

Indonesian

Type: LAW (UU)

By: THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Number: 9 YEAR 1994 (9/1994)

Date: NOVEMBER 9, 1994

Reference: LN 1994/59; TLN NO. 3566

Title: GENERAL TAX PROVISIONS AND PROCEDURES AS AMENDED BY LAW
NUMBER 6 YEAR 1983

BY THE GRACE OF THE ALMIGHTY GOD,
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. Whereas the implementation of the national development has yielded a rapid growth in the national life, particularly in the economic field, including a development of the forms and practices in business activities which have not yet been accommodated in Law 6 Year 1983 concerning Tax General Provisions and Procedures;
- b. Whereas in an effort to always maintain the said development to run in accordance with the development policy based on the Trilogy of Development as set forth in the Broad Outlines of the State Directions, and in order to create legal certainty in relation to tax aspects, it is deemed necessary to have adjustment measures in Law Number 6 Year 1983 on Tax General Provisions and Procedures;
- c. Whereas to implement said matters, it is deemed necessary to amend several provisions in Law Number 6 Year 1983 concerning Tax General Provisions and Procedures;

In view of:

1. Article 5 paragraph (1), Article 22 paragraph (1), and Article 23 (1) of the 1945 Constitution;
2. Law Number 6 Year 1983 concerning Tax General Provisions and Procedures (State Gazette Year 1983 Number 40, Supplement to State Gazette Number 3262);

With the Approval of

THE HOUSE OF THE PEOPLE'S REPRESENTATIVES
OF THE REPUBLIC OF INDONESIA,

HAS DECIDED:

To stipulate: THE LAW CONCERNING THE AMENDMENT TO LAW NUMBER 6

YEAR 1983 ON TAX GENERAL PROVISIONS AND PROCEDURES.

CHAPTER I

GENERAL PROVISIONS

Article 1 (9/1994)

In this Law:

- a. A Taxpayer shall mean an individual or a corporation who which according to the provisions as stipulated is to fulfill tax obligations, including tax collectors or those withholding certain taxes;
- b. A corporation shall mean a form of business entity consisting of a limited liability company, a limited partnership, other kinds of enterprise, a state-owned or region-owned company under any name or form whatsoever, a partnership, an association, a firm, a kongsi, a cooperative, a foundation or any other similar organization, an institution, a pension fund, as well as any other business enterprise;
- c. Tax period shall mean a period of time the duration of which is equal to one calendar month, unless otherwise decided by the Minister of Finance;
- d. Fiscal year shall mean the period of one calendar year unless the Taxpayer applies a book year that does not coincide with the calendar year;
- e. Portion of Fiscal year shall mean a portion of the period of one fiscal year;
- f. Tax Return shall mean a document used by a Taxpayer to report his tax assessments/calculations and payments of owed taxes according to the tax regulations;
- g. Period Tax Return shall mean a document used by a Taxpayer to report his tax assessments/calculations and/or payments of owed taxes in a tax period or at a certain time;
- h. Annual Tax Return shall mean a document used by a Taxpayer to report his tax assessments/calculations and payments of owed taxes in a Fiscal Year;
- i. Tax Payment Form shall mean a document used by a Taxpayer to pay his owed taxes into the State Treasury or at other payment locations as may be decided by the Minister of Finance;
- j. Tax Collection Notice shall mean a document to collect taxes and/or administrative sanctions in the form of interest and/or fines;
- k. Underpaid Tax Assessment shall mean a decision letter advising of owed tax, tax credit, underpaid principal tax due, the administrative sanction and the total that is still payable;
- l. Additional Underpaid Tax Assessment shall mean a document advising a fixed additional tax amount;

- m. Overpaid Tax Assessment shall mean a document advising the overpaid amount of tax payment, as the tax credit is greater than the owed tax or should not be owed;
- n. Nil Tax Assessment shall mean a decision letter advising that the sum of owed tax is equivalent to the tax credit or there is no owed tax and no tax credit;
- o. Owed Tax shall mean the tax payable at one time, in a Tax Period, in a Fiscal Year, in a Portion of the Fiscal according to the tax legislative provisions;
- p. Warrant shall mean an order to pay taxes or dues related to tax according to Law Number 19 of 1959 concerning Collection of State Tax by Warrant (State Gazette Year 1959 Number 63, Supplement to State Gazette Number 1850);
- q. Tax credit for Value Added Tax shall mean Input Tax that can be credited, and for Income Tax it shall mean tax paid by the Taxpayer himself together with the tax withheld or collected, plus tax on income paid or owed overseas, which is deducted from the owed tax.
- r. Profession or Independent Work shall mean work performed by an individual having special expertise as an activity to obtain income without being bound by a work contract;
- s. Audit shall mean a series of activities to find, to collect and to process data and/or other information to supervise compliance with tax obligations based on the tax regulations.
- t. Tax Assessment shall mean an Assessment in the form of an Underpaid Tax Assessment, an Additional Underpaid Tax Assessment, an Overpaid Tax Assessment or a Nil Tax Assessment;
- u. Taxpayer shall mean an individual or a corporation responsible for paying taxes, including a representative exercising the rights and complying with the obligations of a Taxpayer according to the tax regulations;
- v. Bookkeeping/Accountancy shall mean a recording process done regularly to compile data and information covering the assets, liabilities or income and cost as well as acquisition prices and delivery of goods and services the Value Added Tax imposition of which is owed or not owed as well as those with Value Added Tax imposition tariff or 0 % (nil percent) and those imposed with Sales Tax on Luxury Goods and closed by drawing up financial reports in the form of a balance sheet and a profit or loss account statement at the end of each Fiscal Year;
- w. Verification shall mean a series of activities performed to assess the completeness in filling out the Tax Returns and the Appendices including the correctness in completing and computing the said Tax Returns;
- x. Investigation of the criminal act in the field of taxation shall mean a series of activities performed by an Investigator to find and compile evidence and documents which bring to light a criminal act in the field of tax that has occurred and to find a suspect;
- y. Incorrect Tax Assessment shall mean a decision letter to correct writing errors, miscalculations and/or erroneous application of tax regulations found in the Tax

Return or Tax Collection Form;

- z. Objection to Tax assessment shall mean a document advising of an objection to a Tax Assessment or to taxes withheld or collected by a third party, submitted by the Taxpayer;
- aa. Decision on Appeal shall mean a decision made by the Tax Court to an appeal against an Objection to a Tax Assessment submitted by the Taxpayer.

CHAPTER II

TAXPAYER IDENTIFICATION NUMBER, TAXABLE FIRM AFFIRMATION NUMBER, TAX RETURNS, AND PROCEDURE FOR TAX PAYMENT

Article 2 (9/1994)

- (1) Every Taxpayer has the obligation to register himself with the office of the Directorate General of Taxation in the territory which covers the place of residence or domicile of the Taxpayer and a Taxpayer Identification Number is issued.
- (2) Every Entrepreneur, taxable based on the Value Added Tax of 1984, has the obligation to report his operations to the office of the Directorate General of Taxation, in the territory which covers the place of residence or domicile of the Entrepreneur and the place of operation is to be confirmed as a Taxable Firm and issued a Taxable Firm Affirmation Number.
- (3) The Director General of Taxation may determine the place of registration and/or place of reporting other than determined in paragraph (1) and paragraph (2).
- (4) The Director General of Taxation may issue a Taxpayer Identification Number and/or Taxable Firm Affirmation Number, if the Taxpayer or Taxable Firm fails to perform his obligations as referred to in paragraph (1) and paragraph (2).
- (5) The registration and reporting periods as well as the registration and affirmation procedures as referred to in paragraph (1), paragraph (2), and paragraph (4) shall be determined by the Director General of Taxation.

Article 3 (9/1994)

- (1) Every Taxpayer has the obligation to fill in the Tax Return, to sign and submit it to the office of the Directorate General of Taxation where the Taxpayer is registered or confirmed or at any other place as may be decided by the Director General of Taxation.
- (2) Every Taxpayer as referred to in paragraph (1) shall collect the Tax Return from a place as may be decided by the Director General of Taxation.
- (3) The deadline for the submission of the Tax Returns is;
 - a. for the Period Tax Return at the latest, twenty days after the closing of the Tax Period;

- b. for the Annual Tax Returns at the latest three months after the closing of the Fiscal Year;
- (4) The Director General of Taxation at the request of the Taxpayer may extend the time for submission of the Annual Tax Returns as referred to in paragraph (3)(b).
- (5) The request as referred to in paragraph (4) shall be submitted in writing and accompanied by a Statement on a Provisional Computation of Owed Tax in the fiscal year and the evidence of settlement of the underpaid owed tax.
- (6) The Director General of Taxation shall determine the form and contents of the Tax Returns as well as the information and documents to be appended.
- (7) The Tax Return is regarded not to have been submitted if it is not completely appended with the information and documents as referred to in paragraph (6).
- (8) Excepted from the obligation as referred to in paragraph (1) is a Taxpayer with a certain Income Tax as shall be determined by the Minister of Finance.

Article 4

- (1) A Taxpayer is obligated to fill out the Tax Return truthfully, completely, and clearly, and to sign it.
- (2) If the Taxpayer is an Organization, the Tax Return must be signed by a manager or director.
- (3) If the Tax Return is filled out and signed by an individual other than the Taxpayer, a power of attorney must be attached
- (4) The Annual Income Tax Return of a Taxpayer that is obligated to keep books must be accompanied by financial statements in the form of a balance and income statement, as well as other information needed to calculate the amount of taxable income.

Article 5

For filing Tax Returns, the Director General of Taxation may in specific cases set a location other than that provided in Article 3 (1).

Article 6 (9/1994)

- (1) On a Tax Return submitted directly by the Taxpayer to the office of the Directorate General of Taxation shall be written the date of receipt by the officer appointed therefor, whilst a receipt shall be issued for the Annual Tax Return.
- (2) A Tax Return may be sent through the Post and Giro Office by registered mail or by any other mode as may be decided by the Director General of Taxation.
- (3) The receipt and date of dispatch of the Tax Return as referred to in paragraph (2) shall be regarded as the receipt and date of submission.

Article 7 (9/1994)

If the Tax Return is not submitted or is submitted after the deadline as referred to in Article 2 paragraph (3), an administrative sanction shall be imposed in the form of a fine of Rp. 25.000,00 (twenty-five thousand Rupiah) for a Period Tax Return and Rp. 50.000,00 (fifty thousand Rupiah) for an Annual Tax Return.

Article 8 (9/1994)

- (1) A Taxpayer may correct the Tax Return voluntarily by making a statement within a period of two years after the tax is owed or after the end of the Tax Period, Portion of Fiscal Year or if the Director General of Taxation has not yet taken any audit measures.
- (2) In the event the Taxpayer corrects the Tax Return himself causing his tax debt to increase, he shall be imposed with an administrative sanction in the form of interest at a rate of 2% (two percent) per month on the underpaid tax, computed from the time of the deadline for the submission of the Tax Return through the date of payment due to the correction in the Tax Return.
- (3) Although audit measures have been taken, but as long as no investigation has been carried out into an incorrect report submitted by the Taxpayer as referred to in Article 38, no investigation will be conducted if the Taxpayer discloses voluntarily the incorrectness of his act by paying the actual owed tax together with the administrative sanction in the form of a fine amounting to two times the sum of the underpaid owed tax.
- (4) Even though the correction period for the Tax Return as referred to in paragraph (1) has come to an end, on the provision that the Director General of Taxation has not yet issued a Tax Assessment, a Taxpayer may voluntarily disclose in a separate report the incorrectness of the submitted Tax Return, causing;
 - a. the taxes payable to increase; or
 - b. the loss based on the taxation provisions to decrease; or
 - c. the assets to increase; or
 - d. the capital to increase.
- (5) The underpaid taxes arising as a consequence of the disclosure of the incorrect Tax Return as referred to in paragraph (4) together with the administrative sanction in the form of an increase of 50% (fifty percent) of the underpaid tax, shall be settled by the Taxpayer before the said separate report is submitted.

