



MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA

COPY OF
REGULATION OF THE MINISTER OF FINANCE
NUMBER 137/PMK.03/2011
CONCERNING
THE IMPOSITION OF INCOME TAX ON SHARIAH FINANCING ACTIVITIES

BY THE GRACE OF GOD ALMIGHTY
THE MINISTER OF FINANCE,

- Considering : a. That under the provisions of Article 1 paragraph 2 of the Government Regulation Number 25 Year 2009 concerning Income Tax of Shariah-based Business Activity stated that Shariah-based Business is any type of business that runs the business activity based on sharia principles including among other shariah financing service, and other shariah-based business activities;
- b. That based on the consideration as referred to in letter a and in order to implement the provisions of Article 4 of Government Regulation Number 25 Year 2009 concerning Income Tax on Shariah-based Business Activity, it is necessary to stipulate Regulation of the Minister of Finance concerning the Imposition of Income Tax on Shariah Financing Activities;
- In View of : 1. Act No. 7 Year 1983 concerning Income Tax (State Gazette of the Republic of Indonesia Year 1983 Number 50, Supplement to State Gazette of the Republic of Indonesia Number 3263) as amended several times, the latest by Act Number 36 Year 2008 (State Gazette of the Republic of Indonesia Year 2008 Number 133, Supplement to State Gazette of the Republic of Indonesia Number 4893);
2. Government Regulation Number 25 Year 2009 concerning Income Tax on Shariah-based Business Activity (State Gazette of the Republic of Indonesia Year 20097 Number 48, Supplement to State Gazette of the Republic of Indonesia Number 4988);
3. Presidential Decree Number 56/P Year 2010;

DECIDES:

To stipulate : REGULATION OF THE MINISTER OF FINANCE CONCERNING IMPOSITION OF INCOME TAX ON SHARIAH FINANCING



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ACTIVITIES.

Article 1

in the Regulation of the Minister of Finance Number:

1. Income Tax Act shall mean Act Number 7 Year 1983 concerning Income Tax as amended several times, the latest by Act Number 36 Year 2008.
2. Shariah Company hereinafter referred to as Company is a non-Bank financial institution conducting financing activities based on Shariah principles.
3. The Shariah principles is principle of Islamic law in the activities of banking based on the fatwa issued by institutions authorized in determining fatwa in the field of Shariah.
4. Ijarah is the agreement of funds distribution for the transfer of rights (benefits) of goods within a certain period with the payment of rent (ujrah), between Company as lessor (mu'ajjir) with the lessee (musta'jir) without being followed by the transfer of ownership itself.
5. Ijarah Muntahiyah Bittamlik is the agreement of funds distribution for the transfer of rights (benefits) of goods within a certain period with the payment of rent (ujrah), between Company as lessor (mu'ajjir) with the lessee (musta'jir) along with transfer option of ownership of the leased goods to the lessee after the completion of lease.
6. Wakalah bil Ujrah is transfer of power by one party (al muwakkil) to another party (al wakil) in some cases that may be represented by benefit sharing (ujrah).
7. Murabahah is the agreement of financing for the procurement of goods by confirming the purchase price (price earning) to the buyer and the buyer paid in installments at higher price as profit.
8. Salam is the agreement of financing for the procurement of goods by means of initial booking and payment with certain condition as agreed by the parties.
9. Istishna' is the agreement of financing for the order of certain goods manufacturing by specific criteria and conditions agreed by the subscriber (buyer, mastahni') and seller (maker, shani') to be mutually agreed by the parties.
10. Mudharabah is the activity of funding carried out through cooperation agreement between Company and other parties act as funders (shahibul maal), in which the funder (shahibul



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maal) funding 100% (one hundred percent) of funding activities capital for the project that is not determined by the Company (Mudharabah Mutlaqah) or for the project determined by the Company (Mudharabah Muqayyadah), and the profit shared in accordance with the agreements set forth in the contract.

11. Mudharabah Mustarakah is the activity of funding carried out through cooperation agreement between Company and other parties act as funders (shahibul maal), in which the funder (shahibul maal) and the Company as funds manager (mudharib) included its capital in the cooperation of investment and the business profits shared in accordance with the agreements set forth in the contract.
12. Musyarakah is the activity of funding carried out through cooperation agreement between Company and other parties for specific business, in which each party contributes their funds provided that the benefits and risks will be jointly borne in accordance with the agreements set forth in the contract.

