

TaxFlash



Tax Amnesty – Further implementing regulation

On 29 August 2016, the Director General of Tax (DGT) issued Regulation No.PER-11/PJ/2016 (PER-11) regarding the implementing regulation of the Tax Amnesty Law.

Article 18 paragraph (2) of the Tax Amnesty Law No.11/2016 (Law-11) stipulates that if a taxpayer never submitted a Tax Amnesty Declaration Letter, and the DGT found information on undeclared assets that were acquired by the taxpayer between 1 January 1985 and 31 December 2015, the assets will be deemed as additional income and will be subject to tax and sanctions in accordance with the prevailing tax regulation. This provision is valid up to three years following the enactment of Law-11.

PER-11 stipulates that taxpayers that meet the requirements can not exercise their rights (*dapat tidak menggunakan haknya*) to apply for Tax Amnesty and will not be subject to the provisions under Article 18 paragraph (2) of Law-11, as follows:

- a) Individual taxpayers who are domiciled in Indonesia and have non-taxable income (*Penghasilan Tidak Kena Pajak/PTKP*).
- b) Individual taxpayers who are domiciled outside of Indonesia for more than 183 days within twelve months and do not have any income sourced from Indonesia.
- c) Recipient of grants given by parents to children or vice versa (referred to as 'grant') or inheritors, who do not have any income or have income under the PTKP.
- d) Recipients of a grant or inheritance, who have income above the PTKP and have already reported the grant or inheritance in their Annual Income Tax Return (AITR).

For point (c) and (d), the protection against Article 18 paragraph (2) of Law-11 is only applicable on the grant or inheritance.

If all the taxpayer's assets were acquired using taxable income or income not subject to tax, but the taxpayer has not reported it in his/her AITR, the taxpayer can disclose the assets in the AITR amendment or in the AITR (if the AITR has not been submitted). However, taxpayers under this category will still be subject to the provisions under Article 18 paragraph (2) of Law-11.

PER-11 also regulates that the fair value reported in the Tax Amnesty Declaration Letter will not be examined or adjusted by the DGT.

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