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ABSTRACT

This research aims to analyze the tax management conducted by a private power-generating entity for the tax implications that may occur if a business fails to continue operation. The failure situation of a business in a private power generation company in Indonesia, known as Independent Power Producers (IPP) requires an appropriate tax management analysis. The problems of green energy and carbon emissions that have emerged recently have an impact on funding for the fossil energy sector may not be obtained. As a result, cancellation of the signed Power Purchase Agreement (PPA) may occur. Therefore, IPP conducts appropriate tax management analysis and tax planning in terms of utilizing Double Tax Avoidance Agreements (P3B), waiver of shareholder loans, and tax management if later the entity carry out business closures or liquidation. This study uses qualitative methods with interview analysis techniques. Interviews were conducted with parties who have related experience and expertise in the application of accounting and taxation for power plant operations. Based on the results of the analysis, this study concludes that Netherlands is considered appropriate as a jurisdictional partner in utilizing tax treaty rates. The elimination of borrowing costs by PT X is appropriate and in accordance with accounting and taxation principles, but also provides a recommendation to PT X that debt to equity conversion is the right option, better in terms of eliminating shareholder loans. Cessation of operational activities, and temporary dormant status can also be a tax management option during business closures to reduce tax exposure that may arise. The research period is based on current taxation practices.

Keywords: *Debt to Equity Swap, Corporate Income Tax, Independent Power Producer, Tax Management, Tax Planning*

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1. INTRODUCTION

Electricity is one of the primary needs that are very essential and strategic in implementing national development goals. Almost all activities in human life today require electricity. Along with the increasing population and economic growth in Indonesia, the electricity demand also continues to increase. Fulfillment of national electricity, known as the Electrification Ratio, through the Press Release of the Ministry of Energy and Mineral Resources Number: 014.Pers/04/SJI/2021 dated January 13, 2021, Electricity Performance Achievement 2020, Electrification Ratio Reaches 99.20% (ESDM, 2021). The PPA between IPP and PLN adopted the Public to Private Partnership ("PPP") scheme. Public-Private Partnership in general is a form of cooperation between the Government and the private sector in the provision of infrastructure. The cooperation involves the private sector (operator) to build the infrastructure used to provide public services, increase capacity and operation and maintain the infrastructure for a certain period. The Public-Private Cooperation model can be in the form of a Build Own Operate Transfer (BOOT) service concession agreement.

The Impact of Global Funding Trends on PT X's Business

Indonesia is committed in reducing Greenhouse Gas (GHG) emissions by 29% by 2030. One of the efforts is to reduce GHG emissions from the energy sector. The development of renewable energy to meet national energy needs is important because renewable energy is an energy source that is environmentally friendly and sustainable (green energy).

This causes private power producers or independent power producers/IPPs to find it difficult to find funding to build power plants. Not all IPPs can get funding from foreign banks with lower interest rates. At least foreign banks that finance the coal-steamed power plant (PLTU) project are said to increase investment in new and renewable energy (EBT). The government and PLN certainly see this trend in the financing of coal-fired power plant projects. For Indonesia, there are only three countries that finance PLTU projects, namely Japan, South Korea, and China. Even now, several private financing institutions have decided to no longer fund the PLTU project.

The trend of financing for coal-based power plants will decline in line with awareness of the environment and clean energy and control of

greenhouse gas emissions. Especially starting from December 1, 2021, until the G20 Summit in November 2022 in Indonesia as the host of the G20. The appointment of Indonesia as the holder of the G20 presidency must be used to create breakthroughs and real actions in socio-economic recovery, both on a national and global scale. In addition to no longer accepting new PLTU project proposals, several issues will be adjusted in the 2021-2030 RUPTL.

As a result of the issues described above, where green energy, carbon emissions, the G20 Presidency, and even Covid-19 have also influenced the trend of financing by banks in the world, especially Asia, PPA is very likely to be canceled unilaterally by the IPP because the Financial Close does not achieve.

This is also experienced by PT X. If this happens, the cancellation of this contract indicates the possibility of significant losses in the financial statements, as well as in the tax reports which are feared to be a trigger for tax audits. In fact, the cancellation of this project could cause the Company to be threatened with bankruptcy and lead to liquidity

From the background of the problems described above, in the event that the PPA is canceled so operation can't be continued by the IPP concession right holder unilaterally, this study will analyze Tax Management of Power plant company failed in Operation: Case Study PT X. The tax implications that arise are caused if PT X cannot continue the contract with PLN, the formulation of the problem in this study is as follows:

1. How does the management utilize of the Double Tax Avoidance Agreement (P3B) between Indonesia-Belanda in regard to tax saving borne by PT X?
2. What is the proper tax management for the optimal write-off of interest and Shareholder loan for PT X?
3. What is the proper tax management if PT X finally decided to liquidateits business?

