



Synchronization of Issuance of Taxpayer Subject Numbers to Individual Company Establishment Criteria of Micro and Small Businesses

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Abstract. Establishment of Individual Companies Criteria for Micro and Small Businesses are introduced in Law Number 11 of 2020 concerning Job Creation and implementing regulations, namely Government Regulation Number 7 of 2021 concerning Ease, Protection, and Empowerment of Cooperatives and Micro, Small and Medium Enterprises and Government Regulation Number 8 of 2021 concerning the Company's Authorized Capital and Registration of Establishment, Amendment, and Dissolution of Companies that Meet the Criteria for Micro and Small Businesses. The establishment of an individual company can be carried out by only one person by making a statement of establishment. In contrast to a Limited Liability Company Capital Partnership, which is established by a minimum of two people with a Deed of Establishment. The legality of an individual company as an entity that is a legal entity is a dilemma related to taxation. In the provisions governing taxation, namely in the Director General of Taxes Regulation Per-04/PJ/2020 concerning Technical Instructions for the Implementation of Administration of Taxpayer Identification Numbers, Electronic Certificates, and Confirmation of Taxable Entrepreneurs, Individual Companies Criteria for Micro and Small Businesses can be categorized as taxpayers entity and must issue a separate Taxpayer Identification Number in addition to the Individual Taxpayer Identification Number as an obligation of the Individual Company Founder. Implementation in practice raises legal problems in terms of synchronizing the issuance of Taxpayer Identification Numbers between Individual Taxpayers and Corporate Taxpayers so that this creates multiple interpretations in carrying out obligations in the field of Taxation for business actors. The research method used in this study is a normative juridical research method using a statutory approach, a conceptual approach and an analytical approach. The results of the study indicate that there are no clear rules regarding the synchronization of the issuance of Taxpayer Identification Numbers in terms of obligations in the field of taxation by individuals as legal subjects and individual companies established by individuals in taxation activities, so that it will lead to double annual reporting for individuals. Taxpayer subject.

Keywords: Taxpayer Identification Number · Individual Companies Criteria for Micro and Small Businesses · Tax Obligations

1 Introduction

To the existing jobs provided by the government or the private sector. Based on this noble goal, Article 27 paragraph (2) of the 1945 Constitution states that “Every citizen has the right to work and a decent living for humanity”. Article 27 paragraph (2) states constitutionally that the government is obliged to provide sufficient job opportunities and provide protection for citizens both physically and spiritually. In addition, the noble goal is contained in Article 33 paragraph (1) of the 1945 Constitution which states that “The economy is structured as a joint effort based on the principle of kinship”. Article 33 paragraph (1) is an article that forms the legal basis for the economy in Indonesia. The article contains the principle of understanding the principles of kinship and togetherness in the development of economic law in Indonesia with a coercive nature by prioritizing the prosperity of all Indonesian people. The community can establish and open a business business by conducting business activities in the form of a legal entity or not a legal entity to achieve goals and obtain profits or profits. The characteristic of a business as a legal entity is the separation of the wealth of the business owner from the assets of the company he created, so that the business owner is only responsible for the assets he owns. Business entities in the form of legal entities include Limited Liability Companies, Foundations and Cooperatives. Then the characteristics of business entities that are not legal entities, namely the absence of separation of assets between the assets of the business entity and the assets of the owner. Business entities that are not legal entities include Civil Partnerships, Firms and Limited Partnerships.

In terms of current business practices, people who want to set up a business are more interested in establishing a legal entity, namely a Limited Liability Company because it has legality in the eyes of the law. Limited Liability Company as a legal entity is regulated in laws and regulations, namely Law Number 40 of 2007 concerning Limited Liability Companies. According to Article 1 of the Limited Liability Company Law, it is stated that “a Limited Liability Company, hereinafter referred to as a Company, is a legal entity which is a capital partnership, established based on an agreement, conducting business activities with authorized capital which is entirely divided into shares and fulfills the requirements stipulated by law. And implementing regulations. Limited Liability Company as a form of business has at least 5 (five) structural characteristics, namely:

- 1) “Legal entity (legal personality);
- 2) limited liability (limited liability);
- 3) Transferable shares;
- 4) Centralized management and
- 5) Share ownership by investors (shared ownership).” [1]

The form of a Limited Liability Company can be a means towards an open business. With the limitation of liabilities and ease of entry and exit from the ownership of a Limited Liability Company, this form of legal entity is often referred to as the steam engine of capitalism [2]. Along with the passage of time and the increasingly fierce economic competition, the implementation of Law Number 40 of 2007 concerning Limited Liability Companies, there are many developments and challenges in society that are not

fully accommodated. As has been stated by Poltaris who stated that it is impossible to make a perfect law [3].

