

# Notary

## A. Legal Basis

The legal sources underlying this tax guide are as follows.

- (i) Law Number [7 of 1983](#) concerning Income Tax as amended several times, most recently by Law Number [7 of 2021](#) (PPH Law);
- (ii) Law Number [6 of 1983](#) concerning General Provisions and Tax Procedures as amended several times, most recently by Law Number [7 of 2021](#) (UU KUP);
- (iii) Law Number [8 of 1983](#) concerning Value Added Tax on Goods and Services and Sales Tax on Luxury Goods as amended several times, most recently by Law Number [7 of 2021](#) (VAT Law);
- (iv) Law Number [30 of 2004](#) concerning the Position of Notary as amended by Law Number [2 of 2014](#) (Law No. 30/2014 stdd Law No. 2/2014);
- (v) Government Regulation of the Republic of Indonesia Number [23 of 2018](#) concerning Income Tax on Income from Businesses Received or Obtained by Taxpayers Having a Certain Gross Circulation (PP No. 23/2018);
- (vi) Regulation of the Minister of Finance Number [147/PMK.03/2017](#) concerning Procedures for Registration of Taxpayers and Elimination of Taxpayer Identification Numbers as well as the Inauguration and Revocation of Inauguration of Taxable Entrepreneurs (PMK 147/2017);
- (vii) Regulation of the Minister of Finance Number [68/PMK.03/2010](#) concerning VAT Small Entrepreneur Limits as amended by Regulation of the Minister of Finance of the Republic of Indonesia Number [197/PMK.03/2013](#) (PMK 68/2010 stdd PMK 197/2013);
- (viii) Regulation of the Minister of Finance Number [243/PMK.03/2014](#) concerning Notification Letters (SPT) as amended by Regulation of the Minister of Finance of the Republic of Indonesia Number [9/PMK.03/2018](#) (PMK 243/2014 stdd PMK 9/2018);
- (ix) Regulation of the Minister of Finance of the Republic of Indonesia Number [258/PMK.03/2008](#) concerning Withholding Income Tax Article 26 on Income from the Sale or Transfer of Shares as referred to in Article 18 Paragraph (3c) of the Law on Income Tax Received or Obtained by Foreign Taxpayers (PMK) 258/2008);
- (x) Regulation of the Minister of Finance Number [252/PMK.03/2008](#) concerning Instructions for Implementing Withholding Tax on Income Related to Work, Services, and Activities of Individuals (PMK 252/2008);
- (xi) Regulation of the Director General of Taxes Number [PER-16/PJ/2016](#) concerning Technical Guidelines on Procedures for Withholding, Depositing and Reporting Income Tax Article 21 and/or Income Tax Article 26 in Relation to Work, Services, and Activities of Individuals (PER 16/2016);
  - (xii) Regulation of the Director General of Taxes Number [PER-17/PJ/2015](#) concerning Norms for Calculation of Net Income (PER-17/2015); and
- (xiii) Ministry of Manpower & Central Statistics Agency. Indonesian Standard Classification. 2014.

## B. Definitions and Tasks

Notary is a public official authorized to make authentic deeds and other authorities. According to the Indonesian Standard Classification of Positions (KBJI), it is stated that the duties of a notary include:

- (i) provide legal counseling for and for legal actions taken by a notary at the request of his client.
  - (ii) make an authentic deed regarding all actions, agreements, and provisions required by legislation and/or desired by the interested parties, to be stated in an authentic deed,
- (iii) guarantee the certainty of the date of making the deed,

- (iv) keep deed,
- (v) giving *grosse*, copy and collection of the deed, all as long as the making of the deed is not assigned or excluded to the office or other person designated by law;
- (vi) ratify the signature and determine the certainty of the date of making the letter under the sign by registering it in a special book (legalization).

