

Indonesian

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By: THE PRESIDENT OF THE REPUBLIC OF INDONESIA  
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Reference: LN 1983/49; TLN NO. 3262  
Title: GENERAL TAX PROVISIONS AND PROCEDURES

WITH THE BLESSING OF THE ALMIGHTY GOD  
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. that the State of the Republic of Indonesia is a constitutional state based on Pancasila and the Constitution of 1945 that holds in high regard the rights and duties of its citizens, and therefore taxation as one form of obligation to the state facilitates participation in state finance and national development;
- b. that the tax system forming the basis for the collection of state taxes in effect until now is no longer in accordance with the socio-economic standard of living of the people of Indonesia, whether from the point of view of the principle of national solidarity or from the point of view of the rapid national development already achieved;
- c. that the tax system that has been reflected by the tax provisions in effect until now has not yet been able to gain participation by all groups of tax subjects, which participation plays a large role in the increase of domestic revenues and which is greatly needed to realize progress and the increase in national development;
- d. that therefore, in line also with the mandate contained in the Guidelines of State Policy (Decision of the People's Deliberative Assembly of the Republic of Indonesia Number II/MPR/1983) the tax system now in effect needs to be replaced with a system that places trust in the tax subject to carry out tax obligations and fulfill fights in the tax sector, in order to realize an extension and increase in the consciousness of tax obligations and to spread the income of the people;
- e. that to fulfill the intentions referred to above it is necessary to replace the regulations of tax law in effect until now.

In view of:

1. Article 5 (1), Article 20 (1) and Article 23 (2) Constitution of 1945;
2. Decision of the People's Deliberative Assembly of the Republic of Indonesia Number I/MPR/1983 concerning The Guidelines of State Policy;

3. "Regeling van het Beroep in Belastingzaken" (Staatsblad Year 1927 Number 29) as amended several times, most recently by Law Number 5 Year 1959 (State Gazette Year 1959 Number 13; Supplement to State Gazette Number 1748);
4. Law Number 19 Year 1959 concerning Collection of State Taxes by Distress Warrant (State Gazette Year 1959 Number 63; Supplement to State Gazette Number 1850);
5. Law Number 8 Year 1981 concerning Code of Criminal Procedure (State Gazette Year 1981 Number 76; Supplement to State Gazette Number 3209);

With the Approval of

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

HAS DECIDED:

With the revocation of:

1. Corporation Tax Ordinance 1925 (Staatsblad Year 1925 Number 319) as amended several times, most recently by Law Number 8 Year 1970 concerning Changes and Additions to Corporation Tax Ordinance 1925 (State Gazette Year 1970 Number 43, Supplement to State Gazette Number 2940);
2. Income Tax Ordinance 1944 (Staatsblad Year 1944 Number 17) as amended several times, most recently by Law Number 9 Year 1970 concerning Changes and Additions to Number 44, (Supplement to State Gazette Number 2941);
3. Law Number 8 Year 1967 concerning Changes and Improvements in the Method of Collecting Income Tax 1944, Wealth Tax 1932 and Corporation Tax 1925 (State Gazette Year 1967 Number 18, Supplement to State Gazette Number 2827), except for provisions concerning the method of collecting wealth tax;
4. Law Number 10 Year 1970 concerning Tax on Interest, Dividends and Royalties 1970 (State Gazette Year 1970 Number 45, Supplement to State Gazette Number 2942).

To stipulate: LAW CONCERNING GENERAL TAX PROVISIONS AND PROCEDURES

CHAPTER I

GENERAL PROVISIONS

Article 1

The meaning in this law of:

- a. Taxpayer, is any individual or organization that is assigned tax obligations in the provisions of the tax law;
- b. Organization, is any corporation, limited partnership, state owned enterprise and regional public enterprise in whatever name and form, partnership or other association, firma, kongsi, cooperative, foundation or institute, and permanent

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- establishment;
- c. Tax Period is the length of time used as the basis for calculating total tax due;
  - d. Tax Year is the length of time in a calendar year or book year;
  - e. Portion of Tax Year is a part of one tax year;
  - f. Tax Return is the form used by a Taxpayer to report the calculation and payment of tax due according to the provisions of tax law.
  - k. Tax Assessment is the decree that determines the amount of tax due, total reduction in tax due, total underpayments of tax due, the size of administrative sanctions, and the total tax that must still be paid;
  - l. Additional Tax Assessment is a decree that increases the total tax already assessed;
  - m. Decree of Tax Overpayment is a decree that provides for the refund of overpayment of tax already paid and/or withheld and/or collected;
  - n. Notification Letter is the form used to notify a Taxpayer that the total tax due equals the amount of tax already paid, withheld or collected;
  - o. Tax due is the tax that must be paid at a point in time, in a tax period, in a tax year or in a portion of a tax year according to the provisions of tax law;
  - p. Distress Warrant is the letter ordering payment of tax and related claims, in accordance with Law Number 19 Year 1959 concerning Collection of State Taxes by Distress Warrant (State Gazette Year 1959 Number 63; Additional State Gazette Number 1850);
  - q. Tax Credit is the total tax paid by the Taxpayer himself, increased by any tax withheld or collected by another party and deducted from total tax due including total income tax due abroad;
  - r. Independent Work is work performed by an individual with a special skill to earn income not tied to a Work relationship;
  - s. Audit is an activity carried Out by a tax official in inspecting a Taxpayer to look for information used in the calculation of tax due and tax that must be paid.

## CHAPTER II

### TAXPAYER IDENTIFICATION NUMBER, TAX RETURN, AND METHOD OF PAYMENT OF TAX

#### Article 2

Every taxpayer is obligated to register at the Directorate General of Taxation and be given a Taxpayer Identification Number.

#### Article 3

- (1) Every Taxpayer is obligated to fill in a Tax Return, sign it and send it to the office of the Directorate General of Taxation in the district in which the Taxpayer resides or is domiciled.
- (2) A Taxpayer referred to in paragraph, (1) must obtain a Tax Return himself, at the location specified by the Directorate General of Taxation.
- (3) The time limit for filing, a Tax Return shall be.
  - a. for a Periodic Tax Return at the latest twenty days after the end of the Tax Period;
  - b. for an Annual Tax Return, at the latest three months after the end of the Tax Year.
- 4) The Director General of Taxation may at the request of the Taxpayer extend the length of time for filing an Annual Tax Return as provided in paragraph (3)b.
- 5) Request referred to in paragraph (4) shall be in writing and shall be accompanied by a statement estimating the tax due in a tax year and evidence of payment of any underpayment of tax owed.
- 6) A Tax Return referred to in paragraph (1) must be accompanied by necessary attachments in accordance with the provisions set in the relevant tax law.

#### 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

- (1) The Tax Return filed directly by the Taxpayer to the Directorate General of Taxation must be marked with the date of receipt by the official handling it, and for an Annual Tax Return evidence of receipt must be given.
- (2) A Tax Return sent through the Post Office must be registered, and the evidence and date of mailing shall be considered as evidence and date of receipt.

## Article 7

If the Tax Return is not filed or is filed after the time limit provided in Article 3 (3), an administrative fine of Rp. 10,000 (ten thousand rupiah) shall apply.

## Article 8

- (1) A Taxpayer may correct a Tax Return himself by submitting a written statement, as long as the Director General of Taxation has not begun to carry out an audit.
- (2) If a Taxpayer corrects his Tax Return himself with the result that the tax owed increases, a sanction in the form of interest of 2 % (two percent) per month shall apply to the total tax underpaid, calculated from the end of the time period for filing the Tax Return until the date of payment arising from such correction of the Tax Return.
- (3) Even if an audit is already being carried out, as long as no investigation has yet been carried out concerning wrongdoing committed by a Taxpayer as referred to in Article 38 of this law, no investigation shall be carried out with respect to such wrongdoing of the Taxpayer if the Taxpayer on his own initiative exposes such wrongdoing and pays the total tax deficiency actually owed along with an administrative fine of two times the total tax underpaid.