Article 9 (9/1994)

- (1). The Minister of Finance shall determine the expiration date for the payment of owed taxes at a time or in a Tax Period for the respective kinds of taxes, that is at the latest 15 (fifteen) days after the taxes become due or the Tax period comes to an end.
- (2) Underpaid owed taxes shall, based on the Annual Tax Return, be settled in full at the

latest on the twenty-fifth day of the third month after the end of the Fiscal Year or Portion of Fiscal year, before the submission of the Tax Return.

- (3) Tax Collection Notice, Underpaid Tax Assessment, Additional Underpaid Tax Assessment and Correction causing an increase of the taxes to be paid, shall be settled within a period of one month as from the date of issue.
- (4) The Director General of Taxation, at the request of the Taxpayer upon meeting all the stipulated requirements, may grant approval to a Taxpayer to pay the taxes in installments or to postpone said payments.

Article 10

- (1) A Taxpayer is obligated to pay or deposit the tax due at the State Treasury, or at another place of payment specified by the Minister of Finance.
- (2) The method of payment, deposit of tax, and reporting as well as the method of paying in installments and postponing tax payments shall be further set by the Minister of Finance.

Article 11 (9/1994)

- (1) At the request of the Taxpayer, taxes overpaid as referred to in Article 17 or Article 17B, shall be refunded or if the Taxpayer has owed taxes, be directly calculated to set off the said owed taxes.
- (2) A refund of tax overpayment as referred to in paragraph (1) shall be made within a period of one month after receipt of the request to refund the tax overpayment in connection with the issue of an Overpaid Tax Assessment as referred to in Article 17 or an Underpaid Tax Assessment as referred to in Article 17B is issued.
- (3) If the refund of the overpayment is carried out after a period of one month, the Government shall pay interest at a rate of 2% (two-percent) per month for the delay in paying the excess tax payment effective from the deadline as referred to in paragraph (2) until the refund of the overpayment is made.
- (4) The procedures of computation and refunding of tax overpayments shall be determined by the Minister of Finance.

CHAPTER III

DETERMINATION AND ASSESSMENT OF TAX

Article 12

The obligation of every Taxpayer to pay the tax due according to the provisions of tax law shall not depend on the issuance of a Tax Assessment.

Article 13 (9/1994)

- (1) Within a period of ten years after the tax becomes due or after the Tax Period, Portion of the Fiscal Year or the Fiscal Year, the Director General of Taxation may issue an

underpaid Tax Assessment in the following instances:

- a. if according to audit results or other information, the owed tax has not been paid or is underpaid;
 - b. if the Tax Return is not submitted within the stipulated period as referred to in Article 3 paragraph (3) and even after being reminded in writing is still not submitted in the time as fixed in the Reminder;
 - c. if based on the audit results of the Value Added Tax and Sales Tax on Luxury Goods, the balance of an overpayment should not be compensated or the 0% (nil percent) tariff should not be applied;
 - d. if the obligations as referred to in Article 28 and Article 29 are not fulfilled, so that the amount of the owed taxes is not known.
- (2) To the underpayment of tax owed in the Underpaid Tax Assessment as referred to in paragraph (1) (a) shall be added an administrative sanction in the form of interest at a rate of 2% (two percent) per month for a maximum of twenty-four months, calculated from the time the tax becomes due or the end of Tax Period, Portion of Fiscal Year or the Fiscal Year to such time that the Underpaid Tax Assessment is issued.
- (3) To the Tax amount in the Underpaid Tax Assessment as referred to in paragraph (1) (b), (c), and (d) shall be added an administrative sanction in the form of an increase of:
- a. 50% (fifty percent) of the Income tax not paid or underpaid in a Fiscal Year;
 - b. 100% (a hundred percent) of the Income Tax not withheld or under withheld, not collected or under collected, not paid or under paid, and withheld or collected but not paid or under paid;
 - c. 100% (a hundred percent) of the Value Added Tax on Goods and Services and Sales Tax on Luxury Goods not paid or under paid;
- (4) The owed tax reported by a Taxpayer in his Tax Return becomes the final owed tax under the tax regulations in force, if within a period of ten years after the said tax is due or the end of the Tax Period, Portion of Fiscal Year or Fiscal Year, no Tax Assessment has been issued.
- (5) At the end of the ten year period as referred to in paragraph (1) an Underpaid Tax Assessment can still be issued and the administrative sanction be added there to at the interest rate of 48% (forty-eight percent) from the unpaid or underpaid tax, in the event the Taxpayer at the end of the said ten-year period is found guilty of a criminal act in the field of taxes by virtue of a court decision that has obtained legal certainty.

Article 14 (9/1994)

- (1) The Director General of Taxation may issue a Tax Collection Notice if:
- a. the Income Tax in a current year is not paid or is underpaid;

- b. from the verification of the Tax Return an under payment of taxes is found as a consequence of incorrect completion and/or erroneous calculation;
 - c. An administrative sanction in the form of a fine and/or interest is imposed on the taxpayer;
 - d. an entrepreneur is taxed pursuant to the Value Added Tax Law of 1984 but he does not report his operations to be confirmed as Taxable Firm;
 - e. an Entrepreneur is not confirmed as a Taxable Firm but he completes Tax Invoices or an Entrepreneur is confirmed as a Taxable Firm but does not or does not fully complete Tax Invoices;
- (2) The Tax Collection Notice Invoice as referred to in paragraph (1) is of equal legal force as a Tax Assessment;
- (3) To the underpaid tax owed in the Tax Collection Notice as referred to in paragraph (1) (a) and (b) shall be added an administrative sanction in the form of interest at a rate of 2% (two percent) per month for a maximum of a twenty-four month period, from the time the taxes become due or the expiry of the portion of Fiscal Year or the Fiscal Year up to the time the Tax Collection Notice is issued.
- (4) On the Entrepreneur or Taxable Firm as referred to in paragraph (1) (d) an administrative sanction in the form of a fine of 2% (two percent) from the Tax Imposition Basis.

Article 15 (9/1994)

- (1) The Director General of Taxation may issue an Additional Underpaid Tax Assessment within a period of ten years after the taxes become due, after the end of a Tax Period, a Portion of Fiscal Year, if new data and data that has not been released earlier comes to light, causing an increase in the owed tax amounts.
- (2) The underpaid taxes owed in the Additional Underpaid Tax Assessment shall include an administrative sanction in the form of an increase of 100% (a hundred percent) from the said tax underpayment.
- (3) Such an increase as referred to Article (2) will not be imposed if the Additional Underpaid Tax Assessment is issued on the basis of voluntary written information from the Taxpayer, on the provision that the Director General of Taxation has not taken any audit measures.
- (4) At the end of the ten-year period as referred to in paragraph (1), an Additional Underpaid Tax Assessment can still be issued together with the administrative sanction in the form of interest at 48% (forty-eight percents) of the unpaid or underpaid taxes, in the event the Taxpayer, after the said ten-year period, is convicted of a criminal act in the field of taxes based on a court decision which has obtained permanent legal force.

Article 16 (9/1994)

The Director General of Taxation in his official capacity or of the request of a Taxpayer may

correct a Tax Assessment or Tax Collection Notice which has been issued with errors, either of typographical nature or a miscalculation and/or an erroneous application of tax regulations.

Article 17 (9/1994)

The Director General of Taxation after due auditing, will issue an Overpaid Tax Assessment of the overpaid tax credits or taxes amounting to more than the owed taxes or tax payments which have been made which should not be owed at all.

Article 17A (9/1994)

The Director General of Taxation after due auditing will issue a Tax Assessment if the sum of the tax credit or the paid tax is equal to the owed tax, tax credit or there is no tax payment.

Article 17B (9/1994)

- (1) The Director General of Taxation after due auditing, after a request to refund excessive tax payments, shall issue a Tax Assessment at the latest twelve months after receipt of the letter of request, unless, for certain reasons, the Director General of Taxation decides otherwise.
- (2) If at the lapse of the period of time as referred to in paragraph (1) the Director General of Taxation does not issue a decision, the request for refund of the excessive tax payment shall be regarded as granted and an Overpaid Tax Assessment shall be issued within a period of one month from the expiry of said period.
- (3) If the Overpaid Tax Assessment is issued beyond the period of time as referred to in paragraph (2), The Taxpayer will be compensated in the form of interest at a rate of 2% (two percent) per month effective from the expiration date as referred to in paragraph (2) through the time the Overpaid Tax Assessment is issued.

CHAPTER IV

TAX COLLECTION

Article 18 (9/1994)

- (1) The issue of a Tax Collection Notice, Underpaid Tax Assessment, an Additional Underpaid Tax Assessment and Letters of Decision on Correction, on Objection, on Appeal causing the payable tax amount to increase shall become the basis for tax collections.
- (2) The implementation procedure of tax collection shall be determined by the Minister of Finance.

Article 19

- (1) If by the date set for payment tax due has not been paid in full, the total tax not paid shall be subject to interest of 2% (two percent) per month over the entire period, calculated from the date due until the date of payment, and part of a month shall be considered a full month.

- (2) If a Taxpayer is permitted to pay in installments or to postpone payment of tax, interest of 2% (two percent) per month shall also be payable.
- (3) If a Taxpayer is permitted to postpone the filing of a Tax Return and it appears the estimate of tax due as provided in Article 3 (5) is less than the total tax actually due, interest of 2 % (two percent) per month shall be charged on such underpayment calculated from the final date for filing the Tax Return under Article 3 (3) (b) until the date of payment of such amount underpaid.

Article 20 (9/1994)

Excepted from the provisions as referred to in Article 9, the taxes owed based on a Tax Collection Notice, an Underpaid Tax Assessment, An Additional Underpaid Tax Assessment, and a Decision on Correction, Objection and Appeal, shall be collected forthwith and in full in the event:

- a. The Taxpayer will leave Indonesia permanently or has the intention to do so.
- b. The Taxpayer stops or obviously minimizes the operations or work of his company in Indonesia or he transfers the movable or fixed assets owned or controlled by him;
- c. The corporation is dissolved or will be dissolved, is declared bankrupt, or the movable goods or fixed assets owned or controlled are being seized.

Article 21 (9/1994)

- (1) The State has a preferential right to collect taxes on the assets owned by the Taxpayer.
- (2) The provision of the preferential right as referred to in paragraph (1), covers the principal tax, interest, administrative fine, increases and collection cost.
- (3) The preferential right to collect taxes precedes all other preferential rights, except in respect of:
 - a. Legal costs caused solely by adjudication to auction movable or fixed assets;
 - b. expenses to safeguard goods;
 - c. Legal costs solely caused by auction or settlement of inheritance.
- (4) The said preferential right ceases at the lapse of two years from the date of issue of a Tax Collection Notice, an Underpaid Tax Assessment, Additional Underpaid Tax Assessment and Decision on Correction, Objection, Appeal causing the tax amount to increase, unless within the period of the said two years, a warrant to pay is officially issued or a postponement in payment is granted.
- (5) In the event of a warrant letter to pay has officially been issued, the two year period as referred to in paragraph (4), shall be counted from the date of issue of the Warrant letter, or in the case a deferred payment is granted, the said two year period shall be extended with the period of postponement.

Article 22 (/1994)

- (1) The right to collect taxes, including interest, fines, increases and collection costs will expire in ten years effective from when the Taxes where due or the end of the Tax Period, Portion of Fiscal or Fiscal Year under review.
- (2) The limit of Tax collection as referred to in paragraph (1) is extended if:
 - a. A Reminder and Warrant are issued;
 - b. There is a Tax debt acknowledgement from the Taxpayer either directly or indirectly;
 - c. An Underpaid Tax Assessment as referred to in Article 13 paragraph (5) or Additional Underpaid Tax Assessment as referred to in Article 15 paragraph (4) is issued.

