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The Legal Aspects Fulfillment of Tax Responsibilities for Micro and Small Enterprises Established as Individual Company

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Abstract: *An Individual Company is a new legal entity intended for Micro and Small Enterprise (MSE) actors to obtain legal entity status. However, based on the taxation perspective, establishing an Individual Company raises the consequence of tax imposition on one party that is substantially the same entity, namely MSEs as Individuals and Individual Companies as Legal Entities. This study intends to examine the taxation responsibility attached to the Individual Company as a law entity so taxpayers can carry out their tax obligations. The study method used is normative juridical with descriptive-analytical research specifications and qualitative juridical data analysis. The results of this study indicate that MSE actors who establish themselves as Individual Companies are given Corporate Taxpayer status with all its legal consequences. Direktorat Jenderal Pajak (DJP) needs to make adjustments and relax the Rights and Obligations of Corporate Taxpayers in the form of Individual Companies so that the tax self-assessment system is still implemented effectively, easily, and efficiently for taxpayers so that it has an impact on legal certainty and increases the level of taxpayer compliance.*

Keywords: *Individual Company; Micro and Small Enterprise (MSE); Taxes*

Abstrak: Perseroan Perorangan merupakan entitas badan hukum baru yang diperuntukan bagi para pelaku Usaha Mikro dan Kecil (UMK) untuk memperoleh status badan hukum. Namun berdasarkan perspektif perpajakan, pendirian Perseroan Perorangan menimbulkan konsekuensi adanya pengenaan pajak terhadap satu pihak yang secara substansial merupakan entitas yang sama, yaitu Pelaku UMK sebagai Orang Pribadi dan Perseroan Perorangan sebagai Badan Hukum. Penelitian ini dimaksudkan untuk mengkaji tanggung jawab perpajakan yang melekat kepada Perseroan Perorangan sebagai badan hukum sehingga Wajib Pajak dapat melaksanakan kewajiban perpajakannya. Metode penelitian

yang digunakan adalah yuridis normatif dengan spesifikasi penelitian deskriptif analitis dan analisis data yuridis kualitatif. Hasil dari penelitian ini menunjukkan bahwa terhadap Pelaku UMK yang mengukuhkan diri sebagai Perseroan Perorangan, diberikan status Wajib Pajak Badan dengan segala konsekuensi hukumnya. DJP perlu untuk melakukan penyesuaian dan relaksasi terhadap Hak dan Kewajiban Wajib Pajak Badan berbentuk Perseroan Perorangan sehingga sistem *self assessment* perpajakan tetap terlaksana dengan efektif, mudah dan efisien bagi wajib pajak, sehingga berdampak pada kepastian hukum dan meningkatnya tingkat kepatuhan wajib pajak.

Kata Kunci: Perseroan Perorangan; Usaha Mikro dan Kecil; Pajak

INTRODUCTION

The economic recession that occurred in 1998 had a significant impact on Indonesia's economic history. Through this event, micro and small enterprises (MSEs) business entities proved to survive and be more resistant to the crisis than large companies, so MSEs are considered an important pillar that characterizes the independence of the Indonesian economy. Quoting the statement of the United Nations Conference on Trade and Development (UNCTAD) in the ASEAN Investment Report in 2022, the number of MSEs was recorded at 65.46 million business actors. Based on this figure, the dominant contribution of MSEs to the Gross Domestic Product (GDP) is 60.3%, with employment of 97%.¹

Furthermore, along with developing community needs in business activities, the government seeks to provide a way out of the obstacles to business continuity faced by MSEs as businesses that are not legal entities. Guided by the government's efforts to provide ease of doing business (Easy of Doing Business), one of which is in the form of strengthening MSEs, the government then enacted Law Number 6 of 2023 on the Stipulation of Government Regulation in lie of Law Number 2 of 2022 on Job Creation into Law (Job Creation Law).

The state expects that the Job Creation Law will provide a stimulus in economic growth of around 5.7% to 6% through various sectors, such as new job creation increased investment, which then has an impact on increasing people's income, so that it is coherent with increasing productivity, wages and purchasing power and consumption². One of the targets is a solution for MSEs to develop their business even bigger by granting legal entity status, which then changes the landscape of corporate law in Indonesia.

Through Article 109 number 1, the Job Creation Law provides a new definition of a Limited Liability Company/*Perseroan Terbatas (PT)*. With the addition of the phrase

¹ Administrator, "Porsi Kredit Diperbesar, Sektor UMKM Segera Naik Kelas," accessed September 29, 2023, <https://indonesia.go.id/kategori/indonesia-dalam-angka/6721/porsi-kredit-diperbesar-sektor-umkm-segera-naik-kelas?lang=1#:~:text=United Nations Conference on Trade,persen tenaga kerja di Indonesia/>;

² Alexander Prabu et al., "Kemudahan Berusaha Dalam Cluster Omnibus Law," *Jurnal Lex Specialis* 1, No 2 (2020): 172.

"individual legal entities that meet the criteria of Micro and Small Enterprises as recognized in the laws and regulations concerning Micro and Small Enterprises". The phrase explains that an MSE with 1 (one) shareholder is given a legal basis to establish a legal entity³. Based on this provision, a PT can now be established by only 1 (one) person as long as it meets the criteria as an MSE, which is then known as an Individual Company⁴. MSE actors are given the convenience of establishing a business entity independently without including other people with simple requirements and low costs so that they can answer the challenge of MSE credibility to develop their business.

