

# Reconstruction of Income Tax Regulation on Income Earned from Construction Services to Conform with Equity Principle

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## Abstract

The current Income Tax regulation on income earned from construction services in Indonesia is Government Regulation Number 51 of the Year 2008 as lastly amended by Government Regulation Number 40 of the Year 2009. Income earned from construction services taxed by special final Income Tax flat rate applied on gross income, apart from the general Income Tax rate applied to net income. This paper aims to analyze on the determination of whether the regulation is under equity principle referring to legal and taxation theory, to identify its implications on taxpayers who dealt with construction services and finally to suggest the reconstruction of Income Tax regulation on income earned from construction services reflecting equity principle. The research method used in this paper is the normative method. The result of research concludes that the current regulation on the taxation of income earned from construction services does not reflect horizontal equity as well as vertical equity in taxation due to taxpayers who earn income from construction services bear income tax that not based on the ability to pay which generally imposed on net income. Moreover, the final income tax regulation has implications for some taxpayers right as enacted in Income Tax Law. The researcher suggest that Indonesian Tax Authority is required to enforce the provisions of Article 17 section (1) and Article 31 E section (1) of Law Number 36 of the Year 2008 concerning Income Tax where general Income Tax rate imposed on net income and not treated as final income tax, except for individual carrying business in construction which have gross revenue not more than Rp. 4.8 billion in a fiscal year and not able to provide bookkeeping. Besides, the final income tax rate for individual construction companies should equate to the final income tax flat rate applied to the Micro, Small and Medium Enterprises (MSMEs). Then, the final Income Tax flat rate should not differentiate between those construction companies who have a certificate of construction services and those who have not, as well as the rate not to be differentiated based on the grade of small, medium or large construction companies.

**Keywords:** Income Tax, Final Tax, Equity, Regulation, Reconstruction, Construction Services

## 1. INTRODUCTION

The income tax imposed on income earned from construction services in Indonesia is enacted in Government Regulation Number 51 of the Year 2008 as lastly amended by Government Regulation Number 40 of the Year 2009. Income earned from construction service taxed by a specific final Income Tax flat rate applied on gross income. Construction services consist of "construction planning service, construction implementation service, and construction supervision service.<sup>1</sup> Meanwhile, the meaning of final Income Tax is that after tax on the special rate on gross income, the income no more to include to be taxed at the general tax rate provided in Article 17 section (1) or Article 31 E section (1) of Law Number 7 of the Year 1983 regarding Income Tax as lastly amended by Law Number 36 of the Year 2008. This regulation called Income Tax Law.

The structure of the final income tax rate on income earned from construction services is as shown in the following table.<sup>2</sup>

Table 1. Final Income Tax Rate for Construction Service Income

TYPES OF CONSTRUCTION SERVICES	HAVE/ NOT HAVE CERTIFICATION AS A CONSTRUCTION COMPANY	FINAL INCOME TAX RATE
Construction Planning or Supervision	Have Certification as a construction company	4%
	Not have a Certificate as a construction company	6%
Construction Implementation	Have certification as a construction company with a grade of small	2%
	Have certification as a construction company with a grade of medium and large	3%
	Not have certification as a construction company	4%

<sup>1</sup> See Article 1 point 2 of Indonesian Government Regulation (GR) Number 51 of the Year 2008 regarding Income Tax on Income earned from Construction Services as lastly amended by Government Regulation Number 40 of the Year 2009

<sup>2</sup> See Article 3 of GR Number 51 of the Year 2008

On the other hand, the general income tax rate under Article 17 section (1) of Income Tax Law that is still currently applied is as follows:

a. Individual resident taxpayers

Table 2. Individual General Income Tax Rate

The Layer of Taxable Income	Rate
Up to Rp. 50 million	5%
Above Rp. 50 million up to Rp. 250 million	15%
Above Rp. 250 million up to Rp. 500 million	25%
Above Rp. 500 million	30%

b. Company resident taxpayers and permanent establishment: rate 25%.

Under Article 31 E section (1), the 50% reduced rate is eligible to company resident taxpayers that have gross income up to Rp. 50 billion, so the rate become only 12.5%, applied up to Rp. 4.8 billion gross income.<sup>1</sup>

The tax base of final Income Tax on income earned from construction services is gross income which means the total amount of payment received by construction companies as contractors from the project owner. Gross income means amount before the deduction of construction cost and any other expenses incurred in related to the construction. Different with final income tax, the tax base for Income Tax that taxed at the general rate is net income, that is gross income after the deduction of all cost and expenses related to the construction project. If the construction company suffers from loss, the taxpayer shall not pay Income Tax and even be allowed to compensate the losses up to the following consecutive 5 (five) years.

