

Tax debt collection

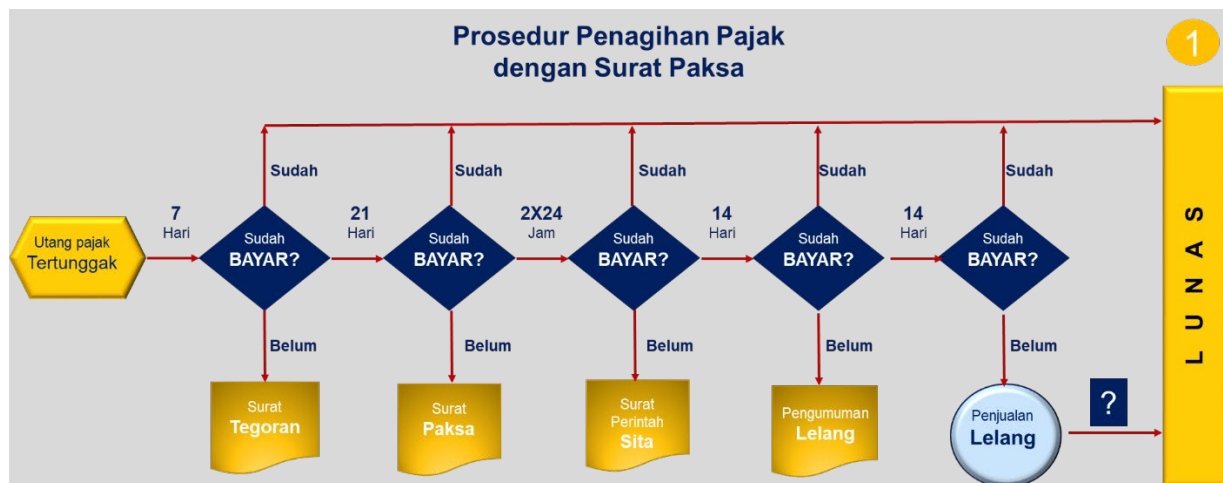
Shareholders are included as tax bearers

Tax debt cannot be left alone. For the amount in arrears, the Director General of Taxes (DGT) can take action to collect by force of letters. There is a possibility, the approach of unpaid tax arrears, for tax bearers to prevent, take hostage, and freeze/block financial accounts. That is amongst other message from the Minister of Finance regulation Number 189 / PMK.03 / 2020 dated 27 November 2020 concerning Tax Debt Collection Procedures (PMK 189).

Taxes payable are taxes that must be paid including administrative sanction in a tax assessment or similar documents, which generally mature within one month. Tax bearer are taxpayers in implementing and fulfilling their taxpayer (WP) tax obligations. In the event that there is a taxpayer in arrears, based on PMK 189, the tax bearer is also responsible for the settlement.

Tax collection procedure

DGT can collect tax taxes if within seven days after the due date of the unpaid debt, the tax remain unpaid. It begins with the issuance of a warning letter to paying taxpayers (Figure 1).



Taxpayers are given the opportunity to pay off their tax payable arrears within 21 days from the submission of the warning letter. If it has not been paid, the DGT can issue a Warrant and then issue a Confiscation Warrant of the assets of taxpayers and / or tax bearers after 2X24 hours have passed.

The DGT can follow up with an auction announcement followed by an auction sale of the confiscated assets if after 2X14 days the tax debt remains unpaid. If the proceeds from the asset auction are insufficient, the collection action can still be continued.

Included in the object of confiscation are the tax bearer's financial assets (Accounts) that are kept in financial service institutions (LJK), both banking sector LJK, insurance sector LJK, and other LJKs as regulated in the Financial Services Authority Law. Including the assets referred to are the financial accounts of tax bearers in other entities that are categorized as financial institutions according to information exchange standards based on international agreements. Blocking the Financial Account may be carried out.