Then, the enactment of this provision on Individual Companies comes with problems. The establishment of an Individual Company still causes debate among academics and practitioners. On the one hand, the concept of an Individual Company is supported because Indonesia should have a legal entity established individually, as is already known in various countries. On the other hand, the concept of an Individual Company is opposed because its legal basis is not considered wisely, so it is feared that it will cause other legal problems that can harm various parties, both the owner of the Individual Company and those who have legal relations in the context of business activities with the Individual Company⁵.

Apart from those problems, one aspect of the individual company that is interesting to discuss is taxation, an obligation attached to the company as a *rechtsperson*. As we know, tax plays an important role in the life of a state because of its role as the primary source of state revenue. The independence of a country can be measured by its ability to finance the government's running and development through the utilization of domestic resources, one of which is through tax collection. For this reason, all taxpayers' active participation is required to fulfil the responsibility to pay taxes as a source of state revenue⁶.

The position of tax as an engagement, resulting in the imposition of tax, becomes binding and cannot be avoided by anyone who meets both subjective and objective requirements as a tax subject. Therefore, tax obligations must be hastened and cannot be delayed. According to Rochmat Soemitro, tax is an engagement, or in other words, a legal relationship between the state and its people, where the legal relationship arises because of the law. The people must submit a certain amount of their property to the state treasury. For the submission, the state has a coercive power not accompanied by direct contraprestation

³ Indah Siti Aprilia, "Aspek Hukum Pemegang Saham Dalam Perseroan Dengan Satu Pemegang Saham (Single Share-Holder) (Studi Komparasi Indonesia Dengan China)," *SUPREMASI Jurnal Hukum* 3, no. 2 (2020): 8, <https://doi.org/10.36441/supremasi.v3i2.128>.

⁴ Aliza Madina Putri and Paramita Prananingtyas, "Existence and Characteristics of Sole Proprietorship in Indonesia," *Diponegoro Law Review* 7, no. 2 (2022): 246, <https://doi.org/10.14710/dilrev.7.2.2022.245-261>.

⁵ Febri Jaya, "Potensi Konflik Kepentingan Dalam Pendirian Badan Hukum Perorangan Pasca Revisi Undang-Undang Perseroan Terbatas Dalam Omnibus Law," *Kosmik Hukum* 21, no. 2 (2021): 116, <https://doi.org/10.30595/kosmikhukum.v21i2.10310>.

⁶ Zainal Muttaqin, Dewi Kania Sugiharti, and I. Tajudin, "Law Enforcement on Taxation Through Non Litigation Mechanism (an Alternative)," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 27, no. 2 (2015): 2, <https://doi.org/10.22146/jmh.15899>.

for the taxpayer. The state then uses the tax money to organize the government and achieve the goals desired by the state⁷.

In its collection, the tax must prioritize the principle of legal certainty and fulfil the principle of justice for each taxpayer. Through taxes, taxpayers are guaranteed protection, security and supporting facilities to carry out various economic activities and obtain fundamental rights as citizens. Conversely, for taxpayers to fulfil tax payments, the state must fulfil and guarantee the various needs of taxpayers⁸. As a country that adheres to the self-assessment system, the state hands over responsibility and trust to citizens as taxpayers to register, calculate, pay and report their taxes independently. An excellent self-assessment system will make it easier for taxpayers to carry out their obligations properly and correctly. It has implications for strengthening the level of taxpayer compliance.

With the recognition of the Individual Company as a new legal entity, there is a consequence of tax imposition on one party that is the same entity, namely the MSE actor as a Person and the Individual Company as a Legal Entity. It will then result in conditions that may constitute double taxation, considering that substantially, both are the same "person" but with different arrangements for rights and obligations. Therefore, the researcher considers it necessary to conduct further studies on how the law provides certainty regarding the fulfillment of the taxation responsibilities of MSEs that establish themselves as Individual Companies.

From the results of the search for scientific studies that researchers conducted, study related to Individual Companies has been carried out by several parties. The first is an article by Mrs. Sylvia Putri and Mr. David Tan entitled "*Analisis Yuridis Perseroan Perorangan ditinjau dari Undang-Undang Cipta Kerja dan Undang-Undang Perseroan Terbatas*."⁹ This study analyzed the presence of the Job Creation Law, which expands the concept of a Company with the recognition of an Individual Company as a new legal entity, how the regulation of MSE criteria companies based on the Job Creation Law and the Limited Liability Company Law, and its legal gaps.

Furthermore, the study by Mrs. Putu Devi Yustisia Utami and Sdr. Kadek Agus Sudiarawan, entitled "*Perseroan Perorangan pada Usaha Mikro dan Kecil: Kedudukan dan Tanggung Jawab Organ Perseroan*" This study analyzed the position, authority, and responsibility of the Company's organs as stipulated in Article 109, number 5 of the Job Creation Law.

⁷ Dewi Kania Sugiharti et al., *Hukum Pajak* (Bandung: Remaja Rosdakarya, 2021), 3.

⁸ Haidar Ammar Alfaruqi, Dewi Kania Sugiharti, and Amelia Cahyadi, "Peran Pemerintah Dalam Mencegah Tindakan Penghindaran Pajak Sebagai Aktualisasi Penyelenggaraan Pemerintahan Yang Baik Dalam Bidang Perpajakan.," *ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan* 3, no. 1 (2019): 114.