The following table describes the difference in the calculation of Income Tax for companies resident taxpayers based on both non-final general rate (net income basis) and final income tax rate (gross income basis). Table 3. Comparison of Income Tax Calculation by General Income Tax Rate and Final Income Tax Rate

General Income Tax Rate (net income basis)			Final Income Tax Rate (gross income basis)		
Contract Revenue	Rp. 60.000.000.000	a	Contract Revenue	Rp. 60.000.000.000	a
Construction cost	(Rp.48.000.000.000)	b	Construction cost	(Rp.48.000.000.000)	b
Gross profit	Rp. 12.000.000.000	c	Gross profit	Rp. 12.000.000.000	c
Op. Expenses	(Rp. 5.400.000.000)	d	Op. Expenses	(Rp. 5.400.000.000)	d
Operating Income	Rp. 6.800.000.000	e	Operating Income	Rp. 6.800.000.000	e
Other Income			Other Income		
(expenses)	(Rp. 300.000.000)	f	(expenses)	(Rp. 300.000.000)	f
Income Before Tax	<b>Rp. 6.500.000.000</b>	g	Income Before Tax	<b>Rp. 6.500.000.000</b>	g
<b>Income Tax</b>	<b>Rp. 1.625.000.000</b>		<b>Beban PPh</b>	<b>Rp. 1.800.000.000</b>	
General rate	(25% x g) 25% x 6,5 billion		Final rate	(3% x a) 3% x 60 billion	

**Notes:**

Assuming that no fiscal adjustment so Income Before Tax is the same amount with Taxable Income

It is apparent from the above illustration that there is a difference in the tax burden between income tax imposed at the general Income Tax rate and the income tax flat rate. The amount of income tax to be paid at final tax rate disregard the amount of income before tax because the tax base is from gross income that is the payment received by construction companies as part of the whole contract price. On the other hand, the amount of tax at the general income tax rate depends upon the figure of income before tax. The legal issue of this paper mainly is justice or fairness in taxation.

The primary reference for GR 51/2008 jo GR 40/2009 is Article 4 section (2) of Income Tax Law regulating the taxation of several kinds of income including income derived from construction services.<sup>2</sup> In this regard, Income Tax Law delegates to the Government Regulation special final tax treatment on certain kinds of income including the rate and the procedure on how to pay, to withhold or to collect tax on that income.

This paper will cover analysis on the concerned Government Regulation from the perspective of justice, its impact on taxpayers derived income from construction services and finally to suggest the reconstruction of the tax regulation to reflect equity principle. Although justice is not the sole objective of Law (there are certainty and

<sup>1</sup> See Article 31 E section (1) of Income Tax Law.

<sup>2</sup> See Article 4 section (2) of Income Tax Law

purposiveness), however, the most substantial objective of Law is justice.<sup>1</sup> The theories as the tool of analysis used are the theory of justice, the theory of legislation and the theory of taxation.

## 2. METHODOLOGY

The research method used in this paper is a normative research method where the focus is on norms. The research includes in-depth analysis on the current tax regulation and other regulation which relevant to the legal issue of the object of this research, that is GR 51/2008 jo GR 40/2009 and the approach applied are *statute approach*, *historical approach*, and *conceptual approach*.<sup>2</sup> The technical analysis applied is prescriptive analytical that is a process to find the rules of law, principles of law and legal doctrine to overcome legal issues.

## 3. RESULT AND DISCUSSION

### 3.1 Analysis of Income Tax Regulation on Income From Construction Service From The Perspective of Equity Principle

#### 3.1.1 Gross income as the basis of Income Tax

According to John Stuart Mill (1930) *ability to pay principle* is the most like justice formulation.<sup>3</sup> Meanwhile, Stephen Utz, a professor of law in University of Connecticut School of Law support this opinion, saying that: “There is broad, if not universal, agreement that fair taxation should follow “ability to pay,” or the capacity of the taxpayer to bear the tax burden.”<sup>4</sup> By treating gross income as a basis for calculation of final income tax, taxpayers who earn income from construction services are not allowed to deduct all cost and expenses disbursed in generating revenue. The logical consequence of this is that regardless of the figure for net income either positive (profit) or negative (loss), taxpayers have to pay tax.

