

# General Donations

## A. Legal Basis

The legal sources underlying this tax guide are as follows.

- (i) Law Number 7 of 1983 concerning Income Tax stdtd Law Number 7 of 2021 concerning Harmonization of Tax Regulations ( [PPh Law](#) )
- (ii) Law Number 8 of 1983 concerning Value Added Tax on Goods and Services and Sales Tax on Luxury Goods stdtd Law Number 7 of 2021 concerning Harmonization of Tax Regulations ( [VAT Law](#) )
- (iii) Government Regulation of the Republic of Indonesia Number 9 of 2021 concerning Tax Treatment to Support Mutual Convenience ( [PP 9/2021](#) )
- (iv) Government Regulation of the Republic of Indonesia Number 34 of 2016 concerning Income Tax on Income from Transfer of Rights to Land and/or Buildings, and Sale and Purchase Agreements on Land and/or Buildings and their Amendments ( [PP 34/2016](#) )
- (v) Government Regulation of the Republic of Indonesia Number 1 of 2012 concerning the Implementation of Law Number 8 of 1983 concerning Value Added Tax of Goods and Services and Sales Tax on Luxury Goods as Amended Several times, most recently by Law Number 42 of 2009 concerning the Third Amendment to the Law Law Number 8 of 1983 concerning Value Added Tax on Goods and Services and Sales Tax on Luxury Goods ( [PP 1/2012](#) )
- (vi) Government Regulation of the Republic of Indonesia Number 93 of 2010 concerning Contributions for National Disaster Management, Research and Development Contributions, Education Facilities Donations, Sports Development Donations, and Social Infrastructure Development Costs that can be deducted from Gross Income ( [PP 93/2010](#) )
- (vii) Regulation of the Minister of Finance of the Republic of Indonesia Number 90/PMK.03/2020 concerning Aid or Donations, as well as Granted Assets Excluded as Income Tax Objects ( [PMK 90/2020](#) )
- (viii) Regulation of the Minister of Finance of the Republic of Indonesia Number 121/PMK.03/2015 concerning the Third Amendment to the Regulation of the Minister of Finance Number 75/PMK.03/2010 concerning Other Values as a Basis for Tax Imposition ( [PMK 121/2015](#) )
- (ix) Regulation of the Director General of Taxes Number PER-03/PJ/2022 concerning Tax Invoices ( [PER-03/PJ/2022](#) )

## B. Background

For a donation transaction, it is necessary to know the tax treatment, both from the side of the giver and the recipient, especially income tax (PPh), value added tax (PPN), and sales tax on luxury goods (PPnBM).

Tax treatment on donations as regulated in PMK 90/2020 is stipulated to provide legal certainty for taxpayers who give or receive donations, especially regarding the applicable PPh provisions.

## C. Definition

The definition of "donation" is giving as a favor. This is as explained in [the Big Indonesian Dictionary](#) . Similar to the explanation above, what is meant by "donation" in the context of tax is the provision of assistance carried out by the taxpayer. This is as explained in the Elucidation of Article 1 of PP 93/2010.

## D. Tax Treatment

The following is the imposition of taxes, namely PPh, PPN, and PPnBM on donation transactions seen from the perspective of the giver and the recipient of the donation in general.

## D.1 PPh Treatment for Donors

### D.1.1 Treatment of Donations as a Deduction from Taxable Income

In general, **donations should not be used as a non - deductible expense** to determine the amount of taxable income. This provision is as confirmed in Article 9 paragraph (1) letter 'g' of the Income Tax Law.

### D.1.2 Exceptions

However, there are several other types of donations that can be exempted so that they can be used as deductions to determine the amount of taxable income, including:

- (i) contribution to national disaster management,
- (ii) research and development contributions carried out in Indonesia;
- (iii) donation of educational facilities;
- (iv) athletics construction contributions; and
- (v) zakat and religious contributions which are obligatory.

Further explanation regarding the tax treatment of the above donations is contained in the content of other tax guides.

## D.2 Income Tax Treatment for Recipients

### D.2.1 Donations are not an object of income tax

Assistance or donation for the party receiving **it is not an object of income tax** as long as it is received not in the context of a work relationship, business relationship, ownership relationship, or control relationship between the parties concerned. This is as regulated in Article 4 paragraph (3) letter 'a' of the Income Tax Law and clarified in Article 6 paragraph (1) PMK 90/2020.

