number of foreign workers has continued to increase every year.

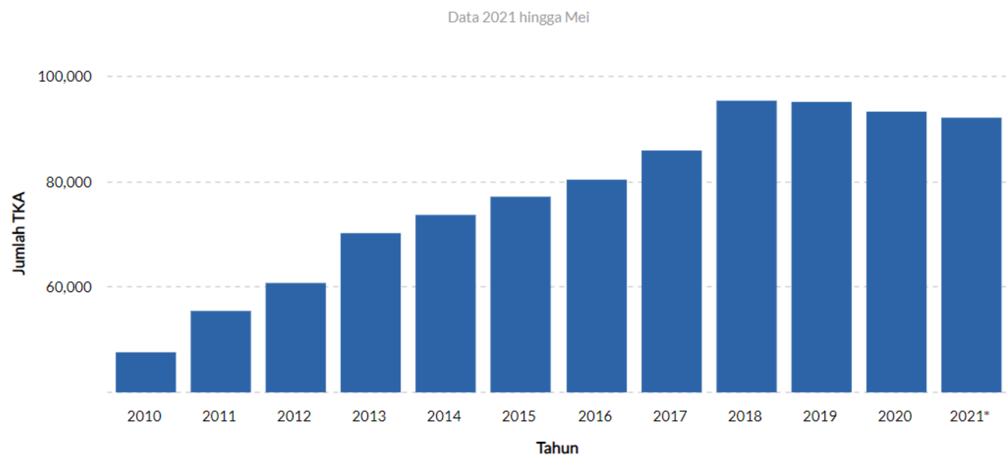


Figure 1 Number of Foreign Workers in Indonesia, 2010-2021

Expatriates in Terms of Taxation

Based on the tax perspective, expatriates can be divided into two types, namely:

SPDN expatriates are foreigners whose presence in Indonesia exceeds 183 days or those who intend to work or live in Indonesia for the long term. Meanwhile, SPLN expatriates are foreigners in Indonesia for no more than 183 days or those who have no intention to work or stay in Indonesia in the long term. In general, expatriate tax obligations, which are SPDN and SPLN, are:

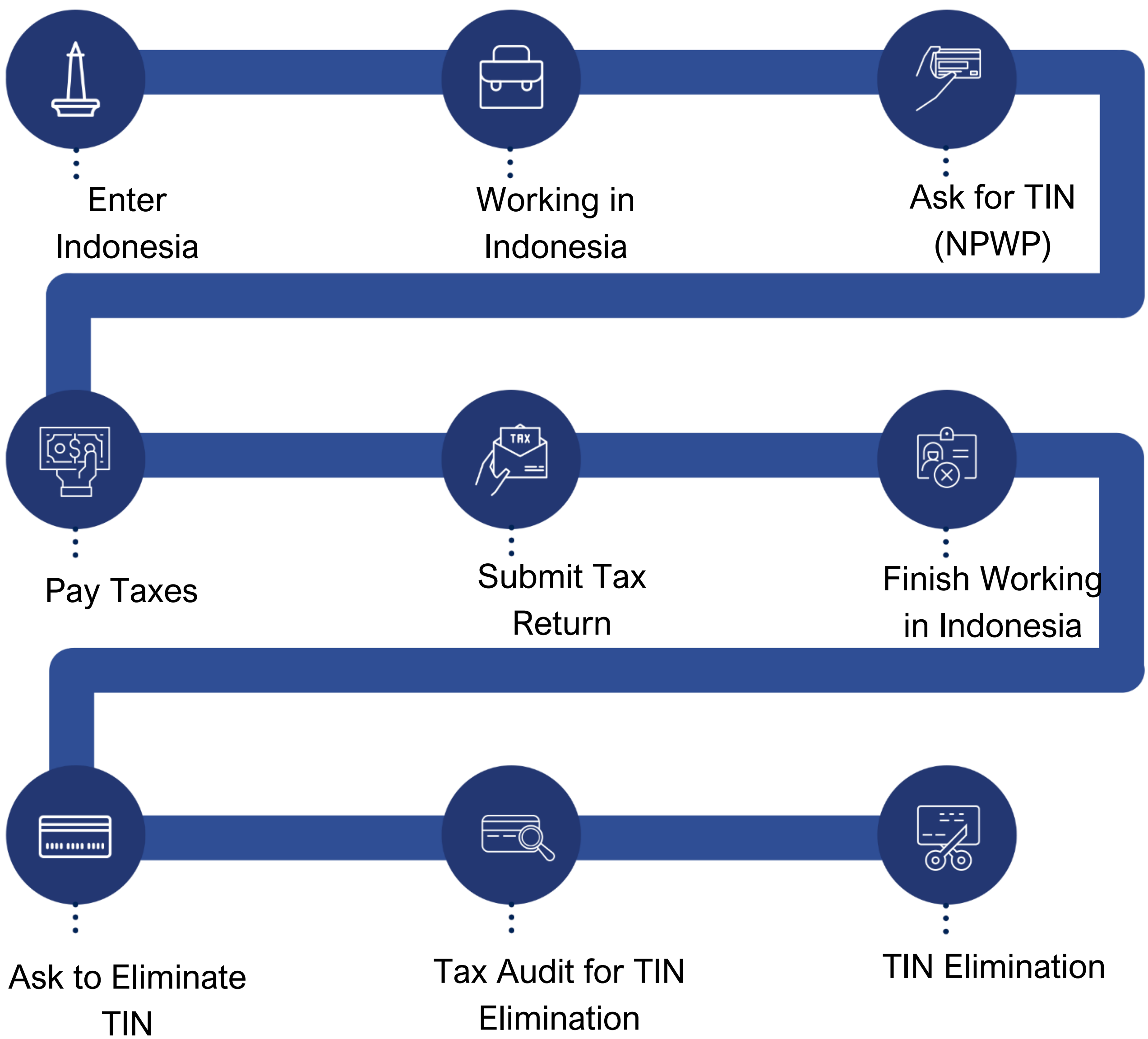
SPDN Expatriates	SPLN Expatriates
a. subject to tax on income either received or obtained from Indonesia or from outside Indonesia;	a. subject to tax only on income originating from sources of income in Indonesia;
b. taxed based on net income at the general rate;	b. taxed based on gross income at the commensurate tax rate;
c. must register to get a TIN;	c. no need to register to get a TIN;
d. must submit Periodic Tax Return and Annual Income Tax Return as a means to determine the tax payable in a tax year.	d. not required to submit Periodic Tax Return and Annual Income Tax Return because the tax obligations are fulfilled through final tax deductions.

However, not all expatriates will automatically become taxpayers because there are objective conditions that must be met and conditions for their status as wives or children. For SPDN expatriates who have income in Indonesia because of their status as employees or executives in the company or those who earn other income, either actively or passively, the expat must register with the tax office to obtain a TIN. However, his wife and children who do not earn from work or other income do not need to have a TIN.

It should be remembered that Indonesia adheres to the principle that one family is a separate entity and the husband is the head of the household. For this reason, in a family, there should only be one TIN where the husband must have a TIN. However, if desired, his wife can apply for a TIN. However, as a result, the tax that will be borne will be even more significant because if the wife works for another party, then the wife's income is not status as final income, so it must be combined with the husband's income. This will cause their income to become more extensive, and because Indonesia adopts a progressive tax system for individual taxpayers, the expat will eventually have to pay more taxes.

Tax Cycle for Expatriates

The tax cycle for expatriates is a cycle for foreigners who will work in Indonesia, starting from arrival in Indonesia, working for entities, until the foreign workers return to their home countries.



Tax Rights and Obligations of Expatriates

When foreigners come to Indonesia to work, they automatically have an obligation to register with the tax office to obtain a TIN. After they have a TIN, their status as SPLN will change to SPDN and then officially become Indonesian Taxpayers or WPDN. Therefore, then arise in the form of tax rights and obligations for the expatriate, namely:

Tax Rights	Tax Obligations
a. Applying for an extension of the SPT b. Apply to installment payments c. Submit a request for correction/cancellation of tax assessments d. File an objection, appeal or reconsideration e. Applying for TIN deletion	a. Paying Income Tax b. Reporting the Annual Income Tax Return c. Recording of income d. Provide data and documents when checked e. Signing Minutes of Tax Audit f. Pay the amount of tax that is not/less from the audit results

Imposition of Taxes on Expatriates

The main focus of this book is to discuss aspects of income tax for expatriates whose status as foreign workers. Prior to the enactment of Law Number 11 of 2020 concerning Job Creation, the imposition of income tax was distinguished only based on its status as SPDN or SPLN. However, with the existence of this law, the length of stay in Indonesia will affect the scope of the income tax that will be imposed on expatriates.

Num.	Expatriates	Income Object	Tax Type	Tax Rate
1	Expatriates who stay in Indonesia for no more than 183 days	Income paid to LN	Income Tax Article 26	20% or in accordance with P3B and is final

2	Expatriates working in Indonesia no more than 4 years	Income that is solely received from Indonesia (in this case, Indonesia applies the territorial basis income principle)	Income Tax Article 17	5% to 35% according to the layer of taxable income and is not final
3	Expatriates working in Indonesia for more than 4 years	Income from Indonesia and from outside Indonesia (because Indonesia applies the worldwide income principle)	Income Tax Article 17	5% to 35% according to the layer of taxable income and is not final

the detail of the income tax rate for individual taxpayers as follows:

Income Bracket	Tax Rate
Up to IDR60,000,000.00	5%
Above IDR60,000,000.00 up to IDR250,000,000.00	15%
Above IDR250,000,000.00 up to IDR500,000,000.00	25%
Above IDR500,000,000.00 up to IDR5,0000,000,000.00	30%
Above IDR5,0000,000,000.00	35%

How Expatriates Relate to Taxpayers

The Indonesian government provides the best service to all its taxpayers. The Tax Authority provides exceptional services to Taxpayers to serve inquiries or consultations on taxation rights and obligations through a Tax Counselor. In addition, the DGT also provides a tax call center service at 1500200; the tax officer there will answer kindly and adequately any questions he asks. If the taxpayer is not satisfied, then complaint can be submitted to the DGT via email or telephone directly to the Internal Compliance Unit, and most importantly, the complaint will be processed immediately. Perhaps, this condition will be challenging to find in developed countries, where if the taxpayer is going to ask about taxation, they need to find the information themselves through the website, send an email, ask a tax consultant because it is maybe easier to find a tax consulting office than to find a tax office. On the other hand, finding a tax consultant office in Indonesia is more difficult than finding a tax office.

CHAPTER III
ANNUAL TAX RETURN

Definition of Tax Return

After Taxpayers have a TIN (NPWP), they must carry out their tax obligations, and legally they can take advantage of their rights as Taxpayers. One of the tax obligations for expatriates that must be carried out every year is filling and submitting a Tax Return (SPT). Tax Return is a letter used by the Taxpayer to report the calculation and/or payment of taxes, tax objects and/or non-tax objects, and/or assets and liabilities following the provisions of tax laws and regulations.

For Individual Taxpayer, is required to submit Individual Income Tax Return by the latest the end three months after the end of fiscal year.

The following are three types of individual Income Tax Return:

Types of Individual Income Tax Return	Criteria
FORM 1770	This form is intended for individual Taxpayers who have: a. income from business / independent personal service; b. income from one or more employers; c. which is subject to final and/or final income tax; and/or d. other domestic/overseas income.
FORM 1770S	This form is intended for individual Taxpayers who have: a. income from one or more employers;

	b. other income from within the country; c. income that is subject to Final Income Tax or is Final.
FORM 1770SS	This form is intended for individual Taxpayers whose income comes from other than business and/or independent work, and the amount is not more than Rp60 million in one year.

To fill out the Annual Individual Income Tax Return correctly, thoroughly, clearly, and quickly, the expatriate must prepare documents or records regarding income, tax credits, assets, debts, and a list of family members.

