

Tax Implication of Service Concession Arrangements for Independent Power Producer (IPP)

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Abstract

This research aims to analyze the implementation and impact of taxation in the application of service concession rights according to ISAK 16 on private power generation companies in Indonesia as known as Independent Power Producers (IPP). We understand today's green energy issue arises, Financial close or funding for the fossil energy sectors may not be obtained. Consequently, cancellation of Power Purchase Agreement (PPA) might occur accordingly. Therefore, IPP should consider conducting an impairment assessment for the capitalized pre-construction cost made, referring to PSAK 48: Impairment. This study uses a qualitative method with interview analysis techniques. Interviews were conducted with parties who have experience and expertise related to the implementation of accounting and taxation for power plant concessions. The result of the study is expected to contribute DJP (Indonesian Tax Authority) and IPP company in identifying the gap between the implementation of ISAK 16 & PSAK 48 and the application of taxation, which specifically in recognizing service revenues, recognition of fixed asset and depreciation, also impairment of capitalized assets, which to date, there is no special tax treatment regulates both service concession and Asset impairment from Tax point of view. The research period is based on current tax practices.

Keywords

Asset Impairment; ISAK 16; PSAK 48; Service Concession.



I. Introduction

Electricity is one of the primary need that is very essential and strategic in implementing national development goals. Almost all activities in human life today require electricity. Along with the increasing population and economic growth in Indonesia, the electricity demand also continues to increase. Fulfillment of national electricity, known as the Electrification Ratio, through the Press Release of the Ministry of Energy and Mineral Resources Number: 014.Pers/04/SJI/2021 dated January 13, 2021, Electricity Performance Achievement 2020, Electrification Ratio Reaches 99.20% (ESDM, 2021). The PPA between IPP and PLN adopted the Public to Private Partnership ("PPP") scheme. Public-Private Partnership in general is a form of cooperation between the Government and the private sector in the provision of infrastructure. The cooperation involves the private sector (operator) to build the infrastructure used to provide public services, increase capacity, operate and maintain the infrastructure for a certain period. The Public-Private Cooperation model can be in the form of a Build Own Operate Transfer (BOOT) service concession agreement.

The unique regulatory pattern of this scheme requires a special study of the accounting arrangements of the Public-Private Partnership. In 2006 the International Accounting Standard Board ("IASB") issued the International Financial Reporting

Interpretation 12 ("IFRIC 12") Services Concession Arrangement which regulates the accounting treatment for operators in the PPP agreement scheme. Under the IFRIC 12 arrangement, the determination of recognition of infrastructure assets adopts the same rationale and logic as accounting for leases in International Accounting Standard 17 ("IAS 17") Lease namely the concept of risk and benefit ("risk and reward"), where IFRIC 12 evolves the concept risk and reward is the concept of controlling and regulating ("control and regulate") infrastructure assets (IFRS,2015).

Starting January 1, 2012, IPP companies apply the provisions of ISAK 16 in their financial statements (DSAK-IAI, 2010). The application of ISAK 16 in the financial statements of IPP companies has a significant impact on the presentation of the statement of financial position and financial ratios. This is due to a change in the company's accounting policy IPP. Previously, the IPP company recognized the power plant infrastructure as a fixed asset in its statement of financial position and recognized all receipts from the sale of electricity as revenue. With the implementation of ISAK 16, IPP companies can only recognize financial assets/receivables or intangible assets for the income received and cannot recognize infrastructure as fixed assets. Development is a systematic and continuous effort made to realize something that is aspired. Development is a change towards improvement. Changes towards improvement require the mobilization of all human resources and reason to realize what is aspired. In addition, development is also very dependent on the availability of natural resource wealth. The availability of natural resources is one of the keys to economic growth in an area. (Shah, M. et al. 2020)

The PPA between IPP and PLN is included in the scope of ISAK 16: Service Concession Agreement using the financial asset model under PSAK 55 (Revised 2011): Financial Instruments: Recognition and Measurement. Therefore, IPPs are required to apply ISAK 16 to their financial statements.