Article 23 (9/1994)

- (1) The taxes owed pursuant to a Tax Collection Notice, Underpaid Tax Assessment, Additional Underpaid Tax Assessment and Correction, Objection, Appeal Decision letters causing the payable taxes to grow, which are not paid on time by the Taxpayer, can be collected with a Warrant Letter.
- (2) Protests and/or claims of the Taxpayer against the implementation of the Warrant letter, seizure or auction may only be made to the Tax Court.
- (3) The execution of Tax collection by Warrant Letter shall be guided by the regulations in force.

Article 24

The method of writing off tax debts and determining the amount of such write-off shall be set by the Minister of Finance.

CHAPTER V

OBJECTIONS AND APPEALS

Article 25 (9/1994)

- (1) A Taxpayer may submit a letter of objection only to the Director General of Taxation with respect to:
 - a. An Underpaid Tax Assessment
 - b. An Additional Underpaid Tax Assessment
 - c. An Overpaid Tax Assessment
 - d. A Nil Tax Assessment

- e. Withholding or collection of taxes by third party according to tax regulations.
- (2) An objection shall be submitted in writing in the Indonesian language by specifying the Tax amount owed, withheld or collected or the amount lost according to the Taxpayer's computation and accompanied by clearly stated reasons.
 - (3) An objection shall be submitted within a period of three months from the date of the letter, date of withholding or collection of the taxes as referred to in paragraph (1), unless the Taxpayer is in a position to show that the said deadline can not be met due to circumstances beyond his control.
 - (4) An objection which does not meet the requirements as set forth in paragraph (2) and paragraph (3) shall not be regarded as a letter of objection and shall therefore not be considered as such.
 - (5) A receipt of the letter of objection issued by an officer of the Directorate General of Taxation or the receipt of dispatch of a letter of objection by registered mail shall serve as receipt of the said letter of objection in the interest of the Taxpayer.
 - (6) If certain data are required by a Taxpayer to be used in the submission of an Objection, the Director General of Taxation has the obligation to provide the data in writing on matters that form the basis for Tax imposition, loss calculation, withholding or collecting taxes.
 - (7) The submission of an objection does not defer the obligation to pay the taxes and the implementation of tax collections.

Article 26

- (1) The Director General of Taxation must issue a decision on the objection within at most twelve months from the date the Objection Letter is received.
- (2) Before a decision is issued, the Taxpayer may submit additional grounds for objection or written explanation.
- (3) The decision of the Director General of Taxation on an objection may grant part or all of it, refuse it, or increase the amount of tax due.
- (4) If a Taxpayer submits an objection to a tax assessment referred to in Article 13 (1) b or d, such Taxpayer must be able to prove the inaccuracy of such tax assessment.
- (5) If the Director General of Taxation does not issue a decision within the time period specified in paragraph (1), such objection shall be considered granted.

Article 27 (9/1994)

- (1) The Taxpayer may only submit an application for Appeal to the Tax Court against the decision of his objection as determined by the Director General of Taxation.
- (2) Before the establishment of the Tax Court as referred to in paragraph (1), such an application for Appeal shall be submitted to the Tax Council, the decision of which is

not a State Administrative decision.

- (3) The application as referred to in paragraph (1) shall be submitted in writing in the Indonesian language, setting out clearly the reasons for the objection, within a period of three months from the receipt of the decision and attaching there to a copy of said decision.
- (4) A decision made by the Tax Court is final and unchangeable.
- (5) The submission of the an Application for Appeal does not defer the obligation to pay the taxes and the implementation of tax collection.
- (6) The composition, authority and procedures of the Tax Court as referred to in paragraph (1) shall be regulated by legislation.

Article 27A (9/1994)

If the submission of a Letter of objection or an application for Appeal is partially or fully accepted, the excess payment will be refunded together with interest at a rate of 2% (two percent) per month for a maximum a period of twenty-four months

CHAPTER VI

BOOKS AND AUDITS

Article 28 (9/1994)

- (1) An Individual Taxpayer performing business activities or independent work and a Corporate Taxpayer in Indonesia has the obligation to keep books and records.
- (2) Excepted from the obligation to keep books as referred to in paragraph (1) but obligated to keep records is an individual Taxpayer performing business activities or independent work who according to the Tax regulations is permitted to calculate his net income by using the Net Income Calculation Norm as well as an Individual Taxpayer with no business activities or independent work.
- (3) Said bookkeeping or recording must be performed with due observance of good faith and must reflect the actual circumstances or business activities.
- (4) Said books shall at least consist of records on assets, liabilities or obligations, capital, income and cost, as well as sales and purchases, so that the owed taxes can be computed.
- (5) The books or records shall be kept in Indonesia using Latin letters, Arabic numbers, Rupiah Currency and in the Indonesian language or a foreign language as may be permitted by the Minister of Finance.
- (6) The books, records and documents that form the basis for the books or records as well as other documents shall be kept in Indonesia for ten years, namely for:
 - a. An Individual Taxpayer at the place of his activity or his residence;

-
- b. A Corporate Taxpayer at the place of domicile;
- (7) Bookkeeping shall be carried out using consistent principles, either on an accrual or cash basis;
- (8) A change in the method of bookkeeping and/or book year must have approval from the Director General of Taxation.
- (9) Bookkeeping in a foreign language and currency other than Rupiah can be performed by the Taxpayer who is involved in a Foreign Capital Investment, an Operation Agreement, a Production Sharing Contract and other business activities or corporations, after approval from the Minister of Finance on the provision that the Tax Returns must be completed in the Indonesian language and Rupiah currency as stipulated by the Minister of Finance.
- (10) The records as referred to in paragraph (2) consist of data compiled regularly in respect of the gross circulation and/or receipts of income as a basis to calculate the owed taxes.
- (11) Exempt from the obligation to keep books and records of data is an individual Taxpayer who has no obligation to submit his Annual Income Tax Returns.
- (12) Guidelines for keeping said books or records shall be determined by the Director General of Taxation.

Article 29 (9/1994)

- (1) The Director General of Taxation is authorized to audit, in order to check compliance with the Tax obligations as well as for other purposes in carrying out the Tax regulations.
- (2) For audit activities, the auditor must be provided with an Audit Order Letter to be shown to the Taxpayer concerned.
- (3) The Taxpayer so audited has the obligation:
- a. To show and/or lend the books or records, and documents that form the basis of his Tax Returns as well as any other documents related to the income received, the business activities, the profession/independent work of the Taxpayer, or the Object with owed Tax;
 - b. To render an opportunity to enter into the premises or building as deemed necessary and provide assistance to facilitate the audit;
 - c. To furnish necessary information;
- (4) If in disclosing the books, records, or documents and other required information, the Taxpayer is bound by an obligation of confidentiality, such obligation shall be nullified by request for the said audit purpose as referred to in paragraph (1).

Article 30

The Director General of Taxation is authorized to seal specific places or buildings if a Taxpayer fails to fulfill the obligations imposed in Article 29(3)(b).

Article 31 (9/1994)

The procedures for an audit are stipulated by the Minister of Finance.

CHAPTER VII

SPECIAL PROVISIONS

Article 32 (9/1994)

- (1) In exercising his rights and complying with the obligations according to the Tax regulations, the Taxpayer is represented, in the case of:
 - a. A corporation by the Board of Management;
 - b. A corporation in dissolution or bankruptcy by an individual or corporation entrusted to carry out the settlement;
 - c. An inheritance that has not been divided by one of the heirs, the executor or administrator of the estate;
 - d. Minor children or persons under legal control of a guardian or trustee;
- (2) Representatives as referred to in paragraph (1) are responsible either jointly or severally for the payment of owed taxes, unless they can convince the Director General of Taxation that it is indeed impossible for them in their position to bear other responsibility to pay the said owed taxes.
- (3) An individual or corporation may appoint an attorney by Power of Attorney specifically to carry out the obligations under the Tax regulations.
- (4) Included in the definition of the Board of Management as referred to in paragraph (1) (a) is a person who has the authority in determining the policies and/or in making decisions on operations of the company.

Article 33

A purchaser or receiver of services as referred to in the Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods has several responsibilities for the payment of tax, as long as he cannot provide evidence that such tax has already been paid.

Article 34 (9/1994)

- (1) Tax officers are prohibited from advising unauthorized persons of anything that they know or of what a Taxpayer has informed them in the course of performing their duties or work in carrying out the provisions of the Tax regulations, except as a witness or a professional witness in a court session.
- (2) The prohibition as referred to in paragraph (1) is also applicable to experts appointed

by the Director General of Taxation to assist in the implementation of the Tax legislative provisions, except as a witness or a professional witness in a court session.

- (3) In the interest of the state, the Minister of Finance is authorized to grant approval for an officer as referred to in paragraph (1) and experts as referred to in paragraph (2) to furnish information, to show written evidence from or concerning the Taxpayer to the parties so appointed.
- (4) In the interest of a Court investigation either in a criminal or civil case at the request of the judge according to Criminal Procedural Law and Civil Procedural Law, the Minister of Finance may grant written approval to require from the officer referred to in paragraph (1) and from the expert staff as referred to in paragraph (2) written evidence and information of the Taxpayer kept by him.
- (5) The request made by the Judge as referred to in paragraph (4), must mention the name of the suspect or defendant, the information required and the connection between the criminal or civil suit and the required information.

Article 35 (9/1994)

- (1) If in carrying out the Tax provisions information, or evidence is required from banks, public accountants, notaries public, tax consultants, administrative offices, and other third parties having some connection with a Taxpayer being audited or verified, at the written request of the Director General of Taxation, said parties have the obligation to furnish the required information or evidence.
- (2) In the event the parties as referred to in paragraph (1) are bound by the obligation of secrecy, then for the purpose of the Tax audit or verification, the obligation to secrecy is nullified, except for the banks where the obligation of secrecy can be lifted on a written order from the Minister of Finance.

Article 36

- (1) The Director General of Taxation may:
 - a. decrease or waive administrative sanctions in the form of interest, fines, and surcharges due under provisions of tax law if such sanction are imposed because of the negligence of the Taxpayer or because of mistakes not made by the Taxpayer.
 - b. reduce or invalidate an incorrect tax assessment.
- (2) The method of decreasing, waiving or cancelling tax debts as referred to in paragraph (1) shall be determined by the Minister of Finance.

Article 37

Changes in the size of administrative sanctions in the form of interest, administrative fines and surcharges shall be made by Government Regulation.

CHAPTER VIII

CRIMINAL PROVISIONS

Article 38 (9/1994)

Every person who due to negligence:

- a. Fails to submit his Tax Return; or
- b. Has submitted the Tax Return, but the contents of which are incorrect or incomplete, or he has appended information the contents of which are not correct, so that it may cause losses to the state revenues, is liable to maximum (criminal) imprisonment of one year and a maximum fine of two times the amount of the owed Tax which has not been paid or is underpaid.

Article 39 (9/1994)

(1) Any person who intentionally:

- a. Refrains from registering himself, or abuses or uses unrightfully a Taxpayer Identification Number or Taxable Firm Confirmation Number as referred to in Article 2;
- b. Fails to submit his Tax Returns; or
- c. Submits his Tax Returns and/or gives information the contents of which are not correct or incomplete; or
- d. Shows his books; records, or other documents which are fake or tampered with to look genuine; or
- e. Does not keep any books or records or any documents which he can show or lend; or
- f. Does not pay the Taxes withheld or collected, so that the state suffers losses, is liable to (criminal) imprisonment for a maximum of 6 months and maximum fine amounting to four times the sum of the unpaid or underpaid owed tax.

(2) The said criminal punishment as referred to in paragraph (1) shall be doubled if a person performs another criminal Tax act before one year has lapsed from the date of release from the first (criminal) punishment.

