

# Consolidation of Income Tax Law

Law of The Republic of Indonesia Number 7 of 1983 Concerning Income Tax as Amended by Law of The Republic of Indonesia Number 7 of 2021

## General Definitions

To encourage sustainable economic growth in establishing a just, prosperous and well-off society based on Pancasila and the 1945 Constitution of the Republic of Indonesia, various measures pertaining to consolidative fiscal policies by the Government are required.

These consolidated fiscal policies may be realized by undertaking strategic measures that focus on improving the budget deficit and increasing the tax ratio, among others, through the implementation of policies to increase tax revenue performance, reforms of tax administration, increased tax base, the establishment of a tax system that emphasizes the principles of justice and legal certainty, as well as increasing taxpayer compliance. At the global level, countries worldwide are currently implementing various tax policies expected to boost revenues by expanding the tax base and adjusting tax rates.

To increase the tax ratio, the Government has made various efforts, including tax reforms that focus on organization, human resources, data-based information technology, business processes and tax regulations. This is carried out by improving service functions, implementing the Tax Amnesty program, implementing the Automatic Exchange of Financial Account Information scheme and strengthening the effectiveness of the extensification function and law enforcement. However, this is insufficient to compensate for changing business patterns and the constantly changing dynamics of globalization and to counter existing aggressive tax planning practices.

Therefore, in line with sustainable tax reforms, specifically, in the regulatory and business process aspects, it is necessary to adjust tax policy arrangements in a comprehensive, consolidated and harmonious manner. As such, the Law on the Harmonization of Tax Regulations is required. Adjustment of the policy-setting aims to promote sustainable economic growth and encourage the acceleration of economic recovery; optimize state revenues to finance national development independently towards a just, prosperous and well-off Indonesian society; realize a fairer tax system with more legal certainty; carry out administrative reforms, consolidated taxation policies, and broaden the tax base; and increase Taxpayer compliance.

Comprehensive, consolidated and harmonious tax policies are implemented through regulations covering General Provisions and Tax Procedures, Income Tax, Value Added Tax and Sales Tax on Luxury Goods, Taxpayer Voluntary Disclosure Program, Carbon Tax and Excise.

Materials relating to General Provisions and Tax Procedures included several amended and/or added provisions, among others, concerning cooperation in tax collection assistance amongst countries, Taxpayer's power of attorney, provision of data in the context of law enforcement and cooperation in the interest of the state and expiration of tax criminal prosecution.

Materials relating to Income Tax include several amended and/or added provisions, among others, concerning changes in the imposition of taxes on in-kind and/or fringes, individual and corporate Income Tax rates, depreciation and amortization as well as international agreements/treaties in the field of taxation.

Changes to materials relating to Value Added Tax and Sales Tax on Luxury Goods include but are not limited to reduced exemptions of taxable objects of Value Added Tax, restipulation of Value Added Tax facilities, changes to Value Added Tax rates and imposition of final Value Added tax rates.

To encourage taxpayer compliance, the Taxpayer Voluntary Disclosure Program materials provide an opportunity for taxpayers to disclose their undisclosed assets. Furthermore, there are new provisions on the carbon tax on carbon emissions with a negative impact on the environment. Carbon tax is imposed by taking into account the carbon tax roadmap and/or the carbon market roadmap. Changes to the provisions on the materials relating to Excise.

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## **CHAPTER I GENERAL PROVISIONS**

### **Article 1**

Income Tax is imposed on Tax Subjects in respect of income they receive or accrue in a tax year. \*\*)

#### **Elucidation of Article 1**

This Law stipulates the imposition of Income Tax on tax subjects in respect of income they receive or accrue in a tax year. Tax subjects are liable to tax if they receive or accrue income. Tax subjects receiving or accruing income, under this Law, are referred to as Taxpayers. Taxpayers are subject to tax on the income they receive or accrue in a tax year or may be subject to tax on the income they receive or accrue in a fraction of a tax year if their subjective tax obligations commence or end in the tax year.

“Tax year” under this Law refers to a calendar year, however, Taxpayers may use a different accounting year from the calendar year insofar as the accounting year covers a period of 12 (twelve) months \*\*\*\*)

#### **Relevant Regulations**

*There are no relevant regulations*

# CHAPTER II

## TAX SUBJECTS

### Article 2

- (1) Constituting tax subjects are:
- a. 1. individuals; and
  2. undivided inheritance as a unit in lieu of the beneficiaries;
  - b. entities; and
  - c. permanent establishments. \*\*\*\*\*)
- (1a) A permanent establishment is a tax subject for which the tax treatment is equivalent to a corporate taxpayer. \*\*\*\*\*)
- (2) Tax subjects are categorized into resident taxpayers and non-resident taxpayers. \*\*\*\*\*)
- (3) Resident taxpayers are:
- a. an individual, either an Indonesian citizen or a foreign citizen, who:
    1. resides in Indonesia;
    2. has been present in Indonesia for more than 183 (one hundred and eighty-three) days within any 12 (twelve) months period; or
    3. within a particular tax year has been residing in Indonesia and intends to reside in Indonesia;
  - b. an entity established or domiciled in Indonesia, except certain units of government bodies which fulfill the following criteria:
    1. its establishment is pursuant to the laws;
    2. financed by the State Budget or Local Government Budget;
    3. its revenues are included in the State Budget or Local Government Budget; and
    4. its bookkeeping is audited by the government auditor; and
  - c. undivided inheritance as a unit in lieu of the beneficiaries. \*\*\*\*\*)
- (4) Non-resident taxpayers are:
- a. an individual who does not reside in Indonesia;
  - b. a foreign citizen who has been present in Indonesia for not more than 183 (one hundred and eighty-three) days within any 12 (twelve) months period; or
  - c. an Indonesian Citizen who is outside Indonesia for more than 183 (one hundred and eighty-three) days within any 12 (twelve) months period and fulfills the following requirements:
    1. a residence;
    2. a center of vital interests;
    3. a place of habitual abode;
    4. tax residency; and/or
    5. other certain requirementsfurther provisions on the requirements are stipulated in a Minister of Finance Regulation; and
  - d. Entities that are not established and domiciled in Indonesia conduct a business or activities through a permanent establishment in Indonesia or that may receive or accrue income from Indonesia not from conducting a business or activities through a permanent establishment in Indonesia. \*\*\*\*\*)
- (5) Permanent establishments refer to a form of business used by individuals referred to in paragraph (4) subparagraph a, subparagraph b and subparagraph c and entities referred to in paragraph (4) subparagraph d to conduct a business or carry out activities in Indonesia, which may include:
- a. a place of management;
  - b. a branch;
  - c. a representative office;
  - d. an office;
  - e. a factory;
  - f. a workshop;
  - g. a warehouse;
  - h. a space for promotion and selling;

- i. a mine and a place of extraction of natural resources;
  - j. an area of oil and gas mining;
  - k. fishery, animal husbandry, agriculture, plantation or forestry;
  - l. a construction, installation or assembly project;
  - m. any kind of services provided by employees or any other persons, provided that the services are conducted in more than 60 (sixty) days within any 12 (twelve) months period;
  - n. an individual or entity acting as a dependent agent;
  - o. an agent or employee of an insurance company which is established outside Indonesia and is not domiciled in Indonesia, receiving insurance premium or assuming risk in Indonesia; and p. computers, electronic agents or automated equipment owned, leased or used by any electronic transaction providers to conduct business through the internet. \*\*\*\*\*)
- (6) The residence of an individual or the domicile of an entity shall be stipulated by the Director General of Taxes in accordance with the actual circumstances. \*\*\*)

## **Elucidation of Article 2**

### **Paragraph (1)**

#### Subparagraph a

An individual as a tax subject may reside or be present in Indonesia or outside Indonesia. Undivided inheritance as a unit constitutes a substitute to tax subject, substituting those who have the right thereof, namely the heirs/heiresses. An undivided inheritance is designated as a substitute to tax subject to allow the income derived from the inheritance to be continuously taxed.

#### Subparagraph b

Entity is a group of people and/or capital that constitutes a unit that either conducts business or not, including limited liability companies, limited partnerships, other companies, state or local-owned enterprises in whatever name and form, firms, joint ventures, cooperatives, pension funds, partnership, alliances, foundations, mass organizations, social and political organizations or any similar organizations, institutions and other forms of entities, including collective investment contracts and permanent establishments.

State-owned and local-owned enterprises constitute tax subjects, regardless of their names and forms, thus any certain unit of Government bodies, such as institutions, entities and so forth, owned by the Central Government and Local Governments that conduct business or activities to accrue income, constitute tax subjects.

The definition of "alliance" also includes associations, unions, concourses or affiliations of parties with the same interests.

#### Subparagraph c

Sufficiently clear.

### **Paragraph (1a)**

Sufficiently clear.

### **Paragraph (2)**

Tax subjects are categorized into resident taxpayers and non-resident taxpayers. A resident individual constitutes a Taxpayer if he/she receives or accrues income exceeding Non-Taxable Income. A resident corporate constitutes a Taxpayer since it is established or domiciled in Indonesia. Non-resident taxpayers, either individuals or entities, constitute Taxpayers because

they receive and/or accrue income sourced from Indonesia or they receive and/or accrue income sourced from Indonesia through a permanent establishment in Indonesia. In other words, a Taxpayer is an individual or entity that has fulfilled subjective and objective obligations in connection with the ownership of a Taxpayer Identification Number (TIN). Individual taxpayers receiving income below the Non-Taxable Income are not required to register to obtain a TIN.

The important difference between resident Taxpayers and non-resident Taxpayers lies in the fulfillment of their tax obligations, including:

- a. Resident Taxpayers are taxed on income, either received or accrued from Indonesia or outside Indonesia, whereas non-resident Taxpayers are taxed only on income sourced from Indonesia;
- b. Resident Taxpayers are taxed based on net income at statutory rates, whereas non-resident Taxpayers are taxed based on gross income at equivalent tax rates; and
- c. Resident Taxpayers are required to file Annual Income Tax Returns as a means to determine the tax payable in a tax year, whereas non-resident Taxpayers are not required to file Annual Income Tax Returns because their tax obligations are fulfilled through final tax withholding.

For non-resident Taxpayers conducting a business or activities through permanent establishments in Indonesia, the fulfillment of their tax obligations is equivalent to the fulfillment of tax obligations of resident corporate Taxpayers as stipulated under this Law and the Law on general provisions and tax procedures.

### **Paragraph (3)**

#### Subparagraph a

In principle, an individual who constitutes a resident taxpayer is an individual residing or present in Indonesia. Included in the definition of individuals residing in Indonesia are those who have the intention to reside in Indonesia. The determination of whether an individual intends to reside in Indonesia shall be considered based on circumstances.

The presence of an individual in Indonesia of more than 183 (one hundred and eighty three) days does not have to be consecutive but it shall be determined by the total number of days the said individual is in Indonesia within any 12 (twelve) months period since his/her arrival in Indonesia.

#### Subparagraph b

Sufficiently clear.

#### Subparagraph c

An undivided inheritance inherited by a resident individual shall be considered a resident taxpayer in the definition under this Law pursuant to the status of the heirs/heiresses. To fulfill the tax obligations thereof, the said undivided inheritance substitutes the obligations of the heirs/heiresses who have the right thereof.

In the event that the inheritance has been divided, the tax obligations thereof shall be transferred to the heirs/heiresses.

Undivided inheritance inherited by an individual as a non-resident taxpayer not conducting a business or activities through a permanent establishment in Indonesia shall not be deemed a substitute to any tax subject because the tax imposed on income received or accrued by the said individual shall be inherent to the object.

### **Paragraph (4)**

A non-resident taxpayer is an individual or entity residing or domiciled outside Indonesia that may receive or accrue income from Indonesia, through or not through a permanent establishment. An individual not residing in Indonesia but is present in Indonesia for no more than 183 (one hundred and eighty-three) days within a period of 12 (twelve) months, constitutes a non-resident taxpayer.

If the income is received or accrued through a permanent establishment, the individual or entity is taxed through the permanent establishment. The said individual or entity shall maintain the status of a non-resident Taxpayer. Therefore, the permanent establishment substitutes the individual or entity as a non-resident taxpayer in fulfilling tax obligations in Indonesia. In the

event that the income is not received or accrued through a permanent establishment, tax shall be imposed directly on the non-resident taxpayer.

#### **Paragraph (5)**

A permanent establishment contains the concept of the existence of a place of business, namely facilities that may be in the form of lands and buildings, including machinery, equipment, warehouses and computers or electronic agents or automated equipment owned, leased or used by any electronic transaction provider to conduct business through the internet.

The place of business is permanent and used to conduct a business or carry out the activities of an individual who does not reside or an entity that is neither established nor domiciled in Indonesia.

The definition of permanent establishment also includes individuals or entities as agents that are not independent, acting for and on behalf of any individual or any entity not residing or domiciled in Indonesia. Individuals not residing or entities not established and not domiciled in Indonesia cannot be deemed to have a permanent establishment in Indonesia if the individuals or the entities, in conducting their business or activities in Indonesia, use any agent, broker or intermediary with an independent status, provided that the agents or intermediaries in reality fully act in the framework of carrying out their own companies.

An insurance company established or domiciled outside Indonesia is deemed to have a permanent establishment in Indonesia if it receives insurance premium or assumes risks in Indonesia through its employees, representatives or agents in Indonesia. Assuming risks in Indonesia shall not mean that the events causing the risks occur in Indonesia. There is a matter of concern that the insured party shall reside, stay or domicile in Indonesia.

#### **Paragraph (6)**

Determination of the residence of an individual or the domicile of an entity is important to determine which Tax Office has taxing jurisdiction over the income received or accrued by the individual or entity.

Basically, the residence of an individual or the domicile of an entity shall be determined based on the actual circumstances. Therefore, the determination of the residence or domicile shall not only be based on formal considerations but also on reality.

Several matters are to be considered by the Director General of Taxes in determining the residence of an individual or the domicile of an entity include, among others, the domicile, residential address, family residence, place of business or other matters to be considered to facilitate the fulfillment of tax obligations.

## Relevant Regulations

*There are no relevant regulations*

### Article 2A

- (1) The subjective tax obligations of an individual as referred to in Article 2 paragraph (3) subparagraph a shall commence at the time the individual is born, present or intends to reside in Indonesia and shall cease at the time the individual passes away or leaves Indonesia permanently. \*\*)
- (2) The subjective tax obligations of an entity as referred to in Article 2 paragraph (3) subparagraph b shall commence at the time the entity is established or domiciled in Indonesia and shall cease at the time the entity is dissolved or is no longer domiciled in Indonesia. \*\*)
- (3) The subjective tax obligations of an individual or an entity as referred to in Article 2 paragraph (4) subparagraph a shall commence at the time the individual or entity conducts a business or activities as referred to in Article 2 paragraph (5) and shall cease at the time the individual or entity no longer conducts a business or activities through a permanent establishment. \*\*)
- (4) The subjective tax obligations of an individual or an entity as referred to in Article 2 paragraph (4) subparagraph b shall commence at the time the individual or entity receives or accrues income from Indonesia and shall cease at the time the individual or entity no longer receives or accrues such income. \*\*)
- (5) The subjective tax obligations of an undivided inheritance referred to in Article 2 paragraph (1) subparagraph a number 2) shall commence at the emergence of the undivided inheritance and shall cease at the time the inheritance is distributed to the heirs/heiresses. \*\*)
- (6) In the event that the subjective tax obligations of an individual who resides or is present in Indonesia consist only a fraction of a tax year, the fraction of a tax year shall substitute the tax year. \*\*)

### Elucidation of Article 2A

Income Tax constitutes a subjective tax of which the tax obligations thereto are inherent to the Tax Subject concerned, which implies that the said tax obligations are intended not to be shifted to another Tax Subject. Therefore, to provide legal certainty, the stipulation of when subjective tax obligations commence and cease is important.

#### Paragraph (1)

The subjective tax obligations of a resident individual residing in Indonesia shall commence at the time he/she is born in Indonesia. For an individual who is present in Indonesia for more than 183 (one hundred and eighty-three) days within any 12 (twelve) month periods, his/her subjective tax obligations commence since the first day he/she is present in Indonesia. The subjective tax obligations of any individual shall cease at the time he/she passes away or leaves Indonesia permanently.

The definition on “leaves Indonesia permanently” must be related to actual matters at the time the said individual leaves Indonesia. If at the time he/she leaves Indonesia, there is physical evidence of his/her intention to leave Indonesia permanently, then at that time he/she no longer constitutes a resident Taxpayer.

#### Paragraph (2)

Sufficiently clear.

#### Paragraph (3)

For individuals not residing in Indonesia and is present in Indonesia for no longer than 183 (one hundred and eighty-three) days and entities not established and not domiciled in Indonesia, conducting a business or carrying out activities in Indonesia through a permanent establishment, subjective tax obligations shall commence at the time the permanent establishment

is present in Indonesia and shall cease at the time the permanent establishment is no longer in Indonesia.

#### **Paragraph (4)**

An individual not residing or staying in Indonesia for no longer than 183 (one hundred and eighty-three) days and an entity not established or domiciled in Indonesia and not conducting a business or activities through a permanent establishment in Indonesia shall constitute a non resident taxpayer insofar as the individual or the entity has an economic relationship with Indonesia. The economic relationship with Indonesia is deemed to exist if the individual or entity receives or accrues income from sources in Indonesia.

The subjective tax obligations of the individual or entity shall commence at the time the individual or entity has an economic relationship with Indonesia, namely receiving or accruing income from sources in Indonesia and shall cease at the time the individual or entity no longer has any economic relationship with Indonesia.

#### **Paragraph (5)**

The subjective tax obligations for undivided inheritance shall commence at the emergence of the undivided inheritance, namely at the time the predecessor passes away. Afterwards, the fulfillment of the tax obligations thereof shall be inherent to the said inheritance. The subjective tax obligations of the inheritance shall cease at the time the inheritance is distributed to the heirs/heiresses. Since that time, the fulfillment of the tax obligations is transferred to the heirs/heiresses.

#### **Paragraph (6)**

It may occur that an individual becomes a Tax Subject not for one full tax year, for example, an individual commences to become a Tax Subject in the middle of a tax year or permanently leaves Indonesia in the middle of a tax year. The period which is less than one tax year is referred to as a fraction of a tax year that substitutes the tax year.

### **Relevant Regulations**

*There are no relevant regulations*

### **Article 3**

- (1) Not included as tax subjects as referred to in Article 2 are:
- a. representative offices of foreign countries;
  - b. officials of diplomatic and consular missions or any other foreign officials and any individuals who work for and stay with them provided that they are not Indonesian citizens, and in Indonesia, they do not receive nor accrue income other than from their position and official duty in Indonesia and the aforementioned country grants reciprocal treatment;
  - c. any international organizations, provided that:
    1. Indonesia is a member of the aforementioned organization; and
    2. they do not conduct business or other activities to derive income from Indonesia, except providing the government with loans funded by the members' contribution;
  - d. representatives to international organizations as referred to in subparagraph c, provided that they are not Indonesian citizens and do not conduct any business or activities or other employment to derive income from Indonesia. \*\*\*\*)
- (2) International organizations excluded from tax subjects as referred to in paragraph (1) subparagraph c shall be stipulated by a Minister of Finance Decree. \*\*\*\*\*)

## **Elucidation of Article 3**

### **Paragraph (1)**

Pursuant to international common practice, representative offices of foreign countries and officials of diplomatic, consular missions or any other foreign officials are excluded from tax subjects at the place where they represent their countries.

The exclusion from tax subjects for the officials does not apply in the event they derive income other than from their position or they are Indonesian citizens.

Therefore, if a representative to a foreign country derives income other than from his/her position and official duty, he/she is included as a Tax Subject that may be taxed on the other income.

### **Paragraph (2)**

Sufficiently clear.

