

MINISTRY OF FINANCE OF THE REPUBLIC OF INDONESIA
DIRECTORATE GENERAL OF TAXATION
(COPY)

MINISTERIAL DECREE OF FINANCE
OF THE REPUBLIC OF INDONESIA
Number: 119/ PMK.08 Year 2016

CONCERNING

PROCEDURE TO REPATRIATE ASSETS OF TAXPAYER INTO THE TERRITORY OF THE
UNITARY STATE OF THE REPUBLIC OF INDONESIA AND THE PLACEMENT IN THE
INSTRUMENT OF INVESTMENT IN FINANCIAL MARKET FOR TAX AMNESTY

BY THE GRACE OF GOD ALMIGHTY

MINISTER OF FINANCE OF THE REPUBLIC OF INDONESIA,

- Considering:
- a. that in order to provide guidance to taxpayer on how to repatriate assets and invest in the territory of the Unitary State of the Republic of Indonesia for the sake of tax amnesty, it shall be necessary to provide a regulation concerning the procedure on how to repatriate assets of taxpayer into the territory of the Unitary State of the Republic of Indonesia and the placement in the instrument of investment in the financial market for tax amnesty;
 - b. that based on the consideration as cited in letter a, and in order to implement the stipulations of Article 24 letter c of Law Number 11 Year 2016 on tax amnesty, it shall be necessary to enact a Ministerial Decree of Finance on procedure to repatriate assets of taxpayer into the territory of the Unitary State of the Republic of Indonesia and the placement in the instrument of investment in the financial market for tax amnesty;
- Referring to in
- Law Number 11 Year 2016 on Tax Amnesty (State Gazette of the Republic of Indonesia Year 2016 Number 131, Supplement to State Gazette of the Republic of Indonesia Number 5899);

DECIDES:

To Enact

PROCEDURE TO REPATRAITE ASSETS OF TAXPAYER INTO THE
TERRITORY OF THE UNITARY STATE OF THE REPUBLIC OF
INDONESIA AND THE PLACEMENT IN THE INSTRUMENT OF
INVESTMENT IN FINANCIAL MARKET FOR TAX AMNESTY

Article 1

In this Ministerial Decree what is meant by:

1. Tax Amnesty shall be the removal of tax payable by not imposing an administrative sanction of taxation and criminal sanction in the sector of taxation, as long as there is an intention to reveal the assets and pay Compensation Money (Payoff) as regulated in the prevailing Law on Tax Amnesty.
2. Taxpayer shall be an individual or an entity that has right and obligation of taxation as in compliance with the prevailing laws and regulations of taxation of Indonesia.
3. Assets shall be the accumulation of additional economic capacity in form of all assets, either the tangible or intangible assets, either the movable or immovable assets, used for either business or non-business, located in and/or outside the territory of the Unitary State of

the Republic of Indonesia.

4. Liabilities shall be the principal amount of liabilities that have yet to be settled/ paid in regard of direct acquirement of assets.
5. Letter of statement on assets for tax amnesty, hereinafter referring to Letter of Statement shall be a letter (document) that is used by taxpayer to report the assets, liabilities, net value of assets, and the calculation of Compensation Money (Payoff).
6. Letter of Advice on Tax Amnesty, hereinafter referring to Letter of Advice shall be a letter issued by Minister as an evidence of Tax Amnesty.
7. Special Bank Account shall be the bank account of taxpayer that is specially opened at Bank Perception for repatriation of assets in order to save the transfer of fund of Taxpayer in light of Tax Amnesty.
8. Market Stocks shall be the securities in form of document of borrowing, commercial securities, shares, bonds, evidence of loans, participatory unit of contract for collective investment, periodic contract of market stock, and any derivative of market stock.
9. Bank shall be a commercial bank as cited in the prevailing laws and regulations of banking in Indonesia.
10. Manager of Investment shall be the person whose activity is to manage the portfolio of market stock for clients or to manage the portfolio of collective investment for a group of clients, except insurance firm, pension fund, and bank that conduct their own activities in compliance with the prevailing laws and regulations of Indonesia.
11. Stock broker shall be a person who conducts the activity of purchase and sale of market stock for own purpose or for another party.
12. The management of assets of taxpayer that takes a role as a Gateway for the repatriation of assets of taxpayer, hereinafter referring to Gateway shall be Bank, Manager of Investment, and Stock Broker assigned by Minister as Gateways for the placement and management of fund of the taxpayer in the instrument of taxation in light of tax amnesty.
13. Agreement on Requirement for Opening Bank Account shall be a contract between Taxpayer and a Bank that is assigned by Minister as a Gateway for the placement of fund in light of tax amnesty.
14. Agreement on Management of Portfolio of Market Stock for the sake of client on individual basis, hereinafter referring to Contract on Fund Management shall be a contract of services for fund management conducted by Manager of Investment as assigned by Minister as a Gateway for a certain client in which based on the agreement on the management of stock portfolio the Manager of Investment shall be fully authorized by the client to conduct the management of stock portfolio based on the agreement.
15. Contract on Collective Investment shall be a contract between Manager of Investment assigned by Minister as a Gateway and a Bank of Custodian, of which shall legally bind the holder of the Unit of Participation, and the Manager of Investment shall also be authorized to manage the portfolio of collective investment and the Bank of Custodian shall be authorized to conduct the collective entrustment.
16. Agreement on Opening Account for Stock of Client shall be a contract between Taxpayer and Stock Broker as assigned by Minister to become a Gateway for the placement of fund in light of tax amnesty.
17. Minister shall be the Minister who is in charge of governmental affairs in State's finance.

