Course: Advanced Taxation

Lecture 9: Corporate Income Tax (1) – general

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WELCOME!

Corporate Income Tax (1) - general

- Every business entity that earns income is obliged to pay taxes, both monthly and annually, to the government. According to Law Number 28 of 2007 on General Provisions and Tax Procedures, a body is a group of people or capital that constitutes a unity, whether engaged in business or not, including limited liability companies, partnerships, other companies, state-owned enterprises, or regional-owned enterprises under any name and form, firms, associations, cooperatives, pension funds, partnerships, associations, foundations, mass organizations, socio-political organizations, other organizations, institutions, and other forms of entities, including collective investment contracts and permanent establishments. Corporate income tax is imposed on the taxable income received by corporate taxpayers after fiscal corrections.

- According to the Law on General Provisions and Tax Procedures and the Income Tax Law, a body is defined as a group of people and/or capital that constitutes a unity, whether engaged in business or not.

- A body includes limited liability companies, partnerships, other companies, state-owned enterprises, or regional-owned enterprises under any name and form, firms, associations, cooperatives, pension funds, partnerships, associations, foundations, mass organizations, socio-political organizations, other organizations, institutions, and other forms of entities, including collective investment contracts and permanent establishments.
- State-owned enterprises and regional-owned enterprises are tax subjects regardless of their name and form, so every specific unit of government bodies, such as institutions, bodies, and so on, owned by the Central Government and Regional Government that conducts business or activities to earn income is a tax subject. The term association includes associations, unions, gatherings, or ties of parties with similar interests.

- According to the Income Tax Law, corporate tax subjects are classified into two types: domestic corporate tax subjects and foreign corporate tax subjects.

1. A domestic corporate tax subject is a body established or domiciled in Indonesia.

2. A foreign corporate tax subject is a body not established and not domiciled in Indonesia, which conducts business or activities through a permanent establishment in Indonesia; and a body not established and not domiciled in Indonesia, which can receive or earn income from Indonesia not from conducting business or activities through a permanent establishment in Indonesia. A permanent establishment is treated similarly to a domestic corporate tax subject.

- A permanent establishment is a form of business used by an individual who does not reside in Indonesia, an individual who is in Indonesia for no more than 183 (one hundred eighty-three) days within a 12 (twelve) month period, and a body not established and not domiciled in Indonesia to conduct business or activities in Indonesia.

- In connection with the enactment of Law Number 11 of 2020 on Job Creation, the definition of a limited liability company has been expanded. A PT (limited liability company) can now be established by one person, known as a PT, Perorangan or Individual Company.

- Not all bodies are included in the category of corporate tax subjects. According to Article 2, paragraph (3) of the Income Tax Law, certain government units are excluded from being corporate tax subjects if they meet four criteria. First, their formation is based on statutory regulations. Second, their financing comes from the State Budget or Regional Budget. Third, their revenues are included in the Central or Regional Government budget. Fourth, their bookkeeping is audited by state functional supervisory apparatus.

- Additionally, referring to Article 3 of the Income Tax Law, foreign diplomatic and consular offices and international organizations that meet certain conditions are not included as corporate tax subjects. The conditions are:

1. Indonesia is a member of the organization; and

2. They do not conduct business or other activities to earn income from Indonesia other than providing loans to the government from funds sourced from member contributions.

- Terminologically, equalization derives from the word equal, which can be interpreted as the process of making things equal. Simply put, tax equalization can be defined as the process of checking the conformity between one type of tax and another related tax. Tax equalization is commonly conducted between income/expenses on the corporate income tax return and VAT, and expenses with withholding tax objects.

- Typically, tax equalization is performed by tax auditors. Tax auditors use tax equalization as a method of tax examination to test the compliance of the relevant taxpayer. The process of tax equalization is conducted to align the income from tax objects recorded in financial statements with the expenses or income from tax objects reported in the annual tax return submitted to the Tax Office.

- On the other hand, taxpayers can also perform tax equalization in line with fiscal reconciliation in the annual corporate tax return. With equalization, taxpayers can identify discrepancies between data in the annual corporate tax return and monthly tax returns. The discrepancies can be reasonable or due to taxpayer errors. Reasonable discrepancies can arise from exchange rate differences or timing differences in recording. Discrepancies can also arise if taxpayers have not correctly applied tax withholding/collection or made recording errors. For example, there may be service expenses in the corporate income tax return that are subject to withholding tax under Article 23, but the payment has not been withheld, causing a discrepancy with the unified monthly withholding tax return.

- Tax equalization is intended to help taxpayers prepare for any notices or audits by the tax office. Moreover, taxpayers can avoid tax corrections during a tax audit. From the taxpayer's perspective, tax equalization can be seen as a preventive measure against tax audits. Additionally, tax equalization can indicate to the taxpayer that the obligation to submit the annual tax return has been correctly fulfilled.