Article 2

- (1) Terms of financing efforts undertaken by the Company include:
 - a. Leasing, carried out under Ijarah or Ijarah Muntahiyah Bittamlik.
 - b. Factoring, carried out under agreement of Wakalah bil Ujah.
 - c. Consumer Financing, carried out under Murabahah, Salam, or Istishna'.
 - d. Credit Card Business carried out in accordance with Shariah Principles.
 - e. Other financing activities carried out in accordance with Shariah Principles.
- (2) Leasing activities carried out under the principle of Ijarah as referred to in paragraph (1) treated equally with the leasing activities without option right (operating lease).
- (3) Leasing activities carried out under the principle of Ijarah Muntahiyah Bittamlik as referred to in paragraph (1) treated equally with the leasing activities with option right (financial lease).

Article 3

Provisions on income, expenses and withhold or tax collection of the financing activities as referred to in Article 2 performed by the



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Company shall apply with the necessary modification of the provisions of the Income Tax Act.

Article 4

- (1) On income received or accrued by the Company from:
 - a. Leasing carried out under Ijarahah, subject to Income Tax in accordance with the provisions of imposition of Income Tax on leasing without option right (operating lease); and
 - b. Leasing carried out under Ijarah Muntahiyah Bittamlik subject to Income Tax on leasing with option right (financial lease)
- (2) On income received or accrued by the Company from:
 - a. Factoring activities carried out under agreement of Wakalah bil Ijrah in the form of profits or rewards; and
 - b. Consumer financing activities carried out under the agreement of Murahabah, Salam, Istishna' in form of margin of benefit or profit, subject to Income Tax in accordance with the provisions of imposition of Income Tax on interest.
- (3) On income received or accrued by the Company from the credit card business activities carried out in accordance with Shariah Principles in form of fee or remuneration by whatever name or form subject to Income Tax in accordance with the provisions as set forth in the Income Tax Act.
- (4) On income received or accrued by the Company from other financing activities carried out in accordance with Shariah Principles in form of fee or remuneration by whatever name or form subject to Income Tax in accordance with the provisions as set forth in the Income Tax Act.

Article 5

Imposition of tax on income received or accrued by funders (shohibul ml) from the funding activities in the Company with the agreement of Mudharabah, Mudharabah Musytarakah, or Musyarakah in form of profit and / or profit sharing, subject to Income Tax in accordance with the provisions of imposition of Income Tax on interest.

Article 6

The Company may charged fee as referred to in Article 3 in accordance with:

- a. Provisions stipulated in Article 6 and Article 9 of Income Tax



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- Act. Including the benefits and / or profit sharing paid or payable by the Company to the funder (shohibul maal); and
- b. The amount agreed in the agreement based on Shariah Principles.

Article 7

In the event of any transfer transaction of property or property lease that shall be carried out to meet the Shariah Principles underlying the financing activities by the Company apply the following provisions:

- a. Transaction of property transfer from the third party committed solely to meet the Principle of Shariah in order to finance the Company excluding within the meaning of property transfer as referred to in Income Tax Act.
- b. In the event of transfer of property as referred to in letter a then the transfer of property shall be deemed as direct property transfer from the third party to the Customer of the Company, subject to Income Tax in accordance with the provisions of the legislation in the field of taxation.

Article 8

This Regulation of the Minister of Finance shall come into force on the date of its promulgation.

For public cognizance, this Regulation of the Minister of Finance shall be promulgated by placing it in State Gazette of the Republic of Indonesia.

Stipulated in Jakarta
On August 19, 2011
MINISTER OF FINANCE
Signed,
AGUS D.W. MARTOWARDOJO

Promulgated in Jakarta
On August 19, 2011
MINISTER OF LAW AND HUMAN RIGHTS
Signed
PATRIALIS AKBAR

STATE GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2011 NUMBER 510

Issued for Certified True Copy



MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA

HEAD OF THE GENERAL AFFAIRS BUREAU

For

HEAD OF THE MINISTERIAL ADMINISTRATIVE DIVISION

GIARTO

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