The donation can **be in the form of money or goods** . Assistance or donations in the form of assets in the form of goods are recorded by the recipient with an acquisition value of:

- (vi) **the residual value of the fiscal book** , if the grantor is obliged to keep books of account; or
  - (vii) **other values** , if the granting Party is not obliged to keep books of account. These other values include:
    - a. for assets in the form of land and/or buildings of:
      - 1. the sale value of the tax object listed in the tax return due for land and building tax for the tax year at the time of the transfer; or
      - 2. statement letter from the government agency in charge of regional tax affairs where the land and/or building is registered in the event that there is no Land and Building Tax Payable Tax Return as referred to in number 1.
    - b. for assets other than land and/or buildings, at the market price of the assets at the time of the transfer.

The acquisition value of assets that have a useful life of more than 1 (one) year as long as it is used to obtain, collect and maintain income, the **charge is carried out through depreciation or amortization** in accordance with the provisions of laws and regulations in the field of taxation.

### D.2.2 Exceptions

If you do not meet the provisions for the exemption of PPh objects as explained in Article 4 paragraph (3) letter 'a' of the PPh Law and Article 6 paragraph (1) of PMK 90/2020, the

donation for the receiving party is the object of PPh . In other words, **assistance or donations received in the framework of work relationships, business relationships, ownership relationships, or control relationships between the parties concerned are the object of PPh for the recipient .**

This provision is in line with Article 4 paragraph (1) of the Income Tax Law which states that the object of tax is income, namely any additional economic capacity received or obtained by taxpayers, both from Indonesia and from outside Indonesia, which can be used for consumption. or to increase the wealth of the taxpayer concerned, by name and in any form. The donation is subject to non-final income tax at the general rate.

### D.3 Imposition of VAT on Donations

#### D.3.1 Donations as VAT Objects

If an entrepreneur who has been confirmed as a taxable entrepreneur (PKP) submits taxable goods (BKP) as a donation, the **contribution is subject to VAT** . This provision is as regulated in Articles 4 and 1A paragraph (1) letter 'd' of the VAT Law which states that VAT is imposed on the submission of BKP, including the provision of free BKP within the customs area by entrepreneurs.

Elucidation of Article 1A paragraph (1) letter 'd' of the VAT Law explains that what is meant by free gifts are gifts given without payment, either self-produced goods or non self-produced goods.

In addition, donations in the form of taxable services (JKP) submitted by PKP are also subject to VAT. Elucidation of Article 4 paragraph (1) letter 'c' of the VAT Law explains that VAT is imposed on the delivery of JKP, including those given free of charge within the customs area by PKP.

#### D.3.2 VAT Collector

Entrepreneurs who submit BKP and/or JKP that have been confirmed as PKP are required to collect, deposit, and report the VAT payable on the submission of BKP and JKP .

#### D.3.3 VAT calculation

VAT payable is calculated by multiplying the **rate of Article 7 paragraph (1) of the VAT Law with the tax base (DPP)** .

In accordance with PMK 121/2015, DPP for the free provision of BKP and/or JKP is to use another value, namely **the selling price or replacement after deducting gross profit** .

The following is an illustration of the formula for calculating VAT payable for the free provision of BKP and/or JKP.

$$PPnBM = \text{tarif PPnBM Pasal 8 UU PPN} \times \text{DPP}$$

$$PPnBM = \text{tarif PPnBM} \times (\text{harga jual atau penggantian} - \text{laba kotor})$$

The VAT rate is in accordance with Article 7 paragraph (1) of the VAT Law, namely. (i) 11% (eleven percent) which will take effect on April 1, 2022;

(ii) 12% (twelve percent) which will take effect no later than January 1, 2025.

#### D.3.4 Tax Invoice Pembuatan

PKP submitting BKP and/or JKP that is owed VAT as mentioned above **must make a VAT tax invoice** as regulated in the VAT Law. PKP is required to make a tax invoice for each submission of BKP and/or JKP.

Regarding the free provision of BKP, the tax invoice must be made **when the BKP is submitted directly to the recipient of the goods** . Meanwhile, for the free provision of JKP, the tax invoice must be made at the time of submission of JKP, which occurs **when the facilities or facilities are available for real use, either partially or completely** . This is as regulated in PP 9/2021.

PKP must make a tax invoice in accordance with the stipulated provisions. PKP must generate a tax invoice using the tax invoice code and serial number. The tax invoice code and serial number consists of 16 digits with the 1st and 2nd digit format being the transaction code on the tax invoice.

The transaction code in the first two digits has been determined by the tax authority. For the delivery of BKP and/or JKP using another value DPP whose VAT is collected by the PKP of the seller who submits the BKP and/or JKP, **the tax invoice uses code 04** . Code 04 is used, one of which is for the provision of free BKP and/or JKP whose DPP uses another value. This is as regulated in PER-03/PJ/2022.

### D.3.5 VAT Collection and Deposit

PKP submitting BKP and/or JKP as described above must collect and deposit VAT as regulated in the VAT Law.