### C. Income Object

The definition of income according to Article 4 paragraph (1) of the Income Tax Law (UU PPh) is any additional economic received by the taxpayer. In this case the taxpayer in question is someone with a notary profession. Furthermore, the income category referred to by the Income Tax Law is universal, namely those originating from Indonesia and from outside Indonesia, especially those that can be used for consumption or to increase the wealth of the notary concerned. This income also applies in any name and in any form. Based on the definition above, it generally comes from:

- (i) honorarium whose amount is determined from the economic value and sociological value of each deed made by a notary.

a. The provisions for calculating the economic value of each deed are as follows:

No	Nominal	Persentase maksimal
1.	sampai dengan Rp100.000.000 atau ekuivalen dengan gram emas saat itu	2,5%
2.	Rp100.000.000 – Rp1.000.000.000	1,5%
3.	Di atas Rp1.000.000.000	Didasarkan pada kesepakatan antara notaris dengan para pihak, namun tidak boleh melebihi 7%

b. Meanwhile, the sociological value according to the provisions of Law no. 30/2004 concerning the Position of a Notary is determined based on the social function of the object of each deed with a maximum honorarium of Rp. 5,000,000.

- (ii) Income other than notary work which can be in the form of:

a. Income from business activities. For example, a notary has income from a bakery, etc.;

Other non-final domestic income include:

- 1) prizes, commissions and other rewards;
- 2) property rent other than land/building;
- 3) royalties;
- 4) award prizes;
- 5) profits from the sale or transfer of property.

c. Income that is subject to Final PPh, for example in the form of:

- 1) interest on savings or time deposits;
- 2) dividends;
- 3) sale of shares on the stock exchange;
- 4) land and/or building rent.

d. Income from abroad.

### D. Notary Rights in the Scope of Taxes

In tax law, notaries also have the same rights as other taxpayers. This is because the rights of taxpayers within the scope of taxation are not limited to certain types of professions. Thus, the following are some of the rights of a notary:

- (i) Notaries have the right to get back the overpayment of taxes that have been paid, withheld or collected. If in this case, the tax that has been paid is paid, withheld, or collected is greater than what should be owed.
- (ii) If in the context of an audit, a Notary as a taxpayer has the right to:
  - a. request an inspection warrant;
  - b. look at the examiner's identification;
  - c. get an explanation about the meaning and purpose of the inspection;
  - d. request details of the difference between the results of the examination and the notification letter (SPT);
  - e. present in the final discussion of the results of the examination within the specified time limit.
- (iii) Right to object, appeal and review;
- (iv) The right to be guaranteed data confidentiality as a taxpayer, which includes:
  - a. SPT data, financial statements, and other documents reported by a Notary as a taxpayer;
  - b. Data from third parties that are confidential;
  - c. Other taxpayer documents or secrets as stipulated in the Law on General Provisions and Tax Procedures (UU KUP).
- (v) Right to defer payment;
- (vi) Right to payment installments;
- (vii) The right to postpone the reporting of the Annual SPT;
- (viii) The right to reduce income tax Article 25;
- (ix) Right to UN reductions;
- (x) The right to obtain tax exemption facilities;
- (xi) The right to obtain a preliminary refund of the overpayment of taxes; and (xii) The right to get tax incentives.

### **E. Obligations of a Notary in the Scope of Taxes**

Like taxpayers in general, a Notary also has obligations that must be carried out, namely:

- (i) Notaries who have met the objective and subjective provisions are required to register themselves as taxpayers. If the Notary has a business with a business turnover of more than 4.8 billion in one tax year, the Notary is obliged to report the business to be confirmed as a taxable entrepreneur (PKP).
- (ii) Notaries also have obligations to pay, withhold or collect, and report taxes.
  - a. Obligated to pay PPh Article 25/29 on income received during the tax year.
  - b. Carry out withholding obligations on Income Tax Article 21 if the Notary has employees.
  - c. Carry out the obligation to withhold Income Tax Article 4 paragraph (2) if the Notary is the tenant of the premises. With a note that the owner of the place is a private person, so that the Notary is appointed as the cutter.
  - d. Carry out the obligation to submit a notification letter (SPT) of personal income tax formula 1770.
  - e. In the case of a Notary as an individual taxpayer who performs independent work, he is required to do bookkeeping. If the Notary's income is below IDR 4.8 billion, the Notary is allowed to choose the recording method.
  - f. Carry out the obligation to submit SPT PPh Period 21.
  - g. In the event that the Notary has been confirmed as PKP, the Notary has the obligation to collect, deposit, and submit the Periodic VAT SPT.