## Article 9

- (1) The Minister of Finance shall set the date for payment and deposit of tax due at a point in time or for a tax period for each type of tax, at the latest fifteen days after the point in time the tax is due or after the end of the tax period.
- (2) Deficiencies in payment of taxes shown in an Annual Tax Return must be paid within three months after the end of the tax year or portion of the tax year, before the Tax Return is filed.
- (3) A Tax Collection Notice, Tax Assessment or Additional Tax Assessment must be paid within one month after the date of issuance.
- (4) The Director General of Taxation may on the request of a Taxpayer give permission to the Taxpayer to pay in installments or may grant a postponement of tax payment.

## 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

- (1) At the request of the Taxpayer, a tax overpayment as referred to in Article 17 (1) a shall be refunded, or if it appears the Taxpayer has other tax debts, it may be directly

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credited to settle tax due.

- (2) A refund of a tax overpayment as referred to in paragraph (1) shall be given within one month after the Decree of Overpayment as provided in Article 17 (1) a has been issued.
- (3) If the refund of a tax overpayment is given after one month, the Government shall pay interest of 2% (two percent) per month or any late refund, calculated from the moment the time limit provided in paragraph (2) is effective until the date the refund is made.
- (4) The method of offsetting and refunding tax overpayments shall be further set 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

- (1) Within five years after the point in time tax is due, the end of a Tax Period, Portion of a Tax Year or Tax Year, the Director General of Taxation may issue a Tax Assessment in the following:
  - a. if based on the results of audit or on other information it appears total tax due has not been paid in full;
  - b. if a Tax Return is not filed within the period provided in Article 3 (3) and despite the issuance of a written warning the return is not filed within the time specified in the Warning Letter;
  - c. if based on the results of audit of the Value Added Tax on Goods and Services and Sales Tax on Luxury Goods it appears a tax overpayment should not have been used as an offset, a 0%. (zero percent) rate should not have been applied, or a tax refund should not have been given;
  - d. if the obligation provided in Articles 28 and 29 of this law are not fulfilled so that the amount of tax due cannot be determined.
- (2) The total tax deficiency due in a Tax Assessment as provided in paragraph (1) a shall be increased by an administrative fine of 2% (two percent) per month for at most twenty-four months, calculated from the time tax is due or the end of the Tax Period, Portion of a Tax Year or Tax Year until the Tax Assessment is issued;
- (3) The total tax in a Tax Assessment as provided in paragraphs (1) b, c, and d, shall be increased by an administrative surcharge of:

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- a. 50% (fifty percent) of the Income Tax Underpaid in a Tax Year;
  - b. 100% (one hundred percent) of the Income Tax under-withhold, under-collected, under-deposited, or withheld or collected but under-deposited;
  - c. 100% (one hundred percent) of the Value Added Tax on Goods and Services and Sales Tax on Luxury Goods underpaid.
- (4) Total Income Tax withheld or collected by a third party for a Tax Year, total Income Tax paid oneself, tax collected with a Tax Collection Notice for such Tax Year, as well as income tax paid or due abroad for such Tax Year shall be credited against total Income Tax due in a Tax Assessment.
  - (5) The administrative sanctions in the form of interest, administrative fines, and surcharges may not be credited against the total tax due.
  - (6) The amount of tax due in a Tax Year as shown by a Taxpayer in an Annual Tax Return shall be final, according to the provisions of tax law, if within the length of time provided in paragraph (1) no Tax Assessment is issued.
  - (7) A Tax Assessment may still be issued after the five year period provided in paragraph (1) if after such five-year period a Taxpayer is subject to an irrevocable Judgement in a criminal tax case concerning taxes whose time for collection has already passed.

#### Article 14

- (1) A Tax Collection Notice shall be issued if:
  - a. tax due in the course of a year is not fully paid;
  - b. a Taxpayer is subject to an administrative sanction in the form of administrative fine and/or interest;
  - c. as a result of examination of a Tax Return an underpayment of tax is found to result from an error in writing and/or calculation.
- (2) A Tax Collection Notice as referred to in paragraph (1) has the same legal force as a Tax Assessment.

#### Article 15

- (1) The Director General of Taxation may issue an Additional Tax Assessment within five years after the point in time Tax is due, the end of a Tax Period, a Portion of a Tax Year or a Tax Year, if new data and/or data previously undisclosed causes additional tax to be due.
- (2) The tax deficiency due in an Additional Tax Assessment shall be increased by an administrative surcharge of 100% (one hundred percent) of such deficiency.
- (3) The surcharge referred to in paragraph (2) shall not be imposed if such Additional Tax Assessment is issued based on written information Submitted by the Taxpayer on his

own initiative, as long as the Director General of Taxation has not yet begun to carry out an audit.

- (4) An Additional Tax Assessment may still be issued after the five year period provided in paragraph (1) has passed, if after such five-year period the Taxpayer is subject to an irrevocable judgement in a criminal tax case concerning taxes whose Period for collection has already passed.

#### Article 16

Errors in writing, errors in calculation or mistakes in applying provisions of tax law found in a Tax Assessment may be corrected by the Director General of Taxation in the course of duty or on the request of the Taxpayer.

#### Article 17

- (1) After carrying out an examination or audit, the Director General of Taxation shall issue:
  - a. a Decree of Overpayment within at most twelve months after receiving the claim, if the total tax paid or the total Income Tax withheld or collected appears greater than the total tax due or if taxes already paid were actually not due.
  - b. a Notification Letter, if the total tax paid or the total Income Tax withheld or collected equals the total tax due.
- (2) If after the time period specified in paragraph (1) the Director General of Taxation has not issued the decree, such claim of overpayment of tax shall be considered granted.

### CHAPTER IV

#### TAX COLLECTION

#### Article 18

- (1) The Tax Collection Notice, Tax Assessment and Additional Tax Assessment form the basis of tax collection.
- (2) The method of implementing tax collection shall be further specified 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

Notwithstanding the provisions of Article 9, the total tax due in a Tax Collection Notice, Tax Assessment or Additional Tax Assessment may be collected immediately in case:

- a. the Taxpayer or representative as referred to in Article 32 (2) will leave Indonesia permanently or intends to do so;
- b. the Taxpayer or representative as referred to in Article 32 (2) terminates or significantly contracts his business or professional work carried out in Indonesia or transfer movable or immovable goods owned or controlled;
- c. of Dissolution of an Organization, or intention to dissolve, growing out of adjudication of bankruptcy, as well as seizure of movable or immovable goods owned by the Taxpayer or representative as referred to in Article 32 (2).

#### Article 21

- (1) The State has a lien for arrears of tax on the Taxpayer's goods and on goods owned by any individual or Organization with personal and/or several responsibility as provided in Article 32 (2) and in other provisions of tax law.
- (2) The lien provided in paragraph (1) applies to the amount of tax, interest, administrative fines, surcharges, and costs of collection.
- (3) The lien for tax collection has priority over all other liens except the lien of parties as provided in Article 1139 number 1 and number 4, Article 1149 number 1 of the Civil Code and Article 80 and 81 of the Commercial Code.
- (4) The lien expires two years from the date of issuance of the Tax Collection Notice, the Tax Assessment, and the Additional Tax Assessment, unless which such time period a Distress Warrant for payment is officially issued or a postponement of payment is granted.
- (5) If a Distress Warrant for payment is officially issued, the two year period referred to in paragraph (4) shall be calculated from the date of issuance of the Distress Warrant, or if a postponement of payment is granted such 2 (two) year period shall be increased by the length of time payment is postponed.

