



# The Legal Standing of Sole Proprietorship As A Taxable Subject

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**Abstract.** One of the government's initiatives to support the growth of micro, small, and medium-sized enterprises (MSMEs) and boost the economy of the country is the implementation of the Job Creation Law. A new law brought about by the Job Creation Law is the creation of a Sole Proprietorship, a unique limited liability business specifically designed for MSMEs. According to Article 153A paragraph (1) of the Job Creation Law, a Sole Proprietorship is a company that meets the criteria of MSMEs and can be established by a single individual. With this provision, a Sole Proprietorship is legally recognized as a new form of legal entity. However, when it comes to tax aspects, the provisions regarding Sole Proprietorships are not explicitly and specifically regulated, leading to different interpretations among taxpayers. There is a legal vacuum regarding the position of Sole Proprietorships in the Tax Law when it is related to the category of tax subjects. The problem analyzed in this research pertains to the legal standing of a Sole Proprietorship as a tax subject with the enactment of the Job Creation Law, and the legal implications of the lack of regulations regarding Sole Proprietorships in the Tax Law. The research findings indicate that the legal standing of a Sole Proprietorship as a tax subject, with the enactment of the Job Creation Law, is recognized as a taxable entity. The legal implications of the absence of regulations for Sole Proprietorships in the Tax Law, in light of the Job Creation Law, have both positive and negative impacts. The positive impacts include simplicity, limited supervision, ease of handling potential fraud and tax evasion. On the other hand, the negative impacts include legal uncertainty, tax treatment disparities, administrative difficulties, and weaknesses in tax control and enforcement. To address these issues and enhance the effectiveness of the overall tax system, it is necessary to establish specific laws regulating Sole Proprietorships, conduct education and continuous adjustment, and provide ongoing guidance and education.

**Keywords:** Sole Proprietorship, Job Creation Law, Taxation.

## 1 Introduction

The economy of a country is an issue that requires attention from all citizens, especially in terms of addressing economic disparities among nations. This is due to the comparison of economic development between advanced countries and developing countries. An advanced country can adapt to the current global economic developments, while a developing country often faces various difficulties and obstacles in keeping up with changes. The global economic changes pose significant challenges for Indonesia, as one of the developing countries, in terms of global marketing and realizing the potential for business success, including increasing the tax ratio.

When examining the tax ratio—also referred to as the tax revenue ratio to GDP—Indonesia has a tax ratio that ranges from 12% to 15%. In comparison to ASEAN nations like Singapore, Malaysia, Thailand, and the Philippines, or Western European countries, Indonesia's tax ratio performance remained low from 2018 to 2020. During that period, Indonesia's tax ratio stagnated at around 10-12%, while Singapore recorded levels of 13-14%. Meanwhile, Malaysia had ratios of 12-15%, the Philippines 17-18%, Thailand 17-17.5%, and the highest ratio was seen in Western European countries at 41% Suporjo (2022).

The Republic of Indonesia, as a unitary state, was formed with the aim and aspirations of nationhood as mandated in the Constitution, as formulated in the preamble of the 1945 Constitution of the Republic of Indonesia Simon (2015). In the current positive law of Indonesia, various forms of companies have been regulated, both those that have legal entities and those that do not. The forms of companies are often known as Commercial Enterprises, Partnerships, Limited Partnerships, and Limited Liability Companies. These forms of companies have different regulations and characteristics from one another. One of the forms of companies that has its own distinctive characteristics is the Limited Liability Company.

The laws governing limited liability companies are constantly changing and have changed multiple times. A Limited Liability Company, herein referred to as the Company, is a capital partnership established based on an agreement, engaging in business activities with its capital divided into shares and fulfilling the requirements stipulated in this Law and its implementing regulations. This is stated in Article 1 Number 1 of Law Number 40 of 2007 concerning Limited Liability Companies (hereinafter referred to as the Company Law). Furthermore, a company is founded by two or more people by a notarial deed made in the Indonesian language, according to Article 7 paragraph (1) of the Company Law, which emphasizes the formation of limited liability companies.

These provisions often lead to debates as they are considered inflexible and complicate the process of establishing a Limited Liability Company. Therefore, there have been various requests for flexibility and ease in forming a Limited Liability Company without being obliged to have at least 1 (one) other founder. In support of this, one of the dynamics of ease of doing business (EOB) as an important pillar in national eco-

conomic development is the enactment of Law Number 11 of 2020 concerning Job Creation (hereinafter referred to as the Job Creation Law).

A few provisions of the Limited Liability Company Law, such as the exception for a single founder of a Limited Liability Company in Article 7 paragraph (7) of the Limited Liability Company Law, are extended to micro and small firms under Article 109 of the Job Creation Law. One of the new regulations in the Job Creation Law is the establishment of a special limited liability company for micro and small businesses known as a Sole Proprietorship. The requirement for the establishment of a company that previously mandated at least 2 (two) founders has been legalized specifically for business owners who wish to establish a limited liability company with a single founder through the enactment of the Job Creation Law.