In the Indonesian economy, the business entities that are most in demand by the public are business entities in the form of Micro and Small Enterprises, which are generally non-legal entities. Considering that this form of business is in great demand by the public, one of the government's efforts to promote and create a better economic climate and seeks to assist and encourage the community as business actors, especially in Micro and Small Business activities, is to create Law Number 11 of 2020 concerning Create work. In the Job Creation Act, one of the changes is the provisions in Law Number 40 of 2007 concerning Limited Liability Companies, one of which is regarding the Establishment of Limited Liability Companies, which are now known as Capital Partnership Limited Liability Companies and Individual Companies. According to Article 109 Number 1 of the Job Creation Law, it is stated that: "Limited Company, hereinafter referred to as Company, is a legal entity which is a capital alliance, established based on an agreement, conducting business activities with authorized capital which is entirely divided into shares or individual Legal Entities meet the criteria for Micro and Small Enterprises as stipulated in the legislation concerning Micro and Small Enterprises".

The presence of the Job Creation Law, one of which aims to improve and provide convenience for the community, especially for business actors who want to establish individual companies with micro and small business criteria. Based on the existing facilities, there are several shortcomings, one of which is regarding the Issuance of Taxpayer Identification Numbers for Individual Companies which are indirectly related to the Establishment of Individual Companies that meet the Micro and Small Business Criteria. Individual business actors who meet the Micro and Small Business Criteria are required to issue a Taxpayer Identification Number to fulfill obligations in the field of taxation. In its implementation, there was a problem regarding one of the requirements for the issuance of a taxpayer identification number based on Article 9 Paragraph (4) letter a of the Regulation of the Director General of Taxes Number Per-04/PJ/2020 concerning Technical Instructions for the Implementation of the Administration of a Taxpayer Identification Number, Electronic Certificate, and Entrepreneur Confirmation. Taxable, namely one of the requirements is an establishment document with the establishment of an Individual Company that meets the Micro and Small Business Criteria based on Article 153A Paragraph (2) of Law Number 11 of 2020 concerning Job Creation regarding the requirements for the establishment of an Individual Company with Micro and Small Business Criteria using only Statement of Establishment from business actors. One of the problems that arise in synchronizing the Issuance of a Taxpayer Identification Number with the Establishment of an Individual Company that meets the Micro and Small Business Criteria is regarding the meaning of the establishment document and the statement of establishment.

The issuance of a Taxpayer Identification Number for Corporate Taxpayers in the field of Taxation requires conditions, one of which is a Deed of Establishment or Document of Establishment, while the Establishment of a Micro and Small Business Individual Company requires requirements, one of which is a Statement of Establishment. And

therefore in synchronization, it can create uncertainty regarding the Deed of Establishment or Document of Establishment required for business actors to issue Taxpayer Identification Numbers for Corporate Taxpayers, especially for business actors who establish Individual Companies that meet the Micro and Small Business Criteria, thus causing a blurring of norms. in Article 9 Paragraph (4) letter a Regulation of the Director General of Taxes Number Per-04/PJ/2020 concerning Technical Instructions for the Implementation of Administration of Taxpayer Identification Numbers, Electronic Certificates, and Inauguration of Taxable Entrepreneurs because there is no difference between the requirements for issuing a Tax Identification Number Corporate Taxpayers, especially Individual Companies that meet the Micro and Small Business Criteria.