#### Article 22

The right to carry out collection of tax, including interest, administrative fines, surcharges and collection costs ends at the latest five years after the time tax is due or the end of the Tax Period, Portion of the Tax Year or Tax Year, unless the Taxpayer commits a criminal tax offense as described in Article 13 (7) and Article 15 (4).

#### Article 23

The total tax due in a Tax Collection Notice, Tax Assessment, or Additional Tax Assessment and not paid on time may be collected with a Distress Warrant.

#### 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

- (1) A Taxpayer may submit an objection to the Director General of Taxation concerning:
  - a. a Notification Letter;
  - b. a Tax Assessment;
  - c. an Additional Tax Assessment;
  - d. a Decree of Tax Overpayment;
  - e. Withholding or collection by a third party based on provisions of tax law.
- (2) The objection shall be submitted in writing in Indonesian and shall explain clearly the reasons for objection.
- (3) An objection must be submitted within three months after the date of the letter, withholding or collection referred to in paragraph (1), unless the Taxpayer can demonstrate that such time period cannot be met due to events beyond his control.
- (4) The receipt for the Objection Letter given by the official of the Directorate General of Taxation appointed for such purpose, or the postal receipt for an Objection Letter sent by registered mail shall be considered as evidence for the Taxpayer of submission of such Objection Letter.
- (5) If requested by the Taxpayer for purposes of submitting an objection, the Director General of Taxation is obligated to give written information concerning the base for imposition, withholding, or collection of tax due.
- (6) The submission of an objection does not postpone the obligation to pay tax.

#### 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

- (1) A Taxpayer may submit an appeal to the tax court concerning a decision on an objection issued by the Director General of Taxation within three months after the date the decision is issued, with a copy of such Decision attached.
- (2) The request for an appeal shall be submitted in writing in Indonesian.
- (3) The submission of a request for appeal does not postpone the obligation to pay tax.

### CHAPTER VI

#### BOOKS AND AUDITS

#### Article 28

- (1) An individual or Organization that carries out business or professional work in Indonesia must keep books with sufficient information to calculate Taxable Income or the purchase and delivery price of goods and services to use in calculating total tax due under provisions of the tax law.
- (2) A Taxpayer that is exempt according to provisions of the tax law from the obligation to keep books as provided in paragraph (1) must at least keep records to use as a basis for calculating tax due.
- (3) Such books or record must be kept in good faith and reflect the actual situation or business operations.
- (4) Books as referred to in paragraph (1) must at least contain orderly records of cash and bank transactions, accounts receivable and payable, and inventory, and at the end of each Tax Year the Taxpayer must close the books with a balance sheet and income statement based on bookkeeping principles that are consistent from year to year.
- (5) Books and records must be kept in Indonesian using Latin letters and Arabic figures, must be denominated in rupiah and must be composed in Indonesian or a foreign language approved by the Minister of Finance.
- (6) Books, records, basic documents and other documents connected with business operations or professional work of the Taxpayer must be kept for ten years.

#### Article 29

- (1) The Director General of Taxation is authorized to carry out audits to determine the amount of tax due and for other purposes in implementing the provisions of tax law.
- (2) For the purposes of audit, audit officials must have an Audit Order and must show it

to the Taxpayer being audited.

- (3) A Taxpayer who is audited must:
- a. show and submit books and records, basic documents and other documents related with the business operations or professional work of the Taxpayer;
  - b. grant access to all places or buildings considered necessary, and give assistance in carrying out the audit;
  - c. provide information that is needed.
- (4) If in disclosing books, records, documents or information requested, the Taxpayer is subject to an obligation to maintain secrecy, such obligation is waived by the request to the extent necessary for audit as provided in paragraph (3), in accordance with the provisions of laws in effect.

#### 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

The method of audit shall be further set by Government Regulation.

### CHAPTER VII

#### SPECIAL PROVISIONS

#### Article 32

- (1) In following the law and fulfilling the obligations under the provisions of tax law, a Taxpayer shall be represented in the case of:
- a. an Organization by its managers;
  - b. an Organization in dissolution or bankruptcy by the individual or Organization acting as trustee or receiver;
  - c. an undivided estate by an executor or trustee;
  - d. a minor child or dependent individual by his guardian or caretaker.
- (2) The representative referred to in paragraph (1) is personally and/or severally responsible for payment of tax due, unless he can show evidence and convince the Director General of Taxation that in his position it was truly impossible to bear the responsibility for such tax due.
- (3) An individual or Organization may appoint a third party with a special power of attorney to carry out the law and fulfill obligations imposed by the provisions of tax law.

#### 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 responsibility for the payment of tax, as long as he cannot provide evidence that such tax has already been paid.

#### Article 34

- (1) An official is forbidden to give to an unauthorized party any information learned or given to such official by a Taxpayer in the course of duties or professional work in carrying out provisions of the tax law.
- (2) The prohibition referred to in paragraph (1) also applies to experts appointed by the Director General of Taxation to assist in the implementation of provisions of tax law.
- (3) The Minister of Finance is authorized to issue written orders to officials referred to in paragraph (1) and experts referred to in paragraph (2) to give information and to show written evidence from a Taxpayer to an Audit Official as needed in auditing State Finances. The Order referred to above shall mention the name of the Taxpayer concerning whom the information is desired and the name of the auditor.
- (4) For purposes of investigation for criminal Trial, on the request of the Judge as referred to in Article 180 of Law Number 8 Year 1981 concerning the Code of Criminal Procedure, the Minister of Finance may give written permission to the Judge to request from an official referred to in paragraph (1) or an expert referred to in paragraph (2) written information he has concerning the Taxpayer.
- (5) Requests of the Judge in paragraph (4) must identify the name of the suspect, the information requested and the relationship between such criminal offense and the information requested.

#### Article 35

- (1) If in carrying out the provisions of tax law a need arises for information or evidence from a third party who has ties to the Taxpayer being audited, on request of the Director General of Taxation such third party must supply the information or evidence requested.
- (2) If such third party is bound by an obligation to maintain secrecy, such obligation is waived by a request for purposes of audit in accordance with the provisions of law in effect.

#### 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

Whoever negligently:

- a. fails to file a Tax Return; or
- b. files a false or incomplete Tax Return or attaches false information

that could result in losses to the State shall be subject to detention for at most one year and/or a fine of at most two times the total tax due.

#### Article 39

(1) Whoever intentionally:

- a. does not register or misuses or uses without right a Taxpayer Identification Number as referred to in Article 2; or
- b. does not file a Tax Return, and/or
- c. files a Tax Return and/or information that is false or incomplete; and/or
- d. shows false or falsified books, records or other documents as if they were true; and/or
- e. fails to show or submit books, records or other documents; and/or
- f. fails to pay tax already withheld or collected;

and thus could cause loss to the state, is subject to imprisonment of at most three years and/or a fine of at most four times the total tax due that is underpaid.

(2) A penalty referred to in paragraph (1) is doubled if an individual repeats a criminal tax offense within one year, calculated from the end of part or all of the prison term imposed.

#### 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

- (1) An official who negligently fails to fulfill his obligation to maintain secrecy as provided in Article 34 shall be subject to detention of at most six months and/or a fine of at most Rp. 1,000,000 (one million rupiah).
- (2) An official who intentionally fails to fulfill his obligation or an individual who causes an official not to fulfill his obligation as provided in Article 34 shall be subject to imprisonment of at most one year and/or fine of at most Rp. 2,000,000 (two million rupiah).

- (3) Prosecution for criminal offenses as provided in paragraphs (1) and (2) shall only be carried out on charges brought by the individual whose secrecy is violated.

#### Article 42

- (1) Offenses referred to in Articles 38 and 41 (1) are misdemeanors.
- (2) Offenses referred to in Articles 39 and 41 (2) are felonies.

#### Article 43

The provisions referred to in Articles 38 and 39 shall also apply to representatives, third parties with power of attorney, or employees of the Taxpayer.