Essential Information in Filling Annual Individual Income Tax Returns	Types of Documents or Records Required
Income	a. income from working in the company ▪ records of income for the year; ▪ current account. b. other income from other countries ▪ other income records; ▪ current account.
Tax Credit	a. proof of withholding income tax article 21 from the company where the taxpayer works, namely form 1721 a1

	b. proof of other income cuts from domestic and abroad
Assets	a. documents or records of purchase/acquisition of property for one-year; b. documents or records of sales, surrender of assets, write-off of assets for a year; c. agreement regarding the separation of property between husband and wife.
Liabilities	a. documents or records regarding borrowing from banks or other parties; b. documents or records regarding loan installment payments or repayments.
Family member's arrangement	a. family card; b. passport; c. childbirth certificate; d. marriage certificate;

How to Report Annual Individual Income Tax Return

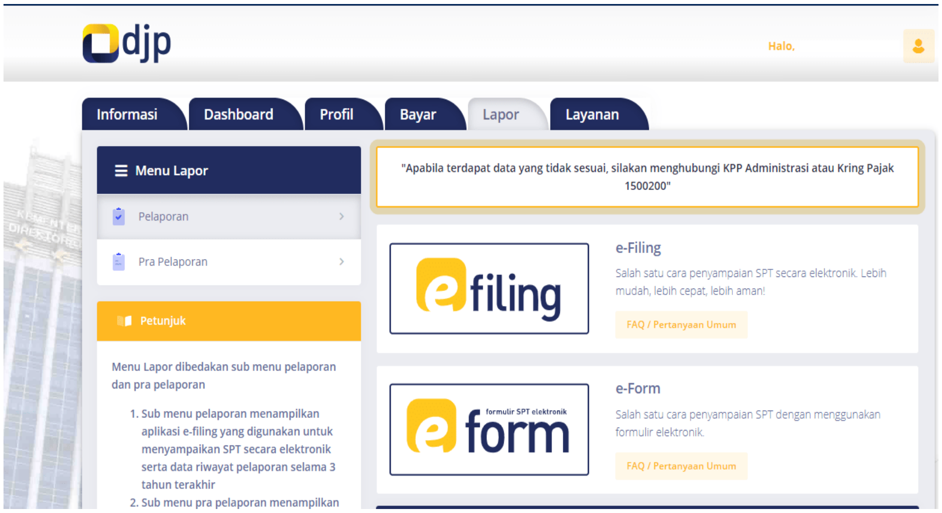
To report the Annual Income Tax Return, an expatriate can do it in two ways, namely:

a. Done by filling in e-Filing

   E-FILING is a method of electronically submitting Tax Return (SPT), which is done online and in real-time via the internet on the DGT website (www.djponline.pajak.go.id) or through an application service provider (ASP).

b. Done by filling the form

   E-FORM is an electronic Tax Return (SPT) form in a file with the extension.xfdl, which can be filled out offline. Like e-Filing, the e-Form feature is also accessed through the djponline.pajak.go.id or eform.pajak.go.id pages.

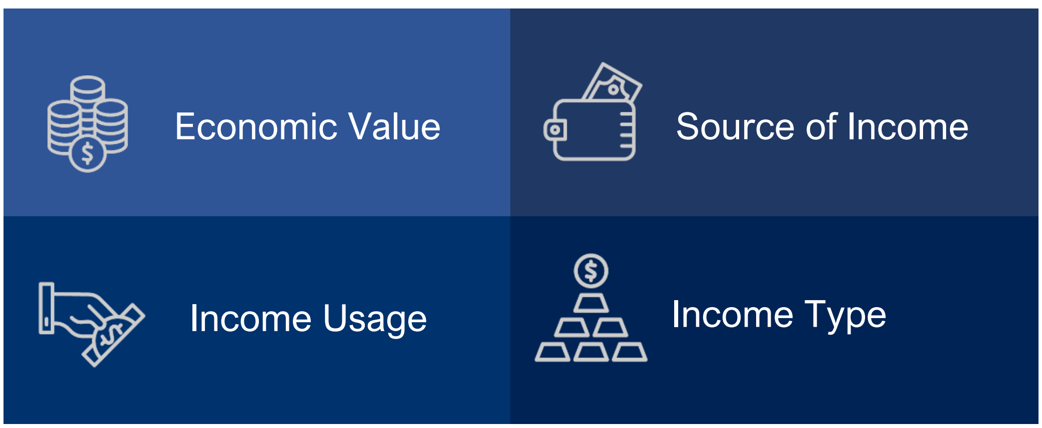


Source: https://djponline.pajak.go.id/

CHAPTER IV
INCOME TAX PROVISIONS IN INDONESIA

Income Definition

Income is any additional economic capacity received or obtained by a Taxpayer, both from Indonesia and from outside Indonesia, which can be used for consumption or to increase the wealth of the Taxpayer concerned, in any name and any form. Based on this definition, there are several elements that cause what is received/earned by a Taxpayer to be categorized as income, namely:



Income Concept	Explanation
Economic Value	The definition of income adheres to a broad concept: anything that can provide economic benefits or capabilities to a person will be considered income.
Source of Income	Indonesia adheres to the principle of worldwide income, meaning that any income received by someone from wherever it comes from (either

	from within the country or abroad) will be considered as income.
Income Usage	The use of income either for consumption, savings, or investment will not change that the income is not subject to tax.
Income Type	What is meant by a non-permanent form of income is cash or additional savings accounts received by a person. However, income can be in the form of tangible goods or intangible goods or the form of kind or pleasure.

Based on Article 4 paragraph (1) of the Income Tax Law, examples of additional economic capabilities that are included in the income category are:

a. Reimbursement or remuneration in respect of work or services received or obtained including salaries, wages, allowances, honoraria, commissions, bonuses, gratuities, pensions, or other forms of remuneration including benefits in kind, unless otherwise specified;
b. prizes from sweepstakes or work or activities, and awards;
c. operating profit;
d. gains due to sale or transfer of property, including:
    - gains due to the transfer of assets to a company, partnership, and other entity as a substitute for shares or equity participation;
    - profits due to the transfer of assets to shareholders, partners, or members obtained by companies, partnerships, and other entities;
    - profits due to liquidation, merger, consolidation, expansion, split, takeover, or reorganization in any name and any form;
    - gains due to the transfer of assets in the form of grants, assistance, or donations, except for those given to blood relatives in a straight

line of one degree and religious bodies, educational bodies, social bodies including foundations, cooperatives, or private individuals who run micro and small businesses, whose provisions will be further regulated by a Regulation of the Minister of Finance, as long as there is no relationship with the business, occupation, ownership, or control between the parties concerned; and

- profit due to sale or transfer of part or all of mining rights, a sign of participation in financing, or capital in mining companies.

e. Receipt of tax payments that have been charged as fees and an additional payment of tax refunds;
f. interest including premiums, discounts, and rewards for guaranteeing debt repayments;
g. dividends, in whatever name and form, including dividends from insurance companies to policyholders, and distribution of the remaining operating results of cooperatives;
h. royalties or fees for the use of rights;
i. rent and other income in connection with the use of property;
j. receipt or acquisition of periodic payments;
k. profits due to debt relief, except up to a certain amount stipulated by a Government Regulation;
l. foreign exchange gains;
m. excess difference due to asset revaluation;
n. insurance premium;
o. contributions received or obtained by the association from its members consisting of Taxpayers who run a business or work independently;
p. additional net assets originating from income that has not been taxed;
q. income from sharia-based businesses;

r. interest compensation as referred to in the Law that regulates general provisions and taxation procedures; and

s. surplus of Bank Indonesia.

However, to provide a sense of justice, national interest, ease of business transactions, and the prevailing norms in society, the law divides income into three types, namely:

Non-Final Income Tax Objects

Final Income Tax Objects

Non- Tax Objects

Income as Non-Final Income Tax Objects

Non-final income tax object or income subject to standard rates is income received by Taxpayers where the determination of the amount of tax payable on such income uses a progressive rate. Another definition is taxed income after calculating the costs incurred to obtain, collect and maintain the income. In addition, many parties define income as a non-final object as income whose taxation is not based on the transaction value but rather is based on the net amount (after deducting the costs incurred). For example:

1. For Employees/Expatriates

a. salaries, wages, allowances, honoraria, commissions, bonuses, gratuities, pensions, or other forms of remuneration;

b. rewards from work (work achievements) or activities, and awards;

c. gains due to sale or transfer of property (including on sale of crypto assets/currencies);

d. interest that does not come from a bank or financial institution;

e. royalties or fees for the use of rights;

f. rent and other income in connection with the use of property other than land and/or buildings;
g. receipt or acquisition of periodic payments;
h. benefits from debt relief;
i. insurance paid by the employer;
j. health benefits, tax benefits, and others;
k. additional net assets originate from income that has not been taxed (e.g., inheritance/grant whose assets are not included in the Annual Income Tax Return of the beneficiary/grant).

2. For Individuals who runs business and companies

a. Income from the business it does, namely every payment received from its consumers/customers;
b. rewards from activities and awards;
c. gains due to sale or transfer of property (including on sale of crypto assets/currencies);
d. interest that does not come from a bank or financial institution;
e. royalties or fees for the use of rights;
f. rent and other income in connection with the use of property other than land and/or buildings;
g. receipt or acquisition of periodic payments;
h. benefits from debt relief;
i. insurance paid by the employer;
j. health benefits, tax benefits, and others;
k. additional net assets originating from income that has not been taxed (e.g., inheritance/grant whose assets are not included in the Annual Income Tax Return of the beneficiary/grant);

l. profits from the sale or transfer of part or all of mining rights, participation in financing, or capitalization in mining companies;

m. Receipt of tax payments that have been charged as fees and an additional payment of tax returns;

n. profits due to debt relief, except up to a certain amount stipulated by a Government Regulation;

o. foreign exchange gains;

p. excess difference due to asset revaluation;

q. insurance premiums;

r. contributions received or obtained by the association from its members consisting of Taxpayers who run a business or work independently;

s. income from sharia-based businesses;

t. interest payments; and

u. Bank Indonesia surplus

Income as Final Income Tax Objects

Income as the object of Final Income Tax is income whose taxation is based on the gross value or transaction value so that it does not take into account the costs that have been incurred. The following includes the types of income subject to Final Income Tax, namely:

a. income in the form of interest on deposits and other savings, interest on bonds and government bonds, interest or discount on short-term securities traded on the money market, and interest on deposits paid by cooperatives to individual cooperative members;

b. income in the form of lottery prizes;

c. income from share and other securities transactions, derivative transactions traded on the exchange, and share sales transactions or transfer of capital participation in partner companies received by venture capital companies;

d. income from property transfer transactions in the form of land and/or buildings, construction service businesses, real estate businesses, and land and/or building rentals; and

e. other certain income, including income from business received or earned by Taxpayers who have a certain gross turnover

Income as Non-Tax Objects

Non-taxable income is not subject to tax at all, either non-final income tax or final income tax. In other words, income recipients who are not tax objects are free from the obligation to pay income tax. Examples of income as Non-Tax Objects are:

a. assistance or donations, including zakat, infaq, and alms received by amil zakat agencies or amil zakat institutions established or legalized by the government and received by eligible zakat recipients or religious donations that are mandatory for adherents of a recognized religion in Indonesia, which received by a religious institution established or ratified by the government and accepted by the recipient of the rightful donation, the provisions of which are regulated by or based on a Government Regulation.

b. donated assets received by blood relatives in a straight line of one degree, religious bodies, educational bodies, social institutions including foundations, cooperatives, or private individuals who run micro and small businesses.

c. inheritance;

d. assets including cash deposits received by the agency as a substitute for shares or as a substitute for capital participation;

e. compensation or remuneration in connection with work or services received or obtained in-kind, including:
    - food, food ingredients, beverage ingredients, and/or drinks for all employees;
    - in-kind provided in certain areas;
    - in-kind that the employer must provide in carrying out the work;
    - in-kind sourced or financed by the State Revenue and Expenditure Budget, the Regional Revenue and Expenditure Budget, and/or the Village Revenue and Expenditure Budget; or
    - in-kind with certain types and/or limitations
f. payments from insurance companies due to an accident, illness, or death of the insured person, and scholarship insurance payments;
g. dividend;
h. income from Permanent Establishment and other active income from abroad.
i. contributions received or obtained by a pension fund whose establishment has been approved by the Financial Services Authority, whether paid by the employer or employee;
j. income from the capital invested by the pension fund as referred to in letter g, in certain fields;
k. the share of profits or the remainder of the operating results received or obtained by members of cooperatives, limited partnerships whose capital is not divided into shares, partnerships, associations, firms, and joint ventures, including holders of participation units in collective investment contracts;
l. income received or earned by a venture capital company in the form of a share of profits from a business partner entity established and running a business or activity in Indonesia, provided that:

- is a micro, small and medium company, or that carries out activities in business sectors regulated by or based on a Regulation of the Minister of Finance; and
- its shares are not traded on the stock exchange in Indonesia.

m. scholarships that meet certain requirements;

n. the excess that is received or obtained by a non-profit agency or institution engaged in education and/or research and development, which has been registered with the agency in charge of it, is reinvested in the form of facilities and infrastructure for educational and/or research and development activities, within a maximum period 4 (four) years since the excess is obtained;

o. assistance or compensation paid by the Social Security Administering Body to certain Taxpayers;

p. funds for the deposit of Hajj Organizing Fees (BPIH) and/or special BPIH, and income from the development of Hajj finance in certain financial fields or instruments, received by the Hajj Financial Management Agency (BPKH); and

q. surplus received/obtained by social and/or religious bodies or institutions registered with the agency in charge of them, which is reinvested in the form of social and religious facilities and infrastructure within a maximum period of 4 (four) years from the time the excess is obtained or placed as an endowment

Similarities and Differences in Non-formal Income, Final Income, and Non-Taxable Income

The equation for non-formal income, final income, and non-taxable income is:

a. All three are additional economic capabilities, which are income that corporate Taxpayers and individual Taxpayers can receive;

b. All three must be accompanied by adequate records/documents;

c. All three must be included in the Annual Individual Income Tax Return.

