



NEW LAW ON STAMP DUTY

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LAW NUMBER 10 OF YEAR 2020 (LAW-10) REGARDING STAMP DUTY WAS ISSUED ON 26 OCTOBER 2020, TO REVOKE LAW NUMBER 13 OF YEAR 1985 (LAW-13) AND BRING THE BASIS FOR LEVYING AND PAYING STAMP DUTY INTO THE 21ST CENTURY.



Effective date

Law-10 is effective starting 1 January 2021.

Object for stamp duty

Stamp duty is due on documents made as instruments to explain an event of a civil legal nature and documents to be used as evidence in the courts. The documents can be handwritten, printed or in electronic form.

Stamp duty objects are defined under Article 3(2) of Law-10 as:

- a) letters of agreement, certificates, statement letters or other similar letters and its counterparts,
- b) notarial deeds and *grosse*, including copies and excerpts,
- c) deed of a Land Deed Official (PPAT) and copies and excerpts,
- d) securities,
- e) securities transaction documents including futures contract transaction documents (in any form and name),
- f) auction documents including excerpts, copies, minutes and *grosse*,
- g) documents stating an amount of money greater than IDR 5,000,000 which is for a receipt of money or contains acknowledgement that a debt has been paid (fully or partially) or calculated,
- h) other documents stipulated by Government Regulation.

Stamp duty rate

There is now a single fixed rate of stamp duty of IDR 10,000.

The Government, however, can determine that certain documents could be subject to different rates of stamp duty in order to implement government programs or to support the implementation of policies for the monetary and/or financial sectors.

The rate(s) of stamp duty and the IDR 5,000,000 threshold for stamp duty can be increased or decreased by Government Regulation following consultation with Parliament.

Form of stamp duty

Stamp duty shall be in the form of:

- a) an adhesive stamp (with defined characteristics),
- b) an electronic stamp (that must have a unique code and specific information, as determined by Ministerial Regulation (PMK)),
- c) other forms – e.g., made by using a digital imprinted stamp duty machine, computerized system, printing technology, and other systems or technologies, as regulated under PMK.

When is stamp duty payable?

Stamp duty is payable at the time:

- a) the document is signed for: (i) a letter of agreement along with its counterparts, (ii) a notarial deed along with the *grosse*, copy and excerpts, and (iii) deed of a land deed official along with the

copy and excerpt (as intended by Article 3(2)(a)–(c) of Law–10),

- b) the document is completed for: (i) securities and (ii) documents of securities transaction including futures contract transactions (i.e., as intended by Article 3(2)(d)–(e) of Law–10),
- c) the document is delivered to the party for whom the document was made for: (i) certificates, statement letters, or other similar letters along with the copies, (ii) auction documents and (iii) documents stating an amount of money (as intended by Article 3(2)(a), (f) or (g) of Law–10),
- d) documents submitted to the court to be used as evidence in the court (as intended by Article 3(1) (b) of Law–10),
- e) documents made abroad that are a stamp duty object and will be used in Indonesia.

Mechanism for payment of stamp duty

Stamp duty can be paid by 2 methods: it is paid by the party receiving the documents (acting as payable party) by affixing the stamp on the documents, or it is collected by stamp duty collectors.

Stamp duty collectors are required to:

- a) collect the stamp duty payable on certain documents from the payable party,
- b) deposit the stamp duty to the state treasury, and
- c) report the collection and payment of stamp duty to the Directorate General of Taxation.

If a stamp duty collector does not collect or does not pay the stamp duty, or under collects or under pays the stamp duty then it is subject to a tax assessment letter (SKP) and a penalty of 100% of the stamp duty that was not collected/under collected or was not paid/underpaid.

Further provisions regarding stamp duty collectors will be stipulated by PMK.

Postdated stamp duty

It is possible to postdate stamp duty, either to correct a failure to apply stamp duty at the required time or for documents to be submitted to the court. In the case of correction of a previous failure, the postdating also requires payment of an administrative sanction equal to 100% of the duty rate; whereas only the usual duty rate applies for documents to be submitted to the court.

Further provisions for payment of postdated stamp duty will be stipulated by PMK.

Exemptions from stamp duty

Law–10 provides exemptions from the imposition of stamp duty either temporarily or permanently in relation to:

- a) documents for the transfer of rights to land and/or buildings in the context of accelerating the process of handling and restoring the socio-economic conditions of an area following a natural disaster,
- b) documents for the transfer of rights to land and/or buildings used to carry out activities that are solely religious and/or social in nature and that are not of a commercial nature,
- c) documents to support or implement government programs and/or policies of authorized institutions in the monetary or financial services sector, and/or
- d) documents that relate to the implementation of binding international agreements under the provisions of laws and regulations in the field of international agreements or under the principle of reciprocity.

Expiry date

The liability to pay stamp duty shall expire 5 years after the time when the duty should have been paid.

Sanctions

- a) any person that counterfeits or falsifies stamp duty or uses the original seal unlawfully (including making electronic stamp duty unlawfully) for own

or other's use as legal stamp duty, shall be subject to up to 7 years imprisonment and a maximum fine of IDR 500,000,000,

- b) any person that uses, sells, offers, delivers, has inventory for sale of stamp duty made illegally, or imports good affixed with stamp duty which are falsified, as if the stamp duty is genuine or if the said goods are made legally, shall be subject to up to 7 years imprisonment and a maximum fine of IDR 500,000,000,
- c) any person that removes the mark on the stamp duty that shows the stamp is no longer usable, or removes the signature, mark or sign on the stamp duty that shows it has been used, or uses, sells, offers, delivers, has inventory for sale, or imports stamp duty that the mark, signature or date of use has been removed, with intention that someone else uses it as if the stamp duty has not been used, shall be subject to up to 3 years imprisonment and a maximum fine of IDR 200,000,000.

Transitional provisions

The transitional provisions governing existing duty obligations under Law-13 and the use of existing inventory of duty stamps are:

- a) documents subject to stamp duty which is unpaid or underpaid per Law-13, remain subject to stamp duty under Law-13,
- b) adhesive duty stamps printed under Law-13 (IDR 3,000 and/or IDR 6,000) may still be used up to 1 year after Law-10 is effective, provided the minimum total value of adhesive stamp duty affixed on the documents is IDR 9,000.
- c) any remaining adhesive duty stamps cannot be redeemed for cash or any other form.

Although IDR 10,000 stamp duty is payable on electronic documents for securities transactions on the Indonesian Stock Exchange, after input from market participants, the Directorate-General of Taxation announced on 19 December 2020 that this will not be enforced yet.

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