### CHAPTER IX

#### INVESTIGATION

#### Article 44

- (1) Specified Civil Servants from the Directorate General of Taxation shall be given special authority as Investigators to carry out investigations of criminal tax offenses, as provided in Law Number 8 Year 1981 concerning Criminal Procedure.
- (2) An Investigator referred to in paragraph (1) is authorized:
- a. to investigate the truthfulness of reports or information related to a criminal tax offense;
  - b. to investigate individual suspected of committing criminal tax offenses;
  - c. to request information and evidence from individuals or Organizations related to the commission of a criminal tax offense;
  - d. to audit the books, records and other documents connected with a criminal tax offense;
  - e. to investigate specific locations suspected of having evidence in the form of books, records or other documents, and to seize items that might become evidence at a trial of a criminal tax offense;
  - f. to request expert assistance in carrying out an investigation of a criminal tax offenses.
- (3) An Investigator as referred to in paragraph (1) shall inform the Public Prosecutor about the beginning of the investigation and shall turn over the results of an investigation to the Public Prosecutor, in accordance with the provisions of Law Number 8 Year 1981 concerning Criminal Procedure.

### 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

The taxable income received or accrued in the oil and gas sector as well as other mining sectors connected with Contracts of Work and Production Sharing Contracts still in effect at the time this law becomes effective shall be subject to tax based on the provisions of the Corporation Tax Ordinance of 1925 and the Tax Law on Interest, Dividends and Royalties 1970 as well as all implementing regulations.

### 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.

In order that every individual may take cognizance of this Law, its promulgation in the State Gazette of the Republic of Indonesia is hereby ordered.

Enacted in Jakarta

Date: December 31, 1983

PRESIDENT OF THE REPUBLIC OF INDONESIA

SOEHARTO

Promulgated in Jakarta

On December 31, 1983

MINISTER/STATE SECRETARY REPUBLIC OF INDONESIA

SUDHARMONO, S.H.



ELUCIDATION  
OF  
LAW NO. 6 YEAR 1983 RE  
GENERAL TAX PROVISIONS AND PROCEDURES

GENERAL

1. The legislative regulations on taxes so far being the basis of the prevailing tax collection are mostly the heritage of the colonial era thus making them merely accumulate the funds for the colonial Government to maintain and enlarge her conquest in our homeland.

Therefore the tax collection then was considered a heavy burden by the people as both the tax amount assessment, types of tax and the collection procedure thereof were found beyond justice, without considering the capability and adding burden and being far from the consideration and appreciation of human rights. Tax merely constitutes the obligation to be followed obediently by the people.

The legislative regulations on taxes drawn up during the Dutch occupation were inter alia: 1921 Stamp Duty regulation, 1925 Corporate Tax Ordinance, 1932 Property Tax Ordinance, 1944 Income Tax Ordinance

though to various legislative regulations on taxes inherited from the colonial era which have been amended and adjustments, due to the different philosophy becoming the background thereof, as long as the taxes are based on said legislative regulations, they have not been functioning as the means to support the wish of the nation and national development currently being carried out.

2. Entering the independence era, from the August 17, 1945 Proclamation, to various legislative regulations on taxes, amendments, additions and adjustments so as to adjust them to the conditions and demands of the people of a country gaining her independence. However, the amendment then was partial, rather basic one was carried out via Law No. 8 year 1967 re Procedure for collecting Income Tax, Property Tax and Corporate Tax of which the implementation was regulated by Government Regulation No. 11 Year 1967 further known as "MPS and MPO (Withholding Tax) System." Said system constituted the tax system pursuant to the socio-economic development level of Indonesia.

Nevertheless, the efforts to amend said various legislative regulations on taxes have not fundamentally answered the demand and needs of the people for the basic act of legislative regulations on taxes. The legislative regulations on taxes as referred to shall be based on the philosophy of Pancasila and 1945 Constitution in which is manifested the provision to appreciate the rights of Citizens and makes the tax obligation a obligation of citizenship and constitutes the means of participation of the people in the public sector.

The indication for the basic amendment has actually been manifested as the People's message, as written. and implied in the Outline of State Policy inter alia reading: " The Tax system shall continuously be improved, tax collection shall be intensified and the tax apparatus shall be more able and honest."

3. This Law therefore as a law on taxes on the philosophy of Pancasila and 1945 Constitution shall be different from those drawn up in the Colonial era.

Said difference will be very obvious in the system and mechanism as well as the insight to the TaxPayer, not considered as the "object," but a subject to be continuously promoted and directed so as to be able to meet the tax obligation as a citizenship obligation.

In another aspect the community's demand for the existence of "the more able and honest tax officials," is manifested in various provisions having the nature to control herein.

The difference of philosophy and principle becoming the background of and basis for formulating this law is reflected in the provisions regulating the system and mechanism of the tax collection. In turn said system and mechanism will become a unique characteristic and motive in the tax system in Indonesia as the position of this law will become the "general provisions" for the other legislative regulations on taxes.

The unique characteristics and motives of said tax collection system are:

- a. that the tax collection constitutes the manifestation of the dedication of obligation and participation of the Taxpayer to directly and jointly execute the tax obligation required for financing state and national development;
- b. the responsibility for the tax execution obligation, as the reflection of the obligation in tax is with the members of the taxpayers community themselves. The Government, in this case the tax apparatus pursuant to their function shall be obligated to promote, study and supervise the execution of the tax obligation of the Taxpayer on the basis of the provisions underlined in the legislative regulations on taxes;
- c. The Taxpayer community are interested in executing national mutual aid via the self-calculation, self-accounting and self-assessment systems so that in this way tax administration is expected to be tidier, more controllable and easier to understand by the Taxpayers community.

On the basis of those three principles of tax collection, the Taxpayer shall be obligated to calculate the amount of tax actually owed in compliance with legislative regulations on taxes, so that the assessment of the amount of the owed tax will be with the Taxpayer himself.

In addition, the Taxpayer shall also be obligated to regularly report the tax owed and already paid as provided in the legislative regulations on taxes.

By this system the execution of complicated and bureaucratic tax administration can be minimized.

The characteristic and motive of said tax collection system is very different from the former one inherited from the colonial era, inter alia.

- a. the responsibility for the tax collection is fully with the authority as reflected in the tax assessment system totally becoming the competence of the tax administration.

- b. the execution of the tax obligation, in many cases very much depends on the execution of the tax administration conducted by the tax apparatus causing the Taxpayer community to obtain less guidance about then tax obligation and less participation in bearing the state's burden in maintaining national development.

It is obvious that the tax collection system stipulated by this Law gives more trust to the Taxpayer community to execute their tax obligation.

In addition, the legal security and certainty on the tax rights and obligations of the Taxpayer obtain more attention, therefore able to encourage the awareness improvement of and responsibility for tax of the community.

The tax administration task is no more like that in the past when the tax administration tried to settle/assess the Tax Return to determine the amount of the owed tax and the actual amount to be paid but according to this Law it actively plays a role in executing the tax collection administration control covering the tasks such as promotion, study, supervision and application of administrative sanction. The taxpayer community's promotion can be conducted via various efforts, inter alia providing extension of tax knowledge both via mass media and direct information to the community.

4. By the principle as aforementioned, as on overall description, as well as pursuant to the message in the Outline of State Policy, there will be a renewal of the system and Legislation of taxes in Indonesia.

The Law General Tax Provisions and Procedures, said amendment is expected to be able to fully support the growth rate, and accelerate the realization of equitable income distribution, improvement and expansion of tax obligation awareness, equity and expansion of taxable objects and an increase of state revenue, in line with the national development growth rate, so as to accelerate the materialization of the wish of the August 17, 1945 Proclamation.

## II. ARTICLE BY ARTICLE

### Article 1

This article contains the formulation of the definition of tax terminology used in this law.