(3) Any person who tries to commit a criminal offense by abusing or unrightfully using the Taxpayer Identification Number or Taxable Firm Confirmation Number as referred to in paragraph (1) (a), or submits Tax Returns and/or gives incorrect or incomplete information as referred to in paragraph (1) (c) in applying for restitution or Tax compensation, will be sentenced to imprisonment for a maximum of two years and a maximum fine of four times the sum applied for and/or the compensation sum requested by the Taxpayer.

Article 40

Criminal tax cases may not be prosecuted ten years after the time the tax is due, the end of the relevant Tax Period, Portion of the Tax Year, or Tax Year.

Article 41 (9/1994)

- (1) A Tax officer who is negligent and fails to do his duty in keeping confidential the matters as referred to in Article 34, is liable to imprisonment for a maximum of one year and fine of up to Rp 2.000.000,- (two million Rupiah)
- (2) A Tax officer who intentionally fails to perform his duty or a person causes the failure of an officer to do his duty as referred to in Article 34, is liable to imprisonment for a maximum of two years and a fine up to Rp 5.000.000,- (five million Rupiah)
- (3) Prosecution against the criminal deed as referred to in paragraph (1) and paragraph (2) may only be made upon a claim from by the person whose confidentiality has been violated.

Article 41A (9/1994)

Any person who according to Article 35 of this Law has the obligation to give information or evidence as requested but intentionally refrains from giving the required information or evidence, or provides untrue information or evidence, is liable to imprisonment for maximum of one year and a fine of up to Rp 5.000.000,- (Five million Rupiah).

Article 41B (9/1994)

Any person who intentionally hampers or complicates an investigation into a criminal Tax act, is liable to imprisonment for a maximum of 3 years and a fine of up to Rp 10.000.000,- (Ten million Rupiah)".

Article 42

Deleted by 9/1994.

Article 43 (9/1994)

- (1) The provisions referred to in Article 38 and Article 39, are also applicable to the representative, attorney or employee of the Taxpayer who orders, joins, encourages or assists in the criminal Tax act.
- (2) The provisions as referred to in Article 41A and Article 41B also apply to the person who orders, encourages, or assists the Tax criminal act.

CHAPTER IX

INVESTIGATION

Article 44

- (1) Certain civil servants in the Directorate General of Taxation are authorized specifically as investigators to carry out criminal investigations into Criminal Tax acts as referred

to in Law Number 8 of 1981 on Criminal Procedural Law.

- (2) The authority of the investigators as referred to in Article (1) is:
- a. To receive, to seek, and collect, and to verify information or reports connected with Criminal Tax acts in order to complete and clarify said information or reports;
 - b. To verify, to seek, and to compile information concerning an individual or corporation regarding the truth in a Criminal Tax act;
 - c. To ask for information or material evidence regarding an individual or corporation connected with a Criminal Tax act;
 - d. To audit the books, records, and other documents related to the Criminal Tax act;
 - e. To do a search to get material evidence from books, records, and other documents, and to seize said material evidence;
 - f. To ask for professional assistance in performing their duty in the investigation of the Criminal Tax act;
 - g. To have someone stopped and/or prohibited from leave the room or premises when the investigation is taking place and to verify the identity of a person and/or a document brought as referred to in (e);
 - h. To photograph someone connected with the Criminal Tax act;
 - i. To summon someone to be heard and examined as a suspect or a witness;
 - j. To cease an examination;
 - k. To take other necessary steps to ensure a smooth investigation into a criminal act according to law;
- (3) An investigation as referred to in paragraph (1) shall inform at the start of the investigation and submit his findings to, the Public Prosecutor, according to the provisions laid down in Law Number 8 of 1981 concerning Criminal Procedural Law.

Article 44A (9/1994)

An investigator as referred to in Article 44 paragraph (1) shall terminate an investigation as referred to in Article 44 paragraph (2) (j) in the event of a lack of evidence, or if it is not a case of criminal tax act, or an investigation is terminated because of expiration dates, or at the death of the suspect.

Article 44B (9/1994)

- (1) In the interest of state revenues, at the request of the Minister of Finance, the Attorney General may terminate an investigation into a criminal tax act.

- (2) The termination of an investigation into a criminal tax act as referred to in paragraph (1), can only be made after the Taxpayer has settled the unpaid or underpaid taxes or taxes which should not be refunded, together with the administrative sanction in the form of a penalty sum amounting to four times the sum of the taxes unpaid, underpaid, or which should not have been refunded.

CHAPTER IX

TRANSITION PROVISIONS

Article 45

The provisions of the old tax law shall remain in effect until December 31, 1988 with respect to taxes due at a point in time or for a Tax Period, Portion of a Tax Year or Tax Year ending before this law becomes effective.

Article 46

With the coming into effect of this law, all old implementing regulations in the field of tax remain effective as long as they do not concern this law.

Article 47

Deleted by 9/1994.

CHAPTER X

CLOSING PROVISIONS

Article 48

Matters not yet fully arranged in this law shall be set by Government Regulation.

Article 49

The provisions of this law shall be effective also for other tax laws unless otherwise specified.

Article 50

This law shall take effect on January 1, 1984.

Article II (9/1994)

In respect of all the taxation rights and obligations of 1994 and prior to that, shall apply the provisions of Law Number 6 of 1983 regarding Tax General Provisions and Procedures.

Article III (9/1994)

This law may be called "The Amendment to the Tax General Provisions and Procedures Law"

Article IV (9/1994)

This Law comes into force on January 1, 1994

In order that every person is informed accordingly, it is instructed to promulgate this law in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta
on November 9, 1994

PRESIDENT OF THE REPUBLIC OF INDONESIA

Signed

SOEHARTO

Promulgated in Jakarta
on November 9, 1994

STATE MINISTER / SECRETARY OF STATE
REPUBLIC OF INDONESIA

Signed

MOERDIONO

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 1983 NUMBER 49

ELUCIDATION
OF
THE AMENDMENT OF LAW NUMBER 6 OF 1983 ON
GENERAL TAX PROVISIONS AND PROCEDURES

GENERAL

1. The tax law concerning general tax provisions and procedures put into force as of January 1, 1984 is Law No. 6 of 1983 on general tax provisions and procedures.

Law No. 6 of 1983 is based on the philosophy of Pancasila and the Constitution of 1945, containing provisions which uphold the rights of citizens and consider tax obligations a means of public participation in state and national development financing.

This law for the greater part contains general provisions and procedures for income tax, while general provisions and procedures for value added tax on goods and services and sales tax on luxury goods are mostly stipulated in Law No. 8 of 1983 on value added tax on goods and services and sales tax on luxury goods.

2. It is realized that in the implementation of Law No. 6 of 1983 many problems have been faced, which are not yet stipulated in this law so that improvements are required. Such improvements are in line with the direction and objective of national

development as well as the government policy on the Second Long Term Development Plan, which among others reads: "The system of taxation continues to be improved, the collection of taxes to be made increasingly capable and clean.

The public expectation of the presence of increasingly capable and clean tax personnel is contained in various provisions with the nature of control in this law.

3. The philosophy and foundation serving as the background and basis of this law are reflected in the provisions regulating the system and mechanism of tax collection, which become the typical characteristic and style of the Indonesian tax system, due to the position of this law as a "general rule" for other tax regulations.

The typical characteristics and style of the tax collection system mean that:

- a. Tax collection constitutes a manifestation of devotion and participation of the taxpayer to directly and collectively carry out tax obligations needed for state and national development financing;
- b. The responsibility for implementing tax collection as a reflection of the fulfillment of tax obligations lies with members of the taxpayer community themselves. The government, in this case tax personnel, in line with their functions are required to provide guidance, service and control over the fulfillment of tax obligations based on tax laws;
- c. members of the taxpayer community are trusted to practice nationwide mutual assistance through the system of self assessment so that the administration of taxes can be expected to become neater, better controlled, simpler and easier for the taxpayer to understand.

The tax collection system implies that the taxpayer is trusted to make self assessment and regularly report the amount of tax. This system is also expected to avoid complicated and bureaucratic tax administration. In line with this, the authority of the Director General of Taxation which is technical and administrative in nature can be delegated to subordinate personnel.

According to this law, tax administration plays an active role in the control of tax collection covering guidance, service and imposition of sanctions. The taxpayer community can be fostered through various efforts including tax consulting via mass media and direct public information.

4. By strictly adhering to the principle of legal certainty, justice and simplicity, the direction and objective of the improvement of this act are within the framework of fulfilling the message of the Outline of State Policy 1993, which refer to the following policy guidelines:
 - a. Working towards national self reliance in state financing and development financing with main sources originating in tax receipts;
 - b. supporting equitable development efforts and encouraging equitable investments throughout the territory of the Republic of Indonesia, particularly for the promotion of development in remote regions so far being left behind or late in their progress, within the framework of equitable development and

-
- efficiency enhancement of natural resources as well as long term tax revenue increase;
- c. supporting export promotion efforts, especially exports of non-oil/gas products, manufactures and services for higher foreign exchange revenue;
 - d. supporting small-scale business development efforts in order to achieve optimum small-scale business potential and with a view to the relief of poverty in part of the population;
 - e. supporting efforts aimed at developing human resources, science and technology;
 - f. supporting efforts aimed at conserving the ecosystem, natural resources and the environment;
 - g. supporting efforts aimed at promoting justice in public participation in development financing according to their capacity; and
 - h. supporting efforts aimed at creating an increasingly capable and clean apparatus, promoting service for the taxpayer including procedural simplification and facilities for fulfilling tax obligations, increase control over the fulfillment of tax obligations, and enhancing the upholding of relevant laws in force.

ARTICLE BY ARTICLE

Article 1

This article contains definitions of tax terms used in this law. With these definitions, misunderstanding or misinterpretation can be prevented in the implementation of relevant articles so that both the taxpayer and the tax apparatus can smoothly and easily carry out their obligations and orderly tax administration will eventually be accomplished.

Such understanding is required because this law covers matters which are technical and standard in nature, especially in the field of taxation.

Article 2

Paragraph (1)

Every taxpayer based on the self assessment system must register itself/himself at the office of the Directorate General of Taxation to be recorded as a taxpayer and at the same time obtain a taxpayer code number.

The obligation of registration also applies to a married woman separately subject to tax due to separation by a judicial decision or as intended in writing on the basis of an agreement on income and property separation.

The taxpayer code number is a means of tax administration used for self identification identifying the taxpayer, so that every taxpayer code number is

used for maintaining order in tax payment and tax administrative control. In handling cases connected with tax documents, the taxpayer failing to register for a taxpayer code number is liable to tax sanctions.

Paragraph (2)

Every entrepreneur/company subject to value added tax on the basis of relevant tax laws must report his/its business for confirmation as a taxable entrepreneur/company, and be granted a taxable company confirmation number.

An individual entrepreneur must report his business to the office of the Directorate General of Taxation in whose operational area he resides and is engaged in business activities, while an organization/company must report its business to the office of the Directorate General of Taxation in whose operational area it is domiciled and engaged in business activities.

In this way, entrepreneur or companies having business places in the areas of several offices of the Directorate General of Taxation must report his/its business for confirmation as a taxable entrepreneur/company to the office of the Directorate General of Taxation in whose operational areas he/it is engaged in business activities.

The taxable company confirmation number, besides being used for identifying the actual taxable entrepreneur/company, is also useful for fulfilling obligations of value added tax and sales tax on luxury goods as well as for tax administrative control.

Any entrepreneur/company already meeting relevant requirements to become a taxable entrepreneur/company yet failing to reports his/its business for confirmation as a taxable entrepreneur/company is liable to tax sanctions.

Paragraph (3)

For certain taxpayers or taxable entrepreneur/companies , the Director General of Taxation can determine the office of the Directorate General of Taxation other than those stipulated in paragraph (1) and (2) as the place of registration to obtain the taxpayer code number and/or the taxable company confirmation number.

