

TAXATION ANALYSIS OF EDUCATIONAL FOUNDATIONS IN INDONESIA

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ABSTRACT

Education is an important industry in any country. The government, through its authority, provides ideal support by contributing a share of the budget as well as tax breaks. This study aims to provide an overview of how the Education Foundation's tax obligations, both income tax obligations and value added tax obligations, and tax facilities provided by the government to the Education Foundation, so that the Education Foundation's actors can fulfill tax obligations in accordance with applicable regulations and optimize the facilities provided to the Education Foundation.

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1. INTRODUCTION

Education is a sector that is critical to a country's success. Optimal education administration can undoubtedly have a broad impact on the life of the nation and state in terms of social, economic, human resources, technology, and other elements. Government assistance in this sector is deemed substantial, as evidenced by the high budget allocation, which accounts for around 20% of our country's state budget. This is established in the laws and regulations, specifically statute 14 of 2015.. (Kuncoro and Pratama 2018; N Heriyah and Elok Faiqoh Himah 2021). The Education budget is continually increasing; in 2022, the Education budget will reach 574.9 trillion Rupiah, while the Education budget plan for 2023 will reach 612.2 trillion Rupiah. (Annur 2022).

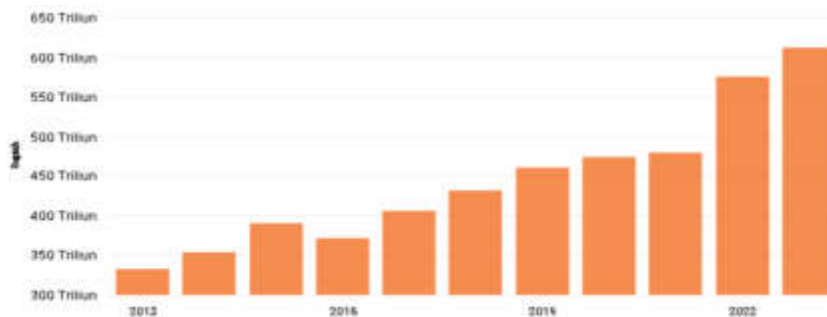


Figure 1. Indonesia's Education Budget (2012-2023)
 Source : RAPBN 2023*

With a large budget value, it is expected that the education sector in Indonesia can improving the performance of other sectors. The high value of the government budget motivates the private sector to engage in educational business. A foundation is a type of legal structure that is widely utilized to operate the education sector. (Kuncoro and Pratama 2018). In general, the Foundation is a non-profit organization, which means that its operations are done for social goals rather than profit, and it is supported by tax regulations connected to the leftover excess earned by the Education Foundation. The Foundation's leftover surplus is not liable to income tax as long as it is used for educational purposes. (Utami R 2020).

The national education system's regulations are governed by Law No. 20 of 2003. According to this rule, education is a deliberate and planned effort to create a learning environment and learning process in which students actively develop their potential to have religious spiritual strength, self-control, personality, intelligence, noble character, and skills required by themselves, society, and the country.(Tansuria 2009).

The Education Foundation's taxation has peculiarities that distinguish it from other types of legal entities. This sector's operators are expected to comprehend the benefits of Indonesia's present tax policies. (Darmansyah 2021; Poetry, Irmadariani, and Kurrohman 2014). The government provides various

incentives to the education sector, which is, of course, a kind of government support to ensure that education in Indonesia improves. (Helmayunita et al. 2021).

There are various findings of tax cases that occurred at Bandung Educational Institutions, Polytechnic A and Tourist Academy B. Both Educational Institutions are accused of failing to meet their tax requirements, thus a tax officer conducted an inspection. Tax issues that arise in some educational institutions should be avoided since they have a negative impact on the educational services supplied to the community.

Based on the description above, the purpose of this study is to provide an overview of the Education Foundation's tax regulations and the tax facilities supplied by the government in order for this Educational Institution to complete its duties and prevent the danger of tax fines. So that it can deliver the best educational services possible.

2. METHODS

This study employs a qualitative descriptive research approach, whereas this study employs literature studies by searching and expressing information, data, regulations, and articles connected to the goal and object of research. (Nazir 2014). Literature studies enable researchers to gather thorough knowledge about the issue under study, allowing them to reach conclusions regarding the topic to be explored in this study.

3. RESULT AND DISCUSSION

Income Tax

According to Law number 36 of 2008, the purpose of Income Tax is any additional economic ability received or earned by Taxpayers, both from Indonesia and from outside Indonesia, that may be utilized for consumption or to grow the Taxpayer's wealth, in whatever name or form.

a. Types of Earnings

Several types of income are obtained by educational agencies or institutions, including:

1. Registration and base money;
2. Selection money for student / student / education participant admissions;
3. Money for building construction/infrastructure procurement or other payments under any name related to the existence of students/students/education participants;
4. Tuition fees, credit fees, exam fees, course fees, seminar/workshop fees, and so on;
5. Income from employment contracts in the field of research, and so on; and
6. Other income associated with the existence of students/students/education participants

As for the income excluded from Income Tax objects, among others:

1. Assistance or donations whose provisions are regulated or based on Government Regulations; and grant assets received by educational institutions, social institutions including foundations, cooperatives, or private individuals who run micro and small enterprises, the provisions of which are regulated or based on the Minister of Finance's Regulation, as long as there is no connection with business..

