

# Income Tax Law (PPH) Consolidated after the HPP Law

Structure in One Manuscript of Law of the Republic of Indonesia Number 7 of 1983 concerning Income Tax as amended several times, most recently by Law of the Republic of Indonesia Number 7 of 2021

## General Explanation

To increase sustainable economic growth in order to create a just, prosperous and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia, various efforts are needed from the Government to take various steps of consolidative fiscal policy.

This consolidated fiscal policy can be realized by taking strategic steps that focus on improving the budget deficit and increasing the *tax ratio*, which among others is through the implementation of policies to increase tax revenue performance, reform tax administration, increase the tax base, create a tax system that prioritizes the principles of taxation. justice and legal certainty, as well as increasing taxpayer compliance. At the global level, countries in the world also implement various tax policies that are expected to be able to increase revenues by expanding the tax base and adjusting tax rates.

In order to increase the *tax ratio*, the Government has made various efforts, including through 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, strengthening the effectiveness of the extensification function, and law enforcement. However, this is not enough to compensate for changing business patterns and the dynamic dynamics of globalization as well as overcome existing *aggressive tax planning practices*.

Therefore, in line with sustainable tax reform, especially in the regulatory and business process aspects, it is necessary to adjust tax policy arrangements that are comprehensive, consolidated, and harmonious, so it is necessary to establish a Law on the Harmonization of Tax Regulations. Adjustment of this policy setting aims to promote sustainable economic growth and support the acceleration of economic recovery; optimize state revenues to finance national development independently towards a just, prosperous and prosperous Indonesian society; realizing a tax system that is more just and with legal certainty; implement administrative reforms, consolidated taxation policies, and broaden the tax base; and increase taxpayer compliance.

Tax policies that are comprehensive, consolidated, and harmonious are carried out through arrangements 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.

The material on General Provisions and Tax Procedures contains several amended and/or added provisions, among others regarding cooperation in tax collection assistance between 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.

In the Income Tax material, there are several provisions that are amended and/or added, among others, regarding changes in the imposition of taxes on in-kind and/or enjoyment, rates of individual and corporate Income Tax, depreciation and amortization, as well as international agreements/agreements in the field of taxation.

Material changes to Value Added Tax and Sales Tax on Luxury Goods include, among others, the reduction of exemptions from Value Added Tax objects, re-arrangement of Value Added Tax facilities, changes to Value Added Tax rates, and the imposition of final Value Added tax rates.

To encourage taxpayer compliance, there is a Taxpayer Voluntary Disclosure Program material which provides an opportunity for taxpayers to disclose their assets that have not been disclosed. Furthermore, there is a new regulation regarding the carbon tax imposed on carbon emissions that have a negative impact on the environment. The imposition of a carbon tax is carried out by taking into account the carbon tax roadmap and/or the carbon market roadmap. As for changes to the provisions on Excise material, among others, the addition of excisable goods, the authority of Customs and Excise Officials, investigations, and payment of administrative sanctions.

# CHAPTER I GENERAL REQUIREMENTS

## article 1

Income Tax is imposed on Tax Subjects on the income received or earned in the tax year. \*\*)

### Explanation of Article 1

This Law regulates the imposition of Income Tax on tax subjects with respect to income received or earned in the tax year. The tax subject is subject to tax if he receives or earns income. Tax subjects who receive or earn income, in this Law are called Taxpayers. Taxpayers are taxed on income received or accrued during a tax year or may also be taxed for income in part of the tax year if their subjective tax liability begins or ends in the tax year.

What is meant by "tax year" in this Law is a calendar year, but a Taxpayer may use a financial year that is not the same as the calendar year, as long as the financial year covers a period of 12 (twelve) months. \*\*\*\*\*)

### Related Rules

There are no related regulations.

## CHAPTER II TAX SUBJECT

### Section 2

(1) The tax subjects are:

- a. 1. private person; and
2. inheritance that has not been divided as a unit replaces those who are entitled; b. the body; and
- c. permanent form of business. \*\*\*\*\*)

(1a) The permanent establishment is a tax subject whose tax treatment is the same as that of a corporate tax subject. \*\*\*\*\*)

(2) Tax subjects are divided into domestic tax subjects and foreign tax subjects. \*\*\*\*\*)

(3) Domestic tax subjects are:

- a. an individual, either an Indonesian citizen or a foreign citizen who:
  1. residing in Indonesia;
  2. being in Indonesia for more than 183 (one hundred and eighty three) days within a period of 12 (twelve) months; or
  3. in a tax year are in Indonesia and have the intention to reside in Indonesia;
- b. entities established or domiciled in Indonesia, except for certain units of government agencies that meet the following criteria:
  1. its establishment is based on the provisions of laws and regulations;
  2. the financing is sourced from the State Revenue and Expenditure Budget or the Regional Revenue and Expenditure Budget;
  3. its receipts are included in the budget of the Central Government or Regional Governments; and
  4. its books are checked by the state functional supervisory apparatus; and
- c. inheritance that has not been divided as a unit replaces those who are entitled. \*\*\*\*\*) (4)

Foreign tax subjects are:

- a. an individual who does not reside in Indonesia;
- b. foreign nationals residing in Indonesia for not more than 183 (one hundred and eighty three) days in a period of 12 (twelve) months;
- c. Indonesian citizens who are outside Indonesia for more than 183 (one hundred and eighty three) days within a period of 12 (twelve) months and fulfill the following requirements: 1. residence;
2. main activity center;

3. place of practice;
4. tax subject status; and/or
5. other specific requirements

which further provisions regarding these requirements are regulated in a Regulation of the Minister of Finance; and

d. Entities that are not established and are not domiciled in Indonesia

who runs business or carries out activities through a permanent establishment in Indonesia or who can receive or earn income from Indonesia not from running a business or conducting activities through a permanent establishment in Indonesia. \*\*\*\*\*)

(5) Permanent establishment is a form of business used by an individual as referred to in paragraph (4) letter a, letter b, and letter c, and an entity as referred to in paragraph (4) letter d to run a business or carry out activities in Indonesia which can be in the form of :

- a. management domicile;
- b. branch company;
- c. representative office;
- d. office building;
- e. factory;
- f. workshops;
- g. warehouse;
- h. space for promotion and sales;
- i. mining and extracting natural resources;
- j. oil and gas mining working area;
- k. fishery, animal husbandry, agriculture, plantation, or forestry;
- l. construction, installation, or assembly projects;
- m. provision of services in any form by officials or other persons as long as they are done for more than 60 (sixty) days in a period of 12 (twelve) months;
- n. person or body acting as an agent whose position is not independent;
- o. agent or employee of an insurance company that is not established and is not domiciled in Indonesia who receives insurance premiums or bears risks in Indonesia; and
- p. computer, electronic agent, or automatic equipment owned, rented, or used by the electronic transaction operator to carry out business activities through the internet. \*\*\*\*\*)

(6) The residence of an individual or the place of domicile of an entity shall be determined by the Director General of Taxes according to the actual situation. \*\*\*)

## **Explanation of Article 2**

### **Sentence (1)**

#### **Letter A**

Individuals as tax subjects can reside or reside in Indonesia or outside Indonesia. Inheritance that has not been divided as a unit is a substitute tax subject, replacing those who are entitled, namely the heirs. The appointment of an undivided inheritance as a substitute tax subject is intended so that the imposition of tax on income derived from the inheritance can still be implemented.

#### **Letter b**

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

State-owned enterprises and regional-owned enterprises are tax subjects without regard to their names and forms, so that each particular unit of a Government agency, for example institutions, entities, etc., which is owned by the Central Government and Regional Governments that run a business or carry out activities to earn income is a tax subject.

In the sense of association, it also includes associations, unions, associations, or associations of parties who have the same interests.

The letter c  
Quite clear.

**Sentence (1a)**

Quite clear.

**Sentence (2)**

Tax subjects are divided into domestic tax subjects and foreign tax subjects. Domestic individual tax subjects become Taxpayers if they have received or earned income in the amount of which exceeds the Non-Taxable Income. Domestic corporate tax subjects become Taxpayers from the time they are established, or domiciled in Indonesia. Foreign tax subjects, both individuals and entities, are also taxpayers because they receive and/or earn income originating from Indonesia or receive and/or obtain 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 the Taxpayer Identification Number (NPWP).

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

- a. Domestic taxpayers are subject to tax on income either received or earned from Indonesia or from outside Indonesia, while foreign taxpayers are subject to tax only on income originating from sources of income in Indonesia;
- b. Domestic taxpayers are taxed based on net income at the general rate, while foreign taxpayers are taxed based on gross income at the equivalent tax rate; and
- c. Domestic taxpayers are required to submit an annual income tax return as a means to determine the tax payable in a tax year, while foreign taxpayers are not required to submit an annual income tax return because their tax obligations are met through final tax withholding.

For foreign taxpayers who run a business or carry out activities through a permanent establishment in Indonesia, the fulfillment of their tax obligations is equivalent to the fulfillment of the tax obligations of domestic corporate taxpayers as regulated in this Law and the law that regulates general provisions and procedures. taxation.

**Sentence (3)**

Letter A

In principle, individuals who are subject to domestic taxes are individuals who reside or are in Indonesia. Included in the definition of an individual who resides in Indonesia are those who have the intention to reside in Indonesia. Whether a person has the intention to reside in Indonesia is weighed according to the circumstances.

The presence of an individual in Indonesia for more than 183 (one hundred and eighty three) days does not have to be consecutive, but is determined by the number of days the person is in Indonesia within a period of 12 (twelve) months from his arrival in Indonesia.

Letter b

Quite clear.

The letter c

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

When the inheritance has been divided, the taxation obligation shifts to the heirs.

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

**Sentence (4)**

Foreign tax subjects are individuals or entities residing or domiciled outside Indonesia who can receive or earn income from Indonesia, either through or without a permanent establishment. An individual who does not reside in Indonesia, but stays in Indonesia for not more than 183 (one hundred and eighty three) days within a period of 12 (twelve) months, then that person is a foreign tax subject.

If income is received or earned through a permanent establishment, then the individual or entity is taxed through the permanent establishment. Individuals or entities, the status remains as a foreign tax subject. Thus, the permanent establishment replaces an individual or entity as a foreign tax subject in fulfilling their tax obligations in Indonesia. In the event that the income is received or earned without going

through a permanent establishment, the tax is imposed directly on the foreign tax subject.

#### **Sentence (5)**

A permanent establishment implies the existence of a *place of business*, namely facilities that can be in the form of land and buildings including machinery, equipment, warehouses and computers or electronic agents or *automated equipment* that are owned, leased, or used by electronic transaction operators to carry out business activities via the internet.

The place of business is permanent and is used to run a business or carry out the activities of an individual who does not reside or an entity that is not established and is not domiciled in Indonesia.

The definition of a permanent establishment also includes an individual or entity as an agent whose position is not independent who acts for and on behalf of an individual or entity who is not domiciled or domiciled in Indonesia. An individual who does not reside or an entity that is not established and is not domiciled in Indonesia cannot be considered to have a permanent establishment in Indonesia if the individual or entity in carrying out business or carrying out activities in Indonesia uses an agent, broker or intermediary who has an independent status, provided that the agent or intermediary is in fact acting fully in the course of running his own company.

An insurance company established and domiciled outside Indonesia is considered to have a permanent establishment in Indonesia if the insurance company receives insurance premium payments or bears risks in Indonesia through its employees, representatives or agents in Indonesia. Bearing the risk in Indonesia does not mean that the event giving rise to the risk occurs in Indonesia. It is important to note that the insured party resides, resides, or is domiciled in Indonesia.

#### **Sentence (6)**

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

Basically the place of residence of an individual or the seat of the body is determined according to the actual situation. Thus the determination of the place of residence or domicile is not only based on formal considerations, but is more based on reality.

There are several things that need to be considered by the Director General of Taxes in determining the place of residence of a person or the place of domicile of the agency, including domicile, residential address, family residence, place of running the main business or other things that need to be considered to facilitate the fulfillment of tax obligations. .

#### **Related Rules**

There are no related regulations.

### **Article 2A**

- (1) The subjective tax liability of an individual as referred to in Article 2 paragraph (3) letter a begins when the individual is born, resides, or intends to reside in Indonesia and ends when he dies or leaves Indonesia for good. \*\*)
- (2) The corporate subjective tax liability as referred to in Article 2 paragraph (3) letter b begins when the entity is established or domiciled in Indonesia and ends when it is dissolved or no longer domiciled in Indonesia. \*\*)
- (3) The subjective tax liability of an individual or entity as referred to in Article 2 paragraph (4) letter a begins when the individual or entity runs a business or carries out activities as referred to in Article 2 paragraph (5) and ends when it is no longer running a business or conducting business. activities through a permanent establishment. \*\*)
- (4) The subjective tax liability of an individual or entity as referred to in Article 2 paragraph (4) letter b begins when the individual or entity receives or derives income from Indonesia and ends when the individual or entity no longer receives or derives such income. \*\*)
- (5) The subjective tax obligation of undivided inheritance as referred to in Article 2 paragraph (1) letter a number 2) begins at the time the undivided inheritance arises and ends when the inheritance is completed. \*\*)
- (6) If the subjective tax liability of an individual residing or residing in Indonesia only covers a part of the tax year, then that part of the tax year replaces the tax year. \*\*)

#### **Explanation of Article 2A**

Income Tax is a type of subjective tax whose tax obligations are attached to the Tax Subject in question, meaning that the tax liability is intended not to be delegated to other Tax Subjects. Therefore, in order to provide legal certainty, the determination of the start and end of subjective tax obligations is important.

**Sentence (1)**

The subjective tax liability of an individual residing in Indonesia begins when he or she is born in Indonesia. For an individual who is in Indonesia for more than 183 (one hundred and eighty three) days within a period of 12 (twelve) months, his subjective tax liability begins on the first day he is in Indonesia. The subjective tax liability of an individual ends when he dies or leaves Indonesia for good.

The meaning of leaving Indonesia for good must be related to things that are real when the individual leaves Indonesia. If at the time he leaves Indonesia there is clear evidence of his intention to leave Indonesia for good, then at that time he is no longer a domestic Tax Subject.

**Sentence (2)**

Quite clear.

**Sentence (3)**

For individuals who do not reside and stay in Indonesia for not more than 183 (one hundred and eighty three) days, and entities that are not established and do not have their domicile in Indonesia, who carry on business or carry out activities in Indonesia through a permanent establishment, the obligation The subjective tax starts when the permanent establishment is in Indonesia and ends when the permanent establishment is no longer in Indonesia.

**Sentence (4)**

Individuals who do not reside or are in Indonesia for not more than 183 (one hundred and eighty three) days and entities that are not established and do not have their domicile in Indonesia and do not carry out business or carry out activities through a permanent establishment in Indonesia, are foreign Tax Subjects. country as long as the individual or entity has economic relations with Indonesia. Economic relations with Indonesia are deemed to exist if the individual or entity receives or derives income from sources of income in Indonesia.

The subjective tax liability of an individual or entity begins when the individual or entity has economic relations with Indonesia, namely receiving or obtaining income from sources in Indonesia and ends when the individual or entity no longer has an economic relationship with Indonesia.

**Sentence (5)**

Subjective tax liability of undivided inheritance begins at the time the undivided inheritance arises, namely at the time of the death of the testator. Since then the fulfillment of his tax obligations is attached to the inheritance. The subjective tax liability of inheritance ends when the inheritance is divided among the heirs. Since then, the fulfillment of tax obligations has shifted to the heirs.

**Sentence (6)**

It may happen that an individual becomes a Tax Subject not for a full tax year period, for example an individual who begins to become a Tax Subject in the middle of the tax year, or who leaves Indonesia permanently in the middle of the tax year. The period of less than one tax year is called the portion of the tax year that replaces the tax year.

**Related Rules**

There are no related regulations.

**Article 3**

(1) What does not include tax subjects as referred to in Article 2 are:

- a. foreign country representative office;
- b. diplomatic and consular representative officials or other officials from foreign countries and persons seconded to those who work for and reside with them on condition that they are not Indonesian citizens and do not receive or earn income outside their office in Indonesia. or the work and the country concerned provide reciprocal treatment;
- c. international organizations provided that:
  - 1. Indonesia is a member of the organization; and
  - 2. not running a business or other activity to earn income from Indonesia other than providing loans to the government whose funds come from member contributions;
- d. representatives of international organizations as referred to in letter c, provided that they are not Indonesian citizens and do not carry out business, activities, or other work to earn income from Indonesia. \*\*\*\*\*)

(2) International organizations that are not tax subjects as referred to in paragraph (1) letter c shall be

stipulated by a Decree of the Minister of Finance. \*\*\*\*)

### **Explanation of Article 3**

#### **Sentence (1)**

In accordance with international conventions, representative offices of foreign countries along with officials of diplomatic representatives, consulates and other officials are exempted from being tax subjects at the place where they represent their country.

Exemption as a tax subject for those officials does not apply when they earn other income outside their position or they are Indonesian Citizens.

Thus, if a representative official of a foreign country earns other income in Indonesia outside of his/her position or work, then he/she is a subject of tax which may be subject to tax on said other income.

#### **Sentence (2)**

Quite clear.

### **Related Rules**

There are no related regulations.

## **BAB III TAX OBJECT**

### **Article 4**

- (1) The object of tax is income, namely any additional economic capacity received or obtained by the Taxpayer, both from Indonesia and from outside Indonesia, which can be used for consumption or to increase the wealth of the Taxpayer concerned, in whatever name and form. , including: a. compensation or remuneration in connection with work or services received or obtained including salaries, wages, allowances, honoraria, commissions, bonuses, gratuities, pensions, or other forms of remuneration including in-kind and/or enjoyment, unless otherwise provided for in this Law ;
- b. prizes from sweepstakes or work or activities, and awards;
  - c. operating profit;
  - d. gains due to sale or transfer of property including:
    - 1. gains due to the transfer of assets to a company, partnership, and other entity as a substitute for shares or equity participation;
    - 2. profits due to the transfer of assets to shareholders, partners, or members obtained by companies, partnerships and other entities;
    - 3. gains due to liquidation, merger, consolidation, expansion, split, takeover, or reorganization in any name and in any form;
    - 4. gains due to the transfer of assets in the form of grants, assistance, or donations, except for those given to blood relatives in a straight line of one degree and religious bodies, educational bodies, social institutions including foundations, cooperatives, or private individuals who run micro and small businesses, as long as there is no relationship with the business, employment, ownership, or control between the parties concerned; and
    - 5. profit due to sale or transfer of part or all of mining rights, sign of participation in financing, or capital in mining companies;
  - e. Receipt of tax payments that have been charged as fees and additional payment of tax refunds;
  - f. interest including premiums, discounts, and rewards for guaranteed debt repayments; g. dividends in any name and form, including dividends from insurance companies to policyholders;
  - h. royalties or fees for the use of rights;
  - i. rent and other income in relation to the use of property;
  - j. receipt or acquisition of periodic payments;
  - k. gains due to debt relief, except up to a certain amount stipulated by a Government Regulation; l. foreign exchange gains;
  - m. excess difference due to asset revaluation;

- n. insurance premium;
- o. contributions received or obtained by the association from its members consisting of taxpayers who run a business or work independently;
- p. additional net assets originating from income that has not been taxed;
- q. income from sharia-based businesses;
- r. interest compensation as referred to in the Law governing general provisions and taxation procedures; and
- s. surplus Bank Indonesia. \*\*\*\*\*)

(1a) Excepted from the provisions as referred to in paragraph (1), foreign citizens who have become domestic tax subjects are subject to Income Tax only on income received or earned from Indonesia with the following provisions:

a. have certain expertise in accordance with the provisions of the legislation; and b. valid for 4 (four) tax years calculated from becoming a domestic tax subject. \*\*\*\*\*) (1b) Included in the definition of income received or obtained from Indonesia as referred to in paragraph (1a) in the form of income received or earned by foreign nationals in connection with work, services, or activities in Indonesia under the name and in any form paid outside Indonesia. \*\*\*\*\*)

(1c) The provisions as referred to in paragraph (1a) do not apply to foreign citizens who take advantage of the Double Taxation Avoidance Agreement between the Indonesian government and the government of a partner country or the partner jurisdiction of the Double Taxation Avoidance Agreement where foreign citizens earn income from outside Indonesia. \*\*\*\*\*)

(1d) Deleted. \*\*\*\*\*)

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

- a. income in the form of interest on deposits and other savings, interest on bonds and government bonds, interest or discount on short-term securities traded on the money market, and interest on deposits paid by cooperatives to individual cooperative members;
- b. income in the form of lottery prizes;
- c. income from share and other securities transactions, derivative transactions traded on the exchange, and share sales transactions or transfer of capital participation in partner companies received by venture capital companies;
- d. income from property transfer transactions in the form of land and/or buildings, construction service businesses, real estate businesses, and land and/or building rentals; and e. other certain income, including income from business received or earned by the Taxpayer having a certain gross turnover, regulated in or based on a Government Regulation. \*\*\*\*\*)