⁹ Sylvia Putri and David Tan, "Analisis Yuridis Perseroan Perorangan Ditinjau Dari Undang-Undang Cipta Kerja Dan Undang-Undang Perseroan Terbatas," *UNES Law Review* 4, no. 3 (2022): 317–31, <https://doi.org/10.31933/unesrev.v4i3.239>.

Then, the study by Mrs. Febri Jaya entitled *"Potensi Konflik Kepentingan dalam Pendirian Badan Hukum Perorangan Pasca Revisi Undang-Undang Perseroan Terbatas dalam Omnibus Law."*¹⁰ This study provides an analysis of the potential conflicts of interest that will arise as a result of the simplification of the requirements for the establishment of a Limited Liability Company, which was initially established by a minimum of 2 (two) persons to 1 (one) person after the recognition of the Individual Company entity.

The researcher can state that the novelty of this study has yet to be studied because, in this study, the researcher focuses more on the legal aspects of the inherent taxation responsibilities of MSE actors who establish themselves as Individual Companies. Seeing the fact in the field that the socialization and publication carried out by the government so far have only been oriented towards interesting things that display the various advantages and conveniences of establishing an Individual Company, without being accompanied by an understanding that behind all these conveniences, there are consequences in the form of the implementation of obligations that must be fulfilled, including tax obligations, makes researchers interested in reviewing more thoroughly so that clarity is obtained regarding the tax status of Individual Companies as Taxpayers, along with the legal consequences arising as a result of the establishment of Individual Companies by MSEs in order to carry out their tax responsibilities.

METHOD

In conducting this study, researchers used a qualitative method of normative juridical to find legal principles and theories associated with existing practices in the field. Here, the focus is on the doctrines and principles stated in Article 5 and Article 6 of Law Number 10 of 2004 on the Formation of Laws and Regulations (Law Number 10 of 2004).¹¹ This normative juridical method is the stage of applying or linking legal theory with the focus of the problems discussed in this study.

Researchers apply data collection techniques through literature studies. The study used secondary literature data, which serves as primary legal material traced to regulations and various literature related to the problem.¹²

DISCUSSION

A. Individual Company as Legal Entity

The concept of an Individual Company is, of course, inseparable from the concept of

¹⁰ Jaya, *Op.Cit.*

¹¹ Zainuddin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2009).

¹² Dewi Kania Sugiharti et al., *Metodologi Penelitian Bidang Hukum: Suatu Pendekatan Teori Dan Praktik* (Jambi: Sonpedia Publishing Indonesia, 2023), 102.

a company, as the terminology is known in the Commercial Code (*KUH Dagang*).¹³ However, there needs to be a clear definition of traders and entrepreneurs in the *KUH Dagang* or *Staatsblad* 1938 No.276.¹⁴ The Individual Company concept is a manifestation of granting legal entity status to the form of individual business previously widely used in Indonesia, namely Trading Business/*Usaha Dagang (UD)*. Although, in practice, *UD* uses a notarial deed in its establishment, it does not necessarily give legal entity status to *UD*, so this business model is deemed unable to provide legal certainty, especially concerning the separation of assets between business entities and individuals as owners.

A legal Entity is defined as a body or an association that, by law, is given the authority and right to perform actions like an individual, has assets separate from its founders, and can sue or be sued in front of a judge¹⁵. An entity/association can be categorized as legal when the law stipulates such. There are several requirements based on formal criteria (sources of law), including statutory provisions, custom and jurisprudence, and requirements based on doctrine¹⁶. Further, the requirements based on legislation, regulated in Article 1653 of the Civil Code, which is expressly stated and not expressly stated but based on existing regulations, regulates that the body is a legal entity¹⁷.

A Limited Liability Company requires organs as its representatives to conduct legal relations with third parties¹⁸. A Limited Liability Company is a capital partnership in which its assets in the form of paid-up capital are separate from the personal assets of each of its allies. Thus, the allies, who are, in fact, the shareholders of the Company, are responsible only for the extent of the paid-up capital¹⁹. From this understanding, we cannot hold shareholders personally liable if there is no proven wrongful act committed by the shareholders directly for the Company. This is then known as the principle of Limited Liability. The principle of limited liability is a fundamental thing that distinguishes between business entities in the form of limited liability companies and other forms. This principle applies when the responsibility of shareholders (shareholders) is limited to the shares owned²⁰.

The enactment of the Job Creation Law changed several provisions, including expanding the concept of PT. The addition of the phrase "individual legal entities that meet the criteria of micro and small enterprises as stipulated in laws and regulations

¹³ C.S.T. Kansil, *Pokok-Pokok Pengetahuan Hukum Dagang Indonesia* (Jakarta: Sinar Grafika, 2004), 32.

¹⁴ Soekardono, *Hukum Dagang Indonesia (Jilid 1 Bagian Pertama)* (Jakarta: Dian Rakyat, 1993), 18.

¹⁵ Chidir Ali, *Badan Hukum (Cetakan Ke-5)* (Bandung: Alumni, 2014), 19.

¹⁶ Ahmad Probo Sulisty, "Problematika Hukum Terhadap Kedudukan Yayasan Yang Didirikan Sebelum Undang-Undang Yayasan" (Universitas Islam Indonesia Yogyakarta, 2017), 26.

¹⁷ Anwar Borahima, *Kedudukan Yayasan Di Indonesia: Eksistensi, Tujuan Dan Tanggung Jawab Yayasan* (Jakarta: Kencana, 2010), 23.

¹⁸ Utami and Sudiarawan, *Op.Cit.*, 774.