The difference between non-formal income, final income, and non-taxable income are:

Nu.	Criteria	Non-final Income Tax Objects	Final Income Tax Objects	Non-tax Objects
1	Credit for withholding income tax	Creditable	Uncreditable	Uncreditable
2	Income Tax Rate	Article 17 Income Tax Rates	Zero Percent Income Tax Rate	-
3	Nature of Income Tax Rate	Progressive	Average Value	-
4	Tax Basis	Net Amount	Gross Amount	-
5	Ease of calculating Income Tax	Difficult	Easy	-
6	Tax Risk	High	Medium	-
7	Reporting in Tax Return (Form – 1770 S)	Attachment I Part A & C	Attachment II Part A	Attachment I Part B

CHAPTER V
TAX ASPECTS OF DIVIDEND AND INCOME FROM ABROAD

Definition of Dividend

Dividend is the profit share in any name and any form received or obtained by the Taxpayer himself, his wife, and adopted children/children who are not yet mature as shareholders or insurance policyholders and members of cooperatives. Included in the definition of dividends are:

a. distribution of profits, either directly or indirectly, by name and in any form;
b. repayment due to liquidation that exceeds the amount of paid-in capital;
c. the distribution of bonus shares without deposit, except for bonus shares derived from the capitalization of new share premium and revaluation of fixed assets;
d. profit-sharing in the form of shares;
e. recording of additional capital made without deposit;
f. an amount that exceeds the number of paid-in shares received or obtained by the shareholders due to the repurchase of shares by the company concerned;
g. full or partial repayment of the paid-in capital, if profits were made in previous years, except if the repayment is the result of a legal reduction of the authorized (statutory) capital;
h. payments in connection with the tokens of profit, including those received as redemption for the tokens of profit;
i. share of profits in connection with the ownership of bonds;
j. the share of profits received by the policyholder;

k. distribution in the form of Remaining Operating Results to cooperative members; and

l. company expenses for the personal needs of shareholders are charged as company expenses.

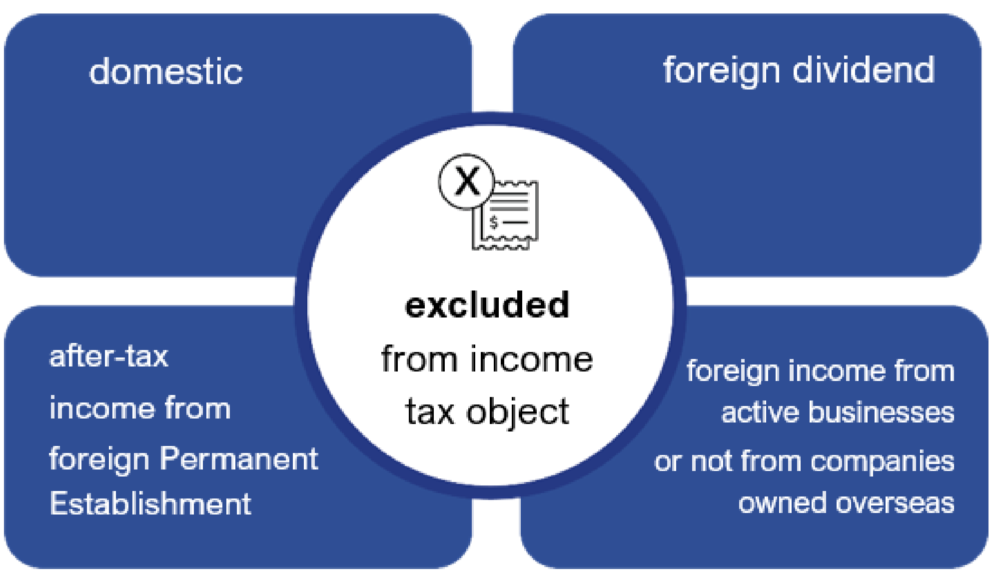
Tax Provisions on Domestic and Foreign Dividend

The change in the dividend provisions to non-object Income Tax in the new provisions of the Job Creation Law is a very significant change from the previous provisions. The old provision in Article 4 paragraph (3) letter f of the Income Tax Law stipulates that dividend or a share of profits received/earned by domestic Taxpayers (WPDN) are not tax objects as long as:

a. dividends come from retained earnings reserves; and

b. for limited liability companies, State-Owned Enterprise (BUMN)/Region-Owned Enterprise (BUMD) that receive dividends, share ownership that pays dividends is at least 25% of the total paid-up capital.

Meanwhile, the new provisions regarding dividends that are excluded from tax objects as regulated in Article 111 paragraph (2) of the Job Creation Law Section Article 4 paragraph (3) letter f, can be concluded as follows:



The illustration above is an overview of the new provisions regarding dividends and other income excluded from tax objects (not income tax objects). The following is explained in more detail how the arrangement is in accordance with Article 111 paragraph (2) of the Job Creation Law Section Article 4 paragraph (3) letter f, namely:

1. Dividends or other income below are excluded from the object of income tax:
   a. Domestic dividends received/earned:
      - Domestic individual Taxpayers and their dividends are invested in the territory of the Republic of Indonesia within a certain period of time;
      - Domestic entity Taxpayers.

   b. Dividends from abroad whose shares are traded on the stock exchange, which are received/earned by domestic taxpayers on condition that the amount is at least 30% of the profit after tax invested in Indonesia;
   c. Dividends from abroad whose shares are not traded received/obtained by domestic Taxpayers with the following conditions:
      - the amount is at least 30% of the profit after tax invested in Indonesia;
      - the amount of dividends distributed is in accordance with the proportion of share ownership
      - Tax Assessment Letter has not been issued regarding the provisions of the CFC Rules.
2. If dividends and after-tax income from a Permanent Establishment abroad invested in Indonesia are less than 30% of the total profit after tax, the following provisions apply:
   a. the dividends and after-tax income invested are excluded from the imposition of income tax;

b. on the difference of 30% of profit after tax fewer dividends and/or income after tax which is invested is subject to income tax; and

c. on the remaining after-tax profit, fewer dividends and/or post-tax income invested in Indonesia, and the resulting difference is not subject to income tax.

3. If dividends and after-tax income from a Permanent Establishment abroad are invested in the territory of the Republic of Indonesia for more than 30% of the total profit after tax, the following provisions apply:
   a. the dividends and after-tax income invested are excluded from the imposition of Income Tax; and
   b. the remaining after-tax profit fewer dividends and/or post-tax income invested in Indonesia is not subject to Income Tax;
4. Tax on income that has been paid or payable abroad applies the following provisions:
   a. cannot be taken into account (cannot be credited) with income tax payable in Indonesia;
   b. cannot be charged as an expense or as a deduction from income; and/or
   c. non-refundable tax overpayment cannot be requested;
5. If the Taxpayer does not invest the income within a certain period of time, then the income will be subject to income tax, and the tax withheld in the foreign country can be used as a tax credit.

Provisions on Income Taxation from Abroad

Income from abroad below is excluded from the object of income tax:

1. Income after tax from Permanent Establishment abroad received/acquired by domestic Taxpayers provided that the amount is at

least 30% of profit after tax and invested in Indonesia within a certain period of time;

2. Income from abroad originating from active businesses or not from companies owned abroad that are received/obtained by domestic Taxpayers on condition that they are invested in Indonesia within a certain period of time.
3. Tax on income that has been paid or payable abroad applies the following provisions:
   a. cannot be taken into account (cannot be credited) with income tax payable in Indonesia;
   b. cannot be charged as an expense or as a deduction from income; and/or
   c. non-refundable tax overpayment cannot be requested;
4. If the Taxpayer does not invest the income within a certain period of time, then the income will be subject to income tax and the tax withheld in the foreign country can be used as a tax credit.

However, for passive income originating from abroad, the tax treatment is that it will be taxed at the normal (not final) rate, and the tax that has been deducted/collected overseas can be credited. Passive income includes income from sources other than the employer or contractor. The Internal Revenue Service (IRS) says passive income can come from two sources: rental properties or businesses in which a person does not actively participate, such as payment of book royalties or stock dividends. For example:

a. interest income;
b. royalty income;
c. rental income;
d. income in the form of bond coupons;
e. income on affiliate marketing, etc.

CHAPTER VI

TAX TREATY

Definition of Tax Treaty

Each country has the right to choose and determine the scope of its taxation, but whatever the choice may not result in the emergence of double taxation (double taxation). Double taxation may arise if the income (tax object) received by the same tax subject is taxed 2 (two) times. If the imposition of double taxation is not immediately addressed, it can cause distortions in the development of international transactions, for which a Double Taxation Avoidance Agreement (P3B) is required. Tax Treaty can be defined as a tax agreement between two countries made to minimize double taxation and various tax avoidance efforts. Currently, Indonesia has signed Double Taxation Avoidance Agreements with 70 countries in the world (Attachment VII).

Purpose of Tax Treaty

In principle, a tax treaty is usually used to determine the allocation of taxation rights arising from a transaction that occurs between the source country (the country where the source of income originates) and the domicile country (the country where the taxpayer lives or resides) (Martin Hearson, 2016). There are five objectives of the double taxation avoidance agreement, namely:

a. There is no double taxation that burdens the business climate;
b. Increasing capital investment from abroad;
c. Improvement of human resources;
d. Exchange of information to prevent tax evasion;
e. Equal position in terms

Tax Treaty Implementation Procedures

To implement this double taxation avoidance agreement, there are steps in the procedure that need to be passed, including:

a. Find out if the tax subject, tax object, country, and the provisions for implementing the Tax Treaty discussed are included in the scope or scope of the relevant tax avoidance agreement;
b. Ensure the definition of income is discussed to ensure that income will be included in the appropriate substantive provisions or articles;
c. Determine the applicable substantive article. This stage is crucial because it will determine which country will receive taxation rights;
d. Eliminate the impact of double taxation if in the substantive articles in the agreement, each country is granted taxation rights by requiring the

domicile country to provide tax relief through the exemption method or the credit method regulated in its domestic provisions. ;

e. If there are still differences or no agreement has been formed between countries, the final step in this application is to resolve the double taxation issue through the mutual agreement procedure (MAP).

