

MINISTER OF FINANCE  
THE REPUBLIC OF INDONESIA

COPY  
MINISTERIAL DECREE OF FINANCE OF THE REPUBLIC OF INDONESIA  
NUMBER 1 69 / PMK. 010/2015

CONCERNING  
DETERMINATION OF THE COMPARISON BETWEEN LIABILITIES AND CAPITAL  
OF COMPANY FOR THE CALCULATION OF INCOME TAX

WITH THE BLESSING OF THE GOD ALMIGHTY

MINISTER OF FINANCE OF THE REPUBLIC OF INDONESIA,

In considering: That in implementing the stipulation of Article 18 paragraph (1) of Law Number 7 Year 1983 on Income Tax as having been amended several times and the latest amendment by Law Number 36 Year 2008, it shall be necessary to enact a Ministerial Decree of Finance on the Determination of the comparison between the liabilities and capital of company for the calculation of income tax;

As referring to in:

1. Law Number 6 Year 1983 on General Stipulation and Procedure of Taxation (State Gazette of the Republic of Indonesia Year 1983 Number 49, Supplement to State Gazette of the Republic of Indonesia Number 3262) as having been amended several times and the latest amendment by Law Number 16 Year 2009 (State Gazette of the Republic of Indonesia Year 2009 Number 62, Supplement to State Gazette of the Republic of Indonesia Number 4999)
2. Law Number 7 Year 1983 on Income Tax (State Gazette of the Republic of Indonesia Year 1983 Number 50, Supplement to State Gazette of the Republic of Indonesia Number 3263) as having been amended several times and the latest amendment by Law Number 36 Year 2008 (State Gazette of the Republic of Indonesia Year 2008 Number 133, Supplement to State Gazette of the Republic of Indonesia Number 4893);

DECIDES

To Enact

MINISTERIAL DECREE OF FINANCE ON THE DETERMINATION OF THE COMPARISON BETWEEN LIABILITIES AND CAPITAL OF COMPANY FOR THE CALCULATION OF INCOME TAX

Article 1

- (1) For the calculation of Income Tax there shall be the determination on the comparison between the liabilities and capital of corporate taxpayer whose establishment and domicile are in Indonesia and the capital shall be in form of shares.
- (2) The liabilities as cited in paragraph (1) shall be the balance of the average liabilities in a fiscal year or in part of the fiscal year, of which shall be calculated based on:
  - a. the balance of the average liabilities at end month of the respective fiscal year; or
  - b. the balance of the average liabilities at end month in part of the respective fiscal year.
- (3) The balance of average liabilities as cited in paragraph (2) shall include the balance of long-term liabilities or the balance of short-term liabilities including the balance of trade payable that is interest bearing.
- (4) The capital as cited in paragraph (1) shall be the balance of the average capital in a fiscal year or in part of the fiscal year, of which shall be calculated based on:
  - a. the balance of average capital at end year in the respective fiscal year; or
  - b. the balance of average capital at end year in part of the respective fiscal year.
- (5) The balance of capital as cited in paragraph (4) shall include the equity based on the current standard of financial accounting and debt of non-interest bearing from any party that has special relationship with the company.

Article 2

- (1) The comparison between the liabilities and capital as cited in Article 1 paragraph (1) shall be determined maximal at a ratio of 4: 1.
- (2) Excluded from the stipulation on the comparison or the ratio between the liabilities and capital as cited in paragraph (1) shall be:
  - a. Bank as Taxpayer

- b. Financial Institution as Tax Payer
  - c. Insurance or re-insurance company as taxpayer
  - d. Taxpayer whose activity is in the sector of oil and natural gas, general mining, and other mining activities that are legally bound under production sharing contract, contract of work, or agreement on the cooperation of mining undertakings, and in the contract or agreement as regulated or of which is cited about the comparison between the liabilities and capital; and
  - e. Tax Payer whose total income is subject to imposition of final Income Tax based on a special regulation or law; and
  - f. Tax payer whose business activity is in infrastructures.
- (3) Bank as Tax Payer as cited in paragraph (2) letter a shall be any bank as regulated under laws and regulations of banking and Bank Indonesia.
- (4) Financial Institution as Tax Payer as cited in paragraph (2) letter b shall be any entity whose activity is in financing by providing funds or capital goods based on the laws and regulations of financial institution.
- (5) Insurance and re-insurance company as tax payer as cited in paragraph (2) letter c shall be insurance company, syariah (Moslem-based) insurance company, re-insurance company, and syariah re-insurance company whose activities are in insurance and/ or re-insurance based on the laws and regulations of insurance.