## **Relevant Regulations**

*There are no relevant regulations*

## **CHAPTER III TAXABLE OBJECTS**

### **Article 4**

- (1) A taxable object is income, which refers to any increase in economic capacity received by or accrued by a Taxpayer, either from Indonesia or from outside Indonesia, which may be utilized for consumption or increasing the Taxpayer's wealth, in whatever name and form, including:
- a. consideration or remuneration in respect of employment or services received or accrued, including salaries, wages, allowances, honoraria, commissions, bonuses, gratuities, pension or other forms of remunerations, including benefits in kind and/or fringe benefits, unless otherwise stipulated under this Law;
  - b. lottery prizes or prizes in respect of employment or activities and reward;
  - c. business profits;
  - d. gains from the sale or transfer of property, including:
    1. gains from a transfer of property to a company, a partnership and another entity in exchange for shares or capital contribution;
    2. gains from a transfer of property to its shareholders, partners or members accrued by a company, a partnership or another entity;
    3. gains from a liquidation, merger, consolidation, spin-offs, split-up, acquisition or reorganization in whatever name and form;
    4. gains from transfer of property in the form of grants, aids or donations, unless they are given to relatives within one degree of direct lineage, and to religious bodies, educational or other social entities including foundations, cooperatives or to any individual conducting micro and small business, provided that there is no business, employment, ownership nor control relationship between the parties concerned; and
    5. gains from the sale or the transfer of part or all of mining rights, participation in financing or capitalization in a mining company;
  - e. refund of tax payments which has already been deducted as an expense and any additional payment of tax;
  - f. interest including premium, discounts and compensation for loan repayment guarantees; g. dividends, in whatever name and form, including dividends from an insurance company to its

- policyholders;
- h. royalty or compensation from the use of right;
- i. rents and other income from the use of property;
- j. annuities;
- k. gains from the discharge of indebtedness, except up to a certain amount stipulated by a Government Regulation;
- l. gains from foreign exchange;
- m. gains from revaluation of assets;
- n. insurance premium;
- o. contribution received or accrued by an association from its members that constitute taxpayers engaged in business or independent personal services;
- p. an increase in net wealth from income which has not been taxed;
- q. income from sharia business;
- r. interest compensation as stipulated by the Law concerning General Provisions and Tax Procedures; and
- s. surplus of Bank Indonesia. \*\*\*\*\*)

(1a) Excluded from the provisions referred to in paragraph (1), a foreign citizen who constitutes a resident taxpayer is subject to Income Tax only on income received or accrued from Indonesia under the following conditions:

- a. having certain skills pursuant to statutory provisions; and
- b. this provision is valid for 4 (four) tax years since he/she becomes a resident taxpayer. \*\*\*\*\*) (1b)

Included in the definition of income received or accrued from Indonesia as referred to in paragraph (1a) is income received or accrued by a foreign citizen in connection with work, services or activities in Indonesia in whatever name and form paid outside Indonesia. \*\*\*\*\*)

(1c) Provisions referred to in paragraph (1a) do not apply to a foreign citizen taking advantage of the Tax Treaty between the Government of Indonesia and the government of a Tax Treaty partner country or jurisdiction where the foreign citizen accrues income from outside Indonesia. \*\*\*\*\*) (1d) Deleted. \*\*\*\*\*)

(2) The following income may be subject to final taxes:

- a. income in the form of deposit interests and other savings, interests on bonds and government bonds, interests or discounts of short-term securities traded in the money market and deposit interests 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 stock exchange and sales of shares transactions or transfers of equity participation in the partner company received by a venture capital company;
- d. income from transactions of property in the form of land and/or buildings, the construction service business, real estate businesses and land and/or building leases; and
- e. certain other income, including business income received or accrued by Taxpayers with certain gross turnover, as stipulated by or based on a Government Regulation. \*\*\*\*\*)

(3) Excluded from taxable objects are:

- a. 1. aids or donations, including zakat, infaq and sadaqah received by amil zakat board or other amil zakat institutions established or approved by the government and received by eligible zakat recipients or compulsory religious donation for the followers of religions acknowledged by the government, received by religious institutions established and approved by the government and received by eligible donees, the provisions thereto are stipulated by or based on a Government Regulation; and
- 2. grants received by relatives within one degree of direct lineage and to religious bodies, educational or other social entities including foundations, cooperatives or any individual conducting micro and small business, provided that there is no business, employment, ownership nor control relationship between the parties concerned;
- b. inheritance;
- c. assets including cash received by an entity as referred to in Article 2 paragraph (1) subparagraph b in exchange for shares or capital contribution;

- d. considerations or remunerations in connection with work or services received or accrued in kind or fringe benefits, including:
1. foodstuff, ingredients for food, ingredients for beverages and/or beverages provided for all employees;
  2. remunerations in kind and/or fringe benefits provided in certain areas;
  3. remunerations in kind and/or fringe benefits to be provided by the employer in the implementation of work;
  4. remunerations in kind and/or fringe benefits sourced from or financed by the State Budget, the Local Government Budget and/or the Village Budget; or
  5. remunerations in kind and/or fringe benefits of certain types and/or thresholds; e. payments by an insurance company to an individual due to accident, illness or death of the insured person and payment of scholarship insurance;
- f. dividends or other income provided that:
1. domestically-sourced dividends received or accrued by Taxpayers:
    - a) resident individual insofar as the dividends are invested in the territory of the Unitary State of the Republic of Indonesia within a certain period; and/or
    - b) resident corporates;
  2. foreign-sourced dividends and income after tax from an overseas permanent establishment received or accrued by a resident corporate Taxpayer or a resident individual Taxpayer, insofar as they are invested or used to support other businesses in the territory of the Unitary State of the Republic of Indonesia within a certain period and fulfill the following requirements:
    - a) the invested dividends and income after tax amount to a minimum of 30% (thirty percent) of net income after tax; or
    - b) dividends sourced from a non-listed offshore company are invested in Indonesia before the Director General of Taxes issues a notice of tax assessment on such dividends in connection with the application of Article 18 paragraph (2) of this Law;
  3. foreign-sourced dividends referred to in number 2 are:
    - a) distributed dividends that are sourced from a listed offshore company; or
    - b) distributed dividends that are sourced from a non-listed offshore company as per the proportion of share ownership;
  4. if the dividends referred to in number 3 point b) and income after tax from an overseas permanent establishment referred to in number 2 invested in the territory of the Unitary State of the Republic of Indonesia amount to less than 30% (thirty percent) of net income after tax as referred to in number 2 point a) the following provisions shall apply:
    - a) the invested dividends and income after tax are excluded from Income Tax; b) the difference of 30% (thirty percent) of net income after tax less the invested dividends and/or income after tax as referred to in point a) is subject to Income Tax; and c) the residual net income after tax less the invested dividends and/or income after tax as referred to in point a) as well as the difference referred to in point b), are not subject to Income Tax;
  5. if the dividends referred to in number 3 point b) and income after tax from an overseas permanent establishment as referred to in number 2 invested in the territory of the Republic of Indonesia amount to more than 30% (thirty percent) of net income after tax as referred to in number 2 point a), the following provisions shall apply:
    - a) the invested dividends and income after tax are excluded from Income Tax; and b) the residual net income after tax less the invested dividends and/or income after tax as referred to in point a) are not subject to Income Tax;
  6. if dividends sourced from a non-listed offshore company are invested in Indonesia after the Director General of Taxes issues a notice of tax assessment in connection with the application of Article 18 paragraph (2) of this Law, these dividends are not excluded from Income Tax as referred to in number 2;
  7. Income Tax on foreign-sourced income received or accrued not through any permanent establishments by resident corporate Taxpayers or resident individual Taxpayers is excluded if the income is invested in the territory of the Unitary State of the Republic of Indonesia within a certain period and the following requirements are fulfilled:
    - a) the income is sourced from an overseas active business; and
    - b) does not constitute income from an offshore company;

8. to income taxes that have been paid or payable in a foreign country referred to in number 2 and number 7, the following provisions shall apply:
  - a) cannot be taken into account in the Income Tax payable;
  - b) cannot be charged as an expense or income deduction; and/or
  - c) tax overpayments are non-refundable;
9. if the taxpayer does not invest the income within a certain period as referred to in number 2 and number 7, the following provisions shall apply:
  - a) the foreign-sourced income is included in the definition of income in the tax year it is accrued; and
  - b) taxes on income that have been paid or payable in a foreign country constitute tax credit as referred to in Article 24 of this Law;
10. deleted;
- g. contributions received or accrued by a pension fund whose establishment is approved by the Financial Services Authority, either paid by an employer or an employee;
- h. income from a capital investment of the pension fund as referred to in subparagraph g in certain sectors;
- i. profit distribution or the distribution of net income received or accrued by members of a cooperative, members of a limited partnership, whose capital does not consist of shares, partnership, alliances, firms and joint ventures, including unit holders of collective investment contracts;
- j. deleted;
- k. income received or accrued by a venture capital company in the form of profit distribution of an investee company established and conducting business or engaged in activities in Indonesia, provided that the investee company:
  1. is a micro, small, medium-sized enterprise or engaged in activities in business sectors stipulated by or based on a Minister of Finance Regulation; and
  2. the shares are not traded in the stock exchange in Indonesia;
- l. scholarships that fulfill certain requirements;
- m. the surplus received or accrued by an institution or a nonprofit organization engaged in education and/or research and development listed in corresponding agencies, which is reinvested in the forms of facilities and infrastructure of education and/or research and development, within no more than 4 years since it is received or accrued;
- n. aid or donation paid by the Social Security Administrative Body to certain Taxpayers; o. deposit funds for Hajj Fees and/or Special Hajj Fees and income from the development of hajj finances in certain financial fields or instruments received by the Hajj Financial Management Agency; and
- p. the surplus received or accrued by social and religious institutions and organizations listed in corresponding agencies, which is reinvested in the form of social and religious facilities and infrastructure within no more than 4 (four) years since the surplus is received or placed as endowment funds. \*\*\*\*\*)

## **Elucidation of Article 4**

### **Paragraph (1)**

This Law adheres to the principle of taxation of income in a broad sense, namely taxes are imposed on any increase in economic capacity received or accrued by a Taxpayer from whatever source which can be used for consumption or for increasing the Taxpayer's wealth.

The definition of income under this Law does not take into account the existence of income from certain sources but any increase in economic capacity. The increase in economic capacity received or accrued by a Taxpayer is the best measure of a Taxpayer's ability to share the costs required by the government for routine and development activities.

In view of the flow of the increase in the Taxpayer's economic capacity, income may be classified into:

- i. income from work in an employment relationship and independent personal services, such as salaries, honoraria and income from the practice of doctors, notaries, actuaries, accountants, lawyers and so forth;
- ii. income from a business and activities;
- iii. income from a capital investment, in the form of movable or immovable property, such as interests, dividends, royalties, rent and gains from sales of property or rights which are not used for business; and
- iv. other income, such as debt relief and prizes.

In view of the utilization thereof, income may be used for consumption and put into savings to increase a Taxpayer's wealth.

Because this Law adheres to the concept of income in a broad sense, all types of income received or accrued in a tax year shall be combined to obtain the tax base. Therefore, if in a tax year, a business or an activity suffers from a loss, the loss may be offset against other income (horizontal offset), except if the loss is incurred overseas. However, if a type of income is subject to a final rate or is excluded from taxable objects, the income shall not be combined with other income which is subject to statutory rates.

Examples of income referred to under this provision are intended to clarify the broad definition of income that is not limited to the said examples.

#### Subparagraph a

All payments or remunerations in connection with employment, such as wages, salaries, life insurance and health insurance premiums paid by the employer or remunerations in other forms constitute taxable objects. The definition of "remunerations in other forms" shall include remunerations in kind and/or fringe benefits, which in essence, constitute income.

In addition, the definition of income includes gratuities which constitute a reasonable gift because of the services and benefits received by the giver of the gratuities in connection with the implementation of work or the provision of services.

"Remunerations in kind" refer to remunerations in the form of goods other than money, whereas "fringe benefits" refer to remunerations in the form of rights to the utilization of facilities and/or services.

#### Subparagraph b

The definition of "prizes" shall include prizes from lotteries, employment and activities, such as the prize in a saving lottery and the prize of a sport competition.

"Reward" refers to remunerations granted in connection with certain activities, such as remunerations derived in connection with archaeological discoveries.

#### Subparagraph c

Sufficiently clear.

#### Subparagraph d

If a Taxpayer sells property at a price higher than the residual value or higher than the acquisition price or value, the price difference constitutes the profit. If the sale of such property occurs between a company and its shareholders, the selling price shall be used as the basis for calculation of profit of the sale is the market price.

For example, PT S owns a car that is used for business with a residual value of

IDR40,000,000.00 (forty million rupiah). The car is sold at IDR60,000,000.00 (sixty million rupiah). Therefore, the profit earned by PT S on the sale of the car is IDR20,000,000.00 (twenty million rupiah). If the car is sold to one of the shareholders at IDR55,000,000.00 (fifty-five million rupiah), the selling price of the car shall still be calculated on the basis of market price of IDR60,000,000.00 (sixty million rupiah). The difference of IDR20,000,000.00 (twenty million rupiah) constitutes profit for PT S and for the shareholder purchasing the car, the difference of IDR5,000,000.00 (five million rupiah) constitutes income.

If an entity is liquidated, profit from the sale of property, namely the difference between the selling price based on the market price and the residual value of the property shall constitute a taxable object. Similarly, the difference between the market price and the residual value in the case of a merger, consolidation, spin-off, split-up or acquisition constitutes income.

In the event of a transfer of property in lieu of shares or equity participation, any profit in the form of difference between the market price of the property and its book value shall constitute income.

Gains in the form of the difference between the market price and the acquisition value or residual value on a transfer of property in the form of grants, aid or donation constitutes income to the party undertaking the transfer unless the property is transferred to relatives within one degree of direct lineage. Similarly, the profit in the form of the difference between the market price and the acquisition value or residual value of the transfer of property in the form of aid or donation and grants to religious bodies, educational or other social entities including foundations, cooperatives or to any individual conducting micro and small business does not constitute income provided that there is no business, employment, ownership or control relationship between the parties concerned.

In the event that a Taxpayer owning mining rights transfers part or all of the said rights to another Taxpayer, the gains therefrom constitute a taxable object.

#### Subparagraph e

Tax refunds which have already been charged as an expense in calculating Taxable Income constitute a taxable object.

For example, if Land and Building Tax which has been paid and charged as an expense is subsequently refunded for whatever reason, the total amount of the refund constitutes income.

#### Subparagraph f

The definition of interest also includes premium, discounts and compensation in connection with loan repayment guarantees.

Premium occurs when, for example, bonds are sold above the par value, whereas a discount occurs when bonds are purchased below their par value. The premium constitutes income for the bond issuer and the discount constitutes income for the bond purchaser.

#### Subparagraph g

Dividend is the share of profit received by shareholders or insurance policyholders.

Included in the definition of dividend are:

- 1) profit sharing, either direct or indirect, in whatever name and form;
- 2) repayment due to a liquidation in excess of the paid-in capital;
- 3) the granting of bonus shares without payment, including bonus shares derived from the capitalization of additional paid-in capital;
- 4) profit sharing in the form of shares;
- 5) records of additional capital without payment;
- 6) the sum exceeding the amount of paid-up capital received or accrued by shareholders on a share repurchase by the company concerned;
- 7) repayment of all or part of paid-in capital, if in previous years profits have been obtained unless if the repayment is due to a legal reduction in the statutory capital;
- 8) payment related to rights of profit, including that received as redemption of such rights;
- 9) a share of profit in connection with bond ownership;
- 10) a share of profit received by policyholders;
- 11) company expenses for the personal benefit of shareholders, which are charged as company expenses.

In practice, untransparent distributions or payments of dividend are often found, for example, where shareholders, who have fully remitted paid-in capital and provides a loan to the company with a higher interest rate exceeding the reasonable amount. In such a case, the difference between the interest paid and the market rate shall be treated as dividends. The portion of interest treated as dividends cannot be charged as an expense by the company concerned.

#### Subparagraph h

Royalties are sums paid or payable under whatever method or calculations, carried out either periodically or not, as compensation for:

1. use or right to use copyright in the fields of literature, arts or scientific works, patents, designs or models, plans, secret formulas or processes, trademarks or other forms of intellectual/industrial property rights or similar rights;
2. use or right to use industrial, commercial or scientific tools/equipment;
3. provision of knowledge or information in the scientific, technical, industrial or commercial sectors;
4. provision of additional or complementary assistance in relation to the use or right to use the rights in number 1, the use or the right to use industrial tools/equipment in number 2 or the provision of knowledge or information in number 3, in the form of:
  - a) receipt or the right to receive image or sound recordings or both, which are distributed to the public via satellites, cables, fiber optic or similar technologies;
  - b) the use or right to use image or sound recordings or both, for television or radio broadcasts broadcast/transmitted via satellites, cables, fiber optic or similar technologies;
  - c) the use or right to use part or all radio communication spectrums;
5. the use or right to use motion picture films, films or video tapes for television broadcasts or sound tapes for radio broadcasts; and
6. relinquishing of all or part of the rights relating to the use or granting of intellectual/industrial property rights or other rights as mentioned above.

#### Subparagraph i

The definition of rent includes compensation received or accrued in whatever name and form in connection with the use of movable or immovable property, for example, rent of a car, rent of an office, lease of a house or rent of a warehouse.

#### Subparagraph j

Revenues in the form of periodic payments, such as "alimony" or a lifetime allowance paid

regularly at certain times.

**Subparagraph k**

Relief of debt by a creditor is deemed income for the debtor, whereas for the creditor, it may be charged as an expense.

However, Government Regulations may stipulate that relief of debt for small debtors, for example, Prosperous Family Business Credit, Farmers' Credit Scheme, People's Business Credit, credit for simple house ownership and other micro credit up to certain amount, are excluded from taxable objects.

**Subparagraph l**

Gains from the fluctuation in foreign currency are recognized based on the accounting system adopted and maintained as per the consistency principle pursuant to the Financial Accounting Standard applicable in Indonesia.

**Subparagraph m**

Gains due to asset revaluation as referred to in Article 19 constitute income.

**Subparagraph n**

The definition of insurance premiums includes reinsurance premiums.

**Subparagraph o**

Sufficiently clear.

**Subparagraph p**

Any increase in net wealth is, in essence, the accumulation of income, either income that has already been taxed and not constituting a taxable object, or income that has not yet been taxed. If it is found that there is an increase in net wealth that exceeds the accumulation of income that has already been taxed and not constituting a taxable object, the increase constitutes income.

**Subparagraph q**

A sharia business has a different philosophy from a conventional business. However, the income received or accrued from a sharia business is still considered a taxable object according to this Law.

**Subparagraph r**

Sufficiently clear.

**Subparagraph s**

Sufficiently clear.

**Paragraph (1a)**

Sufficiently clear.

**Paragraph (1b)**

Sufficiently clear.

**Paragraph (1c)**

Sufficiently clear.

**Paragraph (1d)**

Deleted.

**Paragraph (2)**

In accordance with the provisions under paragraph (1), the income referred to in this paragraph constitutes a taxable object. Based on considerations as following:

- the necessary encouragement of investments and community savings;
  - simplicity in tax collection;
  - reduced administrative burden for both Taxpayers and the Directorate General of Taxes;
  - equity in the tax imposition; and
  - considering economic and monetary developments,
- the income should be treated separately in the tax imposition.

The separate treatment in tax imposition on these types of income, including the nature, amount and procedures for the payment or withholding, shall be stipulated by a Government Regulation.

Bonds referred to in this paragraph include notes with a maturity of more than 12 (twelve) months, such as Medium-Term Notes, Floating Rate Notes with a maturity of more than 12 (twelve) months.

Government Bonds referred to in this paragraph covers State Bonds and Treasury Bills.

### **Paragraph (3)**

#### Subparagraph a

Aid and donations, for the recipient, does not constitute a taxable object provided that they are not received in connection with employment, business, ownership or control relationship between the parties concerned. Zakat, infaq and sadaqah received by amil zakat board or amil zakat institutions established or approved by the government and received by eligible zakat recipients or compulsory religious donations for the followers of religions acknowledged in Indonesia, received by religious institutions established or approved by the government and received by eligible donees shall be treated the same as aid or donations. "Zakat" refers to zakat as referred to in Law concerning zakat.

A business relationship may occur between a donor and the donee, for example, PT A is a manufacturer of a type of goods, the main raw materials of which are manufactured by PT B. If PT B donates raw material to PT A, the donation of raw materials received by PT A constitutes a taxable object.

Grants, for the recipient, do not constitute taxable objects if received by relatives within one degree of direct lineage and by religious bodies, educational or social entities including foundations or individuals conducting micro and small business, including cooperatives, insofar as they are not received in the context of employment, business, ownership or control relationship between the parties concerned.

#### Subparagraph b

Sufficiently clear.

#### Subparagraph c

In principle, assets including cash deposits, received by an entity constitutes an increase in the economic capability of the entity. However, as the asset is received in lieu of shares or equity participation, based on this provision, the received property does not constitute a taxable object.

#### Subparagraph d

Certain areas are areas that fulfill the following criteria, among others, remote areas, namely

areas that economically have the potential to be developed but the condition of the economic infrastructure is generally inadequate and difficult to reach by public transportation, either by land, sea or air, so to change available economic potentials into real economic strength, investors assume fairly high risks and a relatively long payback period, including marine waters with a depth of more than 50 (fifty) meters of which the seabed has mineral reserves.

#### Subparagraph e

Payment of insurance benefits or compensation received by an individual from an insurance company in connection with health insurance, accident insurance, life insurance, endowment insurance and scholarship insurance does not constitute a taxable object. This is in line with the provisions under Article 9 paragraph (1) subparagraph d, namely insurance premiums paid by an individual Taxpayer for his/her own benefit cannot be deducted in the calculation of Taxable Income.

#### Subparagraph f

Sufficiently clear.

