

REGULATION OF THE MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA
NUMBER 169/PMK.010/2015
ON
DETERMINATION OF CORPORATE TAXPAYER'S DEBT TO EQUITY RATIO
FOR INCOME TAX CALCULATION PURPOSES
BY THE BLESSINGS OF ALMIGHTY GOD

MINISTER OF FINANCE OF THE REPUBLIC OF INDONESIA,

Considering : that pursuant to the provision of Article 18 section (1) of Law Number 7 of 1983 on Income Tax as amended several times and last by Law Number 36 of 2008, it is necessary to issue a Regulation of the Minister of Finance on Determination of Corporate Taxpayer's Debt to Equity Ratio for Income Tax Calculation Purposes;

Observing : 1. Law Number 6 of 1983 on General Provisions and Tax Procedures (State Gazette of the Republic of Indonesia of 1983 Number 49, Supplement to the State Gazette of the Republic of Indonesia Number 3262) as amended several times and last by Law Number 16 of 2009 (State Gazette of the Republic of Indonesia of 2009 Number 62, Supplement to the State Gazette of the Republic of Indonesia Number 4999);

2. Law Number 7 of 1983 on Income Tax (State Gazette of the Republic of Indonesia of 1983 Number 50, Supplement to the State Gazette of the Republic of Indonesia Number 3263) as amended several times and last by Law Number 36 of 2008 (State Gazette of the Republic of Indonesia of 2008 Number 133, Supplement to the State Gazette of the Republic of Indonesia Number 4893);

HAS DECIDED:

To issue : REGULATION OF THE MINISTER OF FINANCE ON DETERMINATION OF CORPORATE TAXPAYER'S DEBT TO EQUITY RATIO FOR INCOME TAX CALCULATION PURPOSES.

Article 1

- (1) For Income Tax calculation purposes a debt to equity ratio is determined for corporate Taxpayers that are established or domiciled in Indonesia whose capital consist of shares.
- (2) The amount of debt as referred to in section (1) is the average balance of debt in a fiscal year or in a part of a fiscal year, which is calculated based on:
 - a. the average balance of debt at the end of each month in its respective fiscal year; or
 - b. the average balance of debt at the end of each month in its respective part of the fiscal year.
- (3) The average balance of debt as referred to in section (2) is comprised of long-term debt balance and short-term debt balance, including any interest bearing trade payable balance.
- (4) The amount of equity as referred to in section (1) is the average balance of equity in a fiscal year or in a part of a fiscal year, which is calculated based on:
 - a. the average balance of equity at the end of each month in its respective fiscal year; or
 - b. the average balance of equity at the end of each month in its respective part of the fiscal year.

- (5) The average balance of equity as referred to in section (4) is comprised of equity balance in accordance with prevailing financial accounting standard and non-interest bearing debt derived from related parties.

Article 2

- (1) The maximum debt to equity ratio as referred to in Article 1 section (1) is four to one (4:1).
- (2) Exempted from the debt to equity ratio provision as referred to in section (1) are the following Taxpayers:
 - a. banks;
 - b. financing institutions;
 - c. insurance and reinsurance institutions;
 - d. whose business is in oil and gas mining, general mining, and other form of mining under a profit sharing contract, contract of work, or mining cooperation agreement, and the relevant contract or agreement contains a provision which regulates a debt to equity ratio; and
 - e. whose entire income is subject to a final income tax based on its respective legislation; and
 - f. whose business is in the infrastructure sector.
- (3) Banks as referred to in section (2) point a are banks in accordance with legislation on banking and Bank Indonesia.
- (4) Financing institutions as referred to in section (2) point b are business entities which perform financing activities in form of provision of fund or capital goods in accordance with legislation regarding financing institutions.
- (5) Insurance and reinsurance institutions as referred to in section (2) point c are insurance companies, sharia insurance companies, reinsurance companies, and sharia reinsurance companies which perform insurance and reinsurance activities in accordance with legislation regarding insurance.

