



CONSTITUTIONAL COURT  
OF THE REPUBLIC OF INDONESIA

SUMMARY OF DECISION  
FOR CASE NUMBER 38/PUU-XXI/2023

Concerning

Employee Income on Enjoyment Tax in the Form of Health Facilities

- Petitioner** : Heriyansyah
- Type of Case** : Judicial Review of Law Number 7 of 2021 concerning Harmonization of Tax Regulations (Law 7/2021) against the 1945 Constitution of the Republic of Indonesia (1945 Constitution).
- Subject Matter** : The phrase "*natura* and/or enjoyment in the form of Health Facilities[*Sic!*]" in Chapter III Income Tax Article 3 point 1 of Law Number 7 of 2021 concerning Harmonization of Tax Regulations (Law 7/2021) concerning Amendments to Article 4 paragraph (1) letter a of Law Number 7 of 1983 concerning Income Tax as amended several times most recently with Law Number 36 of 2008 concerning the Fourth Amendment to Law Number 7 of 1983 concerning Income Tax (Income Tax Law) is contrary to Article 28D paragraph (1) and paragraph (2), as well as Article 28H paragraph (1) of the 1945 Constitution.
- Verdict** :
1. To grant the withdrawal of the Petitioner's petition;
  2. To declare that the Petition in case Number 38/PUU-XXI/2023 concerning the Judicial Review of Law Number 7 of 2021 concerning Harmonization of Tax Regulations (State Gazette of the Republic of Indonesia of 2021 Number 246, Supplement to the State Gazette of the Republic of Indonesia Number 6736) against the 1945 Constitution of the Republic of Indonesia is withdrawn;
  3. To declare that the Petitioner cannot resubmit the *a quo* petition;
  4. To order the Registrar of the Constitutional Court to record the withdrawal of Petition Number 38/PUU-XXI/2023 in the Electronic Constitutional Case Registration Book (*Buku Registrasi Perkara Konstitusi Elektronik* or e-BRPK) and to return a copy of the petition file to the Petitioner.
- Date of Stipulation** : Thursday, 25 May 2023.
- Overview of Stipulation** :

The Petitioner is an individual Indonesian citizen, who works as an employee. According to the Petitioner, the provisions of the phrase "*natura* and/or enjoyment in the form of Health Facilities[*Sic!*]" in Chapter III Income Tax Article 3 point 1 of Law Number 7 of 2021 concerning Harmonization of Tax Regulations (Law 7/2021) concerning Amendments to Article 4 paragraph (1) letter a of Law Number 7 of 1983 concerning Income Tax as amended several times, most

recently by Law Number 36 of 2008 concerning the Fourth Amendment to Law Number 7 of 1983 concerning Income Tax (Income Tax Law) is contrary to Article 28D paragraph (1) and paragraph (2), as well as Article 28H paragraph (1) of the 1945 Constitution.

Whereas the Court has conducted a Preliminary Examination of the Petitioner's petition through a Panel Session on 3 May 2023 and has provided advice as specified in Article 39 of the Constitutional Court Law and Article 41 paragraph (3) of Constitutional Court Regulation Number 2 of 2021 concerning Procedures in Judicial Review Cases, including completing the name of the Legal Attorney because the Petitioner's Power of Attorney dated 23 April 2023, was only received by the Court on 3 May 2023. Furthermore, the Court has held a Panel Session with the agenda of examination of the revision of the Petitioner's Petition on 17 May 2023. During such session, the Petitioner stated that he withdrew the Petition Number 38/PUU-XXI/2023 on the grounds that the *a quo* petition is not within the jurisdiction of the Court. Furthermore, on the same day the Court received a Letter Number 018/BANA/V/2023 regarding the Request for Withdrawal of Judicial Review (*Pengujian Undang Undang* or PUU) dated 16 May 2023;

Whereas Article 35 paragraph (1) and paragraph (2) of Law Number 8 of 2011 concerning Amendments to Law Number 24 of 2003 concerning the Constitutional Court states, "The Petitioner may withdraw the Petition before or during the 3 examinations of the Constitutional Court." , and "Withdrawal as referred to in paragraph (1) shall result in the petition cannot be resubmitted";

Whereas based on the Deliberative Meeting of Judges on 22 May 2023, it was determined that the revocation or withdrawal of petition Number 38/PUU-XXI/2023 is legally justifiable and the Petitioner cannot resubmit the petition;

Therefore, the Court passes down the following stipulations:

1. To grant the withdrawal of the Petitioner's petition;
2. To declare that the Petition in case Number 38/PUU-XXI/2023 concerning Judicial Review of Law Number 7 of 2021 concerning Harmonization of Tax Regulations (State Gazette of the Republic of Indonesia of 2021 Number 246, Supplement to the State Gazette of the Republic of Indonesia Number 6736) against the 1945 Constitution of the Republic of Indonesia is withdrawn;
3. To declare that the Petitioner cannot resubmit the *a quo* petition;
4. To order the Registrar of the Constitutional Court to record the withdrawal of Petition Number 38/PUU-XXI/2023 in the Electronic Constitutional Case Registration Book (*Buku Registrasi Perkara Konstitusi Elektronik* or e-BRPK) and to return a copy of the petition file to the Petitioner.