18. Director General of Taxation hereinafter referring to Director General shall be a unit leader of the first echelon in the workplace of Finance Ministry in the division of taxation.
19. Unitary State of the Republic of Indonesia hereinafter referring to NKRI shall be the unitary state of the republic of Indonesia as cited in Article 25A of the 1945 Constitution of the Republic of Indonesia.

Article 2

- (1) Tax Amnesty shall be given to Taxpayer who reveals the ownership of assets as stated in the Letter of Statement.
- (2) Assets as cited in paragraph (1) shall include the assets located:
- a. inside the territory of the Unitary State of the Republic of Indonesia (NKRI); and/ or
 - b. outside the territory of NKRI.
- (3) Additional Assets and Liabilities that represent the net value of assets that are reported in the Letter of Statement as cited in paragraph (1) and of which the Letter of Statement has already been issued, shall be required in regard of the acquirement of new assets and the acquirement of new liabilities of Taxpayer based on the date of the Letter of Statement.

Article 3

- (1) In case that the assets revealed are located outside the territory of NKRI as cited in Article 2 paragraph (2) letter b, the Taxpayer shall be advisable to repatriate the assets in form of fund into the territory of the Unitary State of the Republic of Indonesia (NKRI).
- (2) In case that the assets in form of fund as cited in paragraph (1) are repatriated into the territory of NKRI, the assets shall definitely be invested by Taxpayer in the territory of NKRI.
- (3) In case that the assets as cited in paragraph (1) have already been repatriated into the territory of NKRI:
- a. after December 31, 2015; and
 - b. before the issuance of the Letter of Advice,
- the assets shall be regarded as the assets that are still located outside the territory of NKRI and obliged to be invested for the sake of tax amnesty.
- (4) The investment inside the territory of NKRI as cited in paragraphs (2) and (3) shall be effective or occurring for a minimal period of 3 (three) years as of the repatriation of the fund by Taxpayer into a Special Account of Bank of Perception as assigned by Minister as a Gateway in light of Tax Amnesty.

Article 4

- (1) To hold the fund of repatriation as cited Article 3 paragraph (1) the Taxpayer shall be obliged to open a Special Account at the Bank of Perception as cited in Article 3 paragraph (4).
- (2) The Special Account as cited in paragraph (1) shall be opened after the Taxpayer receives a Letter of Advice as in compliance with the regulations and/or the policy of the authority concerned.
- (3) The repatriation of fund by Taxpayer shall be conducted through a Bank

of Perception as cited in Article 3 paragraph (4) that is located in the territory of NKRI and/ or the branch of the Bank of Perception that is located outside the territory of the Unitary State of the Republic of Indonesia (NKRI).

- (4) The branch of the Bank of Perception that is located outside the territory of NKRI as cited in paragraph (3) shall transfer the fund of Taxpayer to the Bank of Perception as cited in Article 3 paragraph (4) in the territory of NKRI in a period of no later than the next work day.
- (5) Bank of Perception as cited in Article 3 paragraph (4) shall submit a report to Director General of Taxation concerning the opening of Special Account and the repatriation of fund of Taxpayer to the Bank of Perception.