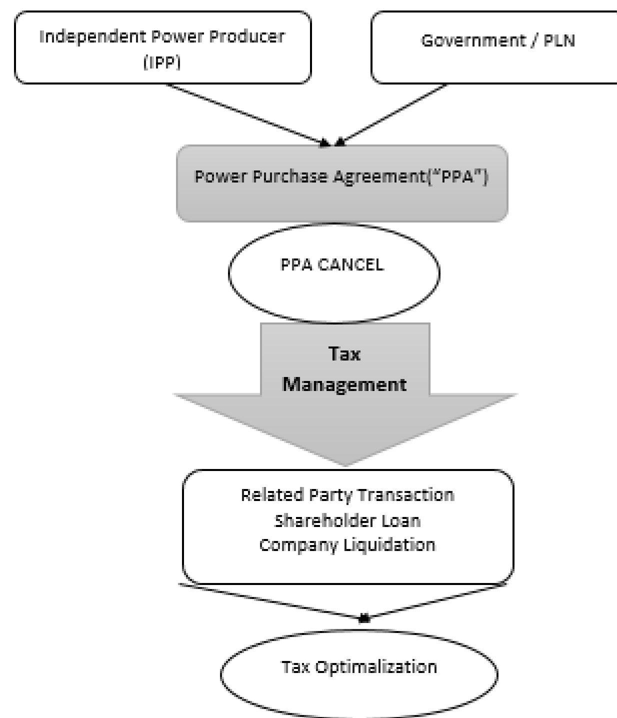

Figure 1. Framework for Tax Management of PT X

2. Literature Review

2.1. Independent Power Producer

Independent Power Producer (IPP) is a special purpose company (SPC), formed by a sponsor or consortium, to carry out a power purchase agreement with PLN and to develop, build, own and operate a power plant (PLN, 2021).

PT PLN (Persero), hereinafter referred to as PLN, as a state-owned electricity company that plans and implements power projects with long lead times, naturally needs to have a long-term plan for developing an electric power system. A long-term power system development plan, i.e. at least 10 years, is required to accommodate the long lead times of power projects. The need for long-term power system development is driven by PLN's need to have an efficient investment plan, in the sense that PLN will carry out an electric power project based on good planning. This is important because investment decisions in the electric power industry will require long-term benefits2. To achieve this, PLN prepares a planning document for the next ten years called the Business Plan for the Provision of Electricity or RUPTL.

The PLN Electricity Supply Business License (IUPTL) has been stipulated by the Head of the Investment Coordinating Board (BKPM) on behalf of the Minister of Energy and Mineral Resources in accordance with Decree No.

25/1/IUPTL/PMDN/2016 dated 27 September 2016 which has been amended by Decree of the Head of the Investment Coordinating Board No. 2/1/IUPTL-T/PMDN/2018 dated January 18, 2018. The PLN Business Area covers the entire territory of the Republic of Indonesia, except those stipulated by the Government as Business Areas for other State-Owned Enterprises, Regional-Owned Enterprises, Private Enterprises, or Cooperative. The scope of this 2021 – 2030 RUPTL covers all PLN Business Areas stipulated by the Decree of the Head of BKPM, except for other business areas in Indonesia.

2.2 Basic Tax Concepts

According to the Law on General Provisions and Taxation Number 28 of 2007, as lastly amended by Law Number 7 of 2021 concerning Harmonization of Tax Regulations (HPP), Tax is a mandatory contribution to the state owed by an individual or entity that is coercive based on Act, by not getting direct compensation and being used for the needs of the state for the greatest prosperity of the people.

From some of these definitions, several characteristics of taxes are obtained, namely:

- Mandatory contributions
- Coercive by law
- No direct rewards
- Used for the purposes of the state that provides the greatest prosperity for the people.

Income Tax Concept

Referring to the Income Tax Law No. 36/2008, Income is defined as any additional economic capacity received or obtained by the taxpayer, both from Indonesia and outside Indonesia which can be used for consumption or to increase the wealth of the taxpayer concerned.

The definition of Income Tax is a tax imposed on an income earned by a taxpayer, both from Indonesia and from abroad. The legal basis is income tax Law (UU) Number 7 of 1983 concerning Income Tax. This law has been amended four times, in addition to the latest regulation on income tax as well as in the Job Creation Law no. 11 of 2020 and through the HPP Law Number 7 of 2021 concerning Harmonization of Tax Regulations.

Object of Corporate Income Tax

Entity is a tax subject who is a person and/or capital as a unit, whether doing business or not doing business. The entity can be in the form of a Limited Liability

Company (PT), limited liability company (CV), other companies, firms, joint ventures, cooperatives, and others.

2.3 TAX MANAGEMENT

Tax Management is a process of planning, organizing, directing, and controlling resources to make effective and efficient payment of tax payable. Effective means that the goal of tax savings can be achieved in accordance with the tax plan that has been made and implemented. Efficient means that the existing tasks are carried out correctly, in an organized manner, and in accordance with the plans that have been decided" (Prianto, p.86).

As a comparison, some literature also has a definition of tax management or tax management. One of them is the definition according to Sophar Lumbantoruan (1996), in his book entitled Tax Accounting as quoted by Suandi (2011, p.6), Lumbantoruan defines Tax Management as follows:

"Tax management is a means to fulfill tax obligations properly but the amount of tax paid must be kept as low as possible to obtain the expected profit and liquidity".

