

Analysis of tax law on income tax for construction services business

Victoria Pasari Putri

Fakultas Hukum, Universitas Hasanuddin Makassar, Makassar, Indonesia

Article Info

Article history:

Received : Okt 23, 2022

Revised : Nov 23, 2022

Accepted : Jan 15, 2023

Keywords:

Taxes;
Construction services;
Income tax.

ABSTRACT

This study aims to analyze the implementation of the provisions Article 4 paragraph (2) letter d of the Income Tax Law and Article 23 paragraph (1) letter c number 2 of the Income Tax Law regarding the withholding of income tax for construction services businesses and the application of deductions to Article 23 paragraph (1) letter c number 2 of the Income Tax Law regarding business income tax deductions construction service? This research was conducted at CV. Mandala Putra and Office Services, counseling, and tax consulting in North Toraja Regency. The method used in this study was field research where data collection was carried out by interviewing and taking into account the books and applicable laws and regulations. The data obtained were then analyzed qualitatively and presented descriptively. The results of this study indicate: 1). Implementation of the provisions of Article 4 paragraph (2) letter d and Article 23 paragraph (1) letter c number 2 of the Income Tax Law related to the withholding of income tax for construction services businesses, namely the existence of a qualification requirement intended in the form of a business entity certificate issued by a construction service development agency for tax imposition which are final due to certificates and non-certified business entities are subject to non-final tax 2). In applying the tax of Article 23 paragraph (1) letter c number 2 in the construction service business, it is carried out by the cutting party by first making a billing ID, then paying it through a Perception Bank that has been approved by the Ministry of Finance. The payment due date is the 10th, one month after the month the income tax is due. After that Reporting is done by the cutting party by filling out Periodic Income Tax Return Article 23, then you can report it through the online tax report feature or free e-filing on Online Tax. The reporting due date is the 20th, a month after the month the income tax is due.

This is an open access article under the [CC BY-NC](#) license.



Corresponding Author:

Victoria Market Princess
Fakultas Hukum, Universitas Hasanuddin Makassar
Jl. Perintis Kemerdekaan No.KM.10, Tamalanrea Indah, Kec. Tamalanrea, Kota Makassar, Sulawesi Selatan 90245
Email: victoriainmarket@gmail.com

1. INTRODUCTION

The Republic of Indonesia is a legal state based on Pancasila and the 1945 Constitution of the Republic of Indonesia (hereinafter abbreviated as the 1945 Constitution of the Republic of Indonesia), in its development it has resulted in rapid development in national life which needs to be continued with the support of the Government and all the potential of society. Prior to the amendment

of the Constitution NRI 1945 provisions regarding taxes are regulated in Article 23 paragraph (2) "All taxes for state needs must be based on law".

According to Judisseno, income tax is an official levy aimed at people who earn or for income received and earned in a tax year for the benefit of the State and society in the life of the nation and state as an obligation that must be carried out. The definition of income tax is a tax imposed on subject to tax on income received or accrued in a tax year. After the amendment to the 1945 Constitution of the Republic of Indonesia, the provisions regarding taxes underwent a very principal change as stipulated in Article 23A "Forcing taxes and levies for state purposes is regulated by law". In Law Number 16 of 2009 concerning Stipulation of Government Regulation in Lieu of Law Number 5 of 2008 concerning the Fourth Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures to Become Law (hereinafter referred to as KUP) it is stated that: Taxes are mandatory contributions to the state owed by individuals or entities that are coercive based on the law, by not getting compensation directly and used for the needs of the state for the greatest prosperity of the people. Taxes are a very important source of state revenue for administering government and implementing national development. The importance and strategic role of the tax sector in government administration can be seen in the State Revenue and Expenditure Budget (APBN), at least in the last few years, from 2009 to 2013, the contribution of tax revenue to the APBN was more than 70%. According to Judisseno,⁵ taxes are a form of community contribution. As one element of state revenue, the role of taxes is very large and increasingly relied on for development purposes and government spending

The Tax Law is essentially a tax law that must be implemented and obeyed as a consequence of the Indonesian legal state. As one element of state revenue, the role of taxes is very large and increasingly relied on for development purposes and government spending. One of the very potential tax revenues collected by the government directly is the income tax which has undergone several changes regulated in: Law Number 7 of 1983 concerning Income Tax; Law Number 10 of 1994 concerning Income Tax; Law Number 17 of 2000 concerning Income Tax; Law Number 36 of 2008 concerning the Fourth Amendment to Law Number 7 of 1983 concerning Income Tax.

