MURABAHAH TAX TREATMENT IN THE INDONESIAN ISLAMIC FINANCE

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Outline

• Current State of Indonesian Islamic Finance Industry
• Overview of Tax Treatment in Indonesia especially on Murabahah Contract
• The Definition of Murabahah
• Murabahah Financing Structure
• Income Tax on Murabahah Transaction
• VAT on Murabahah Transaction
• BPHTB on Murabahah Transaction
• Stamp Duty
• Conclusion
Current State of the Indonesian Islamic Finance Industry

- Annual average growth of 35%-50% per year (compared to global Islamic Finance growth of 10%-20% per year)
- Rp244 trillion in Total Assets,
- Rp185 trillion in Total Deposits
- Rp188 trillion in Total Financing
- 104% Average FDR
- 2-3% Average NPF per year
- 14 million out of 54 million (26%) total SMEs are financed with Islamic finance schemes
Tax Treatment in Indonesian Islamic Finance

- Tax treatment is a crucial problem as 60%-70% of Islamic banking contracts take a form of Murabahah.
- *Murabahah* financing is a bank financing which involves an Islamic bank as the provider of funds and entrepreneurs/customer as the user of funds.
- *Murabahah* financing applies at least two transactions (sale and purchase) in order to apply one financing contract.
- To avoid double taxation in *Murabahah* financing contract, special treatment is needed.
According to the Indonesian Islamic Finance Accounting Guidelines (PAPSI) 2013:

- **Murabahah**:
  
  “Murabahah is a contract for the sale and purchase of goods with the selling price equal to the sum of the actual cost of the good and an agreed upon profit margin. Furthermore, the seller must disclose the actual cost of the good to the buyer.”

- **Murabahah Financing**:

  “Murabahah financing is the provision of funds from the bank to the customer to purchase a good by confirming the price of the good to the buyer (the customer) and the buyer will pay at a higher cost to include a profit for the Bank that is agreed upon.”
Murabahah Contract and Object of Tax

Murabahah Financing Structure

1a. Bank’s Client

1b. 1b

2. 2

3. 3

4. 4

Vendor (Owner of the Asset)
**Murabahah** Contract and Object of Tax

**Murabahah Financing Structure**

- Bank's Client
- **Vendor (Owner of the Asset)**
- Islamic Bank

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1. Bank's Client to Vendor (Owner of the Asset)
2. Double Taxation
3. Vendor (Owner of the Asset) to Islamic Bank
4. Islamic Bank to Bank's Client

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**Double Taxation Arrow**
Murabahah Financing Tax Treatment in Indonesia

Murabahah Financing Treated as an Object of Taxable Income

- In Indonesia, Murabahah financing is an object of tax (Government Regulation number 25 year 2009)
- If Income tax payer is resident / non resident, he/she is taxable (article 23 of the Income Act number 25 year 2009):
  - Resident with NPWP => Tariff on tax is 15%
  - Resident without NPWP => 100% more than the normal tariff
  - Non Resident => 20 %
- If Murabahah financing is done by Islamic banks (financial institutions) as the seller, such an income tax is exempted (article 23 verse 4 of the Income Act number 25 year 2009)
- Until now, Ministry of Finance as the tax regulator in the country has not regulated tax on Murabahah in Islamic banks in a special Islamic tax act separated from the conventional income tax act
Murabahah Financing Tax Treatment - Accounting

→ Tax treatment refers to the Financial Accounting Standard (PSAK) number 102 in which income or profit in Murabahah financing is acknowledged.

→ A penalty charged on late payment is part of the Islamic bank’s non halal income and also an object of income tax.

→ At the end of accounting period, total income (profit) from Murabahah financing is accumulated with total penalty and being considered as object of Income tax.
Murabahah Financing VAT & Luxury Good Tax

Under Act number 42 year 2009:

- Islamic banks do not need to impose value added tax on the delivered asset to the end buyer (client)
- “the delivery of a taxable asset by taxable financial institution due to financing contract based on Islamic principle is free from value added tax, because such delivery is treated as a direct delivery from taxable financial institution to the client who need a taxable asset.”

Example:

- Special for Islamic financial transaction, even though an Islamic bank needs to purchase Mr. A asset first and will sell it later to Mr. B, value added tax imposes only single tax which is from Mr. B as the final purchaser of an asset and there is no tax on Murabahah financing facilitated by Islamic bank.
Murabahah Financing Tax on Ownership Transfer

BPHTB Tax Act number 21 year 1997 and number 20 year 2000

- Regulates tax of Murabahah financing in Islamic bank which involves ownership transfer of land or building from the owner of the asset to the buyer
- BPHTB tax is imposed in the purchasing of land/building by Islamic bank from the seller and is reimposed in the selling of land/building from Islamic bank to the client (new owner of the land/building)

Double taxes is sorted out with only single tax under new Act of Regional Tax and Income Contribution number 28 year 2009
Under Stamp Duty Act 13 Year 1985, documents need to be stamped duty:

- *Murabahah* financing contract
- Receipt of *Murabahah* transactions (buying and selling)
- Any related contract provided by legal officer on land authorization (PPAT) especially with regard to acquisition of the land, building or fixed assets
Conclusions and Suggestions

Positive outcomes:
- Taxable aspects in *Murabahah* financing have been resolved and regulated in the Indonesian jurisdictions.
- Special Tax treatment support the development of Islamic finance industry including Islamic banking and non bank IFI.

Issues moving forward:
- Regulations have stood only in higher level (government regulation or act).
- Practitioners, Islamic bankers and stakeholders need technical guidance.
- Special Tax treatment only for *Murabahah* financing; it is needed for other related Islamic financing contracts.