Taxation and Investment in Indonesia 2014

Reach, relevance and reliability

A publication of Deloitte Touche Tohmatsu Limited

Contents

1.0 Investment climate

1.1 Business environment

The Republic of Indonesia is a constitutional democracy with an executive presidency.

Indonesia has a well-balanced economy, in which all major sectors play an important role. Agriculture historically has been the dominant sector in terms of both employment and output. The country has a vast range of mineral resources, which have been exploited over the past four decades, enabling the mining sector to make an important contribution to Indonesia's balance of payments.

Indonesia has a diversified trading economy. Oil and gas is the country's largest export category, followed by coal (and other mining products), palm oil, agricultural products, electrical machinery and equipment, mineral fuels and fish.

As a founding member of the Association of South-East Asian Nations (ASEAN), Indonesia is committed to ASEAN's aim of liberalizing trade and investment. Together with two other founding members, Malaysia and Singapore, Indonesia called for ASEAN to create a single market earlier than the 2020 target. Indonesia joined the ASEAN-China free trade agreement (ACFTA) in 2003 and the ASEAN-South Korea Free Trade Agreement in 2005. Indonesia and Japan signed the Indonesia and Japan Economic Partnership in 2007.

Price controls

A few commodities and services remain classified as "administered prices." These include petroleum, electricity, liquefied petroleum gas, rice, cigarettes, cement, hospital services, generic medicine, potable/piped water, city transport, air transport, telephone charges, trains, salt, toll road tariffs and postage.

Intellectual property

Indonesia's intellectual property laws recognize patents, trademarks, copyrights and industrial designs. Both the licensor and licensee may sue for infringement. The laws assign civil cases to the commercial court and establish a mechanism for alternative settlement by arbitration, as well as allowing for court-ordered injunctions against infringement.

Under the Trademark Law, registration of a license with the directorate-general is mandatory. Trademark protection is valid for 10 years and can be extended for an additional 10-year period. A patent is valid for 20 years, while a simple patent is valid for 10 years.

The Copyright Law extends protection to creations in science, art and literature.

1.2 Currency

The currency in Indonesia is the rupiah (IDR).

1.3 Banking and financing

The Banking Law of 1992, as amended in 1998, permits two categories of traditional banks: general commercial banks and rural banks (BPRs). The only functional distinction that remains is between banks that offer current accounts and those that do not (primarily the BPRs). BPRs, which undertake simple types of banking activities, operate on a small scale and target their services to lower-income individuals. Commercial banks are free to offer various banking services, although foreign exchange transactions require special qualifications and a permit. Both general commercial banks and rural banks can carry out conventional or Shariah banking business.

Bank Indonesia is the central bank.

Indonesia's main financial centers are Jakarta, Semarang, Bandung and Surabaya (on the main island of Java), Medan and Palembang (on the island of Sumatra), Denpasar (in Bali) and Makassar (in Sulawesi). Singapore functions as Indonesia's offshore banking center.

1.4 Foreign investment

The Investment Coordinating Board (BKPM) is responsible for promoting foreign and domestic investment and approving most project proposals in Indonesia. Other government agencies or ministries handle investments in the oil and gas, banking and insurance industries. The BKPM or the corresponding provincial board approves foreign and domestic investment in all other sectors.

Foreign investors that wish to carry out operations in Indonesia normally must form a limited liability company and obtain a business license from the BKPM.

Many business sectors are open to a foreign investment company (PMA), with certain exceptions as stipulated under Presidential Regulation No. 39 of 2014 which lists business sectors that are closed to investment and business sectors that are conditionally open for investment ("Negative List for Investment"). Every sector has certain restrictions on foreign capital ownership.

The Foreign Investment Law includes a guarantee that foreign investors will be treated equally to domestic investors and that the Indonesian government will not nationalize a foreign investment or revoke the investor's rights to control a foreign investment, unless it is in the national interest to do so and compensation is paid.

1.5 Tax incentives

A corporate taxpayer (limited liability company) investing in certain industries (high priority economic sectors on the national scale as stipulated by government regulation) and/or areas (with high economic potential to be developed) may be entitled to income tax benefits in the form of the following:

- An additional reduction of taxable income, up to 30% of the amount invested;
- Accelerated depreciation or amortization;
- Extension of tax loss carryforwards for up to 10 years; and
- A reduced (10%) withholding tax on dividends paid to nonresidents, or less if so provided under a tax treaty. A request for this facility must be submitted by the taxpayer to the Minister of Finance, who will issue a decision on whether to approve the request.

Indonesia has a tax holiday regime for new domestic or foreign investment in specified business sectors (pioneer industries). The regime grants beneficial tax treatment to manufacturing projects in high priority sectors (i.e. base metals, oil refining/petrochemicals, machinery, renewable energy and telecommunication equipment) and in remote areas. The tax incentives are as follows:

- An exemption from corporate income tax for five to 10 years from the date commercial production commences;
- A two-year, 50% reduction in corporate income tax liability after the end of the tax holiday period; and
- An extension of the exemption or reduction in corporate income tax, depending on the competitiveness and strategic value of the industry.