From the tax sector revenue structure it is known that this type of income tax is a tax that is expected to be the largest source of income compared to other types of taxes. In connection with the income received from the construction service business, it includes income that is categorized as a tax object. Law of the Republic of Indonesia Number 36 of 2008 concerning Income Tax, Article 4 paragraph (1) states that: "What becomes a tax object is income, namely any additional economic capability received or obtained by taxpayers, both originating from Indonesia and from outside Indonesia, which can be used for consumption or to increase the wealth of the Taxpayer concerned, with name and in any form." There are many kinds of objects that can be used as tax objects.

Everything that exists in society can be used as a target or object of tax, both circumstances, actions and events. For example: Circumstances: a person's wealth at a certain time owns a motorized vehicle, radio, television, owns land or immovable property, certain houses (mostly static/fixed); Action: carrying out goods because of an agreement to build a house or building. holding shows or crowds, earning income, traveling abroad; Events: death, sudden profits, unexpected gifts, basically anything that happens outside of human will.

Based on the previous description, income tax (PPH) is included in the type of central tax, direct tax and subjective tax. In accordance with article 2 paragraph (1) of the Income Tax Law (PPH Law) It is said that the tax subjects are: private person; inheritance that has not been divided as a unit, replaces the rightful; Agency; Permanent establishment.

The definition of an entity is given a separate definition in accordance with Article 1 point 3 of the KUP Law, namely "a group of private persons and/or capital constituting a unit, either conducting business or not conducting business, which includes limited liability companies, limited liability companies, other companies, state-owned enterprises or regionally owned enterprises in whatever name and form, firms, partnerships, cooperatives, pension funds, partnerships, associations, foundations, mass organizations, political organizations, or other organizations, institutions and other forms of bodies including collective investment contracts and permanent establishments. The tax subject will be subject to income tax if the objective conditions are met, namely receiving or earning income which is an income tax object. Thus, if it is associated with a corporate tax subject in the form of a State-Owned Enterprise, then the said State-Owned Enterprise will be subject to income tax if the State-Owned Enterprise receives or earns income which is an income tax object. an individual

who is in Indonesia in a tax year and has the intention to reside in Indonesia; Agency established or domiciled in Indonesia; Inheritance that has not been divided as a unit, replaces those who are entitled

While what is meant by foreign tax subjects are: Individuals who do not reside in Indonesia or are in Indonesia for no more than 183 (one hundred and eighty three) days within a period of 12 (twelve) months, and entities that are not established and domiciled in Indonesia that carry out business or carry out activities through a permanent establishment in Indonesia; Individuals who do not reside in Indonesia or are in Indonesia for no more than 183 (one hundred and eighty three) days within a period of 12 (twelve) months, and entities that are not established and domiciled in Indonesia that can receive or earn income from Indonesia not from running a business or carrying out activities through a permanent establishment in Indonesia.

2. METHOD

This research is a normative legal research conducted to look for legal problems or issues and existing legal issues. The result of this legal research is to provide a prescription regarding what should be regarding the proposed legal issue.

There are several types of legislative approaches, namely the following: statutory approach (statute approach), is needed to further examine the legal basis by examining laws and regulations that are related to the legal issues being handled⁴³ namely regarding "tax law analysis of income tax for construction service businesses"; Conceptual approach (conceptual approach) that departs from the views and doctrines that develop in the science of law.

The primary legal material referred to is in the form of the 1945 Constitution of the Republic of Indonesia both before and after the amendment. Law Number 16 of 2009 concerning the Stipulation of Government Regulations in Lieu of Law Number 5 of 2008 concerning the Fourth Amendment to Law Number 6 of 2008 1983 concerning General Provisions and Procedures for Taxation Becomes Law, Law Number 36 of 2008 concerning the Fourth Amendment to Law Number 7 of 1983 concerning Income Tax Secondary legal material in the form of all publications concerning laws which are not official documents. Publications on law include textbooks, legal dictionaries, law journals, and commentaries on court decisions.

Once a legal issue is determined, it is necessary to conduct a search to find legal materials that are relevant to the issue at hand. The primary legal materials and secondary legal materials that have been collected are then grouped and studied based on the approach used. In this study, conceptual approaches, statutory approaches, and comparative approaches are used to obtain a systematic and comprehensive description of the primary and secondary legal materials obtained to produce new legal prescriptions or arguments.

3. RESULTS AND DISCUSSION

In Tax is a type of levy that is carried out by the State by order of law, this is necessary to maintain the existence of a State. So that in accordance with Law no. 36 of 2008 concerning Income Tax that income earned by a company is also subject to income tax so this also applies to the construction services business.