(3) What is excluded from the tax object are:

- a. 1. assistance or donations, including zakat, infaq, and alms received by amil zakat agencies or amil zakat institutions established or legalized by the government and received by eligible zakat recipients or religious donations that are mandatory for adherents of a recognized religion in Indonesia, which received by a religious institution established or ratified by the government and accepted by the rightful recipient of donations, the provisions of which are regulated by or based on a Government Regulation; and
- 2. grant property received by blood families in the direct lineage of one degree, religious bodies, educational bodies, social bodies including foundations, cooperatives, or private individuals who run micro and small businesses, as long as there is no relationship with the business, employment, ownership, or control between the parties concerned;
- b. inheritance;
- c. property includes cash deposits received by the body as referred to in Article 2 paragraph (1) letter b as a substitute for shares or as a substitute for capital participation;
- d. compensation or remuneration in connection with work or services received or obtained in kind and/or enjoyment, including:
  - 1. food, foodstuffs, beverages, and/or beverages for all officers;
  - 2. natura and/or enjoyment provided in certain areas;
  - 3. in kind and/or enjoyment that must be provided by the employer in carrying out the work;
  - 4. in kind and/or enjoyment sourced or financed by the State Revenue and Expenditure Budget, the Regional Revenue and Expenditure Budget, and/or the Village Revenue and Expenditure

Budget; or

5. in kind and/or enjoyment with certain types and/or limitations;

e. payments from insurance companies due to accident, illness, or death of the insured person, and scholarship insurance payments;

f. dividends or other income with the following conditions:

1. dividends originating from within the country received or obtained by the Taxpayer: a) a domestic individual as long as the dividend is invested in the territory of the Unitary State of the Republic of Indonesia within a certain period of time; and/or

b) domestic bodies;

2. dividends originating from abroad and income after tax from a permanent establishment abroad received or obtained by a domestic corporate Taxpayer or a domestic individual Taxpayer, as long as it is invested or used to support other business activities in the territory of the Unitary State of the Republic of Indonesia. within a certain period of time, and meet the following requirements:

a) the dividends and after-tax income invested are at least 30% (thirty percent) of the profit after tax; or

b) dividends originating from overseas business entities whose shares are not traded on the stock exchange are invested in Indonesia before the Director General of Taxes issues a tax assessment letter on said dividends in connection with the application of Article 18 paragraph (2) of this Law;

3. dividends originating from abroad as referred to in number 2 are:

a) dividends distributed are from overseas business entities whose shares are traded on the stock exchange; or

b) dividends distributed are from overseas business entities whose shares are not traded on the stock exchange in accordance with the proportion of share ownership;

4. in the event that dividends as referred to in number 3 letter b) and income after tax from a permanent establishment abroad as referred to in number 2 are invested in the territory of the Unitary State of the Republic of Indonesia less than 30% (thirty percent) of the total profit after tax as referred to in paragraph (1). referred to in number 2 letter a) the following provisions apply:

a) on the dividends and income after tax invested, are excluded from the imposition of Income Tax;

b) on the difference of 30% (thirty percent) of profit after tax less dividends and/or income after tax invested as referred to in letter a) is subject to Income Tax; and c) on the remaining profit after tax deducted by dividends and/or income after tax invested as referred to in letter a) as well as on the difference as referred to in letter b), is not subject to Income Tax;

5. in the case of dividends as referred to in number 3 letter b) and income after tax from a permanent establishment abroad as referred to in number 2, are invested in the territory of the Unitary State of the Republic of Indonesia in the amount of more than 30% (thirty percent) of the total profit after tax as referred to in number 2 letter a) the following provisions apply:

a) the dividends and after-tax income invested are excluded from the imposition of Income Tax; and

b) on the remaining after-tax profit less dividends and/or after-tax income invested as referred to in letter a), is not subject to Income Tax;

6. In the event that dividends originating from overseas business entities whose shares are not traded on a stock exchange are invested in Indonesia after the Director General of Taxes issues a tax assessment letter on the dividends in connection with the application of Article 18 paragraph (2) of this Law, the said dividends are not exempt. from the imposition of Income Tax as referred to in number 2;

7. the imposition of Income Tax on income from abroad not through a permanent establishment received or obtained by a domestic corporate Taxpayer or a domestic individual Taxpayer is exempted from the imposition of Income Tax in the event that the income is invested in the territory of the Unitary State of the Republic of Indonesia within a certain period of time and meet the following requirements:

- a) income comes from active business abroad; and
  - b) not income from companies owned overseas;
8. tax on income that has been paid or payable abroad on income as referred to in number 2 and number 7, the following provisions apply:
- a) cannot be calculated with Income Tax payable;
  - b) cannot be charged as an expense or as a deduction from income; and/or c) non-refundable tax overpayment cannot be requested;
- 9 in the event that the Taxpayer does not invest the income within a certain period of time as referred to in number 2 and number 7, the following provisions shall apply:
- a) income from abroad is income in the tax year earned; and
  - b) Tax on income that has been paid or payable abroad on such income is a tax credit as referred to in Article 24 of this Law;
10. deleted;
- g. contributions received or obtained by a pension fund whose establishment has been approved by the Financial Services Authority, whether paid by the employer or employee;
  - h. income from the capital invested by the pension fund as referred to in letter g, in certain fields; i. a share of profits or the remainder of the operating results received or obtained by members of cooperatives, limited liability companies whose capital is not divided into shares, partnerships, associations, firms, and joint ventures, including holders of participation units in collective investment contracts;
  - j. deleted;
  - k. income received or earned by a venture capital company in the form of a share of profits from a business partner entity established and running a business or activity in Indonesia, provided that the business partner entity:
    - 1. is a micro, small and medium company, or which carries out activities in business sectors regulated by or based on a Regulation of the Minister of Finance; and
    - 2. its shares are not traded on a stock exchange in Indonesia;
  - l. scholarships that meet certain requirements;
  - m. the excess received or obtained by a non-profit agency or institution engaged in education and/or research and development, which has been registered with the agency in charge of it, which is reinvested in the form of facilities and infrastructure for educational and/or research and development activities, within a short period of time. a maximum of 4 (four) years since the excess is obtained;
  - n. assistance or compensation paid by the Social Security Administrative Body to certain Taxpayers;
  - o. funds for the deposit of Hajj Organizing Fees (BPIH) and/or special BPIH, and income from the development of Hajj finance in certain financial fields or instruments, received by the Hajj Financial Management Agency (BPKH); and
  - p. surplus received/obtained by a social and/or religious agency or institution registered with the agency in charge of it, which is reinvested in the form of social and religious facilities and infrastructure within a maximum period of 4 (four) years from the time the excess is obtained, or placed as an endowment. \*\*\*\*\*)

## **Explanation of Article 4**

### **Sentence (1)**

This Law adheres to the principle of taxation of income in a broad sense, namely that tax is imposed on any additional economic capacity received or obtained by the Taxpayer from wherever it originates which can be used for consumption or to increase the wealth of the Taxpayer.

The definition of income in this Law does not pay attention to the existence of income from certain sources, but to the presence of additional economic capacity. The additional economic capacity received or obtained by the Taxpayer is the best measure of the ability of the Taxpayer to jointly bear the costs required by the government for routine and development activities.

Judging from the flow of additional economic capacity to taxpayers, income can be grouped into:

- i. income from work in an employment relationship and independent work such as salary, honorarium, and income from the practice of doctors, notaries, actuaries, accountants, lawyers, and so on;

- ii. income from business and activities;
- iii. income from capital, in the form of movable property or immovable property, such as interest, dividends, royalties, rent, and profit from the sale of property or rights that are not used for business; and
- iv. other income, such as debt relief and gifts.

Judging from its use, income can be used for consumption and can also be saved to increase the wealth of the taxpayer.

Because this Law adopts a broad definition of income, all types of income received or earned in a tax year are combined to obtain a tax base. Thus, if in one tax year a business or activity suffers a loss, the loss is compensated with other income (horizontal compensation), except for losses suffered abroad. However, if a type of income is taxed at a final rate or is excluded from the object of taxation, then such income may not be combined with other income subject to general rates.

The sample income referred to in this provision is intended to clarify the definition of a broad income which is not limited to the said sample.

#### Letter A

All payments or benefits related to work, such as wages, salaries, life insurance premiums, and health insurance paid by the employer, or other forms of remuneration are subject to tax. The definition of remuneration in other forms includes rewards in kind and/or enjoyment which is essentially income.

In addition, the definition of income includes gratification which is a fair gift because of the services and benefits received by the gratuity giver in connection with the implementation of work or the provision of services.

What is meant by "reward in kind" is remuneration in the form of goods other than money, while "reward in the form of enjoyment" is compensation in the form of the right to use a facility and/or service.

#### Letter b

In the sense of prizes including prizes from sweepstakes, work, as well as activities such as savings lottery prizes and prizes from sports competitions.

What is meant by "award" is the reward given in connection with certain activities, for example, the reward received in connection with the discovery of archaeological objects. The letter c

Quite clear.

#### The letter d

If the Taxpayer sells the property at a price higher than the book value or higher than the acquisition price or value, the difference in price is a gain. In the event that the sale of the property occurs between a business entity and its shareholders, the selling price used as the basis for calculating the profit from the sale is the market price.

For example, PT S owns a car that is used in its business activities with a book value of IDR 40,000,000.00 (forty million rupiah). The car is sold at a price of Rp. 60,000,000.00 (sixty million rupiah). Thus, the profit of PT S obtained from the sale of the car is Rp. 20,000,000.00 (twenty million rupiah). If the car is sold to one of its shareholders at a price of Rp. 55,000,000.00 (fifty five million rupiah), the selling value of the car is still calculated based on the market price of Rp. 60,000,000.00 (sixty million rupiah). The difference of Rp.20,000,000.00 (twenty million rupiahs) is profit for PT S and for the shareholders who bought the car, the difference of Rp.5,000,000.00 (five million rupiahs) is income.

If an entity is liquidated, the gain from the sale of assets, namely the difference between the selling price based on the market price and the remaining book value of the property, is subject to tax. Likewise, the excess difference between the market price and the remaining book value in the event of a merger, consolidation, expansion, split, and business takeover constitutes income.

In the event of a transfer of property as a substitute for shares or equity participation, the gain in the form of the difference between the market price of the property handed over and its book value shall constitute income.

Gains in the form of the difference between the market price and the acquisition value or the residual book value on the transfer of assets in the form of grants, assistance, or donations constitute income for the transferor unless the property is donated to blood relatives in a straight line of one degree. Likewise, profits in the form of the difference between the market price and the

acquisition value or book value on the transfer of assets in the form of assistance or donations and grants to religious bodies, educational bodies, social institutions including foundations, cooperatives, or private individuals who run micro and small businesses are not income, as long as it has nothing to do with business, employment, ownership, or control between the parties concerned.

In the event that the Taxpayer who owns the mining rights transfers part or all of the rights to another Taxpayer, the profits obtained are tax objects.

#### Letter e

Tax refunds that have been charged as expenses when calculating the Taxable Income are tax objects.

For example, Land and Building Tax that has been paid and charged as an expense, which for some reason is returned, then the amount of the refund is income.

#### The letter f

In terms of interest, it also includes premiums, discounts, and rewards in connection with debt repayment guarantees.

Premium occurs when, for example, bonds are sold above their par value, while a discount occurs when bonds are purchased below their par value. The premium is income for those who issue bonds and the discount is income for those who buy bonds.

#### The letter g

Dividends are part of the profits earned by shareholders or insurance policy holders.

Included in the definition of dividends are:

- 1) distribution of profits, either directly or indirectly, by name and in any form; 2) repayment due to liquidation that exceeds the amount of paid-in capital; 3) the awarding of bonus shares without deposit, including bonus shares derived from the capitalization of premium shares;
- 4) profit sharing in the form of shares;
- 5) recording of additional capital made without deposit;
- 6) an amount that exceeds the number of paid-in shares received or obtained by the shareholders due to the repurchase of shares by the company concerned;
- 7) full or partial repayment of the paid-up capital, if profits were made in past years, unless the repayment is the result of a legal reduction of the authorized (statutory) capital; 8) payments in respect of the tokens of profit, including those received as redemption for the tokens of profit;
- 9) share of profits in connection with the ownership of bonds;
- 10) the share of profits received by the policyholder;
- 11) company expenses for the personal needs of shareholders which are charged as company expenses.

In practice, it is often found that the distribution or payment of dividends is covert, for example in the case of shareholders who have fully paid up their capital and provided loans to the company in return for interest that exceeds reasonableness. If this is the case, the excess difference between the interest paid and the interest rate prevailing in the market is treated as a dividend. The portion of interest that is treated as dividends may not be charged as an expense by the company concerned.

#### The letter h

Royalty is an amount paid or payable in any way or calculation, whether periodically or not, in return for:

1. the use or right to use copyright in the field of literature, art 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 equipment/equipment;
3. providing knowledge or information in scientific, technical, industrial, or commercial fields;
4. providing additional or complementary assistance in connection with the use or right to use the rights referred to in point 1, the use or right to use the equipment/equipment referred to in number 2, or the provision of such knowledge or information in number 3, in the form of:

- a) acceptance or the right to receive image recordings or sound recordings or both, which are distributed to the public via satellite, cable, fiber optic, or similar technology;
  - b) the use or right to use image recordings or sound recordings or both, for television or radio broadcasts broadcast/transmitted via satellite, cable, fiber optic, or similar technology;
  - c) use or right to use part or all of the radio communication spectrum;
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 wholly or partly rights relating to the use or granting of intellectual/industrial property rights or other rights as mentioned above.

The letter i

In terms of rent, it includes compensation received or obtained in any name and in any form in connection with the use of movable property or immovable property, such as car rental, office rental, house rental, and warehouse rental.

The letter j

Receipt in the form of periodic payments, such as "alimention" or a lifetime allowance that is paid repeatedly within a certain time.

The letter k

Debt relief by the debtor is considered as income for the party who originally owed the debt, while for the debtor it can be charged as an expense.

However, with a Government Regulation it can be stipulated that the exemption of small debtors' debts, for example, Pre-Prosperous Family Business Loans (Kukesra), Farmer Business Loans (KUT), People's Business Credit (KUR), very simple housing loans, and other small loans up to a certain amount are excluded. as a tax object.

Lamb l

Gains earned due to fluctuations in foreign exchange rates are recognized based on the bookkeeping system adopted and carried out in accordance with the principles of Financial Accounting Standards applicable in Indonesia.

The letter m

The excess due to the revaluation of assets as referred to in Article 19 is income.

The letter n

In terms of insurance premiums, including reinsurance premiums.

Letters of

Quite clear.

The letter p

The addition of net assets is essentially an accumulation of income, both taxable and non taxable and non-taxable. If it is known that there is additional net wealth that exceeds the accumulated income that has been taxed and which is not an object of taxation, then the additional net wealth is income.

The letter q

Sharia-based business activities have a different philosophical foundation from conventional business activities. However, income received or earned from such sharia-based business activities remains a tax object according to this Law.

The letter r

Quite clear.

The letter s

Quite clear.

**Sentence (1a)**

Quite clear.

**Sentence (1b)**

Quite clear.

**Sentence (1c)**

Quite clear.

**Sentence (1d)**

Deleted.

**Sentence (2)**

In accordance with the provisions in paragraph (1), the income as referred to in this paragraph is an

object of tax. Based on considerations, among others:

- the need for encouragement in the context of the development of public investment and savings;
  - simplicity in tax collection;
  - reduced administrative burden for both Taxpayers and the Directorate General of Taxes; - equity in the imposition of taxes; and
  - pay attention to economic and monetary developments,
- on these incomes need to be given separate treatment in the imposition of taxes.

Separate treatment in the imposition of taxes on these types of income, including the nature, amount, and procedures for the implementation of payments, withholding, or collection is regulated in a Government Regulation.

The bonds referred to in this paragraph include debt securities with maturities of more than 12 (twelve) months, such as *Medium Term Notes* , *Floating Rate Notes* with maturities of more than 12 (twelve) months.

The Government Securities referred to in this paragraph include State Bonds and State Treasury Bills.

### **Sentence (3)**

#### Letter A

Assistance or donation for the party receiving it is not an object of 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. Zakat, infaq, and alms received by amil zakat agencies or amil zakat institutions established or legalized by the government and eligible zakat recipients as well as religious donations that are mandatory for adherents of other religions recognized in Indonesia received by religious institutions formed or approved by the government and received by eligible recipients of donations are treated the same as aid or donations. What is meant by "zakat" is zakat as referred to in the law governing zakat.

A business relationship between the giving and receiving parties can occur, for example PT A as a producer of a type of goods whose main raw materials are produced by PT B. If PT B contributes raw materials to PT A, the donation of raw materials received by PT A is an object tax.

Gift property for the receiving party is not a tax object when it is received by a blood family in the direct bloodline of one degree, and by religious bodies, educational bodies, or social bodies including foundations or private individuals who run micro and small businesses including cooperatives, as long as they are received not in the framework of working relationships, business relationships, ownership relationships, or control relationships between the parties concerned.

#### Letter b

Quite clear.

#### The letter c

In principle, assets, including cash deposits, received by the agency are an additional economic capability for the agency. However, because the assets are received as a substitute for shares or equity participation, then based on this provision, the assets received are not tax objects. The letter d

Certain areas are areas that meet the criteria, including remote areas, namely areas that economically have the potential to be feasible to develop but the condition of economic infrastructure is generally inadequate and difficult to reach by public transportation, either by land, sea or air, so as to change the economic potential available as a real economic strength, investors bear a fairly high risk and a relatively long payback period, including marine waters that have a depth of more than 50 (fifty) meters whose seabed has mineral reserves.

#### Letter e

Compensation or compensation received by an individual from an insurance company in connection with health insurance policies, accident insurance, life insurance, endowment insurance, and scholarship insurance, are not tax objects. This is in line with the provisions in Article 9 paragraph (1) letter d, namely that the insurance premium paid by an individual Taxpayer for his own benefit may not be deducted in the calculation of Taxable Income.

#### The letter f

Quite clear.

#### The letter g

The exemption as a tax object under this provision only applies to pension funds whose

establishment has been approved by the Financial Services Authority. What is excluded from the tax object are contributions received from pension participants, either at their own expense or those borne by the employer. Basically, the contributions received by the pension fund are the property of the pension participants, which will be repaid to them on time. The imposition of taxes on these contributions means reducing the rights of pension participants, and therefore these contributions are excluded as tax objects.

The letter h

As referred to in letter g, the exception as a tax object based on this provision only applies to pension funds whose establishment has been approved by the Financial Services Authority. What is excluded from the tax object in this case is income from capital invested in certain fields. Investments by pension funds are intended for development and are funds for repayment to pension participants in the future, so that such investments need to be directed to areas that are not speculative or high risk.

The letter i

For the purpose of taxation, the entities as referred to in this provision which constitute a collection of their members are taxed as a single entity, namely at the agency level. Therefore, the share of profits or the remainder of the operating results received by the members of the agency is no longer an object of tax.

The letter j

Quite clear.

The letter k

What is meant by "venture capital company" is a company whose business activities finance a business entity (as a business partner) in the form of equity participation for a certain period of time. Based on this provision, the share of profits received or obtained from a business partner company is not included as a tax object, provided that the partner company is a micro, small, medium-sized company, or that runs a business or carries out activities in certain sectors as determined by the Minister. The company's finances, and shares are not traded on a stock exchange in Indonesia.

If the venture capital company's business partner fulfills the provisions as referred to in paragraph (3) letter f, the dividends received or earned by the venture capital company are not tax objects.

So that the activities of venture capital companies can be directed to sectors of economic activity that receive priority to be developed, for example to increase non-oil and gas exports, the business or activities of the business partner companies are regulated by the Minister of Finance.

Considering that venture capital companies are an alternative to financing in the form of equity participation, the capital investments that will be made by venture capital companies are directed at companies that do not yet have access to the stock exchange.

Lamb l

Quite clear.

The letter m

That in order to support efforts to improve the quality of human resources through education and/or research and development, adequate facilities and infrastructure are needed. For this reason, it is deemed necessary to provide tax facilities in the form of exemption from taxation on the surplus received or obtained as long as the surplus is reinvested in the form of development and procurement of facilities and infrastructure for the said activity. The replanting of the said surplus must be realized no later than 4 (four) years after the surplus is received or obtained.

To ensure the achievement of the purpose of providing this facility, the institution or agency providing education must be non-profit. The education and research and development held are open to anyone and have been approved by the agency in charge of them.

The letter n

Assistance or compensation provided by the Social Security Administering Body (BPJS) to certain taxpayers is social assistance provided specifically to taxpayers or members of the public who are unable or are experiencing natural disasters or afflicted by calamities. Letters of

Quite clear.

The letter p

Quite clear.

## Related Rules

There are no related regulations.