¹⁹ Tuti Rastuti, *Seluk Beluk Perusahaan Dan Hukum Perusahaan* (Bandung: Refika Aditama, 2015), 36–37.

²⁰ Aprilia, *Op.Cit.*, 3–4.

concerning micro and small enterprises." Article 109 of the Job Creation Law gave birth to a new corporate entity, the Individual Company. A debate then occurred among practitioners and academics who considered that there was a contradiction in context regarding the elements of a Limited Liability Company.

The first element is the Capital Association. The Company consists of several shares owned by the shareholders, which become the Company's assets, separate from the shareholders' personal assets. An Individual Company cannot fulfil this. Although wealth is separate from personal assets, due to the single shareholder principle, where there is only one shareholder who also acts as the management, the requirement for a capital alliance consisting of shares or sero-sero still needs to be fulfilled.

Next is the element of Establishment Based on Agreement. In this case, the Establishment of a company is contractual due to an engagement/agreement between two or more parties. Another characteristic is consensual, which is reflected in the Agreement between two or more parties to establish a company. It cannot be fulfilled in the concept of an Individual Company because only one party initiates the Establishment of an Individual Company.

Apart from the debate on these two elements, some argue that everything is fine with the new definition of a Limited Liability Company in the Job Creation Law. The phrase "or" can be interpreted as a Limited Liability Company established by at least 2 (two) persons, which is a form of Company based on an agreement. At the same time, an Individual Company is a form that is not based on an agreement²¹. Thus, 2 (two) types of Company can be recognized as a form of legal entity, namely a Limited Liability Company and an Individual Company. The emphasis in a Limited Liability Company is on the agreement clause involving at least 2 (two) parties²². Then, an Individual Company is established by someone who meets the criteria of MSEs. These two elements (person and MSE) must be fulfilled; if one is not fulfilled, then an Individual Company cannot be established.

The affirmation related to the Individual Company as a Legal Entity is further regulated through Government Regulation No. 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 Enterprises (Government Regulation No. 8/2021), where the status of a legal entity is obtained after being registered with the Minister and obtaining an electronic registration certificate²³. Thus,

²¹ Jaya, *Op.Cit.*, 117–18.

²² Desak Kasih, "Perseroan Perorangan Pasca Uu Cipta Kerja:Perubahan Paradigma Perseroan Terbatas Sebagai Asosiasi Modal," *Arena Hukum* 15, no. 1 (2022): 23, <https://doi.org/10.21776/ub.arenahukum.2022.01501.2>.

²³ Nicholas Ardyanto and Tjhong Sendrawan, "Perseroan Perorangan Sebagai Badan Hukum Di Indonesia Dalam Kaitannya Dengan Pendirian Perseroan Terbatas Oleh Pemilik Tunggal Berdasarkan Undang-Undang Republik Indonesia Nomor 40 Tahun 2007," *Ideas: Jurnal Pendidikan, Sosial, Dan Budaya* 8, no. 3 (2022): 1089, <https://doi.org/10.32884/ideas.v8i3.768>.

juridically, the legal entity status of an individual company has fulfilled the formal requirements of being a legal entity with the state's legalisation.

B. Establishment of an Individual Company

Based on the definition referred to in Article 153A of the Job Creation Law, there are currently two types of companies, each of which has a different establishment method. For a Limited Liability Company, Article 7 of the Company Law has regulated the procedures for establishing and announcing a Company which in these provisions requires a notarial deed. In establishing a Limited Liability Company, a notarial deed is an important element that can be identified as an authentic deed, i.e., a deed that can be used as evidence, legally enforceable to provide legal certainty due to the binding and perfect nature of the notarial deed²⁴. This provision is then excluded for Individual Companies after the enactment of the Job Creation Law.

Article 153A of the Job Creation Law regulates the establishment of an Individual Company and is emphasized through Article 6 and Article 7 of Government Regulation No. 8/2021. The provisions explain that an Individual Company only requires a statement letter of establishment in its establishment, so a notarial deed is not mandatory.²⁵ The statement of establishment is registered with the Ministry of Law and Human Rights electronically. It is undoubtedly a breakthrough in the establishment of a PT. However, the researcher believes that a notarial deed is still required due to the authentic nature of notarial deeds, which play an important role in providing legal certainty and are strong evidence. The precautionary principle should be applied in the requirements for establishing individual companies in the future to provide legal protection for both the founders of individual companies and the interests of society.

As previously discussed, the establishment of an individual Company must certainly meet the criteria for micro and small businesses as stipulated in Article 35 of Government Regulation Number 7 of 2021 on the facilitation, protection and empowerment of cooperatives and micro, small and medium enterprises (Government Regulation No. 7/2021) as follows;

a. Micro-enterprise

- Business capital of up to a maximum of Rp 1,000,000,000,- (one billion rupiah), excluding land and building for business;
- Maximum revenue of IDR 2,000,000,000 (two billion rupiah);

b. Small-enterprise

²⁴ Diyan Isnaeni, "Peran Notaris Dalam Pendirian Pt Usaha Mikro Dan Kecil," *Jurnal Hukum Dan Kenotariatan* 5, no. 2 (2021): 208, <https://doi.org/10.33474/hukeno.v5i2.11003>.

²⁵ Aliya Sandra Dewi and Dian Fitriana, "Sole Proprietorship Legal Entity in Establishment of Small Medium Business in Indonesia," *International Journal of Law Management & Humanities* 5, no. 3 (2022): 1.