So that from this perspective the construction service business in terms of providing its business services to other legal subjects gets feedback in the form of income for services provided by the construction service business actor, as a result of the income by the construction service business actor through legal instruments it is obligatory for the tax payer subject to the business construction services are subject to income tax in accordance with the Income Tax Law, this must be done because income tax has a very important role and construction services are basically one of the activities in the economic, social and cultural fields that have an important role in achieving various targets to support the realization of development nationally so that the income of the taxpayer in the construction service business is quite large so that income tax is imposed on him.

The imposition and tax rates on income services from these businesses are regulated in the law that on the income of taxpayers and permanent establishments from the construction business, income tax is imposed based on income tax law no. 36 of 2008 all construction service businesses that regulate all construction service providers, both qualified and unqualified as regulated in Article

23 paragraph (1) letter c number 2 in connection with compensation for construction services whose income tax is not recalculated at the end of the year then the rate is 2fromgross amount.

As for the nature of its imposition, it is regulated in Article 4 paragraph (2) letter d, whereby the separate treatment in the imposition of tax on this type of income, including the nature, amount, and procedures for implementing payment, withholding or collection, is regulated by government regulations. So from the description above, it can be seen that in the Income Tax Law there are two articles that regulate related to income tax in construction service businesses where the basic nature of the two articles is very different, some are final and some are not final. The imposition of income tax, which is final is tax that is imposed with a certain rate and tax base on income received or accrued during the current year.

Payment, withholding or collection of Final Income Tax (Final Income Tax) which is deducted by other parties or deposited itself is not an advance payment of income tax payable but is a settlement of income tax payable on that income, so that the taxpayer is deemed to have paid off his tax obligations.

The final imposition of PPh means that the income received or earned will be subject to PPh at a certain rate and a certain tax base when the income is received or earned. The income tax that is imposed, whether it is deducted by another party or paid by yourself, is not a prepayment for the income tax payable but has directly paid the income tax payable for that income.

Table 1. Tax liabilities

OBLIGATION	Tax Withholder/TaxpayerK	Tax provider
	Tax user	
Income Tax Withholding	Deductions are made at the time of payment deposit no later than the 10th of the following month	self-deposit by using Tax Deposit Letter (SSP) Deposit no later than the 15th of the following month after receipt of payment
Final SPT Period PPh Reporting Article 4 paragraph (2) Create a Tax Invoice Report Periodic VAT SPT	must be submitted no later than 20 days after the month the tax is withheld or payment is received Must submit no later than the end of the following month after the end of the tax period	YES

Companies engaged in the construction service business based on the Income Tax law are subject to final and non-final taxes. From a technical and administrative point of view, it makes it easier for tax authorities to boost fixed tax revenues. The main problem with this system is that it does not reflect fairness because the application of final income tax for most construction service entrepreneurs can be very burdensome and conversely very profitable for contractor service businesses because they are able to earn large margins. .

Based on Government Regulation Number 51 of 2008, the construction service business is included as a tax object subject to Final Income Tax (PPh) Article 4 paragraph (2) letter d. In construction service business activities, contractors or construction service entrepreneurs who provide construction services are subject to tax, both for those who have or do not have certification and qualifications as professionals in the field of construction with the provisions stipulated in the Construction Services Development Agency (LPJK) regulation Number 11 of 2006. These certifications and qualifications are stated in the Business Entity Certificate (SBU) issued by LPJK.

3.1 Application of Withholding Article 23 paragraph (1) letter c number 2 Related to Withholding Income Tax for Construction Services Businesses

Taxes have a very important role in the life of the state, especially in the implementation of development because taxes are a source of state revenue to finance all expenditures including development expenditures. In general, the implementation of the tax function as a regulatory tool in the social and economic fields. So that the application of taxes has an equally important position to ensure the welfare of the people so that in collecting taxes on construction service businesses the subject and object of the tax must be clear so that the income from taxes can later be managed properly and correctly so that the application of taxes on construction service businesses can later provide universal justice.

Regarding the application of Article 23 paragraph (1) letter c number 2 which determines that: For the income mentioned below in whatever name and in whatever form it is paid, made available to be paid, or has been due for payment by government bodies, domestic corporate tax subjects, activity organizers, permanent establishments, or representatives of other foreign companies to domestic ta

payers or permanent establishments, tax is deducted by the party obligated to pay: c. 2% (two percent) of the gross amount of: compensation in connection with technical services, management services, construction services, consulting services, and other services other than services that have been deducted by Income Tax as referred to in Article 21.

Based on the provisions above, it is not a lex specialist provision as Article 4 paragraph (2) of the Income Tax Law. And this only applies to legal subjects of taxpayers in construction service businesses who do not yet have formal qualifications, or do not yet have a business entity certificate issued by a construction services development agency. This also applies to small entrepreneurs, in this case taxpayers in construction services businesses who meet the qualifications are subject to final PPh, while taxpayers who do not meet the qualifications as small entrepreneurs are subject to non-final PPh.