By the existence of said definitions it is possible to prevent misunderstandings or misinterpretations.

These definitions are essential as they contain the technical standards particularly in tax.

### Article 2

Any Taxpayer on the basis of the self assessment system shall register himself at the Directorate General of Taxation to be recorded as a Taxpayer and at the same time will be given a Taxpayer Registration Number (NPWP). Said Taxpayer Registration Number will constitute a means for the tax administration used as the identity of the Taxpayer. By obtaining the Taxpayer Registration Number, it means that the Taxpayer has been registered at the Directorate General of Taxation.

The function of said Taxpayer Registration Number in addition for providing the identity of the actual Taxpayer is also for maintaining order the tax payments and controlling the tax administration. Any Taxpayer in any case related to the tax document shall be obligated to state/include his Taxpayer Registration Number. Any Taxpayer not registering to obtain the Taxpayer Registration Number (NPWP) shall be sanctioned.

### Article 3

#### Paragraph (1)

The function of the Tax Return (hereinafter called the SPT) is the means whereby the Taxpayer Reports and accounts for owed taxes reports the tax payment which is self conducted in a fiscal year or part of Fiscal Year and payment report from the deductor or collector concerning the tax deduction/collection of other person or Bodies in a Tax Period determined by the legislative regulations on taxes.

Every Taxpayer shall be obligated to obtain on his own the SPT provided by the Directorate General of Taxation, fill in, calculate and compute the owed tax for a Tax Period in the SPT, and submit the already completed and signed SPT to the Directorate General of Taxation within the given time.

By filing the SPT we mean to complete the SPT form correctly, clearly, completely pursuant to the directives provided for calculating the owed tax on the basis of the legislative Regulations on taxes. An incorrect SPT, inflicting loss to the state shall be sanctioned on the basis of Articles 38 and 39 herein. Likewise, the delay or failure to submit the SPT shall be sanctioned by an administrative fine.

#### Paragraph (2)

In the framework of the service and facility to the Taxpayer, the SPT form will be provided at offices within the Directorate General of Taxation, Post & Giro Offices, Auxiliary Post Offices and other places determined by the Directorate General of Taxation and considered reachable by the Taxpayer.

#### Paragraph (3)

This paragraph regulates the time limit for submitting the SPT, the SPT can be grouped into two types namely Periodical SPTs to report Periodical payments from the Taxpayer, and the Annual SPT to report the amount of owed tax on the income obtained by the Taxpayer in one fiscal year. The time limit as referred to in Article 3 paragraph (3) (a) and (b) shall be the final time limit. Said time limit is considered sufficient for the Taxpayer to prepare anything related to the tax payment as well as the accounting settlement.

#### Paragraph (4)

If the Taxpayer both a person or a Body is found unable to settle/prepare the annual financial statement or balance sheet of the company as well as the profit/loss statement within three months and due to the extensiveness of the operation and technical aspects of preparing the balance sheet or financial statement he finds it difficult to meet the time limit for settlement and requires extra time, the Taxpayer

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shall be entitled to apply for an extension of the deadline for Income Tax Annual SPT submission.

Paragraph (5)

To prevent evasion and/or extension of the owed tax payment in a fiscal year to be fully paid prior to the expiration of the Annual SPT submission, it is necessary to stipulate special Requirements and administrative sanctions in the form of the interest collection for the Taxpayer desiring to extend the Income Tax Annual SPT submission.

Said special requirements constitute the obligation to submit a written statement on the amount of tax to be paid on the basis of the provisional calculation in a Fiscal Year, as the attachment to the Application for postponement of obligatory submissions of the Annual Income Tax SPT.

Paragraph (6)

As the SPT constitutes a means to verify the correctness of the owed tax calculation informed by the Taxpayer, said attachment shall be a part of the SPT and an absolute condition to be fulfilled by the Taxpayer.

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)

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Self-explanatory

## Article 7

For the purpose of tax administration orderliness and maintaining discipline of the Taxpayer, to the Taxpayer not observing the given time limit SPT submission, shall be sanctioned with the administrative fine amounting to Rp. 10,000.00 (ten thousand Rupiah).

## Article 8

## Paragraph (1)

For an error in filling in the SPT by the Taxpayer there will still be opportunity for him to self correct it, provided that the Director General of Taxation has not known the existence of error in the SPT already submitted or has not assigned any of his officials to audit.

## Paragraph (2)

By the existence of said SPT self correction it makes the calculation of the owed tax and tax payment calculation different from the initial amount to the deficiency due to said correction shall be imposed with administrative sanction in the form of 2% (two percent) interest per month.

The interest owed on the tax payment deficiency shall be calculated as from the expiration of the SPT submission to the date of payment due to said SPT correction. If there is any tax payment excess in said correction, the Taxpayer can apply for a reimbursement of the excess as referred to in Article 11 of this Law.

## Paragraph (3)

Any Taxpayer violating Article 39 herein, as long as not investigated by tax officers, though already audited and the Taxpayer has revealed his fault and simultaneously settles the owed tax as well as the administrative fine of twice the deficiency, there shall be no investigation. However, if an investigation is conducted and if the Public Prosecutor is notified, the opportunity for the Taxpayer to make a correction is closed.

## Article 9

## Paragraph (1)

The time limit of the Periodical Payment shall be stipulated by the Minister of Finance as no more than fifteen days after the owed time or expiry of the Tax Period. Any delay on said periodical payment shall be subject to administrative sanction in the form of interest of 2% (two percent) per month.

## Paragraph (2)

As referred to in Article 3 paragraph (3) (b), the Taxpayer shall be obligated to submit the annual SPT within three months after the expiration of the Fiscal Year. If on completing said SPT it is found that there is still a deficiency of the owed tax payment available, said tax payment deficiency shall be settled prior to the submission of the

Annual SPT, for instance the SPT should be submitted on March 31, the owed tax payment deficiency or the final deposit shall have been settled prior to the submission of SPT.

Paragraph (3)

Self-explanatory

Paragraph (4)

The Director General of Taxation can permit the postponement of the owed tax payment, though the due date of the payment has been determined. Said facility shall be carefully granted and limited to the Taxpayer who undergoes a problem of liquidity. To gain said facility, the Taxpayer shall be required to apply in writing together with accountable and convincing reasons.

#### 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 after the calculation of the actual owed tax with the already paid tax there is an excess (the tax already paid is greater than the owed tax), the Taxpayer shall be entitled to a reimbursement of the tax payment excess, provided that said Taxpayer has no other tax liabilities. In case the Taxpayer still has other tax liabilities which are not yet settled, said payment excess shall first be calculated with said tax liabilities and if there is still an excess, it will be reimbursed to the Taxpayer. To obtain said payment excess, the Taxpayer shall apply in writing to the Director General of Taxation or other designated officials.

Paragraph (2)

To guarantee the existence of legal certainty for the Taxpayer and insure administrative orderliness a time limit for the reimbursement of by the Director General of Taxation shall be within one month after the Tax Payment Excess Decree

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has been stipulated by the Director General of Taxation.

Paragraph (3)

To create the balance of right and obligation for the Taxpayer with efficient service from the Directorate General of Taxation, this paragraph stipulates that on any delay of tax payment excess, reimbursement from the time limit as referred to in paragraph (2), to the relative Taxpayer shall be granted the remuneration by the Government in the form of interest of 2% (two percent) per month, calculated as from the coming into force of the one month's time limit to the payment.

By the payment time of the tax payment excess we mean the issuance of the Tax Payment Excess Reimbursement Order (SPMKP).

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)

The provision of paragraph (5) gives competence to the Director General of Taxation to issue Tax Assessment Letters essentially only in certain cases as referred to in this paragraph, or strictly only to certain taxpayers who are obviously or on the basis of the verification and auditing do not meet their formal and material obligations.