2 Method

The research method used in the preparation of this journal is a normative legal research method. The normative legal research method examines the law from an internal perspective with the object of research being legal norms. [4] In this study, the researchers used the type of approach to legislation (Statue Approach), Conceptual Approach (Conceptual Approach) and Analytical Approach (Analytical Approach). Sources of legal materials used by researchers using primary legal materials, secondary legal materials and tertiary legal materials. The primary legal materials used include the 1945 Constitution of the Republic of Indonesia, Law Number 28 of 2007 concerning General Provisions and Tax Procedures, Law Number 40 of 2007 concerning Limited Liability Companies, Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises, Law Number 11 of 2020 concerning Job Creation, Government Regulation Number 7 of 2021 concerning Ease, Protection, and Empowerment of Cooperatives and Micro, Small and Medium Enterprises, Government Regulation Number 8 of 2021 concerning Authorized Capital Company and Registration of Establishment, Amendment, and Dissolution of Companies that Meet the Criteria for Micro and Small Businesses and Director General of Taxes Regulation Number PER-04/PJ/2020 concerning Technical Instructions for Administration of Taxpayer Identification Numbers, Electronic Certificates, and Confirmation of Taxable Entrepreneurs. The secondary legal materials used include books written by legal experts, discussions in seminars, doctrines from experts and legal cases related to the problems studied. The tertiary legal materials used aim to provide instructions or explanations for primary legal materials and secondary legal materials such as legal dictionaries, encyclopedias and others. After all the material has been collected, then the legal material is analyzed and then conclusions can be obtained systematically to avoid contradictions between the legislation under study in answering the existing problems [5].

3 Result and Discussion

3.1 Position of Taxpayer Identification Number for Limited Liability Companies, Especially for Individual Companies Criteria for Micro and Small Businesses in the Field of Taxation

The definition of a Limited Liability Company is regulated in Article 1 of Law Number 40 of 2007 concerning Limited Liability Companies which states that “Limited Companies, hereinafter referred to as Companies, are legal entities which are capital alliances, established under an agreement, conducting business activities with authorized capital which is entirely divided into shares. And fulfill the requirements stipulated by the law and its implementing regulations”. The principle of legal certainty is an agreement as a legal figure must contain legal certainty, which means it applies as law for the parties who make the agreement [6]. Limited Liability Company is an association or entity consisting of several shareholders and has separate capital from the assets of the owner or founder and the assets of the company, this company is established based on an agreement and conducts business activities with authorized capital which is entirely divided into shares and has fulfilled the requirements. Determined by law [7]. Based on this understanding, it can be said that a Limited Liability Company is a business entity in the form of a legal entity established based on an agreement made by agreement by a minimum of two or more people with authorized capital which is entirely divided into shares.

According to Article 1 Number 1 of Law Number 20 of 2008 concerning Micro, Small and Medium Enterprises, it is stated that “Micro-enterprises are productive businesses owned by individuals and/or individual business entities that meet the criteria for micro-enterprises as regulated in this Law” and Article 1 Number 2 of the related Law states that “Small Business is a productive economic business that stands alone, which is carried out by individuals or business entities that are not subsidiaries or branches of companies that are owned, controlled, or become part of either directly or indirectly. Directly from Medium Enterprises or Large Businesses that meet the criteria for Small Businesses as referred to in this Law”.

Along with the enactment of Law Number 11 of 2020 concerning Job Creation and implementing regulations, namely Government Regulation Number 7 of 2021 concerning Ease, Protection, and Empowerment of Cooperatives and Micro, Small and Medium Enterprises and Government Regulation Number 8 of 2021 concerning Authorized Capital of Companies and Registration of Establishment, Change, and Dissolution of Companies that Meet the Criteria for Micro and Small Businesses changes the meaning of Limited Liability Companies. The presence of the Job Creation Act introduces a new type of legal entity with the term Individual Company with the criteria for micro and small businesses. According to Article 109 Number 1 of the Job Creation Law, it is stated that “Limited Company, hereinafter referred to as Company, is a legal entity which is a capital partnership, established based on an agreement, conducting business activities with authorized capital which is entirely divided into shares or individual legal entities that meet criteria for Micro and Small Enterprises as regulated in the legislation concerning Micro and Small Enterprises.” Based on this understanding, there are terms regarding Limited Liability Company, Capital Partnership and Individual Company. Capital Partnership Limited Liability Company can be established by two or more

people based on an agreement whose authorized capital is entirely divided into shares, while an Individual Company can be established by only one person as long as it meets the criteria for micro and small businesses.