For example, if PT ABC makes a donation to an educational entity in the form of computer software to be used for educational purposes, the donation is not an income tax object for the recipient and is recorded at the book value in the educational institution's list of assets. However, if the gift is ascribed or there is a reciprocal demand, such as the educational body being asked to do research for the purposes of PT ABC, the gift becomes related to business or work and is subject to income tax.

2. Assets comprise monetary deposits received by educational institutions in lieu of stock or capital participation.
3. The remaining excess received or obtained by non-profit agencies or institutions engaged in education and/or research and development, which has been registered with the agency in charge, and which is reinvested in the form of facilities and infrastructure for educational activities and/or research and development, within a maximum period of 4 (four) years since the acquisition of the excess remainder, the provisions of which are further regulated by or based on the Regulas

b. Types of Fees

There are costs for obtaining, collecting, and keeping deductible income in the calculation of taxable income for corporations operating in the education sector, including:

1. Help, gifts, or grants, provided there is no special relationship with the beneficiary as defined by the Income Tax Act. Excluding particular relationships of ownership and control if the source and recipient of help, contributions, or grant property are Entities or Institutions;
2. The operational costs of providing education and/or research and development;
3. The cost of procuring goods and/or services used to support the operation of education and/or research and development; and/or
4. The costs of improving the quality capacity and services of education and/or research and development, as well as community service, in accordance with the provisions of laws and regulations governing higher education..

Among other things, the operational expenditures of providing education and/or research and development:

1. expenses in connection with work or services including wages, salaries, honorariums, bonuses, allowances, and allowances provided in monetary terms;
2. interest, rent and royalties;
3. promotional costs regulated by or based on the Regulation of the Minister of Finance;
4. administrative costs;
5. taxes except Income Tax;
6. depreciation expense on assets that do not derive from excess residue;
7. the cost of scholarships, internships, and training;
8. travel expenses;
9. student fees;
10. research and development costs; and
11. the cost of purchasing library books, sports equipment, and props.

c. Time More

According to Minister of Finance regulation PER-44/PJ/2009 enhanced 68/PMK.03/2020, the remaining excess is the difference in excess of the calculation of all income received or earned other than income subject to final income tax and/or not the object of Income Tax, minus the costs of obtaining, collecting, and maintaining such income.

The excess residue received or obtained by the Agency or Institution is exempt from income tax if it is used for:

1. construction and/or procurement of facilities and infrastructure for educational and/or research and development activities; and
2. Carried out no later than four (four) years after the remaining residue was received or obtained.

The remaining excess must be used by educational agencies or institutions for the construction and/or procurement of facilities and infrastructure for educational activities and/or research and development on the territory of the Unitary State of the Republic of Indonesia, including:

1. Acquisition of educational and/or research and development activity facilities, such as classroom equipment, educational and/or research and development goods/equipment, sports equipment, computers, bus vehicles, minibuses, or similar vehicles used to shuttle students, vehicles owned or used by Agencies or Institutions for specific employees due to their position or job; and/or
2. Building and acquisition of infrastructure for educational activities and/or research and development, including buildings, land, laboratories, libraries, computer rooms, offices, student dorms, and official residences of professors, lecturers, or staff.

Depreciation or amortization is applied to educational and/or research and development facilities and infrastructure with a useful life of more than one (one) year.

Agencies or institutions involved in education are expected to provide a report to the Head of the Tax Service Office where the Taxpayer is registered on the amount of excess used for the building and/or procurement of facilities and infrastructure. The notification is included to the Annual Income Tax Return for the tax year in which the excess remaining is collected. In addition to documenting the amount of excess waste generated during the construction and/or procurement of facilities, educational agencies or institutions must keep detailed records of their use of excess residue equipped with supporting evidence

Other than those allocated in the form of Endowment Funds, the remaining excess can be given to other agencies or institutions as long as they are located on the territory of the Unitary State of the Republic

of Indonesia. Excess residue provided to other organizations or institutions cannot be deducted from the providing body's or institution's total income.

The residual money that is not used for the development and/or acquisition of facilities and infrastructure within four (four) years is recognized as an income tax item at the end of the Tax Year following the four-year period. The residual amount must be declared as an additional object of income tax in the Tax Year's Annual Return of Income Tax, and the excess residue is recognized as a fiscal adjustment.

