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BUDIARTO Law Partnership Receives the ISO 9001:2015 Certificate

by Yustinus PE Prasetyo

On 28 February 2018, BUDIARTO Law Partnership (BLP) is in official receipt of the certificate of ISO 9001 : 2015. This is an upgrade of the previous certification, ISO 9001 : 2008, which BLP previously obtained.

ISO is a non-governmental international organization with a membership of 161 national standard bodies. The organization, which has its headquarters in Geneva, Switzerland, was one of the first organizations granted consultative status with the United Nations Economic and Social Council. It promotes worldwide proprietary, industrial and commercial standards. The standards help businesses increase productivity whilst minimizing errors and waste. One of the ISO's products is the ISO 9001.

The ISO 9001:2015 is a quality management standard which provides a process-oriented approach to documenting and reviewing the structure, responsibilities and procedures required to achieve quality management in an organization.

The standard can be applied to any organization, regardless of size or industry; and it is common for reputable law firms to adopt the standard. The ISO 9001 : 2015 has specific sections which contain information on topics such as:

a. requirements for a quality management system, including documented information, planning and processing interactions;
b. responsibilities of management;
c. management of resources, including human, and the organization's work environment;
d. product realization, including the steps from design to delivery;
e. measurement, analysis, and improvement of any quality management system through activities like internal audits, and corrective and preventative action.

In order to receive an ISO 9001;2015 certificate, an organization must follow the guidelines of the ISO 9001 standard. BLP has proved it meets the ISO standard through external audits. In short, the certification process includes implementing the requirements of ISO 9001 : 2015 and then complementing a successful registrar's audit confirming that the organization meets those requirements. Apart from the guidelines which have been predetermined by the ISO, BLP has its own policies in place to maintain both high quality management and products. These measures strive thereby to achieve the goal of meeting the client's highest expectations of the firm. As a firm, BLP will always strive to put the interest of the law first. Therefore, in meeting clients' needs, BLP declines any request which breaches the applicable law. By receiving an ISO 9001: 2015 certification in 2018, BLP is able to confirm that it is a law firm worthy of consideration in handling clients' legal issues with impeccable integrity.

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Implementation of the Know-Your-Beneficial Owner Principle of Corporations for the Prevention and Eradication of the Criminal Acts of Money Laundering and Terrorism Financing

by Margareth Nita Gunawan

The government has issued Presidential Regulation No. 13 of 2018 on the Implementation of the Know-Your-Beneficial-Owner Principle of Corporations for the Prevention and Eradication of the Criminal Acts of Money Laundering and Terrorism Financing ("**Presidential Regulation 13/2018"**). Presidential Regulation 13/2018 establishes a mechanism through which companies can implement the so-called Know-Your-Beneficial-Owner Principle ("**Principle**") with the ultimate objective of eradicating and preventing these activities. This Principle relates to money laundering and/or terrorism financing. The Presidential Regulation 13/2018 has been in force since 5 March 2018.

Precedential Regulation No.13/2018 specifically addresses the following matters:

1. Determination of beneficial owners;
2. Implementation of the Principle;
3. Supervision;
4. Exchanges of Information; and
5. Sanctions.

Each corporation shall determine its beneficial owners The beneficial owner of the corporation is at least 1 (one) person who satisfies the specific criteria of the corporation form (e.g. foundations, associations, cooperatives, limited partnerships, firm partnerships or other forms of corporation).

Determination of beneficial owners by authorized agencies shall be conducted based on an assessment of the authorized authority sourced from the results of any auditing activities that are undertaken by authorized officials; information that is supplied by any other government/private institutions/ certain professions; or other information supplied by credible sources.

In determining beneficial owners, corporations may gather necessary information from various sources, such as information from central or regional government institutions that have the authority to register, validate, dissolve or supervise corporations; information from private institutions that provide benefits to the relevant corporations; or other information supplied by credible sources; and so forth.

All corporations are required to appoint who will be responsible for the implementation of the principle, as well as for providing information that relates to the relevant corporation and beneficial owners upon a request being filed by either authorized officials and/or by law enforcement agencies.

Corporations are required to determine their beneficial owners and submit information relating to them to authorized officials within seven days of securing a business license/registration certificate from the relevant authority. Corporations are also required to update any information that relates to their beneficial owners on an annual basis. In addition, corporations, as well as their notaries or proxies, are required to administer any documents that relate to their beneficial owners for at least five years from their date of establishment or validation.

Information regarding to Beneficial Owners is to be managed by the relevant authorized agencies and can be exchanged for other information from any domestic or international institutions that request such information, or from reporting parties.

It is to be noted that corporations that fail to determine their beneficial owners and submit information relating to their beneficial owners will be subject to sanctions as stipulated under Law No. 8 of 2010 regarding the Prevention and Eradication of Money Laundering and Law No. 9 of 2013 regarding the Prevention and Eradication of Terrorism Financing.

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The New Regulation on Licensing and Reporting in Mining Business Activities

by Mega Septiandara

The Ministry of Energy and Mineral Resources ("**MEMR**") recently issued regulation No. 11 of 2018, concerning the procedure for mineral and coal businesses area allocation, licenses and reporting ("**Permen ESDM 11/2018**").