An individual company has a one tier system. The term one tier system is not found and is not found in the vocabulary of laws and regulations in Indonesia. The term one tier system is found in the Hungarian company law Act IV of 2006 in Article 21 which states that “The articles of association of a limited liability company may also contain provisions regarding the management and supervisory functions of the board of directors (public or private companies organized under a one-tier system). Such a limited company (public or private) may not have a supervisory board, and members of the board of directors must be treated as executive officers.” [8] of directors who carry out the functions of management (board of directors) and supervision (board of commissioners). In this system, the board of directors functions to establish policies, carry out operational activities and at the same time carry out supervision and/or monitoring within the Company. So it can be interpreted that the Individual Company has the nature of a one tier system where the founder of the Individual Company as a shareholder is concurrently a director in running his business and as a commissioner to carry out supervisory activities within the company.

In the taxation laws and regulations, it has not been specifically regulated regarding individual companies. However, it can be said that the Individual Company is included in the category of Legal Entity in the Taxation Law. This can be seen from the nature and characteristics of an individual company, which are as follows:

- 1) In accordance with the provisions of the Job Creation Act, it is stated that individual companies that meet the criteria for Micro and Small Enterprises are not included in the category of individuals (*natuurlijk persoon*) but are legal entities (*rechts persoon*).
- 2) The capital for the establishment of an individual company that meets the criteria for micro and small businesses is separated from the assets of the founder, so that the liability is limited to the paid-up capital.

Based on the nature and characteristics, it can be said that the individual company is included in the tax subject of legal entities in the Taxation Law. Therefore, an individual company can be said to have met the criteria as a Corporate Tax Subject.

Because the Individual Company as a Taxpayer has met the subjective and objective requirements, there is an obligation for the Individual Company to register itself in order to obtain a Taxpayer Identification Number. As a legal entity, Individual Companies Criteria for Micro and Small Businesses are required to register themselves to obtain a Taxpayer Identification Number at the tax service office. Taxpayer Identification Number is a facility in tax administration that is used as a personal identification or identity of a Taxpayer. In addition, the Taxpayer Identification Number is also used to maintain order in tax payments and in the supervision of tax administration. Establishment of Individual Companies Criteria for Micro and Small Businesses in carrying out their business activities are of course required to fulfill tax obligations. The most basic thing that must be fulfilled by an individual company is to issue a Taxpayer Identification Number. Tax is an obligation to surrender part of the wealth to the state treasury due to a situation, event and action that gives a certain position, but not as a punishment,

according to regulations set by the government and can be forced, but there is no direct reciprocal service from the state, for maintain the general welfare [9].

According to Article 1 Number 1 of Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures, 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 direct compensation and being used for the needs of the state for the greatest prosperity of the people.” According to Article 1 Number 3 of the relevant Law, it states that “Taxpayers are individuals or entities, including taxpayers, tax cutters, and tax collectors, who have tax rights and obligations in accordance with the provisions of tax laws and regulations.” From the definition of the article, it can be said that the subject of the taxpayer is an individual or entity. An individual is an individual who lives or does not live in Indonesia, either with the status of an Indonesian citizen or a foreign citizen who has income from work or business activities carried out. Meanwhile, entities are all business entities that are established and have commercial activities in Indonesia, either in any form, such as a Limited Liability Company. In this case, the taxpayer is required to carry out tax activities, namely:

- a) “Register at the nearest Tax Service Office;
- b) Calculate the amount of tax payable yourself;
- c) Deposit or pay the tax payable to the perception Bank or Post Office;
- d) Report the deposit that has been made to the Directorate General of Taxes;
- e) Taxpayers determine the amount of tax payable by themselves through filling out the tax return (SPT Payable) properly and correctly.” [10]

The position of the Taxpayer Identification Number for Individual Companies that meet the Micro and Small Business Criteria is included in the category of Corporate Taxpayers. This is because an individual company, even though it is founded by only one person, is still a legal entity. Therefore, Individual Companies that meet the Micro and Small Business Criteria are required to fulfill their obligations in the field of taxation like Corporate Taxpayers. The benefits for taxpayers with the issuance of a Taxpayer Identification Number are as follows:

- 1) Can report and pay taxes in an orderly manner according to the specified time;
- 2) Avoiding administrative sanctions or criminal sanctions because they already have a Taxpayer Identification Number;
- 3) Obtain various conveniences in the process of applying for business licenses, business activities, bank loans and others.