Furthermore, according to Lumbantoruan, the purpose of tax management is to apply tax regulations correctly as an efficient effort to achieve the expected profit and liquidity. Tax management objectives can be achieved through tax management functions which consist of:

1. Tax Planning (Tax Planning)
2. Implementation of tax obligations (Tax Implementation)
3. Tax Control (Tax Control)

Another definition quoted from Pohan (2015, p.13), Pohan defines tax management as follows:

"Tax management is a comprehensive effort carried out by the Tax Manager in a company or organization so that matters related to the taxation of the company or organization can be managed properly, efficiently and economically, to provide maximum contribution to the Company".

Purpose of Tax Management

The result to be achieved from tax management is to fulfill appropriate tax obligations and minimize the tax burden to generate the maximum possible net profit after tax (IAI, 2015). Tax management does not aim to avoid tax obligations or to avoid paying taxes. In line with the statement from IAI, according to Yushita (2021), tax management aims to fulfill tax obligations properly, but at the same time minimize the tax burden so that company profits and liquidity can be optimal.

Erly Suandy explained that the purpose of tax management has two objectives, namely;

1. Apply tax regulations correctly and
2. Efficiency efforts to achieve proper profits and liquidity, both of which can be achieved through i). Tax planning (tax planning), ii). Implementation of tax obligations and tax rights (tax compliance), iii). Tax control (tax control).

2.4 RELATED PARTY TRANSACTION

The definition of a Related party is a relationship between a Taxpayer and a party that has a relationship as referred to in Article 18 paragraph (4) of the Income Tax Law or Article 2 paragraph (2) of the VAT Law.

Type of special relationship, in terms of ownership relationship according to Article 18 Income Tax Law Jo SE Number 04/PJ.7/1993Jo SE Number 18/PJ.53/1995

• Direct or indirect equity participation of 25% or more in other taxpayers.

• Relationship between taxpayers with 25% or more participation in two or more taxpayers

• Relationship between two or more taxpayers whose capital is 25% or more owned by the same party.

Meanwhile, if viewed from the control relationship:

• Namely the relationship between taxpayers who control other taxpayers, or two or more taxpayers who are under the same control, either directly or indirectly, both through the management and the use of technology.

• Mastery through management,

• Mastery the use of technology,

Based on a blood relationship or marriage, a special relationship can also be defined as:

• That is a special relationship because there is a family relationship either by blood or by marriage in a straight line and/or one degree sideways.

• Blood straight one degree is; father, mother and child.

• One degree sideways; sibling (biological, paternal, or maternal).

• Related by marriage, straight one degree; in-laws with sons-in-law or parents with stepchildren.

• Move to the side one degree; brother in law

• If a husband and wife make an agreement for the separation of assets and income, then the husband and wife have a special relationship.

The special relationship as referred to above can affect prices, namely the possibility of prices being pressed lower or higher than market prices. In this case,

the basis for the imposition of tax is the fair market price that applies in the free market.

Transfer Pricing Method in a Transaction

Regarding the methods used in transfer pricing analysis, in Indonesian and OECD regulations several methods are known that are commonly used, such as the Comparable Uncontrolled Price/CUP Method, the Resale Price method, and the Cost Plus method. , profit sharing method (Profit Split), transactional net profit method (Transactional Net Margin Method/ TNMM). The application of net margin comparison, namely TNMM, is the most widely used method in transfer pricing analysis (Gilibert et al., 2018). Apart from the low comparability factor, the ease of obtaining data is one of the practical reasons for using the TNMM in many transfer pricing documentation prepared by taxpayers.

2.5 BUSINESS LIQUIDATION

In business operations, liquidation is the last option that may never be expected by any business owner or investor. Liquidation is the dissolution of a company as a legal entity which includes payment of obligations to creditors and distribution of the remaining assets to the shareholders of the Persero. Financial problems usually make the company's condition less stable and can trigger failure to pay obligations. This condition often forces shareholders and management to liquidate as a last resort.

Based on Law no. 40 of 2007 concerning Limited Liability Companies, which details the nine reasons for company closure as follows:

- Resolutions of the General Meeting of Shareholders (GMS);
- The term of standing ends;
- Court decisions;
- Revoked bankruptcy by the commercial court (bankruptcy assets are not sufficient to finance bankruptcy);
- Insolvency (Bankruptcy Law);
- Revocation of business license;
- Prosecutor's application;
- Legal defects in the deed of establishment; and
- The company can't continue activities.

3. RESEARCH METHODS

This study aims to determine the phenomenon of a power plant company which caused by global funding trend, fails to continue its operational activities. Therefore the Company analyzes the appropriate tax management so that the company’s tax

liability is optimal. The research results are expected to be used as a reference and provide recommendations regarding effective tax management strategies for companies that are also in the same condition.