The Sole Proprietorship, as stipulated in Article 153A paragraph (1) of the Job Creation Law, states that a company that meets the criteria of Micro and Small Enterprises can be established by a single individual. Since the Job Creation Law was passed, the sole proprietorship has been acknowledged by the law as a new type of business entity. On the other hand, in terms of taxation, the laws pertaining to sole proprietorships do not address them clearly and expressly, which causes taxpayers to interpret them differently.

According to Article 2 of Law Number 7 of 1983 concerning Income Tax, the tax subjects are individuals, undivided inheritances in lieu of the rightful heir, and Permanent Establishments. In addition, Article 1(3) of Law 6 of 1983 relating to the General Tax Provisions and Procedures Law states as follows: "Entities are a group of individuals and/or capital that constitute a unity, both engaged and not engaged in business activities, including limited liability companies, limited partnerships, other companies, state-owned enterprises or regional-owned enterprises in any name or form, firms, partnerships, cooperatives, pension funds, associations, organizations, mass organizations, social-political organizations, or other organizations, institutions, and other legal entities, including collective investment contracts and permanent establishments."

Article 153A, paragraph (1) of the Job Creation Law permits an individual to establish a company that satisfies the requirements for Micro and Small Enterprises as a legal entity. However, in the tax-related laws, there is no explicit statement about the legal status of the tax subject for a Sole Proprietorship. This creates a normative gap in tax provisions because, in its existence, a Sole Proprietorship is a business conducted by a single individual, and legally, it is a legal entity. However, the tax legislation has not explicitly clarified the legal standing of a Sole Proprietorship as a tax subject.

Based on the background of the issue, the author is interested in researching the normative gap concerning the Legal Standing of a Sole Proprietorship as a Tax Subject.

## **2 Research Questions**

Based on the above background, the main research questions to be investigated and discussed in this study are as follows:

1. With the passage of the Job Creation Law, what is the legal status of a sole proprietorship with regard to taxation?
2. With the passage of the Job Creation Law, what are the legal ramifications of the Tax Law's lack of rules pertaining to sole proprietorships?

### **3 Research Method**

This study employs normative legal research, specifically literary legal research, which is carried out through the analysis of secondary material or literature. Soekanto with a 2003. The Statute Approach, Conceptual Approach, Historical Approach, and Comparative Approach are some of the problem approaches that were employed in this study. By employing deductive reasoning, starting from general premises and reaching specific conclusions, and/or inductive reasoning, starting from individual premises and reaching general conclusions, the objective truth related to the issues at hand can be obtained and discovered Desman (2017). The legal sources used include primary, secondary, and tertiary legal materials. The library research method is used considering that this study can be conducted through the examination of concepts, regulations, and their implementations using primary legal materials such as legislation, secondary materials such as books, journals, news articles, official reports, and tertiary legal materials such as legal and language dictionaries

### **4 Discussion**

#### **4.1 The Legal Standing of a Sole Proprietorship as a Tax Subject with the Enactment of the Job Creation Law**

##### **1. Sole Proprietorship According to the Job Creation Law**

Recent legal developments in Indonesia have introduced a new legal entity known as a Sole Proprietorship. In the Common Law system, a Sole Proprietorship is also known as a sole trader or single shareholder, where there is only one party who acts as a trader. The sole trader typically provides capital from personal savings or loans from banks Rido (2004).

Before the Job Creation Law was passed, there were no rules governing sole proprietorships as a type of business entity. The Limited Liability Company is the most widely used business entity type under Indonesian corporate law. The regulations regarding Limited Liability Companies are stated in Law Number 40 of 2007 concerning Limited Liability Companies, which serves as the main legal framework for the implementation of Limited Liability Companies in Indonesia. Article 1 number 1 of the Limited Liability Company Law states, among others:

" A Limited Liability Company, also known as the Company, is a type of legal entity that is created through an agreement and functions as a capital partnership. It is an entity that engages in business activities, dividing its capital into shares, and satisfies the requirements outlined in this law and its implementing regulations."

Further stipulated in Article 7 of the Limited Liability Company Law is that a Company is established by 2 (two) or more individuals through a notarial deed made in the Indonesian language.

The establishment of a Company under the Limited Liability Company Law requires a minimum of 2 (two) founders, which has had an impact on the declining economic growth in Indonesia due to the Covid-19 pandemic. The decline in economic growth has led many companies in Indonesia to lay off employees, and even micro, small, and medium enterprises (MSMEs) have been affected, forcing them to strive to sustain their businesses.

One of the efforts undertaken by the Government to address this situation is to expand the basic concept of Limited Liability Companies as a means to facilitate entrepreneurs in establishing their businesses. This has been realized through the enactment of Law Number 11 of 2020 concerning Job Creation, which allows the establishment of a business entity in the form of a Limited Liability Company by a single individual who can simultaneously act as a shareholder and director Wahyu (2023).

