

Annex 8

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Annex 8

LAW OF THE REPUBLIC OF INDONESIA
NO. 25 OF 1999
ON THE SHARING OF FINANCES
BETWEEN THE CENTRAL GOVERNMENT
AND THE REGION

THE LAW OF THE REPUBLIC OF INDONESIA
NO. 25 OF THE YEAR 1999
REGARDING
THE SHARING OF FINANCES BETWEEN
THE CENTRAL GOVERNMENT AND THE REGION

BY THE GRACE OF GOD ALMIGHTY,

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Having taken into consideration:

- a. that the Unitary State of the Republic of Indonesia is governed and is developed with
the aim to achieve a just, prosperous and equitable society based on Pancasila and the 1945 Constitution;
- b. that the development of the region, as an integral part of national development is implemented through regional autonomy and the management of national resources, in order to allow the growth of democracy and regional performance that are productive and effective for the sake of good governance, public services, and the development of social welfare in order to create a civil society that is free from corruption, collusion and nepotism, for which purpose community participation, transparency and public accountability are required;
- c. that in order to support the implementation of regional autonomy, financial resources must be regulated that take into consideration the principles of decentralization, de-concentration and functional assistance, to be contained within a sharing system of finances between the Central Government and the Regions, and based on the clear sharing of authority, functions and responsibilities among the various levels of government.

- d. That Law no. 32 of 1956 regarding the Sharing of Finances between the State and the Regions Authorized to Manage their own Household, is no longer in line with present circumstances as well as the needs and aspirations of society to support regional autonomy, and that, therefore a new law is required to regulate the sharing of finances between the Central Government and the Region.

Further considering:

1. Article 1 subsection (1), Article 5 subsection (1). Article 18, Article 20 subsection (1), Article 23 subsection (4), and Article 33 of the 1945 Constitution
2. The Decision of the People's Consultative Assembly (MPR) no. XV/MPR/1998 regarding the Implementation of Regional Autonomy, its Regulation, the just Sharing and Utilization of National Resources, and the sharing of Finances between the Central Government and the Region within the framework of the Unitary State of the republic of Indonesia.
3. Law No. 22 of the year 1999 on Regional Government (White Paper of year 1999 No. 60, and addendum to the White Paper no. 3839)

With the Agreement of

PARLIAMENT

OF THE REPUBLIC OF INDONESIA

HEREBY DECIDES:

To establish:

THE LAW ON THE SHARING OF FINANCES BETWEEN THE
CENTRAL GOVERNMENT AND THE REGION

CHAPTER I
GENERAL SPECIFICATIONS

Article 1

In this Law, understood by the following terminology are:

1. The Sharing of Finances between the Central Government and the Region is a system of funding in the government within the framework of the unitary state, that encompass the proportionate, democratic, just and transparent sharing of finances between the Central Government and the Region. Further, taking due consideration of the potentials, conditions and needs of the Region, and in line with the duties and the sharing of responsibilities, as well as methods of implementing that authority, which includes the management and control of finances.
2. By Central Government is meant the National Government as stipulated in Law no. 22 of 1999 on Regional Government.
3. By Regional Government is meant the Regional Government as stipulated in Law no. 22 of 1999 on Regional Government
4. By Regional Autonomy is meant Regional Autonomy as stipulated in Law no 22 of 1999 on Regional government
5. By Autonomous Region, which henceforth is mentioned as Region, is meant the Regional Autonomy as stipulated in Law no. 22 of year 1999 on Regional government
6. By Regional Head, is meant the Governor when concerning the Provincial Region, or the Bupati when concerning the Regional Kabupaten, or the Mayor, when concerning the Regional Town, as stipulated in Law no. 22 of 1999 on Regional Government