Article 3

- (1) In the event that the Taxpayer's debt to equity ratio exceeds the maximum debt to equity ratio as referred in Article 2 section (1) the amount of borrowing cost that is allowed to be deductible in calculating taxable income is calculated in accordance with the maximum debt to equity ratio as referred in Article 2 section (1).
- (2) Borrowing cost as referred to in section (1) is the cost incurred by taxpayer in relation with financing activities, which comprises of:
 - a. interest expenses;
 - b. discounts and premiums related with a debt;
 - c. additional costs related with arrangement of borrowings;
 - d. financial costs in relation with financial leases;
 - e. guarantee fees in relation with a debt; and
 - f. foreign exchange differences resulting from currency translation, only if such differences are due to adjustments made in relation with interest expenses and costs as referred to in point b, point c, point d, and point e.
- (3) The amount of borrowing cost that is allowed to be deductible in calculating taxable income pursuant with the debt to equity ratio as referred to in Article 2 section (1) is also required to be in accordance with provisions in Article 6 and Article 9 of Law Number 7 of 1983 on Income Tax as amended several times and last by Law Number 36 of 2008.
- (4) In the event that the Taxpayer's debt is derived from related parties, in addition to obligations as referred to in section (1) and section (3), any relevant borrowing cost incurred from such related party debt must also be in accordance with the arm's length principle as referred to in Article 18 section (3) of Law Number 7 of 1983 on Income Tax as amended several times and last by Law Number 36 of 2008.

- (5) In the event that the Taxpayer's equity balance is zero or less than zero then all of the borrowing costs cannot be allowed as deductibles in calculating taxable income.
- (6) Example of the debt to equity ratio calculation and borrowing cost that is allowed to be deductible in calculating taxable income is attached in the Annex as an integral part of this Ministerial Regulation.

Article 4

- (1) For Taxpayers whose business is in oil and gas mining, general mining, and other form of mining:
 - a. under a profit sharing contract, contract of work, or mining cooperation agreement, and the relevant contract or agreement; and
 - b. the contract or agreement as referred to in point a regulates or attaches a debt to equity ratio provision; the debt to equity ratio provision thereof prevails until the respective contract or agreement is terminated.
- (2) In the event that the Taxpayers whose business is in oil and gas mining, general mining, and other form of mining:
 - a. under a profit sharing contract, contract of work, or mining cooperation agreement; and
 - b. the contract or agreement as referred to in point a does not regulate or attach a debt to equity ratio provision;then the debt to equity ratio provision as referred to in Article 2 section (1) prevails.

Article 5

- (1) Taxpayer who derives private foreign debt is obligated to submit a private foreign debt report to the Director General of Taxes.
- (2) In the event that the Taxpayer fails to submit the report as referred to in section (1), then all borrowing

costs incurred with respect to the private foreign debt cannot be deductible for calculating the taxable income.

- (3) Reporting procedures in relation with the private foreign debt report as referred to in section (1) are regulated by a Regulation of Director General of Taxes.

Article 6

At the time this Ministerial Regulation comes into force:

1. The Decision of the Minister of Finance Number 1002/KMK.04/1984 on Determination of Debt to Equity Ratio for Income Tax Purposes; and
2. The Decision of the Minister of Finance Number 254/KMK.01/1985 on Postponement of Implementation of the Decision of the Minister of Finance Number 1002/KMK.04//1984 on Determination of a Debt to Equity Ratio for Income Tax Purposes;

are repealed and declared ineffective.

Article 7

Provisions regarding the debt to equity ratio for income Tax Calculation purposes as regulated in this Ministerial Regulation come into effect as of Fiscal Year 2016.

Article 8

Further regulations regarding implementation of the debt to equity ratio for income tax calculation purposes are regulated by a Regulation of the Director General of Taxes.

Article 9

This Ministerial Regulation comes into force on the date of its promulgation.

In order that every person may know hereof, it is ordered to promulgate this Ministerial Regulation by its placement in the State Bulletin of the Republic of Indonesia.

Issued in Jakarta
on 9 September 2015

MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA,

Signed

BAMBANG P.S. BRODJONEGORO

Promulgated in Jakarta
on 9 September 2015

MINISTER OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA,

Signed

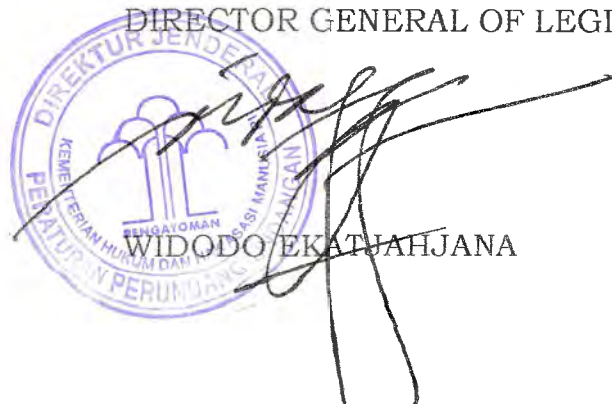
YASONNA H. LAOLY

STATE BULLETIN OF THE REPUBLIC OF INDONESIA OF 2015 NUMBER 1351

Jakarta, 1 August 2019

Has been translated as an Official Translation
on behalf of Minister of Law and Human Rights
of the Republic of Indonesia