The existence of a Sole Proprietorship according to the Job Creation Law is emphasized in Article 109 of the Job Creation Law, which amends several articles in the Limited Liability Company Law, including:

1. Article 1 number 1 regarding the Definition of a Limited Liability Company:

"A Limited Liability Company, hereinafter referred to as the Company, is a legal entity that constitutes a capital partnership, established based on an agreement, engaging in business activities with its capital entirely divided into shares or a sole proprietorship entity that meets the criteria of Micro and Small Enterprises as regulated in the legislation regarding Micro and Small Enterprises."

2. Article 7, paragraph (7) provides an exception to the provisions stipulated in Article 7, paragraph (1), which states:

The clauses mentioned in paragraphs (1), (5), and (6) that request that a Limited Liability Company be formed by two or more people do not apply to:

- a. State-owned companies where all shares are owned by the state;
- b. regionally based businesses;
- c. Village-based businesses;

d. Organizations in charge of guarantee, clearing, and stock exchange management, custodian and settlement institutions, and other institutions as regulated by the Capital Market Law; or companies that meet the criteria for Micro and Small Enterprises."

As a guideline for the implementation of these provisions, the Sole Proprietorship is further regulated in Article 2 of Government Regulation No. 8 of 2021, which states:

"A Limited Liability Company that meets the criteria for micro and small businesses consists of:

- a. A Limited Liability Company established by 2 (two) or more individuals; and
- b. A Sole Proprietorship established by 1 (one) individual."

3. Article 32 pertains to the provisions on capital, which states:

that the authorized capital of a company is no longer determined by a specific amount, but rather by the decision of the company's founder as regulated by the Government Regulation. This provides flexibility for business owners to determine the authorized capital of their company based on their capabilities, while still adhering to the applicable regulations. In accordance with Article 4 of Government Regulation No. 8 of 2021, the authorized capital must be fully placed and deposited, at least 25% (twenty-five percent) of which must be evidenced by valid deposit proof and electronically submitted to the Minister of Law and Human Rights within a maximum of 60 (sixty) days from the date:

- a. of the company's establishment deed for a Limited Liability Company; or
- b. of the submission of the Statement of Establishment for a Sole Proprietorship.

Furthermore, regarding the costs of establishing a Sole Proprietorship or individual legal entity in relation to Non-Tax State Revenue, there are additional provisions in Article 153 of the Limited Liability Company Law as amended by the Omnibus Law on Job Creation as follows:

1. According to Article 153A, a single person may create a Limited Liability Company that satisfies the requirements for Micro and Small Enterprises by submitting a declaration letter written in Indonesian.

2. As per Article 153B, the declaration letter must contain pertinent information about the company's existence, including its purpose, authorized capital, and business activities.

3. By filling out the required form, the establishment declaration must be electronically registered with the Ministry of Law and Human Rights. It is confirmed that only Indonesian citizens (WNI) who fulfill the following criteria are eligible to establish a sole proprietorship, in accordance with Chapter III, Articles 6 and 7 of Government Regulation No. 8/2021, which outlines the necessary requirements and provisions for doing so.

- a. The age requirement is 17 (seventeen) years old.
- b. The founder of the business entity must have legal competence, understanding all its provisions and the consequences if violated.
- c. It has met the criteria for being a micro and small enterprise (MSEs).
- d. Has only one shareholder.
- e. The founder is only allowed to establish a sole proprietorship once per year.

To form a sole proprietorship, one must first complete an electronic Declaration of Establishment in Indonesian. This document must be electronically registered and sent to the Minister of Law and Human Rights, who oversees government affairs related to these matters. The prescribed form must be filled out with the following details:

- a. Name and registered office of the sole proprietorship.
- b. Duration of the establishment of the sole proprietorship.
- c. Purpose, objectives, and business activities of the sole proprietorship.
- d. Total authorized capital, subscribed capital, and paid-up capital.
- e. number of shares and nominal value
- f. Address of the sole proprietorship.

g. Complete name, place of birth, date of birth, occupation, address, population identification number, and tax identification number of the founder, together with the shareholder and director of the exclusive business.

Furthermore, Law Number 20 of 2008 regulating Micro, Small, and Medium Enterprises regulates the requirements for micro and small firms as stated in Article 153 in Article 6. Having an annual sales income of up to Rp300,000,000.00 (three hundred million Indonesian Rupiah) or a net value of up to Rp50,000,000.00 (fifty million Indonesian Rupiah), excluding land and business premises, are the requirements for becoming a microbusiness. The requirements for a small business, on the other hand, are having an annual sales revenue exceeding Rp300,000,000.00 (three hundred million Indonesian Rupiah) up to a maximum of Rp2,500,000,000.00 (two billion five hundred million Indonesian Rupiah) or having a net worth exceeding Rp50,000,000.00 (fifty million Indonesian Rupiah) up to a maximum of Rp500,000,000.00 (five hundred million Indonesian Rupiah), excluding land and business premises.