To harmonize the accounting and tax application of ISAK 16 and PSAK 48, some main things are important to highlight, as below:

1. Fixed assets of IPP Company. Since the acquisition of land (Land Acquisition) of the powerplant area, what taxes may be liable. Does the tax authority allow depreciation on the company's infrastructure, because in fact, the IPP company operates the PPA's assets and is related to the activities of acquiring, collecting, and maintaining income as stipulated in the Income Tax Law?
2. Revenue Recognition in Accounting and Taxation. The adjustments to the IPP company's financial statements above have an impact on the calculation of taxes owed by IPP, especially Income Tax. Furthermore, the provisions of ISAK 16 stipulate that IPP companies recognize revenue under PSAK 34 (2010), Construction Contracts. It was mentioned that for the construction of power plant infrastructure, IPP recognizes construction service revenues under PSAK 34 construction contracts during the construction period. At that time IPP had not yet collected and received payments from PLN. In addition, IPP is not a construction service company. Effective 1 January 2020, DSAK IAI has determined that PSAK 72: Revenue from Contracts with Customers will replace some of the accounting standards, including PSAK 23: Revenue and PSAK 34: Construction Contracts(Ikatan Akuntan Indonesia, 2018b). On this income, Corporate Income Tax is payable following Article 17 of the Income Tax Law(UU No. 36 Tahun 2008, 2008).
3. IPP Company Expenses. the application of ISAK 16 to the financial statements of IPP companies will cause differences in the presentation of the position of assets, liabilities, income, and expenses in the statements of financial position and comprehensive income statements which have an impact on changing the presentation of financial information

and profit performance of the IPP companies from period to period during the PPA period.

With the publication of ISAK 16: Service Concession Agreements which adopted IFRIC 12: Service Concession Arrangements, this Interpretation only provides accounting guidance for operators of the public to private service concession agreements and does not regulate accounting for concessionaires. Thus in the PPA agreement, only IPP as the operator is regulated in ISAK 16, and PLN as the grantor is not included in the scope of ISAK 16.

1.1 Development of Electrical Energy in Indonesia

The Ministry of Energy and Mineral Resources noted that as many as 24 New Renewable Energy (EBT) power plants with a total capacity of 510.65 Megawatt (MW) were built by a private power producer (Independent Power Producer/IPP) who signed a Power Purchase Agreement (PPA) with PT PLN (Persero) since 2017 until this year, there is still no funding certainty or Financial Closing (FC). The government will move through restructuring the rules of the NRE game to make it more attractive to investors. This is important so that later EBT can compete with fossil energy, which until now must be admitted is still considered to be able to produce cheaper electricity for the community.

Indeed, until now, primary energy production is still dominated by coal. The utilization of clean energy through renewable energy in power plants is only 2.5% of its potential. Indonesia is committed to reducing Greenhouse Gas (GHG) emissions by 29% by 2030. One of the efforts is to reduce GHG emissions from the energy sector. The development of renewable energy to meet national energy needs is important because renewable energy is an energy source that is environmentally friendly and sustainable (green energy).

This causes private power producers or independent power producers/PPPs to find it difficult to find funding to build power plants. Not all IPPs can get funding from foreign banks with lower interest rates. At least foreign banks that finance the steam power plant (PLTU) project are said to increase investment in new and renewable energy (EBT). The government and PLN certainly see this trend in the financing of coal-fired power plant projects. For Indonesia, there are only three countries that finance PLTU projects, namely Japan, South Korea, and China. Even now, several private financing institutions have decided to no longer fund the PLTU project.

The trend of financing for coal-based power plants will decline in line with awareness of the environment and clean energy and control of greenhouse gas emissions. Especially starting from December 1, 2021, until the G20 Summit in November 2022 in Indonesia as the host of the G20. The appointment of Indonesia as the holder of the G20 presidency must be used to create breakthroughs and real actions in socio-economic recovery, both on a national and global scale. In addition to no longer accepting new PLTU project proposals, several issues will be adjusted in the 2021-2030 RUPTL.

Since early 2020, there has been a continuing economic downturn, caused by the COVID-19 outbreak severely affecting among other things, global demand for goods and services and supply chains. The government has assessed the effects of the event on the Indonesian Company's operations and believes there is a significant adverse impact that should be considered in the short term although long-term impacts are difficult to predict at this moment and take necessary action to address related risks and uncertainties going forward.

As a result of the issues as described above, where green energy, carbon emissions, the G20 Presidency, and even Covid-19 also affect the trend of financing by banks in the world, especially Asia, PPA is very likely to be canceled unilaterally, by IPP, because Financial Close not reached. If this is the case, the cancellation of this contract indicates that the projected net cash flows in the future will be confirmed to be zero or less than the amount recorded in the current financial statements, then IPP will book an impairment for the pre-development costs that have been incurred since the beginning(Ikatan Akuntan Indonesia, 2018a).