The approach chosen in this research is a qualitative approach by providing examples in the form of calculation simulations and financial data so that it is easy for readers to understand. The methodology used in this study is descriptive analysis according to the nature of the problem, which seeks to provide a comprehensive and accurate description of the facts and their relationships. Hypotheses are not needed in descriptive research. Research that explains or describes an event, scenario, object and everything connected with variables that can be explained with numbers and words is known as descriptive research. Descriptive research is used in this study to analyze the tax management that will be implemented by the Company regarding project development costs that have been capitalized as well as to provide recommendations to the company regarding the option to write off debts where for some reason the Company fails to run its business..

3.1 Respondent Profile

Table 1. Respondent Profile

Respondent	Alias	Profile
Respondent 1	R1	DJP
Respondent 2	R2	IPP Staff
Respondent 3	R3	Tax Consultant
Respondent 4	R4	Auditor
Respondent 5	R5	Academics

The data analysis method for qualitative data is a method using interviews and observations with questions such as what, why, or how, literature studies and from relevant sources and carried out continuously. Furthermore, from all the data, a classification process is carried out based on needs with the Interpretation process of the results of data analysis. This stage is the process of describing the results of the analysis by presenting them in a structured storyline. The aim is to understand the characteristics of the data so that ordinary people can also understand the results of the data analysis. The final stage is concluding.

Interview list as below:

No.	List of Interview
1	In the event that a work project fails to continue, while there were already initial costs that have been incurred and capitalized. Tax-wise, what should the company do?

2.	Since the beginning, the Company has had a Shareholder Loan, and will be written off because the project failed. In taxes, how is the treatment? Deemed as Interest Income or Directly Reducing Losses? Because tax-wise, debt relief is income for taxpayers.
3.	How is the proper tax management for affiliate transactions?
4.	Are there any recommendations related to tax management for entities that fail to operate/continue their business? What is the proper tax management if the liquidation option is taken by the Company?
5.	Since the beginning, the Company has had a shareholder's loan which will be written off because the project failed. From a tax perspective, we understand debt relief is income for taxpayers. How is the treatment? Please describe possible options.
6.	Have you ever or know of a Tax Audit for Taxpayers failing Operations? And what is the issue/dispute in the Examination?

4. RESULT AND DISCUSSION

In this analysis, the discussion will be on the tax implication when the IPP's Financial Close (funding) is not successful, or the company's business fails to continue, even if the company decides to end its business by closing the company/liquidation, then PT X will conduct a tax management review which is considered effective on all aspects of taxation and the implications that may arise. The analysis will be based on a review of related literature, respondents interview result, with several assumptions including:

1. How does the management utilize of the Double Tax Avoidance Agreement (P3B) between Indonesia-Belanda in regard to tax saving borne by PT X?
2. What is the proper tax management for the optimal write-off of interest and Shareholder loan for PT X?
3. What is the proper tax management if PT X finally decided to liquidateits business?

4.1. The concept of ownership of PT X Shareholders is associated with the Double Tax Avoidance Agreement (P3B) tariff.

In conducting its business, as part of the tax planning process, PT X entered into certain business and financials transactions with its related parties. Associated with the investment climate, taking into account that these loans are considered unsecured, it is certainly difficult for banks and financial institutions to provide loans

for greenfield project. Therefore the only possible option, to start up operations, funding are most likely to be obtained from shareholder loans. Due to these relationships, it is possible that the terms and conditions of these transactions are not the same as those that would result from transactions between third parties.

For project financing purposes, including acquiring assets, building power plant infrastructure, transmission towers, and switching stations, as well as office operational costs, PT X received a loan from a foreign shareholder. Provisions for Borrowing Costs according to the Tax Regulations are described as follows: Interest includes costs that are directly or indirectly related to business activities, which can be used to obtain, collect and maintain income, then under Article 6 (1) letter a; for resident Taxpayers and permanent establishments, interest can be calculated as a deduction from gross income or so-called taxable income. However, in this case, since equity is negative, all interest costs cannot be deductible expenses.

Related parties are often found in business practices, both domestic and multinational businesses. The Income Tax Law defines related parties as: a. Taxpayer has capital participation directly or indirectly at least 25% upon another Taxpayers; the relationship between Taxpayers through ownership at least 25% upon two or more Taxpayers; or relationship between two or more Taxpayers mentioned later; b. Taxpayer controls the other Taxpayer or two or more Taxpayers are under the same control, either directly or indirectly; or c. There are family relationship either blood relationship or by marriage in vertical and/or horizontal lineage of one degree.

Tax management related to loans and taxes that will arise from interest begins with the selection of Indonesia's P3B partner countries which have the lowest rates relativeky compared to Indonesia's P3B rates with other countries. Share ownership is one of the tax plans considered by PT X since its inception. Shareholders as well as lenders come from the Netherlands, where the withholding tax rate according to the Indonesia-Dutch Avoidance of Double Taxation Agreement (P3B) was initially 0%. Only since the Governments of the Netherlands and Indonesia finally implemented an amendment to the protocol for cutting tax rates for Dutch-Indonesian P3B, which came into effect on October 1, 2017, the new withholding rate becomes 5% and applies if interest is paid on loans made for a loan period of more than two years. The P3B rate, which increased to 5% from the original 0%, still remains the lowest rate for interest withholding tax in Indonesia's international tax agreements.