## Article 5

- (1) The Tax Objects of a permanent establishment are:
  - a. income from the business or activities of the permanent establishment and from assets owned or controlled;
  - b. income from the head office from businesses or activities, sales of goods, or the provision of services in Indonesia that are similar to those carried out or carried out by a permanent establishment in Indonesia;
  - c. income as referred to in Article 26 received or earned by the head office, provided that there is an effective relationship between the permanent establishment and the assets or activities that provide the said income. \*\*)
- (2) Expenses related to income as referred to in paragraph (1) letter b and letter c can be deducted from the income of a permanent business. \*\*)
- (3) In determining the profit of a permanent establishment:
  - a. Head office administration fees that are allowed to be charged are costs related to the business or activities of a permanent establishment, the amount of which is determined by the Director General of Taxes;
  - b. payments to the head office that are not allowed to be charged as fees are: 1. royalties or other rewards in connection with the use of property, patents, or other rights; 2. compensation in connection with management services and other services; 3. interest, except interest related to banking business;
  - c. the payment as referred to in letter b received or obtained from the head office is not considered as a Tax Object, except for interest related to banking business. \*\*)

### Explanation of Article 5

An individual who does not reside or an entity that is not established and is not domiciled in Indonesia that runs a business or carries out activities through a permanent establishment in Indonesia, shall be taxed in Indonesia through that permanent establishment.

#### Sentence (1)

##### Letter A

Permanent establishments are subject to tax on income derived from businesses or activities and from assets owned or controlled by them. Thus, all such income is subject to tax in Indonesia.

##### Letter b

Based on this provision, the income of the head office originating from business or activities, the sale of goods and the provision of services, which are similar to those carried out by the permanent establishment shall be considered as income of the permanent establishment, because in essence the business or activity is included in the scope of business or activity and can be carried out by a permanent establishment.

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

Sales of goods similar to those sold by the permanent establishment, for example overseas head office having a permanent establishment in Indonesia sells the same products as the products sold by the permanent establishment directly without going through the permanent establishment to buyers in Indonesia.

The provision of services by the head office that is similar to the services provided by the permanent establishment, for example, the head office of a consulting firm outside Indonesia provides consultations similar to the types of services provided by the permanent establishment directly without going through the permanent establishment to clients in Indonesia.

##### The letter c

Income as referred to in Article 26 received or earned by the head office is considered as income from a permanent establishment in Indonesia, if there is an effective relationship between the assets or activities that provide income and the permanent establishment. For example, X Inc. close the license agreement with PT Y to use the trademark X Inc. For the use of these rights X Inc. receive compensation in the form of royalties from PT Y. In connection with the agreement X

Inc. also provides management services to PT Y through a permanent establishment in Indonesia, in the context of marketing PT Y's products using the trademark. In such case, PT Y's use of the trademark has an effective relationship with the permanent establishment in Indonesia, and therefore the income of X Inc.

**Sentence (2)**

Quite clear.

**Sentence (3)**

Letter A

Administrative costs incurred by the head office as long as they are used to support the business or activities of the permanent establishment in Indonesia, may be deducted from the income of the permanent establishment. The types and amounts of fees that may be deducted are determined by the Director General of Taxes.

Letter b and letter c

Basically, the permanent establishment is an integral part of its head office, so that payments by the permanent establishment to its head office, such as royalties for the use of the assets of the head office, constitute the circulation of funds within one company. Therefore, based on this provision, payments for the permanent establishment to its head office in the form of royalties, fees for services, and interest 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, the payment in the form of loan interest can be charged as a fee.

As a consequence of such treatment, similar payments received by the permanent establishment from its head office are not considered as Taxable Objects, except for interest received by the permanent establishment from its head office relating to banking business.

**Related Rules**

There are no related regulations.

**Article 6**

- (1) The amount of Taxable Income for resident Taxpayers and permanent establishments, is determined based on gross income less costs to earn, collect, and maintain income, including:
- a. costs that are directly or indirectly related to business activities, including:
    - 1. the cost of 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, rent, and royalties;
    - 4. travel expense;
    - 5. waste treatment costs;
    - 6. insurance premium;
    - 7. promotion and sales costs;
    - 8. administrative costs; and
    - 9. taxes except Income Tax;
  - b. depreciation of expenses to acquire tangible assets and amortization of expenses to obtain rights and other costs that have a 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 the sale or transfer of property owned and used in the company or held to earn, collect, and maintain income;
  - e. loss on foreign currency exchange rate difference;
  - f. costs of research and development companies conducted in Indonesia;
  - g. scholarships, internships, and training costs;
  - h. receivables that are clearly uncollectible on the condition that:
    - 1. has been charged as an expense in the commercial income statement;
    - 2. Taxpayers must submit a list of uncollectible receivables to the Directorate General of Taxes; and

3. the collection case has been submitted to the District Court or government agency that handles state receivables; or there is a written agreement regarding the write-off of receivables/debt relief between the creditor and the debtor concerned; or has been published in a general or special publication; or there is an acknowledgment from the debtor that the debt has been written off for a certain amount of debt;
  4. the requirements as referred to in number 3 do not apply to the write-off of bad debts from small debtors as referred to in Article 4 paragraph (1) letter k;
  - i. donations in the context of national disaster management whose provisions are regulated by Government Regulations;
  - j. donations in the context of research and development carried out in Indonesia whose provisions are regulated by Government Regulations;
  - k. the cost of social infrastructure development whose provisions are regulated by a Government Regulation;
  - l. donation of educational facilities whose provisions are regulated by a Government Regulation; m. donations in the framework of sports development whose provisions are regulated by Government Regulations; and
  - n. replacement costs or rewards given in kind and/or enjoyment. \*\*\*\*\*)
- (2) If the gross income after the deduction as referred to in paragraph (1) is a loss, the loss is compensated with income starting from the next tax year in a row up to 5 (five) years. \*\*\*\*\*) (3) Individuals as domestic Taxpayers are given a reduction in the form of Non-Taxable Income as referred to in Article 7. \*\*)

## Explanation of Article 6

### Sentence (1)

Expenses that can be deducted from gross income can be divided into 2 (two) groups, namely expenses or expenses that have a useful life of not more than 1 (one) year and those that have a useful life of more than 1 (one) year. Expenses that have a useful life of not more than 1 (one) year are costs in the relevant year, for example salaries, administrative costs and interest, and routine waste treatment costs, while expenses that have a useful life of more than 1 (one) year are charged through depreciation or through amortization. In addition, if in a tax year there is a loss due to the sale of assets or due to a foreign exchange difference, the loss can be deducted from the gross income.

#### Letter A

The costs referred to in this paragraph are commonly referred to as daily costs that may be charged in the year of expenditure.

To be charged as an expense, the expenditure must have a direct or indirect relationship with business activities or activities to obtain, collect, and maintain income which is the object of tax.

Thus, expenses to obtain, collect and maintain income that are not tax objects should not be charged as expenses.

#### Example:

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

a. penghasilan yang bukan merupakan objek pajak sesuai dengan Pasal 4 ayat (3) huruf h	Rp	100.000.000,00
b. penghasilan bruto lainnya sebesar	Rp	300.000.000,00 (+)
Jumlah penghasilan bruto	Rp	400.000.000,00

If the entire cost is Rp200,000,000.00 (two hundred million rupiah), the cost that can be reduced to obtain, collect, and maintain income is  $\frac{3}{4} \times \text{Rp}200,000,000.00 = \text{Rp}150,000,000.00$ .

Likewise, interest on loans used to purchase shares cannot be charged as a fee as long as the dividends received are not taxable as referred to in Article 4 paragraph (3) letter f. The interest on the non-financing loan can be capitalized as an addition to the acquisition price of shares.

Expenditures that are not related to efforts to obtain, collect, and maintain income, such as expenses for the personal needs of shareholders, payment of interest on loans used for the personal needs of the borrower and payment of insurance premiums for personal use, may not be charged as expenses.

Payment of insurance premiums by the employer for the benefit of his employees may be charged as company expenses, but for the employee concerned the premium is income.

Expenditures that can be deducted from gross income must be made within reasonable limits in accordance with good merchant customs. Thus, if the expenditure that exceeds the reasonable

limit is affected by a special relationship, the amount that exceeds the reasonable limit should not be deducted from gross income.

Next, see the provisions in Article 9 paragraph (1) letter f and Article 18 along with their explanations.

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

Regarding expenditures for promotion, it is necessary to distinguish between costs that are actually spent on promotions and costs that are essentially donations. Costs actually incurred for promotion may be deducted from gross income.

Letter b

Expenditures to acquire tangible and intangible assets as well as other expenditures which have a useful life of more than 1 (one) year, are charged through depreciation or amortization.

Next, see the provisions of Article 9 paragraph (2), Article 11, and Article 11A along with their explanations.

Expenditures which by their nature are advance payments, such as rent for several years which are paid at once, can be charged through allocations.

The letter c

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

The letter d

Losses due to the sale or transfer of assets which, according to their original purpose, were not intended to be sold or transferred, which are owned and used in the company or which are owned to earn, collect and maintain income, may be deducted from gross income.

Losses due to the sale or transfer of property that is owned but not used in the company, or that is owned but not used to earn, collect and maintain income, should not be deducted from gross income.

Letter e

Losses due to fluctuations in foreign exchange rates are recognized based on the bookkeeping system adopted and carried out in accordance with the principles of Financial Accounting Standards applicable in Indonesia.

The letter f

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

The letter g

Costs incurred for the purposes of scholarships, internships, and training in order to improve the quality of human resources can be charged as company costs with due regard to fairness, including scholarships that can be charged as costs are scholarships given to students, students, and other parties.

The letter h

Receivables that are clearly uncollectible can be charged as expenses as long as the Taxpayer has recognized it as an expense in the commercial income statement and has made the maximum or final collection effort.

What is meant by publishing does not only mean national-scale publications, but also internal publications of associations and the like.

The letter i

Quite clear.

The letter j

Quite clear.

The letter k

What is meant by "cost of social infrastructure development" is the cost incurred for the purpose of building facilities and infrastructure for the public interest and is non-profit in nature.

Examples of social infrastructure include houses of worship, art and culture studios, and

polyclinics.  
 Lamb I  
 Quite clear.  
 The letter m  
 Quite clear.  
 The letter n  
 Quite clear.

**Sentence (2)**

If the expenses permitted under the provisions of paragraph (1) after being deducted from gross income are obtained losses, such losses are compensated with net income or taxable profit for 5 (five) consecutive years starting from the following year after the year the loss was obtained.

Example:

PT A in 2009 suffered a fiscal loss of Rp.1,200,000,000.00 (one billion two hundred million rupiah). In the following 5 (five) years, the taxable profit and loss of PT A is as follows:

- 2010 : fiscal profit Rp.200,000,000.00
- 2011 : fiscal loss (Rp.300,000,000.00)
- 2012 : fiscal profit Rp N I H I L
- 2013 : fiscal profit IDR 100,000,000.00
- 2014 : fiscal profit Rp800,000,000.00

Compensation for losses is carried out as follows:

Rugi fiskal tahun 2009	Rp	(1.200.000.000,00)
Laba fiskal tahun 2010	Rp	200.000.000,00 (+)
Sisa rugi fiskal tahun 2009	Rp	(1.000.000.000,00)
Rugi fiskal tahun 2011	Rp	(300.000.000,00)
Sisa rugi fiskal tahun 2009	Rp	(1.000.000.000,00)
Laba fiskal tahun 2012	Rp	N I H I L (+)
Sisa rugi fiskal tahun 2009	Rp	(1.000.000.000,00)
Laba fiskal tahun 2013	Rp	100.000.000,00 (+)
Sisa rugi fiskal tahun 2009	Rp	(900.000.000,00)
Laba fiskal tahun 2014	Rp	800.000.000,00 (+)
Sisa rugi fiskal tahun 2009	Rp	(100.000.000,00)

Fiscal loss in 2009 amounting to Rp100,000,000.00 (one hundred million rupiah) remaining at the end of 2014 may no longer be compensated with fiscal profit in 2015, while fiscal loss in 2011 amounting to Rp300,000,000.00 (three hundred million rupiah) is only may be compensated with fiscal profit for 2015 and 2016, because the five-year period starting in 2012 ends at the end of 2016. **Sentence (3)**

In calculating the Taxable Income of a domestic individual Taxpayer, he is given a reduction in the form of Non-Taxable Income (PTKP) based on the provisions as referred to in Article 7.

**Related Rules**

There are no related regulations.

**Article 7**

(1) Non-Taxable Income per year is given at least:

- a. Rp54,000,000.00 (fifty four million rupiah) for an individual Taxpayer;
- b. IDR 4,500,000,000.00 (four million five hundred thousand rupiahs) additional for married Taxpayers;
- c. IDR 54,000,000.00 (fifty four million rupiah) additional for a wife whose income is combined with the husband's income as referred to in Article 8 paragraph (1); and
- d. Rp4.500.000,00 (four million five hundred thousand rupiahs) additional for each member of the blood family and half-blood family in the direct bloodline as well as adopted children, who are fully dependent, a maximum of 3 (three) people for each family. \*\*\*\*\*)

(2) The application of the provisions as referred to in paragraph (1) is determined by the circumstances at the beginning of the tax year or the beginning of the part of the tax year. \*\*\*\*\*)

(2a) Individual Taxpayers who have a certain gross turnover as referred to in Article 4 paragraph (2) letter e are not subject to Income Tax on the share of gross turnover up to Rp. 500,000,000.00 (five hundred million rupiahs) in 1 (one) tax year. \*\*\*\*\*)

(3) Size adjustment:

- a. Non-Taxable Income as referred to in paragraph (1); and

b. the gross turnover limit is not subject to Income Tax as referred to in paragraph (2a), determined by Regulation of the Minister of Finance after consultation with the House of Representatives of the Republic of Indonesia. \*\*\*\*\*)

## Explanation of Article 7

### Sentence (1)

To calculate the amount of Taxable Income of a domestic individual Taxpayer, the net income is reduced by the amount of Non-Taxable Income. In addition to himself, married taxpayers are given additional non-taxable income.

For a Taxpayer whose wife receives or has income combined with her income, the Taxpayer gets additional Non-Taxable Income for a wife of at least Rp.54,000,000.00 (fifty-four million rupiah).

Taxpayers who have family members by blood and by marriage in straight lineage who are fully dependent, for example parents, in-laws, biological children, or adopted children are given additional Non-Taxable Income for a maximum of 3 (three) people. What is meant by "family members who are fully dependent" are family members who have no income and all living expenses are borne by the Taxpayer.

Example:

Taxpayer A has a wife and 4 (four) children. If his wife earns income from an employer that has been deducted with Article 21 Income Tax and the work has nothing to do with the business of her husband or other family members, the amount of Non-Taxable Income given to Taxpayer A is Rp72,000,000.00 {Rp54. 000,000.00 + Rp.4,500,000.00 + (3 x Rp.4,500,000.00)}, while for the wife, at the time of withholding Article 21 Income Tax by the employer, the employer is given Non-Taxable Income in the amount of Rp. 54,000,000.00 (fifty four million rupiah). If the wife's income must be combined with the husband's income, the amount of Non-Taxable Income given to Taxpayer A is Rp.126,000,000.00 (Rp72,000,000.00 + Rp.54,000,000.00).

### Sentence (2)

The calculation of the amount of Non-Taxable Income as referred to in paragraph (1) is determined according to the condition of the Taxpayer at the beginning of the tax year or at the beginning of the part of the tax year.

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

Quite clear.

### Sentence (3)

Based on this provision, the Minister of Finance is given the authority to change the amount:

- a. Non-Taxable Income as referred to in paragraph (1); and
- b. the gross turnover limit is not subject to Income Tax as referred to in paragraph (2a), after consulting with the permanent apparatus of the House of Representatives of the Republic of Indonesia, namely the commission whose duties and authorities are in the fields of finance, banking, and development planning by taking into account economic and monetary developments as well as the development of prices for basic necessities every year.

## Related Rules

There are no related regulations.

## Article 8

- (1) All income or losses for married women at the beginning of the tax year or at the beginning of the tax year, as well as losses from previous years that have not been compensated as referred to in Article 6 paragraph (2) shall be considered as income or losses of her husband, unless the income is solely received or obtained from 1 (one) employer which has been taxed under the provisions of Article 21 and the work has nothing to do with the business or independent work of the husband or other family members. \*\*)
- (2) The income of husband and wife is taxed separately when:
  - a. the husband and wife have lived separately based on the judge's decision;
  - b. required in writing by the husband and wife based on the separation of property and income

agreement; or

- c. desired by the wife who chooses to exercise her own tax rights and obligations. \*\*\*\*) (3) The husband and wife's net income as referred to in paragraph (2) letter b and letter c is subject to Tax based on the combined net income of the husband and wife and the amount of tax that must be paid by each husband and wife is calculated according to the comparison of their net income. \*\*\*\*) (4) The income of a child who is not yet an adult is combined with the income of his parents. \*\*\*\*)

### Elucidation of Article 8

The taxation system based on this Law places the family as an economic unit, meaning that the income or losses of all family members are combined as a single entity subject to taxation and the fulfillment of tax obligations is carried out by the head of the family. However, in certain cases, the fulfillment of the tax obligations is carried out separately.

#### Sentence (1)

Income or losses for married women at the beginning of the tax year or at the beginning of the tax year are considered as income or losses of their husbands and are taxed as a single entity. The merger is not carried out in the event that the wife's income is obtained from work as an employee which has been taxed by the employer, provided that:

- the wife's income is solely obtained from one employer, and
- the wife's income comes from work that has nothing to do with the business or independent work of her husband or other family members.

Example:

Taxpayer A who earns a net income from business of Rp. 100,000,000.00 (one hundred million rupiah) has a wife who is an employee with a net income of Rp. 70,000,000.00 (seventy million rupiah). If the wife's income is obtained from one employer and tax has been deducted by the employer and the work has nothing to do with the business of the husband or other family members, the net income of Rp. 70,000,000.00 (seventy million rupiah) is not combined with the income of A and the tax imposition on the wife's income is final.

If in addition to being an employee, wife A also runs a business, for example a beauty salon with a net income of Rp. 80,000,000.00 (eighty million rupiah), the entire income of the wife is Rp. 150,000,000.00 (Rp. 70,000,000.00 + Rp. 80,000,000.00) is combined with A's income. With the combination, A is subject to tax on net income of Rp. 250,000,000.00 (Rp. 100,000,000.00 + Rp. 70,000,000.00 + Rp. 80,000,000.00). The withholding tax on the wife's income is not final, meaning that it can be credited against the tax payable on the income in the amount of Rp. 250,000,000.00 (two hundred and fifty million rupiahs) which is reported in the Annual Income Tax Return. \*\*\*\*)

#### Sentence (2) and sentence (3)

In the event that the husband and wife are living separately based on the judge's decision, the calculation of the taxable income and the imposition of taxes are carried out separately. If a husband and wife enter into an agreement for the separation of assets and income in writing or if the wife wishes to exercise her own tax rights and obligations, the tax calculation is carried out based on the sum of the husband and wife's net income and each bears a tax burden in proportion to the amount of net income.

Example:

The calculation of tax for husband and wife who entered into a written income separation agreement or if the wife wishes to exercise her own tax rights and obligations is as follows.

From the example in paragraph (1), if the wife runs a beauty salon business, the tax imposition is calculated based on the total income of Rp. 250,000,000.00 (two hundred and fifty million rupiah).

For example, the tax payable on this amount of income is Rp. 27,550,000.00 (twenty seven million five hundred and fifty thousand rupiah) then for each husband and wife the tax imposition is calculated as follows:

- Suami:	$\frac{100.000.000,00}{250.000.000,00}$	x	Rp27.550.000,00	=	Rp11.020.000,00
- Istri:	$\frac{150.000.000,00}{250.000.000,00}$	x	Rp27.550.000,00	=	Rp16.530.000,00

#### Sentence (4)

The income of a child who is not yet an adult, regardless of the source of income and regardless of the nature of his work, is combined with the income of his parents in the same tax year.

What is meant by "minor child" is a child who is not yet 18 (eighteen) years old and has never been

married.

If a minor, whose parents have separated, receives or earns income, the tax imposition is combined with the income of the father or mother based on the actual situation.

## Related Rules

There are no related regulations.