4. CONCLUSION

Arrangements for withholding PPh for Construction Services are regulated in Article 4 paragraph (2) of the PPh Law which is final in nature, only applied if the construction service entrepreneur already has a business license or construction service certification from a construction service development agency where the existence of this certificate makes the taxpayer construction service business is subject to final tax. And those who do not have a business entity certificate are subject to non-final tax, namely Article 23 paragraph (1) letter c number 2 of the Income Tax Law. In applying the tax Article 23 paragraph (1) letter c number 2 in the construction service business, it is carried out by first making a billing ID, then paying it through Perception Banks, ATMs, bank tellers, online tax paying features on Online Taxes that have been approved by the Ministry Finance. The payment due date is the 10th, one month after the month the income tax is due. As a sign that PPh Article 23 paragraph (1) letter c number 2 has been deducted, the withholding party must provide proof of withholding (1st copy) that has been completed to the party subject to said tax and proof of withholding (2nd copy) when making e-Filing of PPh tax Article 23 paragraph (1) letter c number 2 in Online Tax. After that the Reporting is carried out by the cutting party by filling out the SPT Masa PPh Article 23, then you can report it through the online tax reporting feature or free e-filing on Online Tax. The reporting due date is the 20th, a month after the month the income tax is due.

ACKNOWLEDGEMENTS

The government should provide socialization regarding tax deduction or collection for construction service businesses so that taxpayers can understand the legal basis related to construction service business tax arrangements and it is advisable to increase taxpayer compliance and tax authorities in realizing excellent service through learning or training to increase tax knowledge from the taxpayer or the tax authority.

REFERENCES

- Djafar Saidi. Muhammad 2007. *Perlindungan Hukum Wajib Pajak dalam Penyelesaian Sengketa Pajak*. Jakarta: Rajawali Pers
- _____. 2011, *Pembaruan Hukum Pajak- Edisi Revisi*, Jakarta: Raja Grafindo Persada
- Judisseno, Rimsky K. 2004, *Perpajakan*, Gramedia Pustaka Utama, Jakarta
- _____. 2005, *Pajak dan Strategi Bisnis; Suatu Tinjauan tentang Kepastian Hukum dan Penerapan Akuntansi di Indonesia*, Gramedia Pustaka Utama, Jakarta
- Kementerian Pekerjaan Umum, *Peraturan Terkait Jasa Konstruksi*, Badan Pembinaan Konstruksi dan Pusat Pembinaan Usaha dan Kelembagaan, Jakarta
- Kementerian Keuangan RI, 2013, *Susunan Dalam Satu Naskah Undang-Undang Perpajakan*, Direktorat Jenderal Pajak, Direktorat Penyuluhan, Pelayanan, dan Hubungan Masyarakat, Jakarta
- Mardiasmo, 2013, *Perpajakan Edisi Revisi*, Andi, Yogyakarta
- Mulyono. Djoko. 2010. *Hukum Pajak, Konsep, Aplikasi, dan Penuntun Praktis*, Penerbit Andi Offset Yogyakarta
- Pudyatmoko, Y. Sri, 2002, *Pengantar Hukum Pajak*, Andi, Yogyakarta,
- Peter Mahmud Marzuki, 2014. *Penelitian Hukum, Edisi Revisi Cetakan ke9*, Kencana Pranada Media Group, Jakarta.

- Suparno, 2012, Hukum Pajak Suatu Sketsa Asas, Pustaka Magister, Semarang
- Supriyanto, Edy, 2014, Hukum Pajak Indonesia, Graha Ilmu, Yogyakarta
- Sutedi. Adrian. 2008. Hukum Pajak dan Retribusi Daerah. Bogor: Graha Indonesia
- Sudarto., 2011. Meningkatkan Kinerja Perusahaan Jasa Konstruksi di Indonesia. CSIS, Jakarta
- Waluyo, 2006, Perpajakan Indonesia Buku 1 Edisi Revisi, Salemba Empat, Jakarta.
- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945,
- Undang-Undang RI Nomor 36 Tahun 2008 Tentang Perubahan Keempat
Atas Undang-Undang RI Nomor 7 Tahun 1983 Tentang Pajak Penghasilan.
- Peraturan Pemerintah Nomor 40 Tahun 2009 Tentang Pajak Penghasilan atas Penghasilan dari Usaha Jasa
Konstruksi.
- Peraturan Pemerintah Nomor 51 Tahun 2008 Tentang Pajak Penghasilan atas Penghasilan dari Usaha Jasa
Konstruksi.