Terms of Utilizing Tax Treaty

Based on PER-10/PJ/2017 concerning Procedures for Application of Double Taxation Avoidance Agreement, tax collectors/withholders can collect/withhold tax following the provisions in the Tax Treaty with the following conditions:

a. There is a difference between the provisions stipulated in the Income Tax Law and the provisions in the double taxation avoidance agreement;
b. Income recipients who are not Indonesian domestic tax subjects;
c. Foreign Taxpayer (WPLN) submits SKD WPLN that has fulfilled administrative requirements and specific other requirements;
d. There is no misuse of Tax Treaty;
    - Economic substance in the establishment of the entity or the conduct of transactions;
    - The same legal form as the economic substance in the establishment of the entity or the execution of transactions;
    - The management itself manages business activities, and the administration has sufficient authority to conduct transactions;
    - Reasonable and adequate fixed assets and non-fixed assets to carry out business activities in partner countries or tax treaty partner jurisdictions other than assets that generate income from Indonesia;

- Employees in sufficient numbers and adequate with specific expertise and skills following the line of business run by the company;
- Other than only receiving payment in dividends, interest, or royalties originating from Indonesia, active firms or activities.

e. The income recipient is the beneficial owner if it is required in the P3B; Still, according to the same regulations, several conditions must be met for a WPLN to be considered a beneficial owner. For individual WPLNs, they do not act as agents or nominees. Meanwhile, corporate WPLNs do not act as agents, nominees, or conduits. The requirements for this corporate WPLN to be considered a beneficial owner are:

- Have control over the use or enjoyment of funds, assets, or rights that generate income from Indonesia;
- Corporate income used to fulfill obligations to other parties is not more than 50%. Corporate income referred to here is all income of WPLN in any name and any form and from any source, following WPLN's non-consolidated financial statements;
- Bear the risk of assets, capital, or liabilities owned and have no obligation (written or unwritten) to pass on part or all of the income received from Indonesia to other parties.

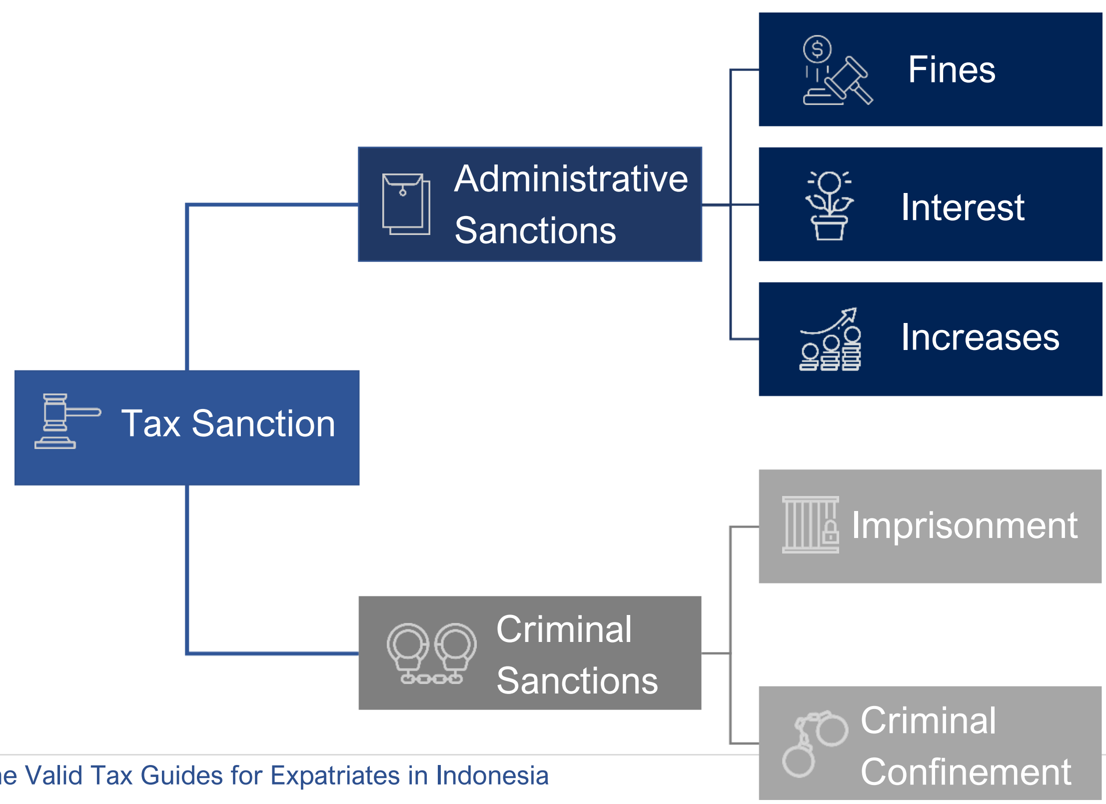
CHAPTER VII
TAX SANCTION

Definition of Tax Sanction

Taxes are mandatory and obligatory contributions; tax compliance is crucial to maintain a high level of tax compliance through the provision of tax sanctions. Tax sanctions are imposed on Taxpayers who do not comply with the provisions of the Taxation Law. For example, underpayment, forgetting to pay and report taxes, delaying payments, to tax evasion practices.

Types of Tax Sanction

There are two types of tax sanctions, namely administrative sanctions and criminal sanctions. Administrative sanctions in fines, interest, and increases are determined based on the level and type of violation. In comparison, criminal sanctions are sanctions in the form of criminal confinement or imprisonment for tax violations which are also considered crimes.



Administration Sanctions

Administrative sanctions are sanctions imposed by paying losses to the state resulting from violations by taxpayers. As previously explained, administrative tax sanctions include penalties, interest, and increases. Here is an explanation of the three.

1. **Fine**

   Fine sanctions are usually given to taxpayers who commit violations in tax reporting. For example, the SPT is not reporting, the disclosure of untruth in the SPT, and not making a tax invoice. Then in detail, the fines caused by violations are as follows:

Nu.	Type of Violation	Number of Sanctions
1	VAT Period SPT is not submitted end of the following month after the end of the tax period.	Rp 500.000
2	Other Periodic SPTs are not submitted more than 20 days after the tax period.	Rp 100.000
3	Annual income tax return for corporate taxpayers is not submitted more than four months after the end of the tax year.	Rp 1.000.000
4	The Annual Income Tax Return for Individual Taxpayers is not submitted more than three months after the end of the tax year.	Rp 100.000
5	Disclosure of untruths and settlement before an investigation.	100% x Amount of Underpaid Tax
6	Taxable Entrepreneurs do not make tax invoices.	1% of Tax Base

7	Taxable Entrepreneurs did not fill out the tax form completely	
8	Taxable Entrepreneurs report invoices not according to the time of issue	
9	Taxable Entrepreneurs fail to produce and have been given a tax refund.	
10	The submission of objections to the Tax Assessment Letter is partially rejected/accepted.	30% x amount of tax based on the objection decision minus the tax paid before filing an objection.
11	Application for appeal is partially rejected/accepted.	60% x amount of tax based on the appeal decision is reduced by the tax paid before filing an objection

2. Interest

The following administrative sanction is the interest penalty. This type of sanction is usually related to the taxpayer's indiscipline in making tax payments. For example, late or delaying tax payments, failing to pay taxes due to failure to produce, or underpayment.

Nu.	Type of Violation	Number of Sanctions
1	Self-correction of Annual SPT in two years	Interest sanction at the interest rate per month determined by the Minister of Finance

2	Self-correction of Periodic SPT in two years	Interest sanction at the interest rate per month determined by the Minister of Finance
3	Late payment/deposit period and annual tax	Interest sanction at the interest rate per month determined by the Minister of Finance
4	Issuance of underpaid tax assessment letter (SKPKB) after passing five years on the grounds of being sentenced	Interest sanction at the interest rate per month determined by the Minister of Finance
5	Income tax underpayment for the current year with the issuance of a tax collection letter	Interest sanction at the interest rate per month determined by the Minister of Finance
6	Taxable Entrepreneurs fail to produce	Interest sanction at the interest rate per month determined by the Minister of Finance
7	The existence of a tax assessment letter, decision on appeal, or review that causes the amount of tax to be paid to increase at the time of non-payment or underpayment	Interest sanction at the interest rate per month determined by the Minister of Finance

8	Taxpayers make tax payments by installments or delays	Interest sanction at the interest rate per month determined by the Minister of Finance
9	Taxpayers are allowed to delay submitting SPT because there is underpaid tax	Interest sanction at the interest rate per month determined by the Minister of Finance

3. Increase

Administrative sanctions in the form of increases are usually given to taxpayers who violate tax rules in material terms—for example, providing wrong information in the calculation of tax payments. In contrast to the interest penalty or fine, the increased sanction is a tax payment sanction doubled according to the tax no/underpayment. Therefore, the increase in sanctions is considered to have more significant consequences than other administrative sanctions in the eyes of the Taxpayer.

Nu.	Type of Violation	Number of Sanctions
1	It is proven that there are untruths in filling the SPT after two years.	50% of Underpaid Taxes

2	A tax assessment letter issuance is since the tax return is not submitted after the specified time. ▪ Periodic SPT, 20 days after the end of the tax period ▪ Individual SPT, three months after the end of the tax year ▪ Corporate tax return, four months after the end of the tax year	50% of Income Tax that is not paid/underpaid in a year
3	After investigation, it was found that VAT/Sales Tax on Luxury Goods should not be compensated or should not be subject to a 0% rate.	100% of Income Tax that is not/less deducted, not/less collected, or not/underpaid
4	Bookkeeping obligations are not carried out, so the amount of tax payable cannot be known.	100% of VAT/ Sales Tax on Luxury Goods that is not/underpaid
5	Not submitting an SPT or submitting an SPT but the contents are incorrect, or the attachment is incorrect, and the first time it is done.	200% from amount of underpaid tax
6	After the investigation, the issuance of an additional underpaid tax assessment letter found new data that caused an increase in the amount of underpaid tax.	100% from amount of underpaid tax

7	Issuance of an underpaid tax assessment letter (SKPKB) after an investigation into the application for a refund of the tax overpayment with specific criteria as stated in Article 17C paragraph (2) of the KUP Law.	
8	The issuance of an underpaid tax assessment letter after an investigation into the application for a refund of the tax overpayment with the requirements following Article 17D paragraph (2) of the KUP Law.	

Criminal Sanctions

In the occupation of taxation, criminal sanctions are imposed on Taxpayers who commit violations, either intentionally or unintentionally, in terms of carrying them out as Taxpayers, which can lead to criminal charges. The violation can be in data manipulation, such as falsifying and hiding tax data. OECD calls it tax evasion or tax evasion. The following are the violations and criminal sanctions that apply in Indonesia.

1. Anyone who intentionally does not submit an SPT or submits an SPT but the contents are incorrect so that it can harm the state will be subject to a criminal sanction in the form of imprisonment for a minimum of 3 months and a maximum of 1 year with a fine of at least one time and a maximum of two times the tax payable.
2. Everyone intentionally:
   a. Not registering to be given a TIN or business to be confirmed as a taxpayer entrepreneur;

   b. Abusing without the right of TIN/taxpayer entrepreneur;
   c. Not submitting SPT or submitting but incomplete;
   d. Refusing to be examined;
   e. Showing falsified books, records, or other documents;
   f. Does not maintain bookkeeping/recording in Indonesia;
   g. Not keeping books, records, or documents that are the basis for bookkeeping/recording;
   h. Failure to deposit taxes that have been deducted to cause state losses will be subject to a minimum imprisonment of 6 years, a minimum fine of 2 times, and a maximum of 4 times the amount of tax payable.
3. Re-doing a tax crime before 1 year has passed since completing the criminal period will get two criminal sanctions as stipulated in point number 2.
4. Everyone intentionally:
   a. Issuing or using tax invoices, withholding receipts, proof of tax payments that are not based on actual data;
   b. Issuing a tax invoice but not yet confirmed as a PKP will get a criminal sanction for a minimum of 2 years and a maximum of 6 years and a fine of at least 2 times and a maximum of 6 times the amount of tax in the tax invoice/proof of deduction/proof of tax payment.
5. Deliberately providing false information during a tax audit is subject to a maximum imprisonment of 1 year and a maximum fine of Rp. 25 million.
6. Deliberately damaging the investigation or examination process is subject to a maximum imprisonment of 3 years or a maximum fine of Rp. 75 million.
7. Deliberately keeping something secret during the investigation or examination process is subject to a maximum imprisonment of 1 year and a maximum fine of Rp. 1 billion.

