Tax Amnesty 2016

Wednesday August 31, 2016 - The Fairmont Jakarta
Programme

Wednesday, 31 August 2016 | 09:30am – 12:00pm

09:30 Welcome – Jacob Zwaan

09:45 Presentation “Tax Amnesty 2016” – Ichwan Sukardi

10:45 Panel discussion

Panel:
Sutedjo
Esther Kwok
Ichwan Sukardi
Anita Priyanti
Jacob Zwaan – Moderator

11:15 Q&A

11:45 Closing remarks followed by lunch buffet
Tax Amnesty 2016

Ichwan Sukardi
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<td>Implementation of Law No. 11 Year 2016 regarding Tax Amnesty</td>
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<td>Guidelines of Taxpayer’s Asset Transfer into the Republic of Indonesia area and Placement of Investment Instrument in Financial Market in the context of Tax Amnesty</td>
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Composition of Assets disclosure

- Overseas declaration Rp 4,09 trillion
- Local declaration Rp 28,7 trillion
- Repatriation Rp 1,2 trillion

Composition of Clearance Levy

- SME corporation Rp 2,51 billion
- Corporate Non SME Rp 118 billion
- Individual SME Rp 44,3 billion
- Individual non SME Rp 528 billion

TOTAL Declaration & Repatriation Rp 34 trillion

TOTAL Rp 693 billion (0.42% from target)
Purpose of Tax Amnesty

Short-term
Revenue from CLEARANCE LEVY

Long-term
Tax revenue based on more complete and accurate database.
What is Tax Amnesty?

It is the elimination of:
1. Income Tax (PPh);
2. Value Added Tax (PPn); and
3. Sales Tax Luxury Goods (PPnBM), that should have been owed / payable by disclosing all assets owned, in the Declaration Letter and by paying the Clearance Levy.

No administrative and criminal tax sanctions will be imposed to the Taxpayers for the disclosure
What are the facilities provided?

1. Waiver of income tax and VAT
2. Non-imposition of tax administrative and criminal sanction for tax offense
3. Waiver of: tax audit, examination of preliminary evidence and investigation of tax offense
4. Cessation of: tax audit, examination of preliminary evidence and investigation of tax offense
5. Data provided will not be the basis of examination and investigation of any tax offense
6. Income tax exemption on the transfer of ownership title in respect of the additional assets.
Who is eligible for the Tax Amnesty?

- Companies
- Companies / individuals without a tax identification number
- Small and Medium-sized Entrepreneurs
- Individuals
Who is excluded from the provision?

- Taxpayers who are currently being investigated by the Prosecutor
- Taxpayers under judicial proceedings in Court
- Taxpayers already sentenced for criminal charges in respect of taxation
Object of Tax Amnesty

Amnesty on Income Tax, VAT / LST

Until the end of the latest fiscal year*

*The Latest Fiscal Year → for the period started on 1 Jan 2015 and ended on 31 Dec 2015.
## What are the clearance levy rates?

<table>
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<tr>
<th>Clearance Levy rates</th>
<th>1st Batch: July to September 2016</th>
<th>2nd Batch: October to December 2016</th>
<th>3rd Batch: January to March 2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>Offshore assets declaration – repatriation and invest in Indonesia for at least 3 years</td>
<td>2%</td>
<td>3%</td>
<td>5%</td>
</tr>
<tr>
<td>Onshore assets – to be kept in Indonesia for at least 3 years</td>
<td>2%</td>
<td>3%</td>
<td>5%</td>
</tr>
<tr>
<td>Offshore assets declaration – no repatriation</td>
<td>4%</td>
<td>6%</td>
<td>10%</td>
</tr>
</tbody>
</table>

**SME Taxpayers whose revenue up to Rp4.8 billion in the latest fiscal year**

<table>
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<tr>
<th>Disclosing assets up to Rp10 billion</th>
<th>Disclosing assets more than Rp10 billion</th>
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<tbody>
<tr>
<td>The first month until 31 Mar 2017</td>
<td>The first month until 31 Mar 2017</td>
</tr>
<tr>
<td>0.5%</td>
<td>2%</td>
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</table>
How to calculate the clearance levy?