The situation where taxpayers suffer from loss is imposed to pay the tax, of course, is not fair. Negative net income or losses are not following the definition of Income as provided in Article 4 section (1) of Income Tax Law that is each of accretion in economic capability which can be used for consumption or to increase the wealth in any kinds.<sup>5</sup> The object of Income Tax according to Income Tax Law is the accretion of economic capability. Taxpayers in loss condition are not meet the criterion of accretion in economic capability but instead and so should not be required to pay Income Tax. This is a deviation from the concept of *horizontal equity*<sup>6</sup> required net income as a tax base. The meaning of income in this regard is net income, instead of gross revenue.

Further, to treat gross income as a basis for income tax calculation is also not in line with the concept of *vertical equity*<sup>7</sup> suggested that the more taxpayers earn income, the more tax to be paid. Construction companies that able to earn higher net income will be benefited because saving tax compared with those companies who earn lesser profit but much more benefit compared to the loss companies. Boyan Durankev from University of National and World Economy, Bulgaria says that: “There are two main concepts of tax justice: *horizontal equity and vertical equity*”<sup>8</sup> Another tax expert Howell also stated that equity in taxation consists of two aspects, they are horizontal equity and vertical equity.<sup>9</sup>

#### 3.1.2 Discrimination of Types / Source of Income

Particular regulation of income tax rate for income earned from construction service that is different with the general rate is considerable deviates from the equality principle promoted by Adam Smith.<sup>10</sup> It tends to make a difference in taxation by types or source of income for tax purpose. It has been apart from initial concept of Income Tax system in Indonesia which mainly adopt global tax system where all income whatever the names and forms, either received or derived from Indonesia or from overseas, all to be regarded as economic accretion and must be included globally taxed at general income tax rate imposed on all taxpayers.<sup>11</sup> Global taxation considered as the fairest system for income tax due to its conformity with horizontal equity and vertical equity.<sup>12</sup>, but all income should be included in total income where the same tax rate applied to those all income. Fairness in

<sup>1</sup> Dominikus Rato, *Filsafat Hukum, Suatu Pengantar Mencari, Menemukan dan Memahami Hukum*, Cetakan IV, (Surabaya: LaksBang Justitia, 2014), p.59.

<sup>2</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, Cetakan 12, Edisi Revisi, (Jakarta: Kencana Prenada Media Group, 2016), p. 133

<sup>3</sup> R. Santoso Brotodihardjo, *Pengantar Ilmu Hukum Pajak*, Cetakan ke- X (Bandung: PT.Eresco, 1982), p.68

<sup>4</sup> Utz, Stephen, “Ability to Pay” (2002). *Faculty Articles and Papers*. Paper 133.

[http://digitalcommons.uconn.edu/law\\_papers/133](http://digitalcommons.uconn.edu/law_papers/133)

<sup>5</sup> See Article 4 section (1) of Income Tax Law

<sup>6</sup> Musgrave, Richard A & Musgrave, Peggy B, *Public Finance in Theory and Practice*, (New York: McGraw Hill Company, 1989), p. 219

<sup>7</sup> *Ibid*

<sup>8</sup> Boyan Durankev, *Taxation and Social Justice*, Bulgarian Journal of Business Research, Issue 2, 2017, <http://www.bposoki.bg/en/2017/issue-2/>, 26<sup>th</sup> July 2017

<sup>9</sup> Parthasarathy Shome, *Tax Policy Handbook*, (Washington, DC: Tax Policy Division Fiscal Affairs Department, 1995), p.4

<sup>10</sup> Santoso Brotodihardjo, *Op. Cit.*, hlm.24. Adam Smith in: “*An Inquiry into the Nature and Causes of The Wealth of Nations*” (well known as *Wealth of Nations*) suggest 4 (four principles in taxation, popularly called as “*The four Maxims*” that is: *equality; certainty, the convenience of payment, dan economic of the collection.*

<sup>11</sup> Mansury R, *Pajak Penghasilan Lanjutan*, (Jakarta: IND-HILL-CO, 1996), p.82

<sup>12</sup> *Ibid*.

taxation requires that all income taxed in the same way.<sup>1</sup>

Discrimination on types of income sourced from trading activity that taxed at the general rate of Article 17 section (1) of Income Tax Law with income earned from construction services taxed by special final income tax rate which called as Withholding Income Tax Article 4 section (2) cause inequity. It is not in line with the principle of horizontal equity. It is possible that companies earn more profit but pay tax less, so that does not conform to the vertical equity principle.