8. Deliberately leaking a secret during the investigation or examination process is subject to a maximum imprisonment of 10 months and a maximum fine of Rp. 800 million.
9. Deliberately not providing the requested data or misusing the data during the examination process is subject to a maximum imprisonment of 1 year and a maximum fine of Rp. 500 million.

CHAPTER VIII

TAX RETURN SRUTINIZING AND TAX AUDIT ON ANNUAL INCOME TAX RETURN

Definition of Tax Return Scrutinizing

Tax return scrutinization is a series of data analysis activities to assess tax potential and/or tax compliance in order to increase tax revenue. The Indonesian Tax Authority develops an information system in order to improve the supervision of taxpayers in an effective, efficient, and sustainable manner. Taxpayer supervision can be carried out comprehensively using the Taxpayer Monitoring Activity Module in the Aproweb Application (hereinafter referred to as the module). This module can automatically present all the results of data pairing, both internal and external data, for all types of taxes and tax periods or years. The module uses an end-to-end approach, starting from data pairing, prioritizing taxpayer target, analysis (validation, data selection, detail analysis, preparing working paper, and making analysis reports), updating tax revenue prognosis and realization.

Data Source of Tax Return Scrutinizing

A Triggering Data is a summary derived from the overall results of data pairing, which indicates the existence of non-compliance by the Taxpayer, both formally and materially, which consists of:

Tax credit data

Data and Information Analysis Mechanism

The research is carried out through validation activities, data selection, data analysis, making Research Working Papers, and making Research Results Reports in the following ways:

a. Validation is carried out to ensure the correctness of the data, among others, by checking the data source;

b. The selection of data is carried out to determine the follow-up to the Trigger Data, which will: (i) be declared inappropriate or declared to have used; or (ii) potential exploration is carried out;

c. Sources of data that have not been displayed in the module can be in the form of reports on the results of the assessment by functional/appraisal officers obtained based on the provisions for the implementation of the assessment in the context of supervision, data, or information from mass media, internet, or other government/private agencies (e.g., PIB, PEB, data on export earnings from Bank Indonesia, data from the Central Statistics Agency, etc.). Based on the results of the independent analysis, it is continued by making Research Working Papers.

d. The results of the research are stated in the Research Results Report, which contains suggestions for follow-up supervision, namely:

   - issuance of Request for Explanation of Data and Information (SP2DK) for data requiring further explanation;
   - issuance of Tax Collection Letter (STP);
   - visiting activities

- follow-up inspection for other purposes; or
- no follow-up.

Definition of Tax Audit

An audit is a series of activities to collect and process data, information, and evidence carried out objectively and professionally based on an audit standard to test compliance with tax obligations and for other purposes to implement the provisions of tax laws and regulations. The legal basis for a tax audit is Article 29 Paragraph 1 of the KUP Law, which reads:

> "The Director-General of Taxes is authorized to conduct audits to test compliance with the fulfillment of Taxpayer's tax obligations and for other purposes in the context of implementing the provisions of tax laws and regulations."

Referring to the article, taxpayers must always prepare for inspection and must be open and transparent to officers who come.

Purpose of Tax Audit

The scope of the Audit to test compliance with the fulfillment of tax obligations may include one, several, or all types of taxes, either for one or several Tax Periods, Parts of the Fiscal Year, or Fiscal Years in the past and current years.

Audits to test compliance with tax obligations can be carried out in terms of meeting the following criteria:

a. Taxpayer submits SPT declaring overpayment, other than applying for a refund of tax overpayment;
b. Taxpayers who have been given a preliminary refund of tax overpayments;
c. Taxpayer submits SPT, which declares loss;
d. Taxpayer merge, consolidate, expand, liquidate, dissolve, or will leave Indonesia for good;
e. Taxpayers make changes to the financial year or accounting method or due to revaluation of fixed assets;
f. Taxpayers do not submit or submit SPT but exceed the period specified in the warning letter that is selected for audit based on risk analysis; or
g. Taxpayers submit the selected SPT for audit based on risk analysis.

Conduction Tax Audit

The Audit implementation to test compliance with the fulfillment of tax obligations must be carried out by the Audit implementation standards, namely:

a. Audit implementation must be preceded by good preparation by the Audit objectives, which at least include activities to collect and study Taxpayer data, prepare Audit plans, and prepare Audit programs, as well as receive careful supervision;
b. Inspection is carried out by conducting tests based on Audit methods and techniques by the Audit program that has been prepared;
c. Audit findings must be based on sufficient competent evidence and based on the provisions of tax laws and regulations;

d. The audit is carried out by a Tax Auditor team consisting of a supervisor, a team leader, and one or more team members, and in certain circumstances, the team leader can serve as a team member;

e. The Tax Auditor team as referred to in letter d may be assisted by one or more persons who have specific expertise, either from the Directorate General of Taxes, or from agencies outside the Directorate General of Taxes whom the Director-General of Taxes has appointed, as experts such as language translators, experts in the field of information technology, and lawyers;

f. If necessary, the audit to test compliance with the fulfillment of tax obligations can be carried out together with a team of examiners from other agencies;

g. The audit can be carried out at the office of the Directorate General of Taxes, the residence or domicile of the Taxpayer, the place of business activity or free work of the Taxpayer, and other places deemed necessary by the Tax Auditor;

h. Inspections are carried out during working hours and, if necessary, can be continued outside working hours; and

i. Audit implementation is documented in the form of KKP.

Obligation and Authorities of Tax Auditor

In conducting the Audit to test compliance with the fulfillment of tax obligations, the Tax Auditor is obliged to:

a. submit SPT Field Audit to the Taxpayer if the Audit is carried out with the type of Field Audit or Summons for Office Audit if the Audit is conducted with the type of Office Audit;

b. show the Tax Auditor ID and SP2 to the Taxpayer at the time of conducting the Audit;

c. show a letter containing changes to the Tax Auditor team to the Taxpayer if the membership composition of the Tax Auditor team changes;

d. hold a meeting with the Taxpayer in order to explain regarding:
    - reasons and objectives of the Examination;
    - the rights and obligations of the Taxpayer during and after the Audit implementation;
    - the right of the Taxpayer to apply for discussion with the Audit Quality Assurance Team if there is an Audit result that has not been agreed upon between the Tax Auditor and the Taxpayer at the time of the Audit Result Final Discussion; and
    - the obligation of the Taxpayer to fulfill the request for books, records, and documents that form the basis for the bookkeeping or recording, and other documents, which are borrowed from the Taxpayer

e. put the results of the meeting as referred to in letter d in the minutes of the meeting with the Taxpayer;

f. submit a temporary audit finding letter (SPHP) to Taxpayers;

g. give the right to be present to the Taxpayer in the framework of the Audit Results Final Discussion at the specified time;

h. submit the Audit Questionnaire to the Taxpayer;

i. guide Taxpayers in fulfilling their tax obligations by the provisions of tax laws and regulations by submitting written suggestions;

j. return books, records, and documents which are the basis for bookkeeping or recording, and other documents borrowed from the Taxpayer; and

k. keep secret to other parties who are not entitled to everything that is known or notified to him by the Taxpayer in the context of Audit.

In conducting an Audit to test compliance with the fulfillment of tax obligations with this type of Field Audit, the Tax Auditor has the authority to:

a. view and borrow books, records, and documents that form the basis for bookkeeping or recording, and other documents related to income earned, business activities, accessible work of taxpayers, or objects that are tax payable;
b. access and download electronically managed data;
c. entering and inspecting a place or space, movable and immovable goods which are suspected or reasonably suspected to be used to store books or records, documents that form the basis of bookkeeping or recording, other documents, money, and goods that can give clues about the income earned, business activities, accessible work of the Taxpayer, or objects that are tax payable;
d. request the Taxpayer to assist in the smoothness of the Audit, among others in the form of:
    - providing human resources and equipment at the expense of the Taxpayer if accessing electronically managed data requires special equipment and expertise;
    - assist the Tax Auditor to open movable and immovable goods; and
    - provide a particular room where the Field Audit is conducted if the Audit is carried out at the Taxpayer's premises
e. perform the sealing of certain places or spaces as well as movable and immovable goods;
f. request an oral and written statement from the Taxpayer; and
g. request the required information and evidence from a third party who has a relationship with the audited Taxpayer through the head of the Audit implementing unit.

In conducting an Audit to test compliance with the fulfillment of tax obligations with the type of Office Audit, the Tax Auditor has the authority to:

a. summon the Taxpayer to come to the office of the Directorate General of Taxes by using a Summons for Office Audit;
b. view and borrow books, records, and documents that form the basis for bookkeeping or recording, and other documents including electronically managed data relating to income earned, business activities, accessible work of the Taxpayer, or objects that are tax payable;
c. ask the Taxpayer to assist in the smoothness of the Audit;
d. request an oral and written statement from the Taxpayer;
e. borrow KKP made by a public accountant through a Taxpayer; and
f. requesting the required information and evidence from a third party who has a relationship with the audited Taxpayer through the head of the Audit implementing unit

Rights and Obligations for Taxpayers Being Audited

In carrying out the Audit to test compliance with the fulfillment of tax obligations, the Taxpayer has the right to:

a. ask the Tax Auditor to show the Tax Auditor ID and tax audit assignment (SP2);
b. ask the Tax Auditor to provide a Field Audit Notification Letter if the Audit is carried out with the type of Field Audit;
c. ask the Tax Auditor to show a letter containing changes to the Tax Auditor team if the membership composition of the Tax Auditor team changes;

d. ask the Tax Auditor to explain the reasons and objectives of the Audit;
e. receive SPHP;
f. attend the Audit Result Final Discussion at the appointed time;
g. apply for discussion with the Audit Quality Assurance Team if there are still Audit results that have not been agreed upon between the Tax Auditor and the Taxpayer at the time of the Audit Result Final Discussion; and
h. provide opinion or assessment on the implementation of the Audit by the Tax Auditor through filling the Audit Questionnaire.

In carrying out the Audit to test compliance with the fulfillment of tax obligations with this type of Field Audit, the Taxpayer is obliged to:

a. show and lend books, records, and documents that form the basis for bookkeeping or recording, and other documents related to income earned, business activities, accessible work of taxpayers, or objects that are tax payable;
b. provide the opportunity to access and download electronically managed data;
c. provide an opportunity to enter and examine a place or space, movable and immovable goods which are suspected or reasonably suspected to be used to store books or records, documents that form the basis of bookkeeping or recording, other documents, money, and goods that can provide clues concerning the income earned, business activities, accessible work of the Taxpayer, or objects that are tax payable and lend it to the Tax Auditor;
d. assist in the smooth running of the Audit, which can be in the form of:

- providing human resources and equipment at the expense of the Taxpayer if accessing electronically managed data requires special equipment and expertise;
- assist the Tax Auditor to open movable and immovable goods; and
- provide a particular room where the Field Audit is conducted if the Audit is conducted at the Taxpayer's premises;

e. submit a written response to the a temporary audit finding letter (SPHP); and

f. provide the required oral and written information.

In an implementation of the Audit to test compliance with the fulfillment of tax obligations with the type of Office Audit, the Taxpayer is obliged to:

a. fulfill the call to come to attend the Examination according to the specified time;
b. show and lend books, records, and documents that form the basis for bookkeeping or recording, and other documents including electronically managed data, relating to income earned, business activities, accessible work of taxpayers, or objects owed tax;
c. assist in the smoothness of the Audit;
d. submit a written response to the SPHP;
e. lend KKP made by public accountants; and
f. Provide the required oral and written information.

CHAPTER IX
TAX RISK MITIGATION

The Importance of Tax Risk Management

Tax is one of the significant expenses in a company whose amount can reach 25% of net income or 35% of net income for individual taxpayers. Not to mention if the taxpayer is subject to administrative sanctions, fines, or increases, the burden to be borne by the taxpayer will be even greater. Therefore, tax risk management should be an essential part that must be implemented comprehensively.

Before discussing this further, it is necessary to understand what is meant by risk management? Before discussing risk management, it is necessary first to understand the meaning of risk, which is uncertainty about the results to be obtained, especially regarding negative consequences that will occur in the future. Risk management is an activity that integrates risk recognition, risk assessment, developing strategies to manage it, and risk mitigation by using organizational resources. Risk management can also be interpreted as an application of general management that tries to identify, measure, and deal with the causes and effects of uncertainty in an organization.