From the background of the problems described above, in the event that the PPA is canceled and continued by the IPP concession right holder unilaterally, this study chooses the title Taxation Implications of the Service Concession Agreement for Independent Power Producer (IPP) Companies in Indonesia.

Based on the background of the problems described above, this study will analyze the Tax Implementation of Service Concession Agreements for Independent Power Producer (IPP) Companies in Indonesia.

The problem that arises due to differences in the treatment of PPA transactions according to ISAK 16 and PSAK 48 from accounting and tax perspective is how does the application of ISAK 16 & PSAK 48 affect the calculation of Income Tax of IPP companies?

1. Tax treatment on the recognition of income, assets, and depreciation expense in accordance with the provisions of ISAK 16 for IPP Companies that have PPA with PLN.
2. In the event that the IPP cannot continue the PPA with PLN, then a review is carried out to carry out an impairment assessment of non-financial assets (impairment assessment), what is the impact of taxation on the decline in the value of non-financial assets, as well as the write off options for interest costs incurred capitalized?

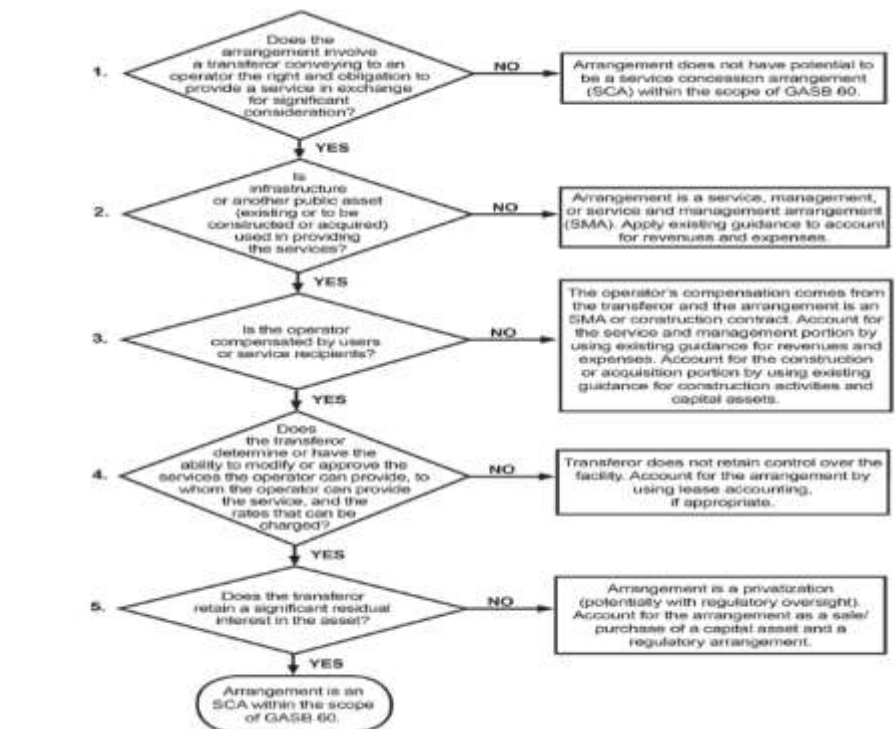


Figure 1. Accounting Framework for Public to Private Services Concession Agreements

II. Review of Literature

2.1 Independent Power Producer

Independent Power Producer (IPP) is a special purpose company (SPC), formed by a sponsor or consortium, to carry out a power purchase agreement with PLN and to develop, build, own and operate a power plant (PLN, 2021).

PT PLN (Persero), hereinafter referred to as PLN, as a state-owned electricity company that plans and implements power projects with long lead times, naturally needs to have a long-term plan for developing an electric power system. A long-term power system development plan, i.e. at least 10 years, is required to accommodate the long lead times of power projects. The need for long-term power system development is driven by PLN's need to have an efficient investment plan, in the sense that PLN will carry out an electric power project based on good planning. This is important because investment decisions in the electric power industry will require long-term benefits². To achieve this, PLN prepares a planning document for the next ten years called the Business Plan for the Provision of Electricity or RUPTL.

