International Labour Organization

TERMS OF REFERENCE

Tax and social security in Indonesia: Fact-finding (Home-based)

1. OVERVIEW

Type of Contract:	External collaboration contract (individual) or service contract (corporate)
Organization Unit:	CO-Jakarta
ILO Office:	Jakarta
Contract period:	15 May to 31 July 2022

2. BACKGROUND

The Social Protection Programme at the ILO Country Office for Indonesia and Timor-Leste assists Indonesian stakeholders in improving social protection policies and its implementation in Indonesia.

Worker's earnings compose of various types. Income from work for wage earners may be decomposed into wage and non-wage components that include basic wage, fixed-allowances, overtime pay, bonus, monthly wage, weekly wage, daily wage, piece rate and others. Workers may also gain income from employers' liability schemes such as compensations during sick leave and maternity leave, and social security benefits from social insurance schemes and social assistance schemes. In Indonesia, laws and regulations on wages define them, while other laws and regulations on taxation or social security defines which income components are taxable or considered as insurable earnings for calculating contributions.

When we discuss adequacy of social security benefits and tax incentive, it is important to understand which components of these work-related earnings are taxable or considered in base earnings for contributions. For example, if reported earnings to a social security institution for contributions do not capture full earnings, a replacement rate of resulting social security benefits can be lower than an adequate level that is based on actual income. If social security contributions are tax deductible, workers may find greater incentives to participate in social security schemes, which may eventually facilitate the formalization of informal economy. Once a low-income earner has become exempted tax obligations, the worker may also be entitled to social assistance benefits. There may be more relations between tax and social security in a specific country context.

In Indonesia, for wage earners or employees, contributions are calculated in accordance with specified proportions of insurable earnings, employers pay both worker's and employer's portions to social security institutions and deduct the worker's portions from payrolls. A death benefit scheme (JKm) and an employment injury insurance scheme (JKK) are financed solely by employers; an old-age saving scheme (JHT), a pension scheme (JP) and a health insurance scheme (JKN) are financed by employers and workers; and an unemployment insurance scheme (JKP) is financed by employers and the Government.

For non-wage earners or self-employed, contributions are defined as an absolute or fixed amount instead of specified proportions of insurable earnings, except JHT. Non-wage earners are eligible to participate only in JKm, JKK, JHT and JKN, which are financed solely by workers unless they are entitled to a subsidized membership for JKN (JKN-PBI). JKm sets a fixed amount of contribution, while JKK define different fixed amounts depending on specified income ranges. JHT adopts a certain proportion of monthly income. JKN adopts three different amounts depending on room classes for hospitalization care.

As part of ILO's contributions to the policy dialogues in Indonesia, the Social Protection Programme is looking for an external collaborator on the abovementioned consultancy.

3. OBJECTIVE AND SCOPE

This consultancy aims to identify existing policies on taxation and social security in Indonesia. Whenever this paper refers to legal provisions, it must state reference articles or sections. Applicable conditions may be different among wage earners (employees) and non-wage earners (self-employed).

More concretely, the paper will at least but not be limited to:

a. Identify taxable income from work;

   This task aims to identify the composition of income from work and the taxable components of the work-related income. Laws and government regulations define the structure or composition of income of wage earners and non-wage earners. Income for employees can be defined as wage and non-wage components and may contain basic wage, fixed-allowances, overtime pay, bonus, monthly wage, weekly wage, daily wage, piece rate and others.

   The composition of income from work may be defined by different laws and regulations including the Government Regulation No. 36, 2021, the Law No. 11, 2020, the Law No. 13, 2003 and others.

b. Identify taxable income from social security benefits;

   This task aims to identify the taxable components of social security benefits. Social insurance benefits here may take several forms including periodic or lump-sum payments, or reimbursement. These benefits are paid by BPJS Employment or the BPJS Health through an employment injury insurance scheme (JKK), a death benefit scheme (JKm), an old age saving scheme (JHT), a pension insurance scheme (JP), an unemployment insurance scheme (JKP), and a health insurance scheme (JKN).