- Business capital of more than Rp 1,000,000,000,- (one billion rupiah) to a maximum of Rp 5,000,000,000,- (five billion rupiah) excluding land and building of business premises;
- Revenue of more than Rp 2,000,000,000,- (two billion rupiah) to Rp 15,000,000,000,- (fifteen billion rupiah).

Let us examine the regulations in the Company Law, the Job Creation Law and the Government Regulation Number 8 of 2021. We will not find any significant differences between the organs in a Limited Liability Company and the organs in an Individual Company because, in these regulations, there is no change in the composition of the organs.²⁶ In a company, there are three types of company organs, namely the board of directors, the board of commissioners and *Rapat Umum Pemegang Saham (RUPS)* which have different functions and roles from one another. The hierarchy between the three is equal, so they cannot interfere with each other's duties and authority²⁷.

However, in reality, Article 7 paragraph (2) of Government Regulation Number 8 of 2021 implicitly outlines that an Individual Company only consists of directors who are also shareholders, which is contained in the phrase "founders as well as directors and shareholders of an individual company" as contained in the statement form. This phrase confirms that an Individual Company only has a director who is also a shareholder but does not expressly regulate or even eliminate the organ of the board of commissioners. It leads to the conclusion that an Individual Company only consists of directors and shareholders without commissioners²⁸. With two functions where the Director doubles as a shareholder, this is understood as a One-Tier board system structure, which has similarities with the company model found in various countries that adhere to the standard law system.

Individual companies are registered through the Individual Company Registration Application at <https://ptp.ahu.go.id/>. By registering to obtain an account, you can proceed with registering the company's establishment and completing the establishment transaction. The system will issue an Individual Company Establishment Statement and an Individual Company Establishment Registration Certificate. After obtaining these documents, the individual company was declared legally registered as a legal entity, as recorded in the Directorate General of Public Law Administration database, Ministry of Law and Human Rights²⁹. Upon establishing this Individual Company, the *PTP AHU* system will automatically generate a request to issue a Corporate number of tax (*NPWP*) for the individual company by default. However, in other cases, if the *PTP AHU* system fails to make the request, the individual company owner independently registers the

²⁶ Jaya, *Op.Cit.*, 121.

²⁷ Putri and Prananingtyas, *Op.Cit.*, 254.

²⁸ Utami and Sudiarawan, *Op.Cit.*, 775–76.

²⁹ Administrator, "Panduan Pendaftaran Perseroan Perorangan," accessed December 30, 2023, https://panduan.ahu.go.id/doku.php?id=panduan_perseroan_perorangan.

Corporate *NPWP*.

C. Tax Provisions for Individual Companies

After knowing that an Individual Company is given an NPWP to carry out its tax obligations. Then how are the tax provisions imposed on individual companies?

As it is known, Indonesia adheres to the self-assessment system, where taxpayers are allowed to self-calculate the amount of tax payable according to the guidelines provided by the tax law. Tax collection activities are in the community itself, which, as taxpayers, the community is given trust by the state to calculate, calculate, pay, and report taxes owed independently³⁰.

Calculate and Account for Debt Tax

Before further review, because the focus of the discussion is related to taxpayers of MSEs who establish themselves as individual companies, the tax obligations for MSEs will first be reviewed. It refers to the rules regarding tax obligations for taxpayers with income from businesses received or obtained by taxpayers who have an inevitable gross turnover in Government Regulation Number 55 of 2022 on Adjustment of Regulations in the Income Tax Sector (PP No. 55/2022).

Government Regulation Number 55/2022 was formed to simplify administration, provide convenience and justice, and provide legal certainty for taxpayers. This regulation is also a mandate to implement Law Number 6 of 1983 on General Provisions and Tax Procedures as has been amended several times lastly by Law Number 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law (KUP Law) to implement the provisions of Article 4 paragraph (2) letter e, Article 4 paragraph (3) letter a number 1, Article 17 paragraph (2e), and Article 32C of Law Number 7 of 1983 on Income Tax as Amended Several Times Lastly by Law Number 6 of 2023 on the Stipulation of Government Regulation in lieu of Law Number 2 of 2022 on Job Creation into Law (Income Tax Law) in the form of a Government Regulation.

Article 56 stipulates that taxpayers are subject to final tax within a certain time at 0.5% of turnover on income from businesses received or obtained by taxpayers with a certain gross circulation. Furthermore, Article 57 states that taxpayers who can utilize the 0.5% Final Income Tax rate facility are Individual Taxpayers or Corporate Taxpayers in the form of PT, CV, Firm, Cooperative, Village-Owned Enterprises / Joint Village-Owned Enterprises that earn income with gross turnover not exceeding IDR 4,800,000,000, - (four billion eight hundred million rupiah) in one tax year.

³⁰ Adrian Sutedi, *Hukum Pajak* (Jakarta: Sinar Grafika, 2013), 30.

Government regulation 55/2022 does not mention MSEs as final income tax rate beneficiaries. However, considering the threshold of taxpayer income of IDR 4,800,000,000 (four billion eight hundred million rupiah), the government indirectly targets MSEs as beneficiary tax subjects to embrace MSE actors to understand and learn to obey taxes. Specifically for Individual Taxpayers who have a business turnover of up to IDR 500,000,000 (five hundred million rupiahs) in 1 (one) fiscal year, *DJP* provides other facilities, namely income tax exemption, so that MSE Taxpayers whose annual turnover is still below IDR 500,000,000 (five hundred million rupiahs) are not subject to income tax, aka zero. This is stipulated in Article 7 paragraph (2a) of the tax law and is emphasized through Article 60 paragraph (2) of Government Regulation No. 55/2022.