## Article 9

- (1) To determine the amount of Taxable Income for Taxpayers in the state and non-deductible forms of permanent business:
- a. distribution of profits by name and in any form such as dividends, including dividends paid by insurance companies to policyholders, and distribution of the remaining operating results of cooperatives;
  - b. fees charged or incurred for the personal benefit of shareholders, partners, or members; c. formation or cultivation of reserve funds, except:
    1. reserves for bad debts for banks and other business entities that provide credit, leases with option rights, consumer finance companies, and factoring companies calculated based on applicable financial accounting standards with certain limits after coordinating with the Financial Services Authority;
    2. reserves for insurance businesses, including reserves for social assistance established by the Social Security Administering Body;
    3. guarantee proposal for the Deposit Guarantee Board;
    4. reserve for reclamation costs for mining businesses;
    5. reserve for replanting costs for forestry businesses; and
    6. reserve for closing and maintaining industrial waste disposal sites for industrial waste treatment businesses, that meet certain requirements;
  - d. premiums for health insurance, accident insurance, life insurance, endowment insurance, and scholarship insurance, which are paid by an individual taxpayer, unless paid by the employer and the premium is calculated as income for the taxpayer concerned;
  - e. deleted;
  - f. amounts in excess of reasonableness paid to shareholders or to parties with a special relationship in return for work performed;
  - g. assets that are donated, assistance or donations, and inheritance as referred to in Article 4 paragraph (3) letter a and letter b, except for donations as referred to in Article 6 paragraph (1) letter i to letter m and zakat received by the zakat agency. or an amil zakat institution established or legalized by the government or religious donations which are mandatory for adherents of a recognized religion in Indonesia, which are accepted by a religious institution established or legalized by the government, the provisions of which are regulated by or based on a Government Regulation;
  - h. Income tax;
  - i. expenses charged or issued for the personal benefit of the Taxpayer or his dependents; j. salaries paid to members of a partnership, firm, or limited liability company whose capital is not divided into shares;
  - k. administrative sanctions in the form of interest, fines, and increases as well as criminal sanctions in the form of fines relating to the implementation of the provisions of laws and regulations in the field of taxation. \*\*\*\*\*)
- (2) Expenditures to earn, collect, and maintain income that have a useful life of more than 1 (one) year are not allowed to be charged at once, but are charged through depreciation or amortization as referred to in Article 11 or Article 11A. \*\*)

## Explanation of Article 9

### Sentence (1)

Expenditures made by taxpayers can be distinguished between expenditures that are allowed and those that cannot be charged as expenses.

In principle, costs that may be deducted from gross income are costs that have a direct and indirect relationship with a business or activity to obtain, collect, and maintain income which is an object of tax, the burden of which can be carried out in the year of expenditure or during the useful life of the expenditure. Expenditures that may not be deducted from gross income include expenditures which are the use of income or whose amount exceeds the reasonable amount.

Letter A

Distribution of profits in any name and in any form, including dividend payments to owners of capital, distribution of the remaining results of cooperative operations to its members, and dividend payments by insurance companies to policyholders, may not be deducted from the income of the entity that distributes them because the distribution of profits is part of the corporate income which will be taxed under this Law.

Letter b

Non-deductible from the company's gross income are expenses incurred or charged by the company for the personal benefit of shareholders, partners or members, such as repairs to private homes, travel expenses, insurance premiums paid by the company for the personal benefit of shareholders or their families. .

The letter c

Quite clear.

The letter d

Premiums for health insurance, accident insurance, life insurance, endowment insurance, and scholarship insurance that are paid for by an individual taxpayer may not be deducted from gross income, and when the individual receives insurance compensation or compensation, the receipt is not an object of tax. .

If the insurance premium is paid or borne by the employer, then for the employer the payment may be charged as an expense and for the employee concerned it is income which is an object of tax.

Letter e

Deleted.

The letter f

In an employment relationship, it is possible to pay compensation to employees who are also shareholders. Because basically expenses to earn, collect, and maintain income that may be deducted from gross income are expenses that are reasonable in amount in accordance with business practice, based on this provision, the amount that exceeds the reasonable amount may not be charged as an expense.

The fair amount as referred to in this paragraph is an amount that does not exceed the amount that should be issued by the employer as compensation in connection with the work if it is carried out by an unrelated party.

For example, an expert who is a shareholder of an entity provides services to the agency in exchange for Rp. 50,000,000.00 (fifty million rupiah).

If for the same service provided by other equivalent experts, the amount is only Rp. 20,000,000.00 (twenty million rupiah), the amount of Rp. 30,000,000.00 (thirty million rupiah) may not be charged as an expense. For experts who are also shareholders, the amount of Rp. 30,000,000.00 (thirty million rupiahs) is considered as a dividend.

The letter g

Quite clear.

The letter h

What is meant by Income Tax in this provision is Income Tax payable by the Taxpayer concerned.

The letter i

Costs for the personal needs of the Taxpayer or his dependents, are essentially the use of income by the Taxpayer concerned. Therefore these costs should not be deducted from the gross income of the company.

The letter j

Members of firms, partnerships and limited liability companies whose capital is not divided into shares are treated as a single entity, so that there is no compensation as a salary.

Thus, the salary received by members of a partnership, firm, or limited liability company whose capital is not divided into shares, is not a payment that may be deducted from the gross income

of the entity.  
The letter k  
Quite clear.

### **Sentence (2)**

In accordance with business practice, expenditures that have a role in income for several years are charged according to the number of years the expenditure has contributed to income.

In line with the principle of harmonization between expenditures and income, in this provision, expenditures to obtain, collect and maintain income which have a useful life of more than 1 (one) year cannot be deducted as a lump sum for the company in the year of expenditure, but are charged through depreciation and amortization over the period of time. its useful life as regulated in Article 11 and Article 11A.

### **Related Rules**

There are no related regulations.

## **Article 10**

- (1) The acquisition price or sale price in the event of a sale and purchase of assets that is not affected by a special relationship as referred to in Article 18 paragraph (4) is the amount actually issued or received, whereas if there is a special relationship, it is the amount that should have been issued or received. \*\*)
- (2) The acquisition value or sale value in the event of an exchange of assets is the amount that should have been issued or received based on the market price. \*\*)
- (3) The value of the acquisition or transfer of assets transferred in the context of liquidation, merger, consolidation, expansion, splitting, or business acquisition is the amount that should have been issued or received based on the market price, unless stipulated otherwise by the Minister of Finance. \*\*)
- (4) In case of transfer of property:
  - a. who meet the requirements as referred to in Article 4 paragraph (3) letter a and letter b, then the basis of assessment for the recipient of the transfer is the same as the remaining book value of the party making the transfer or the value determined by the Director General of Taxes;
  - b. which does not meet the requirements as referred to in Article 4 paragraph (3) letter a, then the basis of assessment for the recipient of the transfer is the same as the market value of the property. \*\*)
- (5) If there is a transfer of assets as referred to in Article 4 paragraph (3) letter c, then the basis for the valuation of assets for the entity receiving the transfer is the same as the market value of the assets. \*\*)
- (6) Inventories and the use of inventories for calculating cost of goods are valued based on the average acquisition cost or by prioritizing the inventories acquired first. \*\*)

### **Explanation of Article 10**

This provision regulates how to evaluate assets, including inventories, in order to calculate income in connection with the use of assets in a company, calculate gains or losses in the event of a sale or transfer of assets, and calculate income from the sale of merchandise.

#### **Sentence (1)**

In general, in the sale and purchase of property, the acquisition price of property for the buyer is the price actually paid and the selling price for the seller is the price actually received. Included in the acquisition price are the purchase price and costs incurred in acquiring the property, such as import duties, transportation costs and installation costs.

In a sale and purchase that is affected by a special relationship as referred to in Article 18 paragraph (4), for the buyer the acquisition value is the amount that should be paid and for the seller the sale value is the amount that should be received. The existence of a special relationship between the buyer and the seller can cause the acquisition price to be higher or lower than if the sale and purchase was not affected by a special relationship. Therefore, in this provision it is regulated that the acquisition value or the value of the sale of property for the parties concerned is the amount that should have been issued or should have been received.

#### **Sentence (2)**

Assets acquired based on exchange transactions with other assets, the acquisition value or sale value is the amount that should have been issued or received based on the market price.

Example:

	PT A	PT B
	(Harta X)	(Harta Y)
Nilai sisa buku	Rp10.000.000,00	Rp12.000.000,00
Harga pasar	Rp20.000.000,00	Rp20.000.000,00

Between PT A and PT B there was an exchange of assets. Although there is no realization of payments between the parties concerned, but because the market price of the assets exchanged is Rp. 20,000,000.00, the amount of Rp. 20,000,000. The difference between the market price and the book value of the assets exchanged is a taxable profit. PT A earns a profit of Rp. 10,000,000.00 (Rp. 20,000,000.00 - Rp. 10,000,000.00) and PT B earns a profit of Rp. 8,000,000.00 (Rp. 20,000,000.00 - Rp. 12,000,000.00).

### Sentence (3)

In principle, in the event of a transfer of property, the valuation of the transferred property is carried out based on the market price. The transfer of assets can be carried out in the context of business development in the form of merger, consolidation, expansion, division, and business takeover. In addition, the transfer can also be carried out in the context of business liquidation or other reasons.

The difference between the market price and the book value of the assets transferred is taxable income.

Example:

PT A and PT B merged and formed a new entity, namely PT C. The book value and market value of the assets of the two entities are as follows:

	PT A	PT B
Nilai sisa buku	Rp200.000.000,00	Rp300.000.000,00
Harga pasar	Rp300.000.000,00	Rp450.000.000,00

Basically, the valuation of the assets submitted by PT A and PT B in the context of consolidation into PT C is the market price of the assets. Thus PT A gets a profit of Rp. 100,000,000.00 (Rp.300,000,000.00 - Rp. 200,000,000.00) and PT B gets a profit of Rp. 150,000,000.00 (Rp.450,000,000.00 - Rp. 300,000,000.00). Meanwhile, PT C recorded all of these assets in the amount of Rp. 750,000,000.00 (Rp. 300,000,000.00 + Rp. 450,000,000.00). However, in order to harmonize with policies in the social, economic, investment, monetary and other policies, the Minister of Finance is authorized to set a value other than the market price, namely on the basis of the pooling of interest. In such case, PT C shall record the receipt of assets from PT A and PT B in the amount of Rp. 500,000,000.00 (Rp. 200,000,000.00 + Rp. 300,000,000.00).

### Sentence (4)

In the event of a transfer of property due to a grant, aid, contribution that meets the requirements in Article 4 paragraph (3) letter a or inheritance, then the acquisition value for the party receiving the property is the value of the book value of the assets of the party making the delivery. If the Taxpayer does not keep books of account so that the residual value of the book is unknown, then the acquisition value of the assets shall be determined by the Director General of Taxes.

In the event of a transfer of assets due to grants, assistance, donations that do not meet the requirements as referred to in Article 4 paragraph (3) letter a, then the acquisition value for the party receiving the assets is the market price.

### Sentence (5)

Taxpayer participation in the capital of an entity can be fulfilled by cash deposit or transfer of assets.

This provision regulates the valuation of the assets transferred as a substitute for the shares or equity participation, which is assessed based on the market value of the assets transferred.

Example:

Taxpayer X submits 20 units of lathe with a book value of Rp. 25,000,000.00 to PT Y as a substitute for its share investment with a nominal value of Rp. 20,000,000.00. The market price of the lathes is IDR 40,000,000.00. In this case, PT Y will record the lathe as an asset with a value of Rp. 40,000,000.00 and that amount is not income for PT Y. The difference between the nominal value of the shares and the market value of the assets is Rp. 20,000,000.00 (Rp. 40. 000,000.00 - Rp20,000,000.00) is recorded as premium. For Taxpayer X the difference of Rp. 15,000,000.00 (Rp. 40,000,000.00 - Rp. 25,000,000.00) is a Tax Object.

### Sentence (6)

In general, there are 3 (three) categories of inventory, namely finished goods or merchandise, goods in the production process, raw materials and auxiliary materials.

The provisions in this paragraph stipulate that the valuation of inventories may only use cost. The valuation of inventory usage for calculating cost of goods may only be done by means of an average or by prioritizing the inventory obtained first ( *first-in first-out* or abbreviated FIFO). As is customary, this method of valuation is

also applied to securities.

Example:

1. Beginning Inventory 100 units @ Rp9.00
2. Purchase 100 units @ Rp12.00
3. Purchase 100 units @ Rp11,25
4. Sales/use 100 units
5. Sales/use 100 units

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

No.	Didapat	Dipakai	Sisa/Persediaan
1			100 @ Rp9,00 = Rp900,00
2	100 @ Rp12,00 = Rp1.200,00		200 @ Rp10,50 = Rp2.100,00
3	100 @ Rp11,25 = Rp1.125,00		300 @ Rp10,75 = Rp3.225,00
4		100 @ Rp10,75 = Rp1.075,00	200 @ Rp10,75 = Rp2.150,00
5		100 @ Rp10,75 = Rp1.075,00	100 @ Rp10,75 = Rp1.075,00

The

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

No.	Didapat	Dipakai	Sisa/Persediaan
1			100 @ Rp9,00 = Rp900,00
2	100 @ Rp12,00 = Rp1.200,00		100 @ Rp9,00 = Rp900,00 100 @ Rp12,00 = Rp1.200,00
3	100 @ Rp11,25 = Rp1.125,00		100 @ Rp9,00 = Rp900,00 100 @ Rp12,00 = Rp1.200,00 100 @ Rp11,25 = Rp1.125,00
4		100 @ Rp9,00 = Rp900,00	100 @ Rp12,00 = Rp1.200,00 100 @ Rp11,25 = Rp1.125,00
5		100 @ Rp12,00 = Rp1.200,00	100 @ Rp11,25 = Rp1.125,00

Once the Taxpayer chooses one method of evaluating the use of inventories for the calculation of the said cost of goods, then for subsequent years the same method must be used.

## Related Rules

There are no related regulations.

## Article 11

- (1) Depreciation on expenditures for the purchase, establishment, addition, repair, or change of tangible assets, except for land with the status of property rights, building use rights, cultivation rights, and use rights, which are owned and used to obtain, collect, and maintain income that has the useful life of more than 1 (one) year is carried out in equal parts over the predetermined useful life for the property. \*\*\*)
- (2) Depreciation on the expenditure of tangible assets as referred to in paragraph (1) other than buildings, can also be carried out in decreasing portions over the useful life, which is calculated by applying a depreciation rate on the remaining book value, and at the end of the useful life the book value is depreciated all at once. , provided that it is carried out in accordance with the principles. \*\*\*)
- (3) Depreciation starts in the month the expenditure is made, except for assets that are still in the process of being worked on, the depreciation starts in the month the property is completed. \*\*\*) (4) With the approval of the Director General of Taxes, the Taxpayer is allowed to make depreciation starting in the month the assets are used to obtain, collect, and maintain income or in the month the assets concerned begin to produce. \*\*\*)
- (5) If a Taxpayer performs a revaluation of assets based on the provisions as referred to in Article 19, the basis for depreciation of the assets is the value after the revaluation of the assets has been carried out. \*\*)
- (6) To calculate depreciation, the useful life and depreciation rate of tangible assets are determined as follows: \*\*\*\*\*)

	Kelompok Harta Berwujud	Masa Manfaat	Tarif Penyusutan sebagaimana dimaksud dalam	
			Ayat (1)	Ayat (2)
L.	Bukan Bangunan			
	Kelompok I	4 Tahun	25%	50%
	Kelompok II	8 Tahun	12,5%	25%
	Kelompok III	16 Tahun	6,25%	12,5%
	Kelompok IV	20 Tahun	5%	10%
II.	Bangunan			
	Permanen	20 Tahun	5%	
	Tidak Permanen	10 Tahun	10%	

- (6a) If the permanent building as referred to in paragraph (6) has a useful life of more than 20 (twenty) years, the depreciation as referred to in paragraph (1) shall be carried out in equal parts, in accordance with the useful life as referred to in paragraph (6) or in accordance with the actual useful life based on the Taxpayer's books. \*\*\*\*\*)
- (7) Depreciation of tangible assets owned and used in certain business fields can be regulated separately. \*\*\*\*\*)
- (8) If there is a transfer or withdrawal of assets as referred to in Article 4 paragraph (1) letter d or withdrawal of assets due to other reasons, the total book value of the assets is charged as a loss and the total selling price or insurance reimbursement received or obtained is recorded as income in the year the withdrawal of the property. \*\*)
- (9) If the result of the insurance reimbursement to be received can only be known with certainty in the future, then with the approval of the Director General of Taxes the amount of the loss as referred to in paragraph (8) is recorded as a past expense. \*\*\*)
- (10) If there is a transfer of property that meets the conditions as referred to in Article 4 paragraph (3) letter a and letter b, which is in the form of tangible property, then the total book value of the property cannot be charged as a loss for the party transferring. \*\*)
- (11) Deleted. \*\*\*\*\*)

## Elucidation of Article 11

### Sentence (1) and sentence (2)

Expenditures to acquire tangible assets that have a useful life of more than 1 (one) year must be charged as costs to obtain, collect, and maintain income by allocating these expenditures over the useful life of the tangible assets through depreciation. Expenditures to acquire land with ownership rights, including land with the status of right to build, right to cultivate, and right to use for the first time may not be depreciated, unless the land is used in a company or owned to earn income on condition that the value of the land is reduced due to its use. To earn income, for example, land is used for a tile company, a ceramics company, or a brick company.

What is meant by "expenditures to acquire land with right to build, right to cultivate, and right to use for the first time" means the cost of acquiring land with the status of right to build, right to cultivate, and right to use from a third party and the management of these rights from the agency. authorized for the first time, while the costs of extending the right to build, the right to cultivate, and the right to use are amortized over the term of the rights.

The depreciation method allowed under this provision is:

a. in equal parts over the specified useful life for the assets ( *straight-line method* ); or b. in decreasing amounts by applying a depreciation rate to the remaining book value ( *declining balance method* ).

The use of the depreciation method on assets must be carried out in accordance with the principles.

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

In the event that the Taxpayer chooses to use the declining balance method, the remaining book value at the end of the useful life must be depreciated all at once.

In accordance with the Taxpayer's bookkeeping, the same or similar *small tools can be depreciated in one group*.

Examples of using the straight-line method:

A building with an acquisition cost of Rp.1,000,000,000.00 (one billion rupiah) and a useful life of 20 (twenty) years, the depreciation is Rp.50,000,000.00 (Rp.1,000,000,000: 20).

An example of using the declining balance method:

A machine was purchased and placed in January 2009 with an acquisition cost of Rp.150,000,000.00 (one hundred and fifty million rupiah). The useful life of the machine is 4 (four) years. If, for example, the depreciation rate is set at 50% (fifty percent), the depreciation calculation is as follows: \*\*\*\*)

Tahun	Tarif	Penyusutan	Nilai Sisa Buku
Harga Perolehan			150.000.000,00
2009	50%	75.000.000,00	75.000.000,00
2010	50%	37.500.000,00	37.500.000,00
2011	50%	18.750.000,00	18.750.000,00
2012	Disusutkan sekaligus	18.750.000,00	0,00

### Sentence (3)

Depreciation begins in the month the expenditure is made or in the month the completion of the work on an asset so that the depreciation in the first year is calculated on a pro-rata basis.

Example 1:

The expenditure for the construction of a building is Rp. 1,000,000,000.00 (one billion rupiah). Construction began in October 2009 and was completed for use in March 2010. Depreciation on the cost of the building began in March 2010 fiscal year.

Example 2:

A machine was purchased and placed in July 2009 with an acquisition cost of Rp. 100,000,000.00 (one hundred million rupiah). The useful life of the machine is 4 (four) years. If, for example, the depreciation rate is set at 50% (fifty percent), then the depreciation calculation is as follows: \*\*\*\*)

Tahun	Tarif	Penyusutan	Nilai Sisa Buku
Harga Perolehan			100.000.000,00
2009	$6/12 \times 50\%$	25.000.000,00	75.000.000,00
2010	50%	37.500.000,00	37.500.000,00
2011	50%	18.750.000,00	18.750.000,00
2012	50%	9.375.000,00	9.375.000,00
2013	Disusutkan sekaligus	9.375.000,00	0,00

### Sentence (4)

Based on the approval of the Director General of Taxes, depreciation can be started in the month the assets are used to earn, collect, and maintain income or in the month the assets begin to produce. The time of starting to produce in this provision is associated with the time of starting production and is not associated with the time when income is received or earned.

Example:

PT X, which operates in the plantation sector, purchased a tractor in 2009. The plantation began to produce (harvest) in 2010. With the approval of the Director General of Taxes, the depreciation of the tractor can be carried out starting in 2010. \*\*\*\*)

### Sentence (5)

Quite clear.

### Sentence (6)

To provide legal certainty for Taxpayers in depreciating the expenditure of tangible assets, this provision regulates the group of assets' useful lives and depreciation rates according to either the straight-line method or the declining balance method.

What is meant by "non-permanent building" is a temporary building made of non-durable materials or a movable building, whose useful life is not more than 10 (ten) years, for example barracks or dormitory made of wood for employee.

### Ayat (6a)

Quite clear.

### Sentence (7)

In order to adapt to the characteristics of certain business fields, such as hardwood plantations, forestry, and animal husbandry, it is necessary to provide separate arrangements for the depreciation of tangible assets used in certain business fields.

### Sentence (8) and sentence (9)

Basically, the gain or loss due to the transfer of assets is taxed in the year in which the property is transferred.

If the property is sold or burned, the net receipts from the sale of the property, namely the difference between the selling price and the costs incurred in connection with the sale and or insurance replacement, are recorded as income in the year the sale occurs or the year the insurance

reimbursement is received, and the remaining book value of the assets is charged as a loss in the relevant tax year.