The competence given by the legislative regulations on taxes to the Director General of Taxation to correct said fiscal shortcomings is limited to only a five years period. According to the provisions in paragraph (1) (a), the Tax Assessment Letter is issued if the Taxpayer does not pay the tax properly as provided in the legislative regulations on taxes. The knowledge indicating that the Taxpayer does not adequately pay the tax is from the audit of the relative Taxpayer and the result thereof indicates that the Taxpayer did not sufficiently pay the actual owed amount. The audit can be conducted



at the place of the Taxpayer in the nature of a complete audit or via tax administration verification.

The Tax Assessment letter can also be issued in case the Director General of Taxation possesses the date other than that submitted by the Taxpayer himself, from which can be known (not assumed) that the Taxpayer did not meet his tax obligation properly. To ensure the correctness of the data, auditing of the Taxpayer shall be conducted.

The SPT not submitted on time, though already sent a written warning is not submitted within the given time, based on the provision in paragraph (1) (b) can force the Director General of Taxation to issue a Tax Assessment Letter. In such a case administrative sanction in the form of increase as referred to in paragraph (3) will be given.

The warning is, inter alia, intended to give the Taxpayer an opportunity to submit reasons why he failed to submit his SPT if it is due to force majeure.

If the SPT is submitted within the time stated in the Warning Letter and the owed tax is properly settled, the Tax Assessment Letter shall not be issued under the assumption that said SPT has been correctly completed complying with the legislative regulations on taxes.

To the Taxpayer deliberately violating the Tax obligation concerning the Value added tax on Goods and Services and Sales Tax on Luxury Goods such as compensation of the tax payment excess, the tariff of 0% (zero percent) which should not be it, reimbursement of tax payment which should not occur as referred to in paragraph (1) (c), shall be administratively sanctioned by issuing the Tax Assessment Letter plus the increase of 100% (one hundred percent).

For the Taxpayer whose accounting does not conform to the provision under Article 28 of this law or on auditing not providing what is required as stipulated under article 29 paragraph (2) so that the Director General of Taxation does not know the actual condition of the Taxpayer's business and fails to calculate the amount of the owed tax, the Director General of Taxation shall be competent to issue the Tax Assessment Letter functionally, namely the tax calculation not only based on the data obtained by the Taxpayer. Consequently the burden of evidence of the calculation becoming the basis of calculation by the Director General of Taxation shall be the responsibility of the Taxpayer, such as:

- 1) the accounting as referred to in Article 28 paragraph (4) is not complete so the profit/loss statement or circulation is not clear;
- 2) the accounting documents are not complete so that the figures therein can not be tested;
- 3) from the verification and facts known it is highly suspected that there are documents or other proofs hidden in a certain place so that it obviously indicate the ill will of the Taxpayer not to cooperate with the audit.

Paragraph (2)

This paragraph regulates the administrative sanction of tax imposed on the Taxpayer due to violating the tax obligation as referred to in paragraph (1) (a) the tax administrative sanction in this paragraph is the interest manifested in the Tax Assessment Letter.

#### Example

An Income Taxpayer having the same book year with the calendar year submits the Annual SPT in time complete with a final deposit. In April 1987 a Tax Assessment Letter is issued indicating the owed tax deficiency of Rp. 1,000,000.00 On the basis of this paragraph the deficiency will be imposed with 2% (two percent) interest per month. Though the Tax Assessment is issued two years after the expiration of the Fiscal year, the interest imposed shall only be for two years with the calculation as follows:

-	Deficiency of owed tax	Rp. 1,000,000.00
-	2 years interest = 2%, x 2, x 12 x Rp. 1,000,000.00	Rp. 480,000.00
	Amount to be paid	Rp. 1,480,000.00

If said Tax Assessment Letter is issued in May 1986 the calculation shall be as follows:

-	Deficiency of owed tax	Rp. 1,000,000.00
-	17 months interest = 2% x 17 x Rp. 1,000,000.00	Rp. 340,000.00
	Amount to be paid	Rp. 1,340,000.00

#### Paragraph (3)

This paragraph regulates the administrative sanction of a Tax Assessment due to violating the tax obligation as referred to in paragraph (1) b, c and d.

Such administrative sanction is in the form of an "increase", a proportional amount to be added to the tax to be collected.

The amount thereof constitutes different increases by the kind of tax, namely, for Income Tax paid by the Taxpayer himself will be an increase of 50% (fifty percent), for Income Tax deducted by other persons/bodies the increase is 100% (one hundred percent), whereas for the Value Added tax on Goods and Services and Sales Tax on Luxury goods the increase is 100% (one hundred percent).

#### Paragraph (4)

By the "credited" tax we mean the amount of deduction consisting of:

1. the tax deducted by a third party
2. the tax collected by a third party
3. the tax paid on his own
4. the tax collected in the Tax Collection Letter (SPT)

5. tax owed abroad.

Said deduction will be subtracted from the owed tax.

Example:

Income Tax Assessment Letter (SKPPPH).

1.	The owed tax	Rp. 1,000,000.00
2.	Deductions	
a.	Tax deducted by employer	Rp 150,000.00
b.	Tax paid on his own (periodical deposit)	Rp 400,000.00.
c.	Tax collected in SPT excluding interest and fine)	Rp. 75,000.00
d.	Tax collected abroad	Rp. 100,000.00
	The amount of the credited tax	Rp. 725,000.00
3.	The tax still to be collected	Rp. 275,000.00

#### Paragraph (5)

The Administrative sanction in the form of interest, administrative fine and increase can not be calculated or credited to the amount of the owed tax. So in the calculation or reimbursement of the tax payment excess, the amount of the already paid tax administrative sanction shall first be credited from the payment excess to be received by the Taxpayer.

#### Paragraph (6)

To give legal certainty and security for the Taxpayer in relation to the tax collection by the self assessment system, if within five years since the tax period, the expiration of a Tax Period, Part of Fiscal Year or Expiration of a Fiscal Year, the Directorate General of Taxation has not issued any tax Assessment Letter, the amount of the tax payment in the Periodical or Annual SPT is essentially fixed or certain due to the legal aspect of the legislative regulations on taxes. Thus, the Taxpayer's SPT has become a fixed assessment and shall not be changed (settled).

#### Paragraph (7)

If the Taxpayer is sanctioned due to committing a criminal act in which the collection of taxes is overdue, on the basis of the court's verdict having obtained the permanent legal enforcement the Tax Assessment Letter can still be justified to be issued though the five years period as referred to in paragraph (1) has passed.

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By the existence of a Court verdict having obtained said permanent legal enforcement, it will reveal the fiscal data so far deliberately not reported by the Taxpayer.

#### Article 14

##### Paragraph (1)

Self-explanatory

##### Paragraph (2)

The Tax Collection Letter according to this paragraph has similar legal force with the Tax Assessment Letter, so that in the collection the collection Letter can also apply.

#### Article 15

##### Paragraph (1)

To accommodate the possibility of the issuance of a Tax Assessment Letter found already stipulated lower or having the improper tax reimbursement, or on the assessment in the form of Tax Payment Excess Decree, or the issuance of the Notification Letter, this Law Still gives competence to the Director General of Taxation to issue an Additional Tax Assessment within five years after the tax period, expiry of a Tax Period, Part of Fiscal year or Fiscal Year.

The Additional Tax Assessment Letter constitutes the correction of the former Tax Assessment Letter. The new Additional Tax Assessment Letter will be issued if there has been a Tax Assessment letter before. In other words the Additional Tax Assessment Letter cannot to be issued prior to the Tax Assessment Letter.

This paragraph's only condition is the availability of new data in the issuance of the Additional Tax Assessment Letter. If there is still unrevealed data found on the issuance of the Additional Tax Assessment Letter or if it is just known, the Director General of Taxation can still issue another Additional Tax Assessment Letter.