With the existence of intercompany transactions in the form of lending, which resulted in the emergence of potential interest, therefore PT X compiled local documents, this report was prepared in the framework of:

• Testing the Arm’s length principle and business custom for affiliated transactions conducted by PT X during a certain tax year.

• Helping PT X to comply with transfer pricing documentation requirements in Indonesia in connection with this affiliated transaction.

Regulation of the Minister of Finance Number 22/PMK.03/2020, implies that the Arm's Length Principles (Prinsip Kewajaran dan Kelaziman Usaha) are principles that apply in business practices carried out as Independent Transactions. There is Advance Pricing Agreement/APA) held by companies and its affiliated parties, but the transfer pricing policy has been applied previously.

"The company must ensure that all transactions with related parties must be in accordance with the Arm's length principles and ensure that the backup documents (TP Doc) are properly maintained." (R1,2022)

Transfer pricing regulations in Indonesia and transfer pricing guidelines published by the Organization for Economic Cooperation and Development ("OECD") stipulate that pricing for transactions between affiliated companies must comply with the Arm's length principles and business practice, such reflecting conditions between independent parties.

In determining whether affiliated transactions conducted by PT X have been carried out as per arm's length, PT X uses the following approach:

• Identify the business activities of PT X and its affiliated parties, as well as the transactions being tested;

• Determining the economically important functions, assets, and risks of each affiliated party, and summarizing them for transfer pricing purposes;

• Select and apply the most appropriate transfer pricing method as stipulated by transfer pricing regulations in Indonesia; and

• Testing the Arm's length of PT X's affiliated transactions.

4.2. Elimination of Shareholder's Capitalized Interest and Loan

4.2.1. Capitalized Interest Expense

The Borrowing costs can be capitalized, especially if the form is intended to build assets that will be used for the company's operations. Interest arising from loans while building assets may be capitalized. So far, interest expense has not been charged, but has been capitalized as Project Development Costs. Because the project did not reach the FC, there is no ability for the Company in the future to pay all obligations for interest and loans.

Basic analysis to determine the appropriate tax management:

• For the purpose of project financing, including building power plant infrastructure, PT X received a loan from a foreign shareholder. PT X has accrued and capitalized interest, according to PSAK 26: Borrowing Costs

• Interest expense will be accumulated based on the number of loan days and interest will continue to be rolled over (rollover) added to the principal amount

outstanding. After analyzing the prevalence and fairness, the 9% interest rate is included in the arm's length range, where the benchmark is done by comparing loan interest rates with Bank Indonesia's interest rates. Local Files have also been prepared by PT X according to the requirements in PMK 213/2015. The method for assessing the fairness and customary business of determining loan interest rates used is CUP (Comparable Uncontrolled Price), because this method is considered to produce the highest level of comparability, besides that according to Indonesian transfer pricing regulations PER-22/PJ/2013, the CUP method should be applied to test the fairness of interest payment transactions.

• Based on the agreement, considering the cash flow and liquidity of the entity, the loan will be repaid when entering the construction period or after funding is received. Until now there has been no interest payment made by PT X to the lender.

• If PT X cannot reach the construction period, for bookkeeping purposes, PT X writes off the capitalized interest expense.

Provisions for Borrowing Fees according to the Tax Regulations are described as follows:

1. Interest includes costs that are directly or indirectly relates to business activities, which can be used to obtain, collect and maintain income, then according to Article 6(1) letter a; for resident Taxpayers and permanent establishments, interest can be calculated as a deduction from gross income or so-called taxable income. However, in this case, since equity is negative, all interest costs is not deductible expenses.

2. When is PPH payable on loan interest. To comply with Article 26(1) of the Income Tax Law which states that the withholding tax by the parties is carried out at the end of each month, according to Government Regulation Number 94 of 2010 contains Article 15 paragraph 4 and in the explanation section. When income tax is paid on interest is when:

(1) when income is paid;

(2) reserved for the payment of income; or

(3) the due date for payment of the relevant income, depending on the event that occurred earlier.

Interest payment made by the Company to Shareholders (ie legal foreign entities) will be deducted from PPH Article 26 by 20% or reduced according to the P3B rate or the protocol rate. The P3B agreement rate can apply if the period and other conditions are met according to the P3B agreement. However, the P3B agreement rates also depend on the willingness of shareholders to comply with the requirements for using the Indonesian Tax Treaty, for example, by conducting Beneficial Owner testing, providing the DGT Form, and others.

3. If the WP is still in the development stage and is making a loss so that it has an equity balance of zero or less than zero, then all borrowing costs of the WP

concerned cannot be deducted in calculating taxable income, in accordance with Regulation of the Minister of Finance No.169/PMK.010/2015. This is understood by the entity so that the entity does not intend to expense interest costs in fiscal calculation.