Article 5

The fund that has been repatriated and saved in a Special Account at the Bank of Perception as cited in Article 4 shall be invested in the instrument of investment.

Article 6

- (1) The investment of fund of repatriation as cited in Article 5 shall be in form of:
 - a. SBN of the Republic of Indonesia;
 - b. Bonds of State-owned Enterprises;
 - c. Bonds of Financial Entities owned by the government;
 - d. Financial Investment in Bank of Perception;
 - e. Bonds of private companies whose trades are monitored by the Authority of Financial Services (OJK);
 - f. Infrastructure investment in cooperation between the government and the business entity;
 - g. Investment in real sector based on the priority as determined by the Government; and/ or
 - h. other legitimate investments in compliance with the prevailing laws and regulations.
- (2) Investments as cited in paragraph (1) letters a, b, c, d, e and h shall be placed in the instruments of investments as follows:
 - a. stock as liability, including Medium Term Notes;
 - b. "sukuk";
 - c. shares;
 - d. participatory units of "reksa dana" (security stock);
 - e. stock with asset as collateral;
 - f. participatory unit of fund investment in real estate;
 - g. deposit in bank account;
 - h. saving account;
 - i. clearing account; and/ or
 - j. other instruments of investments in the financial market including

the products of insurance, financing entity, pension fund, or venture capital, as approved by the authority of financial services (OJK).

- (3) Placement in the instrument of investment as cited in paragraph (2) by a Gateway.
- (4) The method of investment in the instrument of investment as cited in paragraph (2) shall follow the procedure based on the prevailing regulations of each Gateway.
- (5) The investment as cited in paragraph (1) letters f, g, and h shall be regulated in another Ministerial Decree.

Article 7

- (1) The investment by taxpayer in the instrument of investment as cited in Article 6 paragraph (2) shall be allowed to be used as a collateral for credit facility from a Bank that is assigned by Minister as a Gateway.
- (2) Approval for granting a credit facility as cited in paragraph (1) shall be in compliance with the prevailing regulation of the Bank that is assigned by Minister as a Gateway.

Article 8

- (1) To be assigned as a Gateway as cited in Article 6 paragraph (3), Bank, Manager of Investment, and/ or Stock Broker shall fulfill the requirements as follows:

a. for Bank:

- 1) it shall be a Bank of Perception as determined by Minister and categorized as a commercial bank for business category 4 and commercial bank for business category 3; and
- 2) in addition to the requirements as cited in point 1) the Bank of Perception shall:
 - a) obtain an approval for conducting the activity of management of trust;
 - b) obtain a letter of approval as bank of custodian from the authority of financial services (OJK); and/ or
 - c) become the administrator of the account of fund for the client.

b. for Manager of Investment:

- 1) The manager of investment shall:
 - a) belong to State-owned Enterprise (SOE) or the affiliate of SOE;
 - b) manage the fund up to the 10 top ranks for the latest period of reporting, in addition to that of the Manager of Investment belonging to SOE or the affiliate of SOE;
 - c) manage the "reksa dana" (security fund) in form of contract of collective investment for limited participation of underlying project in the real sector with the management of fund of at least Rp200,000,000,000 (two hundred billion rupiah); or
 - d) manage the fund of investment in real estate in form of contract of collective investment.
- 2) in addition to the requirements as cited in point 1), Manager of Investment shall never be administratively sanctioned such as the restriction of business activity by the authority of financial services

(OJK) for the latest period of 1 (one) year prior to the effectiveness of this Ministerial Decree.

c. for Stock Broker:

- 1) The Stock Broker shall be registered as a member of Indonesian Stock Exchange (BEI);
 - 2) The Stock Broker shall never be administratively sanctioned such as the termination of business activity by the authority of financial services (OJK) and/ or the suspension by the Indonesian Stock Exchange (BEI) for the latest period of 1 (one) year prior to the effectiveness of this Ministerial Decree;
 - 3) The Stock Broker shall have given services to a retail client as the owner of the Client Fund Account prior to the effectiveness of this Ministerial Decree;
 - 4) The Stock Broker shall have enjoyed a business profit as revealed from the Financial Statement of the year 2015 issued by the holding entity;
 - 5) The Stock Broker shall have on average a net working capital as per adjustment for the year 2015 of minimal Rp75,000,000,000 (seventy five billion rupiah); and
 - 6) The Stock Broker shall have a positive equity for the past 3 (three) years prior to the effectiveness of this Ministerial Decree.
- (2) The assignment of Bank, Manager of Investment, and Stock Broker as Gateways shall be determined by Minister with the issuance of letter of assignment for each.