### Article 3

- (1) In case that the comparison or ratio between the liabilities and capital of the tax payer is greater than the ratio as cited in Article 2 paragraph (1), the finance cost of liabilities that can be included in the calculation of taxable income shall be the cost of liabilities based on the ratio of liabilities and capital as cited in Article 2 paragraph (1).
- (2) The finance cost of liabilities as cited in paragraph (1) shall be the cost or the expense that has to be paid by Tax Payer for any debt, of which includes:
- a. interest of loan;
  - b. discount and premium associated with loan;
  - c. additional fees incurred related to the acquirement of loan (arrangement of borrowings);
  - d. financial burden on lease financing
  - e. fee in return for guarantee of debt; and
  - f. foreign-exchange differences stemming from loans in foreign currency as long as the foreign-exchange differences are used for the adjustment of

interest costs and expenses as cited in letters b, c, d, and e.

(3) The amount of finance cost in accordance with the ratio of liabilities and capital as cited in Article 2 paragraph (1) that can be calculated as taxable income shall be obliged to refer to in the provisions of Article 6 and Article 9 of Law Number 7 Year 1983 on Income Tax as having been amended for several times and the latest amendment by Law Number 36 Year 2008.

(4) In case the taxpayer has a debt to any party with a special relationship, in addition to the fulfillment of the stipulations of paragraphs (1) and (3), the finance cost of borrowing to any of the parties that have such a special relationship shall also meet the principles of fairness and appropriate business practices as referring to in Article 18 paragraph (3) of Law Number 7 Year 1983 on Income Tax as having been amended several times and the latest amendment by Law Number 36 Year 2008.

(5) If taxpayer has an equity balance of zero or less than zero (minus), the whole finance cost of the borrowings of taxpayer shall not be included in the calculation of taxable income.

(6) The ratio between liabilities and capital as well as the finance cost of borrowings that can be included in the calculation of taxable income shall refer to the example as cited in the Appendix, which is an inseparable part of this Ministerial Decree.

#### Article 4

(1) For the taxpayer whose business is in the sector of oil and natural gas, general mining, and other mining, of which is:

- a. legally bound under a production sharing contract, contract of work, or agreement on the cooperation of mining undertakings; and
- b. legally bound under any of the contracts as cited in letter a that regulates or states about minimum ratio of liabilities and capital,

the provisions on the ratio of liabilities and capital shall remain effective until the expiration of any contract or agreement.

(2) In case the taxpayer who carries out the activities in the sector of oil and gas, general mining and other mining, which is:

- a. legally bound under a production sharing contract, contract of work, or agreement on the cooperation of mining undertakings; and
- b. under the contract or agreement as cited in letter a that regulates or states nothing about minimum ratio of liabilities and capital,

the ratio of liabilities and capital of the taxpayer shall refer to the stipulations of

Article 2 paragraph (1).

#### Article 5

- (1) Taxpayer who has foreign private debt shall submit a report on the amount of private foreign debt to Director General of Taxation.
- (2) If the taxpayer does not submit a report as cited in paragraph (1), consequently the finance cost of the foreign private debt shall not be deductible when calculating the taxable income tax.
- (3) The procedure to report the foreign private debt as cited in paragraph (1) shall be regulated under a Decision of Director General of Taxation.

#### Article 6

At the time of the effectiveness of this Ministerial Decree:

1. Ministerial Decree of Finance Number 1002/ KMK.04 / 1984 on the Determination of Comparison between Liabilities and Capital for the sake of calculation of Income Tax; and
2. Ministerial Decree of Finance Number 254/ KMK.01/ 1985 on the Postponement of the Implementation of Ministerial Decree of Finance Number 1002/ KMK.04/ 1984 on the Determination of Comparison between Liabilities and Capital for the sake of calculation of Income Tax,

shall be declared no longer effective.

#### Article 7

The provisions concerning the Comparison between Liabilities and Capital for the sake of calculation of Income Tax as cited in this Ministerial Decree shall be effective as of the Fiscal Year 2016.

#### Article 8

Further provisions on the implementation of the determination of the comparison (ratio) between liabilities and capital for the sake of calculation of Income Tax shall be regulated under a Decision of Director General of Taxation.

#### Article 9

This Ministerial Decree shall be effective as of the date of enactment.

That anybody shall be made aware of, and the enactment of this Ministerial Decree shall be announced and put in the State Gazette of the Republic of

Indonesia.