### 3.2 Legal Implications of the Final Income Tax Regulation on Income Earned From Construction Service

#### 3.2.1 Taxpayers Earned Income from Construction Service Not Able To Pay Tax By Their Ability

One of the legal implications caused by the current final income tax regulation on income earned from construction service based on gross revenue is that taxpayers are not able to execute the right to be taxed by the ability to pay principle that requires net income as a basis.

Taxpayers who derived income from construction services may pay the tax much more than when compared with the situation where taxed at a general rate, so they overtaxed. On the other hand, the construction companies may pay tax less.

To find a point where a certificated construction company final income tax rate applied 3% is in favorable or unfavorable situation compared with total tax to be paid if taxed at general income tax rate of 25% in accordance with Article.17 section (1) of Income Tax Law on net taxable income, a simple equation provided as follows:

$$\begin{array}{l} \text{At Final Rate} \\ \text{3\% x Gross Revenue} = \text{At General Rate} \\ \text{(a)} \qquad \qquad \qquad \text{(b)} \quad \text{(c)} \end{array}$$

Notes:

- (a) Final Income Tax rate according to GR 51/2008 jo GR 40 /2009 for construction services companies with Medium and Large Grade
- (b) General Rate of Art.17 (1) Income Tax Law
- (c) Percentage of Taxable Income to Gross Revenue

From the above equation, it can be concluded that if the illustrated construction service company earn the percentage of taxable income lower than 12% then that company will bear income tax burden more than the 3% Final Income tax applied to gross revenue in comparison to tax burden if taxed at 25% general rate on net income.

George Schanz with his *accretion concept of income* as quoted by Mansury suggested that the source of income should not differentiate the meaning of income for tax purpose but depend upon the economic capability that able to use for acquiring goods and services.<sup>2</sup> This concept confirmed by the definition of income provided in Article 4 section (1) of Income Tax law. The accretion of economic capability of taxpayers reflected in net income, which is gross revenue after the deduction of cost and expenses incurred related to activities in generating revenue. The accretion of economic capability should be the basis of tax imposed regardless of where and how the income earned.

#### 3.2.2 Individual Income Taxpayers Not Able To Exercise the Right to Deduct Personal Exemption

Personal Exemption generally provided in tax regulations of most countries as a deduction in calculating taxable income. It is in line with the concept of Personal Income Tax that should consider personal condition. The figure of taxable income is considered the most proper point to reflect the ability to pay tax. The personal exemption treated as an additional deduction out of other deductible expenses allowed by Income Tax Law.

Quoted by Mansury R from the book titled, *An Inquiry into the Nature of the Wealth of Nations*, from the beginning Adam Smith suggested that individual taxpayers should be allowed to claim a certain amount as a deduction that considered as minimum expenses which must be disbursed to enable to generate income.<sup>3</sup> In other words, the expenses a considered as a minimum living cost.

The amount of personal exemption that still applies up to now is Minister of Finance Regulation Number 101/PMK.010/2016 i.e., Rp. 54 million for the individual himself, plus Rp.4.5 million to the married status and each of Rp. 4.5 million for a maximum of three dependents.<sup>4</sup>

The logical consequences of regulation that allows deduction of personal exemption is that if the income of the person does not exceed the threshold of personal income exemption, then he or she is not required to pay tax. However, it is not the case in GR 51/2008 Jo GR 40/2009 due to the Income Tax for income earned from construction service is applied to the gross revenue. Individual taxpayers carrying business in construction

<sup>1</sup> John G.Head, Lars Osberg, Leslie Green, A. Marguerite Cassin dan Leo Panitch, *Fairness in Taxation, Exploring the Principles* Edited by Allan M.Maslove (Toronto: University of Toronto Press, 2014), p. 94

<sup>2</sup> R. Mansury, *Op.Cit*, p.62

<sup>3</sup> Mansury R, PPh Lanjutan, *Op.Cit*, p.164

<sup>4</sup> See Minister of Finance Regulation Number 101/PMK.010/2016

service are not allowed to deduct all cost and expenses disbursed against gross revenue including the personal income exemption.