Government Regulation Number 7 of 2021, also known as PP No. 7/2021, was passed, bringing new provisions pertaining to the requirements for Micro and Small Enterprises. These provisions include the grouping of Micro, Small, and Medium Enterprises according to the criteria of capital or annual sales revenue. This regulation eases the protection and empowerment of cooperatives as well as Micro, Small, and Medium Enterprises. The capital requirements pertain to microenterprises, defined as those with a capital of up to Rp1,000,000,000.00 (one billion Indonesian Rupiah). On the other hand, the requirements for small enterprises are defined as those with a capital exceeding Rp1,000,000,000.00 (one billion Indonesian Rupiah), exclusive of land and place of business.

4. Article 153 J stipulates that shareholders of a Micro and Small Enterprise (UMKM) are not personally liable for obligations made on behalf of the company and are not liable for losses incurred by the company beyond their share ownership.

Law Number 3 of 1982 pertaining to Mandatory Company Registration (WDP) has been repealed by the Job Creation Law. The implication of the repeal is to simplify the process of establishing a company, including legal entities such as cooperatives, partnerships, sole proprietorships, and other types of companies, by registering their business with the Company Registry at the local trade office under the Ministry of Trade. In practice, the Company Registration Certificate is no longer issued, and business operators can proceed with their activities based on their business licenses.

Based on the description, here are some key provisions regarding sole proprietorship based on the Job Creation Law:

1. Post the Job Creation Law, the concept of sole proprietorship has expanded with the introduction of a new term, "Perseroan Perorangan" (Individual Company). The addition of the phrase "singular legal entity that satisfies the requirements set forth in the legislation regarding micro and small enterprises" indicates the introduction of a new regulation that allows an individual to establish a legal entity with a single shareholder, as long as it meets the criteria for Micro and Small Enterprises

2. A notarial deed gains significance since it is a genuine document that contributes to legal certainty and, because of its binding nature, can be regarded by

the law as compelling proof. Following the passage of the Job Creation Law, an exception for sole proprietorships was included to Article 7 of the Company Law. Sole proprietorships, as this type of company can be established by a single person without seeking a business partner, as long as they meet the criteria for Micro and Small Enterprises. As a result, the company is established and controlled by a single individual, which increases the possibility of fraud as limited liability can be exploited against third parties. In the establishment process of a sole proprietorship, there is no need for an agreement and notarial deed.

3. The nominal value of the criteria for capital or sales revenue may change depending on the economic conditions. This determination is important as a benchmark and determinant for the founder of a sole proprietorship in deciding the type of business to be undertaken and can serve as a monitoring tool for the government regarding the business status. The range of capital and sales revenue values for Micro and Small Enterprises is clearly defined in Government Regulations. In contrast, for limited liability companies, Article 32 paragraph (1) of the Company Law states that the minimum capital for the establishment of a limited liability company is at least IDR 50,000,000 (fifty million Rupiah), and the amount of authorized capital is entirely determined by the founders and shareholders based on their agreement documented in a notarial deed and approved by the Ministry of Law and Human Rights. The alignment between a limited liability company and a sole proprietorship can be seen in the paid-up capital. The authorized capital of a company must be subscribed and paid-up at least 25% (twenty-five percent) of the authorized capital, as evidenced by valid proof of payment.

4. According to Article 153C of the Job Creation Law, changes to a sole proprietorship are determined by the General Meeting of Shareholders (RUPS) and must be notified to the Ministry of Law and Human Rights.

5. Article 153J of the Job Creation Law contains the doctrine of piercing the corporate veil, which means lifting the corporate veil. This doctrine allows the limited liability of shareholders to be disregarded and their personal assets to be held liable in case of violations, deviations, or errors in managing the company Dewi (2023). The piercing the corporate veil principle is intended to prevent the abuse of legal protection granted to shareholders, such as actions taken in bad faith, negligence, recklessness, contrary to the interests of the company, or leading the company to bankruptcy Dewi (2022).

### **Legal Standing of Sole Proprietorship as a Tax Subject with the Enactment of the Job Creation Law**

. The existence of a sole proprietorship in the business world, particularly in the micro, small, and medium enterprises (MSMEs) sector, also affects taxation aspects. In the context of taxation, taxpayers have different legal positions depending on the type of legal entity or their status as individuals. This is related to the recently enacted Job Creation Law, which affects the legal status of taxpayers in sole proprietorships. Terminologically, the Tax Law does not clearly regulate the legal position or legal standing of the tax subject in a sole proprietorship as a taxpayer.