##### Paragraph (2)

Self-explanatory

##### Paragraph (3)

Self-explanatory

##### Paragraph (4)

In case the Taxpayer is sanctioned due to committing a crime concerning tax that the collection of which is overdue on the basis of the court verdict having obtained the permanent legal enforcement, the Additional Tax Assessment Letter is still justified to be issued, though the period of five years as stipulated under Article 13 paragraph (1) has passed. By the court verdict having obtained the permanent legal force, the fiscal data so far deliberately not reported by the Taxpayer will be revealed.

## Article 16

If there is any typographical errors, miscalculation or error in the tax assessment letter such as mistyping, mis-addition, tariff misapplication, the Director General of Taxation can or on the request of the Taxpayer correct said Tax Assessment Letter/Additional Tax Assessment Letter. The definition to correct in this paragraph can be to add or reduce or delete depending on the mistake or error thereof.

## Article 17

## Paragraph (1)(a)

The Payment Excess Decree (SKKP) can be issued after the Director General of Taxation verifies or audits to insure and assure that there is a payment excess on the owed tax.

Said Tax Payment Excess Decree shall be issued within no more than twelve months after the receipt of application.

By said time limit, in addition to taking into account the interest of legal certainty for the Taxpayer, it is also intended to address tax administrative purposes.

## Paragraph (1)(b)

The Notification can be issued after the Director General of Taxation has verified and audited to insure and assure that the amount of tax paid by the Taxpayer has been collected/deducted by the third party in an amount equal to the owed tax.

## Paragraph (2)

Self-explanatory

## Article 18

## Paragraph (1)

Principally the amount of the tax debt is self calculated by the Taxpayer. If it is then found that there is an error or mistake by the Taxpayer in calculating the owed tax or the Taxpayer violates the provisions in the legislative regulations on taxes, the Director General of Taxation can issue a Tax Collection Letter, Tax Assessment Letter or Additional Tax Assessment Letter. The three letters constitute the administrative means for the Director General of Taxation to collect the tax if the tax collection is not paid on the due date, it will be followed by a collection Letter.

## Paragraph (2)

For the orderliness and uniformity of tax collection the Minister of Finance shall regulate the procedure thereof including the administrative aspects concerning both the collection and payment of tax.

## 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
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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 =  $1 \times 2\% \times \text{Rp. } 100,000.00 = \text{Rp. } 2,000.00$

### Paragraph (2)

Self-explanatory

### Paragraph (3)

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Self-explanatory

## Article 20

In the case of a condition as referred to in this Article, to take precaution of something making the owed tax uncollectible, without waiting for the payment due date in the Tax Collection Letter, Tax Assessment Letter or Additional Tax or Additional Tax Assessment Letter, the collection thereof can be conducted at once and simultaneously.

## Article 21

## Paragraph (1)

This paragraph regulates the position of the state as the preferential creditor having the privilege on the properties belonging to the Taxpayer and those to his representative to be auctioned publicly as referred to in Article 32 paragraph (2). If the collection and active collection have been conducted, followed by public auction of the Taxpayer's properties, but the proceeds have not been sufficient to settle his tax liability, then those belonging to his representative as long as he is responsible therefore in his position, will be confiscated and publicly auctioned to settle the tax liability of the Taxpayer.

After settling the tax liability then the payment to the other creditors is conducted. This paragraph intends to give the state a share from the public auction proceeds of the properties belonging to the Taxpayer or his representative to cover or settle his tax in arrears.

## Paragraph (2)

## Self-explanatory

## Paragraph (3)

This paragraph clarifies that the privilege is beyond any other rights, which means stronger than others except to the parties as referred to in:

1. Article 1139 number 1 of Civil Code reading: "the lawsuit charge merely due to a sentence to auction movable or immovable goods," from which the proceeds thereof shall be the first of any other liabilities given privilege even mortgage and pledge."
2. Article 1139 number 4 of Civil code reading: "cost already incurred to save the property."
3. Article 1149 number 1 of Civil Code reading: "Lawsuit charge merely due to auction and settlement of a inheritance shall be given priority even of pledge and mortgage."
4. Article 80 and 81 of Commercial Code concerning collection "right of a commissioner."

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Paragraph (4)

Self-explanatory

## Paragraph (5)

Self-explanatory

## Article 22

Principally, tax collection will expire within five years, but it may exceed the five-year period if:

1. Reprimand and coercion Letters have been issued
2. There is a direct or indirect acknowledgment of the relevant Taxpayer that, among other things:
  - a. payment for the payable tax has been made;
  - b. request for payment postponement is filed or
  - c. installment has been paid.

In such events the expiry of tax receivable collection is calculated from the time the aforementioned events occur.

## Article 23

Self-explanatory

## Article 24

The Minister of Finance will arrange the write-off procedure and determine the amount of the uncollectible tax receivables. This way, the balance of the collectible tax receivables can be effectively estimated.

## Article 25

## Paragraph (1)

The word "a" in this paragraph means that one objection shall be proposed for one kind of tax and one fiscal year, for example: the Income Tax of 1985 and 1986 Fiscal Years. The objection to the Income Tax Notification Letter of 1985 and 1986 shall respectively be proposed in different Objection Letters.

## Paragraph (2)

Self-explanatory

## Paragraph (3)

The time limit for proposing the Objection Letter is three months as from the issuance of the Tax Assessment letter or SKP as provided under paragraph (1), with the intention that the Taxpayer will have sufficient time to prepare his Objection Letter and the Reasons thereof. If it is found that said three months' time limit can not be met by the Taxpayer, due to force majeure, said three months' grace period can still be extended by the Director General of Taxation.



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Paragraph (4)

The Evidence/Receipt of the Objection Letter is necessary to meet the formal requirements, whether or not the Objection Letter is accepted depends on the fulfillment of the time limit as referred to in paragraph (3) calculated as from the issuance thereof to the acceptance of said Objection Letter.

Said evidence or receipt can be used as a means of control by the Taxpayer to know the expiry of the twelve months period as referred to in Article 26 paragraph (1).

The evidence or receipt is required to ensure that his objection is granted, if within said period the Taxpayer does not accept any reply from the Director General of Taxation on the proposed objection. This is the meaning of the word "interest" in this paragraph.

## Paragraph (5)

In order that the Taxpayer can prepare the objection with strong reasons, the Taxpayer shall be entitled to ask for the basis of imposition, deduction or collection of the assessed tax, on the other hand the Director General of Taxation shall be obligated to meet said request.

## Paragraph (6)

To prevent evasion or postponement of tax via the proposal of objection Tax, the proposal shall not prevent the collection.

This provision should be included so that the Taxpayer with his objection still pays the assessed tax to avoid the loss of 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)

If the Taxpayer is not satisfied the decree of the Director General of Taxation on the proposed objection, the Taxpayer is given opportunity to appeal to the Tax Justice Body in this case as that is currently known as the Tax Appeal Council within three months as from the date of said objection decision so the Taxpayer has been given sufficient time to prepare the Appeal Letter and the reasons and evidences required by said tax justice body.

Paragraph (2)

See elucidation on Article 25 paragraph (20)

Paragraph (3)

See elucidation on Article 25 paragraph (6)

#### Article 28

Paragraph (1)

Self-explanatory

Paragraph (2)

Principally every person/Body conducting business or free employment shall make an accounting. However, the Taxpayer due to his insufficient capability may be exempted from the obligation to make an accounting.

By "exempted" from the account keeping in this paragraph we do not mean that the Taxpayer shall not improve his capability to make accounting completely and well so that he has not accounting at all to run his business.

As long as said capability has not been possessed the Taxpayer is justified to only make records constituting a simple accounting system containing the principal data usable to calculate the owed tax for the relative Taxpayer.