The PLN Electricity Supply Business License (IUPTL) has been stipulated by the Head of the Investment Coordinating Board (BKPM) on behalf of the Minister of Energy and Mineral Resources in accordance with Decree No. 25/1/IUPTL/PMDN/2016 dated 27 September 2016 which has been amended by Decree of the Head of the Investment Coordinating Board No. 2/1/IUPTL-T/PMDN/2018 dated January 18, 2018. The PLN Business Area covers the entire territory of the Republic of Indonesia, except those stipulated by the Government as Business Areas for other State-Owned Enterprises, Regional-Owned Enterprises, Private Enterprises, or Cooperative. The scope of this 2021 – 2030 RUPTL covers all PLN Business Areas stipulated by the Decree of the Head of BKPM, except for other business areas in Indonesia.

2.1 Purchase Power Agreement (PPA)

Power Purchase Agreement (PPA) is an agreement to purchase electricity from coal, diesel, gasoline, natural gas, and hydropower. PPA itself based on its consumers consists of two groups, namely;

- a. Single buyer group (single buyer form); The PPA requires that IPPs can only sell to PLN the output from their power plants.
- b. Multiple buyer groups (multiple buyer form); PPA only requires IPP to sell a certain amount of capacity to PLN (excess power) where the other output capacity can be used by the IPP itself or sold to other third parties.

Opportunities to open electricity supply businesses by the private sector and investments made by IPPs have started since the issuance of Law no. 15 of 1985 concerning electricity, where the first Power Purchase Agreement ("PPA") between the Government and the private sector was carried out in the early 1990s with PLN being appointed as the representative of the Government who signed the PPA as well as supervising and responsible for the PPA contract. the. Unlike the concession contract from

The government to the private sector in the oil and gas sector in general, wherein the oil and gas sector the agreement is stand-alone and has different arrangements from one contract to another. In the PPA the conditions agreed upon are more uniform and adapted to the nature and characteristics of each arrangement in the agreement (PWC, 2011).

Concession arrangement wherein the Company as an operator to PLN is required to design, finance, construct, own and operate a power generating facility and sell the power generated to PLN. As the continuity of this project depends on the success of these

activities, accounting for service concession arrangements will be applied upon the finalization of these activities.

III. Research Method

The approach used in this research is a qualitative approach, where research is used to understand the phenomenon of what is experienced by the object of research. In this study, researchers seek to understand and investigate in-depth how the treatment of income tax on the application of ISAK 16 to power generation companies and the application of PSAK 48 in general in terms of asset impairment, if the power purchase agreement is canceled and what problems arise. as a result of its implementation. The advantage of this method is the depth of the analysis results.

The research method used is the descriptive analysis method according to the character of the problem under study, which aims to make a systematic, factual, and accurate description, picture, or painting of the facts, characteristics, and relationships between the phenomena being investigated. In descriptive research, there is no need for a hypothesis. Descriptive research is research whose purpose is to explain or describe an event, situation, object, whether person or everything related to variables that can be explained using either numbers or words. Descriptive research is used in this study because it describes the effect of the existing changes from the application of ISAK16 regarding service concession agreements and PSAK 48 regarding the impairment of income tax of IPP companies.

In this study, the data collection methods were carried out as follows:

1. Literature study, through literature research on the Statement of Financial Accounting Standards (PSAK), tax laws and their implementing regulations, textbooks, articles, scientific journals, and other related documents.
2. Interviews with interested parties, such as Directorate General of Taxes (Director of Tax Regulation II), IPP staff from Accounting & Tax Department, Auditor, Tax Consultant, and Academic. The tax provisions do not specifically regulate the treatment of income in terms of measurement and recognition because it fully refers to SAK. The tax provisions only regulate whether the income is an object or non-object of income tax. This refers to the Elucidation of Article 28 paragraph (7) of Law Number 6 of 1983 concerning General Provisions and Tax Procedures as last amended by Law Number 16 of 2009 (KUP Law), namely bookkeeping must be carried out in a manner or system that commonly used in Indonesia, in this case in Indonesia based on Financial Accounting Standards, unless the taxation laws provide otherwise.

3.1 Model 1. Respondent Profile

Table 1. Respondent Profile

Respondent	Alias	Profile
Respondent 1	R1	DJP
Respondent 2	R2	IPP Staff
Respondent 3	R3	Tax Consultant
Respondent 4	R4	Auditor
Respondent 5	R5	Academics

The data analysis method for qualitative data is a method using interviews and observations with questions such as what, why, or how, literature studies and from relevant sources and carried out continuously. Furthermore, from all the data, a classification process is carried out based on needs with the Interpretation process of the results of data analysis. This stage is the process of describing the results of the analysis by presenting them in a structured storyline. The aim is to understand the characteristics of the data so that ordinary people can also understand the results of the data analysis. The final stage is concluding.