The above condition deviates from the horizontal equity principle that requires a personal exemption for individual taxpayers as a deduction to total income derived. Furthermore, by not allowing the deduction of the personal exemption for anyone earning income from construction service while it is allowed for individual earned income from employment, this is genuinely unfair treatment.

### **3.2.3 Construction Companies Loss the Right to Compensate Loss**

Construction companies cannot exercise the right to compensate loss provided in the Income Tax Law due to the income tax imposed on gross revenue. This treatment is indeed a form of discrimination because other companies earning income that are not subject to final income tax are allowed to compensate loss against profit up to the following consecutive five years. Furthermore, it also deviates from the principle of horizontal equity which suggest equal treatment for the equals.

### **3.2.4 Construction Companies Listed in Indonesia Stock Exchange Not Eligible For Facility on Reduction of 5% Income Tax Rate**

Government Regulation Number 81 of the Year 2007 provide a facility in the form of income tax rate 5% lower than the general rate applied to all companies resident taxpayers listed in Indonesia Stock Exchange and trade at least 40% of paid up capital.<sup>1</sup> Again, the main reason is that those construction companies taxed at the specific rate applied to gross revenue. It creates discrimination among public listed companies because other listed companies whose income are not subject to final tax can exercise the reduced rate facility.

### **3.2.5 Non-cash Benefit Provided to Employees Worked In Construction Companies Treated As Additional Income In For Employees**

Article 4 section (3) of Income Tax Law regulates that benefit in-kind or non-cash benefit provided to employees who worked in the companies taxed at final Income Tax rate is treated as income and subject to tax in the hands of employees.

The implication of the above provision will give rise to discrimination because employees in companies whose income that are not subject to final Income Tax receive non-cash benefit are not regarded as income for the employees and so not subject to withholding employee income tax.

## **3.3 Income Tax Regulation on Income Derived From Construction Services Which Reflect Equity**

### **3.3.1 Taxing Net Income for Individuals and Companies Taxpayers Required To Provide Bookkeeping**

As mentioned before, equity or fairness in taxation only if the tax based on net income. Therefore tax regulation on income from construction service needs to be reconstructed from gross revenue basis to net income basis particularly for taxpayers that are obliged to provide bookkeeping under Article 28 section (1) of Law Number 28 of the Year 2007 regarding General Tax Provision and Procedure.<sup>2</sup> By reconstructing GR 51/2008 Jo GR 40/2009, several legal implications provided in the previous section will automatically eliminate.

The recovery of taxpayer's right is in line with Aritoteles suggested that equity should mean in the way of numerical equality and proportion.<sup>3</sup> Numerical equity generates the principle of equality before the law while proportion equality creates the principle to give the rights of every person. Also, the proportion equality adopted in Article 6 section (1) of Law Number 12 of the Year 2011.<sup>4</sup>

### **3.3.2 To Give Option For Individuals That Are Not Required By the Tax Law But Able to Provide Bookkeeping To Be Taxed on Net Income Basis**

To enable to tax income based on net income, it necessarily required the accurate and complete information about the income of taxpayers. The information ideally obtained from the result of the bookkeeping process. However, it is in reality that not all individual taxpayers capable of providing bookkeeping where Balance Sheet and Profit Loss statement as the end of the process.

Consistent with the above understanding, the researcher suggests that the option to be taxed at the general rate of income tax can also apply to individuals earning income from construction service. So only individuals or companies carrying business in construction services that cannot provide bookkeeping to be taxed at final income tax as regulated in GR 51/2008 jo GR 40/2009. If individuals able to provide bookkeeping despite not required by Income Tax Law due to the total gross revenue not more than Rp. 4.8 billion in one year, the individuals could be allowed to be taxed at the general income tax rate on net income. So there will be in the same treatment to individuals who carry out other business activity such as trading or doing independent personal services who earn income other than construction services that able to choose to provide bookkeeping

<sup>1</sup> Government Regulation Number 81 of the Year 2007 concerning Reduce of Income Tax Rate for Public Listed Companies

<sup>2</sup> Law Number 6 of the Year 1983 regarding General Tax Provision and Procedure as lastly amended by Law Number 16 of the Year 2009

<sup>3</sup> Tanya L Bernard, Yoan N. Simanjuntak dan Markus Y. Hage, *Teori Hukum, Strategi Tertib Manusia Lintas Ruang dan Generasi*, Cetakan IV, Edisi Revisi, (Yogyakarta: Genta Publishing, 2013), p. 42

<sup>4</sup> See Article 6 section (1) point 7 of Law Number 12 of the Year 2011 Pasal 6 ayat (1) of point 7 Law Number Nomor 12 of the Year 2011 regarding the Formation of Legislation.

to be allowed to tax on net income.