#### Subparagraph g

The exclusion from taxable objects referred to in this paragraph only applies to pension funds whose establishment has been approved by the Financial Services Authority. Excluded from taxable objects are contributions received from pensioners, either by self payment or borne by the employer. Basically, contributions received by pension funds belong to the pensioners and shall be repaid at a certain time. Tax imposition on the contributions will reduce the pensioners' right and therefore, the contributions are excluded from taxable objects.

#### Subparagraph h

As mentioned in subparagraph g, the exclusion from taxable objects pursuant to this provision only applies to pension funds whose establishment has been approved by the Financial Services Authority. Excluded from taxable objects, in this case, is income from capital invested in certain sectors. Investments by pension funds are intended for development and constitute funds for repayment to pensioners in the future, therefore, investments should be directed to non-speculative or non-high-risk sectors.

#### Subparagraph i

For taxation purposes, entities referred to in this provision, which constitute a group of members are subject to tax as a unit, namely on the level of the entity. Therefore, profit distribution or the distribution of net income received by members of the entity no longer constitutes a taxable object.

#### Subparagraph j

Sufficiently clear.

#### Subparagraph k

“Venture capital company” refers to a company whose main business is financing business entities (as an investee company) in the form of equity participation for a certain period. Pursuant to this provision, the share of profit received or accrued from an investee company is not included in taxable objects, provided that the investee company is a small, micro, medium-sized enterprise, or is engaged in business or activities in certain sectors as stipulated by the Minister of Finance and the shares of the companies concerned are not

traded on the Indonesian stock exchange.

If the investee company of a venture capital company fulfills the provisions under paragraph (3) subparagraph f, the dividends received or accrued by the venture capital company do not constitute taxable objects.

To direct a venture capital company toward sectors of economic activities, which are prioritized for development, such as increasing non-oil and gas exports, the business or activities of an investee company shall be stipulated by the Minister of Finance.

Considering that a venture capital company represents alternative financing in the form of equity participation, equity participation by a venture capital company shall be directed towards companies not yet having access to the stock exchange.

Subparagraph l

Sufficiently clear.

Subparagraph m

To support human resources development through education and/or research and development, adequate facilities and infrastructure are required. Therefore, it is necessary to provide tax facilities, such as tax exemptions on the surplus received or accrued provided that the said surplus is reinvested in the form of construction and procurement of the facilities and infrastructure. Reinvestment of the surplus should be realized no later than 4 (four) years since the surplus is received or accrued.

To ensure the achievement of the goals of the facilities, the organizations or institutions providing education must be non-profit. Education and research and development should be open to any person and approved by the corresponding agencies.

Subparagraph n

Aid or donations given by the Social Security Administrative Body to a certain Taxpayer constitute social donations given especially to Taxpayers or community members who are underprivileged or currently suffering from a natural disaster or calamity.

Subparagraph o

Sufficiently clear.

Subparagraph p

Sufficiently clear.

**Relevant Regulations**

*There are no relevant regulations*

**Article 5**

(1) Constituting Taxable Objects of permanent establishments are:

- a. income from businesses or activities of the permanent establishment and held or controlled property;
- b. income of the head office from businesses or activities, sales of goods or provision of services in Indonesia which are similar to those conducted or carried out by the permanent establishment in Indonesia;
- c. income referred to in Article 26 that is received or accrued by the head office provided that there is an effective relationship between the permanent establishment and the property or activities giving rise to the aforesaid income. \*\*)

- (2) Expenses related to gross income as referred to in paragraph (1) subparagraph b and subparagraph c may be deducted from the permanent establishment's income. \*\*)
- (3) In calculating the profit of a permanent establishment:
- a. administrative expenses incurred by the head office that may be deducted are expenses related to the business or activities of the permanent establishment, the amount of which shall be stipulated by the Director General of Taxes;
  - b. payments to the head office that cannot be charged as expenses are as follows: 1. royalties or other remunerations in respect of the use of property, patents or other rights; 2. remunerations in respect of management services or other services; 3. interests, except interests in respect of banking business;
  - c. payments referred to in subparagraph b that are received or accrued from the head office shall not be deemed Taxable Objects, except interests in respect of banking business. \*\*)

## **Elucidation of Article 5**

Any individuals not residing in Indonesia or any entities that are neither established nor domiciled in Indonesia, yet conducting business or engaged in activities through a permanent establishment in Indonesia, are liable to tax in Indonesia through the permanent establishment.

### **Paragraph (1)**

#### Subparagraph a

A permanent establishment is taxed on income from its business or activities and held or controlled property. Accordingly, all of the income is taxed in Indonesia.

#### Subparagraph b

Pursuant to this provision, the income of the head office derived from business or activities, sale of goods or provision of services which are similar to those conducted by the permanent establishment is deemed income of the permanent establishment because, in principle, such business or activities fall within the scope of business or activities and may be conducted by the permanent establishment.

A business or activities similar to the business or activities of a permanent establishment, for example, occurs when a bank outside Indonesia having a permanent establishment in Indonesia provides loans directly without going through its permanent establishment to a company in Indonesia.

Sale of goods similar to those sold by a permanent establishment, for example, an overseas head office with a permanent establishment in Indonesia directly sells products similar to those sold by the permanent establishment directly without going through its permanent establishment to buyers in Indonesia.

Provision of services by the head office similar to those provided by a permanent establishment, for example, the head office of a consultant company outside Indonesia directly provides consultancy services similar to those provided directly by the permanent establishment without going through its permanent establishment to clients in Indonesia.

#### Subparagraph c

Income referred to in Article 26 that is received or accrued by the head office is deemed income of the permanent establishment in Indonesia if there is an effective relationship between the property or activities giving rise to the aforesaid income and the permanent

establishment. For example, X Inc. enters into a license agreement with PT Y for the use of the trademark of X Inc. Upon the use of that right, X Inc. receives compensation in the form of royalties from PT Y. In connection with this agreement, X Inc. also supplies management services to PT Y through a permanent establishment in Indonesia to market the products of PT Y using the trademark. In this case, the use of the trademark by PT Y has an effective relationship with the permanent establishment in Indonesia, thereby, X Inc.'s income in the form of royalties is treated as income for the permanent establishment.

### **Paragraph (2)**

Sufficiently clear.

### **Paragraph (3)**

#### Subparagraph a

Administrative expenses incurred by a head office, provided that they are used to support the business or activities of a permanent establishment in Indonesia, may be deducted from the income of the permanent establishment. The types and amount of deductible expenses are stipulated by the Director General of Taxes.

#### Subparagraph b and subparagraph c

Basically, a permanent establishment constitutes a unit with its head office, therefore, payments by the permanent establishment to its head office, such as royalties on the use of head office property, are considered a flow of funds within one company. Therefore, pursuant to this provision, payments by a permanent establishment to its head office, in the form of royalties, fees for services and interests may not be deducted from the income of the permanent establishment. However, if the head office and its permanent establishment are engaged in the banking business, payments in the form of loan interests may be charged as expenses.

As a consequence of the said treatment, similar types of payments received by a permanent establishment from its head office are not deemed Taxable Objects, except interests received by a permanent establishment from its head office in respect of banking business.

### **Relevant Regulations**

*There are no relevant regulations*

## **Article 6**

- (1) The amount of Taxable Income for resident Taxpayers and permanent establishments shall be determined based on gross income deducted by the costs to obtain, collect and maintain income, including:
- a. costs which are directly or indirectly related to business, among others:
    1. costs for purchasing materials;
    2. costs related to work or services, including wages, salaries, honoraria, bonuses, gratuities and allowances given in the form of money;
    3. interest, rents and royalties;
    4. travel expenses;
    5. waste management fees;

6. insurance premiums;
  7. promotional and sales expenses;
  8. administrative expenses; and
  9. taxes other than Income Tax;
- b. depreciation of costs to acquire tangible assets and amortization of costs to acquire rights and other costs which have useful life of more than 1 (one) year as referred to in Article 11 and Article 11A; c. contributions to pension funds whose establishment has been approved by the Financial Services Authority;
  - d. losses due to sales or transfers of property owned and used or held in the company to obtain, collect and maintain income;
  - e. losses due to differences in foreign currency exchange rates;
  - f. costs for research and development of companies conducted in Indonesia;
  - g. costs for scholarships, internships and training;
  - h. bad debts, provided that:
    1. they have been charged as expenses in the commercial income statement;
    2. the Taxpayer must submit a list of bad debts to the Directorate General of Taxes; and 3. the collection case has been submitted to the District Court or government agency in charge of state receivables; or there is a written agreement regarding the write-off of receivables/relief of debt between the creditor and the debtor concerned; or the collection case has been published in a general or special publication; or the debtor acknowledges that a certain amount of the debt has been written off;
    4. the conditions referred to in number 3 do not apply to the write-off of bad debts of small debtors as specified in article 4 paragraph (1) subparagraph k;
  - i. donations in the context of national disaster management, the provisions thereto are stipulated by a Government Regulation;
  - j. donations in the context of research and development conducted in Indonesia, the provisions thereto are stipulated by a Government Regulation;
  - k. costs of social infrastructure development, the provisions thereto are stipulated by a Government Regulation;
  - l. donations of educational facilities, the provisions thereto are stipulated by a Government Regulation;
  - m. donations in the context of sports development, the provisions thereto are stipulated by a Government Regulation; and
  - n. expenses for considerations or remunerations given in kind and fringe benefits. \*\*\*\*\* (2) If gross income, after the deductions referred to in paragraph (1), results in loss, the loss shall be carried forward against income starting the next tax year consecutively for 5 (five) years. \*\*\*\*\*) (3) An individual constituting a resident Taxpayer is given deductions in the form of Non-Taxable Income as referred to in Article 7. \*\*)

## **Elucidation of Article 6**

### **Paragraph (1)**

Expenses which may be deducted from gross income are divided into 2 (two) categories, namely expenses or costs with a useful life of not more than 1 (one) year and with a useful life of more than 1 (one) year. Expenses having a useful life of no more than 1 (one) year constitutes costs for the year concerned, for example, salaries, administration fees and interests, routine fees for waste management, whereas expenses having a useful life of more than 1 (one) year may be charged through depreciation or amortization. In addition, if within a tax year, there are losses with respect to the sale of property or fluctuation in exchange rates, such losses may be deducted from gross income.

#### **Subparagraph a**

Costs referred to in this paragraph are commonly referred to as average daily costs, which can be charged as expenses in the year they are incurred.

To be charged as expenses, the costs must be either directly or indirectly connected with the business or activities to obtain, collect and maintain income constituting a taxable object.

Therefore, costs to obtain, collect and maintain income, which does not constitute a taxable object may not be charged as expenses.

Example:

Pension Fund A, whose establishment has been approved by the Financial Services Authority, derives gross income consisting of:

If the total costs amount to IDR200,000,000.00 (two hundred million rupiahs), the expenses which may be deducted to obtain, collect and maintain income is  $\frac{3}{4} \times \text{IDR}200,000,000.00 = \text{IDR}150,000,000.00$ .

Similarly, interest on loans used to buy shares may not be charged as an expense, provided that the dividends received do not constitute taxable objects as referred to in Article 4 paragraph (3) subparagraph f. Loan interest which cannot be charged as an expense may be capitalized to increase the acquisition price of shares.

Costs that are not related to efforts to obtain, collect and maintain income, for example, costs for the personal benefits of shareholders, interest payment of loans used for the personal benefit of debtors and payments of insurance premiums for personal benefit, may not be charged as expenses.

Payments of insurance premiums by an employer for the benefit of employees may be charged as company expenses, but for the concerned employees, the premiums constitute income.

Costs may be deducted from gross income within reasonable limits in compliance with the customs of good traders. Therefore, if costs exceeding the reasonable limits are affected by an affiliation, the amounts exceeding the reasonable limits cannot be deducted from gross income.

Further, see the provisions under Article 9 paragraph (1) subparagraph f and Article 18 and the elucidation.

Taxes that are borne by a company in the context of its business other than Income Tax, such as Land and Building Tax, Stamp Duty, Hotel Tax and Restaurant Tax, may be charged as expenses.

Expenses for promotion should be classified into expenses that are, in fact, incurred for promotion and costs that, in essence, constitute donations. Expenses that are, in fact, incurred for promotion may be deducted from gross income.

#### Subparagraph b

Costs to acquire tangible property and intangible property and other costs with a useful life of more than 1 (one) year are charged as expenses through depreciation or amortization.

Further, see the provisions under Article 9 paragraph (2), Article 11 and Article 11A and the respective elucidations.

Costs that, according to their nature, constitute advance payments, such as rent for several years which is paid in a lump sum, shall be charged as expenses through allocation.

#### Subparagraph c

Contributions to pension funds whose establishment has been approved by the Financial Services Authority may be charged as expenses, whereas contributions paid to pension funds whose establishment is not or has not yet been approved by the Financial Services Authority may not be charged as expenses.

#### Subparagraph d

Losses due to sales or transfers of property that, according to the initial purposes is not intended to be sold or transferred, owned and used in the company or held to obtain, collect and maintain income may be deducted from gross income.

Losses due to sales or transfers of property that are held but not used in the company to obtain, collect and maintain income may not be deducted from gross income. Subparagraph e

Losses due to fluctuations in foreign exchange rates are recognized based on the accounting system adopted and shall be maintained as per the consistency principle pursuant to the Financial Accounting Standards applicable in Indonesia.

#### Subparagraph f

Costs for research and development of companies carried out in Indonesia of reasonable amounts to discover new technologies or systems for company development may be charged as company expenses.

#### Subparagraph g

Costs incurred for scholarships, internships and training in the context of improving the quality of human resources may be charged as expenses, taking into consideration the fairness, included as scholarships that may be charged as expenses are scholarships given to pupils, university students and other parties.

#### Subparagraph h

Bad debts may be charged as expenses insofar as the Taxpayers have recognized them as expenses in the commercial income statement and have made the maximum or final collection efforts.

Publication shall not only refer to national-scale publications, but also internal publications of associations and the like.

#### Subparagraph i

Sufficiently clear.

#### Subparagraph j

Sufficiently clear.

#### Subparagraph k

“Costs of social infrastructure development” are costs incurred for the development of facilities and infrastructure for the public interest and are non-profit.

Examples of social infrastructure include houses of worship, arts and culture studios and polyclinics.

#### Subparagraph l

Sufficiently clear.

Subparagraph m

Sufficiently clear.

Subparagraph n

Sufficiently clear.

## **Paragraph (2)**

If allowable costs pursuant to the provisions under paragraph (1), after being deducted from gross income, result in a loss, the loss may be offset against the net income or tax profit in 5 (five) consecutive years starting from the year following that in which the loss is incurred.

Example:

PT A, in 2009, suffers from a tax loss of IDR1,200,000,000.00 (one billion and two hundred million rupiah). In the following 5 (five) years, the tax profit/loss of PT A is as follows: 2010 : tax profit of IDR200,000,000.00

2011 : tax loss of (IDR300,000,000.00)

2012 : tax profit of IDR N I L

2013 : tax profit of IDR100,000,000.00

2014 : tax profit of IDR100,000,000.00

Carryforward of the loss is as follows:

The tax loss from 2009 of IDR100,000,000.00 (one hundred million rupiah) remaining at the end of 2014 may not be offset against the tax profit in 2015, whereas the tax loss in 2011 of IDR300,000,000.00 (three hundred million rupiah) may only be offset against the tax profit in 2015 and 2016 because the five-year period that commences in 2012 expires at the end of 2016.

## **Paragraph (3)**

In calculating the Taxable Income of a resident individual Taxpayer, a deduction shall be given in the form of Non-Taxable Income pursuant to the provisions referred to in Article 7.

## **Relevant Regulations**

*There are no relevant regulations*

## **Article 7**

- (1) Non-Taxable Income per year is given in a minimum amount of:
  - a. IDR54,000,000.00 (fifty-four million rupiah) for an individual Taxpayer;
  - b. additional IDR4,500,000.00 (four million and five hundred thousand rupiah) for a married taxpayer;
  - c. additional IDR54,000,000.00 (fifty-four million rupiah) for a wife whose income is combined with her husband's as referred to in Article 8 paragraph (1); and
  - d. additional IDR4,500,000.00 (four million and five hundred thousand rupiah) for each family member related by blood and marriage in a direct lineage and adopted children, constituting full dependents, a maximum of 3 (three) people for each family. \*\*\*\*\*)
- (2) The application of provisions referred to in paragraph (1) is based on the circumstances at the beginning of a tax year or the beginning of a fraction of a tax year. \*\*\*\*\*)
- (2a) Individual Taxpayers with certain gross turnover referred to in Article 4 paragraph (2) subparagraph e are not subject to Income Tax on the share of gross turnover of up to IDR500,000,000.00 (five hundred million rupiah) in 1 (one) tax year. \*\*\*\*\*)

- (3) The adjustments to the amount of:
- a. Non-Taxable Income as referred to in paragraph (1); and
  - b. the threshold of gross turnover not subject to Income Tax as referred to in paragraph (2a), shall be stipulated by a Minister of Finance Regulation, after consultation with the House of Representatives of the Republic of Indonesia. \*\*\*\*\*)

## **Elucidation of Article 7**

### **Paragraph (1)**

To calculate the amount of Taxable Income of a resident individual Taxpayer, his/her net income is deducted by the amount of Non-Taxable Income. In addition for himself/herself, a married Taxpayer is given additional Non-Taxable Income.

For a Taxpayer whose wife receives or accrues income combined with his income, the Taxpayer is entitled to additional Non-Taxable Income for his wife of a minimum of IDR54,000,000.00 (fifty-four million rupiah).

A Taxpayer with family members related by blood and marriage in a direct lineage, constituting full dependents, for example, parents, parents-in-law, biological children or adopted children shall be given additional Non-Taxable Income for a maximum of 3 (three) people. "Family members constituting full dependents" refer to family members that do not have income and all of their living expenses are borne by the Taxpayer.

Example:

Taxpayer A has a wife and 4 (four) dependent children. If his wife accrues income from an employer that has been subject to Article 21 Income Tax withholding and her work is not related to the business of her husband or other members of the family, the Non-Taxable Income given to Taxpayer A amounts to IDR72,000,000.00 {IDR54,000,000.00 + IDR4,500,000.00 + (3 x IDR4,500,000.00)}, whereas for the wife, when Article 21 Income Tax is withheld by her employer, she is given Non-Taxable Income of IDR54,000,000.00 (fifty-four million rupiah). If the wife's income is combined with that of her husband, the Non-Taxable Income given to Taxpayer A amounts to IDR126,00,000.00 (IDR72,000,000.00 + IDR54,000,000.00).

### **Paragraph (2)**

The calculation of the amount of Non-Taxable Income as referred to in paragraph (1) is based on the circumstances of the Taxpayer at the beginning of a tax year or the beginning of a fraction of a tax year.

For example, on 1 January 2021, Taxpayer B is married with 1 (one) dependent child. If the second child is born after 1 January 2021, the amount of Non-Taxable Income given to Taxpayer B for 2021 tax year 2001 is calculated based on the marital status with 1 (one) child. **Paragraph (2a)**

Sufficiently clear.

### **Paragraph (3)**

Pursuant to this provision, the Minister of Finance is authorized to change the amount of:

- a. Non-Taxable Income as referred to in paragraph (1); and
- b. the threshold of gross turnover not subject to Income Tax as referred to in paragraph (2a), after consulting with the permanent complementary organs of the House of Representatives of the Republic of Indonesia, namely a commission whose duties and authorities are in the finance,

banking and development planning sectors by taking into account economic and monetary developments as well as annual developments in prices of basic necessities.

## Relevant Regulations

*There are no relevant regulations*

### Article 8

- (1) All income or losses of a married woman at the beginning of a tax year or the beginning of a fraction of a tax year, including losses from previous years that have not been offset as referred to in Article 6 paragraph (2), shall be deemed income or loss of her husband, except if the income is solely received or accrued from 1 (one) employer and has been subject to tax withholding pursuant to the provisions under Article 21 and her work is not related to the business or independent personal services of her husband or any other family members. \*\*)
- (2) A husband and wife's income is taxed separately in the event that:
  - a. the husband and wife are separated based on the court verdict;
  - b. the husband and wife choose to be taxed separately based on a prenuptial agreement on the separation of property and income; or
  - c. the wife chooses to carry out her own tax rights and obligations. \*\*\*\*)
- (3) The net income of a husband and wife referred to in paragraph (2) subparagraph b and subparagraph c shall be taxed based on the aggregate net income of the husband and wife and the amount of tax to be settled by each of the husband and wife shall be calculated in proportion to their respective net income. \*\*\*\*)
- (4) The income of a minor child shall be combined with the income of his/her parents. \*\*\*\*)

### Elucidation of Article 8

The taxation system under this Law construes a family as a single economic unit, which implies that the income or loss of all family members is combined into one unit that is subject to taxes and tax obligations are fulfilled by the head of the family. However, in certain cases, tax obligations are fulfilled separately.