- Tax payable is calculated from taxable income. Taxable income is determined by calculating income minus expenses according to applicable tax regulations. In the process, taxpayers need to perform fiscal reconciliation to determine the income and expenses used in determining taxable income.

- Fiscal reconciliation can be defined as the process of matching differences in commercial financial statements prepared based on accounting financial systems with financial statements prepared according to tax regulations.

- Fiscal reconciliation is conducted because commercial financial statements prepared based on accounting standards may not align with applicable tax regulations. For example, commercially, dividends received by a corporate taxpayer are considered income. However, under tax regulations, such dividends are exempt from taxation. This results in differences in income used as the basis for tax calculation. Therefore, fiscal reconciliation is necessary to ensure that tax payable is calculated correctly according to regulations.

The differences between commercial financial statements and fiscal financial statements can be categorized into permanent differences and timing differences.

a. Permanent Differences

Permanent differences arise because of income or expenses recognized according to accounting standards but not acknowledged or allowed to be deducted under tax regulations. Causes of permanent differences include:

1. Income subject to final income tax;

2. Income not subject to tax according to Article 4, paragraph (3) of the Income Tax Law; and

3. Expenses that cannot be deducted according to Article 9, paragraph (1) of the Income Tax Law.

These differences will not disappear over time. As long as tax regulations do not recognize them as objects or allow expense deductions, these differences will persist.

b. Timing Differences

Timing differences arise due to temporary differences in the recognition of income or expenses. At some point, these differences will disappear. Factors causing timing differences include:

1. Different useful lives in depreciation or amortization. For instance, an asset in group I is depreciated over 4 years according to tax regulations but over 5 years commercially.
2. Differences in inventory valuation methods.
3. Differences in income recognition based on cash basis and accrual basis.

Fiscal corrections can be divided into two groups: positive fiscal corrections and negative fiscal corrections.

a. Positive Fiscal Corrections

Positive fiscal corrections are adjustments that increase fiscal profit or reduce fiscal loss, making fiscal profit higher than commercial profit or fiscal loss smaller than commercial loss. Expenses or income subject to positive corrections include:

1. Expenses for shareholders
2. Formation of reserve funds
3. Benefits in kind
4. Income tax
5. Administrative sanctions
6. Differences in commercial depreciation/amortization above fiscal depreciation/amortization
7. Expenses whose recognition is deferred

b. Negative Fiscal Corrections

Negative fiscal corrections are adjustments that reduce fiscal profit or increase fiscal loss, making fiscal profit lower than commercial profit or fiscal loss larger than commercial loss. Items subject to negative corrections include:

1. Income subject to final income tax

2. Income not subject to tax

3.Differences in commercial depreciation/amortization below fiscal depreciation/amortization

4. Income whose recognition is deferred

- According to Article 4 of the Income Tax Law, taxable income includes any increase in economic capacity received or obtained by the taxpayer, whether originating from within or outside Indonesia, that can be used for consumption or to increase the wealth of the taxpayer, in any name and in any form.

- In the Income Tax Law, income is divided into three categories:

1. Income that is a non-final income tax object (Article 4, paragraph 1 of the Income Tax Law)
2. Income that is a final income tax object (Article 4, paragraph 2 of the Income Tax Law)
3. Income that is not a taxable income object (Article 4, paragraph 3 of the Income Tax Law)

- Non-final taxable income includes income other than those listed in Article 4, paragraphs 2 and 3 of the Income Tax Law.
- According to changes in the Tax Harmonization Law (UU HPP), the definition of income subject to tax has been expanded to include benefits in kind and enjoyment. Government Regulation No. 55 of 2022 explains that benefits in kind are compensation in the form of goods other than money. Benefits in kind are transferred from the provider to the recipient as compensation related to work or services.
- Enjoyment is defined as compensation in the form of rights to use facilities and/or services. The facilities and/or services provided by the provider to the recipient may come from the provider's assets or third-party assets that are rented and/or financed by the provider.

- Non-final taxable income will be fully aggregated. The income will then be reduced by allowable expenses to calculate the taxable income, which forms the basis for calculating corporate income tax (PPh Badan).
- Non-final taxable income may be subject to tax withholding/collection. To avoid double taxation, the withheld/collected tax can be credited. Tax credits will reduce the amount of payable corporate income tax.

- In Indonesian tax regulations, there are several types of income subject to final tax withholding/collection (Final Income Tax). The term 'final' implies that the tax withholding/collection is complete, so it is not recalculated with other tax withholdings.
- In corporate income tax reporting, final income is separated from other non-final taxable income, and the final income tax paid cannot be used as a tax credit.
- Types of income subject to final tax are regulated in Article 4, paragraph 2 of the Income Tax Law. However, certain income tax objects, such as Income Tax Article 22 and Income Tax Article 15, also include final withholding/collection.