IV. Result and Discussion

In this analysis, the discussion on the application of the IPP Company tax is divided into two discussion schemes. First, if the Financial Close is successfully obtained by the IPP, the Company will adopt ISAK 16 in its accounting treatment, and adjust the required tax reporting under the applicable Tax Regulations.

The next discussion is if on the other hand, Financial Close (funding) is not successful, then IPP will conduct an impairment review of all pre-construction costs, including capitalized interest costs. Based on a review of the related literature, the concession service works will apply ISAK16 for the public to the private service concession agreement, while for impairment, PSAK 48 will be applied as a guide for accounting treatment.

4.1. Tax Implication on Assets Recognition and Depreciation Expense

The definition of income according to Article 4 paragraph (1) of the Income Tax Law is any additional economic capacity received or obtained by a Taxpayer, both from Indonesia and from outside Indonesia, which can be used for consumption or to increase the wealth of the Taxpayer concerned; and by name and in any form.

Tax regulations do not specifically regulate the treatment of income in terms of measurement and recognition because it fully refers to SAK. Tax provisions only regulate whether the income is an object or non-object of income tax. This refers to the Elucidation of Article 28 paragraph (7) of Law Number 6 of 1983 concerning General Provisions and Tax Procedures as last amended by Law Number 16 of 2009 (KUP Law), mentioning bookkeeping must be carried out in a manner or system that commonly used in Indonesia, for example, based on Financial Accounting Standards (SAK), unless the taxation laws provide otherwise.

The main point is in Article 28 (5) of the KUP Law, that bookkeeping is carried out with the principle of following the principles and using the accrual system or cash system. There is no significant issue whether recognition of income is using accruals is using accrual or cash method. The tax treatment can also follow accounting unless otherwise regulated (Keuangan et al., 2013).

Besides that, in the explanation of Article 17 of PP 94/2010, it is explained that basically when the recognition of costs and revenues is carried out under the principles of accounting regarding the association of costs with revenues (matching of costs against revenues) (Www.Hukumonline.Com, 2010).

Commercial financial statements may differ from fiscal financial statements. These differences are due to differences in the treatment of SAK with tax regulations. In the event that the provisions of ISAK 16 stipulate that the IPP company must recognize construction revenue for construction expenses incurred during the construction phase while no income has been received because the IPP company has not yet been operating commercially, in

substance the PPA between the IPP company and PLN is a power sale and purchase contract. electricity is not a construction service contract, then from a taxation point of view, income which is the object of income tax will be recognized when the electricity is delivered from the IPP to PLN. Thus, the income from construction at the construction stage based on ISAK 16 is fiscally corrected and the income is removed from the calculation of the income tax payable in the corporate income tax return.

Regarding the recording of fixed assets and depreciation expense, the Power Purchase Agreement transaction cannot refer to KMK-248/KMK.04/1995 concerning the Treatment of Income Tax Against Parties Conducting Cooperation in the Form of Build-Operate and Transfer Agreements at the end of the contract period there is a clause on the transfer of generating assets to PLN(DJP, 1995). This is because the IPP acts as the holder of land rights as well as the investor who builds the power plant which causes the PPA contract to not be included in the definition of BOT based on the regulation. In line with article 28 paragraph 7 of the KUP Law, when tax regulations do not regulate in detail, the power plant built is not recorded. as fixed assets but financial assets by IPP as regulated in ISAK 16.

However, although there are no fixed assets in the form of generators, related to depreciation expense there are differences in accounting and tax treatment. In terms of taxation, IPP can refer to article 11 of the Income Tax Law which reads: Because in fact the IPP is the party that owns (can be proven in the form of legal ownership of rights) and controls (in fact uses) the generating assets, the IPP can reduce the depreciation expense incurred. will appear in the negative fiscal correction column in attachment 1771 I of the Annual Income Tax Return.

In compiling the corporate income tax return report, the taxpayer keeps the books based on SAK and then makes fiscal corrections based on the applicable tax provisions. However, if the difference between accounting and taxation is too far and significant, the need for taxpayers to make their tax records can be considered further. However, regardless of the treatment, for taxpayers, the impact of a significant difference between accounting and taxation treatment is an even greater increase in tax compliance costs.