#### Paragraph (1)

Income or loss of a married woman at the beginning of a tax year or the beginning of a fraction of a tax year is deemed her husband's income or loss and taxed as a single unit. Such a combination shall not be performed if the wife's income is derived from employment and has been subject to tax withholding by the employer, provided that:

- a. the wife's income is solely derived from one employer; and
- b. the wife's income is derived from employment with no relationship with the business or independent personal services of her husband or any other family members.

Example:

Taxpayer A, who accrues net income from a business of IDR100,000,000.00, (one hundred million rupiah) has a wife who is an employee with net income of IDR70,000,000.00 (seventy million rupiah). If the wife's income is accrued from one employer and has been subject to tax withholding by the employer and her work has no relationship with the business of her husband or any other family members, her net income of IDR70,000,000.00 (seventy million rupiah) is not combined with that of Taxpayer A and the tax imposed on the wife's income is final.

If, in addition to being employed, the wife of Taxpayer A conducts a business, for example, a beauty salon with net income of IDR80,000,000.00 (eighty million rupiah), her entire income of IDR150,000,000.00 (IDR70,000,000.00 + IDR80,000,000.00) shall be combined with the net

income of Taxpayer A. With the combination, Taxpayer A shall be taxed on his net income of IDR250,000,000.00 (IDR100,000,000.00 + IDR70,000,000.00 + IDR80,000,000.00). The tax withholding on his wife's income is not final, in that it may be credited against the tax payable on the total income of IDR250,000,000.00 (two hundred and fifty million rupiah) which will be filed in the Annual Income Tax Return. \*\*\*\*)

### **Paragraph (2) and paragraph (3)**

In the event that a husband and wife are separated based on the court verdict, the Taxable Income and tax imposition shall be calculated separately. If a husband and wife have entered into a written prenuptial agreement on the separation of property and income or if the wife chooses to carry out her own tax rights and obligations, tax is calculated based on the sum of net income of the husband and wife and each of them bears Tax burden in proportion to his/her respective net income.

Example:

The calculation of tax for a husband-wife with a written prenuptial agreement on the separation of income or if the wife chooses to carry out her own tax rights and obligations is as follows.

Based on the example in paragraph (1), if the wife conducts a beauty salon business, tax is imposed based on the total income of IDR250,000,000.00 (two hundred and fifty million rupiah).

For example, if the tax taxable on such income amounts to IDR27,550,000.00 (twenty-seven million five hundred and fifty thousand rupiah), the tax for the husband and wife is calculated as follows:

### **Paragraph (4)**

Income of a minor child derived from whatever source and whatever employment characteristic shall be combined with his/her parents' income in the same tax year.

"A minor child" refers to a person under the age of 18 (eighteen) who has never been married.

If a minor, whose parents are separated, derives or accrues income, tax shall be imposed by combining such income with that of the father or mother based on actual circumstances.

## **Relevant Regulations**

*There are no relevant regulations*

## **Article 9**

- (1) To determine the amount of Taxable Income for resident Taxpayers and permanent establishments, the following are non-deductible:
- a. profit sharing in whatever name and form, such as dividends, including dividends paid by insurance companies to policyholders and profit sharing by cooperatives;
  - b. expenses charged or incurred for the personal benefit of shareholders, partners or members;
  - c. establishment or accumulation of reserve funds, except:
    1. allowances for bad debts for banks and other business entities that provide credit, finance leases, consumer finance companies and factoring companies, calculated based on applicable financial accounting standards with certain thresholds after coordinating with the Financial Services Authority;
    2. reserves for insurance businesses, including social aids established by the Social Security Administrative Body;

3. guarantee reserves for Deposit Insurance Institutions;
  4. reclamation reserves for mining businesses;
  5. reforestation reserves for forestry businesses; and
  6. reserves for closing and maintaining industrial waste disposal sites for industrial waste treatment businesses,
- that fulfill certain requirements;
- d. premiums for health insurance, accident insurance, life insurance, endowment insurance and scholarship insurance, which are paid by an individual Taxpayer, unless the premiums are paid by the employer, the premiums shall be calculated as income for the Taxpayer concerned; e. deleted;
  - f. amounts exceeding the reasonable amount paid to shareholders or related parties as remunerations in connection with the work performed;
  - g. granted assets, aids or donations and inheritance as referred to in Article 4 paragraph (3) subparagraph a and subparagraph b, except the donations referred to in Article 6 paragraph (1) subparagraph i to subparagraph m and zakat received by amil zakat board or other amil zakat institutions established or approved by the government or compulsory religious donations for the followers of religions acknowledged by the government, received by religious institutions established and approved by the government, the provisions thereto are stipulated by or based on a Government Regulation;
  - h. Income Taxes;
  - i. expenses charged or incurred for the personal benefit of the Taxpayers or their dependents j. salaries paid to members of a partnership, firm or limited liability company whose equity is not divided into shares;
  - k. administrative penalties in the form of interest, fines and surcharges as well as fine sentences relating to the implementation of statutory tax provisions. \*\*\*\*\*)
- (2) Costs to obtain, collect and maintain income with a useful life of more than 1 (one) year may not be charged in a lump sum but shall be deducted through depreciation or amortization as referred to in Article 11 or Article 11 A. \*\*)

## **Elucidation of Article 9**

### **Paragraph (1)**

Costs incurred by Taxpayers may be classified as those that may and may not be charged as expenses.

In principle, costs that may be deducted from gross income are those with a direct and indirect relationship with the business or activities to obtain, collect and maintain income which constitutes a taxable object that can be charged in the year they are incurred or during the useful life of these costs. Costs that may not be deducted from gross income include those of a consumption nature or those exceeding reasonable amounts.

#### **Subparagraph a**

Profit sharing in whatever name or form, including dividend payments to shareholders, profit sharing by cooperatives to their members and dividend payments by insurance companies to policyholders, may not be deducted from the income of the distributing entity as the profit sharing constitutes part of the entity's income which is taxed under this Law.

#### **Subparagraph b**

Expenses that cannot be deducted from the gross income of a company are those incurred or charged by the company for the personal benefit of shareholders, partners or members, such as the renovation of private homes, travel expenses, insurance premiums paid by the company for the personal benefit of the shareholders or their families.

#### **Subparagraph c**

Sufficiently clear.

#### Subparagraph d

Premiums for health insurance, accident insurance, life insurance, endowment insurance and scholarship insurance, which are paid by an individual Taxpayer may not be deducted from gross income and at the time the said individual receives insurance benefits or compensation, the revenue does not constitute a taxable object.

In the event that the insurance premiums are paid or borne by the employer, for the employer, the payment may be charged as an expense and for the concerned employee, the payment is income constituting a taxable object.

#### Subparagraph e

Deleted.

#### Subparagraph f

In an employment relationship, remunerations may be paid to employees who also constitute shareholders. Because, in principle, costs to obtain, collect and maintain income that may be deducted from gross income are those of reasonable amounts as per the arm's length principle, based on this provision, amounts exceeding the reasonable amount may not be charged as expenses.

Reasonable amounts referred to in this paragraph are amounts not exceeding those that should otherwise be incurred by the employer as remuneration in respect of work if it is carried out by an unrelated party.

For example, a professional who is also a shareholder of an entity provides services to the said entity with a consideration of IDR50,000,000.00 (fifty million rupiah).

If the same services supplied by another professional of equal ability are paid IDR20,000,000.00 (twenty million rupiah), the difference of IDR30,000,000.00 (thirty million rupiah) may not be charged as an expense. For the professional who is also a shareholder, the amount of IDR30,000,000.00 (thirty million rupiah) is deemed a dividend.

#### Subparagraph g

Sufficiently clear.

#### Subparagraph h

"Income Tax" under this provision refers to Income Tax payable for the Taxpayer concerned.

#### Subparagraph i

Expenses incurred for the personal benefit of Taxpayers or their dependents are, in essence, usage of income by the Taxpayers. Therefore, such expenses may not be deducted from the gross income of a company.

#### Subparagraph j

Members of a firm, partnership or limited liability company whose equity is not divided into shares are treated as a unit, therefore, there is no remuneration in the form of salaries.

Therefore, salaries received by members of a partnership, firm or limited liability company whose equity is not divided into shares do not constitute payments that may be deducted

from the entity's gross income.

Subparagraph k

Sufficiently clear.

## **Paragraph (2)**

Pursuant to the arm's length principle, costs contributing to income for several years may be charged according to the number of years these costs have contributed to income.

In line with the principle of matching costs against revenue, under this provision, costs to obtain, collect and maintain income with a useful life of more than 1 (one) year cannot be deducted as company expenses in a lump sum in the year they are incurred but must be charged through depreciation and amortization over its useful life as stipulated under Article 11 and Article 11A.

## **Relevant Regulations**

*There are no relevant regulations*

## **Article 10**

- (1) Acquisition price or selling price in the event of a sale and purchase of assets not affected by an affiliation as referred to in Article 18 paragraph (4) shall be the amount, in fact, incurred or received, whereas, in the event of an affiliation, the amount which should otherwise be incurred or received. \*\*)
- (2) The acquisition value or sale value in the event of an exchange of assets is the amount that should otherwise be incurred or received based on market price. \*\*)
- (3) Acquisition value or transfer of assets in the context of a liquidation, merger, consolidation, spin-off, split-up or acquisition is the amount that should otherwise be incurred or received based on market price unless otherwise stipulated by the Minister of Finance. \*\*)
- (4) In the event of transfers of assets:
  - a. that fulfill the requirements referred to in Article 4 paragraph (3) subparagraph a and subparagraph b, the valuation basis for the transferee is equal to the residual value of the transferor or the value stipulated by the Director General of Taxes;
  - b. that do not fulfill the requirements referred to in Article 4 paragraph (3) subparagraph a, the valuation basis for the recipient of the transfer is equal to the market price of the assets. \*\*)
- (5) In the event of a transfer of assets as referred to in Article 4 paragraph (3) subparagraph c, the valuation basis of assets for the entity receiving the transfer is equal to the market price of the assets. \*\*)
- (6) Inventories and the use of inventories for the calculation of the cost of goods sold shall be valued based on acquisition price under the average or first-in-first-out method. \*\*)

## **Elucidation of Article 10**

This provision stipulates methods to value assets, including inventories, in the context of calculating income in connection with the use of assets in a company, calculating profit or losses in the event of a sale or transfer of assets and calculating income from the sale of merchandise.

## **Paragraph (1)**

In general, in a sale and purchase of assets, the acquisition price of the assets for the buyer is the price, in fact, paid and the selling price for the seller is the price, in fact, received. Included in the acquisition price are the purchase price and costs incurred to acquire the assets, such as import duties, freight charges and installation costs.

In a sale and purchase affected by an affiliation as referred to in Article 18 paragraph (4), for the

buyer, the acquisition value is the amount that should otherwise be paid and for the seller, the sale value is the amount that should otherwise be received. The affiliation between the buyer and the seller may cause the acquisition price to be higher or lower than if the sale and purchase are not affected by an affiliation. Therefore, this provision stipulates that acquisition value or the sale value of assets of parties concerned is the amount that should otherwise be incurred or received.

### **Paragraph (2)**

For assets acquired based on exchange transactions with other assets, the acquisition value or sale value is the amount that should otherwise be incurred or received based on market price.

Example:

Between PT A and PT B, there is an exchange of assets. Although there is no realization of payment between the parties concerned, because the market price of the exchanged assets amounts to IDR20,000,000,00, the total amount of IDR20,000,000 constitutes the acquisition value that should otherwise be incurred or the sale value that should otherwise be received. The difference between the market price and the residual value of the exchanged assets constitutes profit which is subject to tax. PT A obtains profit of IDR10,000,000.00 (IDR20,000,000.00 – IDR10,000,000.00) and PT B obtains profit of IDR8,000,000.00 (IDR20,000,000.00 – IDR12,000,000.00).

### **Paragraph (3)**

In principle, in the event of a transfer of assets, transferred assets are valued based on market price. The transfer of assets may be carried out in business development in the form of a merger, consolidation, spin-off, split-up and acquisition. Moreover, the transfer may be carried out in the context of business liquidation or for other reasons.

The difference between the market price and the residual value of the transferred asset is subject to tax.

Example:

PT A and PT B merge and establish a new entity, PT C. The residual value and market price of the assets of the two entities are as follows:

Basically, the assets supplied by PT A and PT B in the context of merging into PT C are valued at the market price of the assets. Thus, PT A obtains profit of IDR100,000,000.00 (IDR300,000,000.00 – IDR200,000,000.00) and PT B obtains profit of IDR150,000,000.00 (IDR450,000,000.00 – IDR300,000,000.00). On the other hand, PT C records all of these assets in the amount of IDR750,000,000.00 (IDR300,000,000.00 + IDR450,000,000.00).

However, to harmonize with policies in the social, economic, investment, monetary sectors and other policies, the Minister of Finance is authorized to determine values other than the market price, namely based on the residual value (pooling of interest). In this case, PT C records revenues of assets from PT A and PT B of IDR500,000,000.00 (IDR200,000,000.00 + IDR300,000,000.00).

### **Paragraph (4)**

In the event of a transfer of assets through grants, aid or donations that fulfills the requirements under Article 4 paragraph (3) subparagraph a or inheritance, the acquisition value for the

transferee is the residual value of the assets from the transferor. If a Taxpayer does not maintain bookkeeping, thereby, the residual value is unknown, the acquisition value of the assets shall be stipulated by the Director General of Taxes.

In the event that a supply of assets through grants, aid or donations does not fulfill the requirements referred to in Article 4 paragraph (3) subparagraph a, the acquisition value for the transferee of assets shall be the market price.

#### **Paragraph (5)**

A Taxpayer's equity participation in an entity may be fulfilled by cash deposits or transfers of assets.

This provision stipulates the valuation of assets supplied in lieu of the shares or equity participation, namely assessed based on the market value of the transferred assets.

Example:

Taxpayer X supplies 20 units of lathes with a book value of IDR25,000,000.00 to PT Y in lieu of equity participation with the par value of IDR20,000,000.00. The market price of the lathes is IDR40,000,000.00. In this case, PT Y records the lathes as an asset valued at IDR40,000,000.00 and this value is not income for PT Y. The difference between the par value of the shares and the market value of the assets, which amounts to IDR20,000,000.00

(IDR40,000,000.00 - IDR20,000,000.00) is recorded as premiums. For Taxpayer X, the difference of IDR15,000,000.00 (IDR40,000,000.00 - IDR25,000,000.00) constitutes a Taxable Object.

#### **Paragraph (6)**

In general, there are 3 (three) categories of inventories: finished goods or merchandise, work in process, raw materials and indirect materials.

The provisions in this paragraph stipulate that inventories may only be valued using acquisition prices. Valuation of inventory to calculate the cost of goods sold may only be carried out based on the average method or the "first-in-first-out" (FIFO) method. In accordance with common practice, these valuation methods also apply to securities.

Example:

1. Beginning Inventory 100 units @ IDR9.00
2. Purchase 100 units @ IDR12.00
3. Purchase 100 units @ IDR11.25
4. Sold/used 100 units
5. Sold/used 100 units

The calculation of the cost of goods sold and inventory value using the average method is, for example, as follows:

The calculation of the cost of goods sold and inventory value using the FIFO method is, for example, as follows:

Once a Taxpayer has selected one of the valuation methods on inventories to calculate the cost of goods sold, for subsequent years, the same method must be used.

## Relevant Regulations

*There are no relevant regulations*

### Article 11

- (1) Depreciation of costs for the purchase, establishment, addition, repair or changes of tangible assets, except land with proprietary rights, right to build, right to exploit and right to use, which are owned and used to obtain, collect and maintain income with a useful life of more than 1 (one) year shall be carried out in equal parts over the specified useful life for these assets. \*\*\*)
- (2) Depreciation of costs to acquire tangible assets as referred to in paragraph (1), other than buildings, may also be carried out in decreasing parts over the useful life, which is calculated by applying the depreciation rate on the costs or residual value and at the end of useful life, are fully depreciated provided that it is carried out as per the consistency principle. \*\*\*)
- (3) Depreciation commences in the month the costs are incurred, except for assets that are in progress, for which depreciation commences in the month the assets are finished. \*\*\*)
- (4) Subject to the approval from the Director General of Taxes, Taxpayers are allowed to perform depreciation starting in the month assets are used to obtain, collect and maintain income or in the month the assets concerned begin to produce. \*\*\*)
- (5) If a Taxpayer revalues assets based on the provisions referred to in Article 19, the depreciation basis for these assets shall be the value resulting from the asset revaluation. \*\*)
- (6) The calculation of depreciation, useful life and depreciation rates for tangible assets is stipulated as follows: \*\*\*\*\*)
  
- (6a) If permanent buildings referred to in paragraph (6) have a useful life of more than 20 (twenty) years, depreciation referred to in paragraph (1) shall be carried out in equal parts, in accordance with the useful life referred to in paragraph (6) or in accordance with the actual useful life based on the Taxpayer's bookkeeping. \*\*\*\*\*)
- (7) Depreciation of tangible assets owned and used in certain business sectors may be regulated separately. \*\*\*\*\*)
- (8) In the event of a transfer or withdrawal of assets as referred to in Article 4 paragraph (1) subparagraph d or a withdrawal of assets for other reasons, the residual value of the assets shall be charged as a loss and the selling price or insurance compensation received or accrued shall be recorded as income in the year the assets are withdrawn. \*\*)
- (9) If the amount of insurance compensation to be received can only be identified at a later date, subject to the approval from the Director General of Taxes, the amount of the loss as referred to in paragraph (8) shall be recorded as an expense at a later date. \*\*\*)
- (10) In the event of a transfer of assets which fulfills the requirements referred to in Article 4 paragraph (3) subparagraph a and subparagraph b, the residual value of the assets may not be charged as a loss for the transferor. \*\*)
- (11) Deleted. \*\*\*\*\*)

### Elucidation of Article 11

#### Paragraph (1) and Paragraph (2)

Costs to acquire tangible assets with a useful life of more than 1 (one) year must be charged as costs to obtain, collect and maintain income by allocating the costs during the useful life of the tangible assets through depreciation. Costs to acquire land with proprietary rights, include land with the initial right to build, right to exploit and right to use shall not be depreciated, unless the land is used by the company or owned to obtain income provided that the value of the land decreases due to being used to obtain income, for example, the land is used by a roof tile manufacturer, ceramics manufacturer or a brick manufacturer.

“Costs to acquire land with the initial right to build, right to exploit and right to use” refer to the acquisition cost of the land with the right to build, right to exploit and right to use from a third party and the administration of these rights from the competent authority for the first time, whereas costs to extend right to build, right to exploit and right to use shall be amortized over the useful life of these rights.

Depreciation methods allowed under this provision are carried out:

- a. in equal parts over the useful life of the assets (the straight-line method); or
- b. in decreasing parts, by applying the appropriate depreciation rate to the residual value (the declining balance method)

The use of depreciation methods of assets must comply with the consistency principle.

Tangible assets in the form of buildings shall only be depreciated using the straight-line method. Tangible assets other than buildings may be depreciated using the straight-line method or declining balance method.

In the event a Taxpayer chooses the declining balance method, the residual value at the end of the useful life must be fully depreciated.

In accordance with the Taxpayer’s bookkeeping, small tools of the same type or similar types may be depreciated in one group.

Example of the use of the straight-line method:

A building is acquired for IDR1,000,000,000.00 (one billion rupiah) and with a useful life of 20 (twenty) years, annual depreciation is IDR50,000,000.00 (fifty million rupiah) (IDR1,000,000,000.00 : 20).

Example of the use of the declining balance method:

A machine is bought and installed in January 2009 at an acquisition price of IDR150,000,000.00 (one-hundred and fifty million rupiah). The machines’ useful life is 4 (four) years. If, for example, the depreciation rate is set at 50% (fifty percent), the calculation of depreciation is as follows: \*\*\*\*)

### **Paragraph (3)**

Depreciation commences in the month the costs are incurred or in the month the asset is finished, thereby, the depreciation in the first year is calculated on pro-rate basis.

Example 1:

Costs of a building construction amount to IDR1,000,000,000.00 (one billion rupiah). Construction starts in October 2009 and is finished in March 2010. The depreciation of the acquisition price commences in March of 2010 tax year.

Example 2:

A machine is bought and installed in July 2009 at an acquisition price of IDR100,000,000.00 (one hundred million rupiah). The machine’s useful life is 4 (four) years. If, for example, the depreciation rate is set at 50% (fifty percent), the calculation of the depreciation is as follows: \*\*\*\*)

### **Paragraph (4)**

Subject to approval from the Director General of Taxes, depreciation may commence in the month an asset is used to obtain, collect or maintain income or in the month the asset begins to produce.

The time an asset begins to produce under this provision is related to the time the asset begins to produce and is not related to the time income is received or accrued.