- In the Annual Corporate Income Tax Return (SPT Tahunan PPh Badan), income subject to final income tax is reported on Form 1771 – IV.
- Corporate taxpayers using a final income tax rate of 0.5% according to Government Regulation 55/2023 report their income in the column for other income subject to final income tax.
- Treatment of final income tax in the calculation of the Annual Corporate Income Tax Return includes:

1. The income cannot be combined with other income subject to general rates in the Annual Corporate Income Tax Return.
2. Expenses related to generating, collecting, and maintaining income subject to final income tax cannot be deducted.
3. Final income tax withholding evidence cannot be credited as a tax credit for the party being withheld and/or collected.

- If a corporate taxpayer conducts business activities that generate both final and non-final taxable income, the taxpayer must maintain separate accounting records.
- Separate bookkeeping involves systematically recording each transaction, income, and expenses separately between business activities subject to the general income tax rate as referred to in Article 17 of the Income Tax Law and business activities subject to final income tax.

Referring to Article 4, paragraph 3 of the Income Tax Law, the following types of income are not taxable for corporate taxpayers:

1. Aid/donations received by certain organizations.
2. Assets as equity participation.
3. Domestic dividends.
4. Foreign dividends/other foreign income that meets certain conditions.
5. Contributions received by pension funds.
6. Income received by venture capital companies.
7. Surplus received by foundations/social/religious institutions.
8. Hajj Operation Fees.

- Aid or donations, including zakat, infaq, and alms received by zakat agencies, amil zakat institutions, and religious institutions established or recognized by the government, are not taxable.
- Gifted assets received by religious institutions, educational institutions, social institutions including foundations, cooperatives, as long as there is no connection to business, employment, ownership, or control between the parties involved.

- The next type of non-taxable income is assets, including cash contributions received by organizations as replacements for shares or equity participation. This mechanism is known as inbreng.
- Prior to the Job Creation Law, domestic dividends received by corporate taxpayers were exempt from tax if the share ownership was at least 25%. After the Job Creation Law, domestic dividends received by corporate taxpayers are exempt from tax without any conditions.
- If a corporate taxpayer receives dividends from abroad, the dividends are exempt as long as they are invested in Indonesia (exchange-traded dividends) or invested at least 30% of after-tax profits or before the issuance of a Tax Collection Letter under Article 18, paragraph 2 of the Income Tax Law (non-exchange-traded dividends).

- Other foreign income in the form of post-tax income from a Permanent Establishment (PE) abroad is exempt if invested at least 30% of after-tax profits. If income is earned from abroad without a PE, it can be exempted provided that:

- It is invested in Indonesia within a certain period;

- The income is derived from active business activities abroad; and

- It is not income from companies owned abroad.

- These foreign dividends or income must be reported in the Annual Income Tax Return. Additionally, dividend investments must meet specified criteria and be reported annually. Here are the investment criteria for dividends to be exempt from tax.

- Referring to Law No. 11 of 1992 on Pension Funds, a pension fund is a legal entity that manages and implements programs that promise pension benefits. Pension funds are established by employers, the government, banks, or life insurance companies, and their establishment is generally approved by the Financial Services Authority (OJK).

- Pension funds have three functions, two of which are to register participants and collect contributions, and to develop or invest the funds they manage. According to Article 4, paragraph 3, letter g of the Income Tax Law, contributions received or obtained by pension funds approved by the OJK, whether paid by employers or employees, are not considered income.

- In performing the second function, the contributions are invested through savings, deposits, government bonds, bonds, stocks, mutual funds, property, subsidiaries, or other permitted investments under the Pension Funds Law. Income received by pension funds from these investments is also exempt from taxable income.

- Another type of non-taxable income is the income received or obtained by venture capital companies in the form of profit-sharing from business partners established and operating in Indonesia. The income is exempt from taxable income provided the business partner:

- Is a micro, small, or medium enterprise;

- Operates in sectors regulated by or based on Minister of Finance regulations; and

- Does not have shares traded on the Indonesian stock exchange.

- Surplus received by nonprofit organizations or institutions engaged in education and/or research and development is also not taxable. However, the income will be exempt if reinvested in educational and/or research and development facilities within four years from the date the surplus was received.

- The exemption also applies to surplus received by social and/or religious institutions registered with the relevant authorities. To be exempt, the surplus must be reinvested in social and religious facilities within four years from the date the surplus was received, or placed as an endowment. Here are the complete provisions on tax for surplus from foundations or social/religious institutions.

- In calculating corporate income tax, non-taxable income will be negatively adjusted. Although not taxable, the above income must still be reported in the Annual Corporate Income Tax Return.

