

## Taxation

Versi Bahasa Indonesia

### Enforcement Date

Within 30 days of 28 June 2016

### Related ILB

- Draft Bill on National Tax Amnesty
- Draft Bill on National Tax Amnesty: An Exit Plan for Money Launderers
- Tax Holidays for Pioneering Industries
- Debt-to-Equity Ratios and Income Tax Calculations

## House Passes Bill on Tax Amnesty

After approximately eight months of discussions, the House of Representatives ("House") finally passed the [Bill on Tax Amnesty](#) ("Bill") on 28 June 2016.

This Bill is essentially aiming to boost tax revenues by encouraging better compliance by the public with their various tax obligations.<sup>1</sup> With this goal in mind, the Bill enables individuals and corporate taxpayers to receive pardons for any tax liabilities which may arise from outstanding payable tax, provided that they disclose their assets and also pay certain ransom fees (*uang tebusan*). The Bill sets out a framework for the enforcement of the tax amnesty, and covers:

- a. Subjects and objects of the tax amnesty;
- b. Ransom fee tariffs and calculations;
- c. Procedures for the submission of tax-amnesty applications and for the securing of a tax-amnesty, including the various facilities to be granted through tax amnesty;
- d. Obligation to invest the disclosed assets and reporting obligation;
- e. Legal remedies;
- f. Data and information management;
- g. Criminal sanctions; and
- h. Implementing regulations for the Bill.

Due to the broad range of the Bill, this edition of Indonesian Legal Brief (ILB) will limit its discussion to the matters set out under points (a), (b) and (c). Before the Bill was passed, these matters were also included under the [Draft Bill on National Tax Amnesty](#) ("Draft Bill") as per October 2015.<sup>2</sup>

This Bill is of relevance to all individuals, as well as to corporate taxpayers ("Taxpayer").

## Subjects and Objects

As stated above, the Bill allows any Taxpayers who have successfully generated assets but who have failed to pay outstanding payable tax up to the recent tax year (i.e. 1 January 2015 - 31 December 2015) to apply for a tax amnesty. These tax obligations cover the obligations from Taxpayer's income tax, value-added tax and/or luxury-goods sales tax. In order to obtain this amnesty, Taxpayers must disclose

<sup>1</sup> Recital, part (d), Bill.

<sup>2</sup> For more information on the Draft Bill, see ILBs [No. 2743](#) and ILD [No. 427](#).

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their assets in a statement letter that should be submitted to the Minister of Finance ("Minister").<sup>3</sup> Note that, the tax amnesty does not apply to Taxpayers who are currently the subject of any investigation process, proceedings or criminal sanctions as a result of committing tax crime(s).<sup>4</sup>

Previously, the Draft Bill stated that a tax amnesty would be granted if the Taxpayer paid a ransom. There was no obligation for Taxpayers to also disclose their assets. Moreover, the Draft Bill did not specify the type of tax that could be written off through the tax amnesty procedure. Furthermore, the Draft Bill required that any applications for amnesty be submitted to the Task Force for National Tax Amnesty ("Task Force").<sup>5</sup>

### Ransom Tariffs and Calculations

A tax amnesty waives the state's right to collect outstanding payable taxes and impose administrative and criminal sanctions by obliging Taxpayers to pay a ransom in return.<sup>6</sup> In general, the amount of payable ransom is to be calculated using the following formula:<sup>7</sup>

$$\text{Ransom tariff} \times (\text{total value of actual asset} - \text{total tax liability})$$

The ransom tariffs differ based on the period of submission and the object of the tax amnesty, as detailed below:<sup>8</sup>

Tariff (%)	Submission Period of Asset Statement Letter	Objects of Amnesty
2	Within one to three months after the Bill comes into force	For assets which are located in Indonesia and overseas, which will be transferred to and invested in Indonesia for three years (minimum)
3	Within the fourth month of the Bill's enforcement date until 31 December 2016	
5	1 January 2017 - 31 March 2017	
4	Within one to three months after the Bill comes into force	For assets which are located overseas and which will not be transferred to Indonesia
6	Within the fourth month of Bill's enforcement	

<sup>3</sup> Art. 3 (1), (2) and (4), Art. 1 (15), and Art. 8 (1), Bill.

<sup>4</sup> Art. 3 (3) and (5), Bill.

<sup>5</sup> Art. 1 (1), Art. 2 and Art. 7 (3), Draft Bill.