Example:

PT X, engaged in the plantation sector, buys a tractor in 2009. The plantation begins to produce harvest in 2010. Subject to approval from the Director General of Taxes, the depreciation of the tractor may commence in 2010. \*\*\*\*\*)

**Paragraph (5)**

Sufficiently clear.

**Paragraph (6)**

To provide legal certainty for Taxpayers in depreciating costs to acquire tangible assets, this provision stipulates groups of useful life of assets and depreciation rates, both in accordance with the straight-line method and the declining balance method.

“Non-permanent buildings” refer to buildings that are temporary in nature and constructed from materials that are not durable or movable buildings with a useful life of no more than 10 (ten) years, for example, barracks and dormitories made from wood for employees.

**Paragraph (6a)**

Sufficiently clear.

**Paragraph (7)**

In the context of adjusting to the specific characteristics of certain business sector, such as perennials plantations, forestry and animal husbandry, separate arrangements are required for the depreciation of tangible assets used by such business sectors.

**Paragraph (8) and Paragraph (9)**

Basically, profit or loss due to a transfer of assets is taxed in the year the transfer of assets is carried out.

If the assets are sold or lost due to fire, the net revenues from the sale of such assets, namely the difference between the selling price and costs incurred related to the sale and/or any insurance compensation shall be recorded as income in the year the sale occurs or the year the insurance compensation is received and the residual value of the assets is charged as loss in the tax year concerned

If the amount of received insurance compensation may only be identified at a later date, the Taxpayer may apply to the Director General of Taxes for an amount equal to the loss to be charged as an expense in the year of the insurance compensation.

**Paragraph (10)**

Notwithstanding the provisions under paragraph (8), where a transfer of tangible assets fulfills the requirements referred to in Article 4 paragraph (3) subparagraph a and subparagraph b, the residual value may not be charged as a loss by the transferor.

**Paragraph (11)**

Deleted.

## Relevant Regulations

*There are no relevant regulations*

### Article 11A

- (1) Amortization of costs to acquire intangible assets and other costs including costs to extend the right to build, right to exploit and right to use and goodwill with a useful life of more than 1 (one) year that are used to obtain, collect and maintain income shall be carried out in equal parts or in decreasing parts over the useful life, calculated by applying the amortization rates on the costs or on the residual value and at the end of the useful life shall be fully amortized provided that it is carried out as per the consistency principle. \*\*\*\*)
- (1a) Amortization shall commence at the month the costs are incurred, except for certain business sectors. \*\*\*\*\*)
- (2) To calculate amortization, the useful life and amortization rates are stipulated as follows: \*\*)
- (2a) In the event intangible assets referred to in paragraph (2) have a useful life of more than 20 (twenty) years, the amortization referred to in paragraph (1) shall be carried out according to the useful life referred to in paragraph (2) for group 4 intangible assets or in accordance with the actual useful life based on the Taxpayer's bookkeeping. \*\*\*\*\*)
- (3) Costs incurred for the establishment and expansion of a company's equity shall be charged in the year the costs are incurred or amortized pursuant to provisions referred to in paragraph (2). \*\*\*) (4) Amortization of costs to acquire rights and other costs with useful life of more than 1 (one) year in the oil and gas sector shall be carried out using the unit of production method. \*\*)
- (5) Amortization of costs to acquire mining rights other than that referred to in paragraph (4), forestry cultivation rights and cultivation rights of natural resources and other natural products with a useful life of more than 1 (one year), shall be carried out using the unit of production method for a maximum of 20% (twenty percent) per year. \*\*\*)
- (6) Costs incurred prior to commercial operations with a useful life of more than 1 (one) year shall be capitalized and subsequently amortized pursuant to provisions referred to in paragraph (2). \*\*\*) (7) In the event of a transfer of intangible asset or rights as referred to in paragraph (1), paragraph (4) and paragraph (5), the residual value of the assets or the rights shall be charged as a loss and the amount received as compensation constitutes income in the year of the transfer. \*\*\*)
- (8) In the event of a transfer of intangible assets that fulfills the requirements referred to in Article 4 paragraph (3) subparagraph a and subparagraph b, the residual value of such assets shall not be charged as a loss by the transferor. \*\*)

### Elucidation of Article 11A

#### Paragraph (1)

The acquisition price of intangible asset and other costs, including costs to extend the right to build, right to exploit and right to use and goodwill with a useful life of more than 1 (one) year shall be amortized with the following method:

- a. in equal parts each year over the useful life; or
- b. in decreasing parts each year by applying the amortization rate to the residual value.

Specifically for amortization of intangible assets using the declining balance method, at the end of the useful life, the residual value of the tangible assets or rights shall be fully amortized. **Paragraph**

#### (1a)

Amortization shall commence in the month costs are incurred, thereby amortization in the first year is calculated on a pro-rate basis.

To adjust to the characteristics of certain business sectors, separate arrangements are required

when the amortization commences.

## **Paragraph (2)**

The determination of useful life and amortization rates for costs of intangible assets is intended to provide uniformity for Taxpayers in conducting amortization.

Taxpayers may carry out amortization in accordance with the selected method as referred to in paragraph (1) based on the actual useful life of each intangible asset. The applicable amortization rate is based on the group of useful life as stipulated under this provision. For intangible assets whose useful life is not listed in the available groups of useful life, the Taxpayers must use the nearest useful life. For example, an intangible asset with actual useful life of 6 (six) years may use the useful life group of 4 (four) years or 8 (eight) years. If the actual useful life is 5 (five) years, the intangible asset is amortized using the useful life group of 4 (four) years.

## **Paragraph (2a)**

Sufficiently clear.

## **Paragraph (3)**

Sufficiently clear.

## **Paragraph (4)**

The unit of production method is implemented by applying the percentage of amortization rate whose yearly value is equivalent to the ratio between the realization of oil and gas mining in the year concerned and the estimated total reserves of oil and gas in that location that may be produced.

If the actual amount of production is less than the estimates, thereby, there are remaining costs to acquire rights or other costs, the remaining costs may be fully charged in the tax year concerned.

## **Paragraph (5)**

Costs to acquire mining rights other than for oil and gas, forestry cultivations rights and cultivation rights of natural resources and other natural products, such as cultivation rights of sea products are amortized based on the unit of production method of a maximum of 20% (twenty percent) per year.

Example:

Costs to acquire forestry cultivation rights, with a potential of 10,000,000.00 (ten million) tons of wood of IDR500,000,000.00 (five hundred million rupiah) shall be amortized in accordance with the percentage of production units realized in the relevant year. If, in 1 (one) tax year production reaches 3,000,000.00 (three million) tons, i.e. 30% (thirty percent) of the available potential, although production in that year reaches 30% (thirty percent) of the available potential, the maximum amount of amortization deductible from gross income in that year is 20% (twenty percent) of the costs or IDR100,000,000.00 (one hundred million rupiah). \*\*\*\*)

## **Paragraph (6)**

The definition of costs incurred before commercial operations includes costs incurred before the commercial operation begins, for example, costs for feasibility studies and trial productions, but not including routine operational expenses, such as employee salaries, electricity and telephone bills and other office expenses. Routine operational expenses may not be capitalized but must be fully charged in the year they are incurred.

## Paragraph (7)

Example:

PT X incurs costs to acquire oil and natural gas mining rights at a location of IDR500,000,000.00. The estimated petroleum content in the area is 200,000,000 (two hundred million) barrels. After oil and gas production has reached 100,000,000 (one hundred million) barrels, PT X sells the mining rights to another party at IDR300,000,000.00. The calculation of profit and loss from the sale of the rights is as follows:

Acquisition price	IDR	500.000.000,00
Amortization:		
100,000,000/200,000,000 barrels (50%)	IDR	250.000.000,00
Book value of assets	IDR	250.000.000,00
Sale price of assets	IDR	300.000.000,00

Therefore, the residual value of IDR250,000,000.00 is charged as a loss, and the amount of IDR300,000,000.00 is recorded as income.

## Paragraph (8)

Sufficiently clear.

## Relevant Regulations

*There are no relevant regulations*

## Article 12

Deleted \*\*)

## Elucidation of Article 12

Sufficiently clear.

## Relevant Regulations

*There are no relevant regulations*

## Article 13

Deleted \*\*)

## Elucidation of Article 13

Sufficiently clear.

## Relevant Regulations

*There are no relevant regulations*

## Article 14

- (1) Deemed Profit to determine net income shall be formulated and perfected from time to time and issued by the Director General of Taxes. \*\*\*)
- (2) Individual Taxpayers conducting a business or independent personal services whose gross turnover in 1 (one) year is less than IDR4,800,000,000.00 (four billion and eight hundred million rupiah), may calculate their net income using Deemed Profit as referred to in paragraph (1), provided that they notify the Director General of Taxes within the first 3 (three) months in the tax year concerned. \*\*\*\*)
- (3) Taxpayers referred to in paragraph (2) that calculate their net income using Deemed Profit are obliged to maintain recording as referred to in the Law stipulating general provisions and tax procedures. \*\*\*\*) (4) Taxpayers referred to in paragraph (2) that do not notify the Director General of Taxes concerning the calculation of net income using Deemed Profit shall be considered choosing to maintain bookkeeping. \*\*\*)
- (5) For Taxpayers obliged to maintain bookkeeping or recording, including Taxpayers referred to in paragraph (3) and paragraph (4) that, in fact, do not or do not fully maintain recording or bookkeeping or do not show the recording or supporting evidence, their net income shall be calculated using Deemed Profit and their gross turnover shall be calculated using other methods stipulated by or based on a Minister of Finance Regulation. \*\*\*\*)
- (6) Deleted. \*\*\*)
- (7) The amount of gross turnover referred to in paragraph (2) may be changed by a Minister of Finance Regulation. \*\*\*\*)

### **Elucidation of Article 14**

Correct and complete information concerning a Taxpayer's income is crucial to impose fair and reasonable taxes in accordance with the Taxpayer's economic capacity. To present such information, the Taxpayer must maintain bookkeeping. However, it is apparent that not all Taxpayer are capable of maintaining bookkeeping. All corporate Taxpayers and permanent establishments are obliged to maintain bookkeeping. Individual Taxpayers conducting a business or independent personal services with certain amounts of gross turnover are not obliged to maintain bookkeeping.

To facilitate the calculation of net income for individual Taxpayers conducting a business or independent personal services with certain gross turnover, Director General of Taxes shall issue deemed profit.

#### **Paragraph (1)**

Deemed Profit constitutes guidelines to determine net income, issued by the Director General of Taxes and perfected from time to time. Deemed Profit, in principle, is used where: a. there is no better calculation basis, namely complete bookkeeping, or

b. the bookkeeping or recording on the Taxpayer's gross turnover is, in fact, maintained incorrectly.

Deemed Profit shall be formulated based on verification results or other data and taking into account reasonableness.

Deemed Profit is very helpful for Taxpayers that are not yet capable of maintaining bookkeeping to calculate net income.

#### **Paragraph (2)**

Deemed Profit may only be used by individual Taxpayers conducting a business or independent personal services whose gross turnover is less than IDR4,800,000,000.00 (four billion and eight hundred million rupiah). To be able to use Deemed Profit, the Individual Taxpayers must notify the Director General of Taxes within the first 3 (three) months in the tax year concerned.

#### **Paragraph (3)**

Individual Taxpayers using Deemed Profit are obliged to maintain recording on their gross turnover

as stipulated in the Law stipulating general provisions and tax procedures. Recording is intended to facilitate the application of deemed profit.

#### **Paragraph (4)**

Where an eligible individual Taxpayer intends to use Deemed Profit but fails to notify it to the Director of General of Taxes within the specified period, the Taxpayer shall be considered to have chosen to maintain bookkeeping. \*\*\*\*)

#### **Paragraph (5)**

Taxpayers obliged to maintain bookkeeping, obliged to maintain recording or deemed to choose to maintain bookkeeping but:

- a. do not or do not fully maintain recording or bookkeeping; or
- b. are not willing show the bookkeeping or recording or supporting evidence during an audit thereby, causing the actual gross turnover and net income to be unknown, the gross turnover of the Taxpayers concerned shall be calculated using other methods as stipulated by or based on a Minister of Finance Regulation and their net income shall be calculated using Deemed Profit.

#### **Paragraph (6)**

Sufficiently clear.

#### **Paragraph (7)**

The Minister of Finance may adjust the threshold of gross turnover referred to in paragraph (2) taking into account economic developments and Taxpayers' capability to maintain bookkeeping.

### **Relevant Regulations**

*There are no relevant regulations*

## **Article 15**

Deemed Profit for calculating net income of certain Taxpayers that cannot be calculated based on the provisions under Article 16 paragraph (1) or paragraph (3) shall be stipulated by the Minister of Finance. \*\*)

### **Elucidation of Article 15**

This provision stipulates Deemed Profit for calculating net income of groups of certain Taxpayers, among others, international shipping or airline companies, foreign insurance companies, oil, gas and geothermal drilling companies, foreign trading companies and companies investing in the form of build, operate and transfer.

To avoid difficulties in calculating Taxable Income for the certain groups of Taxpayers, based on practical considerations or in accordance with the common practice in tax imposition on such business sectors, the Minister of Finance is authorized to stipulate deemed profit for calculating net income of these certain Taxpayers.

### **Relevant Regulations**

*There are no relevant regulations*

# CHAPTER IV

## METHODS OF CALCULATING TAX

### Article 16

- (1) Taxable Income as the basis of rate application for resident Taxpayers in a tax year shall be calculated by deducting from income referred to in Article 4 paragraph (1) the deductions referred to in Article 6 paragraph (1) and paragraph (2), Article 7 paragraph (1) and Article 9 paragraph (1) subparagraph c, subparagraph d, subparagraph e and subparagraph g. \*\*\*\*)
- (2) Taxable Income for individual and corporate Taxpayers as referred to in Article 14 shall be calculated using deemed profit as referred to in Article 14 and for individual Taxpayers, shall be deducted by Non Taxable Income as referred to in Article 7 paragraph (1). \*\*\*\*)
- (3) Taxable Income for non-resident Taxpayers conducting a business or activities through a permanent establishment in Indonesia in a tax year shall be calculated by deducting from income as referred to in Article 5 paragraph (1) by taking into account the provisions under Article 4 paragraph (1) and the deductions referred to in Article 5 paragraph (2) and (3), Article 6 paragraph (1) and (2) and Article 9 paragraph (1) subparagraph c, subparagraph d, subparagraph e and subparagraph g. \*\*\*\*)
- (4) Taxable Income for resident individual Taxpayers liable to tax in a fraction of a tax year as referred to in Article 2A paragraph (6) shall be calculated based on net income received or accrued in the annualized fraction of the tax year. \*\*)

#### Elucidation of Article 16

Taxable Income constitutes the calculation basis to determine the amount of Income Tax payable. This Law recognizes two groups of Taxpayers, namely resident Taxpayers and non-resident Taxpayers.

For resident Taxpayers, basically, there are two methods to determine the amount of Taxable Income, namely calculation using the regular method and calculation using Deemed Profit.

In addition, there is Deemed Profit for calculating net income, intended for certain Taxpayers as stipulated by or based on a Minister of Finance Regulation.

For non-resident Taxpayers, the determination of the amount of Taxable Income is differentiated between:

1. non-resident Taxpayers conducting a business or activities through a permanent establishment in Indonesia; and
2. other non-resident Taxpayers.

#### Paragraph (1)

#### Paragraph (2)

#### Paragraph (3)

For non-resident Taxpayers conducting a business or activities through a permanent establishment in Indonesia, the method of calculating Taxable Income is basically the same as the method for calculating Taxable Income for resident corporate Taxpayers. Because a permanent establishment is obliged to maintain bookkeeping, their Taxable Income is calculated using a regular method.

Example:

#### Paragraph (4)

Example:

## Relevant Regulations

*There are no relevant regulations*

### Article 17

- (1) Tax rates applied to Taxable Income of:
- a. resident individual Taxpayers are as follows: \*\*\*\*\*)
  
  - b. Resident corporate Taxpayers and permanent establishments of 22% (twenty-two percent) which will take effect in 2022 tax year. \*\*\*\*\*)
- (2) Rates referred to in paragraph (1) subparagraph a may be changed by a Government Regulation after being submitted by the government to the House of Representatives of the Republic of Indonesia to be discussed and agreed upon in the preparation of the Draft State Budget. \*\*\*\*\*) (2a) Deleted. \*\*\*\*\*)
- (2b) Resident corporate Taxpayers:
- a. in the form of public companies;
  - b. with total fully paid shares traded on the stock exchange in Indonesia amounting to a minimum of 40% (forty percent); and
  - c. fulfilling certain requirements, are eligible for a 3% (three percent) lower rate than the rate referred to in paragraph (1) subparagraph b. \*\*\*\*\*)
- (2c) Tax rate applied to income in the form of dividends distributed to resident individual Taxpayers shall be a maximum of 10% (ten percent) and is final. \*\*\*\*\*)
- (2d) Further provisions on the amounts of rates as referred to in paragraph (2c) shall be stipulated by a Government Regulation. \*\*\*\*\*)
- (2e) Further provisions on certain requirements referred to in paragraph (2b) subparagraph c shall be stipulated by or based on a Government Regulation. \*\*\*\*\*)
- (3) The amounts of Taxable Income brackets referred to in paragraph (1) subparagraph a may be changed by a Minister of Finance Regulation. \*\*\*\*\*)
- (4) For the purpose of the application of tax rates referred to in paragraph (1), the amount of Taxable Income shall be rounded down to full thousands. \*\*\*)
- (5) The amount of tax payable for resident individual Taxpayers liable to tax in a fraction of a tax year as referred to in Article 16 paragraph (4) shall be calculated based on the number of days in the fraction of a tax year divided by 360 (three hundred and sixty) multiplied by the tax payable for 1 (one) tax year. \*\*)
- (6) For the purpose of the calculation of tax as referred to in paragraph (5), each full month shall be treated as 30 (thirty) days. \*\*\*)
- (7) A Government Regulation may stipulate separate tax rates on income referred to in Article 4 paragraph (2) provided that the rates do not exceed the highest tax rate referred to in paragraph (1). \*\*\*)

### Elucidation of Article 17

#### Paragraph (1)

Subparagraph a

Subparagraph b

Example of the calculation of tax payable for a resident corporate Taxpayer and permanent establishment:

The taxable income of PT A in 2022 tax year amounts to IDR1,500,000,000.00 (one billion and five hundred million rupiah).

Income Tax payable for 2022 tax year:

$$22\% \times \text{IDR}1,500,000,000.00 = \text{IDR}330,000,000.00.$$

**Paragraph (2)**

Changes in rates shall be applied nationally starting on 1 January, announced no later than 1 (one) month before the new rates become effective.

**Paragraph (2a)**

Deleted.

**Paragraph (2b)**

Sufficiently clear.

**Paragraph (2c)**

Sufficiently clear.

**Paragraph (2d)**

Sufficiently clear.

**Paragraph (2e)**

Sufficiently clear.

**Paragraph (3)**

The amounts of Taxable Income brackets referred to in paragraph (1) subparagraph a shall be adjusted to adjustment factors, such as inflation rate, as stipulated by a Minister of Finance Regulation.

**Paragraph (4)**

Example:

Taxable Income of IDR5,050,900.00, for the application of rates, shall be rounded down to IDR5,050,000.00.