- Referring to the explanatory memorandum of Article 2, paragraph 5 of the Income Tax Law, a permanent establishment (PE) is the presence of a place of business, which can be land and buildings, including machinery, equipment, warehouses, and computers or electronic agents or automated equipment owned, leased, or used by electronic transaction organizers to conduct business activities over the internet. PEs are classified as Foreign Tax Subjects (SPLN) but are treated like Domestic Corporate Taxpayers. However, there are different rules for determining taxable income for PEs.

- There are three types of income to determine taxable income for PEs: income from PE assets (attribution rule), income from the head office (force of attraction income), and head office income effectively connected to the PE's assets (effectively connected income).
- The attribution rule states that a PE is taxed on income derived from its business or activities and from assets owned or controlled by it. Thus, all such income is taxed in Indonesia.

- The force of attraction income rule states that income from the head office derived from business or activities, sales of goods, and provision of services similar to those conducted by the PE is considered PE income, as these activities fall within the scope of the PE's business and could be conducted by the PE.

- For example, a foreign bank with a Permanent Establishment (PE) in Indonesia provides loans directly to companies in Indonesia without going through the PE. In this case, the income related to the loan granted by the head office is recognized as PE income.

- Another example is a foreign company with a PE in Indonesia selling products similar to those sold by the PE directly to buyers in Indonesia without going through the PE. In this case, the sales made by the head office are recognized as PE sales in Indonesia.
- The principle of force of attraction is also applied in tax treaties. In the UN Tax Treaty Commentary, it is emphasized that the force of attraction principle is limited to business profits regulated in Article 7 of the Tax Treaty. This principle does not apply to income derived from capital, such as dividends, interest, and royalties.

- Effectively Connected Income (ECI) refers to income received by a foreign taxpayer's head office from Indonesia, as long as there is an effective connection between its PE and the assets or activities generating that income. For example, ABC Inc. enters into a licensing agreement with PT DEF to use ABC Inc.'s trademark. ABC Inc. receives royalties from PT DEF for using the trademark. ABC Inc. also provides management services to PT DEF through a PE in Indonesia for marketing PT DEF's products using that trademark. In this case, the use of the trademark by PT DEF has an effective connection with the PE in Indonesia, and therefore, ABC Inc.'s income in the form of royalties is treated as PE income.

- Expenditures to acquire tangible assets with a useful life of more than 1 year must be charged as expenses to obtain, collect, and maintain income by allocating these expenditures over the useful life of the asset through depreciation. There are differences in depreciation arrangements between tax and accounting, which can result in tax corrections. Corrections arising from the difference between tax and commercial depreciation are temporary.

- Permissible depreciation methods under the Income Tax Law Article 11 paragraph (1) are:

1. Straight-line method, which calculates depreciation in equal parts over the asset's specified useful life.

2. Declining-balance method, which calculates depreciation in decreasing amounts by applying a depreciation rate to the book value, and the book value at the end of the useful life must be depreciated at once. This method cannot be used to calculate depreciation on buildings.

- In fiscal depreciation, tangible assets are classified into non-building and building assets. Building assets include machinery, furniture, vehicles, communication tools and devices, and other equipment.
- Buildings are divided into two types: permanent and non-permanent. Non-permanent buildings are temporary structures made of non-durable materials or movable buildings, with a useful life not exceeding 10 years. For example, wooden barracks or dormitories for employees.
- Following the enactment of the HPP Law, taxpayers can choose to depreciate permanent buildings over 20 years or according to the asset's actual useful life. For example, if a taxpayer has a building with a useful life of 30 years, the taxpayer can depreciate the building over 20 years or over 30 years according to the actual useful life.

- Asset depreciation begins in the month of expenditure, except for assets still under construction, in which case depreciation begins in the month of completion of the asset.
- For tangible assets that have never been used or have not yet generated income, depreciation begins in the month the asset is used to obtain, collect, and maintain income, or in the month the asset begins to generate income.
- Repairs to tangible assets may involve repairs that extend the useful life and repairs that do not extend the useful life. According to Article 7 paragraph (3) of Regulation 72/2023, in cases where repairs do not extend the useful life, depreciation is based on the fiscal book value plus capitalized costs, according to the remaining fiscal useful life of the tangible asset.

- Regulation 72/2023 specifically regulates depreciation for assets used in certain business sectors. These sectors include forestry, hard crop plantations, and livestock farming. Biological assets are categorized into two types:

a. Those that start producing after being planted/cared for for more than 1 year; and

b. Those that start producing after being planted/cared for for less than or up to 1 year.

- Taxpayers are allowed to revalue or reassess fixed assets. The results of the revaluation may reflect the current ability or value of the company in accordance with market value. Revaluation of assets can result in an increase or decrease in asset value.