Permen ESDM 11/2018 regulates:

a. Preparation and determination of areas for the mining/specialized mining permit holder;
b. Information Systems for mining areas;
c. Procedures for the establishment of areas for the mining/specialized mining permit holder;
d. Procedures for licensing;
e. Rights and obligations of the permit holder;
f. Annual Working Plan and Budget ("**RKAB**") and reporting.

Areas for mining shall be granted by the MEMR after determination by the governor, such determination being achieved after discussion with the relevant mayor/regent. An area may be developed for mining business once the area is granted business status by the MEMR, after it has fulfilled various requirements imposed by the prevailing laws. The areas are divided into radioactive, metal, coal, non-metal and rock zones.

Once the area has been granted business status, a bidding can be opened to business owners, cooperatives or individuals. After a party wins the bidding, the mining business area is changed into a mining area specific for permit holders by the governor, who issues information for related parties that includes location, area size and land usage information.

Permen 11/2018 also provides procedures for the bidding that includes pre-qualification and qualification stages. The pre-qualification stage includes the bidder's document-evaluation and ranking from the bidding committee, which comprises 70% of the total scoring, while the bid itself makes up the remaining 30%.

Specialized mining areas can thus be granted through either priority service available only for state-owned enterprise or bidding, which procedure is like bidding for a general mining permit.

The licenses regulated in Permen ESDM 11/2018 are in line with the Law No. 4 of 2009 (Mining Law) and GR No. 23 of 2010 regarding Mining Business. These licenses are: a) General/Specialized Exploration Permit; b) General/Specialized Operational Production Permit; c) Special Operational Production Permit for Smelting; d) Special Operational Production Permit for Transport and Sale; and e) Mining Services Permit. Information concerning all licenses is provided as follows:

a. Scope of activity for which each license is required;
b. Period for each license, including the permitted extension; and
c. Authority which issues such license.

Further Permen ESDM 11/2018 sets out the detailed rights, obligations and prohibitions for every permit holder. Those who violate these provisions can be subject to administrative sanctions which include freezing or revoking the mining permit.

The new innovation regarding Information Systems for mining areas is intended to unify the coordinates, maps and mining areas to prevent future miscalculations and disputes between permit holders.

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Access to Financial Information for Tax Purposes

by Budi Wibowo

In order to support the national development of the Republic of Indonesia, the authorities have to boost tax revenue. Boosting tax revenue is of the utmost importance if Indonesia wishes to speed up its natio-widel development. In clear affirmation of this, data taken from the official website of the Financial Ministry of the Republic of Indonesia shows that Indonesia's tax revenue in 2017 was 1.498,9 (one thousand four hundred ninety eight point nine) trillion rupiah, which equates to (more or less) 85% (eighty five percent) of Indonesia's global income.

In May 2017, the President of the Republic of Indonesia took the initiative by issuing a Government Regulation in Lieu of Law no 1 Year 2017 ("**Perppu 1/2017**"). Furthermore, on 31 May 2017 an implementing regulation of Perppu 1/2017 was enacted : the Financial Minister Regulation No. 70/PMK.03/2017 ("**PMK 70/2017**") concerning Technical Guidance on Access to Financial Information for Tax Purposes. Since then, PMK 70/2017 has been amended twice: firstly, as Financial Minister Regulation No. 73/PMK.03/2017, and recently as Financial Minister Regulation No. 19/PMK.03/2018. These regulations are intended to prevent tax evasion, tax avoidance and tax treaty abuse by persons not entitled to the benefit of the tax treaty, and/or to obtain information on the fulfilment of tax obligations by taxpayers, thereby maximizing the Republic of Indonesia's tax revenue. Those subject to these regulations are:

1. the Financial Services Institution ("**FSI**");
2. other FSIs; and
3. other entities

which run business activities as a Custodial Institution, Depository Institution, Specified Insurance Company and/or investment entity.

Pursuant to this regulation, all subjects must provide any financial information they possess to the Director General of Taxes with the following qualification: (1) a Financial Account holder who has more than 1 (one) domicile; (2) a Financial Account holder whose holdings are in more than 1 (one) domicile; (3) a personal Financial Account with a value of more than Rp1.000.000.000,- (one billion rupiah); (4) a Financial Account owned by an entity and/or (5) an insurance policy with more than Rp1.000.000.000,- (one billion rupiah) coverage. In accordance with this reporting obligation, subjects may assign the latter to other parties, but it must be noted that the responsibility for such a report shall remain the subject's.

The Republic of Indonesia's concern with these tax revenue matters is further demonstrated by the section on anti- avoidance under Article 13 paragraph (1), (2) and (3), which states that subjects should not perform any action in avoidance of their reporting obligations, nor make any misleading statement, dissemble the facts or hide information. Subjects who fail to comply their obligation under this regulation shall be subjected to criminal sanctions, including a maximum fine of Rp1.000.000.000,- (one billion rupiah), while their directors/management or staff shall be subjected to a maximum imprisonment of 1 (one) year and a maximum fine of Rp1.000.000.000,- (one billion rupiah).

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