

Omnibus Draft Bills to be submitted to the House of Representatives

Following the discourse of the upcoming omnibus law, the government recently announced that it will submit omnibus draft bills on job creation (“Omnibus Law on Job Creation”) and taxation (“Omnibus Law on Taxation”) to the House of Representatives soon.

Omnibus law has become an emerging issue ever since it was mentioned during the President’s inauguration speech on 20 October 2019. The government claims that the omnibus laws are aimed to strengthen the national economy through the improvement of Indonesia's investment climate and competitiveness.

It is expected that the implementation of omnibus law may gain at least 3 (three) benefits:

1. it eliminates overlaps between laws and regulations;
2. the efficiency of the process of change/revocation of laws and regulations is improved; and
3. it eliminates sectoral egos contained in various laws and regulation.

In general, omnibus law is a method or concept of making rules that combines several rules with different regulatory substance, into a single regulation that serves as a kind of umbrella act. Several countries such as the United states, Australia and Vietnam have implemented Omnibus Law and Indonesia has in fact implemented Omnibus Law through Law No. 9 of 2017 on the Determination of Governmental Regulation in Lieu of Law No. 1 of 2017 on Information Access for Taxation Purposes. This law eliminates and revokes provisions on banking, insurance and capital market confidentiality related to taxation access which was previously governed under Banking Law, Sharia Banking Law, Insurance Law and Commodity Futures Trading Law.

Further, on 5 December 2019, the omnibus law draft bills were officially included in the National Legislation Program (*Prolegnas*) of 2020 with Super Priority status. The Government also involved the Indonesian Chamber of Commerce and Industry (KADIN) in the process of preparing and public consultation on the omnibus law, to obtain input and proposals so that the substance of the omnibus law is in line with the needs of business actors. In this case a Joint Task Force has been formed led by the Chairperson of KADIN, with members coming from several element, among other includes regional governments, academics, as well as from KADIN itself.

On 12 December 2019, the Coordinating Ministry of Economic has released press release on the Omnibus Law Bill with the title: An Effort to Strengthen National Economic through Job Creation and the Granting of Tax Facilities.

Makarim & Taira S.

Summitmas I, 16th & 17th Fls.
Jl. Jend. Sudirman Kav. 61-62
Jakarta 12190
Indonesia

P: (62-21) 5080 8300, 252 1272
F: (62-21) 252 2750, 252 2751
www.makarim.com

M&T Advisory is an email publication prepared by the Indonesian law firm, Makarim & Taira S. It is only intended to inform generally on the topics covered and should not be treated as legal advice or relied upon when making investment or business decisions. Should you have any questions on any matter contained in M&T Advisory, or other comments generally, please contact advisories@makarim.com

Omnibus Law on Job Creation

With respect to the Omnibus Law on Job Creation, the government has identified 82 laws and 1,194 articles that will be harmonized which covers the following 11 clusters:

1. Simplification of Licensing;
2. Investment Requirements;
3. Manpower;
4. Empowerment and Protection of Micro, Small and Medium-scale Enterprises (MSMEs);
5. Ease of Doing Business;
6. Research and Innovation Support;
7. Government Administration;
8. Imposition of Sanctions;
9. Land Procurement;
10. Investment and Government Projects; and
11. Economic Zones.

The Omnibus Law on Job Creation is also aimed to solve problem regarding the disharmony between central and local government with respect to the online single submission (OSS). The OSS system was supposed to simplify the licensing process and boost the ease of doing business in Indonesia, however it turns out to be confusing to the investors due to unintegrated system with the local government.

The government hopes that the Omnibus Law on Job Creation will also solve manpower problems that are not merely related to wages, but also related to lack of productivity.

Omnibus Law on Taxation

The Ministry of Finance has also prepared an Omnibus Law on Taxation draft which covers the following 6 clusters, namely: 1) Investment funding, 2) Territory system, 3) Individual Tax Subject, 4) Taxpayer Compliance, 5) Business climate fairness, and 6) Facility.

Through the Omnibus Law on Taxation, the government is trying to relax number of tax regulations to increase investment enthusiasm in Indonesia. The Omnibus Law on Taxation is expected to gradually lower the corporate income tax from the current 25 percent to 20 percent by 2023. It will also lower tax penalties and loosen the income tax provisions for foreign citizens. Although the Omnibus Law on Taxation has the potential to risk of losing tax revenue, it will work toward taxing multinational digital firm, such as Over the Top companies that have no physical presence Indonesia yet benefit from the activities in the Indonesian market.

Please also read our Advisory on An Introduction to the Proposed Omnibus Law dated 11 December 2019.

* * * * *

M&T Advisory is an email publication prepared by the Indonesian law firm, Makarim & Taira S. It is only intended to inform generally on the topics covered and should not be treated as a legal advice or relied upon when making investment or business decisions. Should you have any questions on any matter contained in M&T Advisory, or other comments generally, please contact your usual M&T contact or advisories@makarim.com.

Contacts:

Nadira	- nadira@makarim.com
Hilda Leswara	- hilda.leswara@makarim.com
Vincent Ariesta Lie	- vincent.lie@makarim.com