In the event that the amount of insurance reimbursement received can only be known with certainty at a later date, the Taxpayer may submit an application to the Director General of Taxes so that an amount equal to the loss can be charged in the year the insurance reimbursement is made. **Sentence (10)**

Notwithstanding the provisions as referred to in paragraph (8), in the case of the transfer of tangible assets that meet the requirements as referred to in Article 4 paragraph (3) letters a and b, the remaining book value may not be charged as a loss by the transferor.

**Sentence (11)**

Deleted.

**Related Rules**

There are no related regulations.

**Article 11A**

- (1) Amortization of expenditures to acquire intangible assets and other expenses including the cost of extending the right to build, right to cultivate, right to use, and goodwill *with* a useful life of more than 1 (one) year which is used to obtain, collect and maintain income is carried out in equal parts or in decreasing portions over the useful life, which is calculated by applying the amortization rate to the expenditure or to the remaining book value and at the end of the useful life it is amortized all at once on condition that it is carried out in accordance with the principles. \*\*\*\*)
- (1a) Amortization begins in the month the expenditure is made, except for certain business fields. \*\*\*\*\*)
- (2) To calculate amortization, the useful life and amortization rate are determined as follows: \*\*)

Kelompok Harta Tak Berwujud	Masa Manfaat	Tarif Amortisasi berdasarkan metode	
		Garis Lurus	Saldo Menurun
Kelompok 1	4 tahun	25%	50%
Kelompok 2	8 tahun	12,5%	25%
Kelompok 3	16 tahun	6,25%	12,5%
Kelompok 4	20 tahun	5%	10%

- (2a) If the intangible assets as referred to in paragraph (2) have a useful life exceeding 20 (twenty) years, the amortization as referred to in paragraph (1) is carried out in accordance with the useful life as referred to in paragraph (2) for group 4 intangible assets or in accordance with with the actual useful life based on the Taxpayer's books. \*\*\*\*\*)
- (3) Expenditures for establishment costs and capital expansion costs of a company are charged in the year the expenditures are incurred or are amortized in accordance with the provisions as referred to in paragraph (2). \*\*\*)
- (4) Amortization of expenditures to acquire rights and other expenses that have a useful life of more than 1 (one) year in the field of oil and gas mining is carried out using the unit of production method. \*\*)
- (5) Amortization of expenditures to obtain mining rights other than those referred to in paragraph (4), forest concession rights, and natural resource exploitation rights and other natural products that have a useful life of more than 1 (one) year, is carried out using the maximum unit of production method. 20% (twenty percent) a year. \*\*\*)
- (6) Expenditures made prior to commercial operations which have a useful life of more than 1 (one) year are capitalized and then amortized in accordance with the provisions as referred to in paragraph (2). \*\*\*)
- (7) If there is a transfer of intangible assets or rights as referred to in paragraph (1), paragraph (4), and paragraph (5), the remaining book value of the assets or rights is charged as loss and the amount received as replacement is income. in the year the transfer occurs. \*\*\*)
- (8) If there is a transfer of property that meets the conditions as referred to in Article 4 paragraph (3) letter a and letter b, which is in the form of intangible property, then the total book value of the property cannot be charged as a loss for the transferring party. \*\*)

**Elucidation of Article 11A**

**Sentence (1)**

The cost of intangible assets and other expenses including the cost of extending the right to build, right

to use, right to use, and goodwill *with* a useful life of more than 1 (one) year is amortized using the following method:

- a. in equal parts each year over the useful life; or
- b. in decreasing amounts each year by applying an amortization rate on the remaining book value.

Especially for the amortization of intangible assets using the declining balance method, at the end of the useful life the residual book value of the intangible assets or rights is amortized all at once. **Sentence (1a)**

Amortization begins in the month the expenditure is made so that the amortization in the first year is calculated on a pro-rata basis.

In order to adapt to the characteristics of certain business fields, it is necessary to provide separate arrangements for the commencement of amortization.

**Sentence (2)**

Determination of the useful life and amortization rate for the issuance of intangible assets is intended to provide uniformity for Taxpayers in performing amortization.

The Taxpayer may perform amortization according to the method he chooses as referred to in paragraph (1) based on the actual useful life of each intangible asset. The amortization rate applied is based on the group of useful lives as stipulated in this provision. For intangible assets whose useful life is not listed in the existing group of useful lives, the Taxpayer uses the closest useful life. For example, an intangible asset with an actual useful life of 6 (six) years can use a group of useful lives of 4 (four) years or 8 (eight) years. In terms of the actual useful life of 5 (five) years, the intangible assets are amortized using the group of 4 (four) years of useful life.

**Ayat (2a)**

Quite clear.

**Sentence (3)**

Quite clear.

**Sentence (4)**

The unit-of-production method is carried out by applying a percentage amortization rate which is equal to the percentage ratio between the realization of oil and gas mining in the relevant year and the estimated total amount of oil and gas in that location that can be produced.

If it turns out that the actual production amount is smaller than what is estimated, so that there is still remaining expenditure for obtaining rights or other expenses, then the remaining expenditure may be charged at once in the relevant tax year.

**Sentence (5)**

Expenditures for obtaining mining rights other than oil and gas, forest concession rights, and natural resource exploitation rights and other natural products such as marine product concession rights are amortized based on the unit production method with a maximum amount of 20% (twenty percent) per year.

Example:

Expenditures to obtain forest concession rights, which have a potential of 10,000,000 (ten million) tons of wood, amounting to Rp. 500,000,000.00 (five hundred million rupiahs) are amortized according to the percentage of production units realized in the relevant year. If in 1 (one) tax year it turns out that the total production reaches 3,000,000 (three million) tons, which means 30% (thirty percent) of the available potential, even though the total production in that year reaches 30% (thirty percent) of the total the available potential, the amount of amortization that is allowed to be deducted from the gross income for the year is 20% (twenty percent) of the expenditure or Rp. 100,000,000.00 (one hundred million rupiah). \*\*\*\*\*)

**Sentence (6)**

In terms of expenses incurred prior to commercial operations, are costs incurred prior to commercial operations, for example the cost of feasibility studies and trial production costs but excluding routine operational costs, such as employee salaries, electricity and telephone bills, and expenses. another office. For routine operational expenses, it should not be capitalized but charged at the same time in the year of expenditure.

**Sentence (7)**

Example:

PT X incurs costs to obtain oil and gas mining rights in a location in the amount of IDR 500,000,000.00. The estimated amount of oil content in the area is 200,000,000 (two hundred million) barrels. After oil and gas production reaches 100,000,000 (one hundred million) barrels, PT X sells the mining rights to

another party at a price of Rp.300,000,000.00. The calculation of income and loss from the sale of such rights is as follows:

Harga perolehan	Rp	500.000.000,00
Amortisasi yang telah dilakukan:		
100.000.000/200.000.000 barel (50%)	Rp	250.000.000,00
Nilai buku harta	Rp	250.000.000,00
Harga jual harta	Rp	300.000.000,00

Therefore, the total book value of Rp.250,000,000.00 is charged as loss and the amount of Rp.300,000,000.00 is recorded as income.

#### **Sentence (8)**

Quite clear.

#### **Related Rules**

There are no related regulations.

### **Article 12**

Removed \*\*)

#### **Elucidation of Article 12**

Quite clear.

#### **Related Rules**

There are no related regulations.

### **Article 13**

Removed \*\*)

#### **Elucidation of Article 13**

Quite clear.

#### **Related Rules**

There are no related regulations.

### **Article 14**

- (1) The Norms for Calculation of Net Income to determine net income are made and refined continuously and issued by the Director General of Taxes. \*\*\*)
- (2) Individual Taxpayers who carry out business activities or independent work whose gross turnover in 1 (one) year is less than Rp.4,800,000,000.00 (four billion eight hundred million rupiahs) may calculate net income by using the Net Income Calculation Norms as referred to in paragraph (1). paragraph (1), provided that it notifies the Director General of Taxes within the first 3 (three) months of the tax year concerned. \*\*\*\*)
- (3) The Taxpayer as referred to in paragraph (2) who calculates his net income using the Net Income Calculation Norm is obliged to keep records as referred to in the Law which regulates general provisions and taxation procedures. \*\*\*\*)
- (4) The Taxpayer as referred to in paragraph (2) who does not notify the Director General of Taxes to calculate net income using the Net Income Calculation Norm, is deemed to have chosen to keep books of account. \*\*\*)
- (5) Taxpayers who are obliged to keep books or records, including Taxpayers as referred to in paragraphs (3) and (4), who apparently do not or do not fully keep records or bookkeeping or do not show records or supporting evidence, the net income is calculated based on the Norms. The calculation of Net Income and its gross turnover is calculated in another way that is regulated by or based on a Regulation of the Minister of Finance. \*\*\*\*)
- (6) Deleted. \*\*\*)
- (7) The amount of gross turnover as referred to in paragraph (2) can be changed by a Regulation of the

## Elucidation of Article 14

Correct and complete information about the income of the Taxpayer is very important to be able to impose a fair and reasonable tax according to the economic capacity of the Taxpayer. To be able to present the information referred to, the Taxpayer must maintain books of account. However, it is realized that not all taxpayers are able to maintain bookkeeping. All corporate taxpayers and permanent establishments are required to keep books of account. Individual taxpayers who run a business or carry out independent work with a certain gross turnover are not required to keep books of account.

To provide convenience in calculating the amount of net income for individual Taxpayers who run a business or independent job with a certain gross turnover, the Director General of Taxes issues a calculation norm.

### Sentence (1)

Calculation Norm is a guideline for determining the amount of net income issued by the Director General of Taxes and refined continuously. The use of the Calculation Norm is basically carried out in the following cases:

- a. there is no better calculation basis, namely complete bookkeeping, or
- b. the bookkeeping or record of the taxpayer's gross turnover turns out to be held incorrectly.

Calculation Norms are prepared in such a way based on the results of research or other data, and with due regard to fairness.

The Calculation Norm will greatly assist Taxpayers who have not been able to maintain bookkeeping to calculate net income.

### Sentence (2)

The Net Income Calculation Norm may only be used by individual Taxpayers who carry out business activities or independent work whose gross turnover is less than Rp.4,800,000,000.00 (four billion eight hundred million rupiah). To be able to use the Net Income Calculation Norm, an individual Taxpayer must notify the Director General of Taxes within the first 3 (three) months of the tax year concerned.

### Sentence (3)

Individual Taxpayers who use the Net Income Calculation Norms are required to keep records of their gross turnover as regulated in the Law that regulates general provisions and taxation procedures. The recording is intended to facilitate the application of norms in calculating net income. **Sentence (4)**

If an individual Taxpayer with the right to intend to use the Net Income Calculation Norm, but does not notify the Director General of Taxes within the stipulated period, the Taxpayer is deemed to have chosen to keep books of account. \*\*\*\*)

### Sentence (5)

Taxpayers who are obliged to keep books of account are obliged to keep records, or are deemed to have chosen to keep books of account, but:

a. does not or does not fully carry out the obligations of recording or bookkeeping; or b. not willing to show books or records or supporting evidence at the time of examination so as to result in the actual gross turnover and net income being unknown, the gross turnover of the relevant Taxpayer is calculated in another way regulated by or based on a Regulation of the Minister of Finance and the net income is calculated using the Net Income Calculation Norm. **Sentence (6)**

Quite clear.

### Sentence (7)

The Minister of Finance may adjust the amount of the gross turnover limit as referred to in paragraph (2) by taking into account economic developments and the ability of the Taxpayer community to maintain bookkeeping.

## Related Rules

There are no related regulations.

## Article 15

The Special Calculation Norm for calculating the net income of certain Taxpayers which cannot be calculated based on the provisions of Article 16 paragraph (1) or paragraph (3) shall be stipulated by the Minister of Finance. \*\*)

## Elucidation of Article 15

This provision regulates the Special Calculation Norm for certain groups of Taxpayers, including international shipping or aviation companies, foreign insurance companies, oil, gas and geothermal drilling companies, foreign trading companies, companies that invest in the form of construction-use-delivery. ( *build, operate, and transfer* ).

In order to avoid difficulties in calculating the amount of Taxable Income for certain groups of Taxpayers, based on practical considerations, or in accordance with the prevalence of taxation in these business fields, the Minister of Finance is authorized to stipulate Special Calculation Norms to calculate the amount of net income from Taxpayers. that particular.

## Related Rules

There are no related regulations.

## CHAPTER IV HOW TO CALCULATE TAX

### P original 16

- (1) Taxable Income as the basis for the application of tariffs for domestic Taxpayers in a tax year is calculated by subtracting from the income as referred to in Article 4 paragraph (1) with the reduction as referred to in Article 6 paragraph (1) and paragraph (2), Article 7 paragraph (1), as well as Article 9 paragraph (1) letter c, letter d, letter e, and letter g. \*\*\*\*)
- (2) Taxable Income for individual and corporate Taxpayers as referred to in Article 14 is calculated using the calculation norm as referred to in Article 14 and for individual Taxpayers is reduced by Non Taxable Income as referred to in Article 7 paragraph (1). \*\*\*\*)
- (3) Taxable income for foreign taxpayers who conduct business or conduct activities through a form of permanent business in Indonesia in a tax year is calculated by deducting from the income as referred to in Article 5 paragraph (1) by observing the provisions in Article 4 paragraph (1) with the reduction as meant in Article 5 paragraph (2) and paragraph (3), Article 6 paragraph and paragraph (2), as well as Article 9 paragraph (1) letter c, letter d, letter e, and letter g. \*\*\*\*)
- (4) Taxable Income for domestic individual Taxpayers who are tax payable in a portion of the tax year as referred to in Article 2A paragraph (6) is calculated based on the net income received or earned in the annualized portion of the tax year. \*\*)

## Elucidation of Article 16

Taxable Income is the basis of calculation to determine the amount of Income Tax payable. In this law, there are two classes of taxpayers, namely domestic taxpayers and foreign taxpayers.

For domestic taxpayers, there are basically two ways to determine the amount of taxable income, namely calculation in the usual way and calculation using the Calculation Norm.

In addition, there is a calculation method using the Special Calculation Norm, which is intended for certain Taxpayers which is regulated by or based on a Regulation of the Minister of Finance.

For foreign taxpayers, the determination of the amount of taxable income is divided into: 1. Foreign Taxpayers who run business or carry out activities through a permanent establishment in Indonesia; and 2. Other foreign taxpayers.

## Sentence (1)

Bagi Wajib Pajak dalam negeri yang menyelenggarakan pembukuan, Penghasilan Kena Pajaknya dihitung dengan menggunakan cara penghitungan biasa dengan contoh sebagai berikut.

- Peredaran bruto	Rp 6.000.000.000,00
- Biaya untuk mendapatkan, menagih,	Rp 5.400.000.000,00 (-)
- Laba usaha (penghasilan neto usaha)	Rp 600.000.000,00
- Penghasilan lainnya	Rp 50.000.000,00
- Biaya untuk mendapatkan, menagih, dan memelihara penghasilan lainnya tersebut	Rp 30.000.000,00 (-)
- Jumlah seluruh penghasilan neto	Rp 20.000.000,00 (+)
- Kompensasi kerugian	Rp 10.000.000,00 (-)
- Penghasilan Kena Pajak (bagi Wajib Pajak badan)	Rp 610.000.000,00
- Pengurangan berupa Penghasilan Tidak Kena Pajak untuk Wajib Pajak orang pribadi (isteri + 2 anak)	Rp 19.800.000,00 (-)
- Penghasilan Kena Pajak (bagi Wajib Pajak orang pribadi)	Rp 590.200.000,00

## Sentence (2)

Bagi Wajib Pajak orang pribadi yang berhak untuk tidak menyelenggarakan pembukuan, Penghasilan Kena Pajaknya dihitung dengan menggunakan Norma Penghitungan Penghasilan Neto dengan contoh sebagai berikut.

- Peredaran bruto	Rp	4.000.000.000,00
- Penghasilan neto (menurut Norma Penghitungan) misalnya 20%	Rp	800.000.000,00
- Penghasilan neto lainnya	Rp	5.000.000,00 (+)
- Jumlah seluruh penghasilan neto	Rp	805.000.000,00
- Penghasilan Tidak Kena Pajak (isteri + 3 anak)	Rp	21.120.000,00 (-)
- Penghasilan Kena Pajak	Rp	783.880.000,00

### Sentence (3)

For foreign taxpayers who run business or carry out activities through a permanent establishment in Indonesia, the method of calculating taxable income is basically the same as the method of calculating taxable income for domestic corporate taxpayers. Since the permanent establishment is obligated to keep books of account, its Taxable Income is calculated using the usual calculation method.

Example:

- Peredaran bruto	Rp	10.000.000.000,00
- Biaya untuk mendapatkan, menagih, dan memelihara penghasilan	Rp	8.000.000.000,00 (-)
	Rp	2.000.000.000,00
- Penghasilan bunga	Rp	50.000.000,00
- Penjualan langsung barang yang sejenis dengan barang yang dijual bentuk usaha tetap oleh kantor pusat	Rp	2.000.000.000,00
- Biaya untuk mendapatkan, menagih, dan memelihara penghasilan	Rp	1.500.000.000,00 (-)
	Rp	500.000.000,00
- Dividen yang diterima atau diperoleh kantor pusat yang mempunyai hubungan efektif dengan bentuk usaha tetap	Rp	1.000.000.000,00 (+)
	Rp	3.550.000.000,00
- Biaya-biaya menurut Pasal 5 ayat (3)	Rp	450.000.000,00 (-)
- Penghasilan Kena Pajak	Rp	3.100.000.000,00

### Sentence (4)

Example:

## Related Rules

There are no related regulations.

## Article 17

(1) Tax rates applied to Taxable Income for:

a. Domestic individual taxpayers are as follows: \*\*\*\*\*)

b. Domestic corporate taxpayers and permanent establishments of 22% (twenty two percent) which will take effect in the fiscal year 2022. \*\*\*\*\*)

(2) The tariff as referred to in paragraph (1) letter a may be amended 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) Domestic corporate taxpayers:

a. in the form of a public company;

b. with the total number of paid-up shares traded on the stock exchange in Indonesia at least 40% (forty percent); and

c. meet certain requirements,

may obtain a tariff of 3% (three percent) lower than the tariff as referred to in paragraph (1) letter b.

\*\*\*\*\*)

- (2c) The rate imposed on income in the form of dividends distributed to individual domestic taxpayers is a maximum of 10% (ten percent) and is final. \*\*\*\*)
- (2d) Further provisions regarding the amount of the tariff as referred to in paragraph (2c) shall be regulated by a Government Regulation. \*\*\*\*)
- (2e) Further provisions regarding certain requirements as referred to in paragraph (2b) letter c shall be regulated by or based on a Government Regulation. \*\*\*\*\*)
- (3) The amount of the layer of Taxable Income as referred to in paragraph (1) letter a can be changed by a Regulation of the Minister of Finance. \*\*\*\*\*)
- (4) For the purpose of applying the tax rate as referred to in paragraph (1), the amount of the Taxable Income is rounded down in full thousand rupiahs. \*\*\*)
- (5) The amount of tax payable for individual domestic taxpayers who are tax payable in the part of the tax year as referred to in Article 16 paragraph (4), is calculated as the number of days in the part of the tax year divided by 360 (three hundred and sixty) multiplied by the tax payable. for 1 (one) tax year. \*\*)
- (6) For the purposes of calculating taxes as referred to in paragraph (5), each full month is counted as 30 (thirty) days. \*\*\*)
- (7) With a Government Regulation a separate tax rate can be determined on income as referred to in Article 4 paragraph (2), as long as it does not exceed the highest tax rate as referred to in paragraph (1). \*\*\*)

## **Elucidation of Article 17**

### **Sentence (1)**

Letter A

Letter b

Example of calculating tax payable for domestic corporate taxpayers and permanent establishments:

The Taxable Income of PT A in the fiscal year 2022 is Rp.1,500,000,000.00 (one billion five hundred million rupiah).

Income Tax payable for the 2022 tax year:  
 $22\% \times \text{Rp}1.500.000.000,00 = \text{Rp}330.000.000,00.$

### **Sentence (2)**

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

### **Ayat (2a)**

Deleted.

### **Ayat (2b)**

Quite clear.

### **Sentence (2c)**

Quite clear.

### **Ayat (2d)**

Quite clear.

### **Ayat (2e)**

Quite clear.

### **Sentence (3)**

The amount of the layer of Taxable Income as referred to in paragraph (1) letter a will be adjusted to the adjustment factor, including the inflation rate, which is stipulated by a Regulation of the Minister of Finance.

### **Sentence (4)**

Example:

Taxable Income of IDR 5,050,900.00 for the application of the tariff is rounded down to IDR 5,050,000.00.