Paragraph (3)

Self-explanatory

## Paragraph (4)

Self-explanatory

## Paragraph (5)

Self-explanatory

## Paragraph (6)

The accounting and documents related to the business operation or the company shall be kept for ten years, so than within said period if the Director General of Taxation issues a Tax Assessment, the accounting data required is still available.

The ten year period for keeping the accounting and documents becoming the basis of the accounting shall be consistent with the provisions under Article 40 of this law concerning criminal prosecution.

## Article 29

## Paragraph (1)

The Director General of Taxation in the framework of the tax collection is competent to audit, to assess the owed tax and other purpose to execute the legislative regulations on taxes, the intention of auditing is mainly to obtain/collect materials to be the basis for

- a. issuing the Tax Assessment;
- b. issuing the Notification letter;
- c. issuing the Tax Payment Excess decree;
- d. others related to the tax administration.

The definition of "other purposes" in this paragraph means the auditing of the following:

- a. Preparing the Calculation Norm;
- b. matching the data;
- c. assessing the amount of tax payment in a Tax Period for a new Taxpayer
- d. others related to the execution of the legislative regulations on taxes.

## Paragraph (2)

Self-explanatory

## Paragraph (3)

As the accounting, records, documents related to the business operation and other required information play a very important role in assessing the owed tax, if required by the auditor, the Taxpayer shall show or lend them.

If the accounting, records and documents which are required can not be given by the Taxpayer only to avoid discovery the auditor is allowed to enter the places or rooms assumed to be the places used to keep them.

#### Paragraph (4)

To prevent the use of reasons of confidentiality, in withholding accounting, records, documents and other required information by the Taxpayer, his paragraph clarifies that the confidentiality can be eliminated.

### 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

For the interest of uniformity, orderliness, and unification of auditing, it is necessary to regulate the provisions and procedure thereof by a Government Regulation.

### Article 32

#### Paragraph (1)

This law determines who becomes the representative to execute the tax right and obligation of the Taxpayer against a Body, a Body in liquidation, undivided inheritance and a child who is not an adult or a person under guardianship, for said Taxpayer it is necessary to determine who will be his representative proxy to commit legal action, execute the tax right and obligation as they are unable to commit said legal action on their own.

#### Paragraph (2)

The exception as referred to in this paragraph shall be with the evidence that in his position as the representative according to reasonableness and feasibility it is impossible to ask for his responsibility personally.

#### Paragraph (3)

This paragraph gives relief and opportunity to the Taxpayer to request assistance from anyone understanding this tax subject matter as his proxy and on his behalf to execute his tax right and obligation, said assistance shall cover the formal and material obligation as well as the fulfillment of the right of the Taxpayer stipulated in

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the legislative regulations on Taxes.

#### 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)

Every officer both tax officer or that having the tasks in tax shall be prohibited from revealing secrets of the Taxpayer concerning tax. The secrets shall be protected so misuse by business competition or divulging the origin of the property or income gained essentially is a personal secret complying with the legal principles.

##### Paragraph (2)

The experts, such as linguists, accountants, attorneys et cetera designated by the Director General of Taxation to assist in the implementation of the Legislative regulation on taxes are essentially the same with the tax officers prohibited to reveal the secret of the Taxpayer as referred to in paragraph (1).

##### Paragraph (3)

To safeguard the state finance for audits conducted by the Finance Auditing Board, Finance and Development Control Board, the Minister of Finance can give permission to said Boards to see the evidence as referred to in paragraphs (1) and (2) in the framework of auditing and controlling the state finance related to tax.

##### Paragraph (4)

To pursue the trial of the criminal law suit related to tax, for the interest of justice, the Minister of Finance can grant an exemption from the confidentiality obligation to tax officers including that assigned in the tax justice body or Tax Appeal Council and the experts as referred to in paragraphs (1) and (2) on the written request of the Court chairman of the board of judges.

##### Paragraph (5)

This paragraph defines and clarifies that said required tax information only concerns a criminal law suit on the act or event involving the tax and only limited to the relative defendant

#### Article 35

##### Paragraph (1)

To execute the legislative provisions on taxes, the third parties having relation to the audited Taxpayer such as the Tax Consultant, public Accountant, Notary and other

persons related to the act or business activity of the Taxpayer shall give the information and evidence required by the Directorate General of Taxation in the framework of auditing the relative Taxpayer. They are required to complete the tax information/data to calculate and Assess the actual amount of owed tax of the audited Taxpayer. In addition, the provision in this paragraph is also intended to prevent efforts to conceal information or evidence on tax in other places.

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 to the tax obligation conducted by the Taxpayer as long as concerning the tax administrative act shall be administratively sanctioned, whereas that related to the criminal act in tax shall be sanctioned criminally. By the existence of said sanction, there will be awareness by the taxpayer of tax obligations as provided in the Law on taxes.

Any negligence as referred to in this Article meant not deliberately, negligent, careless and paying no attention to his obligation, so that it inflicts loss to the state.

Article 39

Paragraph (1)

Any conduct or act as referred to in this paragraph deliberately done does not constitute an administrative violation anymore but a crime. Therefore it has a greater sanction than negligence which is only a violation in nature.

#### Paragraph (2)

To prevent the re occurrence of the criminal act in tax, for those committing it again prior to one year as from the settlement of part of or the total imprisonment shall be sanctioned heavier namely twice as much as that provided in paragraph (1).

### 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)

To guarantee that tax information will not be passed to other parties, and in order that the Taxpayer does not hesitate in giving information and data, in the framework of the tax law execution, there shall be a criminal sanction for the tax officer causing a violation by revealing confidential information. The Violation of confidentiality covered by this paragraph, will be due to negligence, carelessness or not paying any attention so that the obligation to keep, information or evidence from the Taxpayer confidential which is protected by law is violated. Said Violation may be subject to the proper sanction.

#### Paragraph (2)

The provisions regulated in this paragraph indicate the deliberateness causing the revelation of secret as referred to in Article 35. Therefore the sanction is heavier than that provided in paragraph (1). Said deliberateness is a crime and the sanction shall therefore be properly given.

#### Paragraph (3)

The criminal prosecution to the confidentiality violation at referred to in paragraphs (1) and (2) complying with the nature thereof shall involve the personal interest of a person or body as a Taxpayer and therefore it will become a criminal act.

### Article 42

#### Paragraph (1)

Self-explanatory

#### Paragraph (2)

Self-explanatory

#### Article 43

The criminal provisions in tax one not only intended to the Taxpayer but also to another party designated as the representative, proxy or employed of the Taxpayer given responsibility or successive responsibility for implementing the tax obligation of the Taxpayer entrusted or authorized to him.

#### Article 44

##### Paragraph (1)

The tax investigation is a chain of investigating actions to find out and collect required evidence so as to clarify the criminal act occurring in tax and to find the suspect of criminal acts in tax, and to find the suspect and to know the amount of the owed tax. The investigator in tax is a certain civil servant within the Directorate General of Taxation appointed by the Minister of Justice in compliance with the prevailing legislative regulations.

The criminal act investigation in tax is conducted according to the provisions regulated in Law No. 8 Year 1981 re Criminal Code Procedure and the Implementing Regulations.

##### Paragraph (2)

Self-explanatory

##### Paragraph (3)

Self-explanatory

#### 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 1925 Tax Ordinance, and Tax on Interest, Dividend and Royalty of 1970 as well as all implementing regulations thereof shall remain applicable to the taxable income received or gained in the oil and gas mining and other mining sector conducted in the framework of Contract of Work and Production Sharing Contracts, as long as the Contract of Work and



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Production Sharing contracts are still valid on the coming into force of this law.

The provisions in this will be applicable to the taxable income received or gained in oil and gas mining conducted in the form of Contract of work and Production Sharing Contract if they are drawn up after the effectiveness of this Law.

#### 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

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