For tax debt of Rp. 100 million or more, the tax bearer can be prevented, namely the prohibition of traveling abroad. DGT may recommend prevention after the sale of confiscated goods by auction and / or other sales in accordance with the provisions of laws and regulations. Prevention suggestions can be done earlier if there are conditions that require Instant and Simultaneous Billing.

Hostage of tax bearers can be done at least 30 days before the end of the Prevention period or the extension of the Prevention period. However, for tax debts that have approached the expiration of the collection, or there are signs that the Corporate Taxpayers will be dissolved or bankrupt, the hostage-taking can be carried out earlier, no later than 14 days from the date of notification of the Warrant.

Tax bearer

As far as possible, the tax payable shall be paid with the assets of the taxpayer in question. However, if the taxpayers' assets are not sufficient, based on PMK 189, the parties categorized as tax bearers are stated to be responsible for paying the taxpayers' tax debt. In accordance with the Law on Collecting Tax with a Force Letter (P2DSP Law), PMK 189 defines a tax bearer as "an individual or entity that is responsible for paying taxes, including representatives who exercise the rights and fulfill the obligations of taxpayers in accordance with the provisions of tax laws and regulations".

In the case of an individual taxpayer, the tax bearer is the individual concerned, the wife of the taxpayer, the heir, the guardian of the child who is not yet an adult, and the guardian of the person who is under interception. In the case of a corporate taxpayer, the tax bearer is the relevant corporate taxpayer and the management. At this point, PMK 189 has only been limited to restating what was stated in the P2DSP Law.

However, PMK 189 broadly interpreted the meaning of "management". For corporate taxpayers in the form of a limited liability company (PT), the "management" is not limited to members of the board of directors and members of the board of commissioners as well as people who actually have the authority to determine the running of the company, but also shareholders (Figure 2).

**"Pengurus" yang dikategorikan sebagai Penanggung Pajak
WP Badan berbentuk perseroan terbatas (PT)**

2

Berlaku untuk
Semua PT

- Direktur utama, wakil direktur utama, dan direktur bidang keuangan
- Komisaris utama, wakil komisaris utama, dan komisaris lainnya
- Orang yang nyata-nyata berwenang menentukan kebijakan dan memutuskan hal-hal terkait kegiatan usaha WP

Berlaku untuk
PT Terbuka

- Pemegang saham mayoritas/pemegang saham pengendali yang atas sahamnya tidak tercatat dan tidak diperdagangkan di bursa efek
- Pemegang saham lainnya yang atas sahamnya tidak tercatat dan tidak diperdagangkan di bursa efek
- Pemegang saham mayoritas/ pemegang saham pengendali tidak langsung

Berlaku untuk
PT Tertutup

- Seluruh pemegang saham PT yang bersangkutan
- Pemegang saham mayoritas/ pemegang saham pengendali tidak langsung

For closed PTs, all shareholders without exception are included as "Management" and therefore are included in the definition of a Tax Bearer. For public PTs, only shareholders whose shares are listed and traded on the stock exchange are not categorized as "executives" or tax bearers.

Included as shareholders categorized as "Management" or Corporate Taxpayer in the form of PT are the majority shareholder or indirect controlling shareholder. This provision applies to both closed PT and open PT.

For a permanent establishment (PE), included in the ranks of "Management" or tax bearers are "Parent Company" and "Capital Owner". (Figure 3) beside the representative head or the branch head himself.

PMK 189 also provides details on who is declared a "manager" or tax bearer for other types of corporate taxpayers such as associations, cooperatives, and foundations. Likewise for joint operations (joint operation).

**"Pengurus" yang dikategorikan sebagai Penanggung Pajak
BENTUK USAHA TETAP**

3

- Kepala perwakilan, kepala cabang, penanggung jawab, atau orang dengan jabatan yang setingkat
- Perusahaan induk dari bentuk usaha tetap
- Orang yang nyata-nyata berwenang menentukan kebijakan dan memutuskan hal-hal terkait kegiatan usaha WP
- Pemilik modal

Please contact your PreciousNine Contact for more in-depth information or assistance with this issue.

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