## Notes

In the event that a Notary earns income from services in connection with independent work, the income is not included in the category of income from business which is subject to final income tax. The category of notary income from services in connection with independent work, for example, is being an expert who does independent work consisting of lawyers, accountants, notaries, doctors, consultants, notaries, PPAT, or actuaries.

## F. Basic Tax Imposition (DPP)

In calculating taxes, it is important to know the tax base (DPP) of an income. This also applies to the calculation of income tax obtained by a Notary. The following is a brief summary of determining the DPP Notary:

### F.1 Conditions of a Notary using the bookkeeping method

If a Notary uses the bookkeeping method, the method of calculating net income is as follows:

$$\text{Penghasilan Netto} = \text{Penghasilan Bruto} - \text{Biaya Usaha}$$

The business costs in question are all costs used in connection with obtaining, collecting, and maintaining income.

### F.2 Conditions of a Notary using the recording method

If a Notary uses the recording method, the procedure for calculating net income is as follows:

$$\text{Penghasilan Netto} = \text{Norma} \times \text{Penghasilan Bruto}$$

As for what is meant in the norm above is the norm for calculating net income (NPPN). In the case of Notary work, the applicable NPPN is 50% for all regions in Indonesia.

Based on the above calculation, net income will be obtained from the Notary. Next, enter into the stages of calculating taxable income in the following way:

$$\text{Penghasilan Kena Pajak} = \text{Penghasilan Netto} - \text{Penghasilan Tidak Kena Pajak}$$

For more details, non-taxable income (PTKP) can be determined based on the following table:

Keterangan	Besaran PTKP (Rp)
Atas diri sendiri wajib pajak orang pribadi	54.000.000
Tambahan untuk wajib pajak kawin	4.500.000
Tambahan untuk istri yang penghasilannya digabung dengan penghasilan suami	54.000.000
Tambahan untuk setiap tanggungan	4.500.000

After obtaining taxable income, then enter the stage of calculating the tax payable. The calculation method is by multiplying the PKP by the Article 17 income tax rate for individuals as shown in the table below:

Lapisan Penghasilan Kena Pajak	Tarif Pajak
Sampai dengan Rp50.000.000	5%
Rp50.000.000 - Rp250.000.000	15%
Rp250.000.000 - Rp500.000.000	25%
di atas Rp500.000.000	30%

### F.3 Paying Notary services

If a company pays for Notary services, then the company as the employer must deduct Article 21 Income Tax for experts.

- a. If the Notary receives income from only one provider of continuous income, the calculation is as follows:

$$\text{DPP} = (\text{Penghasilan} \times 50\%) - \text{PTKP Per Bulan}$$

$$\text{PPh Terutang} = \text{DPP} \times \text{Tarif PPh Pasal 17}$$

- b. If the Notary receives non-sustainable income or receives continuous income but also receives other income, the deduction is as follows:

$$\text{DPP} = (\text{Penghasilan} \times 50\%)$$

$$\text{PPh Terutang} = \text{DPP} \times \text{Tarif PPh Pasal 17}$$

Furthermore, the employer will provide evidence of withholding Income Tax Article 21 to the Notary. The proof of deduction can be used by the Notary as a tax credit to reduce the income tax that must be paid on the annual SPT.

#### F.4 Foreign Notary Services

If a company uses the services of a foreign Notary, the employer is required to carry out Article 26 Income Tax at a rate of 20% or at a rate in accordance with the applicable double taxation avoidance agreement (P3B).

#### F.5 Providing Notary services abroad

If the Notary provides Notary services abroad and income tax is deducted abroad, the proof of deduction can be credited as long as it is in accordance with the applicable tax regulations.

#### G. Case Illustration

Mr. Anton is a notary who already has a TIN. of IDR

In May 2019 Mr. Anton received a fee from PT. Joy 300,000,000. Based on the case above, the calculation of Income Tax Article 21 is as follows:

Uraian		Jumlah (Rp)
Penghasilan neto		= 50% x Rp300.000.000
		= 150.000.000
PPh Pasal 21		
•	5% x Rp50.000.000	= 2.500.000
•	15% x Rp100.000.000	= 15.000.000
Total PPh Pasal 21 terutang		= 17.500.000