**Paragraph (5)**

Sufficiently clear. \*\*\*\*\*)

**Paragraph (6)**

Example:

Income tax payable in a fraction of a tax year (3 months)  
((3 x 30) : 360) x IDR119,248,000.00 = IDR29,812,000.00 \*\*\*\*\*)

**Paragraph (7)**

The provision under this paragraph authorizes the Government to determine separate final tax rates on certain types of income referred to in Article 4 paragraph (2), insofar as the rates are not the highest tax rate referred to in paragraph (1). The determination of the separate tax rates shall be based on considerations of simplicity, fairness and equality in taxation. \*\*\*\*\*)

**Relevant Regulations**

*There are no relevant regulations*

**Article 18**

(1) The Minister of Finance is authorized to stipulate the threshold of loan expenses that may be charged to calculate tax based on this Law. \*\*\*\*\*)

- (2) The Minister of Finance is authorized to determine when dividends are accrued by resident Taxpayers for equity participation in an offshore business entity other than listed business entities with the following provisions:
- a. the equity participation of the resident Taxpayer amounts to a minimum of 50% (fifty percent) of the total fully paid shares; or
  - b. together with another resident Taxpayer has equity participation of a minimum of 50% (fifty percent) of the fully paid shares. \*\*\*\*)
- (3) The Director General of Taxes is authorized to adjust the amount of income and deductions and determine debts as equity to calculate the amount of Taxable Income for a Taxpayer affiliated with another Taxpayer in accordance with the arm's length principle that is not affected by an affiliation using the comparable uncontrolled price method, reselling price method, cost-plus method or other methods. \*\*\*\*)
- (3a) The Director General of Taxes is authorized to enter into an agreement with a Taxpayer and cooperate with the tax authorities of other countries to determine the transfer pricing between related parties as referred to in paragraph (4), which applies to a certain period and to monitor the implementation as well as to renegotiate after the period ends. \*\*\*\*)
- (3b) Taxpayers purchasing shares or assets of a company through another party or a special purpose company may be determined as the actual party conducting the purchase, provided that such Taxpayers are affiliated with the other party or the entity and there is unfairness in the pricing. \*\*\*\*)
- (3c) Sales or transfers of shares between conduit companies or special purpose companies established or domiciled in tax haven countries affiliated with entities established or domiciled in Indonesia or permanent establishments in Indonesia may be deemed sales or transfers of shares of entities established or domiciled in Indonesia or permanent establishments in Indonesia. \*\*\*\*)
- (3d) The amount of income accrued by a resident individual Taxpayer from an employer affiliated with another company that is neither established nor domiciled in Indonesia may be adjusted, in the event that the employer transfers all or part of the resident individual Taxpayer's income in the forms of expenses or other expenditures that are paid to the company that is neither established nor domiciled in Indonesia. \*\*\*\*)
- (3e) Deleted. \*\*\*\*\*)
- (4) Affiliation referred to in paragraph (3) to paragraph (3d), Article 9 paragraph (1) subparagraph f and Article 10 paragraph (1) is deemed to exist if:
- a. the Taxpayer has direct or indirect equity participation of a minimum of 25% (twenty-five percent) in another Taxpayer; the relationship between the Taxpayer with equity participation of a minimum of 25% (twenty-five percent) in two or more Taxpayers; or the relationship between the aforementioned two or more Taxpayers;
  - b. the Taxpayer controls another Taxpayer or two or more Taxpayers are under the same control, either directly or indirectly; or
  - c. there is a family relationship either by blood or marriage in one degree of direct lineage vertically and/or in one degree of direct lineage horizontally. \*\*\*\*)
- (5) Deleted. \*\*\*)

## **Elucidation of Article 18**

The government is authorized to prevent tax avoidance practices as an effort by Taxpayers to reduce, avoid or delay the payment of taxes that should otherwise be payable contrary to the object and purpose of statutory tax provisions. One tax avoidance method is to conduct transactions that are not in accordance with the actual circumstance which is contrary to the substance over form principle, namely the recognition of economic substance over its formal form. \*\*\*\*\*)

### **Paragraph (1)**

To stipulate the threshold of loan expenses that may be charged for taxation purposes, the international common practice is used, for example, the debt-to-equity ratio, the earnings before interest, taxes, depreciation and amortization (EBITDA) or other methods.

### **Paragraph (2)**

With economic developments and international trade in line with the era of globalization, resident

Taxpayers may invest overseas. To minimize tax avoidance, for offshore investments other than in listed business entities, the Minister of finance is authorized to determine when dividends are accrued.

Example:

PT A and PT B respectively own shares of 40% and 20% in X Ltd. which is domiciled in state Q. X Ltd.'s shares are not traded on the stock exchange. In 2009, X Ltd accrues income after tax of IDR1,000,000,000.00 (one billion rupiah). In such a case, the Minister of Finance is authorized to determine when dividends are accrued and the calculation basis.

### **Paragraph (3)**

This provision is intended to prevent tax avoidance that may occur due to an affiliation. Taxpayers conduct tax avoidance by, among others, under-reporting income, over-stating expenses, under-reporting business profits compared to the financial performance of other Taxpayers in similar business sectors or reporting excess business losses even though the Taxpayer has been conducting commercial sales for 5 (five) years.

In such a case, the Director General of Taxes is authorized to adjust the amount of income and/or expenses in accordance with the arm's length principle that is not affected by an affiliation.

"Arm's length principle" refers to a principle in sound business practices as applicable between related and/or unrelated parties. To adjust the amount of income and/or deductions to calculate the amount of Taxable Income, the following methods may be used:

- a. the comparable uncontrolled price method;
- b. the resale price method;
- c. the cost-plus method; or
- d. other methods, such as:
  1. the profit split method;
  2. the transactional net margin method;
  3. the comparable uncontrolled transaction method;
  4. tangible asset and/or intangible asset valuation; and
  5. business valuation.

For Taxpayers under-reporting business profits compared to the financial performance of other Taxpayers in similar business sectors or reporting excess business losses even though the Taxpayer has been conducting commercial sales for 5 (five) years, a benchmarking with Taxpayers in similar businesses may be applied in the context of calculating taxes that should otherwise be payable.

Similarly, there may be hidden equity participation by declaring the equity participation as debt, the Director General of Taxes is authorized to determine the debt as company equity. Such determination may be carried out, for example, through indications of debt-to-equity ratio that commonly occurs between unrelated parties or based on other data or indications.

Therefore, interests paid by the Taxpayer in relation to the debt which is considered as equity participation may not be deducted in calculating Taxable Income of the Taxpayer. On the other hand, for parties affiliated with the Taxpayer receiving or accruing such interest payments, these payments are considered dividends subject to tax.

The difference between the value of a controlled transaction that does not comply with the arm's length principle and the value of a controlled transaction that complies with the arm's length principle shall also be deemed as a dividend subject to income tax pursuant to statutory tax provisions. \*\*\*\*\*)

### **Paragraph (3a)**

Advance Pricing Agreement (APA) refers to an agreement between a Taxpayer and the Director General of Taxes concerning the arm's length price between related parties. The objective of APA implementation is reducing the practice of transfer pricing abuse by multinational companies. The agreement between the Taxpayer and the Director General of Taxes may cover several things, among others, the selling price of products and the amount of royalties and so forth, depending on the agreement. The advantage of APA is that in addition to providing legal certainty and ease of tax calculation, the tax authorities do not need to adjust the selling price and profit of products sold by taxpayers to companies in the same group. APA may be unilateral, i.e. an agreement between the Director General of Taxes and the Taxpayer or bilateral, i.e. an agreement between the Director General of Taxes and the tax authorities of other countries concerning Taxpayers in their respective jurisdictions.

### **Paragraph (3b)**

This provision is intended to prevent tax avoidance by Taxpayers purchasing shares/participation in a resident corporate Taxpayer through a special purpose company. **Paragraph (3c)**

Example:

X Ltd, established and domiciled in state A, a tax haven country, has 95% (ninety-five percent) shares of PT X, established and domiciled in Indonesia. X Ltd is a conduit company established and fully held by Y Co, a resident company in state B, with the purpose as a conduit company in its ownership of majority shares of PT X.

If Y Co sells all of its shares of X Ltd to PT Z which constitutes resident taxpayer, in the legal formal terms, this transaction constitutes a transfer of shares of a non-resident entity by a non resident Taxpayer.

However, in principle, this transaction is a transfer of company (share) ownership of a resident Taxpayer by a non-resident Taxpayer, thereby, income from this transfer is subject to Income Tax.

### **Paragraph (3d)**

Sufficiently clear.

### **Paragraph (3e)**

Deleted.

### **Paragraph (4)**

An affiliation between Taxpayers may occur due to dependence or attachment to one another due to:

- a. equity ownership or participation; or
- b. control through management or use of technologies.

In addition to the above matters, an affiliation between individual Taxpayers may also occur due to a relationship by blood or marriage.

Subparagraph a

An affiliation is deemed to exist if there is an ownership relationship in the form of equity participation of 25% (twenty five percent) or more, either direct or indirect.

For example, PT A owns 50% (fifty percent) of PT B's shares. Share ownership by PT A constitutes direct participation.

Further, if PT B holds 50% (fifty percent) of PT C's shares, PT A as the indirect shareholder of PT B indirectly holds participation in PT C of 25% (twenty five percent). In such a case, PT A, PT B and PT C are considered related parties. If PT A also holds 25% (twenty five percent) of PT D's shares, PT B, PT C and PT D are considered related parties.

Ownership relationships similar to the one above may also occur between individuals and entities.

#### Subparagraph b

An affiliation between Taxpayers may also occur due to control through management or use of technologies even though there is no ownership relationship.

An affiliation is deemed to exist if one or more companies are under the same control.

Similarly, the relationship between companies that are under the same control.

#### Subparagraph c

"Family relationships by blood in one degree of direct lineage vertically" refer to father, mother and children, whereas "family relationships by blood in one degree of direct lineage horizontally" refer to siblings.

"Family relationships by marriage in one degree of direct lineage vertically" refer to parents in-law and stepchildren, whereas "family relationships by marriage in one degree of direct lineage horizontally" refer to siblings in-law.

### Paragraph (5)

Deleted.

## Relevant Regulations

*There are no relevant regulations*

## Article 19

- (1) The Minister of Finance is authorized to issue regulations concerning revaluation of assets and adjustment factors in the event of any discrepancies between elements of expenses and income due to inflation. \*\*)
- (2) To the difference in asset revaluation as referred to in paragraph (1), a separate tax rate shall be applied in accordance with the Minister of Finance Regulation insofar as it does not exceed the highest tax rate as referred to in Article 17 paragraph (1). \*\*\*\*)

### Elucidation of Article 19

#### Paragraph (1)

A sharp increase in price and changes in monetary policies may cause discrepancies between expenses and income, which may result in unreasonable tax burdens. In such a case, the Minister of Finance is authorized to stipulate regulations concerning the revaluation of fixed assets or index

of expenses and income.

## **Paragraph (2)**

Sufficiently clear.

## **Relevant Regulations**

*There are no relevant regulations*

# **CHAPTER V TAX SETTLEMENT IN THE CURRENT YEAR**

## **Article 20**

- (1) The tax estimated to be payable in a tax year shall be settled by a Taxpayer in the current tax year through tax withholding by other parties and self-payment by the Taxpayer. \*\*)
- (2) Tax settlement referred to in paragraph (1) shall be carried out on every month or other periods as stipulated by the Minister of Finance. \*\*)
- (3) Tax settlement referred to in paragraph (1) constitutes a tax installment which may be credited against Income Tax payable at the end of tax year concerned, except for income subject to final taxes. \*\*)

## **Elucidation of Article 20**

### **Paragraph (1)**

For the tax settlement in the current tax year to approximate the amount of tax payable in the tax year concerned, the implementation shall be through:

- a. tax withholding by other parties in the event that income is derived by a Taxpayer from employment, services or activities as referred to in Article 21, the tax withholding on business income as referred to in Article 22 and tax withholding on income from equity, services and certain activities as referred to in Article 23.
- b. self-payment by Taxpayer as referred to in Article 25.

### **Paragraph (2)**

Basically, tax settlement in the current year is carried out every month, however, the Minister of Finance may determine other periods, such as the time a transaction is carried out or the time income is received or accrued, therefore, tax settlement in the current year may be carried out accordingly.

### **Paragraph (3)**

Tax settlement in the current tax year constitutes tax installment, which may be taken into account by crediting against Income Tax payable for the tax year concerned.

Based on considerations of convenience, simplicity, certainty, timely tax imposition and other considerations, final tax settlement in the current year on certain types of income as referred to in Article 4 Paragraph (2), Article 21, Article 22 and Article 23 may be stipulated. The final Income Tax cannot be credited against Income Tax payable.

## **Relevant Regulations**

## **Article 21**

- (1) Tax withholding on income in respect of employment, services or activities in whatever name and form received or accrued by resident individual Taxpayers must be carried out by:
- employers that pay salaries, wages, honoraria, allowances and other payments as remunerations in respect of employment carried out either by employees or non-employees;
  - government treasurers that pay salaries, wages, honoraria, allowances and other payments in respect of employment, services or activities;
  - pension funds or other entities that pay pension and other payments in whatever name in the context of pensions;
  - entities that pay honoraria or other payments in respect of services, including services of professionals conducting personal independent services; and
  - event organizers that perform payments in respect of the organization of events. \*\*\*\*)
- (2) Not included as employers obliged to perform tax withholding as referred to in paragraph (1) subparagraph a are representatives offices of foreign countries and international organizations as referred to in Article 3. \*\*\*\*)
- (3) The income of permanent employees or pensioners subject to monthly tax withholding shall be the amount of gross income after being deducted by position allowances or pension expenses, the amount of which shall be stipulated by a Minister of Finance Regulation, pension contributions and Non-Taxable Income. \*\*\*\*)
- (4) The income of daily and weekly employees and other non-permanent employees subject to tax withholding shall be the amount of gross income after being deducted by income not subject to withholding, the amount of which shall be stipulated by a Minister of Finance Regulation. \*\*\*\*)
- (5) Withholding rates on income referred to in paragraph (1) shall be the tax rates referred to in Article 17 paragraph (1) subparagraph a, except stipulated otherwise by a Government Regulation. \*\*\*\*) (5a) The amount of rates referred to in paragraph (5) applicable to Taxpayers without Taxpayer Identification Numbers shall be 20% (twenty percent) higher than the rates applicable to Taxpayers able to show Taxpayer Identification Numbers. \*\*\*\*)
- (6) Deleted. \*\*\*)
- (7) Deleted. \*\*\*)
- (8) Provisions on guidelines for tax withholding on income in connection with employment, services or activities shall be stipulated by or based on a Minister of Finance Regulation. \*\*\*\*)

### **Elucidation of Article 21**

#### **Paragraph (1)**

This provision stipulates tax payments in a current year through tax withholding on income received or accrued by resident individual Taxpayers in respect of employment, services and activities. The parties obliged to perform tax withholding are employers, government treasurers, pension funds, entities, companies and event organizers.

#### **Subparagraph a**

Employers obliged to carry out tax withholding are individuals or entities that constitute a parent company, a branch, a representative office or a company unit that pays or to whom salaries, wages, allowances, honoraria and other payments in whatever form are payable to the management, employees or non-employees as remunerations in respect of employment, services or activities. The definition of employers shall also include international organizations that are not excluded from the obligation to withhold taxes.

“Other payments” refer to payments in whatever name other than salaries, wages,

allowances and honoraria or other remunerations, such as bonuses, gratuities and tantième.

“Non-employees” refer to individuals who receive or accrue income from their employers in respect of non-permanent employment, such as an actor/actress who receives or accrues honoraria from an employer.

#### Subparagraph b

Government treasurers include treasurers of the Central Government, Local Governments, government agencies or institutions, other state institutions and Embassies of the Republic of Indonesia overseas that pay salaries, wages, allowances, honoraria and other payments in respect of employment, services or activities.

Included in the definition of treasurers are fiduciaries and other officials who carry out the same function.

#### Subparagraph c

Included as “other entities” are, for example, worker social security program administering agencies that pay pension benefits, old age allowances, old age savings and other similar payments in whatever name.

Included in the definition of pension benefits or other payments are allowances, either those paid periodically or not that are paid to pensioners, recipients of old age allowances and recipients of old age savings.

#### Subparagraph d

Included in the definition of entities are international organizations that are not excluded based on paragraph (2).

Included as individual professionals are, for example, doctors, lawyers and accountants who perform personal independent services and act for and on their own behalf, not for and on behalf of their partnership.

#### Subparagraph e

Event organizers are obliged to withhold taxes on payments of gifts or awards in whatever form received or accrued by resident individual Taxpayers in respect of an activity. The definition of event organizers also includes, among others, entities, government institutions and organizations, including international organizations, alliances, individuals or any other institution that organize activities. These activities, for example, include sports, religious and arts events.

### **Paragraph (2)**

Sufficiently clear.

### **Paragraph (3)**

For permanent employees, the amount of income subject to tax withholding shall be gross income deducted by position allowances, pension contributions and Non-Taxable Income. The definition of pension contributions also includes old age allowances or old age savings paid by employees.

For pensioners, the amount of income subject to tax withholding shall be the amount of gross income deducted by pension expenses and Non-Taxable Income. The definition of pensioners also includes recipients of old age allowances or old age savings.

#### **Paragraph (4)**

The amount of income subject to tax withholding for daily and weekly employees and other non permanent employees shall be the amount of gross income deducted by income not subject to withholding, the amount of which shall be stipulated by a Minister of Finance Regulation, taking into account the applicable Non-Taxable Income.

#### **Paragraph (5)**

Sufficiently clear.

#### **Paragraph (5a)**

The ownership of a Tax Identification Number (TIN) may be proven by a Taxpayer, among others, by showing the TIN card.

Example:

#### **Paragraph (6)**

Sufficiently clear.

#### **Paragraph (7)**

Sufficiently clear.

#### **Paragraph (8)**

Sufficiently clear.

### **Relevant Regulations**

*There are no relevant regulations*

## **Article 22**

(1) The Minister of Finance may stipulate:

- a. government treasurers to withhold taxes in connection with payment for supplies of goods; b. certain entities to withhold tax from Taxpayers carrying out imports or businesses in other sectors; and
- c. certain entities to withhold taxes from the purchaser in sales of very luxurious goods. \*\*\*\*\*) (2) Provisions on the tax base, criteria, characteristics and amount of withholding tax as referred to in paragraph (1), shall be stipulated by or based on a Minister of Finance Regulation. \*\*\*\*\*) (3) The amount of withholding tax referred to in paragraph (2) applicable to Taxpayers without Taxpayer Identification Numbers shall be 100% (one hundred percent) higher than the rates applicable to Taxpayers that are able to show Taxpayer Identification Numbers. \*\*\*\*\*)

### **Elucidation of Article 22**

#### **Paragraph (1)**

Pursuant to this provision, the following may be appointed as withholding agents:

- government treasurers, including treasurers of the Central Government, Local Governments, government agencies or institutions or other state institutions in respect of payments for supplies of goods, also included in the definition of treasurers are fiduciaries and other officials that carry out the same function;
- certain entities, either government or private entities, in respect of imports or businesses in other sectors, such as the production of certain goods, among others, automotive and cement; and
- certain corporate Taxpayers to withhold tax from the buyer in sales of very luxurious goods. Tax withholding by certain corporate Taxpayers shall be applied to the purchase of goods that fulfill certain criteria as very luxurious goods both in terms of the types and prices of goods, such as yachts, very luxurious houses, very luxurious apartments and condominiums and very luxurious

vehicles.

In the implementation of this provision, the Minister of Finance shall consider the following:

- selective appointment of withholding agents for efficient and effective tax imposition; - not interfering with the smooth traffic of goods; and
- simplified withholding procedures for a convenient implementation.

Tax withholding based on this provision is intended to enhance public participation in fund collection through the tax payment system and for the purpose of simplicity, convenience and timely tax imposition. In this respect, tax withholding based on this provision may be final. **Paragraph (2)**

Sufficiently clear.

### **Paragraph (3)**

Ownership of a Tax Identification Number may be proven by a Taxpayer, among others, by showing the Tax Identification Number card.

## **Relevant Regulations**

*There are no relevant regulations*

## **Article 23**

- (1) The following income, in whatever name and form, paid, apportioned to be paid or whose payment is due by a government institution, a resident corporate taxpayer, an event organizer, a permanent establishment or a representative of any other non-resident enterprises to a resident Taxpayer or permanent establishment, shall be subject to tax withholding by the party obliged to pay:
- a. by 15% (fifteen percent) of the gross amount of:
    - 1. dividends as referred to in Article 4 paragraph (1) subparagraph g;
    - 2. interests as referred to in Article 4 paragraph (1) subparagraph f;
    - 3. royalties; and
    - 4. gifts, awards, bonuses and the like other than those that have been withheld as referred to in Article 21 paragraph (1) subparagraph e;
  - b. deleted;
  - c. by 2% (two percent) of the gross amount of:
    - 1. rent and other income in respect of the use of property, except rent and other income in connection with the use of property that have been subject to Income Tax as referred to in Article 4 paragraph (2); and
    - 2. consideration in connection with technical services, management services, construction services, consulting services and other services, except those that have been withheld as referred to in Article 21. \*\*\*\*)
- (1a) In the event that a Taxpayer receiving or accruing income as referred to in paragraph (1) does not have a Taxpayer Identification Number, the withholding rates shall be 100% (one hundred percent) higher than the rates referred to in paragraph (1). \*\*\*\*)
- (2) Further provisions on the types of other services referred to in paragraph (1) subparagraph c number 2 shall be stipulated by or based on a Minister of Finance Regulation. \*\*\*\*)
- (3) Individuals constituting resident Taxpayers may be appointed by the Director General of Taxes to withhold taxes as referred to in paragraph (1). \*\*)
- (4) Tax withholding as referred to in paragraph (1) shall not be applied to:
- a. income paid or payable to a bank;
  - b. lease paid or payable in finance lease agreements;
  - c. dividends as referred to in Article 4 paragraph (3) subparagraph f and dividends received by individuals as referred to in Article 17 paragraph (2c);
  - d. deleted;
  - e. distributed profit as referred to in Article 4 paragraph (3) subparagraph i;

- f. distributed profit paid by a cooperative to its members;
- g. deleted; and
- h. income paid or payable to a financial service entity that serves as a loan and/or finance company as stipulated by a Minister of Finance Regulation. \*\*\*\*)

## **Elucidation of Article 23**

### **Paragraph (1)**

Sufficiently clear.

