

**REGULATION OF THE GOVERNMENT OF THE REPUBLIC OF INDONESIA
NUMBER 1 OF 2019
ON
FOREIGN EXCHANGE EXPORT PROCEEDS FROM THE BUSINESS, MANAGEMENT AND/OR
PROCESSING OF NATURAL RESOURCES**

BY THE GRACE OF GOD ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. that in order to maintain the sustainability of development, as well as the improvement and resilience of the national economy, it has been deemed necessary to regulate provisions on the inclusion of foreign exchange export proceeds earned from export goods from natural resource cultivation, management, and/or processing activities into the Indonesian financial system;
- b. that based on the consideration as referred to in letter a and to implement the provision of Article 2 paragraph (1) of Law Number 24 of 1999 on Foreign Exchange Traffic and Exchange Rate System, it has been deemed necessary to establish Regulation of the Government on Foreign Exchange Export Proceeds from the Business, Management and/or Processing of Natural Resources.

Observing:

1. Article 5 paragraph (2) of the 1945 Constitution of the Republic of Indonesia;
2. Law Number 24 of 1999 on Foreign Exchange Traffic and Exchange Rate System (State Gazette of the Republic of Indonesia of 1999 Number 67, Supplement to the State Gazette of the Republic of Indonesia Number 3844).

HAS DECIDED:

To establish:

**REGULATION OF THE GOVERNMENT ON FOREIGN EXCHANGE EXPORT PROCEEDS FROM THE
BUSINESS, MANAGEMENT AND/OR PROCESSING OF NATURAL RESOURCES**

Article 1

Under this Regulation of the Government, the following definitions are employed:

1. Citizen is any individual, legal entity, or other entity domiciled or plans to domicile in Indonesia for at least 1 (one) year, including representatives and diplomatic staffs of the Republic of Indonesia overseas.
2. Foreign Exchange is any financial asset and liability used in international transactions.
3. Foreign Exchange Export Proceed from Natural Resource Exported Goods (Devisa Hasil Ekspor dari Barang Ekspor Sumber Daya Alam), from this point onward is referred to as DHE SDA, is any Foreign Exchange proceed from the export of goods originating from natural resource cultivation, management, and/or processing activities.

4. Special Account for DHE SDA is an Exporter account at a Bank Conducting Business Activities in Foreign Exchange specifically intended to receive and save DHE SDAs.
5. Bank Conducting Business Activities in Foreign Exchange is any bank which secures an approval from the Financial Services Authority to conduct business activities in foreign exchange, but do not include overseas branch office of banks headquartered in Indonesia.
6. Rupiah is the money issued by the Unified Nation of the Republic of Indonesia as referred to in the Law on Currency.
7. Export is the activity of releasing goods from the customs territory as referred to in Law on Customs.
8. Exporter is an individual person, legal entity, or other unincorporated entity that conduct Export.
9. Central Government, from this point onward is referred to as Government, is the President of the Republic of Indonesia who holds the administration power of the state of the Republic of Indonesia assisted by the Vice-President and ministers as referred to in the 1945 Constitution of the Republic of Indonesia.
10. Bank Indonesia is the Bank Indonesia as referred to in the Law of Bank Indonesia.
11. Financial Services Authority is the Financial Services Authority as referred to in the Law of Financial Services Authority.

Article 2

Every Citizen can freely own and use Foreign Exchange.

Article 3

- (1) Specific for Foreign Exchange in the form of DHE SDA, it must be included in the Indonesian financial system.
- (2) The DHE SDA as referred to in paragraph (1), is derived from the proceeds of the following Exported goods:
 - a. mining;
 - b. plantation;
 - c. forestry; and
 - d. fishery.
- (3) The types of Exported goods as referred to in paragraph (2) shall be stipulated by a Decree of the Minister of Finance.

Article 4

- (1) The obligation of Exporters to include DHE SDAs into the Indonesian financial system as referred to in Article 3 paragraph (1) shall be carried out through the placement of DHE SDAs in the Special Account for DHE SDAs at a Bank Conducting Business Activities in Foreign Exchange.
- (2) The placement of DHE SDAs in the Special Account for DHE SDAs as referred to in paragraph (1) shall be implemented by no later than the end of the third month after the month of registration of Export customs declaration.
- (3) Provisions on the inclusion of DHE SDAs into the Indonesian financial system as referred to in paragraph (1) shall be carried out based on the provisions of Regulation of Bank Indonesia.

Article 5

Deposit interests with funds sourced from Special Account for DHE SDAs at a Bank Conducting Business Activities in Foreign Exchange as referred to in Article 4 paragraph (1) are subject to income tax in accordance with provisions of laws and regulations in the taxation sector.

