



Indonesia Has Issued Its Own Tax Amnesty Law

The Indonesian parliament or the *Dewan Perwakilan Rakyat* (DPR) finally passed a draft law on tax amnesty in its session on 28 June 2016. The bill was then signed by the Indonesian President, Joko Widodo, on 1 July 2016 to become Law No. 11/2016 regarding Tax Amnesty (the “Law” or “Amnesty Law”).

The drafter of the Law clearly acknowledged that the Law was enacted as a result of the government intention to attract fund of the Indonesian residents that are parked outside of the country mainly due to tax evasion. In its preamble the Law, among others, states that: “public awareness and compliant to their tax obligation still has to be increased due to the fact that there are still unreported assets either those that are located domestically or overseas.”

The Law defines the tax amnesty in its article 1 section 1 in that it says that: “a tax amnesty is evasion of tax that is unpaid and indebted, not penalized by tax administrative sanctions and tax criminal sanctions, either by divulging by assets or pay redemption as stipulated under the Law.”

Article 2 section 2 of the Law stipulates that the objective of the tax amnesty is to:

- i. Speed up economic growth and restructuring by way of transfer of assets which, among others, has impact on increase of domestic liquidity, improvement of Rupiah exchange rate; lowering of interest rate as well as increase of investment;
- ii. Support tax reform with a view to a more just tax system as well as extensive valid, comprehensive and integrated tax data base; and
- iii. Increase tax revenue which, among others, may be used to finance the country’s development.

Tax amnesty is provided to the taxpayers by way of disclosing assets owned by a taxpayer in a statement to the tax authority (the “Statement”). A tax amnesty will not be provided to the following taxpayers namely:

- i. Those that are being investigated and whose investigation has been completed by a district attorney;
- ii. Those are on trial in a court; or
- iii. Those that are undergoing a tax criminal sentence.

Tax amnesty covers forgiveness on tax obligation until the last tax year and include tax obligation for income tax, value added tax or value added tax and sales tax on luxury goods.

This Law Bulletin is provided by us to our clients and colleagues in regards with the general information of the recent regulations in Indonesia. Further informations or deep analysis of this Law Bulletin is needed, therefore please contact us at the address, telephone or email address below.

Contact Us:

JL. Bukit Cinere Kav. 213D
Cinere (South Jakarta), Depok 16512
Phone: +62 21 754827 or +62 21 22762334
Mobile: + 62 812 8463436
Email: hamud_balfas@hbp.co.id
Website: hbp.co.id



The Amnesty Law also stipulates rate of redemption for tax amnesty of assets that are located in Indonesia and overseas which has to be transferred into Indonesia and subject to a three-year stays in Indonesia are as follows:

- i. Two percent for the Statement that is submitted with three months after the effective of the Law;
- ii. Three percent for the Statement that is submitted on the fourth month after the effective of the Law until 31 December 2016;
- iii. Five percent for the Statement that is submitted starting on 1 January 2017 until 31 December 2017.

The Amnesty Law also stipulates rate of redemptions for assets that are disclosed but not repatriate into the country. The rate of redemption for these type of assets are as follows:

- i. Four percent for the Statement that is submitted with three months after the effective of the Law;
- ii. Six percent for the Statement that is submitted on the fourth month after the effective of the Law until 31 December 2016;
- iii. Ten percent for the Statement that is submitted starting on 1 January 2017 until 31 December 2017.

The Law further stipulates procedures for submission of the Statement by a taxpayer, issuance of a certificate of tax amnesty that the Minister of Finance (the “Minister”) will issue after the Statement is approved and forgiveness of tax obligation (Article 8 – 11 of the Amnesty Law).

On the type of financial instruments for investment by taxpayer of assets that a taxpayer has disclosed, the Law stipulates that in addition to three-year stay of assets in Indonesia the asset must be transferred to banks that are appointed by the government (“Appointed Banks”). The following are financial instruments that are allowed for investments for assets transferred into Indonesia:

- i. Governments securities;
- ii. Bonds issued by state owned enterprises;
- iii. Bonds issued by financing institutions owned by the government;
- iv. Financial investment in Appointed Banks;
- v. Bonds issued by private companies that are regulated by the Financial Services Authority (“OJK”);
- vi. Investments on infrastructure projects by way of cooperation between government and private entities;
- vii. Investments on real sectors based on priorities determined by the government; and/or
- viii. Other investments based on prevailing regulations.

Taxpayers have to report of assets that have been repatriated into the territory of Indonesia and their investments to the Minister of Finance.

Contact Us:

JL. Bukit Cinere Kav. 213D
 Cinere (South Jakarta), Depok 16512
 Phone: +62 21 754827 or +62 21 22762334
 Mobile: + 62 812 8463436
 Email: hamud_balfas@hbp.co.id
 Website: hbp.co.id



The Law stipulates provision that serve as protection and guarantee for the taxpayers in that it states that data and information that are contained in the Statement and its attachments administered by the Minister or other parties that are associated with implementation of the Law cannot be use as basis for criminal investigation or prosecutions against the taxpayer (Article 20). Separately, the Law also states that government officers and other parties that are involved in the implementation of tax amnesty cannot be prosecuted or be sued if they perform their duty based on good faith and in accordance with the prevailing laws and regulations.