The company will obtain many benefits by implementing risk management, including:

a. save resources: time, assets, income, property, and personnel;
b. protection of the organization's reputation and public image;
c. prevention or reduction of legal liability;
d. improve operation stability and promote continuous improvement;
e. protect people and the environment from harm;
f. avoiding fines for the company's non-compliance with laws and regulations;

g. improve the ability to prepare for the unexpected and unexpected;

h. increase competitive advantage through improved decision support and markets;

i. intelligence based on more accurate tailored risk management information;

j. increase shareholder value and trust, which is especially valuable in crisis when shareholder confidence is pushed to its maximum limit.[3]

The general trend is that focusing on the benefits of risk management alone is not enough because it has not touched the essence of changing the mindset or mindset in risk management comprehensively and continuously. Therefore, it is also necessary to understand the various types of failures due to ineffective risk management, namely:

a. failure to take into account risks, namely measurement errors due to neglected risks;

b. failure to communicate the risks to top management;

c. failure to monitor risk;

d. failure to manage risk; and

e. failure to use appropriate risk metrics or measurement systems.[4]

According to the OECD, tax risk management aims to allocate scarce resources to achieve optimal tax compliance strategies - aimed at achieving the best overall tax compliance.[5] Meanwhile, tax risk management includes identifying business risks stemming from a company's tax position and

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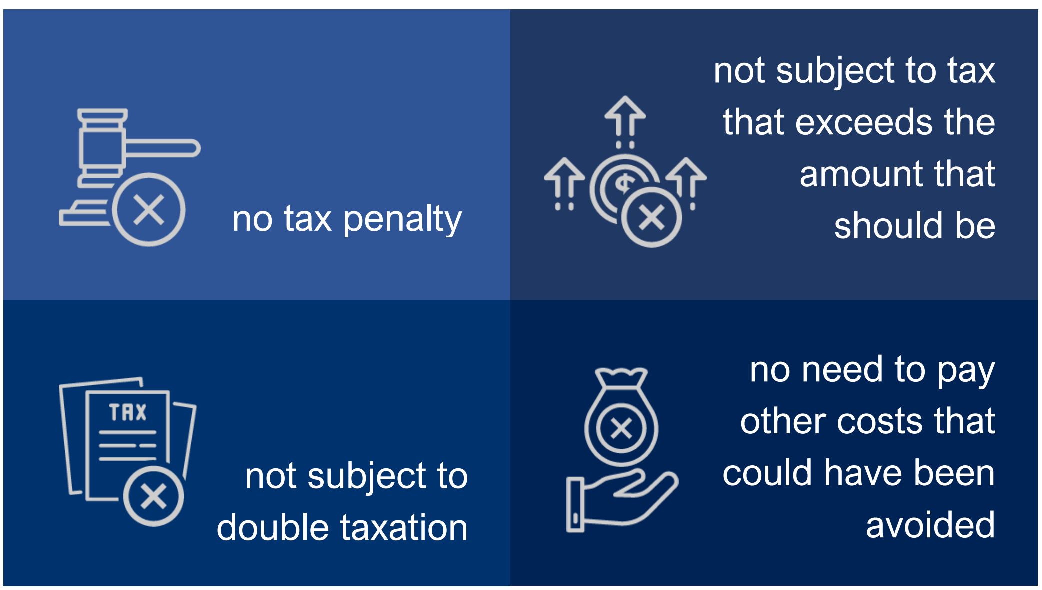
[3] Olajide Solomon Fadun, "Risk Management and Risk Management Failure: Lessons for Business Enterprises," International Journal of Academic Research in Business and Social Sciences February 2013, Vol. 3, No. 2 ISSN: 2222-6990, (2013):229.

[4] Stulz, R. M, Risk management failure: What are they and when do they happen? Fisher College of Business: Working Paper Series No: WP2008-03-017. Ohio: Ohio State University, (2008):232.

[5] Organisation for Economic Co-operation and Development, "Compliance Management: Managing and Improving Tax Compliance," *Forum on Tax Administration Committee on Fiscal Affairs Compliance Sub-group*, (2004):4.

identifying ways to manage these risks.[6] From this explanation, it can be concluded that the tax authorities also implement risk management which aims to increase tax compliance of taxpayers. This has the consequence that taxpayers also need to prepare themselves to be able to implement tax risk management so that the tax burden can be minimized legally because otherwise, the risk that will be faced will be even more significant because the tax authority will continue to monitor taxes that are mandatory obligations tax.

With the enactment of Government Regulation Number 1 of 2017 concerning access to financial information for tax purposes, this provision gives the DGT broad authority to obtain almost all financial information from Financial Institutions, Other Financial Institutions, and Other Entities. For this reason, taxpayers must be able to apply appropriate risk management for the disclosure of tax information so that they can avoid negative consequences, namely:



[6] Robbert Hoyng, Sander Kloosterhof,dan Alan Macpherson, "Tax Risk Management: From Risk to Opportunity Tax Control Framework," Internet dapat diakses di https://www.ibfd.org/sites/ibfd.org/files/content/pdf/TaxRiskManagement_sample.pdf

Identifying Tax Risks

Identifying risk means systematically and continuously finding the risks faced by the company. Risk identification can be made by brainstorming, flowchart method, SWOT analysis, and risk questionnaires and risk surveys.[7]

1. **Brainstorming**

   When goals are clearly stated and understood by all parties in the company, brainstorming sessions can generate creativity that can be used to generate risk lists. In the session, you can get all the aspects that affect the company and the risks that are likely to be faced.

2. **Flowchart Method**

   The flowchart method is used to graphically and sequentially depict operations or processes to identify exposures, hazards, and negative consequences. Various methods can be used, including product analysis, dependency analysis, location analysis, decision analysis, and critical path analysis.

3. **SWOT Analysis**

   SWOT analysis (Strengths-Weaknesses-Opportunities-Threats) is a technique that is often used in strategy formulation. Strengths and weaknesses are internal to the company and include the company's culture, structure, and financial and human resources. The main strength of the company by combining to form the core competencies that form the basis for the company to achieve competitive advantage. Opportunities and threats consist of variables outside the company and are usually not under management's control, such as a broad spectrum of political, societal, environmental, and industrial risks. For SWOT analysis to function effectively in risk identification, appropriate time and effort must be used to think seriously about the organization's weaknesses and threats.

[7] Ana-Maria DINU, "Modern Methods of Risk Identification in Risk Management International Journal of Academic Research in Economics and Management Sciences, November 2012, Vol. 1, No. 6 ISSN: 2226-3624, (2012):70.

4. **Risk Questionnaires and Risk Surveys**

   The risk questionnaire includes a series of internal and external events that can be carried out and used effectively to identify risks. For external aspects, questions can be directed at political and social risks, **regulatory risks**, industrial risks, economic risks, environmental risks, competitive risks. Questions about an internal perspective might address the risks associated with customers, creditors/investors, suppliers, operations, products, production processes, facilities, information systems, and so on. Questionnaires are valuable because they can help companies think about their risks by providing a list of questions about specific risks.

Measuring Tax Risks

Risk measurement is a process that aims to determine the magnitude of the risk value that will occur in the future by transforming the magnitude of the risk in qualitative or quantitative form. By knowing the magnitude of the company's risks, management can determine which risk priorities will be given the focus of attention first and prepare resources and strategies to mitigate risks. Parameters used in measuring risk may include:

a. the frequency or number of events that will occur;

b. the amount of loss that must be borne by the company;

c. the severity that will befall the company

To find out the size of the risk faced by the company, management needs to understand risk measurement techniques, which consist of:

1. **Probability measurement**

   Probability measurement is used as a qualitative description of probability or frequency. The likelihood of a specific event or outcome, measured by the ratio of the specific event or outcome to the number of possible events or outcomes. Probability is denoted by 0 and 1, with 0 indicating an unlikely event or outcome and 1 indicating a specific event or outcome.

2. **Notional risk**

Notional risk is measured based on the exposure value of the contract value or the amount of the loan in the contract (agreement). For example, the amount of loan granted to a debtor is Rp 500,000,000, then based on the notional risk, the amount of credit risk is Rp 500,000,000, -

3. **Risk sensitivity**

Measurement of risk sensitivity is carried out based on the high/low level of exposure to changes in the determinants. For example, the risk of a financial asset or security is measured based on the sensitivity of the related asset's rate of return to changes in market rates of return. In financial management, this measure is called market beta. Meanwhile, the degree of operating leverage (DOL) is used to measure the sensitivity level of operating profit.

4. **Risk volatility**

Risk volatility or high or low-risk changes are measured based on how much the exposure value fluctuates. The measure used in this case is the standard deviation. The larger the standard deviation of exposure, the more fluctuating the exposure value, which means the higher the exposure to the asset/financial instrument.

5. **VaR Approach**

VaR approach (value at risk) is measured based on the maximum loss that can occur in an asset or investment during a specific period, with a certain level of confidence. Standard deviation data and Z scores from the regular distribution table are required to measure risk using the VaR approach.

6. **Matrix of frequency and significance of risk**

The measurement technique is quite simple (not too involved in detailed quantification) is to classify risks based on two dimensions, namely frequency, and significance. There are two things in this process, namely:

   a. Develop risk standards

b. Apply these standards to the identified risks.

7. **Scenario analysis**

Scenario analysis is the ability of management to predict what will happen and how much loss will be obtained. Therefore, the measurement technique is adjusted to the level of sophistication (quantification level), which means different types of risk and techniques will also be used.

The following are examples of techniques for some risks.

a. market risk is when the market price moves in an unfavorable (detrimental) direction. The technique is Value at Risk (VaR);
b. the credit risk of the counterparty not being able to pay its obligations to the company, management must understand the credit rating or credit metrics;
c. risk of changes in interest rates. A change in the interest rate changes resulting in a loss in the company's portfolio. The measurement method used is the duration (duration);
d. Operational risk occurs due to losses that occur through the company's operations. For example, there is a system failure due to negligence or sabotage. The technique used to measure it is the matrix of frequency and significance of losses, operational VaR;
e. The risk of death is like humans experiencing premature death (faster than the biological age of death). The technique used is the level of probability of death using a mortality table;
f. Health risks occur when humans are exposed to certain diseases. To measure the probability of getting a disease, by using a morbidity table;
g. technology risk happens because technological changes have negative consequences for the company, measured using scenario analysis.

After conducting risk analysis and evaluation, the next step in risk management is risk management. Risk management is the process of selecting and implementing measures to modify/mitigate risks,[8] which can be done using risk avoidance, risk transfer, financing. Therefore, the risk must be managed right because if the organization fails to manage the risk, the consequences can be severe. For example, significant losses, loss of customers, damage to the company's good name. For this reason, management needs to understand well how to manage risk, which consists of:

1. **Avoidance**

   The easiest and safest way to manage risk is to avoid it. However, this kind of way is not optimal. For example: if the Taxpayer wants to profit from a business, we inevitably have to go out and face these risks. Then, we will manage those risks.

2. **Retention**

   In some situations, it would be better if we face the risk ourselves (risk retention).

3. **Diversification**

   Diversification means spreading the exposure we have so that it is not concentrated on one or two exposures. Example: holding not one asset, but various (stocks, bonds, property). If there is a loss on one asset, the loss can be compensated by the gain on another asset.

4. **Risk Transfer**

   The decision to transfer risk is that the risk we accept is partially transferred to another place. If the Taxpayer does not want to take on certain risks, we can transfer those risks to other parties who are better able to deal with these risks. Example: buying accident insurance. If an

[8] The Institute of Risk Management, A Risk Management Standard, Internet dapat diakses di https://www.theirm.org/media/886059/ARMS_2002_IRM.pdf.

accident occurs, the insurance company will cover the loss from the accident.

5. **Risk Control**

   It is done to prevent or reduce the probability of risks or unwanted events, which is done by taking anticipatory policies against the emergence of risks before the risk occurs. For example, to prevent fires, the company makes rules prohibiting smoking in factory locations or even in office environments.

6. **Risk Funding**

   Risk funding is carried out to prepare funds in the future if a risk occurs. For example, the company allocates funds for several uncollectible accounts or changes in the dollar's exchange rate against the domestic currency in the market.