In determining the legal standing of a sole proprietorship as a tax subject in tax law, it can be understood by analyzing the interrelation of legislation governing sole proprietorships based on the hierarchy of legislation as regulated in Article 7 of Law Number 15 of 2019 concerning Amendments to Law Number 12 of 2011 concerning the Formation of Legislation (hereinafter referred to as Law No. 15/2019):

a. The 1945 Constitution of the Republic of Indonesia (UUD NKRI 1945)

In the 1945 Constitution of the Republic of Indonesia (UUD 1945), the obligation to pay taxes is stated in Article 23A, which states, "Taxes and other compulsory levies for the needs of the state shall be regulated by law." Based on this provision, tax collection is a manifestation of the taxpayer's dedication and participation in fulfilling their tax obligations. Referring to the definition of a company, a sole proprietorship is a legal entity that operates a business to generate profits by developing micro, small, and medium enterprises (MSMEs). Therefore, based on the UUD 1945, a sole proprietorship is also obliged to participate in fulfilling tax obligations.

b. Laws (Undang-Undang) and Government Regulations in Lieu of Law (Peraturan Pemerintah Pengganti Undang-Undang).

According to Article 1 number 1 of the Limited Liability Company Law as amended by the Job Creation Law, it states that a sole proprietorship is a legal entity. Based on the definition of a Limited Liability Company in the Job Creation Law, it also includes a sole proprietorship. Therefore, if a Limited Liability Company is considered a corporate taxpayer as mentioned in the definition of a corporate entity according to Article 1 number 3 of the General Taxation Law (UU KUP), it is only logical that a sole proprietorship is also included in the category of corporate taxpayers.

c. Government Regulation

According to the provisions of Article 1 number 1 and Article 2 paragraph (1) of Government Regulation Number 8 of 2021 concerning the Authorized Capital of Companies and the Registration of Establishment, Amendments, and Dissolution of Companies that Meet the Criteria for Micro and Small Enterprises, it regulates the sole proprietorship established by one individual as part of a legal entity that meets the criteria for micro and small enterprises. Therefore, based on the definition of a corporate entity in Article 1 number 3 of the General Taxation Law (UU KUP), the legal status of a sole proprietorship in taxation law falls within the category of corporate taxpayers.

d. Minister of Finance Regulation

The legal status of a sole proprietorship is implicitly regulated in Article 1 number 6 of the Minister of Finance Regulation Number 147/PMK.03/2017 concerning the Procedures for Taxpayer Registration and the Cancellation of Taxpayer Identification Numbers, as well as the Confirmation and Revocation of Taxable Entrepreneurs. A sole proprietorship falls within the scope of the definition of a Limited Liability Company in the Job Creation Law. If a Limited Liability Company is considered a corporate taxpayer, then according to the provisions above, it confirms that the legal status of a sole proprietorship in taxation falls within the category of corporate taxpayers.

e. Directorate General of Tax Regulation

The legal status of a sole proprietorship is also implicitly regulated in Article 1 number 9 of the Directorate General of Tax Regulation Number PER-04/PJ/2020 concerning the Technical Guidelines for the Implementation of Taxpayer Identification Numbers, Electronic Certificates, and the Confirmation of Taxable Entrepreneurs. The definition of a Limited Liability Company in the Job Creation Law confirms that a sole proprietorship falls within the scope of a legal entity. Therefore, according to the provisions mentioned above, if a Limited Liability Company is considered a corporate taxpayer, the legal status of a sole proprietorship in taxation should also fall within the category of corporate taxpayers.

### **Legal Standing of Sole Proprietorship in Various Countries.**

. The concept of a sole proprietorship introduced by the Indonesian government in the Job Creation Law is not a new concept in several countries around the world. This concept has been previously recognized in various countries with different names, including:

#### **a. China**

The 2018 People's Republic of China Company Law governs regulations pertaining to company entities in China. China has accepted the idea of a single shareholder firm, sometimes known as "One Person Limited Liability Companies." This is governed by the Special Provisions on One-Person Limited Liability Companies in Section 3 of the People's Republic of China 2018 Company Law.

Regarding the legal status of sole proprietorships in China and Indonesia, there are both similarities and differences. The governments of Indonesia and China share similarities in terms of applying laws to sole proprietorships, as both countries have regulations concerning companies with a single shareholder. In China, this is regulated in the Company Law of the People's Republic of China 2018, while in Indonesia, it is regulated with the enactment of the Job Creation Law.

The differences in the treatment of sole proprietorships between China and Indonesia are evident in the registration mechanism and the aspect of liability. In China, the registration of a single shareholder company requires the presentation of a business license and proof of assets. On the other hand, in Indonesia, the registration process involves submitting an application to the Ministry of Law and Human Rights.

Regarding liability, in China, the single shareholder is individually responsible for the company's obligations. However, in the Job Creation Law of Indonesia, it is stated that the shareholder of a sole proprietorship is not personally liable for the company's obligations and their liability is limited to the shares they own in the sole proprietorship.