Enacted in Jakarta  
Dated on September 9, 2015  
MINISTER OF FINANCE  
THE REPUBLIC OF INDONESIA

signed

Bambang S. Brodjonegoro

Stipulated in Jakarta  
Dated on September 9, 2015  
MINISTER OF LAWS AND HUMAN RIGHTS  
THE REPUBLIC OF INDONESIA

Signed

YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2015 NUMBER 1351

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Bureau Head of General Affairs  
for  
Head of Administration of Ministry

signed

GIARTO  
NIP 195904201984021001

APPENDIX  
 MINISTERIAL DECREE OF FINANCE  
 THE REPUBLIC OF INDONESIA  
 NUMBER 169/ PMK.010 / 2015  
 CONCERNING  
 DETERMINATION OF THE COMPARISON BETWEEN LIABILITIES AND CAPITAL OF COMPANY  
 FOR THE CALCULATION OF INCOME TAX

EXAMPLE OF THE CALCULATION OF THE COMPARISON BETWEEN LIABILITIES AND CAPITAL AS WELL AS  
 FINANCE COST OF DEBT THAT CAN BE INCLUDED IN THE CALCULATION OF TAXABLE INCOME

Example 1:

PT XXX is a company engaged in the industry of manufacturing. Based on the Statement of Financial Position and Income Statement submitted by PT XXX, the following are disclosed:

1. Liabilities (in million Rupiah):

Liabilities	Position as per 31 December	
	Year 2016	Year 2015
a. Trade Payable		
• Interest Bearing	810 000	800 000
• Non-Interest Bearing	700 000	600 000
b. Non-interest Loans from XXX Ltd (Party with special relationship)	50 000	50 000
c. Short-Term Liabilities		
• Debt to PT ABC (Party with special relationship)	725 000	800 000
d. Long-Term Liabilities:		
• Debt to PT JKL	660 000	900 000
• Debt to WWW Co. Ltd.	1 970 000	2 500 000

2. Equity (in million Rupiah)

Equity	Position on December 31	
	2016	2015
a. Capital stock	150 000	150 000
b. Agio (premium)	110 000	110 000
c. Retained earning	475 000	425 000

3. The gross income of Rp20 000 000 000 000

4. Finance cost of debts or borrowings (interest and other related expenses) totaling Rp228 000 000 000 consisting of:

- a. the finance cost of debt to PT ABC of Rp96 000 000 000;
- b. the finance cost of debt to PT JKL of Rp20 660 000 000;
- c. the finance cost of debt to WWW Co Ltd of Rp100 575 000 000, and
- d. the finance cost of Trade Payable (Interest Bearing) of Rp10 765 000 000.

The calculation of debt to equity ratio (DER) based on the provisions of this Ministerial Decree will be as follows:

The calculation of the balance of average liabilities:

The balance of average liabilities based on the balance of average liabilities reported at every end of month during the fiscal year 2016 will be as follows:

Month	Balance at End Month (in Million)				Amount
	Debt to PT ABC	Debt to PT JKL	Debt to WWW Co. Ltd.	Trade Payable (interest bearing)	
January	800 000	900 000	2 500 000	800 000	5 000 000
February	750 000	900 000	2 500 000	790 000	4 940 000
March	750 000	900 000	2.500 000 <sup>1</sup>	750 000	4 900 000
April	750 000	900 000	2.500 000	820 000	4 970 000
May	740 000	900 000	2.500 000	850 000	4 990 000
June	740 000	900 000	2.500 000	720 000	4 860 000
July	740 000	660 000	1 970 000	800 000	4 170 000
August	740 000	660 000	1 970 000	810 000	4 180 000
September	725 000	660 000	1 970 000	845 000	4 200 000
October	725 000	660 000	1 970 000	860 000	4 215 000
November	725 000	660 000	1 970 000	805 000	4 160 000
December	725 000	660 000	1 970 000	810 000	4 165 000
Average	742 500	780 000	2 235 000	805 000	4 562 500

The balance of average liabilities of PT XXX Year 2016 = Rp4 562 500 000 000

The calculation of the balance of average capital:

The balance of average capital that is calculated based on the balance of average capital as reported at every end of the month during the fiscal year 2016 will be as follows:

Month	Balance at End Month (in million Rupiah)
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	Capital stock	Agio (premium) of share	Retained Earning	Loans of non-interest bearing from XXX Ltd	Amount
January	150 000	110 000	425 000	50 000	735 000
February	150 000 <sup>1</sup>	110 000	425 000	50 000	735 000
March	150 000	110 000	575 000	50 000	885 000
April	150 000	110 000	300 000	50 000	610 000
May	150 000	110 000	300 000	70 000	630 000
June	150 000	110 000	600 000	70 000	930 000
July	150 000	110 000	400 000	70 000	730 000
August	150 000	110 000	400 000	30 000	690 000
September	150 000	110 000	700 000	30 000	990 000
October	150 000	110 000	400 000	30 000	690 000
November	150 000	110 000	400 000	50 000	710 000
December	150 000	110 000	475 000	50 000	785 000
Average	150 000	110 000	450 000	50 000	760 000

The balance of average capital of PT XXX in the year 2016 = Rp760 000 000 000.