### **Sentence (5)**

Quite clear. \*\*\*\*\*)

## Sentence (6)

Income Tax payable in part of the tax year (3 months)  
 $((3 \times 30) : 360) \times \text{Rp}119.248.000,00 = \text{Rp}29.812.000,00$  \*\*\*\*\*)

## Sentence (7)

The provisions in this paragraph authorize the Government to determine a separate tax rate which can be final on certain types of income as referred to in Article 4 paragraph (2), as long as it is not higher than the highest tax rate as referred to in paragraph (1). The determination of the separate tax rate is based on considerations of simplicity, fairness, and equity in the imposition of taxes. \*\*\*\*\*)

## Related Rules

There are no related regulations.

## Article 18

- (1) The Minister of Finance has the authority to set limits on the amount of borrowing costs that can be charged for the purposes of calculating taxes based on this Law. \*\*\*\*\*)
- (2) The Minister of Finance has the authority to determine when a domestic Taxpayer receives dividends for equity participation in a foreign business entity other than a business entity that sells its shares on the stock exchange, with the following provisions:
  - a. the amount of capital participation of the said resident Taxpayer is at least 50% (fifty percent) of the total paid-up shares; or
  - b. together with other domestic Taxpayers have an equity participation of at least 50% (fifty percent) of the total paid-up shares. \*\*\*\*\*)
- (3) The Director General of Taxes has the authority to re-determine the amount of income and deductions as well as to determine debt as capital to calculate the amount of Taxable Income for Taxpayers who have special relationships with other Taxpayers in accordance with the fairness and normality of business that is not affected by special relationships by using the price comparison method, between independent parties, the resale price method, the cost-plus method, or other methods. \*\*\*\*\*)
- (3a) The Director General of Taxes is authorized to enter into agreements with Taxpayers and cooperate with other country's tax authorities to determine the price of transactions between parties having a special relationship as referred to in paragraph (4), which is valid for a certain period and supervises its implementation and conducts renegotiations. after the specified period ends. \*\*\*\*\*)
- (3b) A Taxpayer who purchases shares or assets of a company through another party or an entity formed for such a purpose (a *special purpose company*), can be designated as the party who actually makes the purchase as long as the Taxpayer concerned has a special relationship with the other party or entity and there is pricing irregularities. \*\*\*\*\*)
- (3c) The sale or transfer of shares of an intermediate company ( *conduit company* or *special purpose company* ) established or domiciled in a *tax haven country* that has a special relationship with an entity established or domiciled in Indonesia or a permanent establishment in Indonesia may determined as the sale or transfer of shares of an entity established or domiciled in Indonesia or a permanent establishment in Indonesia. \*\*\*\*\*)
- (3d) The amount of income earned by a domestic individual Taxpayer from an employer who has a special relationship with another company not established and not domiciled in Indonesia can be re determined, in the event that the employer transfers all or part of the income of the domestic individual Taxpayer to in the form of fees or other expenses paid to the company which is not established and is not domiciled in Indonesia. \*\*\*\*\*)
- (3e) Deleted. \*\*\*\*\*)
- (4) A special relationship as referred to in paragraph (3) to paragraph (3d), Article 9 paragraph (1) letter f, and Article 10 paragraph (1) is considered to exist when:
  - a. Taxpayers have direct or indirect equity participation of at least 25% (twenty five percent) in other

Taxpayers; relationship between the Taxpayer and the minimum participation of 25% (twenty five percent) in two or more Taxpayers; or the relationship between two or more Taxpayers mentioned last;

- b. a Taxpayer controls another Taxpayer or two or more Taxpayers are under the same control either directly or indirectly; or
- c. there are family relationships both by blood and by blood in the direct bloodline and/or to the side of one degree. \*\*\*\*\*)

(5) Deleted. \*\*\*)

### **Elucidation of Article 18**

The government has the authority to prevent tax avoidance practices as an effort made by taxpayers to reduce, avoid, or delay the payment of taxes that should be owed that are contrary to the intent and purpose of the provisions of laws and regulations in the field of taxation. One way to avoid tax is to conduct transactions that are not in accordance with the actual situation which is contrary to the principle of *substance over form*, namely the recognition of economic substance above its formal form. \*\*\*\*\*)

#### **Sentence (1)**

In determining the limit on the amount of borrowing costs that can be charged for tax purposes, methods commonly applied in the international world are used, for example through the method of determining a certain level of reasonable comparison regarding the size of the ratio between debt and equity ( *debt to equity ratio* ), through a certain percentage of borrowing costs. compared to operating income before deducting borrowing costs, taxes, depreciation and amortization ( *earnings before interest, taxes, depreciation, and amortization* ) or through other methods.

#### **Sentence (2)**

With the development of the economy and international trade in line with the era of globalization, it can happen that domestic taxpayers invest their capital abroad. In order to reduce the possibility of tax evasion, for investments abroad other than in business entities that sell their shares on the stock exchange, the Minister of Finance has the authority to determine when dividends are earned.

Example:

PT A and PT B each own 40% (forty percent) and 20% (twenty percent) shares in X Ltd. domiciled in country Q. Shares of X Ltd. are not traded on a stock exchange. In 2009 X Ltd. earn profit after tax in the amount of Rp. 1,000,000,000.00 (one billion rupiah). In such case, the Minister of Finance has the authority to determine when dividends are earned and the basis for calculating them.

#### **Sentence (3)**

This provision is intended to prevent tax evasion that may occur due to a special relationship. Taxpayers do tax evasion by means, among others, reporting income less than it should, reporting costs that are more than appropriate, reporting business profits that are too small compared to other Taxpayers' financial performance in similar business fields, or reporting business losses unreasonably even though the Taxpayer has been selling commercially for 5 (five) years.

In such case, the Director General of Taxes is authorized to re-determine the amount of income and/or expenses in accordance with the principles of fairness and business practice which are not influenced by special relationships.

What is meant by "the principle of fairness and business commonality" is the principle in sound business practices as applicable between parties who do not have and/or are influenced by special relationships. In re-determining the amount of income and/or deductions to calculate the amount of Taxable Income, the following can be used:

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

For Taxpayers who report business profits that are too small compared to the financial performance of other Taxpayers in similar business fields or report business losses unreasonably even though the Taxpayer has made commercial sales for 5 (five) years, a comparison of financial performance with the Taxpayer can be applied. Taxes in similar business activities ( *benchmarking* ) in the context of calculating taxes that should be payable.

Likewise, there may be covert equity participation. By declaring the equity participation as debt, the Director General of Taxes is authorized to determine the debt as company capital. Such determination can be made, for example, through indications regarding the ratio between equity and debt that commonly occurs between the parties who are not influenced by special relationships or based on data or other indications.

Thus, the interest paid by the Taxpayer in relation to the debt which is considered as equity participation is not allowed to be deducted in calculating the Taxable Income of the Taxpayer. Meanwhile, for parties who have a special relationship with the Taxpayer who receives or receives such interest payments, it is considered as a dividend that is subject to tax.

The difference between the transaction value which is affected by a special relationship which is not in accordance with the fairness and normality of business and the transaction value which is affected by a special relationship which is in accordance with the fairness and normality of business is also considered as a dividend which is subject to income tax in accordance with the provisions of the legislation in the field of taxation. \*\*\*\*\*)

#### **Ayat (3a)**

Transfer price agreement ( *Advance Pricing Agreement / APA*) is an agreement between the Taxpayer and the Director General of Taxes regarding the fair selling price of the products they produce to *related parties* .) with him. The purpose of holding APA is to reduce the practice of abuse of transfer pricing by multinational companies. The agreement between the Taxpayer and the Director General of Taxes may include several things, including the selling price of the products produced, and the amount of royalties and others, depending on the agreement. The advantage of APA is that apart from providing legal certainty and ease of tax calculation, the tax authorities do not need to make corrections to the selling price and profit of products sold by taxpayers to companies in the same group. APA can be unilateral, which is an agreement between the Director General of Taxes and the Taxpayer, or bilateral, namely an agreement between the Director General of Taxes and the tax authorities of another country concerning Taxpayers in their jurisdiction.

#### **Ayat (3b)**

This provision is intended to prevent tax evasion by a Taxpayer who purchases shares/investments in a domestic Taxpayer company through a foreign company which is specially established for that purpose ( *special purpose company* ).

#### **Sentence (3c)**

Example:

X Ltd. which is established and domiciled in country A, a country that provides tax protection ( *tax haven country* ), owns 95% (ninety five percent) of the shares of PT X which is established and domiciled in Indonesia. X Ltd. this is a *conduit company* which was established and wholly owned by Y Co., a company in country B, with the aim of being an intermediate company in its ownership of the majority of shares in PT X.

When YCo. sold all of its ownership in the shares of X Ltd. to PT Z which is a domestic Taxpayer, legally the above transaction is a transfer of shares of a foreign company by a foreign Taxpayer.

However, in essence this transaction is a transfer of ownership (shares) of a domestic Taxpayer company by a foreign Taxpayer so that the income from this transfer is payable with Income Tax. **Ayat (3d)**

Quite clear.

#### **Ayat (3e)**

Deleted.

#### **Sentence (4)**

A special relationship between Taxpayers can occur due to dependence or attachment to one another due to:

- a. ownership or equity participation; or
- b. mastery through management or use of technology.

Apart from these things, special relationships between individual taxpayers can also occur because of blood relations or marriage.

Letter A

A special relationship is considered to exist when there is an ownership relationship in the form of a capital participation of 25% (twenty-five percent) or more directly or indirectly.

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

Furthermore, when PT B owns 50% (fifty percent) of PT C's shares, PT A as a shareholder of PT B indirectly has a participation in PT C of 25% (twenty five percent). In such a case, PT A, PT B, and PT C are considered to have a special relationship. If PT A also owns 25% (twenty five percent) of PT D's shares, PT B, PT C, and PT D are considered to have a special relationship.

Ownership relationships as above can also occur between individuals and entities.

Letter b

A special relationship between taxpayers can also occur due to control through management or the use of technology even though there is no ownership relationship.

A special relationship is considered to exist when one or more enterprises are under the same control.

Likewise, the relationship between several companies that are under the same control.

The letter c

What is meant by "blood family relationship in a straight line of one degree" is father, mother, and children, while "blood family relationship in a line of descent to the side of one degree" is a relative.

What is meant by "sedentary family in a straight line of one degree" is in-laws and step daughter, while "family relationship by marriage in a one-degree lineage" is brother-in-law. **Sentence (5)**  
Deleted.

## **Related Rules**

There are no related regulations.

## **Article 19**

- (1) The Minister of Finance has the authority to stipulate regulations regarding asset revaluation and adjustment factors in the event of a discrepancy between the elements of costs and income due to price developments. \*\*)
- (2) For the difference in revaluation of assets as referred to in paragraph (1), a separate tax rate shall be applied with a Regulation of the Minister of Finance as long as it does not exceed the highest tax rate as referred to in Article 17 paragraph (1). \*\*\*\*)

## **Explanation of Article 19**

### **Sentence (1)**

Significant price developments or changes in monetary policy can lead to a mismatch between costs and income, which can result in an unreasonable tax burden. In such circumstances, the Minister of Finance is authorized to stipulate regulations regarding revaluation of fixed assets (revaluation) or indexation of costs and income.

### **Sentence (2)**

Quite clear.

## **Related Rules**

There are no related regulations.

## **BAB V PAYMENT OF TAX IN THE CURRENT YEAR**

### **Article 20**

- (1) Taxes that are expected to be payable in a tax year are paid by the Taxpayer in the current tax year through withholding and collecting taxes by other parties, as well as tax payments by the Taxpayer himself. \*\*)
- (2) The payment of taxes as referred to in paragraph (1) is made for every month or other period as determined by the Minister of Finance. \*\*)

(3) Settlement of taxes as referred to in paragraph (1) is a tax installment that may be credited against Income Tax payable for the tax year concerned, except for income whose tax imposition is final. \*\*)

## Explanation of Article 20

### Sentence (1)

In order for the payment of taxes in the current tax year to approach the amount of tax that will be payable for the tax year concerned, the implementation is carried out through:

- a. withholding tax by other parties in the event that income is obtained by the Taxpayer from work, services or activities as referred to in Article 21, collection of taxes on income from business as referred to in Article 22, and withholding tax on income from certain capital, services and activities as referred to in Article 23.
- b. payment by the Taxpayer himself as referred to in Article 25.

### Sentence (2)

Basically, the payment of taxes in the current year is carried out every month, but the Minister of Finance can determine other times, such as when a transaction is made or when income is received or earned, so that the payment of taxes in the current year can be carried out properly. **Sentence (3)**

Payment of tax in the current tax year is an installment of tax payments which may later be calculated by crediting the income tax payable for the tax year concerned.

With consideration of convenience, simplicity, certainty, timely tax imposition, and other considerations, it can be arranged for the payment of taxes in the current year which is final on certain types of income as referred to in Article 21, Article 22, and Article 23. Income Tax which are final in nature cannot be credited with Income Tax payable.

## Related Rules

There are no related regulations.

## Article 21

- (1) Withholding tax on income in connection with work, services, or activities in whatever name and form received or obtained by a domestic individual Taxpayer must be made by:
  - a. an employer who pays salaries, wages, honorarium, allowances, and other payments as compensation in connection with work performed by employees or non-employees;
  - b. government treasurer who pays salaries, wages, honorarium, allowances, and other payments in connection with work, services, or activities;
  - c. pension funds or other entities that pay pensions and other payments under any name in the context of pensions;
  - d. the agency that pays the honorarium or other payments as compensation in connection with services including the services of experts who perform independent work; and
  - e. activity organizers who make payments in connection with the implementation of an activity. \*\*\*\*)
- (2) Not included as employers who are obliged to make tax withholding as referred to in paragraph (1) letter a are representative offices of foreign countries and international organizations as referred to in Article 3. \*\*\*\*)
- (3) Income for permanent employees or pensioners that is deducted by tax for each month is the gross income after deducting office fees or pension costs, the amount of which is determined by the Regulation of the Minister of Finance, pension contributions, and Non-Taxable Income. \*\*\*\*)
- (4) The income of daily, weekly, and other non-permanent employees that is subject to tax is the total gross income after deducting the portion of income that is not subject to withholding, the amount of which is determined by a Regulation of the Minister of Finance. \*\*\*\*)
- (5) The withholding rate on income as referred to in paragraph (1) is the tax rate as referred to in Article 17 paragraph (1) letter a, unless otherwise stipulated by a Government Regulation. \*\*\*\*) (5a) The amount of the tariff as referred to in paragraph (5) applied to a Taxpayer who does not have a Taxpayer Identification Number is 20% (twenty percent) higher than the rate applied to a Taxpayer who can show a Taxpayer Identification Number. \*\*\*\*)
- (6) Deleted. \*\*\*)
- (7) Deleted. \*\*\*)
- (8) Provisions regarding instructions for the implementation of withholding taxes on income in

connection with work, services, or activities are regulated by or based on a Regulation of the Minister of Finance. \*\*\*\*)

## **Elucidation of Article 21**

### **Sentence (1)**

This provision regulates the payment of taxes in the current year through withholding taxes on income received or earned by domestic individual taxpayers in connection with work, services, and activities. Parties who are obliged to make tax deductions are employers, government treasurers, pension funds, entities, companies, and activity organizers.

#### **Letter A**

Employers who are required to make tax deductions are individuals or entities that are parent, branch, representative, or company units that pay or are owed salaries, wages, allowances, honoraria, and other payments under any name to management, employees or non-employees as remuneration in connection with work, services, or activities performed. In the sense of an employer, it includes international organizations that are not exempt from the obligation to withhold taxes.

What is meant by "other payment" is payment in any name other than salary, wages, allowances, honorarium, and other payments, such as bonuses, gratuities, and *tantiem*.

What is meant by "non-employee" is an individual who receives or earns income from the employer in connection with a temporary employment bond, for example an artist who receives or receives an honorarium from the employer.

#### **Letter b**

Government treasurers include treasurers of the Central Government, Regional Governments, government agencies or institutions, other state institutions, and Indonesian embassies abroad who pay salaries, wages, allowances, honoraria, and other payments in connection with work, services, or activities. .

Also included in the definition of treasurer are cash holders and other officials who carry out the same function.

#### **The letter c**

"Other entities", for example, are labor social security administering bodies that pay pensions, old-age benefits, old-age savings, and other similar payments under any name.

What is included in the definition of pension or other payments are benefits, whether paid periodically or not, which are paid to pension recipients, old-age benefits recipients, and old age savings recipients.

#### **The letter d**

Included in the definition of agency are international organizations which are not excluded under paragraph (2).

Individual experts include, for example, doctors, lawyers and accountants, who do independent work and act for and on their own behalf, not for and on behalf of their partnership. Huruf e

The activity organizer is obliged to withhold tax on the payment of gifts or awards in any form received or obtained by a domestic individual Taxpayer in connection with an activity. In the sense that the organizers of activities include, among others, agencies, government agencies, organizations including international organizations, associations, individuals, and other institutions that organize activities. Activities organized, such as sports, religious and artistic activities.

### **Sentence (2)**

Quite clear.

### **Sentence (3)**

For permanent employees, the amount of income withheld from tax is gross income less office fees, pension contributions, and non-taxable income. In terms of pension contributions, it includes old-age allowance contributions or old-age savings paid by employees.

For retirees, the amount of income withheld from tax is the total gross income less pension costs and non-taxable income. In terms of pensioners, it includes recipients of old-age benefits or old-age savings.

### **Sentence (4)**

The amount of income withheld by taxes for daily, weekly, and other non-permanent employees is the gross income minus the portion of income that is not subject to withholding, the amount of which is determined by a Regulation of the Minister of Finance, taking into account the applicable Non Taxable Income.

**Sentence (5)**

Quite clear.

**Ayat (5a)**

The ownership of the Taxpayer Identification Number (NPWP) can be proven by the Taxpayer, among others, by showing the NPWP card.

**Sentence (6)**

Quite clear.

**Sentence (7)**

Quite clear.

**Sentence (8)**

Quite clear.

**Related Rules**

There are no related regulations.

**Article 22**

(1) The Minister of Finance may stipulate:

- a. government treasurer to collect Tax in connection with payment for the delivery of goods; b. certain agencies to collect taxes from Taxpayers who carry out activities in the import sector or business activities in other fields; and
- c. Certain corporate taxpayers to collect taxes from buyers on the sale of goods classified as very luxurious. \*\*\*\*)

(2) Provisions regarding the basis for collection, criteria, nature and amount of tax levy as referred to in paragraph (1) shall be regulated by or based on a Regulation of the Minister of Finance. \*\*\*\*) (3) The amount of the levy as referred to in paragraph (2) which is applied to a Taxpayer who does not have a Taxpayer Identification Number is 100% (one hundred percent) higher than the rate applied to a Taxpayer who can show a Taxpayer Identification Number. \*\*\*\*)

**Elucidation of Article 22****Sentence (1)**

Based on this provision, those who can be appointed as tax collectors are:

- government treasurers, including treasurers at the Central Government, Regional Governments, government agencies or institutions, and other state institutions, with regard to payments for the delivery of goods, including in the sense that treasurers are cash holders and other officials who perform the same function;
- certain agencies, both government and private, with regard to activities in the import sector or business activities in other fields, such as business activities for the production of certain goods, including automotive and cement; and
- Certain corporate taxpayers to collect taxes from buyers on the sale of goods classified as very luxurious. This tax collection by certain corporate taxpayers will be imposed on the purchase of goods that meet certain criteria as very luxurious goods, both in terms of the type of goods and the price, such as cruise ships, very luxurious houses, very luxurious apartments and condominiums, and very luxurious vehicles.

In implementing this provision, the Minister of Finance considers, among others:

- selective appointment of tax collectors, for the implementation of effective and efficient tax collection;
- does not interfere with the smooth traffic of goods; and

- simple collection procedure that is easy to implement.

Tax collection based on this provision is intended to increase public participation in collecting funds through the tax payment system and for the purpose of simplicity, convenience, and timely tax imposition. In this regard, tax collection under this provision may be final.

**Sentence (2)**

Quite clear.

**Sentence (3)**

The ownership of the Taxpayer Identification Number can be proven by the Taxpayer, among others, by showing the Taxpayer Identification Number card.

**Related Rules**

There are no related regulations.