Furthermore, non-profit organizations or institutions that generate more waste in the construction and procurement of facilities and infrastructure for educational activities and/or research and development must consider numerous factors, including:

1. If the construction and procurement of educational and/or research and development facilities and infrastructure is financed with borrowed funds, the interest cost on the loan funds is treated as part of the acquisition price of educational and/or research and development facilities and infrastructure..
2. Interest expenses on loan funds owed or paid after the construction process and acquisition of facilities and infrastructure for educational and/or research and development activities may be assessed as an agency or non-profit institution's cost..
3. In the event that loan funds are received or obtained before the remaining excess is obtained and used for the construction and procurement of facilities and infrastructure, the interest cost on the loan funds is treated as part of the acquisition price of facilities and infrastructure for educational and/or research and development activities. In the case of the use of excess residue that is not in accordance with the provisions can be corrected the Annual Tax Return by WP as long as the funds are still available and still within a period of 4 years.

d. Endowment Fund

According to Minister of Finance Regulation 68/PMK.03/2020, Included in the construction and procurement of infrastructure for educational activities and/or research and development by agencies or institutions engaged in education, the use of excess residue allocated in the form of Endowment Funds. Endowment Fund is an endowment fund to ensure the continuity of education and/or research and development programs that cannot be used to finance operational activities.

The remainder can be awarded as an Endowment Fund under the following conditions:

1. The agency or institution with the highest accreditation rating has been determined by the agency authorized to determine accreditation;
2. Approved by:
 - a. university leaders, boards of trustees, and officials of relevant government agencies at the central level for legal entity state universities;
 - b. university leaders, organizing bodies, and officials of relevant government agencies at the central level for private universities; or
 - c. educational body or institution leaders, organizing bodies, and officials of relevant government agencies at the provincial or district / city levels for educational institutions.;
3. approved by the head of the research and development agency or institute, as well as officials from relevant central government agencies for research and development agencies or institutions; and
4. Endowment Fund arrangements have been made at Agencies or Institutions through Presidential Regulations and/or Ministerial Regulations in charge of education and/or research and development.

e. Scholarship

Scholarships are educational financial assistance granted to students, students, employees / employees of scholarship providers, or other parties in order for them to continue and/or complete their education based on success, academic potential, and/or limited economic capabilities. Scholarship fees can be deducted from the gross income of educational bodies or institutions in order to determine taxable income under the rules of tax laws and regulations.

Scholarship income from tax subjects and/or non-tax subjects is exempt from income tax if it meets certain criteria, including scholarships received:

1. By scholarship recipients who are Indonesian citizens; and
2. To participate in formal and non-formal education carried out domestically and/or abroad.

Income in the form of scholarships is subject to Income Tax if the grantor and the scholarship winner have a commercial relationship, ownership, or control, which is a relationship as defined in tax rules and regulations, such as:

1. Taxpayers of scholarship granting entities with scholarship recipients have business, ownership, or

- control relationships;
2. The owner, commissioner, director, or administrator of the taxpayer of the scholarship granting body with the scholarship recipient has a family relationship by blood or blood in a straight and/or sideways lineage of one degree; or
 3. The individual taxpayer providing the scholarship with the scholarship recipient has a family relationship by blood or blood in a straight and/or sideways lineage of one degree.

Value Added Tax

Educational services are included in the types of services that are not subject to Value Added Tax under Article 4A paragraph (3) of Law Number 42 of 2009 on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods. However, with the passage of Law No. 7 of 2021 on "Harmonization of Tax Regulations," educational services were removed from the list of non-taxable services.

Despite the removal of the Value Added Tax from non-taxable services, educational services are recognized as an exempt Value Added Tax facility under Article 16B of the most recent Law.

However, according to Article 6 PMK-223/PMK.011/2014, not all educational services are exempt from VAT or receive VAT-free facilities. Examples include:

1. Services for providing formal education or non-formal education services delivered by education units that do not obtain education licenses from authorized Central Government or Regional Government agencies; or
2. Educational services that are an integral part of the delivery of other goods and/or services. For example, training may be included as part of a software sales package.

The term Tridharma Higher Education refers to the obligation of Higher Education to arrange education, research, and community service. Only the supply of education, which is a service of acquiring free amenities, is one of the three activities. So that, in carrying out the Tridharma of Higher Education, universities can supply Taxable Goods and/or Taxable Services that do not qualify for exempt facilities, such as:

1. Tridharma cooperation in higher education for community service, including training, seminars, and research.
2. Wealth management, including land leasing (ATMs, parking lots, and dormitories) and third parties' use of intellectual property rights.

Because tertiary institutions can provide Taxable Goods and/or Taxable Services, universities must register to be confirmed as Taxable Entrepreneurs if they have provided Taxable Goods and/or Taxable Services with a total gross circulation of more than IDR 4 800,000,000 (four billion eight hundred million rupiah) within one fiscal year.

4. CONCLUSION

The education sector is critical to a country's development. The government, through its power, gives tax benefits to the education sector, allowing the sector's actors to maximize these benefits in order to meet the aims of education itself. The Foundation, as one of the educational implementers, is expected to carry out its activities in line with applicable regulations, particularly taxes requirements. Income tax and value added tax are the Foundation's tax liabilities.

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