- According to Government Regulation Number 123 of 2015 concerning Amendments to Government Regulation Number 131 of 2000 concerning Income Tax on Deposit and Savings Interest and Discounting of Bank Indonesia Certificates (SBI), interest on deposits, savings, and SBI discounts received by both Corporate Taxpayers and Individual Taxpayers are final Income Tax (PPh). With the imposition of tax on final income, the expenses incurred to obtain that income cannot be deducted as expenses for tax purposes.

- Regarding expenses incurred to obtain income in the form of deposit interest, these expenses cannot be deducted as expenses for tax purposes because deposit interest is a Final Income Tax object. However, specific regulations are provided for interest expenses paid to third parties in cases where funds placed by the taxpayer in the form of time deposits or other savings originate from such loans, further regulated in Director General of Taxation Circular Letter Number SE-46 Year 1995 (SE-46/1995). This regulation clarifies deductible and non-deductible expenses.

- In practice, taxpayers often engage in various business activities, resulting in taxable income that may be final, non-final, or non-taxable. Taxpayers with such conditions need to separate the expenses incurred to obtain such income. Expense separation is also necessary when a company earns income that qualifies for tax incentives. In doing so, taxpayers may face difficulties categorizing expenses incurred to obtain final, non-final, or non-taxable income, including income eligible for tax incentives. This difficulty arises because these expenses are incurred to earn all types of income as mentioned above. Expenses incurred to earn all types of income, whether final, non-final, or non-taxable, including income eligible for incentives, are known as joint costs.
- Corporate Taxpayers operating under the aforementioned conditions are required to maintain separate accounting and allocate costs proportionally to calculate Taxable Income.

- Separate accounting involves regularly recording transactions, income, and expenses separately between business activities subject to Income Tax with the rates as referred to in Article 17 of the Income Tax Law, between business activities subject to final Income Tax and gross income received that is taxable and non-taxable, as well as income and expenses from businesses not eligible for tax incentives and those eligible for tax incentives.

- One of the expenses arising from business activities is taxes. From an accounting perspective, taxes paid are categorized as expenses, thus reducing the company's profits. However, in the context of calculating taxable income, not all tax expenses can be charged. According to Article 6, paragraph 1, letter a, number 9 of the Income Tax Law (PPh), all types of taxes can be considered as expenses except for income tax. Types of income tax such as PPh 22 and 23 cannot be expensed. However, these taxes can later be used as tax credits to reduce the amount of Corporate Income Tax (PPh Badan) payable. Unlike PPh 21, the expenses for PPh 21 in the form of fixed allowances can be expensed, as PPh 21 fundamentally constitutes tax owed on employees' income. PPh 21 borne by the company can also now be expensed in accordance with the HPP Law.
- Another type of tax that can be expensed is local taxes.

- Additionally, in calculating taxable income, Value Added Tax (VAT) can be deducted. The VAT referred to is related to Input Tax paid by Taxpayers. Input Tax that cannot be credited as stipulated in Article 9, paragraph (8) of the VAT Law can be deducted from gross income as long as it can be proven that the Input Tax has indeed been paid and relates to expenses incurred in activities to generate, collect, and maintain income.
- On the other hand, it is clarified that if the deductible Input Tax from gross income is related to expenses to acquire tangible and/or intangible assets as well as other expenses with a useful life of more than one year.

- With the increase in cross-border transactions, companies now not only transact in the local currency but also in foreign currencies such as US dollars, Euros, British pounds, and others. Engaging in transactions with foreign currencies can expand a company's market reach. However, on the flip side, the fluctuating exchange rates also impact companies. One possible impact is companies experiencing losses due to exchange rate differences.

- Exchange rate differences, according to accounting, are the differences resulting from converting a certain amount of one currency into another currency at different exchange rates. Essentially, losses due to exchange rate differences can be deducted from gross income according to Article 6, paragraph (1), letter e of the Income Tax Law (PPh).

- In enhancing business competition and maintaining customer relationships, one strategy that companies can adopt is providing payment flexibility. One example is allowing payment to be made after the goods are delivered to the customer's hands or services are rendered to the service recipient. Payment flexibility, of course, can entail business risks. In certain situations, the collection process may encounter obstacles. One policy adopted by companies is extending the payment deadline. If maximum collection efforts do not result in payment, the outstanding bills can become uncollectible debts that will be reflected in the company's profit and loss statement.

- Commercially, there are two methods of charging off uncollectible debts that companies can employ: write-off and allowance methods. Under the write-off method, the company can directly charge off the uncollectible debts by crediting the accounts receivable. If charging off is done through the allowance method, the company can establish a reserve account for debts estimated to be uncollectible.
- Uncollectible debts are those that:

o Arise from normal business transactions in line with its field of business,

o Are truly uncollectible despite maximum or final collection efforts by the Taxpayer, and

o Exclude debts originating from business transactions with parties having special relationships with the Taxpayer.

