

Effect of HPP Law on Income Tax and Efforts for Efficient Tax Burden

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Abstract: *Taxes are the largest source of state revenue to support the plan to build the state sustainably. Taxes are one of the tools used by the government in achieving the goal of obtaining payments both directly and indirectly from the community; for this reason, it is necessary to have awareness from the public of their tax obligations because the taxes collected are used for the benefit of and finance routine expenses as well as social and economic development of the community. That there is a difference in interest regarding taxes between the government and taxpayers because paying taxes means reducing the financial ability of taxpayers. Indonesia implements a Self Assessment Tax System, where each taxpayer is given the trust to register himself, calculate his tax debt, and report the results of his tax calculation. The issue of taxation in Indonesia has grown with the times. If we look at and study carefully, the old tax provisions are still not to the Indonesian people's socioeconomic life level. The old taxation system has not been able to move all layers of tax subjects who have a role as a source of domestic energy that is indispensable for realizing the continuity and improvement of national development. Because the scope of the field of taxation is getting wider, it is necessary to renew (reform) the tax regulation itself. One of the renewals of tax regulations is the creation of Law No 7/2021 concerning Harmonization of Tax Regulations (HPP Law)."*

Keywords: COGS Law, Income Tax, Efficiency, Tax Burden

1. Introduction

1.1 Background

Taxes are one of the largest sources of state income expected to support state spending and national development. Strong funding sources must back a country that wants to carry out its effect successfully. The government levies taxes based on the law to taxpayers, which is an obligation that every people must fulfill as a form of participation in the development of their country. The public sector requires enormous funds to finance growth, largely from taxes.

Taxes can be seen from two different sides; from the taxpayer side, it is a burden that will reduce net profit, while from the government side, taxes are one of the important sources of revenue that will be used to finance state expenditures; both routine expenses and development expenditures. This difference in interests makes the wrong perception that the tax apparatus or so-called fiscus will try to impose the greatest tax in tax collection. Meanwhile, taxpayers will try to pay the smallest amount of tax. There is undeniable an effort from taxpayers to pay a minimum of taxes whose purpose is to optimize company profits and minimize the tax burden. Optimizing company profits and minimizing the tax burden can be done in various ways, ranging from those still in the path of tax regulations (legal) to those who violate tax regulations (illegal). Because taxes are an element of profit reduction, for this reason, tax planning is needed, namely ways to save tax payments that do not conflict with tax regulations (Nora Dewi, 2013).

Tax Planning is the first step in efficiently carrying out the tax burden; at this stage, the collection and research of tax regulations are carried out with the aim that tax saving efforts. Tax planning itself is a structuring action related to its potential tax consequences. The goal is how such control

can streamline the amount of tax to be paid. In general, tax planning refers to the process of engineering the business and transactions of taxpayers so that the tax debt is minimal but still within the frame of tax regulations. However, tax planning can be interpreted as planning to fulfill tax obligations in a complete, correct, and timely manner to optimally avoid wasting resources. An appropriate tax planning will result in a minimal tax burden that results from tax savings or tax avoidance, not due to tax smuggling that is not based on tax laws and regulations. In tax planning preparation, you must have a deep understanding of tax regulations and always follow developments and changes.

With the development of the taxation system in Indonesia, the Harmonized Tax Regulations Law (UU HPP) became part of the structural reform process to encourage a fair, healthy tax system, effective and accountable. The tax system will strengthen the state budget function regarding revenue, especially in long-term development. Law No 7 / 2021 concerning Harmonization of Tax Regulations (HPP Law) includes General Provisions and Procedures for Taxation, Income Tax (PPh), Value Added Tax (VAT), Taxpayer Voluntary Disclosure Program, Carbon Tax, to Excise. The main objective of the Income Tax (PPh) reform in the HPP Law is to form a more equitable and legally compliant income tax system so that it can expand the tax base and improve taxpayer compliance. The Effort is carried out while maintaining partiality towards the interests of the wider community and the dynamics of the economy in the future. The HPP Law implements a commitment of partiality to the lower-middle class. In the field of income tax, policy improvements include incentives for MSME taxpayers (WP), improvements in the progress of individual income tax (OP) rates, and administrative improvements, one of which is the use of the National Identity Number (NIK) as the Taxpayer Identification Number (NPWP) for WP OP while for corporate income tax UU HPP also reset the Corporate Income Tax rate to 22%.

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1.2 Problem Formulation

How do taxpayers respond to changes in tax rules with the existence of the HPP Law and still maintain the efficiency of the tax burden?

1.3 Research Objectives

This study aims to determine the impact of changes in tax regulations so that taxpayers can still maintain the efficiency of the tax burden borne by remaining based on the applicable taxation law.