7. By the Regional Representative Council (Regional Parliament), which will henceforth be shortened to DPRD, is meant the Regional Representative Council (Regional Parliament) as stipulated in Law no. 22 of 1999 on Regional Government.
8. By Decentralization is meant the Decentralization as stipulated in Law no. 22 of 1999 on Regional government.
9. By De-concentration is meant the De-concentration as stipulated in Law no. 22 of 1999 on Regional Government
10. By Functional Assistance is meant the Functional Assistance as stipulated in Law no. 22 of 1999 on Regional Government
11. The Secretariat on the Sharing of Finances between the Central and Regional Government is one of the Secretariats in the Advisory Council of the Autonomous Region as stipulated in Law no. 22 of 1999 on Regional Government.
12. The Budget on State's Receipts and Expenditures, which henceforth is shortened to APBN, is the annual balance of payments of the State that is determined based on the Law on the Budget on the State's Receipts and Expenditures.
13. The Budget of Regional Receipts, or henceforth shortened to APBD, is an annual financial plan of the Region that is determined based on Regional Regulation concerning the Budget on Receipts and Expenditures.
14. Compensation Funds are funds sourced from receipts in APBN that are allocated to the Region to fund the needs of the Region in the implementation of Decentralization.
15. Regional Loans are all transactions that result in the Region receiving an amount of funds or benefits in monetary value from another party for which the Region is burdened with repayment, not including short term credit facilities that are normal in commercial transactions.
16. De-concentration Funds are appropriated for the implementation of APBN in the Provincial Region, encompassing all receipts and expenditures made in the implementation of De-concentration.
17. The Budget for Functional Assistance is earmarked for the implementation of APBN in the Region and Village, that encompass all receipts and expenditures for the implementation of Functional Assistance.
18. General Allocation funds are Funds that originate from APBN, that are allocated with the intention to equalize capacities among the Regions to fund expenses for the implementation of Decentralization.
19. Special Allocation Funds are funds that originate from APBN, allocated to the Region to assist in expenditures for a specified requirement.
20. Regional Documents are all documents issued by the Regional Government that are public in nature and are included into the White Paper of the Region.

CHAPTER II

PRINCIPLES OF REGIONAL GOVERNMENT FUNDING

Article 2

- (1) The implementation of duties of the Region that are within the framework of Decentralization will be funded from the APBD

- (2) The implementation of duties of the Central Government that are executed by the apparatus of the Provincial Government in the function of De-concentration will be funded from APBN.
- (3) The implementation of those duties of the Central Government that are executed by the apparatus of the Region or Village within Functional Assistance is funded from the APBN
- (4) The transfer or the entrustment of authority from the Government to the Governor or the transfer of authority of duties from the Central Government to the Bupati/Mayor must be accompanied by its related budget.

CHAPTER III

SOURCES OF RECEIPTS FOR THE IMPLEMENTATION OF DECENTRALIZATION

Part One

Source of Receipts of the Region

Article 3

Sources of receipts of the Region to implement Decentralization are:

- a. Original Receipts from the Region
- b. Compensation Funds
- c. Regional Loans;
- d. Other lawful receipts

Part two

Original Receipts of the Village

Article 4

The Original Receipts of the Village as stipulated in article 3 point a, are:

- a. Regional Taxes
- b. Regional Rates (retribusi)
- c. Profits from Regional companies and other lawful wealth from the Region
- d. Other lawful Regional receipts.

Part Three

Compensation Funds

Article 6

- (1) Compensation Funds consist of the following:
 - a. Regional Share of receipts from taxes on Land and Construction, Duty on Lease and Construction rights, and receipts from natural resources
 - b. General Allocation Funds
 - c. Special Allocation Funds
- (2) State Receipts from Taxes on Land and Construction are shared, with 10% (ten percent) for the Central Government and 90% (ninety percent) for the Region
- (3) State Receipts from Duty on Land lease and Construction Rights are divided with 20% (twenty percent) for the Central Government and 80% (eighty percent) for the Region.
- (4) The 10% from Taxes on Land and Construction, and the 20% on Duty on Land lease and Construction rights to which the Central Government is entitled as stipulate in subsection (2) and subsection (3) above, will be divided among all Kabupatens and Towns.
- (5) State Receipts from natural resources originating from forestry, the general mining sector and the fishery sector will be divided with 20% (twenty percent) for the Central Government and 80% (eighty percent) for the Region.
- (6) State Receipts from national resources in the sector of mining of oil and natural gas which are produced from within the territory of the Region will be shared as follows:
 - a. State Receipts from the mining of oil originating from the territory of a Region, with deduction for related taxes, are shared, with 85% (eighty five percent) for the Central government and 15% (fifteen percent) for the Region.
 - b. State Receipts from the mining of natural gas that originate from the territory of the Region, with deduction for related taxes, are shared with 70% (seventy percent) for the Central Government and 30% (thirty percent) for the Region.

Article 7

- (1) General Allocation Funds are determined at a minimum of 25% (twenty five percent) from Domestic Receipts as stipulated in the APBN
- (2) General Allocation Funds for the Provincial Region and for the Region of the Kabupaten/Town are determined at 10% (ten percent) and 90% (ninety percent) respectively of the General Allocation Funds as stipulated in subsection (1)
- (3) In the event that changes are made in the authority between the Province and the Regional Kabupaten/Town, then the General Allocation Funds for that Province and the Regional Kabupaten/town will be adjusted accordingly.