4. Borrowing costs for debt to related parties must also comply with the principles of fairness and business practice as referred to in the provisions of Article 18 paragraph (3) of Law Number 7 of 1983 concerning Income Tax as amended several times, most recently by Law Number 36 2008.

So that in accordance with Article 9 paragraph 1 letter C of the Income Tax Law, reserves include non-deductible expenses in calculating income tax. There are no tax implications in this case.

Then to strengthen the analysis above, in the case of granting loans to subsidiaries without interest, the criteria as stated in Government Regulation Number 94 of 2020 article 12 must be met, which can be detailed as follows:

(1) the said loan originates from funds belonging to the lender's shareholder and does not originate from another party;

(2) the capital that should have been paid up by the shareholder of the lender to the company receiving the loan has been paid in full;

(3) the lender's shareholders are not at a loss;

(4) The company receiving the loan is experiencing financial difficulties to continue its business.

"*Interest must refer to arm's length. All requirements of PP 94 are met. All four must be fulfilled. 1. The borrower has financial difficulties, 2. The lender has money, not borrowed, 3. The lender is not at a loss. 4. The capital has been fully paid. Yes, without interest.” (Academic,2022)*

4.2.2 Shareholder’s Loan Write-off

According to income tax law, debt relief is a legal action when the creditor relinquishes his right to collect his receivables from the debtor. Loan forgiveness by the party who owes is considered as income for the party who originally owed it (the debtor), while for the party who owes it (the creditor) it can be charged as an expense.

Since PT X plans to start this project, the company uses shareholder loan from shareholders and will be written off because the project will not be continued. In tax, what are the provisions for the write-off of loan, and in this case, the loan comes from the one of the Shareholder? How does it apply whether it is recorded as income or directly reduced loss?

“Accounting journal will be posted to other income. in Accounting. The name is not loan written off, but the conversion/transfer of debt into capital. It is accompanied by a deed of change in the composition of shareholders." (R5, 2022)

Whatever the record in accounting, loan forgiveness will be considered as income. On a legal basis, Article 4 paragraph (1) letter k of the Income Tax Law states that interest and profits due to debt relief in any form are income, and therefore become the object of income tax. It seems that debt elimination is not a solution that the Company can choose with the current liquidity condition and cash flow considerations.

However, there are debt exemptions that are excluded as income tax objects. This exception is specifically for small debtors whose loan amount does not exceed IDR 350 million. For example, Business Credit for Underprivileged Families (Kukesra), Farmer Business Credit (KUT), People's Business Credit (KUR), loans for very simple housing, and other small loans. This is regulated in Article 1 of Government Regulation Number 130 of 2000 concerning Exceptions as Tax Objects on Profits Due to the Liberation of Small Debts.

Non-interest-bearing loan

Post writing off the interest, PT X is planning to amend the relevant loan agreements to be non-interest-bearing. Under Article 18(3) of Tax Law, any related party transactions should be entered into on an arm's length basis, including on intercompany lending. This means that the ITO would generally require the intercompany loans to be interest-bearing.

It may be worth mentioning that Government Regulation No. 94/2010 (PP No. 94/ 2010) provides an exception that allows shareholder loans to be qualified as a non-interest-bearing loans provided that the following conditions are all met:

a) the loan is originated from funds owned by the shareholder and not from other parties (banks, etc);

b) the shareholder is not in a loss position;

c) the share capital in the relevant subsidiary has been fully paid; and

d) the borrowing entity is in financial distress position.

If one of the criteria above is not met, GR-94 stipulates that the loan should be interest-bearing. PT X fulfills the four requirements of PP 94 of 2020 above in terms of loans from shareholders that do not bear interest. Please also note that the above exceptions are applicable for shareholder loans only and do not apply to loans between affiliates. If that is the case, it is important for IPP and its shareholder to carefully assess the above four conditions. To date, there is no further provision nor guidance on the definition of such "financial distress" and hence it may create multi interpretations in practice.

According to the experience of the Tax Consultant in several tax cases, the term financial difficulty can be challenged by the tax authorities. For entities that are unable to meet their debts in terms of cash flow, it may be considered an indicator of financial distress. However, there was once a tax court ruling showing that financial difficulties must be proven through several financial analyzes including liquidity ratios. Therefore, a more comprehensive (financial) analysis is needed to show the definition of financial distress, using financial advisor services to assess the entity's financial condition can be considered. The principle of certainty (certainty) may be needed in this case.

Debt-to-equity conversion

IPP also explores the possibility of having the interest portion converted into equity. The tax treatments of loan-to-equity conversion are not specifically outlined in the Income Tax Law. However, according to the number of private rulings the ITO has consistently expressed the view that a loan-to-equity conversion should be tax neutral only if the value of the equity is identical to the value of the loan.