Clearance Levy Rates \times \text{Net Asset Value}

Non-declared ASSETS

Less

LIABILITIES directly related to the assets
### How to calculate the clearance levy?

#### Assets & Liabilities

<table>
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<th>♠ Cash assets = nominal value</th>
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<tr>
<td>♣ Non-cash assets = fair value*</td>
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</table>

* Based on Taxpayers’ own valuation

#### Limitations of liabilities:

- ♦ 75% of non-declared assets’ value for Corporate.
- ♦ 50% of non-declared assets’ value for Individuals.

Assets and liabilities in other currencies are to be converted into IDR using MOF’s exchange rate.
Repatriation

In the event the disclosed Asset is outside Indonesia, Taxpayer can transfer the asset in the form of fund to Indonesia.

Investment in Indonesia must be kept at the minimum within

3 years

Effective from the fund is transferred by Taxpayer to Gateway Special Account.
Transfer of Asset Deadline

Statement submitted before 30 September 2016

Statement submitted before 31 December 2016

Statement submitted before 31 March 2017

31 DECEMBER 2016

31 MARCH 2017
Taxpayer’s asset manager – its role is to store Taxpayer’s asset transfer.

Bank

Investment Manager

Brokerage (Securities) Firm

Which is appointed by the Minister for placement and management of Taxpayer’s fund into investment instrument for Tax Amnesty purposes.
## Requirement to File Reports

<table>
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<tr>
<th>Asset Type</th>
<th>Report</th>
<th>Sanction*</th>
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<tbody>
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<td>Additional assets transferred to the Republic of Indonesia area</td>
<td>Realization of transfer and investment</td>
<td>Treated as income of year 2016 and subject to tax and prevailing sanction</td>
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<tr>
<td>Additional assets in the Republic of Indonesia area</td>
<td>Placement of Additional Assets</td>
<td>Treated as income of year 2016 and subject to tax and prevailing sanction</td>
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</table>

*Remarks*

1. Clearance Levy that has been paid calculated as a deduction of income tax.
2. Provisions regarding Tax Amnesty facilities still prevails up to date.
How to apply for Tax Amnesty

TAX AMNESTY IS GRANTED TO TAXPAYER VIA DISCLOSURE OF HIS/HER ASSETS IN THE DECLARATION LETTER

It has information on:
- Taxpayer’s Identity
- Assets
- Liabilities
- Net Assets Value
- Clearance Levy calculation
Procedures for Filing Tax Amnesty (1)

1. Taxpayer requests for explanation regarding filling and completion of documents to DGT
2. Taxpayer pays clearance levy
3. Taxpayer submits Declaration Letter and its attachments to DGT
4. Proof of Payment
5. Receipt
Procedures for Filing Tax Amnesty (2)

- If necessary
  - DGT issues Confirmation Letter (10 days following receipt of Declaration Letter)

- If necessary
  - DGT issues Correction Letter regarding Declaration Letter due to mistakes in writing and/or calculation

- If necessary
  - Files Second and Third Declaration Letter until 31 March 2017

If necessary
Submission of Declaration Letter

Maximum **3 times** in the period effective from the Law is published until 31 March 2017

Taxpayer can submit second or third Declaration Letter before or after confirmation letter concerning first or second declaration letter is issued.
When will the Confirmation Letter be issued?

In the period of **10 WORKING DAYS**

Effective from the receipt date of declaration letter with its attachments.
Will the information provided be protected?

Ministers, Deputy Ministers, Finance Ministry employees and other parties associated with the implementation of tax amnesty, are forbidden to divulge, disseminate and / or publicize the data and information known or disclosed by the taxpayer to other parties.

Data and information submitted by the Taxpayer in the context of tax amnesty can not be requested by anyone, or be given to any other parties, without the consent from the Taxpayer.
What assets information should I declare in the Declaration Letter?