Article 9

(1) Any gateway shall have responsibilities as follows:

- a. to provide a special account and/ or a special sub-account for Taxpayer who invests fund in the territory of the Unitary State of the Republic of Indonesia (NKRI) in light of tax amnesty;
- b. to report the special account and/ or the special sub-account as cited in letter a to Directorate General of Taxation;
- c. to make sure the fund of repatriation from outside the territory of NKRI be invested within the territory of NKRI;
- d. to make sure about the placement of fund by Taxpayer in the instrument of investment as cited in Article 6 paragraph (2);
- e. to make sure the instrument of investment as cited in Article 6 paragraph (2) and the underlying assets be issued and/ or traded within the territory of NKRI;
- f. to make sure the fund proceeded from the issuance of the instrument of investment as cited in Article 6 paragraph (2) letters a, b, c, d, e, f and/ or j be spent within the territory of NKRI in regard that the taxpayer shall be obliged to invest in a primary market;
- g. to prepare and sign with signature the documents of agreements of investment with Taxpayer that include:
 - 1) Agreement on Requirement of Opening Account of Bank;
 - 2) Agreement on Requirement of Opening Account for the sake of investment in the portfolio of investment under a contract of collective investment or a contract of fund management, for Manager of Investment; or

- 3) Agreement on Requirement of Opening Stock Account of Client for Stock Broker; and
 - h. to report the position (status) of investment of Taxpayer to Directorate General of Taxation on a periodic basis and at anytime of possible transfer of assets of Taxpayer between Gateways.
- (2) Document of agreement on investment as cited in paragraph (1) letter g shall at least include as follows:
 - a. the investment shall be in market stock that is traded within the territory of NKRI;
 - b. the fund proceeded from the issuance of stock shall be spent only in the territory of NKRI; and
 - c. the Taxpayer shall give an approval to a Gateway to prepare a report on a periodic basis as cited in paragraph (1) letter h and submitted to Directorate General of Taxation.
 - (3) In order to succeed the implementation of the program of Tax Amnesty, any Gateway shall socialize the instrument of investment in light of the Tax Amnesty.

Article 10

- (1) A gateway shall submit a report on the position (status) of the realization of the repatriation and investment by Taxpayer on a monthly basis and/or at any time of possible transfer of assets by Taxpayer from one Gateway to another.
- (2) The report as cited in paragraph (1) shall be prepared by a Gateway for a period of 3 (three) years as of the repatriation of fund by Taxpayer to a Special Account of Bank of Perception as cited in Article 3 paragraph (4).
- (3) Any of the reports submitted by Gateway can be used by Directorate General of Taxation for the sake of monitoring the implementation of investment by Taxpayer for a period of investment as cited in paragraph (2).

Article 11

- (1) Directorate General of Taxation shall be allowed to ask a Gateway for clarification in case the Gateway fails to fulfill the requirements as cited in Article 9 and Article 10 paragraphs (1) and (2).
- (2) Based on the result of clarification as cited in paragraph (1) the Directorate General of Taxation shall be allowed to propose to Minister the imposition of sanction against Bank, Manager of Investment, and/or Stock Broker as a Gateway.
- (3) The sanction as cited in paragraph (2) shall be in form of a letter of warning or a revoke of the assignment as a Gateway.
- (4) The revoke of the assignment as a Gateway by Minister as cited in paragraph (3) shall be announced to the public and submitted to the authorities concerned.

Article 12

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

That everybody shall be made aware of, and the enactment of this Law shall be published in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta
Dated July 18, 2016
MINISTER OF FINANCE
THE REPUBLIC OF INDONESIA,

Signed

BAMBANG P.S. BRODJONEGORO

Stipulated in Jakarta
Dated July 18, 2016
DIRECTOR GENERAL OF LAWS AND REGULATIONS
MINISTRY OF LAWS AND HUMAN RIGHTS
THE REPUBLIC OF INDONESIA,

Signed.

WIDODO EKATJAHJANA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2016 NUMBER 1046

Copy as of the original version
Bureau Head of General Affairs
Att.
Section Head of Administration of Ministry

Signed.

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