Referring to the provisions of Article 59 of PP No. 55/2022, the 0.5% Final Income Tax rate facility is valid for seven years, calculated from the time the relevant taxpayer is registered as a taxpayer. The period is considered sufficient for taxpayers to learn the progressive rate scheme of Income Tax Article 17 paragraph (1) letter a and the provisions of bookkeeping and/or recording in tax reporting.

In addition to the Final Income Tax obligation of 0.5% of turnover, there are several tax obligations attached to Individual MSE Entrepreneurs conditionally, including Income Tax Article 21, Income Tax Article 4 paragraph (2), and *Pajak Pertambahan Nilai (PPN)* obligations for taxpayers with Taxable Entrepreneur status aka *Pengusaha Kena Pajak (PKP)*.

Paying and Reporting Debt Taxes

Taxpayers make tax payments based on the calculation and rate of the type of tax in question, in this case, the 0.5% Final Income Tax by Government Regulation Number 55/2022. Taxpayers can visit the Tax Office directly or online to obtain a billing code and make payments through a perception bank, either directly at the Bank or by using a mobile banking/internet banking application from a perception bank.

The following obligation is reporting the tax payable through a notification letter/*Surat Pemberitahuan (SPT)*. Based on its type, SPT is divided into 2, namely Periodic *SPT* and Annual *SPT*. Taxpayers who have made tax payments for 0.5% Final Income Tax by PP 55 Year 2022 are considered to have submitted Periodic Income Tax Returns following the validation date of the state revenue transaction number/*Nomor Transaksi Penerimaan Negara (NTPN)* so that they are not required to report Periodic Income Tax Return. Suppose the taxpayer does not have business circulation in a particular month (for example, due to extended holidays or seasonal transactions). In that case, the taxpayer must also not submit a Periodic Income Tax Return.

Furthermore, taxpayers are obligated Annual Tax Return, which is report arch 31 by As an Individual Taxpayer, MSEs use the 1770 Income Tax Return Form, which is a form used

by taxpayers with income classification derived from business / free work that organizes bookkeeping or net income calculation norms from one or more employers, or income subject to Final Income Tax and/or final. In filling it out, taxpayers prepare supporting documents in the form of income tax withholding slip (if any), Asset List (to fill in asset information at the end of the year), Debt List (to fill in the list of debt obligations at the end of the year), Family Card (to fill in the column of the composition of family members), monthly turnover records and proof of Final Income Tax payment that must be attached to the Annual Tax Return. If there is a delay in submitting the Annual Individual Income Tax Return, an administrative sanction in the form of a fine of Rp 100,000 (one hundred thousand rupiah) will be imposed.

Micro and Small Enterprises Establishes itself as an Individual Company: Changes and Increased Tax Obligations

When the Job Creation Law was first enacted, the Directorate General of Taxes/*Direktorat Jenderal Pajak (DJP)* mitigated it by issuing a Circular Letter to the Director General of Taxes Number SE-20/PJ/2022 on the Registration and Granting of Taxpayer Identification Number and Imposition of Income Tax for Individual Companies (SE-20/PJ/2022). In the circular letter, it is stated that an Individual Company is classified as a Corporate tax subject, which means that it is given a separate Individual Taxpayer Identification Number/*Nomor Pokok Wajib Pajak (NPWP)* from its owner as an Individual, even though it is only owned by one entity like a Trading Business whose *NPWP* has been attached to the Individual owner. It is, of course, based on the understanding that an Individual Company is part of a limited liability company whose meaning is expanded through the Job Creation Law.

Thus, all tax obligations previously carried out using *NPWP* switch to the Corporate Taxpayer Identification Number (NPWP). Several different provisions relate to the tax obligations attached to an Individual Company as a Corporate Taxpayer.

As a Corporate Taxpayer, an Individual Company is still entitled to use the provisions of the Final Income Tax Rate of 0.5% of turnover following Government Regulation Number 55/2022 as long as it still meets the criteria of gross turnover not exceeding IDR 4,800,000,000 (four billion eight hundred million rupiah) in one tax year. However, due to its status as a Corporate Taxpayer, an Individual Company is not entitled to obtain Income Tax exemption facilities if the turnover obtained is below or up to IDR 500,000,000 (five hundred million rupiah) as is the case with individual taxpayers, as stipulated in Article 7 paragraph (2a) of Tax Law, and emphasized through Article 60 paragraph (2) of Government Regulation 55/2022.

Instead, the Individual Company can obtain a rate reduction facility as stipulated in Article 31E of the Income Tax Law, which stipulates that domestic corporate taxpayers

with gross turnover of up to IDR 50,000,000,000 (fifty billion rupiah) receive a facility in the form of a rate reduction of 50% (fifty percent) of the Income Tax Article 17 paragraph (1) rate for corporate taxpayers imposed on taxable income from the gross turnover portion of up to IDR 4,800,000,000 (four billion eight hundred million rupiah).

Furthermore, the provisions regarding the obligations of Income Tax Article 21, Article 4 paragraph (2) and *PPN* obligations when confirmed as a *PKP* are similar to the obligations when still having the status of an Individual. As a Corporate Taxpayer, an individual PT has other obligations that are conditionally attached, namely Income Tax Article 23 and Income Tax Article 26 obligations.