### **Paragraph (1a)**

Ownership of a Tax Identification Number may be proven by a Taxpayer, among others, by showing the Tax Identification Number card.

### **Paragraph (2)**

Sufficiently clear.

### **Paragraph (3)**

Sufficiently clear.

### **Paragraph (4)**

Sufficiently clear.

## **Relevant Regulations**

*There are no relevant regulations*

## **Article 24**

- (1) Tax paid or payable overseas on foreign-sourced income received or accrued by resident Taxpayers may be credited against tax payable under this Law in the same tax year. \*\*)
- (2) The amount of tax credit as referred to in paragraph (1) shall be equal to the amount of income tax paid or payable overseas but shall not exceed the calculation of tax payable under this Law. \*\*) (3) In calculating the threshold of the creditable amount of taxes, the sources of income are determined as follows:
  - a. the source of income from shares and other securities and capital gains from transfers of shares and other securities is the country where the entity issuing the shares or securities is established or domiciled;
  - b. the source of income in the form of interest, royalty and rent in connection with the use of movable property is the country where the party that performs the payment or bears the burden of the interest, royalty or rent is established or domiciled;
  - c. the source of income in the form of rent in connection with the use of immovable property is the country where the property is located;
  - d. the source of income in the form of considerations for services, employment and activities is the country where the party performing the payment or bearing the burden of the considerations is domiciled or located;
  - e. the source of income of a permanent establishment is the country where the permanent establishment conducts a business or activities;
  - f. the source of income from a transfer of part or all of mining rights or the certificate of participation in financing or equity in a mining company is the country where the mine is located; g. the source of gains from a transfer of fixed assets is the country where the fixed assets are located; and
  - h. the source of gains from a transfer of assets that constitutes part of a permanent establishment is the country where the permanent establishment is located. \*\*\*\*)
- (4) The determination of sources of income other than income referred to in paragraph (3) shall apply the same principles as those referred to in the said paragraph. \*\*)

(5) If the credited tax on foreign-sourced income is subsequently deducted or refunded, tax payable under this Law shall be added with the said amount in the year the deduction or refund is carried out. \*\*) (6) Provisions on the implementation of tax crediting on foreign-sourced income shall be stipulated by or based on a Minister of Finance Regulation. \*\*\*\*\*)

## **Elucidation of Article 24**

Basically, resident Taxpayers are liable to tax payable for their entire income, including income received or accrued overseas. To reduce the burden of double taxation due to tax imposition on income received or accrued overseas, this provision stipulates the calculation of the amount of tax on

income tax paid or payable overseas, which may be credited against tax payable on the total income of a resident Taxpayer.

### **Paragraph (1)**

Income tax paid or payable overseas which may be credited against tax payable in Indonesia shall only be the tax imposed directly on income received or accrued by a Taxpayer.

Example:

PT A in Indonesia is the sole shareholder of Z Inc. in state X. Z Inc., in 1995, gains a profit of USD100,000.00. Income Tax applicable in state X is 48% and Dividend Tax is 38%. The calculation of the tax on dividends is as follows:

Income Tax that may be credited against the entire Income Tax payable on PT A is the tax imposed directly on income received or accrued overseas, in the above example, the amount of USD19,760.00.

Corporate Income Tax on Z Inc. of USD48,000.00 cannot be credited against Income Tax payable on PT A because the tax of USD48,000.00 is not imposed directly on the income received or accrued by PT A overseas but instead a tax imposed on Z Inc.'s profit in state X. **Paragraph (2)**

To provide equal treatment for income received or accrued overseas and income received or accrued in Indonesia, the tax paid or payable overseas may be credited against tax payable in Indonesia but the amount shall not exceed the amount of tax calculated under this Law. The calculation methods of the amount of creditable tax shall be determined by the Minister of Finance based on the authority stipulated in paragraph (6).

### **Paragraphs (3) and (4)**

In calculating tax credit on income paid or payable overseas that may be credited against tax payable under this Law, the determination of the source of income is crucial. Further, this provision stipulates the determination of sources of income to take into account the foreign tax credit.

Considering that this Law adheres to a broad definition of income, in accordance with the provision in paragraph (4), the determination of the sources of income other than those in paragraph (3) apply the same principles as those referred to in paragraph (3), for example, A as a resident Taxpayer owns a house in Singapore and in 1995, the house was sold. Gains from the sale of the house constitute income sourced in Singapore because the house is located in Singapore.

### **Paragraph (5)**

In the event of tax deductions or refunds on income paid overseas, thereby, the amount of creditable taxes in Indonesia is lower than that in the previous calculation, the difference shall be

added to Income Tax payable under this Law. For example, in 1996, the Taxpayer obtains a tax deduction on foreign-sourced income in 1995 tax year of IDR5,000,000.00, which was

formerly included in the amount of tax that may be credited against tax payable for 1995 tax year, the amount of IDR5,000,000.00 shall be added to Income Tax payable in 1996 tax year.

### **Paragraph (6)**

Sufficiently clear.

## **Relevant Regulations**

*There are no relevant regulations*

## **Article 25**

- (1) The amount of tax installments during the current tax year to be self-paid by Taxpayers every month shall be equal to the amount of Income Tax payable according to the Annual Income Tax Return of the previous tax year deducted by:
  - a. Income Tax subject to withholding as referred to in Article 21, Article 23 and Income Tax subject to withholding as referred to in Article 22; and
  - b. Income Tax paid or payable overseas that is creditable as referred to in Article 24, divided by 12 (twelve) or the number of months in a fraction of a tax year. \*\*\*\*)
- (2) The amount of tax installments to be self-paid by Taxpayers for the months prior to the Annual Income Tax Return is filed before the filing due date of the Annual Income Tax Return is equal to the amount of tax installment for the last month of the previous tax year. \*\*\*\*)
- (3) Deleted. \*\*\*)
- (4) If during the current tax year, a notice of tax assessment for the previous tax year is issued, the amount of tax installments shall be recalculated according to the said notice of tax assessment and shall apply the following month after the month the notice of tax assessment is issued. \*\*\*\*) (5) Deleted. \*\*\*)
- (6) The Director General of Taxes is authorized to stipulate the calculation of the amount of tax installments in the current tax year in the following circumstances:
  - a. the Taxpayer is entitled to loss carry forward;
  - b. the Taxpayer accrues irregular income;
  - c. the Annual Income Tax Return for the preceding year is filed after the due date has elapsed; d. the Taxpayer is granted an extension of the filing due date of the Annual Income Tax Return; e. the Taxpayer self-rectifies the Annual Income Tax Return which results in a greater tax installment than the monthly tax installments before the rectification; and
  - f. there are changes to the Taxpayer's business or activities. \*\*\*\*)
- (7) The Minister of Finance stipulates the calculation of the amount of tax installments for:
  - a. new Taxpayers;
  - b. banks, state-owned enterprises, local state-owned enterprises, listed Taxpayers and other Taxpayers that pursuant to statutory tax provisions are obliged to prepare periodic financial statements; and
  - c. certain individual entrepreneur Taxpayers with a maximum rate of 0.75% (zero-point seventy-five percent) of gross turnover. \*\*\*\*)
- (8) Individual resident Taxpayers who do not have Tax Identification Numbers and are 21 (twenty-one) years old and travel overseas are obliged to pay taxes, the provisions thereto shall be stipulated by a Government Regulation. \*\*\*\*)
- (8a) Provisions referred to in paragraph (8) only apply until 31 December 2010. \*\*\*\*)
- (9) Deleted. \*\*\*\*)

### **Elucidation of Article 25**

This provision stipulates the calculation of the amount of monthly installments to be self-paid by Taxpayers in the current year.

## **Paragraph (1)**

Example 1:

Tax installments to be self-paid in 2010 every month amount to IDR1,250,000.00 (IDR15,000,000.00 divided by 12).

Example 2:

If the Income Tax referred to in the above example pertains to the income received or accrued for a fraction of a tax year which covers a period of 6 (six) months in 2009, installments to be self-paid in 2010 every month amount to IDR2,500,000.00 (IDR15,000,000.00 divided by 6). **Paragraph (2)**

Considering the filing due date of Annual Income Tax Returns for individual Taxpayers is the end of the third month of the following tax year and for corporate Taxpayer, the end of the fourth month in the following tax year, the amount of tax installments to be self-paid by the Taxpayer for the months before the Annual Income Tax Return is filed cannot be calculated pursuant to the provision under paragraph (1).

Based on this provision, the amount of tax installments for the months before the Annual Income Tax Return is filed before the filing due date of the Annual Income Return is equal to the tax installment of the last month in the previous tax year.

Example:

If the Annual Income Tax Return is filed by an individual Taxpayer in February 2010, the amount of tax installment to be paid by the Taxpayer for January 2010 is equal to the amount of tax installment for December 2009, for example, IDR1,000,000.00 (one million rupiah).

If in September 2009, a decree of tax installment reduction to nil is issued, thereby, the tax installment from October to December 2009 becomes nil, the amount of tax installment to be paid by the Taxpayer for January 2010 remains equal to the tax installment for December 2009, which is nil.

## **Paragraph (3)**

Sufficiently clear.

## **Paragraph (4)**

If in the current year, a notice of tax assessment is issued for the previous tax year, the tax installment shall be calculated based on the said notice of tax assessment. Changes to the tax installment shall apply from the following month after the month the notice of tax assessment is issued.

Example:

Based on the Annual Income Tax Return of 2009 tax year filed by the Taxpayer in February 2010, the calculation of tax installment to be paid amounts to IDR1,250,000.00 (one million two hundred and fifty thousand rupiah). In June 2010, a notice of tax assessment is issued for 2009 tax year resulting in a monthly tax installment of IDR2,000,000.00 (two million rupiah).

Pursuant to the provision in this paragraph, the amount of tax installment from July 2010 is IDR2,000,000.00. (two million rupiah). The determination of the amount of tax installment based on the notice of tax assessment may be equal, greater or lower than the previous tax installment

based on the Annual Income Tax Return.

### **Paragraph (5)**

Sufficiently clear.

### **Paragraph (6)**

In principle, the amount of self-payment of tax installments by a Taxpayer in the current year shall be as approximate as possible to the amount of tax payable at the end of the year. Therefore, pursuant to this provision, the Director General of Taxes is authorized to adjust the calculation of the amount of tax installment to be self-paid by the Taxpayer in the current year in the event of loss carryforward; the Taxpayer receives or accrues irregular income; or changes to the Taxpayer's business or activities.

The calculation of Article 25 Income Tax for 2010 is as follows:

Income used as the calculation basis of Article 25 Income Tax installment  
= IDR120,000,000.00 – IDR30,000,000.00 = IDR90,000,000.00.

Income Tax payable: 28% x IDR90,000,000.00 = IDR25,200,000.00

If in 2009, no Income Tax is withheld by another party and no tax is paid and payable overseas pursuant to provisions under Article 24, the amount of monthly tax installment of PT X in 2010 shall be =  $1/12 \times \text{IDR}25,200,000.00 = \text{IDR}2,100,000.00$ .

#### **Example 2**

In 2009, the regular business income of Taxpayer A from a trading business amounts to IDR48,000,000.00 (forty-eight million rupiah) and the irregular income amounts to IDR72,000,000.00 (seventy-two million rupiah). The income used as the calculation basis of Article 25 Income Tax for Taxpayer A in 2010 shall be the regular income only.

#### **Example 3:**

Changes to a Taxpayer's business or activities may occur due to the decreases and increases in business. PT B, engaged in the manufacture of yarn in 2009 pays a monthly tax installment of IDR15,000,000.00 (fifteen million rupiah).

In June 2009, PT B's factory is burnt down. Therefore, in accordance with the Director General of Taxes Decree, starting July 2009, PT B's monthly tax installment may be adjusted to be lower than IDR15,000,000.00 (fifteen million rupiah).

On the other hand, if PT B experiences business growth, for example, due to an increase in sales and its Taxable Income is estimated to be greater than the previous year, PT B's monthly installment obligation may be adjusted by the Director General of Taxes.

### **Paragraph (7)**

In principle, the calculation of the amount of monthly tax installment in the current year is based on the Annual Income Tax Return of the previous year. However, this provision authorizes the Minister of Finance to determine the calculation basis of the amount of monthly installments other than based on the abovementioned principle. This is intended to approximate the reasonable calculation of the amount of tax installments because it is based on the company's latest business data.

#### **Subparagraph a**

For new Taxpayers that start their business or activities in the current tax year, it is necessary to regulate the calculation of the amount of installment because these Taxpayers have not filed Annual Income Tax Returns, the determination of the amount of tax installments is based on the facts of the Taxpayer's business or activities.

#### **Subparagraph b**

For Taxpayers engaged in the banking business, state-owned enterprises and local owned enterprises and listed Taxpayers and other Taxpayers that, pursuant to provisions, are obliged to prepare periodic financial statements, it is necessary to separately regulate the calculation of the amount of tax installment due to the obligation to submit reports related to financial management in a certain period to Government agencies that may be used as the calculation basis to determine the amount of tax installments in the current year.

#### **Subparagraph c**

For certain individual entrepreneur Taxpayers, namely individual Taxpayers with 1 (one) or more places of business, the amount of tax installments shall be a maximum of 0,75% (zero-point seventy-five percent) of gross turnover.

#### **Paragraph (8)**

Sufficiently clear.

#### **Paragraph (8a)**

Sufficiently clear.

#### **Paragraph (9)**

Sufficiently clear.

### **Relevant Regulations**

*There are no relevant regulations*

### **Article 26**

- (1) The income below, in whatever name and form, paid, apportioned to be paid or whose payment is due by a government agency, a resident Taxpayer, an event organizer, a permanent establishment or a representative to a non-resident company to a non-resident Taxpayer other than a permanent establishment in Indonesia, shall be subject to tax withholding of 20% (twenty percent) of gross income by the party obliged to pay:
- a. dividends;
  - b. interest including premium, discounts and compensation for loan repayment guarantees;
  - c. royalties, rent and other income in connection with the use of property;
  - d. remunerations in connection with services, work and activities;
  - e. prizes and awards;
  - f. pensions and other periodic payments;
  - g. swap premiums and other hedging transactions; and/or
  - h. gains due to debt relief. \*\*\*\*\*)
- (1a) The domicile country of non-resident Taxpayers other than those conducting business or business activities through a permanent establishment in Indonesia as referred to in paragraph (1) is the Country of residence or the domicile where the non-resident Taxpayers constitute the beneficial owners. \*\*\*\*\*)
- (1b) The rate of 20% (twenty percent) of the gross amount by the party obliged to pay interest, including premium, discounts and compensation in respect of loan repayment guarantees as referred to in paragraph (1) subparagraph b may be reduced by a Government Regulation. \*\*\*\*\*)

- (2) Income from sales or transfers of property in Indonesia other than those stipulated under Article 4 paragraph (2), received or accrued by non-resident Taxpayers other than permanent establishments in Indonesia and insurance premiums paid to offshore insurance companies, shall be subject to tax withholding of 20% (twenty percent) on deemed profit. \*\*\*\*)
- (2a) Income from sales or transfers of shares as referred to in Article 18 paragraph (3c) shall be subject to tax withholding of 20% (twenty percent) on deemed profit. \*\*\*\*)
- (3) The implementation of provisions referred to in paragraph (2) and paragraph (2a) is stipulated by or based on a Minister of Finance Regulation. \*\*\*\*)
- (4) Taxable Income after deducted by tax on a permanent establishment in Indonesia is subject to a tax of 20% (twenty percent) unless the income is reinvested in Indonesia, the provisions thereto shall be further stipulated by or based on a Minister of Finance Regulation. \*\*\*\*)
- (5) Tax withholding referred to in paragraph (1), paragraph (2), paragraph (2a) and paragraph (4) shall be a final tax, except for:
  - a. withholding on income as referred to in Article 5 paragraph (1) subparagraph b and subparagraph c; and
  - b. withholding on income received or accrued by a non-resident individual or non-resident entity whose status has changed into a resident Taxpayer or a permanent establishment. \*\*\*\*)

### **Elucidation of Article 26**

For income received or accrued by non-resident Taxpayers sourced from Indonesia, this Law adheres to two tax systems, namely self-assessment of tax obligations for non-resident Taxpayers conducting business or activities through permanent establishments in Indonesia and withholding by the parties obliged to pay for other non-resident Taxpayers.

This provision stipulates withholding on income sourced from Indonesia received or accrued by non resident Taxpayers other than permanent establishments.

### **Paragraph (1)**

Tax withholding based on this provision must be carried out by government agencies, resident taxpayers, event organizers, permanent establishments or representatives of other foreign companies performing payments to non-resident Taxpayers other than permanent establishments in Indonesia, at a rate of 20% (twenty percent) of the gross amount.

The types of income subject to withholding may be categorized into:

1. capital gains in the form of dividends, interest including premium, discounts and compensation for loan repayment guarantees, royalties, rent and other income in connection with the use of property;
2. remunerations in connection with services, work and activities;
3. prizes and awards in whatever name and form;
4. pensions and other periodic payments;
5. swap premiums and other hedging transactions; and/or
6. gains due to debt relief.

Pursuant to this provision, for example, a resident corporate taxpayer pays a royalty of IDR100,000,000.00 (one hundred million rupiah) to a non-resident Taxpayer, the resident taxpayer is obliged to withhold Income Tax of 20% (twenty percent) of IDR100,000,000.00 (one hundred million rupiah).

As another example, a foreign athlete who participates in a marathon in Indonesia wins a cash prize, the prize is subject to Income Tax withholding of 20% (twenty percent).

### **Paragraph (1a)**

The domicile country of non-resident Taxpayers, other than those conducting business or business activities through permanent establishments that receive income from Indonesia shall be determined based on the residence or domicile of the beneficial owners. Therefore, the domicile country is not only determined based on the Certificate of Domicile but also the residence or domicile of the beneficial owners of the said income.

In the event that the beneficial owner is an individual, the domicile country is the country where the individual resides or is present, whereas, if the beneficial owner is an entity, the domicile country is the country where the owner or more than 50% (fifty percent) of shareholders, either individually or collectively, is domiciled or where the effective management is located.

**Paragraph (1b)**

Sufficiently clear.

**Paragraph (2)**

This provision stipulates tax withholding on income received or accrued by non-resident Taxpayers that is sourced from Indonesia, other than income referred in paragraph (1), namely income from sales or transfer of property and insurance premiums, including reinsurance premiums. Such income is subject to tax withholding of 20% (twenty percent) on deemed profit and is final. The Minister of Finance is authorized to determine deemed profit and other matters related to the implementation of tax withholding.

This provision shall not be applied if non-resident Taxpayers conduct business or activities through permanent establishments in Indonesia or if the income from the sale of property has been subject to tax pursuant to the provision under Article 4 paragraph (2).

**Paragraph (2a)**

Sufficiently clear.

**Paragraph (3)**

Sufficiently clear.

**Paragraph (4)**

Taxable income after deducted by tax on the permanent establishment in Indonesia is subject to tax withholding of 20% (twenty percent).

Example:

If the income after tax of IDR13,65,000,000.00 (thirteen billion six hundred fifty million rupiah) is reinvested in Indonesia in accordance with or based on the Minister of Finance Regulation, the income is not subject to tax withholding. \*\*\*\*\*)

**Paragraph (5)**

In principle, tax withholding on non-resident Taxpayers is final, but for income referred to in Article 5 paragraph (1) subparagraph b and subparagraph c and for the income of non-resident individual Taxpayers or non-resident corporate Taxpayers whose status has changed to resident Taxpayers or permanent establishments, the tax withholding is not final, thereby, the withholding tax may be credited in the Annual Income Tax Return.

Example:

A as an individual foreign worker enters into a work agreement with PT B as a resident Taxpayer

to work in Indonesia for a period of 5 (five) months starting 1 January 2021. On 20 April 2021, the work agreement is extended to 8 (eight) months, thereby, the agreement shall expire on 31 August 2021.

If the work agreement is not extended, A's status will remain a non-resident taxpayer. With the extension of the work agreement, A's status changes from a non-resident Taxpayer to a resident Taxpayer starting 1 January 2021. From January to March 2021, A's gross income has been subject to Article 26 Income Tax withholding by PT B.

Pursuant to this provision, to calculate Income Tax payable on A's income for January to August 2021 periods, Article 26 Income Tax which has been withheld and remitted by PT B on A's income until March, may be credited against A's tax as a resident Taxpayer. \*\*\*\*\*)

### **Relevant Regulations**

*There are no relevant regulations*

### **Article 27**

Deleted \*\*)

### **Elucidation of Article 27**

Sufficiently clear.