Tax Risk Management Application

what does the government or the tax law expect from taxpayers? In simple language, it can be summarized that the taxpayer must fulfill the formal and material provisions as well as possible.[9] In this regard, in terms of tax risk management, risk management can be carried out with the following steps:

1. **Risk management related to the fulfillment of tax obligations**

   Every Taxpayer is obliged to fill in the Tax Return correctly, completely, and clearly, in the Indonesian language by using Latin letters, Arabic numerals, Rupiah currency unit, and sign and submit it to the office of the Directorate General of Taxes where the Taxpayer is registered or confirmed or other place determined by the Taxpayer. Director-General of Taxes. Therefore, in the context of supervising the formal compliance of taxpayers, the tax authorities have utilized modern information technology so that almost all formal obligations can be appropriately monitored.

[9] Pasal 3 ayat (1) Undang-Undang Nomor 6 Tahun 1983 sttd. Undang-Undang Nomor 16 Tahun 2009.

Meanwhile, for material obligations related to sales turnover and VAT turnover, salary costs, and SPT PPh OP, tax withholding/collection obligations have also been monitored very well. Moreover, since the issuance of government regulation number 1 of 2017, financial information data from all domestic institutions and some from abroad have been entered automatically into the national taxation database. The opportunity for taxpayers to not fully pay taxes honestly will be tiny. Therefore, in order to avoid the initial system analysis, taxpayers must meet formal and material requirements, such as:

a. Fill out all the Periodic/Annual SPT obligations and their attachments and pay and submit it correctly, ultimately, and clearly along with all required attachments.
b. Carry out and report other administrative obligations that have nothing to do with the Periodic/Annual SPT, such as submitting samples of the signatures of officials assigned to sign tax invoices, updating changes to taxpayer data.

2. **Risk management related to confirmation of data/information**

Based on a comprehensive analysis of internal and external data for all taxpayers, the tax authority will confirm data/information on the analysis results to taxpayers. At this stage, the taxpayer's time is short, which is 14 working days after the date of the letter from the tax office. In this case, taxpayers do not need to panic too much. Read the letter carefully first and prepare the data or explanation properly because if not, the taxpayer will be proposed for a particular examination. If the data is not ready, the taxpayer should immediately respond based on the available data first while asking for an extension of time. However, if the case is deemed quite tricky, the taxpayer should not hesitate to come to the KPP to ask for further explanation or ask another party to handle it.

3. Risks associated with tax audit

It should be understood that the Director-General of Taxes is authorized to conduct audits to test compliance with the fulfillment of Taxpayer's tax obligations and for other purposes in the context of implementing the provisions of tax laws and regulations.[10] With authority to test compliance with the fulfillment of tax obligations, it means that the DGT can ask taxpayers to:

a. show and lend books or records, documents on which they are based, and other documents related to income earned, business activities, accessible work of taxpayers, or objects that are tax payable;
b. provide an opportunity to enter a place or space that is deemed necessary and provide assistance for smooth inspection; and
c. provide other necessary information.[11]

Therefore, a tax audit is something that most taxpayers need to avoid because the authority of the tax auditor, in this case, is considerable, namely being able to request the broadest possible data/information and enter places where taxpayers are suspected of having something to do with activities effort. Even by the provisions of taxation, taxpayers who hinder the examination/investigation will be threatened with criminal sanctions. Therefore, taxpayers need to understand the tax audit mechanism very well and understand the examiner's behavior. It is also essential when discussing the audit results, and taxpayers are expected not to rush to agree. Ask or discuss what the findings and supporting evidence are based. After an analysis by the taxpayer that the findings of the tax examiner are not by the actual conditions, the taxpayer has the right to disagree with the results of the examination. Although in this case, the taxpayer will have the risk of being penalized if the findings are not approved and are also not paid for the underpaid tax. Regarding financial

[10] Pasal 29 ayat (1) Undang-Undang Nomor 6 Tahun 1983 sttd. Undang-Undang Nomor 16 Tahun 2009.
[11] *Ibid*., Pasal 29 ayat (1).

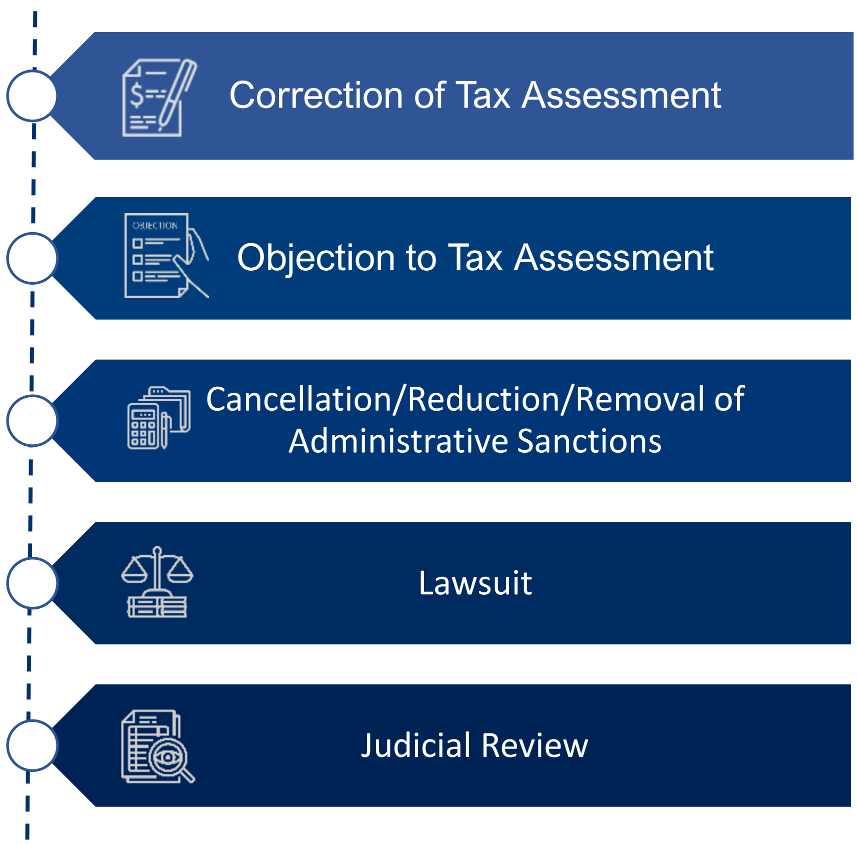
data or information, taxpayers need to understand how to analyze financial data/information so that if there are findings by the tax examiner, taxpayers do not rush to agree because the impact of the amount of tax to be paid will be significant.

CHAPTER X

TAXPAYER'S DISPUTE RESOLUTION

Definition of Dispute Resolution

In addition to the tax obligations that taxpayers must fulfill, in order to implement the principle of justice, taxpayers are given rights that can be used to ease their tax burden/obligations. About the audit, if the examination results indicate a discrepancy or discrepancy, the tax authorities are authorized to issue a tax assessment letter (SKP) which functions as a bill of lading. There are often differences in calculations between the tax authorities and taxpayers in practice. This is one of the reasons for the emergence of tax disputes. Therefore, in this case, the taxation provisions regulate the rights that taxpayers can exercise, especially when dealing with law enforcement efforts by the tax authorities. Legal remedies that can be taken include five things, namely:



Application for Correction of Tax Assessment

In issuing a Tax Assessment Letter, Tax Collection Letter, or another decision letter, the Directorate General of Taxes may make mistakes or mistakes. The taxpayer can find the error and then confirm it, or indeed the error was discovered by the Directorate General of Taxes. As long as the error or error is untouched, the Directorate General of Taxes has the authority to correct a Tax Assessment Letter, Tax Collection Letter, or another decision letter in which there is an error or mistake in its issuance. What is a requirement for the nature of the error or error in question is that it does not contain a dispute between the Directorate General of Taxes and the taxpayer, such as calculation errors, writing errors, or errors in applying tax provisions.[12]

1. **Typo**

   Error in writing name, address, Taxpayer Identification Number, number of the tax assessment letter, type of tax, Tax Period or Tax Year, due date, or other writing errors that do not affect the amount of tax payable.

2. **Miscalculation**

   a. Errors originating from addition and subtraction and multiplication and division of a number; or

   b. Miscalculation caused by the issuance of tax assessment letters, STP, decision letters related to the taxation sector, appeal decisions, or judicial review decisions.

3. **Mistakes in the application of specific provisions**

   Mistakes in the application of specific provisions in tax laws and regulations. Mistakes in the application of tariffs, errors in applying the percentage of Net Income Calculation Norms, errors in applying administrative sanctions, errors in Non-Taxable Income, errors in calculating Income Tax in the current year, and errors in crediting taxes.

[12] *Ibid*., Pasal 6 ayat (1).

Correction of errors or mistakes related to crediting Input Tax in Value Added Tax can only be made if:

- There is a difference in the amount of input tax that becomes a tax credit and
- The input tax does not contain a dispute between the tax authorities and the taxpayer.[13]

The request for correction must meet the following requirements:

- 1 application is submitted for 1 (one) tax assessment letter, STP, or other decision letter related to the taxation sector.
- The application must be submitted to the KPP where the taxpayer is registered and the place where the Taxable Entrepreneur is confirmed
- the application must be submitted in writing in the Indonesian language accompanied by the reasons for the application and
- the application letter as referred to in letter c is signed by the taxpayer, and if the taxpayer does not sign the application letter, the application must be accompanied by the extraordinary power of attorney as referred to in Article 32 paragraph (3) of the KUP Law.[14]

Tax assessments that can be corrected due to errors or omissions include:

Nu.	Types of Tax Decisions
1	Tax assessment letters which include underpaid tax assessments, additional underpaid tax assessments, zero tax assessments, and overpaid tax assessments; Tax bill;
2	Correction Decree;
3	Decision Letter of Objection;

[13] *Ibid*., Pasal 6 ayat (1).

[14] Pasal 4 Peraturan Menteri Keuangan Nomor 11/PMK.03/2013.

4	Decree of Reduction of Administrative Sanctions; Decree on the Elimination of Administrative Sanctions; Tax Assessment Reduction Decree; (can be in the form of Decision Letter for Reduction of Tax Assessment on tax assessment letter or Decision Letter on Reduction of Tax Assessment on Tax Collection Letter.)
5	Tax Assessment Cancellation Decree;
6	Decree of Preliminary Return of Excess Tax; (can be in the form of Decision Letter on Cancellation of Tax Assessment on tax assessment letter or Decision Letter on Cancellation of Tax Assessment on Tax Collection Letter.)
7	Decision Letter for Giving Interest Rewards;
8	Tax return payable letter;
9	Land and Building Tax Assessment Letter;
10	Land and Building Tax Invoice;
11	Decree on the Granting of Land and Building Tax Reductions;
12	Land and Building Tax Fines Reduction Decree.[15]

Application for Cancellation / Reduction / Abolition of Administrative Sanctions

An objection is a legal remedy taken by a taxpayer if he is not/unsatisfied with a tax assessment imposed on him or with a withholding/collection by a third party. In the implementation of the provisions of the tax laws and regulations, it is possible that the taxpayer feels less/dissatisfied with a tax assessment imposed on him or with the withholding/collection by a third party. Objections

[15] *Ibid*., Pasal 4.

are submitted to the Head of KPP at the place where the taxpayer is registered and where the PKP is confirmed through:

a. Direct submission, including submission to the Office of Extension and Observation of Tax Potential (KP4) or the Office of Tax Counseling and Consultation Services (KP2KP) within the working area of the KPP where the taxpayer is registered and where the Taxable Entrepreneur is confirmed.
b. Post with proof of mail delivery;
c. Expeditionary service company or courier service with proof of mail delivery or e-Filing through ASP (Application Service Provider). Submission of objection letter with e-Filing through ASP, electronic receipt is provided. Receipt of letters, proof of mail delivery, and proof of electronic receipt are proof of receipt of objections.