**Savings, deposits, etc:** Account number, deposit slips number

**Corporate and government bonds:** Certificates / letters of ownership

**Precious metals (gold bars, jewelries, diamonds, paintings, antiques, etc):** Certificates of ownership, etc

**Motor vehicles (motorcycles, cars, etc):** Proof of vehicle ownership, license plate number, etc.

**Yachts, private planes, helicopters, etc:** Ownership / registration certificates, Certificate of Airworthiness

**Apartments / land & buildings:** Strata title, sale and purchase agreements, certificates of ownership, etc.

**Shares, mutual funds, rights, future contracts, etc:** Shares certificates, statements, certificates of ownership

**Patents, royalties, trademarks, licenses, goodwill:** Certificates of ownership or other similar documentation
What are the consequences of Tax Amnesty?

- Incremental value of the additional assets must be recorded as retained earnings
- All tax disputes must be withdrawn
- Accumulated tax losses & tax overpayments cannot be carried forward
- Cannot request for refund of any overpayment balances
- Additional assets cannot be depreciated / amortized
- All outstanding tax liabilities must be settled
- Not allowed to amend any tax returns up to the last fiscal year
PER-11/PJ/2016 regarding Further Regulation concerning the Implementation of Law No. 11/2016 regarding Tax Amnesty

Subject and Object – clarification on certain taxpayers that may or may not use his right to participate in TA (Income below PTKP, not residing in Indonesia more than 183 days)

Clarification on additional assets – to include inheritance, and or grant that has not been reported in the return.

Taxpayer who does not use his/her right for Tax Amnesty can either: Submit Income Tax Return or amend Income Tax Return

Fair value of assets

• Definition: a value that represents the condition and situation of similar asset based on Taxpayer’s valuation.

• The fair value reported by Taxpayer on the Statement Letter will not be challenged or adjusted by the DGT.
PMK 127/PMK.010/2016 regarding Tax Amnesty for Taxpayer owning Indirect Assets via Special Purpose Vehicle (SPV)

**Disclosed assets** include: (i) Asset in Indonesia owned indirectly via SPV, and (ii) Asset outside Indonesia owned indirectly via SPV.

**Special purpose vehicle (SPV)** means an intermediary company which is:

a. Established for the purpose of specific functions for the owner’s interest, such as purchase and/or financing; and
b. Not conducting any active business activities.

**Reported asset value**

a. Taxpayer **has not yet reported** Asset in the latest Income Tax Return: asset value = indirect asset via SPV.

b. Taxpayer **has reported** Asset in the latest Income Tax Return = (indirect asset via SPV **less** shareholding value of SPV already reported in the Income Tax Return)

c. In case the Asset at SPV owned by more than 1 Taxpayer, the asset value is calculated proportionally based on Taxpayer’s ownership portion.

d. In case taxpayer provide loan to the SPV, assets and liabilities recorded are net off.
PMK 127/PMK.010/2016 regarding Tax Amnesty for Taxpayer owning Indirect Asset via Special Purpose Vehicle (SPV)

How much is the clearance levy rate: refer to article 4(1) of TA Law if assets are in Indonesia or repatriated to Indonesia or article 4(2) if not repatriated back to Indonesia

A Taxpayer who files a Declaration Letter by disclosing all the assets owned by Taxpayer via SPV must dissolve or let off the right on the SPV:

a. From previously under the SPV’s name becomes the Taxpayer who submits the Declaration Letter
b. From previously under the SPV’s name becomes under Indonesian Corporation via transfer of assets using book value
What are the sanctions for not disclosing or under-declaring your assets?

**Under-declaring**

1. The assets will be considered as additional income to the Taxpayer

2. Will be subject to income tax plus a penalty of 200%

**Non-disclosure**

(Within 3 years after the tax amnesty law)

1. The assets will be considered as additional income to the Taxpayer

2. Will be subject to administrative sanctions in accordance with the prevailing tax laws
Thank you
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