   Social assistance benefits here may include a conditional cash transfer scheme (PKH), cash transfer schemes for poor student (PIP and KIP) and a cooking oil cash assistance scheme (BLT) .

   These may be defined by relevant laws and regulations on tax or social security policies such as the Government Regulation No. 68, 2009, and the Minister of Finance Regulation No. 16, 2010.

c. Identify taxable income from employer's liability schemes;

   This task aims to identify the taxable components of income from employer's liability schemes. Employers are liable to pay on employment termination including severance pay (Uang Pesangon, or UP), long service pay (Uang Penghargaan Masa Kerja, or UPMK), compensation pay (Uang Penggantian Hak, or UPH), separation pay (Uang Pisah, or SP) and termination pay for fixed-term employees (PKWT). Employer's liability schemes for employment termination

are regulated by the Labour Laws. An ILO study identified the policy designs stipulated by the Law No. 13, 2003[1]. The schemes have been partially amended by the Law No.11, 2020.

Employers are also liable to pay on sick leaves, maternity or paternity leaves, and to provide religious pay (THR). The Law No. 13, 2003 regulate allowances during sick leaves and maternity or paternity leaves, and a minister of manpower regulation mandates employers to pay THR.

Relevant laws and regulations may include but are not limited to the Government Regulation No. 68, 2009, and the Minister of Finance Regulation No. 16, 2010.

d. Identify insurable earnings for social insurance contributions;

This task aims to identify which income components affect the calculation of social insurance contributions. It must review the social insurance schemes managed by the BPJS Employment schemes and the BPJS Health scheme, including an employment injury insurance scheme (JKK), a death benefit scheme (JKm), an old age saving scheme (JHT), a pension insurance scheme (JP), an unemployment insurance scheme (JKP), and a health insurance scheme (JKN).

Relevant laws and regulations may include the Law No. 24, 2011, and No. 40, 2004; the Government Regulation No. 37, 2021, No. 82, 2019, No. 70, 2015, No. 46, 2015, and No. 45, 2015; and the Ministry of Manpower Regulation No. 44, 2015, No. 29, 2015, No. 26, 2015, and No. 19, 2015.

e. Identify exemption of tax or social insurance contributions;

This task aims to identify tax exemption and/or social insurance contributions for social assistance recipients or any other citizens and employers. This task must discuss relevant conditions for exemptions.

It may add value if the consultant addresses the impact of exemptions on the entitlements of workers, employers or citizens. For example, as the Government Regulation No. 49, 2020, temporarily waved social insurance contributions during the time of COVID-19 crisis, how does the waiver affect the accumulated years of contributions to the pension schemes? Similarly, as regards the health insurance scheme many participants are registered without paying contributions (JKN-PBI). What is the impact of the waiver on their social security entitlements if any?

f. Identify tax deduction for social insurance contributions;

This task aims to identify the conditions and arrangements of tax deduction when workers and employers pay social insurance contributions (i.e. income range, income components, ceiling of tax deduction).

g. Summarise the abovementioned taxable income and insurable earnings for social security contributions;

This task aims to summarise the composition of taxable income from work, from social security benefits and from employer's liability schemes, insurable earnings for calculating social security contributions, and tax deduction. The external collaborator will build a comparative table to summarise these issues well as write descriptive paragraphs.

[1] http://www.ilo.org/jakarta/whatwedo/publications/WCMS_765084/lang--en/index.htm

4. OUTPUTS

Output 1: Outline and list of laws and regulations

- Discuss and agree on outlines with the ILO.
- Develop a list of relevant laws and regulations and other references.