Payment of VAT payable by PKP must be made no later than the end of the following month after the end of the tax period and before the notification letter for the VAT period (VAT Period SPT) is submitted.

### D.3.6 VAT Period SPT Report

PKP submitting BKP and/or JKP as mentioned above must report the Periodic VAT SPT as stipulated in the VAT Law.

The VAT Period SPT is submitted no later than the end of the following month after the end of the tax period.

## D.4 Imposition of Sales Tax on Luxury Goods (PPnBM) on Donations

### D.4.1 Donations as PPnBM Objects

In the event that an entrepreneur who produces BKP classified as luxury submits BKP classified as luxurious as a donation, the **contribution is subject to PPnBM** .

Article 5 of the VAT Law stipulates that in addition to the imposition of PPN, PPnBM is also imposed on the delivery of **luxury goods classified as BKP by entrepreneurs who produce luxury goods** in the customs area in their business activities or work.

In accordance with Article 1A paragraph (1) letter 'd' of the VAT Law and its explanations, what is included in the definition of BKP submission is one of which is the free gift of BKP. As for what is meant by free gifts, are gifts given without payment, including self-produced goods.

### D.4.2 PPnBM Collector for Donations

Entrepreneurs who submit BKP classified as luxury that have been confirmed as PKP are required to collect, deposit, and report PPnBM payable for the submission of BKP classified as luxury.

PPnBM is imposed only 1 (one) time at the time of submission of BKP classified as luxury by the entrepreneur who produces BKP classified as luxury. If the delivery of BKP which is classified as luxury occurs not by the entrepreneur who produces it, PPnBM will no longer be imposed. This is as regulated in Article 5 of the VAT Law.

### D.4.3 PPnBM Calculation

PPnBM payable is calculated by multiplying the rate of **Article 8 of the VAT Law by the DPP** . Based on PMK 121/2015, DPP for free provision of BKP is to use another value, namely **selling price or replacement after deducting gross profit** .

In addition, PP 1/2012 stipulates that the DPP does not include VAT and PPnBM imposed on the submission of the BKP which is classified as luxury.

The following is an illustration of the formula for calculating PPnBM payable for the free gift of BKP.

$$\text{PPnBM} = \text{tarif PPnBM Pasal 8 UU PPN} \times \text{DPP}$$

$$\text{PPnBM} = \text{tarif PPnBM} \times (\text{harga jual atau penggantian} - \text{laba kotor})$$

The PPnBM tariff according to Article 8 paragraph (1) of the VAT Law is set at a minimum of 10% (ten percent) and a maximum of 200% (two hundred percent). Provisions regarding the luxury class BKP which are subject to PPnBM at the rates as referred to in Article 8 paragraph (1) of the VAT Law are regulated by a Government Regulation. Meanwhile, the provisions regarding the types of goods subject to PPnBM are regulated by or based on a Regulation of the Minister of Finance.

#### D.4.4 Tax Invoice Pembuatan

PKP who submit BKP classified as luxury which is owed PPnBM as mentioned above must make a tax invoice as regulated in the VAT Law. PKP that produces BKP classified as luxury must make a tax invoice at the time of submission of BKP classified as luxury, payable PPnBM.

Regarding the free provision of BKP which is classified as luxury, a tax invoice must be made when the BKP is submitted directly to the recipient of the goods. This is as regulated in PP 9/2021.

PKP must make a tax invoice in accordance with the stipulated provisions. PKP must generate a tax invoice using the tax invoice code and serial number. The tax invoice code and serial number consists of 16 digits with the 1st and 2nd digit format being the transaction code on the tax invoice.

The transaction code in the first two digits has been determined by the tax authority. For the submission of BKP classified as luxury using another value DPP whose VAT is collected by the PKP producing and submitting BKP classified as luxury, **the tax invoice uses code 04**. Code 04 is used, one of which is for giving free of charge to BKP whose DPP uses another value. This is as regulated in PER-03/PJ/2022.

#### D.4.5 PPnBM Collection and Deposit

PKP that produces BKP classified as luxury which submits BKP classified as luxurious as described above must collect and deposit PPnBM payable as stipulated in the VAT Law.

Payment of PPnBM payable by PKP must be made no later than the end of the following month after the end of the tax period and before the VAT Period SPT is submitted.

#### D.4.6 PPnBM Reporting in VAT Period SPT

PKP who submit BKP which is classified as luxury as mentioned above must report the VAT Period SPT as stipulated in the VAT Law.

The VAT Period SPT is submitted no later than the end of the following month after the end of the tax period.

### D.5 Sample case

The following are some examples of the tax treatment of donations in general.