Article 6

- (1) DHE SDAs at Special Account for DHE SDAs as referred to in Article 4 paragraph (1) are used by Exporters who places the said DHE SDAs for the payment of:
 - a. export duty and other levies in the Export sector;
 - b. loans;
 - c. imports;
 - d. profits/dividends; and/or
 - e. other needs from investors as regulated under Article 8 of Law Number 25 of 2007 on Investment.
- (2) The use of DHE SDAs as referred to in paragraph (1) can be carried out as long as it can be proven by supporting documents.
- (3) The loan as referred to in paragraph (1) letter b must be made in a loan agreement.
- (4) Provisions on supporting documents as referred to in paragraph (2) shall be carried out based on provisions of a Regulation of Bank Indonesia.

Article 7

- (1) In the case of the payment as referred to in Article 6 paragraph (1) is carried out through an escrow account, then Exporters must create the said escrow account at a Bank Conducting Business Activities in Foreign Exchange.
- (2) In the case of the escrow account as referred to in paragraph (1) has been created overseas prior to the promulgation of this Regulation of the Government, then Exporters must transfer the said escrow account at a Bank Conducting Business Activities in Foreign Exchange by no later than 90 (ninety) days after the promulgation of this Regulation of the Government.

Article 8

- (1) Oversight toward the implementation of goods Export activities as referred to in Article 3 letter (2) is carried out by the Ministry of Finance in accordance with provisions of laws and regulations in the customs sector.
- (2) Oversight toward the implementation of the obligation to include DHE SDAs into the Indonesian financial system Indonesia as referred to in Article 3 paragraph (1) and the use of DHE SDA as referred to in Article 6 paragraph (1) shall be carried out by Bank Indonesia in accordance with provisions of laws and regulations.
- (3) Oversight of escrow account at Banks Conducting Business Activities in Foreign Exchange as referred to in Article 7 shall be carried out by the Financial Services Authority in accordance with provisions of laws and regulations.
- (4) Results of oversight of Bank Indonesia as referred to in paragraph (2) and results of oversight of the Financial Services Authority as referred to in paragraph (3) shall be submitted to the Ministry of Finance and relevant technical ministry and/or institution to be followed up in accordance with provisions of laws and regulations.

Article 9

- (1) In the case of based on the result of oversight by Bank Indonesia and the Financial Services Authority as referred to in Article 8 paragraph (4), it is found that Exporters does not include DHE SDAs into the Indonesian financial system, use DHE SDAs outside the provisions, and/or does not create/transfer the said overseas escrow account at a Bank Conducting Business Activities in Foreign Exchange, then Exporters shall be subject to administrative sanction in the form of:
 - a. administrative fine;
 - b. cannot perform Export; and/or
 - c. revocation of business license.
- (2) The calculation of administrative fine as referred to in paragraph (1) letter a shall be carried out by the Ministry of Finance based on the result of an oversight by Bank Indonesia and the Financial Services Authority as referred to in Article 8 paragraph (4).
- (3) The administrative fine as referred to in paragraph (1) letter a shall be deposited to the state coffers as non-tax state revenue.
- (4) Further provisions on the amount of, tariff stipulation for, and procedures for the imposition, collection and deposit of administrative sanction as referred to in paragraph (1) letter a shall be regulated under a Regulation of the Minister of Finance.
- (5) The provision on administrative sanction in the form of cannot perform Export as referred to in paragraph (1) letter b shall be carried out based on laws and regulations.
- (6) The provision on administrative sanction in the form of revocation of business license as referred to in paragraph (1) letter c, shall adhere to the provisions regulated in the respective business license sector.

Article 10

The implementing regulations of this Regulation of the Government shall be established by no later than 7 (seven) days after the date of its promulgation.

Article 11

At the time this Regulation of the Government comes into force, all provisions of laws and regulations that regulate DHE SDAs are declared still valid as long as they does not conflict with this Regulation of the Government.

Article 12

This Regulation of the Government comes into force from the date of its promulgation.

For public cognizance, it is hereby ordered that this Regulation of the Government be promulgated in the State Gazette of the Republic of Indonesia.

Established in Jakarta,

On 10 January 2019

PRESIDENT OF THE REPUBLIC OF INDONESIA,

Signed.

JOKO WIDODO

Promulgated in Jakarta,

On 10 January 2019

MINISTER OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA,

Signed.

YASONNA H. LAOLY

OFFICIAL GAZETTE OF THE REPUBLIC OF INDONESIA OF 2019 NUMBER 7

**ELUCIDATION OF
REGULATION OF THE GOVERNMENT OF THE REPUBLIC OF INDONESIA
NUMBER 1 OF 2019
ON
FOREIGN EXCHANGE EXPORT PROCEEDS FROM THE BUSINESS, MANAGEMENT AND/OR
PROCESSING OF NATURAL RESOURCES**

I. GENERAL

Based on Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia, Indonesia carries out economic democracy in national development which is organized with the principles of togetherness, fair efficiency, sustainability, environmentally sound, autonomy, as well as maintaining the balance of progress and unity of the national economy.