DIRECTOR GENERAL OF LEGISLATION,


WIDODO EKATJAHJANA

ANNEX OF
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NUMBER 169/PMK.010/2015
ON
DETERMINATION OF CORPORATE
TAXPAYER'S DEBT TO EQUITY RATIO
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EXAMPLE OF THE DEBT TO EQUITY RATIO CALCULATION AND
BORROWING COST THAT IS ALLOWED TO BE DEDUCTIBLE
IN CALCULATING TAXABLE INCOME

Example 1:

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

1. Liabilities (in million Rupiah)

Liabilities	As of 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 bearing debt from XXX Ltd. (related party)	50,000	50,000
c. Short term debt: Debt payable to PT ABC (related party)	725,000	800,000
d. Long term debt: Debt payable to PT JKL Debt payable to WWW Co., Ltd.	660,000 1,970,000	900,000 2,500,000

In order that every person may know hereof, it is ordered to promulgate this Ministerial Regulation by its placement in the State Bulletin of the Republic of Indonesia.

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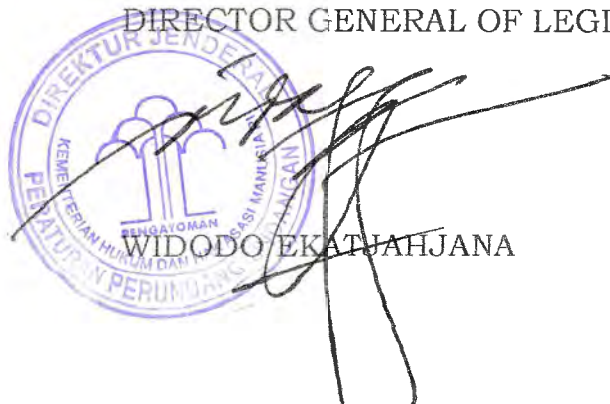
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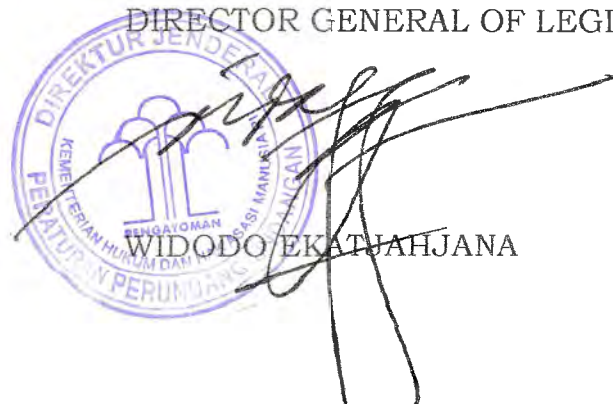
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DIRECTOR GENERAL OF LEGISLATION,


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2. Equities (in million Rupiah)

Equities	As of 31 December	
	Year 2016	Year 2015
a. Share Capital	150,000	150,000
b. Additional Paid in Capital	110,000	110,000
c. Retained Earnings	475,000	425,000

3. Gross revenue is Rp20,000,000,000,000.00.

4. Borrowing cost (interest and other related cost) as much as

Rp228,000,000,000.00 consists of:

- a. borrowing cost to PT ABC amounting to Rp96,000,000,000.00;
- b. borrowing cost to PT JKL amounting to Rp20,660,000,000.00;
- c. borrowing cost to WWW Co. Ltd amounting to Rp100,575,000,000.00; and
- d. borrowing cost for interest bearing trade payable amounting to Rp10,765,000,000.00.