Output 2: Draft report

- Conduct desk-reviews to draft required contents.
- Request the ILO for necessary information if the external collaborator does not have access to (e.g. access to laws and regulations in English), and/or request the ILO for coordinating necessary online meetings with stakeholders. The ILO may assist the external collaborator to hold meetings with them and arrange simultaneous interpreters.
- Submit a draft report to the ILO for inputs. It may take a few weeks for the ILO to provide inputs.

Output 3: Advanced daft report

- Incorporate the ILO's inputs to Output 2.
- Submit an advanced draft report. It may take a few weeks for the ILO to provide inputs.

Output 4: Presentation

- Present draft findings at a tripartite meeting to obtain inputs and to have the contents validated. The ILO will organize an online meeting and invite worker's, employer's and government's representatives.

Output 5: Final report

- Incorporate the ILO's inputs to Output 3 and inputs from the stakeholders at the abovementioned meeting.
- Keep the final report informative but concise with no longer than about 10,000 words and relevant appendix in a WORD format. The ILO will provide the external collaborator with a standard template for the report.

5. TIMELINE AND PAYMENT

The ILO will pay the external collaborator up on satisfaction of delivered outputs.

PAYMENT	DELIVERABLE	AMOUNT	TIMELINE
1	Output 1	10%	25/05/2022
2	Output 2	30%	15/06/2022
3	Output 3	40%	15/07/2022
4	Output 4	10%	31/07/2022
5	Output 5	10%	31/07/2022
	GRAND TOTAL	**100%**	

6. QUALIFICATION

Requirement:

- An advanced university degree in a relevant field such as laws, development studies, social policy, and other social sciences.
- Experience in legal reviews or policy-oriented research in the field of social security.
- Knowledge about social insurance including at least unemployment insurance, pension, and employment injury insurance and health insurance.
- Knowledge about tax policies.
- Excellent drafting skills in English.

Advantage:

- Knowledge about social policies, labour issues and tax policies in Indonesia.

7. APPLICATION PROCESS

Applicants must email the following information to Mr Ippei Tsuruga (tsuruga@ilo.org) by 4 May 2022:

a. Curriculum Vitae; and

b. Fee (in total).

The ILO will assess applicants' ability, experience, and proposed fee for the selection of the external collaborator. The ILO will contact a selected or shortlisted candidate only and will not provide any clarifications to those who are not selected.

References

Relevant laws and regulations may include but not limited to:

- 2021 Government Regulation No. 36 concerning wage
- 2021 Government Regulation No. 37 concerning unemployment insurance
- 2020 Law No. 11 concerning job creation
- 2019 Presidential Regulation No. 7 concerning occupational diseases
- 2019 Government Regulation No. 82 Amendments to Government Regulation Number 44 of 2015 concerning the implementation of JKK and JKm
- 2015 Minister of Manpower Regulation No. 44 concerning the implementation of JKK and JKm for casual, wholesale, and fixed-term workers
- Minister of Manpower Regulation No. 29 concerning participation registration procedures, payment and termination of pension benefits
- 2015 Minister of Manpower Regulation No. 26 concerning procedures for implementing JKK, JKm and JHT for wage earners
- 2015 Minister of Manpower Regulation No. 19 concerning JHT withdrawal on unemployment
- 2015 Government Regulation No. 78 concerning wages
- 2015 Government Regulation No. 70 concerning employment injury benefits and death benefits for civil servants
- 2015 Government Regulation No. 46 concerning JHT
- 2015 Government Regulation No. 45 concerning JP
- 2013 Minister of Manpower Regulation No. 19 concerning social assistance through elderly social welfare institutions
- 2013 Minister of Manpower Regulation No. 12 concerning social assistance programme for the abandoned elderly
- 2011 Law No. 24 concerning the implementing agency of social security
- 2010 Minister of Finance Regulation No. 16 concerning procedures for withholding income tax on severance pay, pension and old age savings
- 2009 Government Regulation No. 68 concerning income tax on severance pay, pension and old age savings
- 2004 Law No. 40 concerning the national social security system
- 2003 Law No. 13 concerning manpower