#### **b. United Kingdom**

The United Kingdom is the first country that paved the way for the establishment of sole proprietorships known as "Single Member Companies" through the famous case of *Salomon v. Salomon & Co.* in 1897. This landmark case established the legal principle of separating the legal personality of a company from its shareholders, allowing for the formation of single-member companies Neha (2005). When comparing the legal status of sole proprietorships in Indonesia and the United

Kingdom, there are similarities and differences. The similarity is that the business identity of a sole proprietorship must be separate from the personal identity of the owner. However, the difference lies in the legal classification. In Indonesian law, a sole proprietorship has the status of a legal entity, while in UK law, a sole proprietorship is not considered a separate legal entity. As a result, there is no separation of personal and business assets in the UK. Consequently, the owner's liability in the United Kingdom extends to their personal assets and potentially includes those of their spouse if they are married.

## **4.2 Legal Implications of Sole Proprietorship in Tax Law with the Enactment of the Job Creation Law**

### **1. Impact of the Job Creation Law on the Legal Status of Sole Proprietorship as a Tax Subject.**

The Indonesian legal standing of sole proprietorships as tax subjects is significantly affected by the Job Creation Law. The removal of minimum capital requirements, the provision of tax incentives to micro, small, and medium enterprises (MSMEs), changes in tax administration, and a focus on economic growth are some of the potential impacts. However, it is important to note that these impacts should be viewed in a broader context, taking into consideration fairness, transparency, and equality in the overall taxation system.

With the issuance of the Job Creation Law, significant changes are expected in business regulations in Indonesia. However, these changes do not directly address the sole proprietorship in the context of taxation. The main focus of the Job Creation Law is on investment, job creation, and improving competitiveness. As a result, there are no specific provisions that address the legal issues of sole proprietorships as tax subjects.

The absence of provisions specifically regulating sole proprietorships in the Tax Law creates several legal implications as both positive and negative consequences that need to be considered. Some of these implications include:

#### **1. Positive Implications**

In determining the legal position of a sole proprietorship as a taxpayer subject, the inherent nature and characteristics of a sole proprietorship need to be deeply understood in order to establish its relation to the definition of an entity according to the Taxation Law (UU KUP). Nonetheless, such conditions have several positive impacts on the tax legal framework for sole proprietorships. The positive impacts include:

##### **a. Investment Stimulus**

Through Regulatory Impact Analysis (RIA), it is known that the Omnibus Law on Job Creation aims to improve the investment climate in Indonesia by simplifying business regulations and procedures. By facilitating investment and improving licensing requirements, it is expected to lead to increased domestic and foreign direct investment. The policy formulation within the Omnibus Law has positive impacts on

refining taxation policies, as increased investment can boost economic activities and tax revenues.

By creating a more favorable business environment, the UU Cipta Kerja seeks to attract both local and foreign investors, which can contribute to economic growth, job creation, and technological advancements. These positive effects, in turn, can lead to increased tax revenues for the government. As businesses expand and new ventures emerge, there is potential for higher tax collections from corporate taxes, individual income taxes, value-added taxes, and other tax sources.

It is important to note that the actual impact of the UU Cipta Kerja on tax revenues will depend on various factors, including the implementation of supportive policies, investor response, market conditions, and overall economic performance. Continuous monitoring and evaluation of the regulatory changes and their impact on tax revenues are crucial to ensure the desired outcomes are achieved.

#### b. Promoting Economic Growth

The promotion of economic growth is one of the primary goals of the Omnibus Law on Job Creation Law. The Job Creation Law, which was passed in the midst of the Covid-19 outbreak, has developed into a solid base that would help Indonesia weather the pandemic's uncertainty and economic shocks. According to the World Bank's report in December 2022, Indonesia became the second-largest recipient of Foreign Direct Investment (FDI) in Southeast Asia after the enactment of the Job Creation Law. The level of Foreign Direct Investment (FDI) in Indonesia increased by an average of 29.4% in the five quarters following the enactment of the Job Creation Law compared to the FDI level in the five quarters before its enactment. This indicates that investors have responded positively to the presence of the Job Creation Law.

#### c. Simplification of Tax Regulations

By combining and consolidating numerous tax laws and rules, the Omnibus Law on Job Creation also seeks to simplify tax legislation. This makes taxpayers' awareness of their tax obligations clearer and helps to simplify the administration of taxes. The integration of tax regulations is manifested through the enactment of Law Number 7 of 2021 on the Harmonization of Tax Regulations. This law aims to harmonize and consolidate various tax laws and regulations to create a more coherent and consistent tax framework. By bringing together different tax provisions into a single law, it simplifies the understanding and compliance of taxpayers with tax obligations. The harmonization of tax regulations helps to streamline the tax system, reduce ambiguities, and promote consistency in tax administration.

With the enactment of the Law on the Harmonization of Tax Regulations (UU HPP), several important matters are regulated, including:

1. Matching NIK (National Identity Number) with Taxpayer Identification Number (NPWP): The UU HPP introduces the requirement for matching the NIK, which is a unique identification number assigned to Indonesian citizens, with the NPWP, which is the Taxpayer Identification Number. This measure aims to improve the accuracy and integrity of taxpayer data.

