

ADVISORY

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COMPARISON BETWEEN THE BILL AND THE EXISTING LAW

This advisory contrasts the Bill on Stamp Duty to Law 13 of 1985. The comparison groups the paragraphs into the documents on which stamp duty must be paid and those on which it does not. Before the enactment of this Bill, what are the most interesting things about the Bill you would like to learn more about?

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Bill on Stamp Duty

In the first week of September 2020, the House of Representative passed the Bill on Stamp Duty and now it is waiting for approval by a plenary meeting of the House. The Bill is expected come into effect on 1 January 2021 given the time needed to issue the implementing regulation and for public awareness.

The Bill will only recognize a single stamp duty, Rp10,000 unlike the current law which recognizes two stamp duties (Rp3,000 and Rp6,000). Under the Bill, Stamp duty will be payable on documents drawn up as instruments to evidence civil legal actions and documents for evidentiary purpose before the Court.

Compared to the current Law, the Bill includes new addition on the document that is subject and not subject to Stamp Duty as shown in the following table.

Law 13 of 1985	The Bill
Documents subject to stamp duty (in addition to documents for evidentiary purpose before the Court).	
a. agreements and any other letters (i.e. power of attorney, letter of grant (hibah) or statement letter) made with the purpose of evidencing certain actions, facts or situations in the scope of civil legal actions;	agreements, written statements, similar documents and their counterparts (including power of attorney, grant and will);

b.	notarial deeds;	notarial deeds, including executorial deeds (grosse akta), copies and excerpts;
c.	deeds made by Land Officials (PPAT) including their true copies;	deeds drawn up by Land Officials (PPAT) including their copies and excerpts;
d.	letters mentioning a sum of money, consists of: 1. letter stating a receipt of money; 2. letter stating that certain amount of money has been booked or kept in an account of a bank; 3. letter stating the balance of an account in a bank; 4. letter acknowledging that all or part of a debt has been paid or considered;	documents evidencing transaction of commercial papers , including future contracts under any name and in any form (such as trade confirmation related to stock exchange trading activities and the transfer of commercial papers in any form);
e.	commercial papers such as bill of exchange (wesel), promissory notes, etc.;	commercial papers under any name and in any form;
f.		auction documents;
g.		documents stating the receipt of money of >Rp5 million or acknowledgement of debt (as a whole or partially repaid); and
h.		other documents as determined under a Government Regulation (yet to be issued to implement the Bill).

Documents not subject to stamp duty

a.	documents for: 1. the storage of goods; 2. bills of lading; 3. passenger and goods transport documents; 4. evidence of transport of the above; 5. evidence of the delivery and receipt of goods; 6. shipping documents for commercial goods at the risk of the shipper; and 7. other documents of a similar nature to the documents referred to above;	documents related to the movement of humans and goods such as: 1. documents for the storage of goods; 2. bills of lading; 3. passenger and goods transportation documents; 4. evidence of the delivery and receipt of goods; 5. shipping documents for commercial goods at the risk of the shipper; and 6. other documents of a similar nature to the documents referred to above;
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b.	all kinds of certificates	
c.	receipts for payment of salaries, pension funds, allowances and other payments related to employment, and the documents submitted to obtain such payments;	
d.	receipts for state income from the state treasury, regional government treasuries, banks and other agencies mandated by the state under the prevailing laws;	
e.	receipts for all kinds of tax and other income of a similar nature from the state treasury, regional government treasuries, banks and other agencies mandated by the state under the prevailing laws;	
f.	receipts for funds made for the internal purposes of an organization;	
g.	documents stating money savings or commercial papers, payments of savings to savers made by banks, cooperatives, and other institutions acting in money depositories and commercial papers issued by custodians to customers;	
h.	pledge documents issued by state owned company Perum Pegadaian	pledge documents;
i.	documents specifying profit sharing or interest from commercial papers of any name and in any form.	documents specifying profit sharing, interest and proceeds from commercial papers of any name and in any form; and
j.		documents issued by the Indonesian Central Bank to implement its monetary policies (including, among other things, Repo and reverse purchase agreements over commercial papers, Bank Indonesia Certificate (SBI), Bank Indonesia Discounted Certificate (SDBI), swap and hedge documents, etc.).

With the documents evidencing the transaction of commercial papers will be subject to stamp duty, it is expected that the state income will boost significantly. The government is projecting around Rp 11.3 trillion of state income from the new Law on stamp duty as one of the measures for the national economic recovering caused by the COVID-19 pandemic.

In addition to the above, the stamp duty is exempted for the following documents which details will be further regulated under a Government Regulation:

- a. documents evidencing the transfer of land or building for the purpose of expediting the handling and recovery of social economic condition due to natural disasters;
- b. documents evidencing the transfer of land or building for religious or non-commercial social activities;

- c. documents for the purpose of implementing government programs or policies in monetary or financial services sectors; or
- d. documents for the implementation of international treaties.

Same as the current Law, the Bill also provides for when the Stamp Duty is payable, which either (i) when the relevant document is signed (for agreements and deeds), perfectly executed (for commercial papers and documents evidencing transaction of commercial papers) or (ii) delivered to the intended party (for written statement, auction documents and documents worth more than Rp 5 Million), or (iii) be used before the Court or (iv) be used in Indonesia (for documents executed in overseas).

Electronic stamp duty is also introduced by the Bill which will have a unique code and specific remarks on them (to be further regulated under a Ministerial Regulation). Other forms of stamp duty may also be determined by the Minister of Finance. The provision on late duty stamp which is subject to administrative sanction (called as nazeglen) is still provided for in the Bill and the sanction will be 100% of the stamp duty due (in other words, the Rp10,000 duty stamp plus the same amount as administrative sanction).

It will be interesting to learn the new implementing regulations on the Stamp Duty before the proposed effective date.

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