Paragraph (4)

For the taxpayer or taxable entrepreneur/company failing to register himself/itself and/or to report his/its business, the taxpayer code number and/or the taxable company confirmation number can be issued ex-officio. This can be done if based on data obtained or possessed by the Directorate General of Taxation, the individual or organization /company has met relevant requirements to obtain the taxpayer code number and/or be confirmed as a taxable entrepreneur/company.

Paragraph (5)

The periods for registration to obtain the taxpayer code number and for reporting business to obtain the taxable company confirmation number are limited, because they involve the time tax is owed and the obligation to apply tax due.

Provisions on the periods for registration and reporting as well as the procedure for granting the taxpayer code number and taxable company confirmation number are stipulated by the Director General of Taxation.

Article 3

Paragraph (1)

The tax return for the income taxpayer serves as an instrument for reporting and accounting for the calculation of tax actually owed, and for reporting:

- tax payments already made by himself/itself, and/or through withholding or collection by other parties in a tax year or portion of a tax year;
- tax payment realized by the withholder or collector that is the withholding or collection of taxes of other individuals or organizations in a tax period, as stipulated by tax laws.

For the taxable entrepreneur/company, the tax return serves as an instrument for reporting and accounting for the calculation of value added tax and sales tax on luxury goods actually owed, and for reporting,

- the crediting of input tax against output tax;
- tax payment or settlement already made by the taxable entrepreneur/company himself/itself, and/or through other parties in a tax period, as stipulated by tax law;
- tax payment realized by the withholder or collector to account for taxes already withheld or collected and paid up.

Completing the tax return means filling out the tax return form truthfully, clearly and thoroughly according to the directives provided on the basis of tax due or is liable to tax sanctions.

Paragraph (2)

With a view to providing service and facilities for the taxpayer, tax return forms are made available at offices of the Directorate General of Taxation, post and giro offices, auxiliary post offices, and other places stipulated by the Directorate General of Taxation and deemed easily accessible by the taxpayer.

Paragraph (3)

This paragraph regulated the time limit for submitting the tax return deemed

adequate for the taxpayer to make all preparations connected with tax payment and bookkeeping.

Paragraph (4)

If the taxpayer, an individual or organization, fails to submit or prepare the annual financial statement or the corporate balance sheet and profit-and-loss statement within the period specified in paragraph (3) (b) due to the broad scope of business activities and technical problems in balance sheet or financial statement compilation, thus making it difficult to keep the deadline and requiring a longer time, the taxpayer can submit a request for extension of the time limit for submitting the annual income tax return.

Paragraph (5)

In order to prevent tax evasion and/or lengthening of the time for payment of tax owed in a tax year which must be paid before the deadline for submitting the annual tax return, it is necessary to stipulate a requirement resulting in an administrative sanction in the form of interest for the taxpayer wishing to extend the time limit for submitting the annual income tax return.

The requirement takes the form of the obligation to submit a written statement estimating the tax due in a tax year, as an attachment to the request for postponement of the submission of the annual income tax return.

Paragraph (6)

As the tax return is an instrument for the taxpayer to report and account for the amount of tax due and its payment, with a view to creating uniformity and facilitating its completion as well as administration, the model and contents of the tax return are determined by the Director General of Taxation.

The annual income tax return must at least contain the amount of turnover, the amount of income, the amount of taxable income, the amount of tax due, the amount of tax credits, and the amount by which tax is underpaid or overpaid.

The periodic value added tax return must at least contain the amount of tax base, the amount of output tax, the amount of creditable input tax, and the amount by which tax is underpaid or overpaid.

The tax return must have certificates and documents as attachments, such as power of attorney, certificates of marriage and separation of property and income, documents connected with imports or exports and tax payment forms.

Paragraph (7)

The tax return and its attachments constitute a whole, so that if the tax return is submitted without or without complete attachments as required, the tax return is regarded as not being filed.

Paragraph (8)

In principle, every income taxpayer is obligated to submit a return. On the grounds of efficiency or other reasons, the Minister of Finance can determine income taxpayer receiving or earning income only from one employer with tax already withheld pursuant to Article 21 of the Income Tax Law of 1984.

Article 4

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Paragraph (4)

Self-explanatory

Article 5

Self-explanatory

Article 6

Paragraph (1)

Self-explanatory

Paragraph (2)

In order to provide better service for the taxpayer and in line with the progress of information technology, other methods are needed by the taxpayer to deliver the tax return besides delivery through the post and giro office by registered mail. Therefore, these other methods need to be determined by the Director General of Taxation.

Paragraph (3)

Self-explanatory

Article 7

For the purpose of orderly tax administration and the maintenance of discipline on the part of the taxpayer, in the case of any failure in observing the formal obligation of submitting the tax return within the specified time, the relevant taxpayer is liable to an administrative fine of Rp 25,000.00 (twenty-five thousand Rupiah) for the periodic tax

return and Rp 50,000.00 (fifty thousand Rupiah) for the annual tax return.

Article 8

Paragraph (1)

The taxpayer reserves the right to correct errors in the tax return, of his/its own free will, within two years after the tax is due or the end of the tax period, the portion of the tax year or the tax year, on the condition that the Director General of Taxation has not yet begun to conduct an audit.

The time limit for correction is on the one hand deemed sufficient for the taxpayer to check and rectify the relevant tax return should there be errors, and on the other hand is also adequate for the Director General of Taxation to provide service and control corrections made by the taxpayer before expiration of the two year period.

Paragraph (2)

With the self correction of the tax return, the calculation of tax owed and the amount of tax payment will change from the original figures. An administrative sanction in the form of interest of 2% (two percent) per month applies to the total by which tax is underpaid as a result of correction.

The interest to be paid as meant above is calculated from the end of the period for submitting the tax return through the date of payment due on such correction of the tax return.

Paragraph (3)

The taxpayer committing violations as meant in Article 38, as long as no investigations has yet been conducted, in spite of an audit have been made, will not be subject to investigation if the taxpayer has expose such wrong doing and at the same time paid the total tax deficiency actually owed along with an administrative fine worth twice the amount by which tax underpaid.

However, if investigation has been conducted and the start of investigation has been relayed to the public prosecutor, the opportunity to make self correction is closed to the relevant taxpayer.

Paragraph (4)

Despite the expiration of the two-year period as meant in paragraph (1), in the absence of any tax assessment from the Director General of Taxation, the taxpayer who has or has not corrected the tax return is still allowed the opportunity to expose any errors in the tax return submitted, that is the annual tax return or the periodic tax return of previous years or periods. Such exposure is limited to the following matters:

- a. an increase in the amount of the taxes yet to be paid; or
- b. a decrease in the amount of losses based on tax provisions; or

- c. an increase in the quantity of assets; or
- d. an increase in the amount of capital.

Paragraph (5)

Self-explanatory.

Article 9

Paragraph (1)

The date for periodic payments is fixed by the Minister of Finance with the time limit not exceeding fifteen days after the tax is due or the end of the tax period. Any delay in the periodic payment leads to the application of an administrative sanction pursuant to the laws in force.

Paragraph (2)

As meant in Article 3 paragraph (3) (b) the taxpayer must submit the annual tax return within three months after the end of the tax year. If underpayment of tax owed is found upon completing the tax return, the amount by which tax is underpaid must be settled not later than the twenty-fifth of the third month after the end of the tax year or the portion of the tax year, before the annual tax return is filled.

For example:

The tax return must be submitted on March 31, the tax payment deficiency owed or the last tax payment must be settled not later than March 25, before the submission of the tax return.

Paragraph (3)

Self-explanatory

Paragraph (4)

The Director General of Taxation can allow tax payment by installments or postponement of tax payment despite the determination of the date for payment.

This relief is selective and limited, granted to the taxpayer actually facing difficulty in liquidity. In order to obtain such relief, the relevant taxpayer must fulfill requirements already laid down.

Article 10

Paragraph (1)

The Directorate General of Taxation shall not receive any deposit from a

Taxpayer. Any deposit of the state taxes shall be to the State Treasury office or other places designated by the Minister of Finance such as so far stipulated, namely Post and Giro Offices and some State-owned Banks. The expansion of the Places for tax payments accessible to the Taxpayer is intended to facilitate the Taxpayer in fulfilling his obligation.

Paragraph (2)

By the existence of the procedure for paying tax, depositing tax and reporting to be stipulated by the Regulation of the Minister of Finance, likewise, that for installing and postponing the tax payment, expectedly it will facilitate the tax payment and administrative accommodation.

Article 11

Paragraph (1)

If calculation of the tax actually owed and the amount of tax credits indicates a difference of overpayment (the amount of tax credits being greater than the total tax owed), the taxpayer is entitled to demand a refund of the amount by which tax is overpaid, provided that no tax debts are incurred. In the case of the taxpayer still has tax debts not yet settled, the overpayment must first be used to offset the tax debts and only if some amount is left can it be returned to the taxpayer.

Tax debts are those involving all taxes yet to be paid by the taxpayer, that is the head office as well as branches. For the tax overpayment refund, the taxpayer must file a written request to the Director General of Taxation or authorized personnel.

Paragraph (2)

In order to guarantee legal certainty for the taxpayer and ensure orderly administration, the limit for the refund by the Director General of Taxation is fixed at the maximum of one month:

- a. for the assessment of tax overpayment as meant in Article 17B, after the date of its issuance;
- b. for the assessment of tax overpayment as meant in Article 17, after the date of receipt of written request for the tax overpayment refund.

Paragraph (3)

For the creation of balance between the right and obligation of the taxpayer and the provisions of prompt service by the Directorate General of Taxation, this paragraph stipulates that in the case of any delay in the tax overpayment refund beyond the time limit as meant in paragraph (2), the relevant taxpayer is granted compensation by the government in the form of interest of 2% (two percent) per month, calculated from the end of the one-month period up to the date of refund, which means the date of issuance of the tax overpayment

restitution order.

Paragraph (4)

Self-explanatory.

Article 12

Principally the tax is owed on the occurrence of the taxable tax object. The time of said owed tax shall be:

- a. At a certain point of time, for the Income Tax deducted by a third party;
- b. at the expiry of a Period, for the employee's Income Tax deducted by the employer, or other parties on the business activity or by an Entrepreneur on the collection of Value Added Tax on Goods and Services and Sales Tax on Luxury Goods;
- c. At the end of the Fiscal Year for the Income Tax.

The amount of the owed tax already deducted, collected or to be paid by the Taxpayer himself after reaching the time or period of settlement as referred to in Article 9 and Article 10 paragraph (2), shall be deposited by the Taxpayer to the State Treasury office or designated places.

Article 13

Paragraph (1)

This provision authorizes the Director General of Taxation to issue an assessment of tax underpayment, which fundamentally is only applied to certain cases as meant in this paragraph, i.e. only to certain taxpayers who evidently or based on the examination or audit fail to observe formal and/or material obligations. The authority given by tax laws to the Director General of Taxation to make fiscal corrections is limited to the period of ten years.

Pursuant to paragraph (1) (a), the assessment of tax underpayment is only issued if the taxpayer fails to pay taxes properly on the basis of tax laws. If the taxpayer's failure to pay or fully pay taxes is found out after the relevant taxpayer has been examined and results of the audit reveal that this taxpayer has not paid or has underpaid the total tax actually owed.

The audit can be conducted at the residence, domicile and/or place of business of the taxpayer. The assessment of tax underpayment can also be issued in the case of the Director General of Taxation possesses data other than that submitted by the taxpayer himself/itself, from which it can be ascertained that the taxpayer failed to carry out tax obligations properly. In order to check the accuracy of data, the taxpayer can be subject to auditing. The tax return which despite the issuance of a written warning is not submitted within the time limit specified in the warning letter, based on paragraph (1) (b), bears the consequence that the Director General of

Taxation can issue the assessment of tax underpayment ex officio. The total tax in the said assessment is subject to an administrative surcharge in the form of an increase as stipulated in paragraph (3).