### **Relevant Regulations**

*There are no relevant regulations*

## **CHAPTER VI**

### **CALCULATION OF TAX AT THE END OF THE YEAR**

#### **Article 28**

- (1) For resident Taxpayers and permanent establishments, tax payable shall be deducted by tax credit for the tax year concerned, in the form of:
  - a. tax withholding on income in respect of employment, services or activities as referred to in Article 21;
  - b. tax collection on income from imports or businesses in other sectors as referred to in Article 22; c. tax withholding on income in the form of dividends, interests, royalties, rent, prizes dan awards and consideration in connection with services as referred to in Article 23;
  - d. tax paid or payable in foreign countries on foreign-sourced income that is creditable as referred to in Article 24;
  - e. self-payment by Taxpayers as referred to in Article 25;
  - f. tax withholding on income as referred to in Article 26 paragraph (5). \*\*)
- (2) Administrative penalties in the form of interest, fines and surcharges as well as fine sentences in respect of the implementation of applicable statutory tax provisions may not be credited with tax payable referred to in paragraph (1). \*\*)

## **Elucidation of Article 28**

### **Paragraph (1)**

Tax which has been settled in the current year, either self-paid by the Taxpayer or withheld by another party may be credited against tax payable at the end of the tax year concerned.

### **Paragraph (2)**

Sufficiently clear.

## **Relevant Regulations**

*There are no relevant regulations*

## **Article 28A**

In the event that tax payable in a tax year is lower than the amount of tax credit referred to in Article 28 paragraph (1), after an audit has been conducted, the tax overpayment shall be refunded after being offset against tax liabilities and penalties. \*\*)

### **Elucidation of Article 28A**

Pursuant to the provision in Article 17B paragraph (1) of the Law concerning General Provisions and Tax Procedures, the Director General of Taxes or an appointed official is authorized to conduct an audit before tax overpayment is refunded or calculated.

Matters to be considered before tax overpayment is refunded or calculated include:

- a. the material accuracy of the amount of Income Tax payable;
- b. the validity of proof of tax collection and withholding receipts as well as proof of self-tax payment by the Taxpayer during and for the tax year concerned.

Therefore, for audit purposes, the Director General of Taxes or other appointed officials are authorized to conduct audits on financial statements, books of accounts and other records as well as other audits related to the determination of the amount of Income Tax payable, the correctness of the tax amount and the amount of credited tax and to determine the amount of tax overpayment to be refunded.

These audits are intended to ensure that the money to be refunded to Taxpayers as a refund, in fact, constitutes the Taxpayers' right.

## **Relevant Regulations**

*There are no relevant regulations*

## **Article 29**

In the event that tax payable for a Tax Year is greater than the tax credit referred to in Article 28 paragraph (1), tax underpayment payable must be settled before the Annual Income Tax Return is filed. \*\*\*\*\*)

### **Elucidation of Article 29**

This provision requires Taxpayers to settle tax underpayment payable pursuant to the provisions under this Law before the Annual Income Tax Return is filed and no later than the filing due date of the Annual

Tax Return. If the accounting year is the same as the calendar year, the tax underpayment must be settled no later than 31 March for individual Taxpayers or 30 April for corporate Taxpayers after the Tax Year ends, whereas if the accounting year is different from the calendar year, for example, it starts from 1 July until 30 June, the tax underpayment must be settled no later than 30 September for individual Taxpayers or 31 October for corporate Taxpayers.

#### **Relevant Regulations**

*There are no relevant regulations*

### **Article 30**

Deleted. \*\*)

#### **Elucidation of Article 30**

Sufficiently clear.

#### **Relevant Regulations**

*There are no relevant regulations*

### **Article 31**

Deleted. \*\*)

#### **Elucidation of Article 31**

Sufficiently clear.

#### **Relevant Regulations**

*There are no relevant regulations*

## **CHAPTER VII OTHER PROVISIONS**

### **Article 31A**

- (1) Taxpayers investing in certain business sectors and/or certain areas with high priorities on the national scale may be given tax facilities in the form of:
  - a. a deduction in net income of a maximum of 30% (thirty percent) of the total investments;
  - b. accelerated depreciation and amortization;
  - c. longer carryforward of losses, but no more than 10 (ten) years; and
  - d. the imposition of Income Tax on dividends as referred to in Article 26 of 10% (ten percent), unless the rate according to the applicable tax treaty stipulates lower. \*\*\*\*\*)
- (2) Further provisions on certain business sectors and/or certain areas with high priorities on the national scale as well as the granting of tax facilities as referred to in paragraph (1) shall be stipulated by a

Government Regulation. \*\*\*\*)

## **Elucidation of Article 31A**

### **Paragraph (1)**

One of the principles to be adhered to in Tax Laws is the application of equal treatment to all taxpayers or to cases in the field of taxation which are essentially the same, by adhering to statutory provisions. Therefore, any facilities in the field of taxation, if absolutely necessary, must refer to the above rules and must be maintained, thereby, the application does not deviate from the intent and purpose of the granting of such facilities.

The granting of tax facilities is intended to promote direct investments in Indonesia, either through foreign investments or domestic investments in certain business sectors and/or certain areas with high priorities on the national scale.

This provision may also be used to cover the possibility of agreements with other countries in the trade sector, investment and other sectors.

### **Paragraph (2)**

Sufficiently clear.

## **Relevant Regulations**

*There are no relevant regulations*

## **Article 31B**

Deleted. \*\*\*\*)

### **Elucidation of Article 31B**

Sufficiently clear.

## **Relevant Regulations**

*There are no relevant regulations*

## **Article 31C**

(1) State revenues from Income Tax on resident individuals and Article 21 Income Tax withheld by employers shall be distributed by 80% for the Central Government and 20% for Local Governments where the Taxpayers are registered. \*\*\*)

(2) Deleted. \*\*\*\*)

### **Elucidation of Article 31C**

Sufficiently clear.

## **Relevant Regulations**

*There are no relevant regulations*

## **Article 31D**

Provisions on taxation on the oil and gas mining business sector, geothermal business sector, general mining business sector, including coal and sharia business sectors, are stipulated by or based on a Government Regulation. \*\*\*\*)

### **Elucidation of Article 31D**

Sufficiently clear.

### **Relevant Regulations**

*There are no relevant regulations*

## **Article 31E**

- (1) Resident corporate taxpayers with gross turnover of up to IDR50,000,000,000.00 (fifty billion rupiah) are entitled to facilities in the form of a rate reduction by 50% (fifty percent) of rates referred to in Article 17 paragraph (1) subparagraph b and paragraph (2a) that are imposed on Taxable Income of a fraction of gross turnover of up to IDR4,800,000,000.00 (four billion and eight hundred million rupiah). \*\*\*\*)
- (2) The amount of the fraction of gross turnover as referred to in paragraph (1) may be increased by a Minister of Finance Regulation. \*\*\*\*)

### **Elucidation of Article 31E**

#### **Paragraph (1)**

Example 1:

Gross turnover of PT Y for 2009 tax year amounts to IDR4,500,000,000.00 (four billion and five hundred million rupiah) with Taxable Income of IDR500,000,000.00 (five hundred million rupiah).

The calculation of tax payable:

All Taxable Income accrued from gross turnover is subject to a rate of 50% (fifty percent) of the applicable corporate Income Tax rate because the total gross turnover of PT Y does not exceed IDR4,800,000,000.00 (four billion and eight hundred million rupiah).

Income Tax payable:

$$(50\% \times 28\%) \times \text{IDR}500,000,000.00 = \text{IDR}70,000,000.00.$$

Example 2:

Gross turnover of PT X for 2009 tax year is IDR30,000,000,000.00 (thirty billion rupiah) with Taxable Income of IDR3,000,000,000.00 (three billion rupiah).

The calculation of Income Tax payable:

1. Total Taxable Income from gross turnover entitled to facilities:

$$(\text{IDR}480,000,000.00 : \text{IDR}30,000,000,000.00) \times \text{IDR}3,000,000,000.00 = \text{IDR}480,000,000.00$$

2. Total Taxable Income from gross turnover not entitled to facilities:

$$\text{IDR}3,000,000,000.00 - \text{IDR}480,000,000.00 = \text{IDR}2,520,000,000.00$$

Income Tax payable:

- (50% x 28%) x IDR480,000,000.00	= IDR 67,200,000.00
- 28% x IDR2,520,000,000.00	= IDR 705,600,000.00 (+)
<b>Total Income Tax payable</b>	<b>IDR 772,800,000.00</b>

## Paragraph (2)

Sufficiently clear.

## Relevant Regulations

*There are no relevant regulations*

## Article 32

Procedures for the imposition of taxes and penalties in connection with the implementation of this Law shall be carried out pursuant to Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times, last amended by Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures. \*\*\*\*\*)

## Elucidation of Article 32

Sufficiently clear.

## Relevant Regulations

*There are no relevant regulations*

## Article 32A

The Government is authorized to establish and/or implement treaties and/or agreements in the field of taxation with the governments of partner countries or partner jurisdictions, either bilaterally or multilaterally in the context of:

- a. avoidance of double taxation and prevention of tax evasion;
- b. prevention of base erosion and profit shifting;
- c. exchange of tax information;
- d. tax collection assistance; and
- e. other tax cooperation. \*\*\*\*\*)

## Elucidation of Article 32A

To improve economic relationships, particularly in the field of taxation, with partner countries or partner jurisdictions and in line with the dynamic developments of the international taxation landscape, the Government of Indonesia is authorized to establish and/or implement treaties and/or

agreements with the governments of partner countries or partner jurisdictions, either bilaterally or multilaterally through *lex-spesialis* legal instruments for the avoidance of double taxation and prevention of tax evasion, prevention of base erosion and profit shifting, exchange of tax information, tax collection assistance and other tax cooperation.

“Treaties and/or agreements in the field of taxation” refer to treaties and/or agreements in certain formats

and names in the field of taxation, which refer to the law that is effective before, since or after this Law comes into effect.

#### Subparagraph a

“Double taxation” refers to the imposition of taxes by two or more countries or jurisdictions on the same income received/accrued by the same tax subject and on the same income received/accrued by different tax subjects.

“Tax evasion” refers to tax evasion, fraud or deduction carried out illegally by an individual, entity or permanent establishment with the intention of not paying taxes in any country or jurisdiction or reducing tax payable.

#### Subparagraph b

“Base erosion and profit shifting” refers to tax planning strategies that aim to utilize the interaction of tax provisions between different countries/jurisdictions, among others, by shifting profits to a country or jurisdiction that does not impose taxes or imposes taxes at low rates and which has no or small contribution to its activities of economic substance with the aim of not paying taxes in any country or jurisdiction or reducing tax payable.

#### Subparagraph c

“Exchange of tax information” refers to the exchange of tax-related information between countries/jurisdictions as the implementation of international agreements.

#### Subparagraph d

“Tax collection assistance” refers to the tax collection assistance facility outlined in agreements that may be utilized by the Government of Indonesia and the government of partner countries or partner jurisdictions reciprocally to collect tax liabilities which are administered by the Director General of Taxes or the tax authorities of partner countries or partner jurisdictions.

#### Subparagraph e

Sufficiently clear.

### **Relevant Regulations**

*There are no relevant regulations*

### **Article 32B**

Provisions on tax imposition on interests or discounts on State Bonds traded in other countries based on agreements on reciprocal treatment with these other countries shall be stipulated by a Government Regulation. \*\*\*\*)

### **Elucidation of Article 32B**

To expand the State Bond market, the government may impose lower special rates or exempt State Bonds traded on the stock exchange in other countries from taxation. The government may only apply this special treatment insofar as the other countries also provide the same treatment to the other countries' bonds which are traded on the stock exchange in Indonesia.

## Relevant Regulations

*There are no relevant regulations*

# CHAPTER VIIA DELEGATION OF AUTHORITY \*\*\*\*\*)

## Article 32C

Further provisions on:

- a. income in the form of gains from transfers of property in the form of grants, aids or donations that are excluded from taxable objects because they are given to relatives within one degree of direct lineage, and to religious bodies, educational or other social entities including foundations, cooperatives or to any individual conducting micro and small business, provided that there is no business, employment, ownership or control relationship between the concerned parties as referred to in Article 4 paragraph (1) subparagraph d number 4;
- b. the criteria of certain skills and the imposition of Income Tax for foreign citizens as referred to in Article 4 paragraph (1a);
- c. Granted asset received by relatives within one degree of direct lineage, religious bodies, educational entities, social entities including foundations, cooperatives or any individuals conducting micro and small business, provided that there is no business, employment, ownership nor control relationship between the concerned parties as referred to in Article 4 paragraph (3) subparagraph a number 2;
- d. considerations or remunerations in respect of work or services received or accrued in kind and/or fringe benefits that are excluded from taxable objects as referred to in Article 4 paragraph (3) subparagraph d;
- e. the criteria, period and changes to the threshold of invested dividends as well as the provisions on the exclusion from Income Tax on dividends or other income as referred to in Article 4 paragraph (3) subparagraph f;
- f. income from investments in certain sectors received by pension funds that are excluded from taxable objects as referred to in Article 4 paragraph (3) subparagraph h;
- g. scholarships that fulfill certain requirements that are excluded from taxable objects as referred to in Article 4 paragraph (3) subparagraph l;
- h. the surplus received or accrued by an institution or a non-profit organization engaged in education and/or research and development that are excluded from taxable objects as referred to in Article 4 paragraph (3) subparagraph m;
- i. aid or donation paid by the Social Security Administrative Body to certain Taxpayers that are excluded from taxable objects as referred to in Article 4 paragraph (3) subparagraph n;
- j. deposit funds for hajj fees and/or special hajj fees and income from the development of hajj finances in certain financial fields or instruments received by the Hajj Financial Management Agency that are excluded from taxable objects as referred to in Article 4 paragraph (3) subparagraph o;
- k. the surplus received/accrued by social and religious institutions and organizations that are excluded from taxable objects as referred to in Article 4 paragraph (3) subparagraph p;
- l. promotional and sales expenses that may be deducted from gross income as referred to in Article 6 paragraph (1) subparagraph a number 7;
- m. bad debts that may be deducted from gross income as referred to in Article 6 paragraph (1) subparagraph h;
- n. expenses for considerations or remunerations given in kind and/or fringe benefits that may be deducted from gross income as referred to in Article 6 paragraph (1) subparagraph n;
- o. establishment or accumulation of reserve funds that may be deducted from gross income as referred to in Article 9 paragraph (1) subparagraph c;
- p. groups of tangible assets, useful life and the calculation of depreciation as referred to in Article 11 paragraph (6) and paragraph (6a);
- q. depreciation of tangible assets owned and used in certain business sectors as referred to in Article 11 paragraph (7);
- r. when amortization commences for certain business sectors as referred to in Article 11A paragraph (1a);
- s. the calculation of amortization as referred to in Article 11A paragraph (2) dan paragraph (2a);
- t. the

- threshold of the amount of loans that may be charged to calculate tax as referred to in Article 18 paragraph (1);
- u. when dividends are accrued by resident Taxpayers for equity participation in an offshore business entity other than business entities that sell their shares on the stock exchange as referred to in Article 18 paragraph (2);
  - v. application of the arm's length principle in the context of calculating the amount of Taxable Income for Taxpayers affiliated with other Taxpayers as referred to in Article 18 paragraph (3); w. the implementation of advance pricing agreement between related parties as referred to in Article 18 paragraph (3a);
  - x. the determination of the actual party conducting the purchase of shares or company assets through a special purpose company as referred to in Article 18 paragraph (3b);
  - y. the determination on the sales of transfers of shares of entities established or domiciled in Indonesia or permanent establishments in Indonesia as referred to in Article 18 paragraph (3c); z. adjustment of the amount of income accrued by a resident individual Taxpayer from an employer affiliated with another company that is not established and not domiciled in Indonesia as referred to in Article 18 paragraph (3d);
  - aa. the criteria of the affiliation as referred to in Article 18 paragraph (4);
  - bb. establishment and/or implementation of treaties and/or agreements in the field of taxation as referred to in Article 32A,
- shall be stipulated by or based on a Government Regulation. \*\*\*\*\*)

### **Elucidation of Article 32C**

Sufficiently clear.

### **Relevant Regulations**

*There are no relevant regulations*

## **CHAPTER VIII TRANSITIONAL PROVISIONS**

### **Article 33**

- (1) Taxpayers whose accounting year ends on 30 June 1984 and ends between 30 June 1984 and 31 December 1984 may choose how to calculate their tax based on the provisions under the 1925 Corporate Tax Ordinance (*Ordonnantie op de Vennootschapsbelasting 1925*) or the 1944 Income Tax Ordinance (*Ordonnantie op de Overgangsbelasting 1944*) or based on the provisions under this Law.
  - (2) Tax facilities that had been granted up to 31 December 1983:
    - a. with a limited period may be enjoyed by the concerned Taxpayer until expiration; b. with an indefinite period may be enjoyed until the tax years before 1984 tax year.
- (3) Taxable income received or accrued in the oil and gas mining sector as well as in other mining sectors in respect of contracts of work and production sharing contracts, which are still in force upon the enactment of this law is subject to tax based on the provisions under the 1925 Corporate Tax Ordinance and the Law concerning Tax on Interest, Dividends and Royalties of 1970 and all the implementing regulations thereto.

### **Elucidation of Article 33**

#### **Paragraph (1)**

For Taxpayers whose tax year is the accounting year, a fraction of a tax year may be included in the 1984 calendar year. According to the provisions under this paragraph, if 6 (six) months of the tax year are included in the 1984 calendar year, Taxpayers are allowed to choose whether to use the 1925 Corporate Tax Ordinance or the 1944 Income Tax Ordinance or to choose the application

of the provisions outlined under this law. Such an opportunity to choose also applies to Taxpayers for whom more than 6 (six) months of the tax year are included in the 1984 calendar year.

## **Paragraph (2)**

### **Subparagraph a**

Tax facilities with a limited period, for example, tax facilities based on Law Number 1 of 1967 concerning Foreign Investment and Law Number 6 of 1968 concerning Domestic Investments that had been granted until 31 December 1983 may continue to be enjoyed until the expiration of the tax facilities.

### **Subparagraph b**

Tax facilities with an indefinite period may no longer be enjoyed starting from the effective date of this law, for example:

- tax facilities granted to PT Danareksa, in the form of Corporate Tax exemption on operating profits and exemption from Capital Duty on the placement and remittance of share capital, based on the Minister of Finance Decree No. KEP-1680/MK/II/12/1976 dated 28 December 1976;
- tax facilities granted to Limited Liability companies that sell their shares through the Stock Exchange, in the form of reduced Corporate Tax rates, based on the Minister of Finance Decree No. 112/KMK.04/1979 dated 27 March 1979.

## **Paragraph (3)**

The 1925 Corporate Tax Ordinance and the Law concerning Tax on Interest, Dividends and Royalties of 1970 and all of the implementing regulations thereto shall continue to apply to taxable income received or accrued in the oil and gas mining sector and other mining sectors

carried out in the framework of Contracts of Work and Production Sharing Contracts, provided that the Contracts of Work and Production Sharing Contracts are still in force upon the enactment of this law.

Provisions under this law only apply to taxable income received or accrued in the oil and gas mining sector carried out in the form of Contracts of Work and Production Sharing Contracts, if the Contracts of Work and Production Sharing Contracts are prepared after the enactment of this law.

## **Relevant Regulations**

*There are no relevant regulations*

## **Article 33A**

- (1) Taxpayers whose accounting year ends after 30 June 1995 are obliged to calculate their tax based on the provisions stipulated under Law Number 7 of 1983 as amended by this Law. \*\*) (2) Taxpayers that obtain tax facilities and had received a decision on when production commences before 1 January 1995, the said tax facilities may be enjoyed in accordance with the stipulated period. \*\*) (3) The granted tax facilities shall expire on 31 December 1994, except for facilities referred to in paragraph (2). \*\*) (4) For taxpayers conducting businesses in the sectors of oil and gas mining, general mining and other mining based on production sharing contracts, contracts of work or mining exploitation contracts of work that are still in force upon the enactment of this Law, the tax is calculated based on the provisions under the production sharing contracts, contracts of work or mining exploitation contracts of work until the expiration of the said contracts or cooperation agreements. \*\*)

## **Elucidation of Article 33A**

### **Paragraph (1)**

If Taxpayers use an accounting year that ends on 30 June 1995 or earlier (different from the calendar year), the accounting year shall be 1994 tax year. Tax payable in that year continues to be calculated based on Law Number 7 of 1983 as amended by Law Number 7 of 1991. On the other hand, taxpayers whose accounting year ends after 30 June 1995 are obliged to calculate their tax starting 1995 tax year based on Law Number 7 of 1983 concerning Income Tax as last amended by this Law.

### **Paragraph (2) and paragraph (3)**

Taxpayers that have obtained the Minister of Finance Decree concerning tax facilities concerning when production commences issued before 1 January 1995 may enjoy the tax facilities granted up to the period stipulated in the decree concerned. Therefore, since 1 January 1995, the decree concerning when production commences shall no longer be issued.

### **Paragraph (4)**

The tax provisions under production sharing contracts, contracts of work or mining exploitation contracts of work which are still in force upon the enactment of this Law are declared to remain