2. Theoretical Foundations

2.1 Definition of Income Tax

Income Tax is a tax imposed on an individual or entity concerning the income he or she receives or earns during a tax year. In history, taxes had existed since ancient times, when the gift was voluntary from the people to the king. In the beginning, taxes were a tribute (present), but they were an obligation that was imposed that must be carried out by the people (society) to a king or ruler. At that time, the people paid tribute to the king or ruler in the form of nature in the form of rice, livestock, or other crops such as bananas, coconuts, and others. Gifts made by the people at a time were used for the purposes or interests of the king or the local ruler, and no reward or achievement was returned to the people because it was only for unilateral claims and as if there was psychological pressure due to the king's higher position of social status than the people.

The legal basis of income tax is Law (UU) No 7/1983 concerning Income Tax. This law has undergone four changes, namely:

- Law No 7/1991 concerning Amendments to Law No.7/1983 concerning Income Tax
- Law No 10/1994 concerning the Second Amendment to Law No.7/1983 concerning Income Tax
- Law No 17/2000 concerning the Third Amendment to Law No.7/1983 on Income Tax
- Law No 36/2008 concerning the Fourth Amendment to Law No.7/1983 concerning Income Tax.

In addition, the latest regulation on income tax is also, in the Job Creation Law No. 11 of 2020 and through the HPP Law No 7/2021 concerning Harmonization of Tax Regulations.

Harmonization of Tax Regulations (HPP Law)

Law No 7/2021 concerning Harmonization of Tax Regulations (HPP Law) includes changes to:

- 1) General Provisions and Procedures for Taxation
- 2) Income Tax (PPh)
- 3) Value Added Tax (VAT)
- 4) Taxpayer Voluntary Disclosure Program
- 5) Carbon Tax
- 6) Tax.

Law No 7/2021 concerning Harmonization of Tax Regulations has 5 (five) main objectives, namely:

- 1) Promoting sustainable economic growth and supporting the acceleration of economic recovery;

- 2) Optimizing state revenues to finance national development independently towards a just, prosperous, and prosperous Indonesian society;
- 3) Realizing a tax system that is more equitable and legally certain;
- 4) Implement administrative reforms, consolidative tax policies, and expansion of the tax base;
- 5) Improving voluntary tax payer compliance.

2.2 Income Tax in the Law on the Harmonization of Tax Regulations

With the enactment of Law No 7/2021 concerning harmonization of tax regulations which came into force in the 2022 tax year, there are changes in the Income Tax cluster. Adjustments are needed to be related to tax planning to carry out tax burdens efficiently. The changes in the income tax cluster are as follows:

1) Taxes on Natura/Fringe Benefit

Reorganization of Fringe Benefit, in this article, the grant in the form of nature can be financed by the employer and is income for the employee (Article 4, Article 6, and Article 9 of the HPP Law). A particular nature does not constitute income for the recipient:

- Provision of food/drink for all employees
- Natura in certain areas
- Natura because of the necessity of work, for example: work safety equipment or
- uniforms.
- Natura, which is sourced from the APBN / APBD.
- Natura with certain types and limitations.

2) Certain Gross Circulation that is not subject to income tax

WP OP, who has a certain gross circulation, is not subject to Income Tax (PPh) on **the share of gross circulation up to IDR 500,000,000.00** (five hundred million rupiahs) in **1 (one) Tax Year** (Article 7 paragraph 2a).

3) Depreciation and Amortization

There is a reorganization of depreciation and amortization in the Harmonized Taxation Act (Article 11 and Article 11A). Depreciation or amortization of buildings and intangible assets with a useful life of more than 20 years can be carried out according to the useful life based on the taxpayer's books. To give taxpayers the flexibility to depreciate or amortize buildings and intangible assets over 20 years old.

4) OP Income Tax Bracket Rates

The changes in rates and the OP Income Tax bracket aim to improve fairness and prioritize the Government's partiality towards middle/lower-income people. Where in this article, the lower limit for income subject to tax which initially amounted to IDR 50,000,000.00 (fifty million rupiahs), increased to IDR 60,000,000.00 (sixty million rupiahs), and the upper limit on the tariff, which was previously only a maximum of 30% was increased to 35% with income above IDR 5 billion. The changes to the OP Income Tax bracket are as follows:

Rates	Income Tax Law		Harmonized Tax Regulations Law	
	Income	Rate	Income	Rate
I	0-50 million	5%	0-60 million	5%
II	Up 50 Million- 250 million	15%	Up 60 Million- 250 million	15%
III	Up 250 million- 500 million	25%	Up 250 million- 500 million	25%
IV	Up 500 million	30%	Up 500 million- 5 billion	30%
V			Up 5 billion	35%