**Article 23**

(1) For the income mentioned below under the name and in whatever form is paid, made available to be paid, or has been due for payment by a government agency, domestic corporate tax subject, activity organizer, permanent establishment, or other foreign company representative to the Mandatory Domestic tax or permanent establishment, withholding tax by the party who is obliged to pay:

a. 15% (fifteen percent) of the gross amount of:

1. dividends as referred to in Article 4 paragraph (1) letter g;
2. interest as referred to in Article 4 paragraph (1) letter f;
3. royalties; and
4. gifts, awards, bonuses, and the like other than those that have been deducted with Income Tax as referred to in Article 21 paragraph (1) letter e;

b. deleted;

c. 2% (two percent) of the gross amount of:

1. rental and other income in connection with the use of assets, except for rent and other income in connection with the use of assets which have been subject to Income Tax as referred to in Article 4 paragraph (2); and
2. compensation in connection with technical services, management services, construction services, consulting services, and services other than services that have been deducted with Income Tax as referred to in Article 21. \*\*\*\*\*)

(1a) In the event that the Taxpayer receiving or earning income as referred to in paragraph (1) does not have a Taxpayer Identification Number, the withholding rate is 100% (one hundred percent) higher than the rate as referred to in paragraph (1). \*\*\*\*\*)

(2) Further provisions regarding other types of services as referred to in paragraph (1) letter c number 2 shall be regulated by or based on a Regulation of the Minister of Finance. \*\*\*\*\*)

(3) An individual as a resident Taxpayer may be appointed by the Director General of Taxes to withhold tax as referred to in paragraph (1). \*\*)

(4) Withholding tax as referred to in paragraph (1) shall not be made on:

- a. income paid or owed to the bank;
- b. rent paid or payable in connection with an option lease;
- c. dividends as referred to in Article 4 paragraph (3) letter f and dividends received by individuals as referred to in Article 17 paragraph (2c);
- d. deleted;
- e. the profit share as referred to in Article 4 paragraph (3) letter i;
- f. the remainder of the cooperative's business results paid by the cooperative to its members; g. deleted; and
- h. income paid or payable to a business entity for financial services that function as a distributor of loans and/or financing regulated by a Regulation of the Minister of Finance. \*\*\*\*\*)

**Elucidation of Article 23**

**Sentence (1)**

Quite clear.

**Sentence (1a)**

The ownership of the Taxpayer Identification Number can be proven by the Taxpayer, among others, by showing the Taxpayer Identification Number card.

**Sentence (2)**

Quite clear.

**Sentence (3)**

Quite clear.

**Sentence (4)**

Quite clear.

**Related Rules**

There are no related regulations.

**Article 24**

- (1) Taxes paid or payable abroad on income from abroad received or earned by domestic Taxpayers may be credited against taxes payable under this Law in the same tax year. \*\*)
- (2) The amount of the tax credit as referred to in paragraph (1) is equal to the income tax paid or payable overseas but may not exceed the calculation of the tax payable based on this Law. \*\*) (3) In calculating the limit on the amount of tax that can be credited, the source of income is determined as follows:
  - a. income from shares and other securities as well as profits from the transfer of shares and other securities is the country in which the entity issuing the shares or securities is established or domiciled;
  - b. income in the form of interest, royalties, and rent in connection with the use of movable property is the country where the party paying or burdened with such interest, royalties, or rent is located or located;
  - c. income in the form of rent in relation to the use of immovable property is the country where the property is located;
  - d. income in the form of remuneration in connection with services, work, and activities is the country where the party paying or being charged with such remuneration is domiciled or located;
  - e. income of a permanent establishment is the country where the permanent establishment runs business or carries out activities;
  - f. income from the transfer of part or all of mining rights or participation in financing or capital in a mining company is the country where the mining location is located;
  - g. gains due to the transfer of fixed assets is the country where the assets remain; and h. gains due to the transfer of assets that are part of a permanent establishment is the country in which the permanent establishment is located. \*\*\*\*)
- (4) The determination of sources of income other than income as referred to in paragraph (3) uses the same principles as those referred to in paragraph (3). \*\*)
- (5) If the tax on income from abroad that is credited turns out to be later deducted or returned, the tax payable according to this Law must be added to that amount in the year the reduction or refund is made. \*\*)
- (6) Provisions regarding the implementation of Tax crediting on income from abroad are regulated by or based on a Regulation of the Minister of Finance. \*\*\*\*)

**Explanation of Article 24**

Basically, domestic taxpayers are payable taxes on all income, including income received or earned from abroad. In order to alleviate the double tax burden that may occur due to the imposition of tax on income received or earned abroad, this provision regulates the calculation of the amount of tax on income paid or payable abroad which can be credited against the tax payable on the entire income of the Taxpayer in country.

**Sentence (1)**

Taxes on income paid or payable abroad that can be credited against taxes payable in Indonesia are only taxes that are directly imposed on income received or earned by the Taxpayer.

Example:

PT A in Indonesia is the sole shareholder of Z Inc. in Country X. Z Inc. in 1995 earned a profit of US\$100,000.00. The income tax applicable in country X is 48% and the Dividend Tax is 38%. The calculation of the tax on the dividends is as follows:

Income Tax that can be credited against all Income Tax payable to PT A is a tax that is directly imposed on income received or earned overseas, in the example above, the amount is US\$19,760.00.

Income Tax ( *Corporate Income Tax* ) on Z Inc. US\$48,000.00 cannot be credited against Income Tax payable to PT A, because the US\$48,000.00 tax is not levied directly on the income received or earned by PT A from abroad, but rather a tax imposed on the profits of Z Inc. in country X. **Sentence (2)**

In order to provide equal tax treatment between income received or earned from abroad and income received or earned in Indonesia, the amount of tax paid or payable abroad can be credited against the tax payable in Indonesia but may not exceed the amount of tax calculated under this Act. The method of calculating the amount of tax that can be credited is determined by the Minister of Finance based on the authority as regulated in paragraph (6).

### **Sentences (3) and (4)**

In calculating the tax credit on income paid or payable abroad which can be credited against the tax payable according to this Law, the determination of the source of income becomes very important. Furthermore, this provision regulates the determination of the source of income to take into account the foreign tax credit.

Considering that this Law adopts a broad definition of income, in accordance with the provisions in paragraph (4) the determination of sources of income other than those referred to in paragraph (3) is used the same principles as those referred to in paragraph (3), for example A as The resident taxpayer owns a house in Singapore and in 1995 the house was sold. The profit derived from the sale of the house is income sourced in Singapore because the house is located in Singapore.

### **Sentence (5)**

If there is a reduction or refund of tax on income paid abroad, so that the amount of tax that can be credited in Indonesia is smaller than the original calculation, the difference is added to the Income Tax payable according to this Law. For example, in 1996, a Taxpayer gets a tax deduction on his foreign income for the 1995 tax year amounting to Rp. 5,000,000. added to the Income Tax payable in the 1996 tax year.

### **Sentence (6)**

Quite clear.

## **Related Rules**

There are no related regulations.

## **Article 25**

- (1) The amount of tax installments in the current tax year that must be paid by the Taxpayer for each month is equal to the Income Tax payable according to the Annual Income Tax Return of the previous tax year minus:
  - a. Income Tax withheld as referred to in Article 21 and Article 23 as well as Income Tax withheld as referred to in Article 22; and
  - b. Income Tax paid or payable abroad that may be credited as referred to in Article 24, divided by 12 (twelve) or the number of months in the part of the tax year. \*\*\*\*)
- (2) The amount of tax installments that must be paid by the Taxpayer himself for the months prior to the submission of the Annual Income Tax Return before the deadline for submitting the Annual Income Tax Return is the same as the amount of the tax installments for the last month of the previous tax year. \*\*\*\*)
- (3) Deleted. \*\*\*)
- (4) If in the current tax year a tax assessment letter is issued for the previous tax year, the amount of the tax installment is recalculated based on the tax assessment letter and takes effect from the following month after the month the tax assessment letter was issued. \*\*\*\*)
- (5) Deleted. \*\*\*)
- (6) The Director General of Taxes is authorized to determine the calculation of the amount of tax installments in the current tax year in certain cases, as follows:
  - a. Taxpayers are entitled to compensation for losses;

- b. Taxpayers earn irregular income;
- c. The last year's income tax return is submitted after the specified time limit has passed; d. Taxpayers are given an extension of the period for submitting the Annual Income Tax Return; e. The Taxpayer self-corrects the Annual Income Tax Return which results in the monthly installment being greater than the monthly installment prior to the correction; and
- f. there is a change in the business condition or activity of the Taxpayer. \*\*\*\*) (7) The Minister of Finance determines the calculation of the amount of tax installments for: a. new Taxpayer; b. banks, state-owned enterprises, regionally-owned enterprises, taxpayers listed on the stock exchange, and other taxpayers based on the provisions of laws and regulations must make periodic financial reports; and c. Individual taxpayers of certain entrepreneurs with a maximum rate of 0.75% (zero point seventy five percent) of the gross turnover. \*\*\*\*)
- (8) Domestic individual Taxpayers who do not have a Taxpayer Identification Number and are 21 (twenty one) years old who depart abroad are obliged to pay taxes whose provisions are regulated by Government Regulations. \*\*\*\*)
- (8a) The provisions as referred to in paragraph (8) are valid until December 31, 2010. \*\*\*\*)
- (9) Deleted. \*\*\*\*)

## Explanation of Article 25

This provision regulates the calculation of the amount of monthly installments that must be paid by the Taxpayer himself in the current year.

### Sentence (1)

Example 1:

The amount of tax installments that must be paid each month for 2010 is IDR 1,250,000.00 (IDR 15,000,000 divided by 12).

Example 2:

If the Income Tax as referred to in the example above relates to income received or earned for the part of the tax year covering a period of 6 (six) months in 2009, the amount of monthly installments that must be paid every month in 2010 is Rp2,500,000, 00 (Rp 15,000,000 divided by 6). **Sentence (2)**

Considering that the deadline for submitting the Annual Income Tax Return for individual Taxpayers is the end of the third month of the following tax year and for corporate Taxpayers it is the end of the fourth month of the following Tax year, the amount of tax installments that must be paid by the Taxpayer himself for the months prior to the Tax Return. The Annual Income Tax Notification submitted cannot be calculated in accordance with the provisions in paragraph (1).

Based on this provision, the amount of tax installments for the months before the Annual Income Tax Return is submitted before the deadline for submitting the Annual Tax Return is the same as the tax installments for the last month of the previous tax year.

Example:

If the Annual Income Tax Return is submitted by an individual Taxpayer in February 2010, the amount of tax installments that must be paid by the Taxpayer for the month of January 2010 is the amount of the tax installments for December 2009, for example, Rp1,000,000.00 (one million rupiah). .

If in September 2009 a decision is issued to reduce tax installments to nil so that the tax installments from October to December 2009 become nil, the amount of tax installments that must be paid by the Taxpayer for January 2010 will remain the same as the installments for December 2009, which is nil.

### Sentence (3)

Quite clear.

### Sentence (4)

If in the current year a tax assessment letter is issued for the previous tax year, the tax installments are calculated based on the tax assessment letter. The change in tax installments is effective starting the

following month after the month the tax assessment letter is issued.

Example:

Based on the 2009 Annual Income Tax Return which was submitted by the Taxpayer in February 2010, the calculation of the amount of tax installments to be paid is Rp. 1,250,000.00 (one million two hundred and fifty thousand rupiah). In June 2010 a tax assessment letter for the 2009 fiscal year was issued which resulted in the amount of monthly tax installments amounting to Rp. 2,000,000.00 (two million rupiah).

Based on the provisions in this paragraph, the amount of tax installment starting in July 2010 is Rp. 2,000,000.00 (two million rupiah). Determination of the amount of tax installments based on the tax assessment letter can be the same, greater, or smaller than the previous tax installments based on the Annual Tax Return.

#### **Sentence (5)**

Quite clear.

#### **Sentence (6)**

Basically, the amount of tax installment payments by the taxpayer himself in the current year is as close as possible to the amount of tax that will be payable at the end of the year. Therefore, based on this provision in certain cases the Director General of Taxes is authorized to adjust the calculation of the amount of Tax installments that must be paid by the Taxpayer himself in the current year if there is compensation for losses; Taxpayers receive or earn irregular income; or there is a change in the business condition or activity of the Taxpayer.

Example 1:

The calculation of Income Tax Article 25 of 2010 is:

The income used as the basis for calculating the installments of Article 25 Income Tax = Rp. 120,000,000.00 – Rp. 30,000,000.00 = Rp. 90,000,000.00.

Income Tax payable:  $28\% \times \text{IDR } 90,000,000.00 = \text{IDR } 25,200,000.00$

If in 2009 there was no Income Tax withheld or collected by other parties and taxes paid or payable abroad in accordance with the provisions in Article 24, the amount of monthly tax installments for PT X in 2010 =  $1/12 \times \text{Rp}25,200,000.00 = \text{IDR } 2,100,000.00$ .

Example 2

In 2009, Taxpayer A's regular income from trading business is Rp. 48,000,000.00 (forty eight million rupiah) and irregular income is Rp. 72,000,000.00 (seventy two million rupiah). The income used as the basis for calculating Income Tax Article 25 from Taxpayer A in 2010 is only from the regular income.

Example 3:

Changes in the business conditions or activities of the Taxpayer may occur due to a decrease or increase in business. PT B, which is engaged in yarn production, in 2009 paid monthly installments of Rp. 15,000,000.00 (fifteen million rupiah).

In June 2009 PT B's factory caught fire. Therefore, based on the Decree of the Director General of Taxes starting in July 2009 PT B's monthly installments can be adjusted to be less than Rp15,000,000.00 (fifteen million rupiah).

On the other hand, if PT B experiences an increase in its business, for example an increase in sales and it is estimated that its Taxable Income will be greater than the previous year, the monthly installment obligation of PT B can be adjusted by the Director General of Taxes.

#### **Sentence (7)**

In principle, the calculation of the amount of monthly installments in the current year is based on the last year's income tax return. However, this provision authorizes the Minister of Finance to determine the basis for calculating the amount of monthly installments other than based on the above principles. This is intended to be closer to the fairness of calculating the amount of tax installments because it is based on the latest data on the company's business activities.

#### **Letter A**

For new Taxpayers who start running a business or carry out activities in the current tax year, it is necessary to regulate the calculation of the amount of installments, because the Taxpayer has never submitted an Annual Income Tax Return, the determination of the amount of tax installments is based on the reality of the business or activities of the Taxpayer.

## Letter b

For taxpayers engaged in banking, state-owned enterprises and regionally-owned enterprises, as well as taxpayers listed on the stock exchange and other taxpayers who based on the provisions are required to make periodic financial reports, it is necessary to regulate the calculation of the amount of separate installments because there is an obligation to submit reports related to financial management within a certain period to a Government agency that can be used as a basis for calculating the amount of tax installments in the current year.

## The letter c

For certain entrepreneur individual taxpayers, namely individual taxpayers who have 1 (one) or more place of business, the maximum amount of tax installment is 0.75% (zero point seven five percent) of the gross turnover.

## Sentence (8)

Quite clear.

## Sentence (8a)

Quite clear.

## Sentence (9)

Quite clear.

## Related Rules

There are no related regulations.

## Article 26

- (1) For the income mentioned below, under any name and in whatever form, which is paid, made available to be paid, or has been due for payment by a government agency, domestic tax subject, activity organizer, permanent establishment, or other foreign company representative to A foreign taxpayer other than a permanent establishment in Indonesia withholding tax of 20% (twenty percent) of the gross amount by the party who is obliged to pay:
  - a. dividends;
  - b. interest including premiums, discounts, and fees in connection with debt repayment guarantees;
  - c. royalties, rents, and other income in connection with the use of property;
  - d. remuneration 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. benefits from debt relief. \*\*\*\*)
- (1a) The domicile country of the foreign Taxpayer other than the one who runs business or carries out business activities through a permanent establishment in Indonesia as referred to in paragraph (1) is the country of residence or domicile of the foreign Taxpayer who actually receives the benefits from the income (*beneficial owner*). . \*\*\*\*)
- (1b) Tariff of 20% (twenty percent) of the gross amount by the party who is obliged to pay interest including premium, discount, and compensation in connection with the guarantee of debt repayment as referred to in paragraph (1) letter b may be reduced by a Government Regulation. \*\*\*\*)
- (2) On income from the sale or transfer of assets in Indonesia, except as regulated in Article 4 paragraph (2), which is received or obtained by a foreign Taxpayer other than a permanent establishment in Indonesia, and insurance premiums paid to a foreign insurance company are subject to a 20% tax deductible. (twenty percent) of the estimated net income. \*\*\*\*)
- (2a) Income from the sale or transfer of shares as referred to in Article 18 paragraph (3c) withholding tax of 20% (twenty percent) of the estimated net income. \*\*\*\*)
- (3) The implementation of the provisions as referred to in paragraph (2) and paragraph (2a) shall be regulated by or based on a Regulation of the Minister of Finance. \*\*\*\*)
- (4) Taxable Income after deducting tax from a permanent establishment in Indonesia is subject to a tax of 20% (twenty percent), unless the income is reinvested in Indonesia, the provisions of which are further regulated by or based on a Regulation of the Minister of Finance. \*\*\*\*)
- (5) Withholding tax as referred to in paragraph (1), paragraph (2), paragraph (2a), and paragraph (4) is final, except:
  - a. withholding of income as referred to in Article 5 paragraph (1) letter b and letter c; and b.

deductions from income received or earned by foreign individuals or entities that change their status to become domestic Taxpayers or permanent establishments. \*\*\*\*\*)

## **Explanation of Article 26**

On income received or earned by foreign taxpayers from Indonesia, this law adopts two tax imposition systems, namely self-fulfillment of tax obligations for foreign taxpayers who run business or carry out activities through a permanent establishment in Indonesia and withholding by third parties. who are obliged to pay for other foreign taxpayers.

This provision regulates withholding of income originating in Indonesia which is received or obtained by a foreign Taxpayer other than a permanent establishment.

### **Sentence (1)**

Withholding taxes under this provision must be made by government entities, domestic tax subjects, activity organizers, permanent establishments, or representatives of other overseas companies that make payments to foreign taxpayers other than permanent establishments in Indonesia at a rate of 20% (twenty percent) of the gross amount.

The types of income for which deductions are required may be classified as: 1. income derived from capital in the form of dividends, interest including premiums, discounts, and rewards due to guaranteed repayment of debts, royalties, and rent and other income in connection with the use of property;

2. rewards in connection with services, work, or activities;
3. prizes and awards by name and in any form;
4. pensions and other periodic payments;
5. swap premiums and other hedging transactions; and/or
6. profit due to debt relief.

In accordance with this provision, for example, a domestic tax subject entity pays a royalty of IDR 100,000,000.00 (one hundred million rupiah) to an overseas taxpayer, the domestic tax subject is obliged to deduct Income Tax of 20% (twenty percent) from IDR 100,000,000.00 (one hundred million rupiah).

For another example, an athlete from abroad who takes part in a marathon race in Indonesia then wins the prize money, then the prize is subject to a 20% (twenty percent) income tax deduction.

### **Subsection (1a)**

The country of domicile of a foreign Taxpayer other than the one who runs a business or conducts business activities through a permanent establishment in Indonesia that receives income from Indonesia is determined based on the residence or domicile of the Taxpayer who actually receives the benefits from the income ( *beneficial owner* ). Therefore, the country of domicile is not only determined based on the Domicile Certificate, but also the place of residence or domicile of the beneficiary of the said income.

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

### **Sentence (1b)**

Quite clear.

### **Sentence (2)**

This provision regulates withholding tax on income received or earned by foreign Taxpayers originating in Indonesia, other than income as referred to in paragraph (1), namely income from the sale or transfer of property, and insurance premiums, including reinsurance premiums. The income tax is deducted by 20% (twenty percent) of the estimated net income and is final. The Minister of Finance is given the authority to determine the amount of the estimated net income, as well as other matters in the context of implementing the withholding tax.

This provision is not applied in the event that the foreign Taxpayer runs a business or carries out activities through a permanent establishment in Indonesia or if the income from the sale of such assets has been subject to Tax based on the provisions of Article 4 paragraph (2). **Ayat (2a)**

Quite clear.

### **Sentence (3)**

Quite clear.

#### **Sentence (4)**

On Taxable Income after deducting taxes from a permanent establishment in Indonesia withholding tax of 20% (twenty percent).

Example:

If the after-tax income of Rp13,65,000,000.00 (thirteen billion six hundred fifty million rupiah) is reinvested in Indonesia in accordance with or based on a Regulation of the Minister of Finance, the income is not deducted from tax. \*\*\*\*\*)

#### **Sentence (5)**

In principle, withholding tax on foreign taxpayers is final, but on income as referred to in Article 5 paragraph (1) letter b and letter c, and on income of individual taxpayers or foreign entities that change their status to domestic taxpayers or permanent establishment, the withholding tax is not final so that the withholding tax can be credited in the Annual Income Tax Return.

Example:

A as an individual foreign worker makes a work agreement with PT B as a domestic taxpayer to work in Indonesia for a period of 5 (five) months starting January 1, 2021. On April 20, 2021 the work agreement is extended to 8 (eight) month so that it will end on August 31, 2021.

If the work agreement is not extended, A's status will remain as a foreign taxpayer. With the extension of the work agreement, A's status changes from a foreign taxpayer to a domestic taxpayer starting January 1, 2021. During January to March 2021, PT B's gross income has been deducted from Article 26 Income Tax.

Based on this provision, to calculate the Income Tax payable on A's income for the period January to August 2021, Article 26 Income Tax which has been deducted and paid by PT B on A's income up to March, can be credited against A's tax as a Taxpayer in country. \*\*\*\*\*)

#### **Related Rules**

There are no related regulations.

### **Article 27**

Deleted. \*\*)

#### **Explanation of Article 27**

Quite clear.

#### **Related Rules**

There are no related regulations.