The warning is among others also meant to give an opportunity to the taxpayer with good intent, in order to explain the reason for or causes of failure in submitting the tax return if this is owing to an event beyond his/its control (force majeure).

The taxpayer failing to carry out tax obligations involving value added tax and underpaid as meant in paragraph (1) (c), is subject to an administrative surcharge with the issuance of the assessment of tax underpayment plus an increase of 100% (one hundred percent).

If the taxpayer does not keep account books according to Article 28 or upon auditing fails to do as requested pursuant to Article 29, so that the Director General of Taxation cannot calculate the amount of tax actually due as meant in paragraph (1) (d), the Director General of Taxation is authorized to issue the assessment of tax underpayment with calculation ex officio, that is tax calculation based on data other than that obtained from the taxpayer.

The obligation to verify details of calculation serving as the basis of assessment ex officio by the Director General of Taxation is imposed on the taxpayer. Some examples are as follow:

1. Bookkeeping as meant in Article 28 is incomplete so that the profit-and-loss statement or turnover is not clear;
2. documents of bookkeeping are incomplete so that the figures in account books cannot be verified;
3. from the series or examinations made and/or facts gathered, it is strongly believed that documents or other supporting data are concealed somewhere, so that this attitude reflects the taxpayer's lack of good intent to help ensure smooth audit.

The obligation of verification also to the applies to the assessment issued on the basis of paragraph (1) (b).

Paragraph (2)

This paragraph regulates the administrative sanction imposed on the taxpayer for violating the tax obligation as meant in paragraph (1) (a). This administrative sanction takes the form of interest at 2% (two percent), which is contained in the assessment of tax underpayment.

The administrative sanction in the form of interest is calculated from the amount of tax unpaid or the amount by which tax is underpaid (tax deficiency) and part of a month is calculated as one month.

Example: the assessment of income tax underpayment.

An income taxpayer whose accounting year is the same as the calendar year submits the annual tax return for 1995 on time along with the last tax payment. In April 1998 the assessment of tax underpayment is issued, indicating a tax deficiency of Rp 1,000,000 (a million Rupiah). Based on this paragraph, the deficiency is subject to 2% (two percent) interest per month.

Though the assessment of tax underpayment is issued more than two years after the end the tax year, the interest imposed on the deficiency is only for two years with the following calculation:

1.	Tax due	Rp 1,725,000.00	
2.	Tax credits:		
	a. Tax withheld by employer	Rp 150,000.00	
	b. Tax paid by taxpayer (periodic payment)	Rp 400,000.00	
	c. Tax collected in tax collection notice (excl.interest and fines)	Rp 75,000.00	
	d. Tax collected abroad	Rp 100,000.00	
	Total of tax credited	Rp 725,000.00	----- (+)
			----- (-)
3.	Tax deficiency	Rp 1,000,000.00	
4.	Two-year interest = $2\% \times 2 \times 12 \times \text{Rp } 1,000,000.00 =$	Rp 480,000.00	----- (+)
5.	Tax still owed	Rp 1,480,000.00	

If the assessment of tax underpayment is issued in May 1997, the calculation is as follows:

1.	Tax deficiency	Rp 1,000,000.00	
2.	17-month interest = $2\% \times 17 \times \text{Rp } 1,000,000.00 =$	Rp 340,000.00	----- +
3.	Tax owed	Rp 1,340,000.00	

Paragraph (3)

This paragraph regulates the administrative sanctions for violating tax obligations as meant in paragraph (1) (b), (c) and d. The sanctions take the form of surcharges, that is proportional amounts which must be added to the totals of tax to be collected.

The administrative sanctions in the form of surcharges vary according to the kinds of tax, that is for income tax paid by the taxpayer himself/itself the surcharge is 50 % (fifty percent), for income tax withheld by individuals/organizations the surcharge is 100% (one hundred percent), and

for value added tax and sales tax on luxury goods the surcharge is 100% (one hundred percent).

Paragraph (4)

In order to provide legal certainty for the taxpayer in connection with the collection of tax by the self assessment system, if within ten years after the point of time tax is due, the end of the tax period, the portion of a tax year or the end of the tax year, the Director General of Taxation does not issue a tax assessment, the amount of tax payment as stated in the periodic tax return or annual tax return in essence automatically becomes final or fixed pursuant to tax laws. In this way, the tax return of the relevant taxpayer becomes a fixed and final assessment.

Paragraph (5)

In the case of the taxpayer being subjected to an irrevocable judgement in a criminal tax case, the assessment of tax underpayment can still be issued, plus and administrative sanction in the form of interest at 48% (forty-eight percent) of the amount of tax unpaid or the amount by which tax is underpaid, though the period of ten years as stipulated in paragraph (4) has elapsed.

With the irrevocable court judgement, fiscal data which purposely was not reported in the period are thus exposed.

Article 14

Paragraph (1)

Self-explanatory

Paragraph (2)

The tax collection notice based on this paragraph has the same legal force as the tax assessment, so that the distress warrant can also accompany tax collection using this notice.

Paragraph (3)

This paragraph regulates the imposition of an administrative sanction in the form of interest in connection with the issuance of the tax collection notice to due to:

- examination of the return revealing tax deficiency or the presence of misprints and/or calculation errors;
- income tax in the relevant year being unpaid or underpaid.

To make it clear, the method of calculation is provided in the following example:

1. Result of examination of the tax return.

The tax return of the income tax year 1995 submitted on March 31, 1996, after being examined turns out to contain calculation errors and the income tax is underpaid by Rp 1,000,000.00. A tax collection notice involving the income tax deficiency is issued on June 14, 1996 with the following calculation:

-	Income tax deficiency	=	Rp 1,000,000.00
-	Income = $3 \times 2\% \times$ Rp 1,000,000.00	=	Rp 60,000.00
			----- +
-	Total tax owed	=	Rp 1,060,000.00

2. Income tax in the relevant year is unpaid or underpaid.

Income tax under Article 25 in 1995 each month amounts to Rp 100,000,000.00 with maturity e.g. on the 15th. In June 1995 it is paid on time at Rp 40,000,000.00. A tax collection notice is issued on September 18, 1995 involving the deficiency of income tax under Article 25, with the following calculation:

-	Deficiency of income tax under Article 25 in June 1995	=	Rp 60,000,000.00
-	Interest = $3 \times 2\% \times$ Rp 60,000,000.00	=	Rp 3,600,000.00
			----- (+)
	Total tax owed	=	Rp 63,600,000.00

Paragraph (4)

If the taxable company/entrepreneur fails to report its/his business activities for confirmation, it means a violation with intent and neglect of the trust given it/him. Therefore, besides being required to pay the tax owed without being allowed to calculate input tax, it/he is also subject to an administrative sanction in the form of a fine of 2% (two percent) of the tax base arising before confirmation as the taxable company/entrepreneur. In addition, pursuant to tax laws the tax invoice is only to be issued by the taxable company/entrepreneur. A non-taxable company/entrepreneur is banned from issuing tax invoices in order to protect buyers from improper tax collection, and thus it/he is subject to an administrative fine. The same applies to the taxable company/entrepreneur failing to make out or fully complete the tax invoice.

Article 15

Paragraph (1)

In order to cover the possibilities of under assessment of tax underpayment, or tax restitution which should not have been made according to the assessment of tax overpayment, or the tax owned in the nil tax assessment being under-assessed, the Director General of Taxation is authorized to issue the additional assessment being under-assessed, the Director General of Taxation is authorized to issue the additional assessment of tax underpayment within ten years after the tax is due, the end of the tax period,

the portion of tax year or the tax year.

The additional assessment of tax underpayment is a correction of the previous tax assessment. It is only issued if the tax assessment has been published. In other words, the additional assessment of tax underpayment will not be issued without the previous tax assessment. It is issued in the presence of new data and/or previously undisclosed data which increases the tax owed in the previous tax assessment. In line with this, after the issuance of the assessment of tax overpayment as a consequence of the lapse of twelve months as meant in Article 17B, the additional assessment of tax underpayment is only issued in the presence of new data and/or previously undisclosed data. In the case of discovery of more data previously not disclosed at the moment of issuance of the additional assessment of tax underpayment, and/or new data being later found out by the Director General of Taxation, the additional assessment of tax underpayment can still be issued.

New data are those not yet reported by the taxpayer in the tax return, while previously undisclosed data are those already reported by the taxpayer in the tax return but not yet clearly disclosed. For example, previously undisclosed data are among others contributions which are calculated as general cost without being detailed, making it difficult to ascertain that the contribution in fact cannot be deducted as costs on the basis of the provisions in force.

Paragraph (2)

If after the issuance of the tax assessment, new data and/or undisclosed data not yet calculated as the basis of assessment are still found, the tax deficiency is collected by issuing the additional assessment of tax underpayment plus an administrative sanction in the form of a surcharge of 100% (one hundred percent) of the amount of such deficiency.

Paragraph (3)

Self-explanatory

Paragraph (4)

In the case of the taxpayer being subjected to an irrevocable judgement in a criminal tax case, the issuance of the additional assessment of tax underpayment can still be justified, plus an administrative sanction in the form of interest of 48% (forty-eight percent) of the amount by which tax is unpaid or underpaid, despite the lapse of the ten-year period as stipulated in paragraph (1).

Article 16

The correction of the tax assessment based on this article is within the framework of executing government tasks appropriately, so that if human errors or mistakes are discovered in the tax assessment proper corrections are needed. Such errors or mistakes bear no elements of dispute between fiscal authorities and the taxpayer.

If errors or mistake are found out by fiscal authorities or on the basis of a request of the taxpayer, they must be corrected. The erroneous or mistaken tax assessment which can be corrected is made up of the assessment of tax underpayment, the additional assessment of tax underpayment, the assessment of tax overpayment and the nil tax assessment, besides also the tax collection notice.

The scope of correction as stipulated in this article is limited to the tax assessment or the tax collection notice which is erroneous due to:

- a. errors in writing, involving among others the name, address, taxpayer code number, taxable company confirmation number, tax assessment number, kind of tax, tax period or year, and maturity date;
- b. errors in calculation, involving addition and/or subtraction and/or multiplication and/or division of figures;
- c. mistakes in applying tax provisions concerning tax rates, percentages of the calculation norm, administrative sanction, untaxed income and tax crediting.

Correction in this article may mean an increase or decrease or deletion, depending on the nature of errors and mistakes. If errors in writing, calculation, and/or mistakes in applying tax provisions are still discovered in decisions on correction, the taxpayer can again submit a request for corrections to the Director General of Taxation, or the Director General of Taxation can make corrections ex officio.

Article 17

Based on this article, the assessment of tax overpayment is issued if:

- a. in the case of income tax, the amount of tax credits is greater than the total tax due, or the taxes already paid actually were not due;
- b. in the case of value added tax, the amount of tax credits is greater than the total tax due, or the taxes already paid actually were not due. If any tax due is collected by the value added tax collector, the amount due is the output tax after being reduced by the tax collected by the said value added tax collector;
- c. in the case of sales tax on luxury goods, the amount of tax paid is greater than the amount due or the taxes already paid actually were not due.

The assessment of tax overpayment is issued after an examination of the tax return submitted by the taxpayer and showing that tax is underpaid, nil or overpaid, without any request for tax restitution. If after receiving the assessment of tax overpayment the taxpayer wants to have a refund, a written request must be submitted as stipulated in Article 11 paragraph (2).

The assessment of tax overpayment can still be issued if on the basis of examination results, the amount by which tax is overpaid turns out to bigger than the amount already assessed.

Article 17A

Based on these provisions, the nil tax assessment is issued in the following cases:

- a. for income tax, the amount of tax credits equals the total tax due, or taxes are not due and there are no tax credits;
- b. for value added tax, the amount of tax credits equal the total tax due, or taxes are not due and there are no tax credits. If any tax due is collected by the collector of value added tax, the total tax due is the amount of output tax after being reduced by the tax collected by the collector of value added tax;
- c. for sales on luxury goods, the total tax paid equals the total tax due, or taxes are not due and there are no tax payments.