5) Corporate Income Tax Rates

The corporate income tax rate remained at 22%, valid for the 2022 tax year and beyond. This is done in line with the global taxation trend, which has begun to strive to increase the contribution of corporate tax revenues, but while maintaining the investment climate in Indonesia. The changes in the Corporate Income Tax rate are as follows:

Income Tax Law (Law 2/ 2020)		Harmonized Tax Regulations Law	
Tax Year	Rate	Tax Year	Rate
2020 and 2021	22%		
2022	20%	2022dst	22%

6) Provisions governing the prevention of tax avoidance

There are efforts to prevent tax avoidance by applying methods by international best practices regulated in the Amendment to Article 18 paragraph (1) of the Income Tax Law. Anticipatory effort to prevent tax avoidance through excessive charges of loan costs which are currently regulated only by limiting the comparison of debt to capital, so that efforts to prevent tax avoidance can remain fair and balanced with efforts to encourage investment and recovery of the national economy.

7) Increasing the authority of the Government regarding the Tax Treaty Law

The addition of the authority of the Government of Indonesia to participate in multilateral agreements is regulated in the Amendment to Article 32 A of the Income Tax Law. Therefore, it is necessary to strengthen the authority of the Government of Indonesia to form and implement agreements with the Partner States or Partner Jurisdictions both bilaterally and multilaterally.

8) Tax Plan

One of the efforts in carrying out tax efficiency legal is tax planning. Tax Planning is the first step in tax management to meet tax obligations properly, but the amount of tax can be reduced as low as possible to obtain the expected profit and liquidity. At this stage, the collection and research on tax regulations are carried out so that the types of savings measures that will be carried out can be selected. In general, the emphasis of tax planning is to minimize tax liability, Sandy (2016:7).

Tax planning is organizing the business of individual taxpayers and business entities in such a way by taking advantage of various possible loopholes that companies can pursue in the corridors of regulatory tax provisions (*loopholes*) so that companies can pay taxes in the minimum amount. The purpose of tax planning is to reduce the tax burden as low as possible by utilizing existing regulations to maximize after-tax return income because tax is an element of reducing available profits, both to be distributed to shareholders and reinvested Sandy (2016: 7).

3. Analysis Methods

The data sources used in this study are secondary data as the main data source (literature data) and primary data as a source of supporting data obtained through interviews with several tax consultants. The presentation of data is carried out qualitatively in the form of descriptive descriptions; then, qualitative normative data analysis is carried out.

4. Discussion

Tax Planning is the first step in creating efficiency of the tax burden borne as a fulfillment of fixed tax obligations based on tax laws so that the amount of tax paid can be reduced to a minimum to obtain the expected profit and liquidity. The next step is the implementation of tax obligations (*tax implementation*) and tax control (*tax control*). At this tax planning stage, collection and research on tax regulations are carried out. The goal is to be able to choose the type of tax-saving measures to be carried out. In general, The emphasis of tax planning is to minimize tax liability.

Tax Planning can be interpreted as an effort made by taxpayers to save taxes by regulating the calculation of smaller incomes made possible by tax legislation. So, Tax Planning is a taxpayer's effort to achieve efficiency in paying tax burdens by minimizing the payment of tax burdens by not violating the provisions that have been set in tax regulations or tax law.

Stages in Making Tax Planning

In carrying out tax planning, of course, it cannot be done carelessly but must go through detailed stages so that the tax planning carried out can be successful as expected.

The stages in making tax planning, according to Erly Saundy (2006: 14), are as follows:

a) Analyze existing information (database).

The first stage of the process of making tax planning is to analyze the different components of the taxes involved in a project and calculate as accurately as possible the tax burden that must be. It can be by considering each tax element, individually and in total taxes, that must be formulated as the most efficient tax planning. It is also important to calculate the likelihood, income from a project and other expenses outside of taxes that may occur.

b) Creating one or more models of plans is most likely tax.

The international treaty model may involve one or more of the actions, including:

- It chooses the form of transaction to be carried out by the company or international relations.
- Choose a foreign country as a place to make investments

or become a resident of that country.

- Push one or more additional countries.

c) Evaluating the implementation of tax planning.

Tax planning is a plan that is a small part of the entire strategic planning of the company; therefore, it is necessary to evaluate to see the extent of the results of the implementation of a tax plan against the tax burden that the company must pay.

d) Look for weaknesses, then refine the tax plan.

Whether a plan's results are good must be evaluated through various programs. Thus, the best decision on a tax plan must follow the transaction's form with the operation's purpose. Comparison of multiple methods should be as much as possible according to the desired state of tax planning. Sometimes a plan has to be changed because of changes in legislation or regulations. Change actions must still be carried out even if additional costs are required, or the possibility of success is very small. The creation of a plan should be accompanied by an overview or estimate of the chances of success and how much profit after tax will be obtained if successful or lost in case of failure.

e) Updating the tax plan.