Debt to Equity Ratio (DER) calculation based on the provisions of this Ministerial Regulation is as follows:

Calculation of the average balance of debt

The average balance of debt calculated based on the average balance of debt at the end of each month in fiscal year 2016 as follows:

Month	Balance at The End of The Month (in Million Rupiah)				
	Debt payable to PT ABC	Debt payable to PT JKL	Debt payable to WWW Co Ltd	Interest Bearing Trade Payable	Amount
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	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 amount of the average balance of debt of PT XXX for the year 2016
=Rp4,562,500,000,000.00

Calculation of the average balance of equity:

The average balance of equity calculated based on the average balance of equity at the end of each month in fiscal year 2016 as follows:

Month	Balance at The End of The Month (in Million Rupiah)				
	Share Capital	Additional Paid in Capital	Retained Earnings	Non- interest bearing Debt from XXX Ltd.	Amount
January	150,000	110,000	425,000	50,000	735,000
February	150,000	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 amount of the average balance of equity PT XXX for the year 2016 =
Rp760,000,000,000.00

Debt to Equity Ratio = Rp4,562,500,000,000.00 : Rp760,000,000,000.00

= 6 : 1

The calculation of borrowing cost that is allowed to be deductible in calculating taxable income in accordance with the provisions of this Ministerial Regulation is as follows:

Maximum debt to equity ratio = 4 : 1

Borrowing cost that is allowed to be deductible in calculating taxable income =
 $4/6 \times$ borrowing cost from each debt, Rp152,000,000,000.00; with the calculation as follows:

(in Million Rupiah)

Type of Debt	Average Balance of Debt	Borrowing Cost	Deductible Borrowing Cost
Debt payable to PT ABC	742,500	96,000	64,000
Debt payable to PT JKL	780,000	20,660	13,773
Debt payable to WWW Co. Ltd.	2,235,000	100,575	67,050
Trade Payable (Interest Bearing)	805,000	10,765	7,177
Total	4,562,500	228,000	152,000

Debt to PT ABC is a related party debt, therefore borrowing cost in relation to the debt made to PT. ABC at amount Rp64,000,000,000.00 that is allowed to be deductible in calculating taxable income in accordance with the provisions of this Ministerial Regulation must also be in accordance with the arm's length principle as referred to in Article 18 section (3) of Law Number 7 of 1983 on Income Tax as amended several times and last by Law Number 36 of 2008.

Example 2:

Based on the information in example 1, if PT XXX's gross revenue for 2016 includes Rp5,000,000,000.00 of land and building rental income, which has been taxed under Final Income Tax and its borrowing cost cannot be reliably segregated, the borrowing cost that is allowed to be deducted in determining taxable income is calculated proportionately. The borrowing cost that is allowed to be deducted in determining taxable income is:

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

Example 3:

Based on the information in Example 1, debt to PT ABC is used for acquiring 60% ownership of PT ZZZ and dividend related to the ownership is non-taxable. Borrowing cost (interest and other related cost) that is paid to PT ABC is Rp96,000,000,000.00.

In accordance with the Income Tax Law, borrowing cost (interest and other related cost) that is used for acquiring the ownership of PT ZZZ cannot be deducted in determining taxable income. Therefore, debt to PT ABC must be excluded from DER calculation.

Re-calculation of the average balance of debt, excluding debt to PT ABC:

Average balance of long term debt to PT JKL	=	Rp 780,000,000,000
Average balance of long term debt to WWW Co. Ltd.	=	Rp2,235,000,000,000
Average balance of interest bearing trade payable	=	Rp 805,000,000,000
Sum of PT XXX's average balance of debt in 2016	=	Rp3,820,000,000,000
Sum of PT XXX's average balance of equity in 2016	=	Rp 760,000,000,000

Debt to Equity Ratio:

Rp3,820,000,000,000.00 : Rp760,000,000,000.00 = 5 : 1

Maximum debt to equity ratio = 4 : 1

Sum of interest and other related cost, excluding borrowing cost related to debt to PT ABC:

Rp228,000,000,000.00- Rp96,000,000,000.00 = Rp132,000,000,000.00

Deductible interest and other related cost to determine taxable income = 4/5 x interest and other related cost of each debt = Rp105,600,000,000.00; which is based on calculation below:

(in Million Rupiah)

Types of debt	Average balance of debt	Interest and other related Cost	Deductible interest and other related cost
Debt to PT JKL	780,000	20,660	16,528
Debt to WWW Co. Ltd.	2,235,000	100,575	80,460
Interest bearing trade payable	805,000	10,765	8,612
Total	3,820,000	132,000	105,600

MINISTER OF FINANCE
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