DER = Rp4 562 500 000 000 : Rp760 000 000 000 = 6 : 1

The calculation of finance cost of borrowings that can be included in the calculation of taxable income under the provisions of this Ministerial Decree will be as follows:

The highest DER that is allowed = 4: 1

The finance cost of borrowings that can be included in the calculation of taxable income = 4/6 x the finance cost of borrowings amounting Rp152 000 000 000 000 with the calculation as follows:

Type of Debt	Balance of average liabilities	Finance cost of borrowings	Finance cost of borrowings that can be allowed in the calculation.
Debt to PT ABC	742 500	96 000	64 000
debt to PT JKL	780 000	20 660	13 773
debt to WWW Co. Ltd.	2 235 000	100 575	67 050
Accounts Payable ( <i>Interest Bearing</i> )	805 000	10 765	7 177
Total	4 562 500	228 000	152 000

In considering that the debt to PT ABC is the liability to a party with a special relationship, therefore the finance cost of the debt to PT ABC of Rp64 000 000 000 that will be included in the calculation of taxable income under the provisions of this Ministerial Decree shall also comply with the principles of fairness and appropriate business practices as referring to Article 18 paragraph (3) of Law Number 7 Year 1983 on Income Tax as having been amended by Law Number 36 Year 2008.

#### Example 2:

Based on the data from example 1, the components of gross income of PT XXX in the year 2016 including the income from rent of land and building of Rp5 000 000 000 000, of which the income has been subject to final income tax, and the finance cost of borrowings as a joint cost cannot be separated from the calculation of taxable income, then the debts that can be included in the calculation of taxable income shall be made proportional. The finance cost that can be included in the calculation of taxable income shall be as follows:

$$(Rp15\,000\,000\,000\,000 / Rp20\,000\,000\,000\,000) \times Rp152\,000\,000\,000\,000 = Rp114\,000\,000\,000$$

#### Example 3:

Based on the data from example 1, the fund from the debt to PT ABC is used for the purchase of shares of PT ZZZ at 60 percent of the ownership; as a consequence the dividend received from PT ZZZ shall not be considered as an object of taxation. The finance cost (interest and other related costs) paid to PT ABC shall be Rp96 000 000 000

In light of the provisions of law on income tax the finance cost (interest and other related costs) of the debt used for the purchase of the shares shall not be included in the calculation of taxable income; therefore the debt to PT ABC shall have previously been excluded from the calculation of DER.

The recalculation of balance of the average liabilities in addition to the debt of PT ABC shall be as follows:

The balance of the average long-term liabilities to PT JKL	= Rp780 000 000 000
The balance of the average long-term liabilities to WWW Co. Ltd	= Rp2 235 000 000 000
The balance of the average trade payables (Interest Bearing)	= Rp805 000 000 000
The balance of the average liabilities to PT XXX in year 2016	= Rp3 820 000 000 000
The balance of the average capital of PT XXX in year 2016	= Rp760 000 000 000

$$\text{DER} = Rp3\,820\,000\,000\,000 : Rp760\,000\,000\,000 = 5 : 1$$

The highest DER to be allowed = 4: 1

The amount of interest and other related costs of debts other than the debt to PT ABC:

$$Rp228\,000\,000\,000 - Rp96\,000\,000\,000 = Rp132\,000\,000\,000$$

The calculation of interest and other related costs that can be included in the calculation of taxable income =  $4/5 \times$  interest and other related costs of debts = Rp105 600 000 000 with the calculation as follows:

(in Million)

Type of Debt	Balance of average liabilities	Interest and other related costs	Interest and other related costs that can be included in the calculation
debt to PT JKL	780 000	20 660	16 528
debt to WWW Co. Ltd.	2 235 000	100 575	80 460
Trade payables (interest bearing)	805 000	10 765	8 612
Total	3 820 000	132 000	105 600

MINISTER OF FINANCE  
THE REPUBLIC OF INDONESIA,

Signed.

Bambang P.S. Brodjonegoro

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