2. Reduction in Corporate Income Tax Rates: One of the significant provisions of the UU HPP is the reduction in corporate income tax rates. The law aims to enhance the competitiveness of businesses and attract more investments by lowering the burden of corporate taxation. The specific details of the tax rate reduction, including the applicable rates and thresholds, would be outlined in the UU HPP and its subsequent implementing regulations. These reductions in tax rates are designed to provide businesses with increased profitability and cash flow, allowing them to reinvest in their operations, expand their businesses, and stimulate economic growth.

3. Reduction in Corporate Income Tax Rates. Apologies for the confusion in my previous response. You are correct. The Job Creation introduces a gradual reduction in the corporate income tax rate. The previous rate of 25% has been reduced to 22% for the tax years 2020 and 2021. It is further reduced to 20% for the tax year 2022 and onwards. Additionally, there is an additional 3% lower rate for publicly listed taxpayers (Go Public).

4. Program for Voluntary Disclosure (PPS): The Directorate General of Taxes (DJP) launched the PPS program, which gives taxpayers the option to voluntarily reveal their unpaid taxes by paying income taxes based on the disclosure of their assets.

#### d. Enhancement of Tax Incentives

Here are some tax incentives introduced after the enactment of the Omnibus Law on Job Creation:

1. Exemption from Dividend Tax
2. Reduction in Article 26 Income Tax Rate on Interest Income:
3. Exemption from Income Tax on Foreign Sourced Income;
- Reduction in Article 26 Income Tax Rate on Interest Income;
- e. Legal Certainty for Foreign Nationals (WNA)

The purpose of the Job Creation Law is to give foreign nationals (WNA) who work and make money in Indonesia legal certainty. This includes the clauses found in Government Regulation No. 55/2022, which gives WNA even more legal security. Government Regulation No. 55/2022 covers a number of topics pertaining to foreign nationals' employment and income in Indonesia.

This is supported by the opinion of officials at the Pratama Tax Office who oversee and educate taxpayers about their tax obligations. According to Mr. Gede Yuana Bundariawan section head at one of the Pratama Tax Offices in Ende, the taxation regulations for sole proprietorships are essentially implicitly regulated in the General Taxation Law (UU KUP), Income Tax Law (UU PPh), and Value Added Tax Law (UU PPN), but these regulations are explicitly elaborated upon. In this situation, there are several advantages to explicitly regulating the provisions for sole proprietorships in the Taxation Law, including:

#### a. Implicity Advantage

Sole proprietor taxpayers are often considered to be simpler in terms of meeting their tax obligations. As a sole proprietor, the business and personal finances are typically intertwined, and the tax reporting is done on an individual level. This

simplicity arises from the fact that there is no need to separate business and personal tax reporting, reducing administrative complexity and paperwork.

b. Limited Oversight

Tax authorities may have the view that sole proprietor taxpayers have limitations in terms of supervision and monitoring. Due to the separate business entity, it can be easier for tax officials to ensure full compliance with tax obligations. In the case of sole proprietorships, there may be fewer layers of reporting and oversight compared to larger entities, such as corporations. This can result in limited visibility for tax authorities to monitor the financial activities and accurately assess the tax liabilities of sole proprietors.

c. Ease of Handling Potential Fraud and Tax Evasion

Another advantage of sole proprietor taxpayers is the ease of addressing potential fraud and tax evasion.

## 2. Negative Impact

In addition to providing positive impacts, the lack of regulations regarding individual corporations in the taxation system also brings about negative consequences, namely:

a. Difference in Legal Interpretation

The lack of regulation for individual corporations in tax laws leads to differences in legal interpretation for individuals who want to operate their businesses as individual corporations.

b. Tax Treatment Discrepancies

The lack of clear regulations regarding the status of individual corporations as tax subjects in the Tax Law can result in tax treatment discrepancies. The existence of tax incentive policies and the imposition of final income tax can further reinforce the gaps in the taxation system. The absence of specific provisions for individual corporations can lead to different tax treatments compared to other types of entities, such as partnerships or limited liability companies. This creates inconsistencies in how individual corporations are taxed, potentially resulting in unfair advantages or disadvantages.

c. Administrative Challenges

The lack of regulation for individual corporations can also lead to administrative difficulties in taxation. Limited human resources within individual corporations can hinder the development of the necessary mindset and expertise for effective tax administration.

Individual corporations often have fewer resources compared to larger entities, such as corporations or partnerships. They may lack dedicated tax departments or tax specialists who can navigate the complexities of tax laws and ensure proper compliance. This limited capacity can result in challenges in understanding and fulfilling tax obligations.

## 2. Sole Proprietorship According to Tax Regulations in Indonesia.

Understanding the position of individual corporations according to taxation provisions can be achieved by linking the characteristics and nature of individual

corporations with the applicable tax legislation, including the General Provisions and Procedures of Taxation Law (UU KUP), Income Tax Law (UU PPh), and Value Added Tax and Luxury Goods Sales Tax Law (UU PPN and PPnBM).