When still having the status of an individual MSE or an individual company, the provisions for tax payment and reporting stay mostly the same. However, there are different provisions for submitting the annual tax return. As a Corporate Taxpayer, an Individual Company reports the Annual Tax Return using Form 1771, which is much more complex than the 1770 Annual Tax Return for individuals. The reporting period becomes by April 30 of the following year. Administrative sanctions are also much more expensive because the fine for late reporting reaches Rp 1,000,000 (one million rupiah).

In addition, there are differences related to the period of use of this 0.5% Final Income Tax rate facility. It has been stated previously that based on Article 59 of Government Regulation No. 55/2022, for Individual Taxpayers, it is a maximum of 7 years from the time the taxpayer is registered. However, specifically for Corporate Taxpayers, the following applies:

- 1) 4 years for Corporate Taxpayers of cooperative, CV, firm, BUMD/BUMDes, or Individual Company, and;
- 2) 3 years for Limited Liability Corporate Taxpayers.

From this provision, we can see that when an MSE Taxpayer decides to establish himself as an Individual Company, there are two situations whether it is beneficial for him to obtain the 0.5% Final Income Tax facility or it shortens the opportunity to utilize the 0.5% Final Income Tax facility. A simple illustration is that if the taxpayer has been registered since 2018 and then registers as an Individual Company in 2023, then his/her opportunity to utilize the 0.5% Final Income Tax rate, which should end in 2025, will end in 2027 because it is recalculated since he/she is registered as a corporate taxpayer. However, for taxpayers newly registered, for example, in 2022 and then establish themselves as an individual company in 2023, their opportunity to utilize the 0.5% Final Income Tax rate, which should end in 2029, will end in 2027. The provisions regarding the period of this rate do not follow the previous tax status as an individual because when the taxpayer decides to establish an individual company, the individual company is considered a new entity, not a continuity of the previous entity as an individual taxpayer.

Then what about the tax obligations of the MSE actor as a private person? In theory, when the MSE actor decides to establish an Individual Company where he acts as a director and shareholder, then he will get a share of the profits from the Individual Company in the form of salary in his capacity as a director and receive dividends in his capacity as a shareholder. Because the MSE Actor gets additional economic capacity through these two things and comes from only one employer (Individual Company), the MSE Actor as an Individual must apply for data changes to his personal *NPWP*. Data changes are made to adjust the Business Field Classification in the tax database for Private Employees.

D. Legal Consequences of Individual Company as Corporate Taxpayer

Although the government aims to provide the convenience that can be obtained by MSE actors through the establishment of Individual Companies, behind all these positive things, there are still things that, in the opinion of researchers, can provide new problems for MSE actors, especially from the aspect of taxation if MSE actors are not ready or do not even understand their rights and obligations as taxpayers.

The first point concerns the potential non-compliance of registration as a Corporate Taxpayer. It is known that the *PTP AHU* system from the Ministry of Law and Human Rights, by default, will be synchronized with the *DJP* Online server so that it will automatically issue a new *NPWP* as a Corporate Taxpayer for Individual Companies. However, in some scenarios, synchronization between the *PTP AHU* system and the *DJP* Online server still needs to be synchronized so that the Individual Company *NPWP* is not automatically issued. Given the resources of MSEs in Indonesia, which are still dominated by the middle class who do not understand taxation rights and obligations as well as information and communication technology, they will tend to wait for the *NPWP* to be issued from the *PTP AHU* System rather than registering independently with the *DJP* Online, resulting in potential tax non-compliance by MSEs in the first months of establishing an Individual Company, which results in administrative sanctions for late deposit and/or reporting. The administrative sanctions that arise need to be appropriately considered. Administrative sanctions are referred to in Article 7, paragraph (1) of the Tax Law: IDR 1,000,000 (one million rupiah) for each late annual tax return report for corporate taxpayers. Then, IDR 100,000 (one hundred thousand rupiah) is used for each late periodic tax return report.

Next is related to MSE actors' readiness to carry out their obligations as Corporate Taxpayers, including bookkeeping obligations. Article 1, paragraph 29 of the Tax Law stipulates that bookkeeping is a means of recording in the context of documentation related to capital, assets, liabilities, income, costs incurred, acquisition price, and documentation of the delivery of goods and/or services, which are further documented

through the preparation of financial statements in the form of a profit and loss balance sheet in a specific tax year period.

In general, every individual taxpayer other than employees and corporate taxpayers in Indonesia must organize bookkeeping following the provisions stipulated in Article 28 of the Tax Law. However, the law provides exceptions for specific criteria of individual taxpayers, in this case, taxpayers of MSEs. The exception is given based on the principle of simplicity, in which MSE actors generally do not know and understand the provisions of bookkeeping. MSE actors also generally need help understanding the concept of financial statements, as referred to in Article 1, paragraph 28 of the Tax Law. Therefore, MSE actors are exempted and only obliged to record turnover circulation for one year, which is more straightforward than bookkeeping.

The regulation fulfills one of the requirements for implementing an excellent self-assessment system: simplicity in calculation and ease of implementation. However, this principle is difficult to fulfill when the MSE actor establishes an Individual Company. As a corporate taxpayer, the law does not provide exemptions for individual companies or taxpayers with specific criteria. It is obliged to conduct bookkeeping, making it difficult for MSE actors who are not accustomed to and need more knowledge and skills.