### **Article 28**

- (1) For domestic taxpayers and permanent establishments, the tax payable is reduced by a tax credit for the tax year concerned, in the form of:
  - a. withholding tax on income from work, services and activities as referred to in Article 21; b. collection of taxes on income from activities in the import sector or business activities in other fields as referred to in Article 22;
  - c. withholding tax on income in the form of dividends, interest, royalties, rent, gifts and awards, and service fees as referred to in Article 23;
  - d. tax paid or payable on income from abroad that may be credited as referred to in Article 24; e. the payment made by the Taxpayer himself as referred to in Article 25;
  - f. withholding tax on income as referred to in Article 26 paragraph (5). \*\*)
- (2) Administrative sanctions in the form of interest, fines, and increases as well as criminal sanctions in the form of fines relating to the implementation of legislation in the field of taxation in force may not be

credited with the tax payable as referred to in paragraph (1). \*\*)

## **Elucidation of Article 28**

### **Sentence (1)**

Taxes that have been paid in the current year, whether paid by the taxpayer himself or withheld and collected by other parties, can be credited against the tax payable at the end of the tax year concerned.

Example:

### **Sentence (2)**

Quite clear.

### **Related Rules**

There are no related regulations.

## **Article 28A**

If the tax payable for a tax year turns out to be less than the amount of the tax credit as referred to in Article 28 paragraph (1), then after the audit, the overpayment of tax is returned after being calculated with the tax payable along with the sanctions. \*\*)

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

In accordance with the provisions 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 making a tax return or calculation of excess.

Things that must be considered before making a return or calculating the excess tax are:

- a. material truth regarding the amount of Income Tax payable;
- b. the validity of the evidence of levies and evidence of tax deductions as well as proof of tax payment by the Taxpayer himself during and for the tax year concerned.

Therefore, for the purposes of the audit, the Director General of Taxes or other appointed officials are authorized to conduct audits on financial statements, books, and other records as well as other audits relating to the determination of the amount of Income Tax payable, the correctness of the amount of tax and the amount of tax that has been credited and to determine the amount of the excess tax payment that must be returned.

The purpose of this audit is to ensure that the money to be paid back to the Taxpayer as restitution is indeed the right of the Taxpayer.

### **Related Rules**

There are no related regulations.

## **Article 29**

If the tax payable for a tax year turns out to be greater than the tax credit as referred to in Article 28 paragraph (1), the underpayment of the tax payable must be repaid before the Annual Income Tax Return is submitted. \*\*\*\*)

### **Explanation of Article 29**

This provision requires the Taxpayer to settle the underpayment of tax payable according to the provisions of this Law before the submission of the Annual Income Tax Return and no later than the deadline for submitting the Annual Income Tax Return. If the fiscal year is the same as the calendar year, the tax deficiency must be repaid no later than March 31 for individual taxpayers or April 30 for corporate taxpayers after the end of the tax year, whereas if the fiscal year is not the same as the calendar year, for

example starting on July 1 until June 30, the tax deficiency must be paid no later than September 30 for individual taxpayers or October 31 for corporate taxpayers.

### **Related Rules**

There are no related regulations.

## **Article 30**

Deleted. \*\*)

### **Explanation of Article 30**

Quite clear.

### **Related Rules**

There are no related regulations.

## **Article 31**

Deleted. \*\*)

### **Elucidation of Article 31**

Quite clear.

### **Related Rules**

There are no related regulations.

## **BAB VII OTHER TERMS OTHER**

### **Article 31A**

(1) Taxpayers who invest in certain business fields and/or in certain regions that receive high priority on a national scale may be given tax facilities in the form of:

- a. a reduction in net income of a maximum of 30% (thirty percent) of the total plantings made; b. accelerated depreciation and amortization;
- c. longer compensation for losses, but not more than 10 (ten) years; and
- d. the imposition of Income Tax on dividends as referred to in Article 26 in the amount of 10% (ten percent), unless the rate according to the applicable tax agreement stipulates lower. \*\*\*\*)

(2) Further provisions regarding certain business fields and/or certain regions that receive high priority on a national scale as well as the provision of tax facilities as referred to in paragraph (1) shall be regulated by a Government Regulation. \* \*\*\*)

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

#### **Sentence (1)**

One of the principles that need to be adhered to in the tax law 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 the provisions of the legislation. Therefore, every convenience in the field of taxation if it is really needed must refer to the above rules and must be maintained so that in its application it does not deviate from the intent and purpose of providing such facilities.

The purpose of this tax facility is to encourage direct investment activities in Indonesia, either through foreign investment or domestic investment in certain business fields and/or in certain areas that receive high priority on a national scale.

This provision can also be used to accommodate possible agreements with other countries in the fields of trade, investment, and other fields.

#### **Sentence (2)**

Quite clear.

### **Related Rules**

There are no related regulations.

## **Article 31B**

Deleted. \*\*\*\*)

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

Quite clear.

### **Related Rules**

There are no related regulations.

## **Article 31C**

(1) State revenue from domestic individual Income Tax and Income Tax Article 21 deducted by the employer is divided by 80% for the Central Government and 20% for the Regional Government where the Taxpayer is registered. \*\*\*)

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

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

Quite clear.

### **Related Rules**

There are no related regulations.

## **Article 31D**

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

### **Explanation of Article 31D**

Quite clear.

### **Related Rules**

There are no related regulations.

## **Article 31E**

(1) Domestic corporate taxpayers with a gross turnover of up to Rp50,000,000,000.00 (fifty billion rupiahs) shall receive facilities in the form of a reduction in tariffs of 50% (fifty percent) of the rates as

referred to in Article 17 paragraph (1) letter b and paragraph (2a) imposed on Taxable Income from the gross turnover up to Rp.4,800,000,000.00 (four billion eight hundred million rupiah). \*\*\*\*) (2) The amount of the gross turnover as referred to in paragraph (1) may be increased by a Regulation of the Minister of Finance. \*\*\*\*)

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

#### **Sentence (1)**

Example 1:

The gross turnover of PT Y in the 2009 fiscal year is Rp.4,500,000,000.00 (four billion five hundred million rupiah) with a Taxable Income of Rp.500,000,000.00 (five hundred million rupiah).

Calculation of tax payable:

All Taxable Income derived from the gross turnover is subject to a tariff of 50% (fifty percent) of the

applicable corporate Income Tax rate because the total gross turnover of PT Y does not exceed Rp.4,800,000,000.00 (four billion eight hundred million rupiah) .

Income Tax payable:

$(50\% \times 28\%) \times \text{Rp}500.000.000,00 = \text{Rp}70.000.000,00$

Example 2:

The gross turnover of PT X in the 2009 tax year is Rp. 30,000,000,000.00 (thirty billion rupiahs) with a Taxable Income of Rp. 3,000,000,000.00 (three billion rupiahs).

Calculation of Income Tax payable:

1. Amount of Taxable Income from the gross turnover that obtains the following facilities:

$(\text{Rp}4.800.000.000,00 : \text{Rp}30.000.000.000,00) \times \text{Rp}3.000.000.000,00 = \text{Rp}480.000.000,00$  2.

Amount of Taxable Income from the gross turnover that does not receive the following facilities:

$\text{Rp}3.000.000.000,00 - \text{Rp}480.000.000,00 = \text{Rp}2.520.000.000,00$

Income Tax payable:

## **Sentence (2)**

Quite clear.

## **Related Rules**

There are no related regulations.

## **Article 32**

The procedures for imposing taxes and sanctions in relation to the implementation of this Law are carried out in accordance with Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times, most recently by Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures. \*\*\*\*\*)

## **Explanation of Article 32**

Quite clear.

## **Related Rules**

There are no related regulations.

## **Article 32A**

The government is authorized to form and/or implement agreements and/or agreements in the field of taxation with the governments of partner countries or partner jurisdictions, both bilaterally and multilaterally in the context of:

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

## **Explanation of Article 32A**

In order to improve economic relations, particularly in the field of taxation, with partner countries or partner jurisdictions and in line with the development of a dynamic international taxation landscape, the Government of Indonesia is given the authority to form and/or implement agreements and/or agreements with partner country governments or partner jurisdictions, both bilaterally and multilaterally through specially applicable legal instruments ( *lex-specialis* ) for the avoidance of double taxation and prevention of tax evasion, prevention of erosion of the taxation base and shifting of profits, exchange of tax information, assistance in tax collection, and other tax cooperation.

What is meant by "agreement and/or agreement in the field of taxation" is an agreement and/or agreement

in a certain form and name in the field of taxation, which refers to the law that is effective before, since, or after this Law comes into effect.

Letter A

What is meant by "double taxation" is the imposition of tax by two or more countries or jurisdictions on the same income earned/received by the same tax subject and on the same income earned/received by different tax subjects.

What is meant by "tax evasion" is tax evasion, evasion, or deduction that is carried out illegally by an individual, entity, or permanent establishment with the intention of not paying taxes in any country or jurisdiction or reducing the tax payable.

Letter b

What is meant by "taxation base erosion and profit shifting" is a tax planning strategy that aims to take advantage of the interaction of tax provisions between different countries/jurisdictions, one of which is to transfer profits to a country or jurisdiction that does not impose taxes or imposes a low rate of tax and which has no or small contribution to its economic substance activities with the aim of not paying taxes in any country or jurisdiction or reducing taxes owed.

The letter c

What is meant by "exchange of tax information" is the exchange of information related to taxation between countries/jurisdictions as the implementation of international agreements. The letter d

What is meant by "tax collection assistance" is the tax collection assistance facility contained in the agreement that can be used by the Government of Indonesia and the government of partner countries or partner jurisdictions to collect tax debts which are administered by the Director General of Taxes or the partner country's tax authorities. or partner jurisdiction.

The letter e

Quite clear.

### **Related Rules**

There are no related regulations.

## **Article 32B**

Provisions regarding the imposition of tax on interest or discount on Government Bonds traded in other countries based on mutual treatment agreements with other countries are regulated by a Government Regulation. \*\*\*\*)

### **Explanation of Article 32B**

In order to expand the Government Bond market, the government may impose a lower special rate or exempt from taxation on Government Bonds traded on the exchanges of other countries. The government can only impose this special treatment as long as the other country also provides the same treatment for the bonds of the other country which are traded on the stock exchange in Indonesia.

### **Related Rules**

There are no related regulations.

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

### **Article 32C**

Further provisions on:

- a. income in the form of gains due to the transfer of assets in the form of grants, assistance, or donations that are excluded from tax objects because they are given to blood relatives in a straight line of one degree and religious bodies, educational bodies, social institutions including foundations, cooperatives, or individuals who run micro-enterprises and small, as long as there is no relationship with business, occupation, ownership, or control between the parties concerned as referred to in Article 4 paragraph (1) letter d number 4;
- b. certain skill criteria and the imposition of Income Tax for foreign nationals as referred to in Article 4 paragraph (1a);
- c. donated assets received by blood relatives in a straight line of one degree, religious bodies, educational

bodies, social institutions including foundations, cooperatives, or individuals who run micro and small businesses, as long as there is no relationship with business, employment, ownership, or control among the parties concerned, who are excluded from the tax object as referred to in Article 4 paragraph (3) letter a number 2;

- d. replacement or remuneration in connection with work or services received or obtained in kind and/or enjoyment that is excluded from the tax object as referred to in Article 4 paragraph (3) letter d; e. the criteria, period, and changes to the limits on the dividends invested, as well as the provisions for exemption from Income Tax on dividends or other income as referred to in Article 4 paragraph (3) letter f;
- f. income from investment in certain fields received by the pension fund, which is excluded from the tax object as referred to in Article 4 paragraph (3) letter h;
- g. scholarships that meet certain requirements that are exempt from tax objects as referred to in Article 4 paragraph (3) letter i;
- h. the excess that is received or obtained by a non-profit agency or institution engaged in education and/or research and development, which is excluded from the tax object as referred to in Article 4 paragraph (3) letter m;
- i. assistance or compensation paid by the Social Security Administering Body to certain Taxpayers, which are excluded from the tax object as referred to in Article 4 paragraph (3) letter n; j. deposit funds for Hajj Organizing Fees (BPIH) and/or special BPIH, and income from the development of Hajj finance in certain financial fields or instruments received by the Hajj Financial Management Agency (BPKH), which are excluded from the tax object as referred to in Article 4 paragraph (3) the letter o;
- k. the excess received/obtained by social and religious bodies or institutions, which are excluded from the tax object as referred to in Article 4 paragraph (3) letter p;
- l. promotion and sales costs that can be deducted from gross income as referred to in Article 6 paragraph (1) letter a number 7;
- m. receivables that are clearly uncollectible which can be deducted from gross income as referred to in Article 6 paragraph (1) letter h;
- n. replacement cost or compensation provided in kind and/or enjoyment which can be deducted from gross income as referred to in Article 6 paragraph (1) letter n;
- o. the formation or accumulation of reserve funds which can be deducted from gross income as referred to in Article 9 paragraph (1) letter c;
- p. group of tangible assets, useful life, and 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 fields as referred to in Article 11 paragraph (7);
- r. at the commencement of amortization for certain business fields as referred to in Article 11A paragraph (1a);
- s. calculation of amortization as referred to in Article 11A paragraph (2) and paragraph (2a); t. limit on the amount of borrowing costs that can be charged for tax calculation purposes as referred to in Article 18 paragraph (1);
- u. determination of the time when dividends are obtained by a resident Taxpayer for equity participation in a foreign business entity other than the business entity that sells its shares on the stock exchange as referred to in Article 18 paragraph (2);
- v. application of the principle of fairness and business practice in the context of calculating the amount of Taxable Income for Taxpayers who have special relationships with other Taxpayers as referred to in Article 18 paragraph (3);
- w. implementation of transaction price formation agreements between parties that have a special relationship as referred to in Article 18 paragraph (3a);
- x. determination of the party that actually purchases the shares or assets of the company through another party or an entity formed for such a purpose ( *special purpose company* ) as referred to in Article 18 paragraph (3b);
- y. stipulation on the sale of the transfer of shares of an entity established or domiciled in Indonesia or a permanent establishment in Indonesia as referred to in Article 18 paragraph (3c); z. re-determination of the amount of income earned by a domestic individual Taxpayer from an employer who has a special relationship with another company that is not established and is not domiciled in Indonesia as referred to in Article 18 paragraph (3d);
- aa. special relationship criteria as referred to in Article 18 paragraph (4);

bb. establishment and/or implementation of agreements and/or agreements in the field of taxation as referred to in Article 32A, regulated by or based on a Government Regulation. \*\*\*\*\*)

### **Explanation of Article 32C**

Quite clear.

### **Related Rules**

There are no related regulations.

## **BAB VIII TRANSITIONAL TERMS**

### **Article 33**

(1) Taxpayers whose financial year ended on June 30, 1984 and ended between June 30, 1984 and December 31, 1984 may choose how to calculate their tax based on the provisions of the 1925 Corporate Tax Ordinance or 1944 Income Tax Ordinance, or based on the provisions of this Law. . (2) Tax facilities that have been granted up to December 31, 1983, which:

a. the period of time is limited, it can be enjoyed by the relevant Taxpayer until it is finished; b. period is not determined, can be enjoyed until the tax year before the tax year 1984. (3) Taxable income received or earned in the field of oil and gas mining as well as in other mining sectors in connection with contracts of work and production sharing contracts, which are still valid at the time this law comes into effect, is taxed based on the provisions of the 1925 Corporate Tax Ordinance and Tax Law on Interest, Dividends and Royalties 1970 and all its implementing regulations.

### **Explanation of Article 33**

#### **Sentence (1)**

For Taxpayers whose tax year is a financial year, there is a possibility that part of the tax year is included in the 1984 calendar year. According to the provisions of this paragraph, if 6 (six) months of the tax year are included in the 1984 calendar year, the Taxpayer is allowed to choose whether to use the 1925 Company Tax Ordinance or the 1944 Income Tax Ordinance, or to choose the application of the provisions contained in this law. Such opportunity to vote also applies to taxpayers who are more than 6 (six) months from the tax year included in the 1984 calendar year.

#### **Sentence (2)**

Letter A

Tax facilities with a limited period of time, such as tax facilities based on Law Number 1 of 1967 concerning Foreign Investment and Law Number 6 of 1968 concerning Domestic Investment that have been granted until December 31, 1983 can still be enjoyed until the end the tax facility.

Letter b

Tax facilities for an indefinite period of time can 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 stamp duty on the placement and deposit of share capital, based on the Decree of the Minister of Finance No. KEP- 1680/MK/II/12/1976 dated 28 December 1976;
- tax facilities granted to Limited Liability Companies that sell their shares through the Capital Market, in the form of reduced corporate tax rates, based on the Decree of the Minister of Finance No. 112/KMK.04/1979 dated March 27, 1979.

#### **Sentence (3)**

The 1925 Company Tax Ordinance, and the 1970 Interest, Dividend and Royalty Tax Law and all of its implementing regulations will continue to apply to taxable income received or earned in the oil and gas mining sector and in other mining sectors carried out in the framework of a Contract of Work agreement. and Production Sharing Contracts, as long as the Contract of Work and Production Sharing Contracts are still valid at the time this law comes into force.

The provisions of this law only apply to taxable income received or obtained in the field of oil and natural gas mining carried out in the form of a Work Contract and Revenue Sharing Contract, when the Work

Contract and Revenue Sharing Contract are made after the enactment of this law .

### **Related Rules**

There are no related regulations.

## **Article 33A**

- (1) Taxpayers whose financial year ends after June 30, 1995 are required to calculate their taxes based on the provisions as regulated in Law Number 7 of 1983 as last amended by this Law. \*\*) (2) Taxpayers who obtain tax facilities and have received a decision on when to start production before January 1, 1995, the said tax facilities can be enjoyed in accordance with the specified period. \*\*) (3) The tax facilities that have been granted expired on December 31, 1994, except for the facilities as referred to in paragraph (2). \*\*) (4) Taxpayers who run a business in the field of oil and gas mining, general mining, and other mining based on a production sharing contract, contract of work, or mining concession agreement which are still valid at the time this Law comes into effect, the tax is calculated based on the provisions in the contract for the results, contract of work, or mining concession agreement until the end of the said contract or cooperation agreement. \*\*)

### **Explanation of Article 33A**

#### **Sentence (1)**

If the Taxpayer uses the fiscal year ending June 30, 1995 or earlier (not the same as the calendar year), then the fiscal year is the fiscal year 1994. Taxes payable in that year are still calculated based on Law Number 7 of 1983 as amended with Law Number 7 of 1991. Meanwhile, taxpayers whose financial year ends after June 30, 1995, are obliged to calculate their taxes starting for the 1995 tax year based on Law Number 7 of 1983 concerning Income Tax, as last amended by Law this.

#### **Sentence (2) and sentence (3)**

Taxpayers who have obtained the Decree of the Minister of Finance regarding tax facilities regarding the start of production issued before January 1, 1995 can enjoy the tax facilities granted up to the period stipulated in the relevant decree. Thus, since January 1, 1995 the decision on when to start production was no longer issued.

#### **Sentence (4)**

The tax provisions in the production sharing contract, contract of work, or mining concession agreement which are still valid at the time this Law comes into effect are declared to remain in effect until the expiration of the production sharing contract, contract of work, or mining concession cooperation agreement. Even though this law has come into force, the tax liability for taxpayers who are bound by a production sharing contract, contract of work or mining concession agreement is still calculated based on the contract or agreement.

Thus, the provisions of this Law have only been applied to the imposition of taxes on income received or earned by Taxpayers in the field of oil and gas mining and other general mining operations carried out in the form of a work contract, production sharing contract, or mining concession agreement. , which is signed after the entry into force of this Law.

### **Related Rules**

There are no related regulations.

## **Article 34**

Implementing regulations in the field of Income Tax which are still valid at the time this Law comes into effect are declared to remain in effect as long as they do not conflict with the provisions of this Law. \*\*)

### **Explanation of Article 34**

Quite clear.

### **Related Rules**

There are no related regulations.

## **CLOSING**

### **Article 35**

Matters which have not been sufficiently regulated in the framework of implementing this Law shall be further regulated by Government Regulation. \*\*\*\*)

#### **Explanation of Article 35**

With a Government Regulation, further provisions are made for matters that have not been sufficiently regulated in the context of implementing this Law, namely all regulations necessary for this Law to be implemented as well as possible, including transitional regulations.

#### **Related Rules**

There are no related regulations.

### **Article 36**

- (1) This law came into force on January 1, 1984.
- (2) This law may be called the Income Tax Act of 1984.

#### **Explanation of Article 36**

##### **Sentence (1)**

This paragraph confirms that the Income Tax Law of 1984 came into force on January 1, 1984.

For Taxpayers whose tax year is the same as the calendar year, then this law applies to them since the tax year 1984. For Taxpayers who use a book year that is different from the calendar year, then this law will apply to the book year that begins after January 1, 1984.

##### **Sentence (2)**

Quite clear.

#### **Related Rules**

There are no related regulations.