Article 17B

Paragraph (1)

Tax assessment decisions on application for restitution of tax overpayment must be issued within a maximum period of twelve months after the receipt of complete applications, in the sense that the tax return has been properly filled out as stipulated in Article 3. For export activities and the delivery of taxable goods to and/or provisions of taxable services for the collector of value added tax, the period can be shortened by a decision of the Director General of Taxation. Applications can be submitted by completing relevant columns in the tax return or in separate letters.

The tax assessment decisions can take the form of the assessment of tax underpayment as meant in Article 13, the assessment of tax overpayment as meant in Article 17 or the nil tax assessment as meant in Article 17A.

Paragraph (2)

The period as stipulated in paragraph (1) is meant to give legal certainty to applications filed by the taxpayer or the taxable company, so that if the period is over and the Director General of Taxation fails to make decisions, the applications are regarded as being approved. Besides, the period is also meant to ensure orderly tax administration.

Paragraph (3)

In the case of the Director General of Taxation being late in issuing decisions on assessment of tax overpayment, the government pays compensation in interest of 2% (two percent) per month to the taxpayer, calculated from the end of the time limit as meant in paragraph (2) up to the issuance of such decision, with part of a month being considered one month.

Article 18

Paragraph (1)

The tax collection notice (STP), the assessment of tax underpayment (SKPKB), the additional assessment of tax underpayment (SKPKB), and

decisions on corrections, decisions on objections, decisions of the court of appeals which increase the amount of tax due, are administrative instruments of the Director General of Taxation for tax collection.

Paragraph (2)

Self-explanatory

Article 19.

Paragraph (1)

This paragraph regulates the interest imposition on tax which is not or not sufficiently paid on the due date or paid late.

To make it clear, the example on the interest calculation is given hereunder:

1. On the insufficiently paid tax.
Income Tax Assessment Letter (SKPPPH)
Owed or collected tax (not considered credited tax): Rp. 100,000.00

The SKP is issued on October 10, 1985.

To be settled no later than November 10, 1985, but just paid at Rp. 60,000.00 on November 1, 1985.

Up to the due date (November 10, 1985) the collection balance is not paid by the Taxpayer.

On November 18, 1985 a Tax Collection Letter is issued based on the following calculation-

Owed tax	Rp. 100,000.00
Paid in time	Rp. 60,000.00

Deficiency of payment	Rp. 40,000.00

Interest

Calculated for a month of $1 \times 2\% \times \text{Rp. } 40,000.00 = \text{Rp. } 800.00$. Said interest is collected by STP.

2. On the amount of tax paid late.

The basis is as that in number 1. Fully paid but late, for instance on November 20, 1985. On November 24, 1985 STP is issued. The owed interest in the Tax collection Letter is calculated for a month = $1 \times 2\% \times \text{Rp. } 100,000.00 = \text{Rp. } 2,000.00$

3. On the amount of tax paid insufficiently and late.

The basis is as that in number 1. Paid at Rp. 60,000.00 on November 20, 1985.

On November 24, 1985 STP is issued.

The owed interest is calculated for 1 month = $1 \times 2\% \times \text{Rp. } 100,000.00$
= Rp. 2,000.00

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Article 20

The "immediate" collection of tax as stipulated herein means prompt tax collection without awaiting dates of maturity for payment, while the "entire" collection of tax means tax collection covering total tax debts of all kinds of tax and tax years.

Article 21

Paragraph (1)

This paragraph determines the position of the state as a preferential creditor with a lien on goods owned by the taxpayer/representative to be auctioned. After the settlement of tax debts, payments to other creditors follow.

This provision is meant to give an opportunity to the government to allow the taxpayer/representative to cover or settle tax debts.

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Paragraph (4)

Self-explanatory

Paragraph (5)

Self-explanatory

Article 22

Paragraph (1)

The limit of tax collection needs to be determined to give legal certainty regarding the time when tax debts can no longer be collected.

Paragraph (2)

The limit of tax collection may involve a period of more than ten years if:

- a. The Director General of Taxation issues a warning letter and a distress warrant to the taxpayer/representative failing to pay tax debts up to the date of maturity for payment. In this case the limit of tax collection is calculated from the date of issuance of the distress warrant.
- b. The taxpayer makes a tax debt acknowledgement in the following ways:
 - The taxpayer submits a request for payment by installments or postponement of tax debts payment before the date of maturity for payment. In this case the limit of tax collection is calculated from the date of receipt of the request by the Director General of Taxation.
 - The taxpayer submits an objection letter. In this case the limit of tax collection is calculated from the date of receipt of the objection letter by the Director General of Taxation.
 - The taxpayer pays part of its/his tax debts. In this case the limit of tax collection is calculated from the date of payment of part of the tax debts.
- c. The assessment of tax underpayment or the additional assessment of tax underpayment is issued to the taxpayer by being subjected to an irrevocable court judgement in a criminal tax case. In this case the limit of tax collection is calculated from the date of issue of the tax assessment.

Article 23

Paragraph (1)

In case the total tax due is not paid on the date of maturity for payment, its collection can be made with a distress warrant. The word can here means that the tax collection with the distress warrant is only used if the taxpayer/representative fails to settle tax debts up to the date of maturity for payment or to up to the maturity for postponed payment or fails to pay tax by installments.

Paragraph (2)

Before the establishment of the tax court, any rebuttal and/or lawsuit against the use of a distress warrant, confiscation or auction is to be filed with the

local public court.

Paragraph (3)

Self-explanatory.

Article 24.

The Minister of Finance shall regulate the procedure and stipulate the amount of the uncollectible tax receivable account. In this may it is possible to effectively estimate the tax receivable balance which is collectable.

Article 25.

Paragraph (1)

If the taxpayer consider the amount of loss, tax due, and tax withheld or collected improper, an objection can only be submitted to the Director General of Taxation. The objection concerns the substance or content of the tax assessment, that is the amount of loss based on tax laws, the amount of tax, and the amount withheld or collected.

An objection means that one objection must be filed against one type of tax and one tax year, for example: objections against the income tax of the year of 1995 and the tax year of 1996 must be separately submitted in two objection letters for the two tax years.

Paragraph (2)

Self-explanatory

Paragraph (3)

The period of three months for submitting an objection starts from the date of issuance of the tax assessment, withholding, or collection as meant in paragraph (1) to allow enough time for the taxpayer to prepare the objection and its reasons.

Paragraph (4)

Self-explanatory

Paragraph (5)

The evidence/receipt for an objection letter is needed to meet formal requirements. Whether or not the right to submit an objection is accepted depends on the observance of the time limit as meant in paragraph (3), starting from the date of the tax assessment/withholding/collection to the moment the objection letter is received.

The said evidence/receipt can also be used by the taxpayer as a means of

control to check the time when the twelve-month period as meant in Article 26 paragraph (1) expires. It is needed to ascertain that the objection is accepted if within the period the taxpayer does not receive any reply from the Director General of Taxation on this objection.

Paragraph (6)

In order to enable the taxpayer to compile an objection letter by referring to solid reasons, the taxpayer has the right to ask for information concerning the basis of imposition, withholding or collection already determined, while on the other hand the Director General of Taxation is obligated to comply with such a request.

Paragraph (7)

For the prevention of attempts to evade or postpone tax payment through the filing of an objection letter, the submission of this letter does not preclude tax collection up to the use of an auction.

This provision is necessary for the purpose of preventing the taxpayer from evading tax obligations already determined under the pretext of filing an objection letter, thereby safeguarding state revenue.

Article 26

Paragraph (1)

For the Objection Letter proposed by the Taxpayer the settlement competence at the first instance is given to the Director General of Taxation provided that the settlement on the objection of the Taxpayer is stipulated in no more than twelve months after the receipt date of the Objection Letter. In this legal certainty for the Taxpayer can be obtained in addition to the tax administration.

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Paragraph (4)

This paragraph obligates the Taxpayer to prove the incorrectness of the tax assessment if the Taxpayer objects to the taxes assessed. Said Tax Notification Letter issued is issued when the Taxpayer does not submit the Annual Tax Return though having been given written warning, or does not met the obligation to make accounting or refuses to let an auditor enter places considered necessary in the framework of assessing the owed tax. If the Taxpayer cannot prove the incorrectness of the Tax Assessment Letter, the objection letter will be refused.

Paragraph (5)

Self-explanatory

Article 27

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Paragraph (4)

Self-explanatory

Paragraph (5)

Self-explanatory

Paragraph (6)

Self-explanatory

Article 27A

Self-explanatory

Article 28

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Paragraph (4)

Bookkeeping is defined in Article 1 (v). The provision herein is intended to enable the calculation of tax due through accounts, books or records.

Besides the calculation of income tax, other taxes must also be calculated from account books, in order to ensure correct calculation of value added tax and sales tax on luxury goods, account books must also record purchase prices or import values, sale prices or export values, sale prices of goods subject to sales tax on luxury goods, payments for utilization of taxable intangible items from non customs areas in the customs area, creditable and non creditable input tax.

In this way, account books must be kept according to the method or system normally applied in Indonesia, such as the Indonesian accounting principles, except as otherwise stipulated by tax laws.

Paragraph (5)

Self-explanatory

Paragraph (6)

Books, records, and documents including results of electronic data processing serving as the basis of bookkeeping or recording must be kept for ten years in Indonesia, so that if they are needed by the Director General of Taxation for issuing the tax assessment, the books or records can still be made available immediately. The ten-year period for keeping the books, records and documents serving as the basis of bookkeeping or recording is consistent with the provision with the limit on tax assessment.

Paragraph (7)

The principle of consistency is the same as that applied in the bookkeeping method in previous years, for the prevention of shifting of profit or loss, such as the use of:

- a. the income acknowledgement basis;
- b. the book year;
- c. the stock evaluation method;
- d. the depreciation method.

The accrual basis is a method of income and cost calculation by which income is acknowledged at the time it is incurred. So it does not depend on the time the income is received and the time the cost is paid in cash. The meaning of the accrual basis covers the acknowledgement of income according to the method of percentage of completion of work generally applied in the construction field and other methods in certain business lines such as Build, Operate and Transfer (BOT), real estate, etc...

The cash basis means a method by which calculation is based on the income received and the cost paid in cash. According to this method, income is regarded as such if it is actually received in cash in a certain period, and cost is regarded as such if it is actually paid in cash in a certain period.

The cash basis is usually applied by small-scale companies, individuals or service companies such as those engaged in transportation, entertainment, restaurant business, whose time between the provision of services and the receipt of payment is not long. With the pure cash basis, income from the delivery of goods or provision of services is determined at the moment payments are received from customers, and cost is determined at the moment of payments are made for goods, services and other operational expenses.

In this way, the application of the cash basis can obscure income calculation, i.e. the amount of income from year to year can be adjusted by arranging cash receipts and spending. Therefore, for income calculation on the cash basis, the following matters must among others be observed:

1. Calculation of sales in a period must cover all sales, cash as well as non cash. In calculating the cost price, all purchases and stocks must be taken into account.
2. In the acquisition of depreciable property and amortizable rights, costs which can be deducted from income are only deducted through depreciation and amortization.
3. The application of the cash basis must be consistent. So the cash basis used for purposes of taxes can also be referred to as mixed basis.

Paragraph (8)

Basically the methods of bookkeeping followed must be consistent, i.e. the same as those followed in previous years, such as the use of the income and cost acknowledgement method (cash or accrual method), the fixed assets depreciation method, the stock evaluation method, etc... However, a change in such methods remains possible on the condition that it is approved by the Director General of Taxation. A request for the change must be filed with the Director General of Taxation before the start of the relevant accounting year by referring to logical and acceptable reasons as well as possible consequences of the change.