Another problem related to bookkeeping is how MSE actors want to take part in the net profit obtained in an Individual Company to fulfill their daily needs. If previously as an Individual Taxpayer, MSEs will have no difficulty in taking part of the net profit because their tax obligations have been covered through the Final Income Tax rate of 0.5% of turnover, but with the status as a Corporate Taxpayer, MSEs must first calculate and determine whether it is considered a salary, which is undoubtedly related to the calculation of Income Tax Article 21 if the amount has exceeded the Non-Taxable Income/*Penghasilan Tidak Kena Pajak (PTKP)*, or is considered a dividend related to Final Income Tax Article 4 paragraph (2). Concerning the distribution of dividends in an Individual Company, the law still needs to provide certainty because, generally, under the Company Law, the distribution of dividends must be made through a *RUPS*. In contrast, in an Individual Company, holding a *RUPS* forum is impossible due to the single shareholder system adopted in an Individual Company.

Based on some of these problems, the researcher argues that the *DJP*'s anticipation of the recognition of the Individual Company as a new legal entity still needs to be improved because the legal consequences borne by the Individual Company as a corporate taxpayer still refer to the rules of the game for Corporate Taxpayers in general. An individual company is established as a facility to help MSE actors develop their businesses. However, tax rules that still equate individual companies with corporate taxpayers in general will be difficult, especially for MSE actors who need more knowledge of the obligations of corporate taxpayers.

This could result in a public sentiment of distrust towards the tax system in Indonesia, especially concerning the issue of MSEs and Individual Companies. MSE actors who decide to establish an individual company will feel trapped by the convenience offered by the Job Creation Law. However, behind this convenience, there is the potential for administrative sanctions, even criminal sanctions, if it is considered that the taxpayer's negligence in carrying out their tax obligations is deliberate. Although related to this criminal sanction, there are criminal sanctions of fines, confinement, and imprisonment. However, related confinement/imprisonment is an ultimatum remedium that is enforced if the fines and non-punitive efforts fail to be implemented. These various legal issues may arise due to not understanding the tax obligations attached to an Individual Company as a Corporate Taxpayer.

Although the Individual Company concept offers convenience for MSE actors, they must pay attention to the tax aspects inherent in the legal entity of an Individual Company. Non-compliance with *NPWP* registration, bookkeeping, profit sharing, and reporting can result in sanctions as described above. Thus, it is important for MSEs to understand corporate taxpayers' rights and obligations before deciding to establish an Individual Company. On the other hand, the government must be more intensive in conducting socialization and education for MSE actors regarding the tax obligations of individual companies. More specific and easy-to-understand regulations are also needed to assist MSE actors in fulfilling their tax responsibilities if they decide to establish themselves as Individual Companies.

With proper understanding and regulation, the MSEs can optimally utilize the Individual Company position in business development without being burdened by the complexity of taxation issues. Suppose previously. The *DJP* could provide exemptions for taxpayers with specific criteria to pay and report taxes through various provisions and accessible rates. In that case, it is certainly not difficult for the *DJP* to take the same policy in providing convenience for Individual Companies as a new criterion of taxpayers who are given facilities and convenience by the taxpayer's ability to understand and carry out their tax obligations, in this case, the convenience as a Corporate Taxpayer. Thus, the tax self-assessment system can be appropriately implemented. Taxpayers get the convenience of carrying out tax obligations. All of that will be directly proportional to the success of MSE actors in expanding their business to contribute to national economic growth positively.

CONCLUSION

To sum up, the enactment of the Job Creation Law has provided a new paradigm in the legal order of companies in Indonesia. Now, MSEs in Indonesia, as the backbone of the

country's economy, are given the convenience of obtaining legal entity status by establishing an Individual Company to develop their business to become more extensive and professional. In its establishment, an individual company certainly has legal consequences, one related to how to fulfill its tax obligations as a taxpayer. Through SE-20/PJ/2022, *DPJ* classifies an Individual Company as a Corporate Taxpayer, where different rights and obligations apply to individual taxpayers.

The Individual Company is still entitled to the income tax rate of 0.5% of turnover following Government Regulation Number 55 of 2022, but the Corporate Taxpayer obligations that are more complex than Individual Taxpayer obligations apply to it, including bookkeeping obligations and net profit retrieval mechanisms by the rules of Income Tax Article 21 and Income Tax Article 4 paragraph (2). It has the potential to cause new problems that are burdensome for taxpayers because these various tax obligations have consequences from administrative sanctions to criminal sanctions if not implemented. However, on the other hand, the limitations of MSE actors in understanding tax rights and obligations are fundamental.

This condition is not impossible to create a counterproductive situation with the government's goal of facilitating the establishment of an individual company, which is expected to provide economic stimulus for MSE actors. However, the complex taxation rules for Corporate Taxpayers make MSE actors who establish Individual Companies seem trapped by the situation. Therefore, adjustments and relaxation from the *DPJ* are needed. The *DPJ* can provide tax payment and reporting exemptions for taxpayers who meet specific criteria through various provisions and simplified tariffs. In that case, it is certainly easy for the *DPJ* to take similar steps in providing exemptions to Individual Companies as new criteria for taxpayers who obtain facilities and facilities following the taxpayer's ability to understand and carry out their tax obligations as Corporate Taxpayers. Thus, the tax self-assessment system adopted in Indonesia can be carried out effectively and provide convenience for taxpayers so that legal certainty can be achieved and the level of taxpayer compliance can be increased.

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