### **3.3.3 To Align the Final Tax Rate for Individuals Who Are Not Able to Provide Bookkeeping and Earning Income from Construction Service with the Final Rate Applied to Small Medium Enterprises**

With the guidance of equality principle in taxation by Adam Smith, income should not be taxed based on the source and kind of income. Considering that not all individuals have capabilities to provide bookkeeping, final income tax rate is still ideal for applying to small construction individuals. It is still in line with the concept of presumptive tax suggested by Victor Thuronyi.<sup>1</sup>

However, the meaning of small construction service should be similarly treated as same as individuals having gross revenue not more than Rp.4.8 billion in a year as a threshold for Micro, and Small Medium Enterprises as regulated in Government Regulation Number 46 of the Year 2013 as has been revoked by Government Regulation Number 23 of the Year 2018.<sup>2</sup> So the classification of a small construction company should be no longer based on the grade of qualification provided by the concerned authority but based on the threshold of gross revenue. So there will be equal treatment with other taxpayers in other business sectors who earn gross revenue not more than Rp.4.8 billion in a fiscal year. Besides, the tax rate in GR 51/2018 Jo GR 40/2009 need to be reconstructed to equate with the rate applied based on GR 23/2018 which is 0.5%.

### **3.3.4 No Discrimination among Construction Companies Construction for Tax Purposes**

Differentiating income tax rate based on whether have or not have certification as a construction company issued by the competent government authority is a discriminative regulation. Horizontal equity principle requires equal treatment for the equals where every income that meets the definition of income taxed at the same rate.

## **4. CONCLUSION AND SUGGESTION**

### **4.1 Conclusion**

1. Regulation of Income Tax on income from construction services that is GR 51/2018 jo GR 40/2009 does not reflect equity in taxation due to income is taxed on gross revenue so that deviates from vertical equity requiring the tax base should be on net income which considered as the most proper measurement of ability to pay.
2. The current regulation of GR 51/2018 jo GR 40 the Year of 2009 give rise to legal implications as follows:
  - a. Taxpayers carrying business in construction service are not able to exercise the right to bear income tax based on its ability to pay or based on economic accretion that actually received or earned in accordance with the definition of income provided in Article 4 section (1) of Income Tax Law due the income is taxed on gross revenue, not on net income.
  - b. Individual taxpayers earning income merely from construction services are not eligible to exercise the right to deduct personal income exemption in the determining taxable income.
  - c. Although construction companies provide bookkeeping, they cannot exercise the right to compensate losses in a tax year to the following consecutive five years as enacted in Article 6 section (2) of Income Tax Law.
  - d. Public listed companies resident taxpayers carrying business in construction services that trade at least 40% of paid-up capital cannot exercise the right for the facility of reducing general income tax rate of 5% according to Article 17 section (1) point b of Income Tax Law.
  - e. Any non-cash benefit provided by construction companies to employees are treated as additional income for employees and subject to tax in the hands of employees.

### **4.2 Suggestion**

1. The Indonesian government is suggested to amend GR 51/2008 jo GR 40/2009 through the reconstruction of the provisions as follows:
  - a. Individuals and companies carrying business in construction services that are obliged to provide bookkeeping based on Article 28 section (1) of General Tax Provision and Procedure and for those individuals who are not obliged but able to provide bookkeeping, Income Tax is imposed on net income and applied at general income tax rate provided in Article 17 section (1) of Income Tax Law.
  - b. Final Income Tax Rate only applied to individual taxpayers earning income from construction services which have gross revenue not more than Rp. 4.8 billion in a tax year and not able to provide bookkeeping. Besides, the rate needs to align with the income tax rate applied to Micro, Small and Medium Enterprises.
2. Indonesian government needs to abolish the provisions that discriminate the income tax rate based on whether construction companies have or not have certification as a construction company.

<sup>1</sup> Victor Thuronyi, *Tax Law Design, and Drafting*, Volume 1 (International Monetary Fund: Washington D.C., 1996), p. 401.

<sup>2</sup> Government Regulation Number 46 of the Year 2013 regarding Income Tax on Income Earned By Taxpayers Tha Has a Certain Amount of Gross Revenue Pajak

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