3.2 Synchronization of the Issuance of Taxpayer Identification Numbers is Carried Out by Authorized Officials with the Enactment of Law Number 11 of 2020 Concerning Job Creation in the Transitional Period of Law Revision After the Constitutional Court Decision

The presence of an Individual Company legal entity that meets the Micro and Small Business Criteria provides convenience for people who want to set up a business with

legality. The establishment of an individual company can be carried out without a notarial agreement and deed. This is regulated in Article 153A of the Job Creation Law which states that “(1) Companies that meet the criteria for micro and small businesses can be established by 1 (one) person; (2) The establishment of the Company for micro and small businesses as referred to in paragraph (1) is carried out based on a statement of establishment made in the Indonesian language.” Based on these provisions, the establishment of an individual company is established by only one person, not based on a notarial agreement and deed, but based on a statement of establishment made in Indonesian by business actors.

In connection with the establishment of an Individual Company, the criteria for Micro and Small Businesses in the Job Creation Act are Article 153A Paragraph (2) which states that “The establishment of a Company for Micro and Small Businesses as referred to in paragraph (1) is carried out based on a Statement of Establishment made in Bahasa Indonesia, Indonesia.” In addition, Article 153F Paragraph (2) of the relevant Law states that “Company founders can only establish a Limited Liability Company for Micro and Small Enterprises in the amount of 1 (one) Company for micro and small businesses within 1 (one) year.” In this case, it can be said that in the establishment of an individual company that meets the criteria for micro and small businesses, it is only sufficient for business actors to fill in the Establishment Statement Form. In addition, business actors can establish an individual company every year. Because it is only regulated regarding the limitation of making an individual company a maximum of 1 (one) form of business as an individual company each year.

The establishment of an Individual Company that meets the Micro and Small Business Criteria only uses the Statement of Incorporation cannot guarantee the legality of the documents and the identity of the founder because the Statement of Establishment only contains information on the data of the Individual Company and data of the business owner, meanwhile the articles of association and the minutes of auction of the general meeting shareholders are not listed and are not included in it. Therefore, the legality of an individual company will be questioned and doubted by third parties who want to collaborate. So the Deed of Establishment of the Company which can only be made by a Notary as a public official authorized to make an Authentic Deed is still required to ensure the legality of the documents and the personal identity of the founder of the Individual Company.

Individual Companies that meet the criteria for Micro and Small Businesses are included in the category of Corporate Taxpayers in the Taxation sector. Therefore, business actors are required to issue a Corporate Taxpayer Identification Number for Individual Companies. In the implementation of the issuance of the Corporate Taxpayer Identification Number, it is regulated in Article 9 Paragraph (4) letter a of the Regulation of the Director General of Taxes Number Per-04/PJ/2020 concerning Technical Instructions for the Administration of Taxpayer Identification Numbers, Electronic Certificates and Confirmation of Taxable Entrepreneurs which states that “For corporate taxpayers, both profit-oriented and non-profit-oriented, namely:

1. Photocopy of documents for the establishment of a business entity, in the form of:

- a) deed of establishment or document of establishment and amendments thereto, for domestic corporate taxpayers; or
 - b) a certificate of appointment from the head office, for a permanent establishment or representative office of a foreign company;
2. Documents showing the identity of all board members of the Agency, including:
- a) for Indonesian Citizens, namely a photocopy of the NPWP Card; and
 - b) for Foreign Citizens, namely:
 - 1) photocopy of passport; and
 - 2) photocopy of NPWP Card, in the event that a Foreign Citizen has been registered as a Taxpayer;