The problem is in its implementation in the field. How each Tax Office interprets the new SAK and its tax treatment. To avoid different interpretations regarding the application of tax regulations and SAK in the practice, the Directorate General of Taxes needs to confirm as outlined in the Circular Letter of the Directorate General of Taxes.

4.2. Asset Impairment Analysis

In term of Company capitalizes certain costs incurred during the project pre-construction stage. These costs consist of the cost of land related fees, interest, professional fees, permits, and other costs related to the development of the Project. The capitalized costs will be amortized over an appropriate period from the commencement date of the Project's commercial operations or will be charged to expense if management determines that the costs are non-recoverable. By definition, an asset is the future economic benefits that are expected to flow to an entity. Assets must be stated at a value that reflects the economic benefits that will be obtained in the future. When the value to be obtained in the future is lower than the carrying amount, the asset must be written down.

According to PSAK 48 which adopted IAS 36 Impairment of Assets, at the end of each reporting period, the entity assesses whether there is an indication that the asset is impaired. If any such indication exists, the entity estimates the asset's recoverable amount. An asset is impaired if its carrying amount exceeds its recoverable amount.

Even though IPP already has a power purchase contract with PLN, due to the Financial Close / funding was not obtained, IPP will not be able to continue the power plant project. IPP then assesses the capitalized project development costs. By referring to PSAK 48: Impairment, the Company decided to expense all costs that have been incurred since the start of the project.

With the cancellation of a project, considering that the carrying value will certainly be greater than the recoverable value, or in other words, there will be no future potential economic benefit, IPP agreed to make a record for impairment. So what are the implications for tax regulations?

The formation or accumulation of reserve funds, according to Article 9(1) of the Income Tax Law, may not be deducted in determining the amount of taxable income for taxpayers. The problem is that in taxation there are no provisions regarding impairments, in fact, in general, any such thing as reserves are not allowed unless there are special provisions, so usually, from a taxation point of view, impairments are not allowed. However, to enter the Impairment there are several requirements.

IPP has conducted early development, usually, impairment will be carried out if there is evidence of the contract being terminated. The contract is not visible, like it or not, there is no continuation. If that's the case, the accounting will consider this part of the expenses.

Article 6 and Article 9 of the Income Tax Law do not explicitly stipulate that an impairment loss is an expense that can or cannot be deducted from income. In taxation, only the term fixed asset revaluation refers to Minister of Finance Regulation Number 233 of 2015 as informed by the following sources:

“Companies can revalue their assets every 5 years. When they revalue property, plant and equipment and there is an impairment/loss on their carrying amount, the loss can be charged. Meanwhile, profits can be subject to final income tax rates related to revaluation. When you want to make an impairment, it is not recognized in taxation.”

One of the reasons taxation does not recognize the concept of impairment is that the loss has not been realized. In addition, the results of the impairment will always result in a loss. This is because assets should not be recorded in excess of their recoverable value, meaning that if the recoverable amount is more than the carrying amount, the entity does not record a profit, meaning that property and equipment are recorded at their carrying value (no impairment). It is different from the revaluation model as stipulated in PSAK 16 or the fair value model in PSAK 19 which recognizes gains on the increase in asset value (IAI, 2018). Back to the concept of PSAK 48, that the standard intends to regulate how the entity provides for losses that will be borne if the asset is disposed of. Therefore, the impairment loss recognized by IPP is basically only an allowance. Basically, the formation or accumulation of reserve/reserve funds may not reduce the Taxable Income in accordance with Article 9 of the Income Tax Law.

For project financing including the funding for the acquisition of the Power Plant Site and project development. IPP entered into a loan agreement. Since then, the Company has capitalized interest costs to book by affiliates, among others to facilitate construction costs and production preparation costs for power plant facilities projects. There is no Advanced Pricing Agreement ("APA") entered into by the Company and its Affiliates, but the transfer pricing policy has been implemented previously (*Guidelines for APA*, 1999).

The initial concept for further discussion is when withholding tax is due on Interest. Based on Article 15(4) of Government Regulation Number 94 of 2010 and its explanation, withholding Income Tax by parties as referred to in Article 26 paragraph (1) of the Income Tax Law, is carried out at the end of the month:

- a. income is paid;

- b. provided for the payment of income; or
- c. the maturity of the payment of the income in question, depending on the events that occurred first.

Certain tax treatment may imply a certain option, whichever IPP thinks is the best option.