In maintaining the sustainability of national development, as well as to improve and maintain national economic resilience, it has been deemed necessary to regulate the ownership of Foreign Exchange by Citizens from Export Proceeds (Devisa oleh Penduduk dari hasil Ekspor/DHE), particularly DHE from Exported goods in the cultivation, management, and/or processing of natural resources from mining, plantation, forestry, and fishery, the DHEs concerned are referred to as DHE SDAs

DHE SDAs must be included into the Indonesian financial system in the form of savings in Special Account for DHE SDAs at a Bank Conducting Business Activities in Foreign Exchange and must be carried out by no later than the end of the third month after the month for the registration of Export notification (pemberitahuan Ekspor barang). DHE SDAs that has been included in the Indonesian financial system and has been placed in the form of a deposit are subject to income tax in accordance with provisions of laws and regulations in the taxation sector.

Furthermore, it has also been deemed necessary to regulate provisions on the use of DHE SDAs by Exporters as owner of DHE SDAs, namely for paying export duty and other levies in the sectors of Export, loan, import, profit/dividend, and/or other needs of investors as regulated under Article 8 of Law Number 25 of 2007 on Investment. In the case of the said payment is carried out through an escrow account overseas, Exporters must transfer the said escrow account at a Bank Conducting Business Activities in Foreign Exchange by no later than 90 (ninety) days after this Regulation of the Government was promulgated.

In the case of Exporters not including DHE SDAs into the Indonesian financial system, using DHE SDAs beyond the provisions, and/or not creating/transferring the said escrow account overseas at a Bank Conducting Business Activities in Foreign Exchange, then Exporters shall be subject to administrative sanction in the form of administrative fines, cannot perform Export, and/or revocation of business license.

Based on the considerations above, it has been deemed necessary to establish Regulation of the Government on Foreign Exchange Export Proceeds from Natural Resource Cultivation, Management, and/or Processing Activities.

II. ARTICLE BY ARTICLE

Article 1

Self-explanatory.

Article 2

Basically, Citizens can freely own and use Foreign Exchange while still taking the interests of the national

economy and the welfare of the society into account.

Article 3

Paragraph (1)

For the purpose of sustainable development, as well as the improvement and resilience of the national economy, DHE SDAs must be included in the Indonesian financial system.

The Indonesian financial system is a system consisting of financial services institutions, financial markets, and financial infrastructures, including payment system that interacts in facilitating the collection of public funds and their allocations to support national economic activities.

Paragraph (2)

Mining natural resources are as regulated under laws and regulations in the sectors of mineral and coal, as well as oil and gas.

Plantation natural resources are as regulated under laws and regulations in the sector of plantation.

Forestry natural resources are as regulated under laws and regulations in the sector of forestry.

Fishery natural resources are as regulated under laws and regulations in the sector of fishery.

Paragraph (3)

The stipulation of types of Exported goods by the Minister of Finance shall be carried out based on the inputs and/or results of the coordination meetings of relevant ministries/institutions.

Article 4

Self-explanatory.

Article 5

Self-explanatory.

Article 6

Paragraph (1)

The provision of Article 8 of Law Number 25 of 2007 on Investment regulates that investors are given the right to carry out transfer and repatriation in foreign exchange toward, among others:

- a. capital;
- b. profits, bank interests, dividends, and other income;
- c. funds needed for:
 1. the purchase of raw and auxiliary materials, semi-finished goods, or finished goods; or
 2. replacement of capital goods in order to protect the viability of investments;
- d. additional funds needed for investment financing;
- e. funds for the repayment of loans;
- f. royalties or fees to be paid;
- g. income of individual foreign nationals working in investment companies;
- h. proceeds from the sales or liquidation of investments;

- i. compensation for losses;
- j. compensation for acquisitions;
- k. payments made for the purpose of technical assistance, fees to be paid for technical and management services, payments carried out under project contracts, and payments of intellectual property rights; and
- l. proceeds from the sale of assets.

Paragraph (2)

Self-explanatory.

Paragraph (3)

Self-explanatory.

Paragraph (4)

Self-explanatory.

Article 7

Paragraph (1)

"escrow account" is an account opened to contain certain funds whose withdrawal can only be carried out with special conditions in accordance with a written agreement between the depositors and the parties having interests with an escrow account.

Paragraph (2)

Self-explanatory.

Article 8

Self-explanatory.

Article 9

Self-explanatory.

Article 10

Self-explanatory.

Article 11

Self-explanatory.

Article 12

Self-explanatory.

SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 6302



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