

ELUCIDATION
OF
LAW NUMBER 9 OF 2017
ON
ENACTMENT OF GOVERNMENT REGULATION IN LIEU OF LAW NUMBER 1
OF 2017 ON ACCESS TO FINANCIAL INFORMATION FOR TAX
PURPOSES TO BECOME LAW

I. GENERAL

In order to implement the national development of the Unitary State of the Republic of Indonesia which has the objective to advance the welfare and prosperity of all Indonesian people in an even and equitable manner, in accordance with the mandate of the Preamble of the 1945 Constitution of the Republic of Indonesia, funding sourced from State revenues especially originating from taxes is required, the collection of which is provided for by a law as materialization of the provisions of Article 23A of the 1945 Constitution of the Republic of Indonesia.

Tax collection endeavors for the national development purposes still encounter obstacles both originating from internal factors and from external factors. In overcoming obstacles from internal factors, at the moment, the Government has conducted and is conducting taxation reform at the Directorate General of Taxes with the purpose of among other things improving organization, work process, management of data and information from banks, as well as human resources. Meanwhile from external factors, in addition to the occurrence of global economic and trade downturn, many Taxpayers are still found avoiding taxes out of Indonesia. The existence of tax havens, and absence of any mechanism as well as rule which require the exchange of information among countries

and jurisdictions, make tax collection endeavors in Indonesia based on the self-assessment system increasingly difficult.

Meanwhile, supervision of Taxpayers in meeting their taxation obligations by self-assessment is essential to increase tax receipt. The supervision may be conducted optimally insofar as broad access for tax authorities to receive and obtain financial information for tax purposes is available in the establishment of a more enhanced and accurate taxation database. The provisions of legislation in the field of taxation, banking, sharia banking, and capital market, as well as other legislation which are currently applicable have limited the access of tax authorities to receive and obtain financial information, both in terms of procedures and requirements. The limited access condition is exploited by Taxpayers for not compliantly reporting their actual incomes and properties. It may hamper the realization of continuity of tax amnesty policy effectiveness and enhancement of taxation database, and Indonesia potentially becomes a destination country of illegal fund placement.

In addition, Indonesia has committed itself to an international agreement in the field of taxation with many countries/jurisdictions, which also provides for the exchange of information including Automatic Exchange of Financial Account Information in accordance with the agreed international standards. One of the requirements which must be met by Indonesia to implement the automatic exchange of financial information is the formulation of a domestic rule to provide for the authority of tax authorities to access financial information, obligation of financial service institutions, other financial service institutions, and/or other entities to automatically report financial information to tax authorities, following procedures for the identification of financial accounts for the purpose of the intended reporting, as well as application of sanctions for non-compliance with such obligations.

To address the aforementioned issue, the President has enacted Government Regulation in Lieu of Number 1 of 2017 on Access to Financial Information for Tax Purposes on 8 May, 2017, in order to provide legal certainty of the provision of broad access for tax authorities in receiving and obtaining financial information for tax purposes and meet the commitment of Indonesia to the international agreement related to automatic exchange of financial information.

Government Regulation in Lieu of Number 1 of 2017 on Access to Financial Information for Tax Purposes has obtained the approval of the House of Representatives for subsequent ratification to become the Law on the Enactment of Government Regulation in Lieu of Law Number 1 of 2017 on Access to Financial Information for Tax Purposes to Become Law based on the provisions of Article 22 section (2) of the 1945 Constitution of the Republic of Indonesia.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear.

Article 2

Sufficiently clear.

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA
NUMBER 6112