- Taxpayers can charge off uncollectible debt expenses when calculating Taxable Income under the following conditions:

1. It has been charged off as an expense in the commercial profit and loss statement.

2. Taxpayers must submit a list of uncollectible debts to the Directorate General of Taxes, both in hard copy (attached to the Annual Tax Return) and soft copy.

3. The uncollectible debt: (choose one)

a. Has been submitted to the court or government agency handling state debts collection;

b. There is a written agreement regarding the elimination of debts between the creditor and the respective debtor;

c. Has been published in general or specific publications (could be internal publications of associations or the like); or

d. There is acknowledgment from the debtor that their debt has been canceled for a certain amount.

- According to PMK 207/2015, the third requirement for charging off uncollectible debts does not apply to uncollectible debts owed by small debtors or other small debtors. Small debtors are those whose debt does not exceed IDR 100,000,000, which is the accumulation of debt amounts from several credits granted by a domestic banking institution/financing institution.
- It should also be noted that in charging off truly uncollectible debts, if the debts are paid in full or in part by the debtor, the amount received constitutes income for the creditor in the tax year in which the payment is received.

- In business practice, promotional activities are commonly carried out to increase awareness and sales. Although commercially, promotional costs are part of operational expenses, there are considerations regarding charging promotional expenses in tax regulations.
- In Article 1 of the Minister of Finance Regulation No. 2 of 2010 (PMK 2/2010), it is stated that promotional expenses are part of sales expenses incurred by taxpayers to introduce and/or advocate the use of a product, directly or indirectly, to maintain and/or increase sales.
- Included in promotional expenses are: advertising costs in electronic media, print media, and/or other media, product exhibition costs; costs of introducing new products; and sponsorship costs related to product promotion.

- In Article 3 of PMK 2/2010, expenses that are not considered promotional expenses that can be charged off fiscally include:

1. Providing rewards in the form of money and/or facilities, in any name and form, to unrelated parties directly involved in organizing promotional activities; and

2. Promotional expenses for generating, collecting, and maintaining income that are not taxable and have been subjected to final taxes.

- Another condition that must be met for promotional expenses to be charged off fiscally in calculating taxable income is:

1. Promotional expenses are used to maintain and/or increase sales;

2. Promotional expenses are incurred reasonably and according to good merchant customs. Taxpayers are also required to create a nominal list related to promotional expense expenditures.

- Every company surely has its own regulations regarding providing various benefits to its employees, one of which is through the provision of fringe benefits. Fringe benefits are rewards received or obtained by employees, workers, or their families not in the form of money from the employer. The following are the tax provisions on the cost of fringe benefits after the enactment of the HPP Law.
- According to the Income Tax Law provisions, fringe benefit costs may be expensed or considered as deductible expenses in calculating Corporate Income Tax (PPh Badan).

- It should be understood that although fringe benefits are taxable objects, their costs cannot automatically be fiscally charged or deductible. To be charged as an expense, these fringe benefits must have a direct or indirect relationship with business activities or activities to generate, collect, and maintain income, which are taxable objects.
- From these provisions, fringe benefits related to business activities and previous expenses are not fiscally corrected when calculating Corporate Income Tax.
- If fringe benefits are not related to business activities or are related to expenses for income that is not a taxable object, they cannot be charged as expenses. Therefore, fringe benefit costs unrelated to business activities must undergo fiscal correction.
- To charge fringe benefit costs, Taxpayers need to classify fringe benefits according to their useful life. Expenditures for fringe benefits with a useful life of more than 1 year are charged through depreciation/amortization. Expenditures for fringe benefits with a useful life ≤1 year are charged in the year of expenditure.

- Based on Article 18 paragraph 1 of the Income Tax Law, the Minister of Finance is authorized to issue a decision on the ratio between company debt and capital that can be justified for tax calculation purposes. In the business world, there is a reasonable level of debt to equity ratio. If the ratio of debt to equity is significantly high exceeding reasonable limits, the company is generally considered to be in an unhealthy condition.

- The maximum DER is set at four to one (4:1). This provision applies starting from the Tax Year 2016 for corporate taxpayers established or domiciled in Indonesia whose capital is divided into shares.

- Generally, almost every company has assets used for business development and support activities. From an accounting perspective, it is recognized that assets will always experience gradual depreciation according to their economic life. Assets with an economic life that experience gradual depreciation are referred to as depreciation for Fixed Assets such as computers or operational vehicles and amortization for Intangible Assets such as Patents, Marketing Rights, and computer software.
- Amortization is the allocation of the cost of acquiring intangible assets and other expenditures, including the cost of extending building rights, business rights, use rights, and goodwill, which have a useful life of more than one year used to generate, collect, and maintain income.