<sup>6</sup> Art. 1 (1) and General elucidation, Bill.

<sup>7</sup> Art. 5, Bill.

<sup>8</sup> Art. 4 (1) to (3), Bill.

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	date until 31 December 2016	
10	1 January 2017 - 31 March 2017	
0.5	Within the first month of Bill's enforcement date until 31 March 2017	For Taxpayers whose business value is up to IDR 4.8 billion and who have a disclosed asset value of less than IDR 10 billion
2		For Taxpayers whose business value is up to IDR 4.8 billion and who have a disclosed asset value of over IDR 10 billion

Previously, the Draft Bill only set ransom tariffs based on the amnesty period, as follows:<sup>9</sup>

Tax-Amnesty Period	Tariff
October 2015 - December 2015	3% of the assets
January 2016 - June 2016	5% of the assets
July 2016 - December 2016	8% of the assets

## Obtaining a Tax Amnesty

The stages involved in obtaining a tax amnesty are as follows:

1. A Taxpayer must first obtain sufficient information on the various documents which are to be submitted to the Minister;<sup>10</sup>
2. Once armed with this knowledge, the Taxpayer must then pay the required ransom and submit the following documents:<sup>11</sup>
  - a. Taxpayer asset statement letter (application), covering: Taxpayer's identity, total assets and liabilities, net asset value and ransom calculation;
  - b. Supporting documents, as specified under Article 9 (2) of the Bill (e.g. payment receipts for Taxpayer tax debts and ransoms, list of assets and liabilities, copy of a recent income-tax statement letter);
  - c. Affidavit on the Taxpayer's commitment to: i) Transfer and invest the overseas assets into Indonesia over a three-year period (minimum) from the date of transfer; ii) Not transfer any

<sup>9</sup> Art. 4, Draft Bill.

<sup>10</sup> Art. 10 (2), Bill.

<sup>11</sup> Art. 8 (1) and Art. 9, Bill.

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domestic assets overseas for a three-year period (minimum) from the date of the tax amnesty being granted; and

- d. Statement letter on the Taxpayer business value (if the total value upwards of IDR 4.8 billion)
3. After submission, the Taxpayer will receive an application-submission receipt;<sup>12</sup>
4. The Minister must then issue a stipulation letter on granting the amnesty within 10 days of receiving the documents, or the amnesty will automatically be granted.<sup>13</sup>

Further detailed provisions on tax-amnesty application procedures and the reinvestment of foreign assets in Indonesia are to be regulated by the Minister.<sup>14</sup>

Previously, the Draft Bill required that any applications be submitted to the Task Force and that any submitted documents must include a statement of power of attorney for the Director General of Tax (DG), so that the DG can access the applicant's bank account(s). Upon receiving an application, the Task Force would require verification before approve or rejecting the application on behalf of the President.<sup>15</sup>

Pursuant to Article 73 of Law [No. 12 of 2011](#) on the Establishment of Laws and Regulations, the Bill requires the President's signature in order to be signed into law and receive an official number. The Bill is still awaiting the President's signature; however, it will automatically come into force if the President has not signed the Bill within 30 days of it being passed by the House.

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<sup>12</sup> Art. 11 (1), Bill.

<sup>13</sup> Art. 10 (4) and (5), Bill.

<sup>14</sup> Art. 24, Bill.

<sup>15</sup> Art. 7 and Art. 8, Draft Bill.

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### RECENTLY PUBLISHED ILB

- Information-Security Management Systems Finally Regulated
- Government Support on the Management of the Drinking-Water Supply System
- Govt. Establishes Guidelines for the Management of Frequently Misused Drugs
- Govt. Simplifies Import of Gadgets

### RECENT REGULATION

- Presidential Regulation [No. 44 of 2016](#) on List of Business Fields Closed and Conditionally Open for Investment
- Presidential Regulation [No. 45 of 2016](#) on 2017 Government Working Plan
- Government Regulation [No. 11 of 2016](#) on Meteorology, Climatology and Geophysical Services
- Government Regulation in Lieu of Law [No. 1 of 2016](#) on Second Amendment to Law No. 23 of 2002 on Child Protection
- Director General of Customs and Excise Circular Letter [No. SE-09/BC/2016](#) on Procedures for Voluntary Declarations of Custom Value for the Calculation of Import Duties

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