- (4) General Allocation Funds for a specific province is calculated based on the multiplication of the amount set for the General Allocation Fund for all Regional Provinces stipulated in APBN, by that portion of the Regional Province under consideration.
- (5) The portion of the Regional Province as stipulated in subsection (4) is the weighted proportion of that Province in ratio to all Regional Provinces throughout Indonesia.
- (6) General Allocation Fund for a specific Regional Kabupaten/Town is determined on the multiplication of the amount for General Allocation Fund for all Regional Kabupatens/Towns stipulated in APBN by that portion of the Regional Kabupaten/Town under consideration.
- (7) The Portion of the Regional Kabupaten/Town as stipulated in subsection (6) above is the weighted proportion of the Regional Kabupaten/Kota in ratio to the weight of all Regional Kabupatens/Towns throughout Indonesia.
- (8) The weight of the Region is determined based on
 - a. The needs of the territory of the Autonomous Region under consideration
 - b. The economic potentials of that Region
- (9) The General Allocation Fund as based on the formula stipulated in subsection (4), subsection (5), subsection (6), subsection (7), subsection (8) is calculated by the Secretary for the Sharing of Funds between the Central Government and the Region.

Article 8

- (1) Special Allocation Funds may be appropriated from the APBN for a specific Region to assist to defray special requirements, taking due consideration of the availability of funds in APBN.
- (2) Specific Requirements as meant in subsection (1) above are:
 - a. requirements that can not be estimated using the general allocation formula, and/or
 - b. requirements that are national commitments or priorities
- (3) Special allocation Funds as mentioned in subsection (1) include those originating from re-forestry funds
- (4) Re-forestry funds are divided as follows:
 - a. 40% (forty percent) are for the producing Region as Special Allocation Fund
 - b. 60% (sixty percent) are for the Central Government.
- (5) Except for re-forestry, Regions that receive funds for Special Allocation as mentioned in subsection (2), will set aside accompanying funding from APBD, according to capabilities of the Region under consideration.

Article 9

The amount allocated for the Sharing of Funds as mentioned in Article 6, subsection (1) will be determined every budget year in APBN.

Part Four

Regional Loans

Article 11

- (1) The Region may take loans from domestic sources to defray part of its budget.
- (2) In respect of loans from overseas sources, these must be made through the Central Government
- (3) Regions may take long-term loans to defray expenses for infrastructure construction to become assets of the Region, that will contribute to receipts from which loans are repaid, and that are beneficial to public services.
- (4) The Region may take short-term loans to regulate its cash flow in managing the cash of the Region.

Article 12

- (1) Regional Loans as mentioned in Article 11 may be made with the agreement of DPRD
- (2) Regional Loans as mentioned in subsection (1) are made with due consideration to the capacities of the Region to defray its responsibilities.
- (3) In order that this becomes public knowledge, every agreement on loans made by the Region must be announced in the Regional White Paper.

Article 13

- (1) The Region is prohibited from taking Regional loans that are beyond the limits of amounts determined.
- (2) The Region is prohibited from making agreements that are in fact loans in nature, that will burden the finances of the Region.
- (3) Violations of subsection (1) and subsection (2), will be prosecuted in accordance with existing laws.

Article 14

- (1) All repayments that become the responsibility of the Region for Regional Loans made, will become a priority in the expenses of APBD

- (2) In the case that the Region does not fulfil its responsibility of repayment to the Central government for Regional Loans, then the Central Government may compensate the amount from the General Allocation Fund for the Region.

Article 17

- (1) Expenses made in the implementation of De-concentration will be transferred to the Governor through the Department/ Non-Departmental Government Institution in question.
- (2) Accountability on expenses made in the implementation of De-concentration as mentioned in subsection (1) is with the Governor and accountable to the Central Government through the Department/ Non-Departmental Government Institution in question.
- (3) Financial administration for the implementation of De-concentration is separated from accounts for the implementation of Decentralization.
- (4) Receipts and expenditures made in the implementation of De-concentration are registered in the accounts on the Budget for De-concentration.
- (5) Where there are unutilized funds in the budget as a result of receipts against expenses for De-concentration activities, then unutilized funds must be returned to the Office of State Funds.
- (6) Audit on expenses made in the implementation of De-concentration mentioned in subsection (1) is undertaken by the State Audit institution.
- (7) Further regulations regarding expenses for the implementation of De-concentration will be regulated through Government Regulations.