In this case, Article 9 Paragraph (4) letter a Per-04/PJ/2020 regarding the requirements for Issuance of Taxpayer Identification Numbers is indirectly related to Article 153A Paragraph (2) regarding one of the requirements for the establishment of an Individual Company that meets the Business Criteria. Micro and Small. In this case, there is a vagueness of norms in Article 9 Paragraph (4) letter a Per-04/PJ/2020, namely regarding the meaning of the establishment document. Per-04/PJ/2020 does not explain in detail what is included in the establishment document. Therefore, the definition of the establishment document becomes multi-interpreted among the people who want to complete the requirements for the Issuance of a Corporate Taxpayer Identification Number. Since the Individual Company is included in the category of Corporate Taxpayer, it should be clearly stated that the requirements for Issuance of a Corporate Taxpayer Identification Number are the Deed of Establishment which is required for Limited Liability Companies and a Statement of Establishment which is required for Individual Companies that meet the Micro and Small Business Criteria. Small.

With regard to the Synchronization of Issuance of Taxpayer Identification Numbers in the Transition Period regarding the Constitutional Court Decision Number 91/PUU-XVIII/2020 on the Job Creation Law, it can be said that people who want to establish Individual Companies that meet the Micro and Small Business Criteria are still carried out in practice and are required to fulfill obligations in the field of taxation to provide convenience in carrying out their business activities. Regarding the registration requirements of taxpayers to issue Corporate Taxpayer Identification Numbers in accordance with the provisions of Article 9 Paragraph (4) letter a based on the Regulation of the Directorate General of Taxes Number Per-04/PJ/2020 concerning Technical Instructions for Administration of Taxpayer Identification Numbers, Certificates Electronic and Taxable Entrepreneur Confirmation, the authorized official in the field of taxation interprets that the Statement of Establishment can be said to be the same as the Document of Establishment. Therefore, the requirements for the establishment of an Individual Company that meet the Micro and Small Business Criteria with the requirements for Issuing Taxpayer Identification Numbers for Corporate Taxpayers can be synchronized to provide convenience for business actors in the Taxation sector.

Although the role of the Notary is omitted, but in the case of the establishment of an Individual Company, the Notary can provide assistance to business actors who wish to

establish an Individual Company with Micro and Small Business Criteria. In this case, it is related to the fulfillment of one of the requirements in the issuance of the Taxpayer Identification Number, namely the existence of a Deed of Establishment or Document of Establishment. Notaries can play a role in helping to pour the Statement of Establishment by Business Actors into the form of a Deed, namely a Deed of Statement to make an Individual Company able to meet the requirements of the Deed in the issuance of a Taxpayer Identification Number and have legality that can be trusted by third parties in the field of Cooperation in the field of business being carried out.

4 Conclusion

The position of the Taxpayer Identification Number for Limited Liability Companies, Especially for Individual Companies. Individual Companies Criteria for Micro and Small Businesses are included in the category of Corporate Taxpayers where in an Individual Company there is only 1 (one) subject, namely the founder who is also an organ of the Individual Company is required to report and pay taxes on Individuals and Individual Companies Criteria for Micro and Small Businesses that subject to the same tax as the Capital Partnership Limited Liability Company.

Issuance of Individual Company Taxpayer Identification Numbers Criteria for Micro and Small Enterprises and Capital Partnership Limited Liability Companies are not differentiated based on the Director General of Taxes Regulation Number Per-04/PJ/2020 concerning Technical Instructions for Administration of Taxpayer Identification Numbers, Electronic Certificates, and Confirmation of Taxable Entrepreneurs that is required Deed of Establishment or Document of Establishment. For a Limited Liability Company, a Capital Partnership requires a Deed of Establishment, while an Individual Company Criteria for Micro and Small Businesses does not require a Deed of Establishment and only makes a Statement of Establishment. So in the technical implementation of the issuance of the Taxpayer Identification Number for Individual Corporate Taxpayers, the Micro and Small Business Criteria are the Directorate General of Taxes interpreting that the Statement of Establishment is the same as the Document of Establishment. In practice, to issue a Taxpayer Identification Number for Individual Corporate Taxpayers for Micro and Small Business Criteria, there are business actors who put the Statement of Establishment in the form of a Notary Deed in the form of a Declaration Deed to complete the requirements for the issuance of a Taxpayer Identification Number in the form of a Deed of Establishment.

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