- Fiscally, the amortization expense incurred by companies to generate, collect, and maintain income can be deducted from gross income as long as it meets the provisions in Article 11A of the Income Tax Law and uses the amortization method faithfully and consistently.
- Amortization of intangible assets begins in the month of expenditure unless for certain businesses. Certain businesses can amortize intangible assets in the month of commercial production. The month of commercial production refers to the month when sales begin. The following are the provisions for depreciation and amortization for certain business sectors.

- The obligation to calculate, pay, and report the tax due is the implementation of the self-assessment system adopted in Indonesia. This also applies to Corporate Taxpayers. Corporate income tax is imposed on taxable income after fiscal corrections. Tax due is calculated by multiplying the income tax rate by the amount of taxable income. To encourage the development of small and medium enterprises, especially concerning Corporate Income Tax, the rate structure has been simplified. By emphasizing fairness and increasing competitiveness, the government provides facilities in the form of rate reductions.

- Based on Article 17 paragraph (1) subparagraph b of Law No. 36 of 2008 concerning Income Tax, the tax rate imposed on corporations is 25%. This rate applies until the tax year 2019. Subsequently, based on Government Regulation in Lieu of Law of the Republic of Indonesia Number 1 of 2020 (Perpu No. 1 of 2020), the government lowered the general Corporate Income Tax rate to 22% for the years 2020 and 2021, then to 20% in 2022. However, based on Law No. 7 of 2021 concerning Tax Regulation Harmonization, the general Corporate Income Tax rate for 2022 and onwards is 22%.

- The latest rate changes for Public Companies are regulated in Government Regulation Number 30 of 2020 concerning Reduction of Income Tax Rates for Domestic Corporate Taxpayers in the Form of Public Companies, it is necessary to stipulate the Minister of Finance Regulation regarding the Form and Procedures for Submitting Reports and Lists of Taxpayers in order to Fulfill the Requirements for Reduction of Income Tax Rates for Domestic Corporate Taxpayers in the Form of Public Companies.

- Since the enactment of Government Regulation Number 23 of 2018, Micro, Small, and Medium Enterprises (UMKM) taxpayers have been subject to a final Income Tax rate of 0.5% (zero point five percent). Unlike previous regulations (Government Regulation Number 46 of 2013), the imposition of the MSME Tax rate is now an option for MSME taxpayers and not a requirement.

- The term "not a requirement" does not mean that no tax is levied at all, but rather tax is still levied but at a different rate (other than the rate of 0.5%). This refers to Article 2 paragraph (2) subparagraph a of Ministerial Regulation Number 99/PMK.03/2018, which states that MSME taxpayers who choose to be subject to Income Tax based on the General Income Tax Provisions are not subject to the 0.5% rate.

- The consequence for MSME taxpayers who choose to be subject to Income Tax based on the General Income Tax Provisions is the obligation to submit written notification to the Director General of Taxes no later than the end of the Tax Year, and these MSME taxpayers will be subject to Income Tax based on the General Income Tax Provisions starting from the next Tax Year.

- For MSME taxpayers registered from July 1, 2018, to December 31, 2018, MSME taxpayers can be subject to Income Tax based on the General Income Tax Provisions starting from the registered Tax Year by submitting notification no later than December 31, 2018, or by the end of the registered Tax Year. Then, for MSME taxpayers registered from January 1, 2019, they can be subject to Income Tax based on the General Income Tax Provisions starting from the registered Tax Year by submitting notification when registering.

- Domestic corporate taxpayers with gross circulation of up to IDR 50 billion receive a 50% rate reduction from the rate referred to in Article 17 paragraph (1) subparagraph b and paragraph (2a) imposed on taxable income from gross circulation up to IDR 4.8 billion.
- A public company is a public entity or a company that offers shares publicly, in accordance with the provisions of the laws and regulations in the capital market sector. Taxpayers of Public Companies are domestic corporate taxpayers in the form of Public Companies.
- The government regulates the reduction of Income Tax rates for Domestic Corporate Taxpayers in the form of Public Companies through Law Number 7 of 2021. This regulation states that Domestic Corporate Taxpayers in the form of Public Companies will receive a 3% (three percent) reduction facility from the Domestic Corporate Taxpayer rate and the final Income Tax rate at 22%, so that the Domestic Corporate Taxpayer rate in the form of Public Companies becomes 19%.

- The income from business received or obtained by domestic taxpayers with certain gross turnover is subject to final Income Tax for a certain period. This final Income Tax rate is imposed at 0.5% of the gross turnover each month. The latest provisions can be seen in Government Regulation Number 55 of 2022.

- Corporate Income Tax (CIT) becomes an annual obligation for Corporate Taxpayers and Permanent Establishments (PE). To determine the CIT owed, Corporate Taxpayers or PEs must determine the taxable income, which is obtained from income and reduced by allowable expenses according to tax regulations. After determining the tax owed, the amount of tax owed can be reduced by tax credits. Tax credits are taxes that have been previously withheld or collected by others or self-assessed by taxpayers.