Objectionable Matters:

a. Underpaid Tax Assessment Letter (SKPKB);
b. Additional Underpayment Tax Assessment Letter (SKPKBT);
c. Overpaid Tax Assessment Letter (SKPLB);
d. Zero Tax Assessment Letter (SKPN);
e. Withholding or Collection by third parties [16]

Conditions for filing an objection:

a. submitted in writing in the Indonesian language;
b. state the amount of tax payable or the amount of tax withheld or collected or the amount of loss according to the Taxpayer's calculation, accompanied by the reasons that form the basis for the calculation;
c. 1 objection is filed only for 1 (one) tax assessment letter, for 1 (one) tax withholding, or for 1 (one) tax collection;

[16] Pasal 2 ayat (1) Peraturan Menteri Keuangan Nomor 11/PMK.03/2013.

d. the Taxpayer has paid the tax that has yet to be paid at least an amount that the Taxpayer has approved in the final discussion of the audit results or the final discussion of the verification results before the Objection Letter is submitted;

e. submitted within 3 months from the date:
   - a tax assessment letter is sent; or
   - tax withholding or collection by a third party, unless the Taxpayer can show that the period cannot be fulfilled due to circumstances beyond the control of the Taxpayer;

f. The Objection Letter is signed by the Taxpayer, and if non-Taxpayer signs the Objection Letter, the Objection Letter must be accompanied by the extraordinary power of attorney as referred to in Article 32 paragraph (3) of the KUP Law; and

g. The Taxpayer does not apply as referred to in Article 36 of the KUP Law. It is submitted in writing in the Indonesian language.[17]

It should be underlined that the submission of an objection does not delay the obligation to pay taxes, and the implementation of tax collection and objections that do not meet the requirements, are not considered objection letters, so they are not processed. Starting January 1, 2008, if the taxpayer files an objection to the tax assessment letter, the taxpayer must pay the tax that must be paid at least the amount agreed by the taxpayer in the final discussion of the audit results before the objection letter is submitted.

Objections must be submitted within 3 months from the date of SKPKB, SKPKBT, SKPLB, SKPN or the date of withholding/collection by a third party.

a. For objection letters submitted directly to the KPP, a period of 3 (three) months is calculated from the date of SKPKB, SKPKBT, SKPLB, SKPN or from the time the objection is withheld/collected by a third party until the Tax Service Office receives the objection.

[17] *Ibid*., Pasal 3 ayat (1).

b. For objection letters submitted by post (must be by registered mail), the period of 3 months is calculated from the date of SKPKB, SKPKBT, SKPLB, SKPN or since withholding/collection by a third party until the date of proof of delivery through the Post Office and Giro.[18]

Application for Tax Objection

The Directorate General of Taxes, because of their position or at the request of the taxpayer, may:

a. reduce or eliminate administrative sanctions in the form of interest, fines, and increases owed by the provisions of the tax laws and regulations if the sanctions are imposed due to the taxpayer's negligence or not because of his/her fault;
b. to reduce or cancel an incorrect tax assessment letter;
c. reduce or cancel the Tax Collection Letter as referred to in Article 14, which is incorrect; or
d. cancel the results of the tax audit or the tax assessment letter from the results of the audit carried out without:
    - submission of notification letter of examination result; or
    - final discussion of audit results with taxpayers.[19]

In general, the formal requirements for submitting these four types of applications are the same, namely:

a. One application letter for one tax assessment;
b. Submitted in writing and using the Indonesian language accompanied by reasons that support the application;

[18] *Ibid*., Pasal 3 ayat (3).
[19] Pasal 2 Peraturan Menteri Keuangan 8/PMK.03/2013

c. Signed by the Taxpayer, or his representative, or the Taxpayer's proxy with an extraordinary power of attorney attached.[20]

Application for Tax Lawsuit

Taxpayers or tax insurers can file a lawsuit to the tax court against:

a. Execution of Forced Warrants, Orders to Implement Confiscation or Announcement of Auctions;
b. Decisions related to the implementation of tax decisions other than those stipulated in Article 25 paragraph (1) and Article 26 of the KUP Law;
c. Correction decisions as referred to in Article 16 of the KUP Law relating to STP;
d. Decisions as referred to in Article 36 relating to STP.[21]

Timeline for Filing a Lawsuit:

a. The lawsuit against number 1 is submitted no later than 14 days after the execution of the Forced Letter, Order to Implement Confiscation, or Announcement of the Auction;
b. The lawsuits against points 2, 3, and 4 are filed no later than 30 days from the date the decision being sued is received

Application for Tax Appeal

The appeal is an attempt by the taxpayer to express his dissatisfaction with the objection decision issued by the DGT. The applicant, including the attorney, wants to make this appeal smooth, resulting in a victory for the applicant. The requirements for filing an appeal are:

[20] *Ibid*., Pasal 5.
[21] Pasal 37 Peraturan Pemerintah Nomor 74 Tahun 2011.

a. An appeal is filed within three months from the date the decision is received unless stipulated in the tax laws and regulations.
b. 3 (three) months from the date of receipt of the decision being appealed is not binding if the said period cannot be fulfilled due to circumstances beyond the appellant's control.
c. Against 1 (one) decision, 1 (one) Letter of Appeal shall be submitted.
d. An appeal is submitted accompanied by clear reasons and the date on which the decision letter compare is received.
e. Attached to the appeal letter is a copy of the decision being compared.
f. If an appeal is filed against the amount of tax payable, an appeal can only be filed if the amount owed in question has paid 50% (fifty percent).[22]

The appeal applicant may complete his Appeal Letter to comply with the applicable provisions, as long as it is within the stipulated period.

Application for Judicial Review

A review is an extraordinary legal remedy that can be taken by the disputing parties if in the tax court decision there are limitations reasons that allow for a judicial review. Therefore, if there are parties to the dispute which is not/not satisfied with the decision of the Tax Court, then the disputing party can submit a judicial review to the Supreme Court through the Tax Court, and it can only be submitted once.

Requirements for filing a review:

a. The Tax Court's decision is based on a lie or deception;
b. There is essential and decisive new written evidence;
c. Granted something that is not demanded or more than what is demanded.

[22] Pasal 36 Undang-Undang Nomor 11 Tahun 2002.

d. There is a part of the claim that has not been decided without considering the reasons;

e. The decision is not by the provisions of the applicable legislation.[23]

[23] *Ibid*., Pasal 91.

REFERENCES

Tax Regulations

Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times, most recently by Law Number 16 of 2009.

Law Number 7 of 1983 concerning Income Tax as amended several times, most recently by Law Number 36 of 2008.

Law Number 11 of 2020 concerning Job Creation.

Law Number 7 of 2021 concerning Harmonization of Tax Regulations.

Law Number 7 of 2021 concerning Harmonization of Tax Regulations.

Law Number 9 of 2015 concerning the second amendment to Law Number 23 of 2014 concerning Regional Government.

Government Regulation in Lieu of Law Number 1 of 2017 concerning Access to Financial Information for Tax Purposes.

Government Regulation Number 74 of 2011 concerning Procedures for the Implementation of Tax Rights and Fulfillment of Tax Obligations.

Government Regulation Number 34 of 2021 concerning the Use of Foreign Workers.

Government Regulation Number 55 of 2022 concerning Adjustment of Income Tax Regulations.

Minister of Finance Regulation Number 242/PMK.03/2014 concerning Tax Payment and Deposit Procedures.

Minister of Finance Regulation Number 250/PMK.03/2008 concerning the Amount of Position Fees or Retirement Fees that can be deducted from the Gross Income of Permanent Employees or Retirees.

Minister of Finance Regulation Number 252/PMK.03/2008 concerning Instructions for Implementing Withholding Tax on Income Related to Work, Services, and Activities of Individuals.

Minister of Finance Regulation Number 242/PMK.03/2014 concerning Procedures for Payment and Deposit of Taxes.

Minister of Finance Regulation Number 101/PMK.010/2016 concerning Adjustment of the Amount of Non-Taxable Income.

Minister of Finance Regulation Number 102/PMK.010/2016 concerning Determination of Income Section in connection with the work of Daily and Weekly Employees and Other Non-Permanent Employees Not Subject to Income Tax Withholding.

Minister of Finance Regulation Number 70/PMK.03/2017 concerning Technical Guidelines Regarding Access to Financial Information for Tax Purposes.

Minister of Finance Regulation Number 70/PMK.03/2017 Amendment to Minister of Finance Regulation Number 70/PMK.03/2017 concerning Technical Guidelines regarding Access to Financial Information for Tax Purposes.

Minister of Finance Regulation Number 125/PMK.010/2015 concerning Amendments to Regulation of the Minister of Finance Number 60/PMK.03/2014 concerning Procedures for the Exchange of Information.

Minister of Finance Regulation Number 39/PMK.03/2017 concerning Procedures for Exchange of Information Based on International Agreements.

Minister of Finance Regulation Nu. 11/PMK.03/2013 concerning Correction Procedures.

Minister of Finance Regulation 8/PMK.03/2013 concerning Procedures for Reduction or Elimination of Administrative Sanctions and Reduction or Cancellation of Tax Assessment Letters or Tax Collection Letters.

Minister of Finance Regulation Number 18/PMK.03/2021 concerning the Implementation of Law Number 11 of 2020 concerning Job Creation in the Field of Income Tax, Value Added Tax and Sales Tax on Luxury Goods, as well as General Provisions and Tax Procedures.

Minister of Finance Regulation Number 101/PMK.010/2016 concerning Adjustment of the Amount of Non-Taxable Income.

Minister of Finance Regulation Number 215/PMK.03/2018 concerning Calculation of Income Tax Installments in the Current Fiscal Year that Must be Paid Himself by New Taxpayers, Banks, State-Owned Enterprises, Regional-Owned Enterprises, Exchange Listed Taxpayers, Other Taxpayers Based on the provisions, it is required to make periodic financial reports and certain entrepreneurs' individual taxpayers.

Director General Regulation of Taxes Number PER-16/PJ/2016 concerning Technical Guidelines on Procedures for Withholding, Depositing and Reporting Income Tax Article 21 and/or Income Tax Article 26 in Relation to Work, Services, and Activities of Individuals.

Books, Articles, Journals

Baranoff, Etti dan Brockett, Patrick L., Enterprise and Individual Risk Management Volume. 1.0, dapat diakses di https://2012books.lardbucket.org/pdfs/enterprise-and-individual-risk-management.pdf, accessed on December 4th, 2017.

Dinu, Ana-Maria, "Modern Methods of Risk Identification in Risk Management International Journal of Academic Research in Economics and Management Sciences, November 2012, Vol. 1, Nu. 6 ISSN: 2226-3624,

Fadun, Olajide Solomon, "Risk Management and Risk Management Failure: Lessons for Business Enterprises," International Journal of Academic Research in Business and Social Sciences February 2013, Vol. 3, Nu. 2 ISSN: 2222-6990,

Heinz-Peter Berg, "Risk Management: Procedures, Methods, and Experiences," Bundesamt für Strahlenschutz, Salzgitter, Germany, (Vol.1) 2010, June.

Hoyng, Robbert, Kloosterhof, Sander,dan Macpherson, Alan, “Tax Risk Management: From Risk to Opportunity Tax Control Framework,” Internet dapat diakses di https://www.ibfd.org/sites/ibfd.org/files/content/pdf/TaxRiskManagement_sample.pdf, accessed on December 4th, 2017..

McNulty, Dr Yvonne dan Brewster, Chris, (2017). Apa Bedanya Ekspatriat dengan Pengungsi atau Imigran?. internet, https://internasional.kompas.com/read/2017/02/21/11012291/apa.bedanya.ekspatriat.dengan.pengungsi.atau.imigran.?page=all, accessed on December 19th, 2021.

Opajak, (2021). P3B: Definition, Procedure, and Terms of Use. Internet, https://www.online-pajak.com/about-efiling/p3b, accessed on December 19th, 2021.

Organisation for Economic Co-operation and Development, “Compliance Management: Managing and Improving Tax Compliance,” Forum on Tax Administration Committee on Fiscal Affairs Compliance Sub-group

R. M, Stulz, Risk management failure: What are they and when do they happen? Fisher College of Business: Working Paper Series No: WP2008-03-017. Ohio: Ohio State University.

The Institute of Risk Management, A Risk Management Standard, Internet dapat diakses di https://www.theirm.org/media/886059/ARMS_2002_IRM.pdf, accessed on December 19th, 2017.

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