"I'd rather convert it to equity, rather than write off the debt. If the debt is written off using general rules, it means an additional economic benefit. The accounting journal is payable on other income. The form is not the elimination of debt, but the conversion/transfer of debt into equity. Equipped with a deed of change in the composition of shareholders." (R5,2022)

In line with the assertion of the Director General of Taxes in the Letter of the Director General of Taxes Number S - 141/PJ.42/2004, debt-to-equity swap transaction is two types of transactions that are carried out simultaneously, namely Debt settlement transactions and Equity participation transactions, thereby eliminating cash transactions. The value of shares uses the value as referred to in Article 10 paragraph (2) of the Income Tax Law which reads that the acquisition value or sale value in the event of an exchange of assets is the amount that should have been issued or received based on the market price.

If the equity is of a lesser value, the difference could be treated as loan forgiveness and hence a taxable income for IPP (and ultimately be subject to 22% CIT).
Meanwhile, if the equity reflects a higher value compared to the amount of the loan, the difference can be deemed as interest payment made by IPP and be subject to (by default) 20% Article 26 WHT. Please note that access to a reduced treaty rate for deemed interest may be denied by the ITO.

The tax implications of loan-to-equity conversion should also be looked at from the shareholder's perspective, particularly if the conversion creates any "dilution" for one of the shareholders. This is because the ITO may view that there has been a value shift among the shareholders. Upon a separate arrangement, we will be pleased to explore this issue in greater detail if requested.

4.3 Tax Management for Business Liquidation

When a project stops, has negative working capital, equity deficiency, and where the project is the only project owned by PT X, then there is a possibility of bankruptcy and then liquidation or business closure will be borne by PT X. Related to the presentation in the review literature according to Law no. 40 of 2007 concerning Limited Liability Companies, the reason for closing PT X's business according to the cause of liquidity is insolvency/bankruptcy.

To liquidate the Company, tax-wise, it is necessary to tidy up the financial statements of assets and liabilities. Optimal corporate tax management starts with good tax planning. Starting from the company's financial statements are prepared following Financial Accounting Standards in Indonesia and audited at the end of each accounting period by a registered Public Accounting Firm, with an unqualified opinion. The company's accounting policies applied in preparing the financial statements are described below:

a. The Financial Statements are prepared on a historical cost basis using an accrual basis, except for the statement of cash flows.

b. Cash flow reports are prepared using the indirect method by classifying cash flows into operating, investing, and financing activities.

c. Fixed assets are presented at cost (initial recognition) after deducting accumulated depreciation and accumulated decreases in fixed assets. After initial recognition, fixed assets are measured using the cost model.

d. Other fixed assets are depreciated using the straight-line method over their estimated useful lives.

In accordance with applicable accounting standards, costs that later have a useful life of more than one year must be capitalized according to PSAK 16, which will later be depreciated or amortized (for intangible assets) according to their respective useful lives. This is also applied by PT X, moreover, PT X is a company that carries out concession services with the Government, in this case, PLN, where PT X does not have rights over assets until the commercial date.

The Company capitalizes on certain costs incurred during the Project development stage. These costs consist of land acquisition costs, interest capitalized, professional fees, related fees, permits, and other costs related to Project development (management fees). Capitalized costs will be amortized over an appropriate period from the date of commencement of commercial operations of the project or will be charged to expense if management determines that the costs are not recoverable.

In the power generation industry, companies spend a large amount of investment. If later management finds indications that lead to a decline in the ability of the investment/asset to generate future cash flows, then the asset is considered to have

the potential to be impaired. Impairment in asset value occurs in a condition where the estimated recoverable amount is lower than the asset's carrying amount. Indications of impairment in the value of these assets must be reviewed by management on a regular basis. In assessing whether there are indications of impairment of assets, management may consider various indicators based on information from both external and internal company sources.

However, if for some reason, the business process cannot continue as planned, which results in operations having to stop midway, while there are initial costs that have been incurred and capitalized. From an accounting and tax perspective, what should a company do?

Since the company is under development, the entity has capitalized pre-development costs, in accordance with Article 11A paragraph 6 of the PPH Law, which states that costs incurred before commercial operations that have an economic life of more than 1 (one) year are capitalized and then amortized. Income Tax Act. The figure below is made based on the Income Tax Law Article 6 paragraph (1), Article 6 paragraph (2), Article 9 paragraph (1), and Article 31A.

If then the project cannot be continued, the following are the steps taken by the entity, for bookkeeping purposes and calculating tax obligations.

In business operations when an entity is about to be closed or ended and liquidated, it is necessary to carry out a tax management analysis. If at the time of its formation and during the implementation of our business activities we are asked to optimize the available tax options according to the regulations as described, then this needs to be done when the company is closed.

Stop Operational Activities with Dormant status

Apart from liquidating the company regarding the dissolution of the company, it is necessary to carry out the stages of stopping business operations and turning the company into a sleeping and inactive company (dormant status). This method can be done if the company still has the potential to get new projects. PT X has so far explored the possibility of continuing to build another power plant, by converting coal into other energy which is of course clean and renewable, either with a new concept and business structure or still maintaining the old concept.