- (i) (i) CV A donated a machine with a market price and fiscal book value of Rp70,000,000 to Firm Z. There is no business, employment, ownership or control relationship between CV A and Firm Z. Additional information, contribution of CV A does not meet the provisions of the deductible contribution in calculating taxable income as stipulated in Article 6 paragraph (1) letter 'i', 'j', 'l', and 'm' of the Income Tax Law.

Based on the case above, the treatment for the donation given by CV A:

- a. the assistance in the form of the machine can **not be deducted from gross income** by CV A; and
- b. The assistance in the form of machines is **excluded from the object of PPh** Firm Z because there is no business, employment, ownership, or control relationship between CV A and Firm Z.

(ii) (ii) PT B donated a building with a market price and a fiscal book value of Rp1.25 billion to Cooperative Y.

There is a business relationship between PT B and Cooperative Y as referred to in Article 4 paragraph (1) of PMK 90/2020. Additional information on PT B's contribution does not meet the provisions of Article 6 paragraph (1) letter 'i' to letter 'm' of the Income Tax Law.

Based on the case above, the treatment for the donation given by PT B:

- a. the donation in the form of the building can **not be deducted from gross income by PT B**.
- b. **The donation in the form of a building is an object of income tax based on a market price of Rp1.25 billion for PT B** because there is a business relationship with Cooperative Y, which is **subject to final income tax** as referred to in the Government Regulation concerning Income Tax on Income from the Transfer of Land Rights and/or Buildings, and Sale and Purchase Binding Agreements on Land and/or Buildings and their Amendments, namely PP 34/2016.

(iii) Mr. E, an employee of PT V, received a sum of money from PT V in the amount of Rp. 10,000,000.

Based on the case above, the assistance received by Mr. E, namely cash assistance of Rp. 10,000,000 **is an object of income tax** for Mr. E because there is an employment relationship with PT V as referred to in Article 4 paragraph (2) of PMK 90/2020.

(iv) PT F received donations in the form of office equipment in the form of furniture with a market value of Rp80,000,000 and a fiscal book value of Rp50,000,000 from PT U. The equipment is a fixed asset belonging to PT U which was not originally for sale. There is no business, employment, ownership or control relationship between PT F and PT U.

Based on the above case, the donations received by PT F:

- a. The donation in the form of equipment is **excluded as an object of income tax** by PT F because there is no business, employment, ownership, or control relationship with PT U.
- b. The equipment is recorded by PT F at its fiscal book value of Rp50,000,000 and is depreciated in accordance with the provisions of laws and regulations in the field of taxation.
- c. On the delivery of the assets which were not originally for sale, **VAT is payable** which must be collected by PT U, namely **the free gift** on the basis of which the tax is subject to the selling price, which is a market value of Rp80,000,000. The VAT that is payable and must be collected by PT U is IDR 8,800,000, which is the tax base multiplied by the current VAT rate of 11%.

(v) PT S (already PKP) donated 10,000 pairs of self-produced shoes to 10,000 high school students in Jakarta. It is known that for the 10,000 pairs of shoes, the selling price per pair is Rp. 300,000 with a gross profit of Rp. 100,000.

For PT S as a donor, the production costs of the shoes donated **can be used as a deduction** in determining the amount of taxable income.

Meanwhile, shoes received by students **are not subject to income tax**.

For this contribution, the submission of BKP by PT S is included in **the free gift of VAT payable** on the basis of taxation using another value DPP, which is Rp. 200,000 (selling price - gross profit) per pair of shoes. If the applicable VAT rate is 11%, the VAT payable is IDR 220,000,000 (11% x IDR 200,000 x 10,000 pairs).

PT S as a PKP is required to collect, deposit, and report the VAT payable using a tax invoice and VAT Period SPT in accordance with applicable regulations.

(vi) PT C (already PKP) produces various kinds of luxury electronic goods which are included in the luxury goods category with a PPnBM tariff of 20%.

PT C donated some of its production goods as many as 10 units with a selling price per

item of around Rp. 10,000,000 to the community around the factory location. It is known that the gross profit on the goods is Rp. 4,000,000.

In the context of PPh, the production cost of the donated production goods **can be financed** by PT C as a deduction fee in calculating the amount of taxable income.

Meanwhile, for recipients of donations of production goods from PT C, these goods are **not objects of income tax** .

In the context of VAT, the contribution is the delivery of BKP which includes **free gifts owed by VAT and PPnBM** with another value DPP, namely selling price minus gross profit. If the VAT rate is 11%, PT C is required to collect, deposit, and report VAT payable of Rp. 660,000 ( $11\% \times (\text{Rp. } 10,000,000 - \text{Rp. } 4,000,000)$ ) and PPnBM payable of Rp. 1,200,000 ( $20\% \times (\text{Rp. } 10,000,000 - \text{Rp. } 4,000,000)$ ).