- Referring to Article 28 of the Income Tax Law, Corporate Taxpayers or PEs can credit the following taxes when calculating taxable income.
- Article 22 Income Tax is imposed on transactions in certain industries, such as cement and paper. Article 22 Income Tax is also collected in relation to import activities. Taxpayers transacting with government treasurers are also subject to a 1.5% Article 22 Income Tax.
- There are two mechanisms for collecting Article 22 Income Tax, namely final and non-final. Transactions that are final include the sale of fuel by Pertamina or other than Pertamina to agents/distributors, and the sale of natural gas. Taxpayers can only credit non-final Article 22 Income Tax.

- Article 23 Income Tax withholding is done on service fees received by Corporate Taxpayers or PEs. The rate imposed is 2%. Article 23 Income Tax is also withheld in connection with the lease of assets other than land and buildings.
- Corporate Taxpayers or PEs receiving interest, royalties, or gifts and awards are also subject to a 15% Article 23 Income Tax withholding. All Article 23 Income Tax withholdings are done on a non-final basis, and therefore can be credited. Article 23 Income Tax can be credited in the same tax year as the year the Article 23 Income Tax withholding certificate is issued.
- Article 26 paragraph (5) regulates the types of Article 26 Income Tax that are not subject to final withholding.

- To avoid double taxation, Taxpayers are given the right to credit taxes that have been withheld abroad. Article 24 paragraph 1 of the Income Tax Law states that taxes paid or due abroad on foreign income received or obtained by domestic taxpayers can be credited against taxes due in the same tax year.
- Taxpayers can credit taxes that have been withheld and collected by other parties to reduce their tax due at the end of the year, both domestic tax credits and foreign tax credits.
- Before determining whether Foreign Income Tax can be credited, taxpayers need to identify the amount of foreign income to calculate the tax due on all domestic and foreign income.

- For business income, business income including income from branches or representatives of domestic companies abroad is equal to net income. For income from trusts abroad, income from trusts abroad is equal to net income or the portion of net income received or obtained by domestic companies. For other income, other income is equal to net income. It can be credited in the Tax Year the income is received.
- Note that losses from branches or representatives abroad and other losses incurred abroad cannot be taken into account in determining taxable income.

- In tax regulations, companies that incur fiscal losses can offset these losses. Through fiscal loss offsetting, losses incurred by taxpayers in a particular tax year will be offset or deducted from profits in subsequent years.
- Fiscal loss offsetting can result in lower income tax (CIT) in the coming years or even no tax due at all. Fiscal loss offsetting can be carried out by corporate taxpayers or individual taxpayers who use accounting and whose income is not final. Fiscal loss offsetting cannot be done for fiscal losses arising from income subject to final withholding tax, income calculated using the norm calculation, or income that is not taxable.

- Compensation for fiscal losses starts from the next successive tax year up to 5 years. If it is later found, based on tax assessments, that the amount of fiscal loss differs from the loss according to the Annual Income Tax Return (SPT) or the results of the examination show no loss, the fiscal loss compensation must be corrected immediately in accordance with the provisions and procedures for correcting the SPT as regulated in the General Tax Provisions and Procedures Law.

- One of the Corporate Income Tax (CIT) facilities is a tax holiday. Tax holidays are granted as an effort to attract investment in certain industries or regions. In tax regulations, there is no specific definition of a tax holiday. However, in the Central Government Financial Report for 2022, the government mentions two types of CIT facilities categorized as tax holidays. In addition, CIT facilities provided to investors in the national capital are also referred to as tax holiday facilities.

- The Notification Letter, hereinafter referred to as SPT, is a letter used by Taxpayers to report tax calculations and/or payments, taxable and/or non-taxable objects, and/or assets and liabilities in accordance with the provisions of tax regulations. One form of SPT is the Annual Corporate Income Tax (CIT) Return, which must be submitted by Corporate Taxpayers.

- The Annual CIT Return must be reported no later than 4 months after the end of the Tax Year. Where the tax year follows the accounting period carried out. For Taxpayers with a fiscal year from January to December, the reporting deadline is April 30.
- Note that if it falls on a Saturday, Sunday, or holiday, there is no extension of the deadline for submitting the Annual CIT Return. The extension of the reporting deadline to the next working day because the deadline falls on a Saturday-Sunday or holiday only applies to the Monthly Tax Return, not to the Annual CIT Return.

- If the Corporate Income Tax Annual Return is not reported by Corporate Taxpayers within the specified period, an administrative sanction will be imposed in the form of a fine of Rp1,000,000.
- Taxpayers can extend the deadline for submitting the Annual Return for up to 2 months from the deadline for submitting the Annual Return by submitting a notification of extension of the Annual Return.

THANK YOU

LECTURE 9: Corporate Income Tax (1) - general
LECTURER: DIMAZ RAMANANDA