Decrease in interest expense which has been capitalized to “Assets under Construction” (as per ISAK 16). If the IPP is unable to achieve funding within the time limit specified in the PPA, for bookkeeping purposes, the IPP wishes to reduce the interest expense that has been capitalized into “Assets in Development”. It is understood that the decline in the value of capitalized interest expense will reflect the value of potential non-recoverable assets in the future. Thus, the nature of the impairment is similar to that of a provision.

"Based on Article 9(1) letter c of the Income Tax Law, the general provisions of non-deductible provisions do not apply to IPP. Therefore, costs/losses arising from impairment cannot be recognized as a direct deduction in the tax year in which the impairment occurs to calculate corporate Income Tax.

Post writing off the interest, IPP is planning to amend the relevant loan agreements to be non-interest-bearing. Under Article 18(3) of Tax Law, any related party transactions should be entered into on an arm's length basis, including on the intercompany lending. This means that the ITO would generally require the intercompany loans to be interest-bearing.

It may be worth mentioning that Government Regulation No. 94/2010 (PP No. 94/2010) provides an exception that allows shareholder loan to be qualified as a non-interest-bearing loan provided that the following conditions are all met:

- a) the loan is originated from funds owned by the shareholder and not from other parties (banks, etc);
- b) the shareholder is not in a loss position;
- c) the share capital in the relevant subsidiary has been fully paid; and
- d) the borrowing entity is in financial distress position.

If one of the criteria above is not met, GR-94 stipulates that the loan should be interest-bearing. Please also note that the above exceptions are applicable for shareholder loans only and do not apply to loans between affiliates. If that is the case, it is important for IPP and its shareholder to carefully assess the above four conditions. To date, there is no further provision nor guidance on the definition of such "financial distress" and hence it may create multi interpretations in practice.

IPP also exploring another option of having the debt be converted into equity. The tax treatments of debt-to-equity conversion are not specifically outlined in the Income Tax Law. However, pursuant to numbers of private rulings the ITO has consistently expressed the view that a debt-to-equity conversion should have no tax implications only if the value of the equity is identical to the value of the loan.

In line with the assertion of the Director General of Taxes in the Letter of the Director General of Taxes Number S - 141/PJ.42/2004, debt to equity swap transaction is two types of transactions that are carried out simultaneously, namely Debt settlement transactions and Equity participation transactions, thereby eliminating cash transactions. The value of shares uses the value as referred to in Article 10 paragraph (2) of the Income Tax Law which reads that the acquisition value or sale value in the event of an exchange of assets is the amount that should have been issued or received based on the market price.

In the event that the equity is of a lesser value, the difference could be treated as loan forgiveness and hence a taxable income for IPP (and ultimately be subject to CIT rate).

Meanwhile, if the equity reflects a higher value compared to the amount of the loan, the difference can be deemed as interest payment made by IPP and be subject to (by default) 20% Article 26 Withholding Tax. Please note that access to a reduced treaty rate for deemed interest may be denied by the ITO.

V. Conclusion

In SAK, the application of accounting principles is substance over form, while the tax authorities will use the opposite approach (legal form). This accounting principle recognizes the facts of the occurrence of a financial transaction rather than legal evidence.

Responding to differences in treatment between SAK and tax regulations, we can refer to the explanation of Article 28 paragraph (7) of the KUP Law which states that bookkeeping must be carried out in a way or system commonly used in Indonesia, in this case, based on Financial Accounting Standards, unless the taxation laws provide otherwise. This study has several limitations. First, the basis for analyzing this research is limited only to applicable financial accounting standards, while there are no tax regulations that specifically regulate service concession transactions or asset impairment. Previous research did not observe the cancellation of an electricity purchase agreement / PPA between PLN and IPP, so this research cannot compare similar discussions with previous research that has been carried out. Second, this study was not able to conduct interviews with sources from the IPP Company, both company management and accountants who had canceled PPA unilaterally with PLN, so the analysis carried out still contained an element of subjectivity from the researcher. Further research can review the same discussion by using case studies in different companies.

This study indicates that from an accounting perspective, the deferred tax has been a solution for the differences, and is bridged with the Fiscal Correction. But in terms of taxation, it is not done, meaning that there is a tax audit issue, which creates a significant Cost of Compliance for both parties, the Tax Authority and the Corporation. Research contributions are directed not only to IPP companies but also to DGT. The tax authorities should not injure the principle of Justice for Tax Payers.

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