Although a tax plan has been implemented and the project has also been running, it is also still necessary to take into account any changes that occur both from the law and its implementation in the country where the activity is carried out. By paying attention to future developments and the current situation, and a manager will be able to reduce the adverse consequences of change and at the same time be able to take the opportunity to obtain potential benefits.

Effect HPP Law in Tax Planning

The enactment of Law No 7/2021, Law No 36/2008 has changed, one of which is natural and enjoyment where in the previous article 4 paragraph (3) of Law Number 36 of 2008 that nature and joy in connection with the work received or obtained were excluded in the calculation of taxable income from the side of the recipient. In addition, natural and enjoyment are also mentioned in article 9 paragraph (1) letter e of Law Number 36 of 2008 that reimbursement or compensation in connection with work or services provided in the form of nature and enjoyment is an expense that cannot be charged as a fee. The article shows that there are concepts of taxable- deductible and non-taxable- non-deductible in the calculation of income tax. If the income received or earned is an object of taxation, then the party providing the income can reduce it as a cost and vice versa. In this context, nature and enjoyment are not taxed objects on the part of the beneficiary, which cannot be deducted as a cost from the giver's side.

With the existence of the Harmonized Tax Regulations Act, it changes the provisions of nature and enjoyment that were previously excluded from the calculation of income tax to objects that are taken into account in the analysis of income tax from the side of the recipient. A regulated in article 4 paragraph (1) letter an of Chapter III of the Harmonized Tax Regulations Law on Income Tax. This change causes nature and enjoyment to object that can be taken into account as costs to obtain, collect, and maintain income from the

giver's side, which is provided for in article 6, paragraph (1) letter n. With these two articles, the provisions of nature and enjoyment in article 9 paragraph (1) letter e in the previous regulation are abolished. The concepts of taxable- and non-taxable- non-deductible, relating to the nature and enjoyment applicable to the last rule, no longer apply.

Before any changes in the Harmonized Tax Regulations Act, non-cash grants of reimbursements or rewards were still in effect. This systematics provides a loophole for taxpayers to carry out tax planning to reduce the tax burden. The loopholes contained in this law make the state suffer losses if used excessively. The reason is based on data from the Director General of Taxes of the Ministry of Finance; from 2015 to 2019, at least 9,496 corporate taxpayers were detected to be doing aggressive tax planning. Aggressive tax planning is tax planning that is aggressively arranged so that it can erode state revenue from taxes (Arief, 2021). Then based on data in a report entitled The State of Tax Justice 2020: Tax Justice in the time of Covid-19 by the Tax Justice Network, it was stated that the losses caused by tax avoidance by corporations in Indonesia reached the US \$ 4.78 billion or equivalent to Rp. 67.6 trillion, while the losses resulting from tax avoidance by individual taxpayers were the US \$ 78.83 million or around Rp. 1.1 trillion (Tax Justice Network, 2020).

The provision of natural enjoyment, an object excluded from the income tax calculation in Law No.36/2008 concerning Income Tax, is an advantage for both the giver and the recipient of nature and this enjoyment itself. In line with the statements of Nurdiansyah, Ruchjana, and Alfarisi (2020). They argue that if character and joy are not taxed, it can be an advantage in the framework of tax planning strategies through tax saving and tax avoidance. The practice of tax saving is an effort by taxpayers to save taxes by streamlining tax dependents so that the taxes owed are low. Can be done by providing reimbursement or remuneration in connection with work or services as additional income to its employees by transferring the form of payment that was originally in the form of nature and enjoyment into benefits in the form of cash. Through this, the concept of taxable – deductible applies so that the tax burden borne from the side of the reimbursement or compensation in connection with work or services becomes low. Puspita (2019) assessed that the provision of employee benefits in the form of money or benefits could be an option for taxpayers to avoid the imposition of a high tax burden because requirements in the state of gifts or cash can be reduced as a cost from the employer's side as long as the allowance is taken into account as income tax for employees or recipients.

5. Conclusion

The existence of the Tax Regulation Harmonization Law will influence tax planning. Good and correct tax planning must remain based on tax laws and can provide efficient tax burdens for taxpayers. With the changes in the Harmonized Tax Regulations Law on nature and enjoyment as objects of income tax, tax planning by utilizing nature and joy cannot be carried out optimally. However, it does not rule out the possibility for taxpayers, especially corporate taxpayers, to

carry out tax planning by utilizing other instruments that can still be used as objects of income deduction. The effectiveness of tax planning for natural expenses can increase employee welfare and motivation in the company.

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