As a preparation for the tax amnesty as regulated in the Law, the Minister of Finance has so far issued two regulation namely Minister of Finance Regulation No. 118/PMK.03/2016 regarding Implementation of Law No. 11/2016 on Tax Amnesty and the Minister of Finance Regulation No. 119/PMK.08/2016 regarding Transfer of Assets (which has been amended by Minister of Finance Regulation No. 123/PMK.08/2016) and Minister of Finance Regulation No. 123/PMK.08/2016 regarding Investment of Fund related to Tax Amnesty Outside Financial Market.

The Amnesty Law came into effect on the day of its promulgation namely on 1 July 2016.

Cessation of Criminal Investigation on Tax Matters

The Ministry of Finance has recently issued his Regulation No. 55/PMK.03/2016 regarding Procedures on Request for the Cessation of Criminal Investigation on Tax Matters (the "Regulation"). The Regulation was issued to replace the earlier regulation on the same subject matter that was issued in 2012.

The request for the cessation on the tax investigation has to be submitted to the Minister of Finance (the "Minister") who will then submit the request to the attorney general for the cessation of the investigation. The request for the cessation by a taxpayer to the Minister may be made after the taxpayer makes full payment of the amount of tax that has not been paid or the tax that has been paid less that it has been paid or the amount of tax that should not be returned plus administrative fines in the amount four times of tax that have not been paid, less paid and the amount that should not be returned. The amount that has to be paid by the tax payer (including the penalty) has to be requested from the directorate general of taxation.

The Regulation further stipulates how a request for the cessation has to be filed with the Minister. The Minister will then ask the Director General of the Taxation to provide his/her consideration for the cessation. The Minister may refuse or accept a request from the cessation from the tax payer. In the event, the Minister accept the request, the Minister will send a letter of request of the cessation to the attorney general.

Upon receipt of a request letter the Minister, the attorney general, within 6 month of such receipt, may accept or reject such a request of the Minister. In the event the attorney general rejects the request, the Minister will inform the tax payer and at the same time the request the taxpayer to pay the amount of tax that the taxpayer owes to the government.

Contact Us:

JL. Bukit Cinere Kav. 213D
 Cinere (South Jakarta), Depok 16512
 Phone: +62 21 754827 or +62 21 22762334
 Mobile: + 62 812 8463436
 Email: hamud_balfas@hbp.co.id
 Website: hbp.co.id



The Regulation was issued on 8 April 2016 and became effective on the same day it was issued.

Export and Import of Animal and Animal Products

Availability of meat in the Indonesian market has become a big problem both for the Indonesian government and consumers in recent years. The problem is getting worse during the fasting month (Ramadhan) as there has usually been significant increase in consumers' demand. As a result of that, meat price in Indonesia not only become the most expensive in the world but speculation on meat and meat product become rampant which further increase the price in the market.

In light of the above, the Minister of Trade has issued his Regulation No. 05/M-DAG/PER/1/2016 (the "Regulation") regarding Provisions of Export and Import of Animals and Animal Products (the "Products"). The Regulation has its intention to provide mechanism to regulate imports and exports of the Products with the intention to control price of the Products in the market. The Regulation replaced the old regulation that was issued in 2013.

In order to achieve its objective, the Regulation restricts the export of the Products out of the country but allow the importation of the Product to the Country subject to certain products that it describes under Appendix II, III and IV. The Regulation provides requirements for the export and import of the Product and stipulates that importation of the Products under Appendix II may only be made by state-owned company (BUMN) or regional government owned company (BUMD) which is assigned by the government. Appendix II contains information of meat and its varieties. In order to prevent corruption and other forms of misconduct during the application process, the Regulation stipulates that an application may only be made online.

One important feature on the government granting the assignment that to a BUMN or BUMD for the importation of the Products is that the government will also stipulates a reference price for the Product to the assigned BUMN and BUMN. Reference price is basically a price that the Products will be sold by retail of the Products in the market. The government expects that the mechanism that it imposes on the importation of meat will eventually stop manipulation of price that it believes contribute to the burgeoning meat price in the market.

Contact Us:

JL. Bukit Cinere Kav. 213D
 Cinere (South Jakarta), Depok 16512
 Phone: +62 21 754827 or +62 21 22762334
 Mobile: + 62 812 8463436
 Email: hamud_balfas@hbp.co.id
 Website: hbp.co.id



Importation of the Products is also subject to labelling on the nature and characteristics of the Products imported as well as packaging. These obligations include, among others, name of the Products, name of the producer, expiration date and certificate of health as well as compliance on halal requirements where it is required.

The Regulation further stipulates provisions with respect to reporting procedures for the importation and export of the Products, revocation of approval for import and exports, supervision as well as exemption for approval for the importation and export of the Products.

The Regulation was issued on 28 January 2016 and became effective on the date of it is promulgated.

Contact Us:

JL. Bukit Cinere Kav. 213D
Cinere (South Jakarta), Depok 16512
Phone: +62 21 754827 or +62 21 22762334
Mobile: + 62 812 8463436
Email: hamud_balfas@hbp.co.id
Website: hbp.co.id