In terms of income tax and value-added tax, sole proprietorship is defined under The General Tax Provisions and Procedures Law. Aspects of the General Tax Provisions and Procedures Law pertaining to tax ID number registration and establishment as a taxable entity. First, regarding registration, an Sole proprietorship is a legal entity that must register itself no later than one month after the time of establishment. If after that period the Tax ID number has not been registered, the tax office has the authority to issue Tax ID number in a positional manner. Second, because it is a legal entity, according to Article 28 paragraph (1) of The General Tax Provisions and Procedures Law, an Sole proprietorship is required to keep books of accounts. The obligation to make these financial reports is also regulated in Article 10 of Government Regulation Number 8/2021, namely submission is made electronically no later than 6 months after the end of the current accounting period. Statements of financial position, income statements, and comments to the current year's financial statements are among the formats for financial reports that need to be submitted.

Furthermore, in the Income Tax aspect, the obligations of sole proprietorship relate to the ability to carry out bookkeeping so that when registering an Tax ID number, sole proprietorship can choose to be subject to Income Tax based on the rates of Article 17 paragraph (1) letter a, Article 17 paragraph (2a), or Article 31E of the Income Tax Law. As a legal entity, an Sole proprietorship has the obligation to withhold income tax Article 21, Article 23, Article 26, Article 15 and Article 4 paragraph (2). In the aspect of Value Added Tax (VAT) the obligation to pay VAT arises when an Sole proprietorship has been confirmed as a Taxable Entrepreneur. An Sole proprietorship must be confirmed as a Taxable Entrepreneur if its turnover in one financial year exceeds IDR 4.8 billion. If the turnover is below that value for a year, they are referred to as small entrepreneurs and can choose to be confirmed as Taxable Entrepreneur. Small entrepreneurs with Taxable Entrepreneur status whose annual turnover is not more than IDR 1.8 billion can use the input tax credit calculation guidelines according to Minister of Finance Regulation Number 74/PMK.03/2021. Through these provisions, the input tax that can be credited is 60% of the output tax for the delivery of taxable services and 70% of the output tax for the delivery of taxable goods. In the event that the turnover in a year exceeds ID 1.8 billion, the Taxable Entrepreneur is required to use the input tax crediting mechanism with the output tax in accordance with the VAT Law. If you have become a Taxable Entrepreneur, an Sole proprietorship must collect VAT at a rate of 10% according to the VAT Law. Meanwhile, according to the Law on Harmonization of Tax Regulations, this rate has increased gradually, namely 11% as of April 1, 2022 and 12% which applies no later than January 1, 2025. However, for Taxable Entrepreneur whose annual turnover does not exceed a certain amount, they can collect VAT with the amount certain lower rates or called final tax rates.

## 5 Conclusion and Suggestions

### Conclusion

The following conclusions were drawn from the outcomes of the previous chapters' discussion:

1. The Legal Standing of an Sole proprietorship as a tax subject with the issuance of the Job Creation Law is a corporate tax subject, in accordance with the provisions in the hierarchy of laws and regulations and the company concept in the Job Creation Law and the concept of corporate tax subjects in Article 1 point 3 The General Tax Provisions and Procedures Law indicates that an Sole proprietorship legally does not fall into the category of private person (*natuurlijke persoon*) but is a legal entity (*rechts persoon*), and there is a separation of ownership of assets owned by an individual as the founder of an Sole proprietorship with assets deposited as capital or assets owned by Sole Proprietorship so that Sole proprietorship are corporate tax subjects.

2. The legal implications of the unregulated provisions for Sole proprietorship in the Taxation Law are that it has a positive impact on stimulating investment, encouraging economic growth, simplification tax regulations, increased tax incentives, legal certainty for foreigners, advantages of simplicity, limited supervision and ease of handling potential fraud and tax evasion, while the negative impacts that occur are differences in legal interpretation, gaps in tax treatment and administrative difficulties for tax officers in the event that they have not open understanding or mindset in distinguishing his position as an individual owner of an Sole proprietorship with the Sole proprietorship as a company.

### 5.1 Suggestions

Based on the explanation in the previous chapters, there are suggestions as future recommendations, namely:

1. Legislative efforts are needed to develop specific tax provisions and there is an increase in regulation for Sole Proprietorship. The affirmation, which is currently still in the form of an Circular Letter of the Director General of Taxes, should be regulated more strictly in the form of a law so that the essence, principles and arrangements for Sole Proprietorship in the Job Creation Law are in line with the essence, principles and arrangements in the tax law.

2. To be able to produce comprehensive legal agreements and guidelines regarding Sole proprietorship in the context of taxation, helping to minimize legal uncertainty related to Proprietorship, Tax Institutions need to establish synergy and cooperation with institutions engaged in education.

3. It is suggested to the public, especially micro and small businesses to participate actively and welcome the government's support for business actors to develop their businesses in the form of tax incentives, tax reform in terms of providing tax administration convenience.



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