If one day the company wants to close its business, the legal requirements for dissolving the company can be carried out gradually. In the context of business efficiency during the dormant period, companies can cut various operations, such as reducing employee salary costs. Another alternative is to reduce building rental costs by temporarily moving the business location to a cheaper place, reducing general and administrative costs, and so on.

Even though by applying for the dormant status the company may not receive and/or earn any income at all (nil), it should be noted that during the dormant period

the company still obliged to fulfill its tax obligations and submitting periodic and annual tax reporting. This is because the company only loses its objective tax obligations, while its subjective tax obligations still exist.

Companies that apply for dormant status can get several benefits, including the company does not need to carry out the liquidation process to close their business and face tax audits to close the company's NPWP. In addition, if it turns out that the company gets a new project, the company does not need to apply for a new NPWP for the new company because the old NPWP has not been removed.

Concerning tax audits, companies with dormant status tend to be able to properly manage tax audits related to applications for deletion of NPWP/NPPKP. This is because, during the dormant period, companies do not have many obligations so tax exposure can be kept to a minimum.

In certain cases, the dormant period can be applied as long as the tax determination expires (5 years). This method is carried out, among other things, to overcome the tax exposure of massive tax audit findings when the tax authorities examine all open years for inspection. If there are findings, it can be ascertained that the amount will not be material. This is because substantively the company is no longer carrying out business operational activities or may even no longer have employees, so the possibility of tax risk being found is only in the form of delays in reporting SPT.

Provisions regarding this sanction are regulated in Article 7 paragraph (1) of the KUP Law, where if the SPT is not submitted within the period referred to in Article 3 paragraph (3) or the deadline for extending the submission of SPT as referred to in Article 3 paragraph (4), then subject to administrative sanctions in the form of fines in the amount of:

a) IDR 500,000.00 (five hundred thousand rupiahs) for Periodic VAT SPT;

b) IDR 100,000.00 (one hundred thousand rupiahs) for other Periodic Tax Returns (such as Income Tax Articles 4(2), 15 21/26, and 23/26);

c) IDR 1,000,000.00 (one million rupiahs) for the Annual SPT Income Tax for Corporate Taxpayers; and

Companies with dormant status can be free from the imposition of sanctions from points a to c because in Article 7 paragraph (2) letter e of the KUP Law it is stated that, "The imposition of administrative sanctions in the form of fines as mentioned above is not carried out on corporate taxpayers who do not carry out business activities again but have not been dissolved in accordance with the applicable provisions.

This provision is also reinforced by Article 17 paragraph (2) letter e PMK Number 243 of 2014 concerning Tax Returns (SPT) which reads the same as Article 7 paragraph (2) letter e of the KUP Law. However, the practice speaks otherwise. In most cases, tax audits for the cancelation of NPWP, Tax Collection Letters (STP) to

collect fines are often issued. Upon issuance of the STP, the company can apply to cancel the STP following Article 36 paragraph (1) letter c of the KUP Law.

5. Conclusion and Discussion

This study aims to analyze the tax management process at PT X, due to one reason or another, operations must be stopped. Not running the business, even threatening the Company, in the end, to close/liquidate the business. Based on the analysis of the results of interviews with informants as well as an analysis of the literature on tax regulations, this research has the conclusion that tax management is carried out by PT X to optimize the amount of tax payable with the right application, namely by:

1. Tax planning The company from the start chose the Netherlands as a shareholding country, actually planning is good, as long as it can be proven that the foreign entity is truly a Beneficial Owner, by preparing a DGT Form.
2. Management's decision to write off loan debt doesn't seem like the right option. Because debt relief is deemed as income and is immediately recognized as an addition in the calculation of taxable income in the corporate tax returns. Based on PT X's current liquidity, PT X will not be able to pay the tax due if this option is exercised. Based on the analysis, the concept of debt-to-equity conversion is considered the most appropriate for eliminating shareholder debt. Because even though it will create a dilution of the percentage of ownership among shareholders, the tax implications are considered the most profitable. However, legal supporting documents are still needed, such as GMS, changes to company certificates, and other legal documents.
3. Liquidation is a cycle and a business decision that has a tax impact. The Liquidation Option is the last option that can be taken by the Company's management. Tax management is needed to analyze it to be effective and efficient. Stopping operational activities with a dormant status is considered more appropriate to run at this time. Apart from avoiding deeper tax exposure, PT X is also in the process of lengthy discussions with the Board of Directors. The legal process also seems to take a long time to be finalized.

Tax Management that carries Tax Planning, Tax Implementation, and Tax Control, is needed to produce optimal calculations of the amount of tax payable for business and business continuity. Tax Planning can streamline the corporate income tax expense. It is felt that accounting analysis must also be considered so that it is in harmony, because according to the KUP Law, when tax regulations do not specifically regulate, then we use the accounting standards that apply in Indonesia.

The implementation of tax management by PT X aims to optimize the corporate income tax burden and ensure that tax obligations are fulfilled properly. In addition,

the company also takes several steps, such as maximizing fiscal costs and minimizing costs that are not allowed as a deduction. Tax planning is expected not to be a tax avoidance strategy (tax evasion).

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