The change will affect the principle of consistence, which may involve a shift from the cash method to the accrual method or the other way round, or a change in the use of the income or cost acknowledgement method itself. For instance, in the cost acknowledgement method, the change involves fixed assets depreciation by using a certain depreciation method.

Example: In 1995 the taxpayer uses the straight line depreciation method. In 1996 the taxpayer intends to change the assets depreciation method by applying the declining balance method.

To this end, the taxpayer has to seek approval from the Director General of Taxation, before the start of the accounting year of 1996 by referring to the reasons for the change in the depreciation method and its consequences. In

addition, a change in the period of the accounting year also affects the amount of income or loss of the taxpayer, so that the change must also be approved by the Director General of Taxation. The tax year is the same as the calendar year unless the taxpayer uses an accounting year different from the calendar year.

If the taxpayer uses an accounting year different from the calendar year, the reference of the relevant tax year uses the year which includes the first six months or more.

Example:

- a. Bookkeeping from July 1, 1995 through June 30, 1996: the tax year is that of 1995.
- b. Bookkeeping from October 1, 1995 through September 30, 1996: the tax year is that of 1996.

Paragraph (9)

Self-explanatory

Paragraph (10)

The records of the taxpayer engaged in business and independent work cover gross turnover and other income, while for the taxpayer solely receiving income from outside business and independent work, the records only involves the income received.

Paragraph (11)

Self-explanatory

Paragraph (12)

Self-explanatory

Article 29

Paragraph (1)

The Director General of Taxation in order to exercise control is authorized to conduct audits:

- a. to test obedience in the fulfillment of tax obligations;
- b. for other purposes within the framework of implementing tax laws. An audit can be conducted in the office (i.e. office audit) or in the taxpayer's place (i.e. field audit), and cover previous years as well as the current year. It can also be imposed on the taxpayer, including government agencies and other organizations as tax collectors or tax

withholders.

The tax audit to test obedience in the fulfillment of tax obligations is done by checking the accuracy of the tax return, account books or records and other documents indicating such fulfillment, compared with the actual condition or business activities of the taxpayer, through:

- a. the application of audit techniques normally used in auditing in general, referred to as a full audit;
- b. the application of audit techniques in modest weight and depth according to the audit scope, in the office as well as the business place, referred to as a simple audit.

Besides, a simple audit can also be conducted for other purposes, among others:

- to determine one or more places where value added tax and/or income tax under Article 21 are/is due;
- to confirm a company as, or revoke the confirmation of, the taxable company;
- to grant the taxpayer code number and/or the taxable company confirmation number ex officio.

Paragraph (2)

Self-explanatory

Paragraph (3)

The taxpayer subject to an audit to ascertain obedience in the fulfillment of tax obligations or for other purposes as meant in paragraph (1) must show and submit books, records, documents and other information needed in connection with the income obtained or business operations.

If the books, records and documents needed cannot be made available by the taxpayer for the purpose of evasion, based on this paragraph auditors/inspectors are allowed to enter certain places or rooms where the books, records and documents are believed to be kept.

Paragraph (4)

In order to prevent the use of the commitment to maintain secrecy as an excuse for the taxpayer to evade the obligation to submit account books, records, documents and other information needed, this provision affirms that the commitment to secrecy is to be waived.

Article 30

To any person or body in the audit unwilling to give an opportunity to the auditor to

enter certain places/rooms assumed to be the place to keep them so that they can not be obtained, the Taxpayer will be considered to be hindering tax collection.

In such a case, the Director General of Taxation is competent to seal certain places or rooms considered to be the place to keep there or to prevent the loss of them.

Article 31

Self-explanatory

Article 32

Paragraph (1)

This law stipulates the parties acting as representatives to carry out the rights and obligations in tax of the taxpayer, in the case of the taxpayer being an organization, a body enterprise in dissolution, an undivided estate, and minor child or dependent individual. The determination of such representatives or attorneys is necessary because the said taxpayer is not in a position to perform legal actions itself/himself.

Paragraph (2)

This provision affirms that the taxpayer's representatives as stipulated in this law are individually or severally responsible for the payment of tax due. An exception can be considered by the Director General of Taxation if the taxpayers representative can prove that in their capacity, based on normal practice and propriety it is impossible for them to be held responsible individually or severally.

Paragraph (3)

This provision gives room and opportunity to the taxpayer to seek the help of another party specializing in tax affairs as an attorney who acts for and on behalf of the taxpayer in carrying out the taxpayer's rights and obligation in taxes. The assistance covers the fulfillment of formal and material obligations as well as rights of the taxpayer as specified in tax laws.

Paragraph (4)

The personnel actually authorized to determine policies and/or make decisions in the operation of a business unit, such as signing contracts with a third party, signing cheques etc..., though their names are not mentioned in the composition of management contained in the deed of corporate establishment and the deed of amendment, belong to the category of managers.

Article 33

The tax burden principle for the Value Added Tax on Goods and Services and Sales Tax on Luxury Goods shall be given to the buyer or consumer of goods or Services

Recipient, it should therefore be the buyer or consumer of goods or services recipient who is responsible for the payment of the tax if it is found that said tax is not paid.

Article 34

Paragraph (1)

Self-explanatory

Paragraph (2)

Such experts as linguists, accountants, attorneys etc... appointed by the Director General of Taxation to help implement tax law are the same as tax officials, who are forbidden to reveal confidential information of the taxpayer as meant in paragraph (1).

Paragraph (3)

In the interest of the state, e.g. in establishing cooperation with other government agencies, information or written evidence from or concerning the taxpayer can be given or shown to certain parties appointed by the Minister of Finance.

The orders issued by the Minister of Finance must contain the names of the taxpayer, the party appointed and the officials or experts permitted to give information or show written evidence from or concerning the taxpayer. Such permission is limited to matters deemed essential by the Minister of Finance.

Paragraph (4)

For investigation in a court trial of criminal or civil cases in taxes, in the interest of judicial procedures the Minister of Finance at the written request of the presiding judge, grants permission exempting tax officials from the obligation to maintain secrecy, including tax officials from the obligation to maintain secrecy, including tax officials assigned to the judicial body or the Tax Consultative Assembly and experts as meant in paragraph (1) and (2).

Paragraph (5)

The provision is meant to set a restriction and affirm that the tax information requested only involves criminal or civil cases concerning acts or occurrences in taxation and is only limited to the relevant suspect.

Article 35

Paragraph (1)

In order to implement tax laws, at the written request of the Director General of Taxation, third parties that is banks, public accountants, notaries public, tax consultants, administration offices and other third parties having relations with the business of the taxpayer being audited/examined or investigated, must supply the information or evidence to the Directorate General of Taxation.

Paragraph (2)

Self-explanatory

Article 36

Paragraph (1)

In practice it may occur that the administrative sanction imposed on the Taxpayer due to the carelessness of the tax officer can burden the innocent taxpayer or that who does not understand the regulations on taxes. In such a case the administrative sanction in terms of interest, fine and increase already assessed can be eliminated or reduced by the Director General of Taxation.

Likewise, the Director General of Taxation due to his function and on the basis of justice can reduce or annul/cancel the Tax Assessment which is incorrect, for instance the taxpayer whose objection proposal is refused due to not meeting the formal requirements (not submitting the Objection Letter in time) though the material requirements are fulfilled.

Paragraph (2)

Self-explanatory

Article 37

In compliance with the financial economic condition, the value of money may change. The law therefore gives competence to the Government if required to issue a Government Regulation amending and adjusting the amount of the administrative sanction in the form of interest, administrative fine and increase complying with the financial economic condition.

Article 38

Any violation of tax obligations by the taxpayer as far as acts of tax administration are concerned, is subject to administrative sanctions and as far as criminal acts in taxation are involved, is subject to criminal sanctions. The deeds or acts as meant in this are criminal acts rather than administrative violations.

With the criminal sanctions, the taxpayer is expected to be aware of the necessity to fulfill tax obligations as stipulated in tax laws. The negligence as meant in this article implies inadvertence, carelessness, or lacking of attention to tax obligations, thus inflicting losses on state revenue.

Article 39

Paragraph (1)

The deeds or acts as meant herein which are purposely committed, are subject to heavy punishments in view of the important role of tax receipts in

state revenue.

Paragraph (2)

For the prevention of repeated criminal acts in taxation, those who are again involved in such acts within one year starting from the end of a portion or the whole of the term of imprisonment served, are subject to a heavier punishment, doubling the penalty stipulated in paragraph (1)

Paragraph (3)

Abusing or using unlawfully the taxpayer code number or the taxable company confirmation number, or submitting a false or incomplete tax return in requesting tax restitution and/or effecting a tax compensation, bring considerable losses to the state. Therefore, any attempt to commit such criminal acts constitutes an offence.

Article 40

The criminal act in tax shall expire after ten years as from the relative tax period, expiry of Tax period, Part of Fiscal Year and Fiscal year. It is intended to give a legal certainty to the Taxpayer, Public Prosecutor and Judge.

Said ten year period is to adjust to the expiration of the tax document safe keeping, becoming the basis for calculating the owed tax for ten years.

Article 41

Paragraph (1)

In order to guarantee non-disclosure of confidential tax information to other parties and encourage the taxpayer to supply data and information without hesitation for the implementation of tax laws, it is necessary to stipulate criminal sanctions for officials causing such disclosure.

The disclosure of confidential information as meant in this provisions is done out of negligence in the sense of carelessness or lacking attention, so that the obligation to maintain the secrecy of the taxpayer's information or evidence, which is protected by tax law, is violated. Such negligence is subject to punishment commensurate with the violation.

Paragraph (2)

The act as meant herein which is purposely committed is subject to a heavier punishment than imposed on the act done out of negligence, with the aim of making officials more careful so as to avoid the disclosure of confidential information of the taxpayer.

Article 41A

In order to ensure third party compliance with the request of Director General of

Taxation as stipulated in Article 35, it is necessary to impose a punishment on third parties committing the acts meant in this article.

Article 41B

Whoever commits acts which obstruct or complicate criminal investigations in taxation e.g. preventing investigators from conducting a search, hiding evidence etc... as meant in this article is subject to criminal sanctions.

Article 42

Deleted by 9/1994

Article 43

Paragraph (1)

Criminal sanction are imposed not only on the taxpayer, a representative, an attorney or an employee committing criminal acts in taxation, but also on those initiating, joining, suggesting or helping such acts.

Paragraph (2)

Self-explanatory

Article 44

Paragraph (1)

Tax investigators are certain officials in the Directorate General of Taxation appointed by the Minister of Justice pursuant to relevant laws in force.

Criminal investigations in taxation are carried out pursuant to the provisions in Law No. 8/1981 on the criminal procedural law and its implementation rules.

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Article 44A

In the case of criminal investigations in taxation being terminated except for being overdue, the tax assessment can still be issued.

Article 45

Though the previous laws on taxes have been revoked by the promulgation of this Law to accommodate the settlement of the owed tax assessment in the tax period or Fiscal year prior to the effectiveness of this Law the implementation of which shall be based on the former legislative Regulations on taxes, this Law stipulates the effectiveness of them through December 31, 1988. The determination of said five years' period shall be adjusted to the expiry of the tax collection.

Article 46

Self-explanatory

Article 47.

The provision in this article is abolished because it substantively belongs to the Law on income tax and has been stipulated therein.

Article 48

To accommodate anything not yet sufficiently regulated concerning the procedure or the completeness of the material thereof which has been included in this Law shall further be stipulated by the Government Regulation. It will be easier to adjust the implementation of this Law and the required procedure.

Article 49

Self-explanatory

Article 50

Self-explanatory

Article II

Self-explanatory

Article III

Self-explanatory

Article IV

Self-explanatory

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA NO. 3262

Editor's Note:

SOURCE: LOOSE-LEAF DOCUMENT OF THE STATE SECRETARIAT YEAR 1994