



TAX AMNESTY

Finally, on 28 June 2016 the Parliament has approved the Tax Amnesty Law to assist the Government to achieve its ambitious tax revenue target. Law No. 11/2016 was signed and promulgated on 1 July 2016. Several implementing regulations have since been circulated.

Please find a summary of the Tax Amnesty Law for initial understanding and consideration.

Future alerts will follow in relation to the implementing regulations and developments.

Objectives of the Tax Amnesty

In addition to boosting tax revenue for the current year, the Government has indicated that it expects the successful implementation of the Tax Amnesty will:

- Improve the tax base for future years (because of the declaration of previously untaxed assets and/or expansion of the number of taxpayers), and
- Improve domestic liquidity (due to the repatriation of overseas funds), which will result in:
 - * Support for the exchange rate
 - * Potential reduction of interest rates
 - * Additional capital investment to drive employment and GDP growth

Based on preliminary comments by the Tax Office it also appears that the Tax Office has been preparing additional enforcement activities in case the Tax Amnesty Law was not approved.

Although these are now “on hold” we believe the message to taxpayers is that more vigorous enforcement will occur once the Tax Amnesty period finishes. Therefore taxpayers should take advantage of the Tax Amnesty to review their affairs and make appropriate declarations.

This view is further supported by the commitment by 101 countries to implement the Automatic Exchange of Information (AEOI) for financial account information; some committing to implement by September 2017 and others (including Singapore, Hong Kong and Indonesia) committing to implement during 2018. Therefore continued non-disclosure of offshore assets is not a viable option.

Effective Period of the Tax Amnesty

The Tax Amnesty Law became effective on the signature of the President – 1 July 2016.

The period of the Tax Amnesty runs from 1 July 2016 until 31 March 2017.

What is Offered by the Tax Amnesty?

In exchange for the payment of Redemption Money (uang tebusan) the Tax Amnesty waives the taxes (income tax, VAT and Luxury Goods & Sales Tax,) tax administration penalties and/or tax crime sanctions that might otherwise apply in relation to the declaration of assets.

In addition, under the Tax Amnesty:

- The taxpayer will not be subject to tax audits or investigations regarding the latest tax year (i.e. 31 December 2015 for standard year-ends) and earlier tax years;
- Existing tax audits and investigations will be suspended at the time of submission of the Asset Declaration Letter and then discontinued on receipt of the Tax Amnesty Statement Letter;
- The data that has been submitted will remain confidential;

Who May Utilize the Tax Amnesty?

Every Indonesian taxpayer may utilize the Tax Amnesty except in relation to a matter relating to a tax crime:

- That is subject to an investigation that is already finalized,
- That is already in court, or
- That is already subject to criminal punishment.

The taxpayer should declare any assets not yet reported in their latest Tax Return and settle the Redemption Money.

How is the Redemption Money Calculated?

The Redemption Money is a stipulated tariff multiplied by the taxpayer's additional net assets. In this regard "net assets" represents the additional declared assets less any liabilities connected to the acquisition of those assets. However, the actual amount of such liabilities that can be deducted is subject to a ceiling of 75% of the additional declared assets for a company or 50% of the additional declared assets for an individual. For example, if a company declared 1000 of additional assets and had 800 of related liabilities then only 750 could be deducted to calculate the net assets that would be subject to the tariff. If the taxpayer was an individual then the maximum permitted liability deduction becomes 500.

The additional asset value is determined by the fair value per the latest tax year for non-cash assets and nominal value for cash assets. If the asset uses a foreign currency, then the fair and nominal value should be converted to IDR using the exchange rate issued by the Minister of Finance at the end of the latest tax year.

The tariff that applies varies based on the time of the application to use the Tax Amnesty, where the assets are located and, if the assets are located overseas, whether the assets are repatriated from overseas or not.

The tariffs that apply for overseas assets that are repatriated and/or local assets are:

Period of Submission of Asset Declaration	Tariff
1 Jul – 30 Sep 2016	2%
1 Oct – 31 Dec 2016	3%
1 Jan– 31 Mar 2017	5%

If the offshore assets are not repatriated to Indonesia, then the below tariffs will apply:

Period of Submission of Asset Declaration	Tariff
1 Jul – 30 Sep 2016	4%
1 Oct – 31 Dec 2016	6%
1 Jan – 31 Mar 2017	10%

Offshore assets that are repatriated are required to be invested in Indonesian (government) marketable securities and bonds, financial instruments offered by Government appointed perception banks, government infrastructure investment, and other investments according to the Tax Amnesty Law and related regulations.

The Tax Amnesty Law provides a reduced tariff for taxpayers whose turnover is up to IDR 4.8 billion:

- 0.5% if the declared assets are up to IDR 10 billion ; or
- 2% if the declared asset are more than IDR 10 billion.

What are the requirements and process to make an application under the Tax Amnesty?

Some of the requirements that should be completed by the taxpayer are as follows:

- The taxpayer should submit an Asset Declaration Letter that details the additional assets, liabilities, computation and settlement of the Redemption Money;
- The taxpayer must have a Tax ID number;
- The taxpayer must have reported the latest Annual Tax Return (except for a taxpayer who just obtained their Tax ID in the 2016 tax year);
- Settlement of any taxes or penalties assessed but not yet paid;
- Cancel /revoke any tax disputes (objections or appeals), claims for cancellation or reduction of interest, etc.

Based on the application, the Minister or appointed officer should issue the certification or declaration (Tax Amnesty Statement Letter – Surat Keterangan) at the latest 10 days since the date of receiving the Asset Declaration Letter. By issuing the Tax Amnesty Statement Letter, the taxpayer shall receive the facilities under the Tax Amnesty, i.e. abolition of taxes otherwise due, not subject to further tax audit and/or investigation, not subject to administration and/or criminal sanction, etc.

Once the Tax Amnesty Statement Letter is issued then the taxpayer is not permitted to amend previous years tax returns (i.e. up to the 2015 tax year) and is not able to claim any tax losses and/or tax refunds from these years.

Sanction if Incomplete Declaration or Fail to Utilize the Tax Amnesty

The tariffs for calculation of the Redemption Money and the ability to avoid future tax audits and investigations are potentially very beneficial if a taxpayer has not reported some assets.

To balance this, the Tax Amnesty Law provides significant sanctions if the taxpayer has utilized the Tax Amnesty but there is subsequent new data and/or information regarding assets not declared. That is, data and/or information regarding assets not declared would be deemed as additional income for the tax year when the information is found by the Tax Office. This would be subject to income tax based on the prevailing regulation plus an additional penalty of 200%.

As a further encouragement for taxpayers to follow the tax amnesty, the Tax Amnesty Law effectively expands the statute of limitations (*jangka waktu daluwarsa*) for taxpayers that have not submitted an application under the Tax Amnesty Law. That is, the Tax Office is given a period of 3 years from 1 July 2016 to obtain data or detect undeclared assets that were acquired between 1 January 1985 and 31 December 2015. Such assets would be deemed to be income at the time these are detected and subject to tax and penalties in accordance with the prevailing tax laws and regulations. After 30 June 2019 the standard 5 years period applies for tax audit action (in the absence of a tax crime).

Actions

If a taxpayer has not correctly reported their worldwide assets then this is a unique opportunity to do so. In doing so the taxpayer will need to consider the consequences in relation to any ongoing tax disputes, refund claims and/or tax losses. A decision to make an application under the Tax Amnesty Law should then be followed by consistent compliance with the tax laws and regulations.

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