To qualify, the company must meet the following requirements:

- It must invest at least IDR 1 trillion (approximately USD 117 million) in a qualified pioneer industry;
- It must deposit at least 10% of the total investment in an Indonesian bank, which cannot be withdrawn before the company undertakes its investment plan; and
- It must be a new taxpayer with Indonesian legal entity status (however, existing investors that have operated for less than 12 months also may qualify for the tax holiday).

1.6 Exchange controls

The rupiah, the local currency, is freely convertible, although approval of Bank Indonesia must be obtained before more than IDR 100 million is taken out of the country. Authorization of Bank Indonesia may be provided only for the purpose of testing cash machines, overseas exhibitions and other purposes that, according to the bank, serve the public interest.

A person carrying IDR 100 million or more into Indonesia must verify the authenticity of the funds with Indonesian customs upon arrival. A request for a wire transfer of IDR 100 million or less from a bank in Indonesia must be accompanied by a formal declaration signed by the customer. A wire transfer with a value of USD 100,000 or more to a nonresident must be supported by a statement and supporting documentation obtained from the customer for the underlying transaction.

Indonesia does not restrict the transfer of foreign currency funds to or from foreign countries, but inbound investment capital requires approval. Offshore loans must be registered with Bank Indonesia, with subsequent movement reported monthly, to enable the bank to monitor the country's foreign exchange exposure.

Domestic commercial banks must submit monthly reports to Bank Indonesia on their foreign exchange transactions. Late submissions of the monthly foreign exchange transaction report will be subject to an IDR 5 million per day fine; failure to report the foreign exchange transaction will be subject to a fine of IDR 100 million. A bank's license will be cancelled if the bank does not submit the report for six consecutive months. Financial institutions also are required to submit monthly reports on their foreign currency transactions; the penalty for late submission is IDR 1 million per day and IDR 20 million for failure to report.

Nonfinancial institutions must report the movement of financial assets (such as equity in overseas companies and savings at overseas banks) and liabilities (such as overseas loans and trade payables) between residents and nonresidents, including overseas transactions by residents. The requirement, applicable to companies with total assets of at least IDR 100 billion or annual sales of at least IDR 100 billion, is for transactions that are not conducted through a domestic bank or financial service company.

Investment Law No. 25 of 2007 guarantees foreign investors the right to transfer (in the currency of the original investment) all after-tax profits, certain costs and (in the event of nationalization) compensation. In certain cases, convertibility is guaranteed for capital repatriation.

The rupiah must be used in all transactions that have a purpose of payment settlement of obligations that must be satisfied with a cash payment and other financial transactions conducted in Indonesia. Exemptions are provided for certain transactions related to the implementation of the state budget; the receipt or grant of offshore grants; international commercial transactions; bank deposits in foreign currency; and offshore loan transactions.

2.0 Setting up a business

2.1 Principal forms of business entity

Company Law No. 40 of 2007 regulates limited liability (Perseroan Terbatas, or PT) companies. The PT is the most common form of business organization and the one to which foreign investors are restricted under the Investment Law. Branches of foreign corporations normally are not permitted outside of the banking and oil and gas sectors.

There are restrictions on foreign ownership in certain business sectors. Investment in infrastructure requires a joint venture company, with the Indonesian partner holding at least 67% equity.

Formalities for setting up a company

To set up a company with foreign equity (a PMA company), a letter of registration approval must be obtained from the BKPM. A deed of establishment and articles of association also are necessary. It is standard practice to employ the services of a notary public to draft the articles of association, who will then undertake the steps to obtain the necessary legal documents.

The draft deed must set out the firm's purpose, location, capital and management rules in accordance with the provisions of the Investment Law or relevant regulation and the final terms of the individual foreign investment agreement. It must include details of the proposed company's founders, first directors and commissioners, and shareholders.

The registration approval is valid for six months after it is granted. The PMA company must be established within that six-month period, and to do so, the PMA must be formed and approval must be obtained from the Ministry of Justice and Human Rights and the Regional Justice and Human Rights offices. Once approved, the PMA company is considered to be established. Issuance of a Certificate of Company Registration by the Ministry of Trade takes an additional week. Although an Indonesian corporation's capital must be denominated in rupiah and so stated in the articles of association, the foreign currency equivalent (e.g. in US dollars) may be stated in brackets for purposes of future capital repatriation. Equity capital owned by foreign shareholders, which may be up to 100%, must equal the value in rupiah of the government-approved foreign investment, calculated at the foreign exchange rate prevailing on the date the investment permit was issued.

Company books are ordinarily kept in rupiah, in the Indonesian language. Subject to the approval of the Directorate-General of Taxation (DGT), however, books may be kept in US dollars, using English. The DGT also sets the exchange rate used for accounting and tax payments on a weekly basis. Books, records, annual balance sheets and copies of correspondence must be retained for 10 years.

A portion of profits must be retained each year until a minimum reserve of 20% of issued capital has been attained.

Forms of entity

Requirements for a limited liability company

Capital: The minimum authorized capital is IDR 10 billion (about USD 1.2 million); at least USD 300,000 or 25% must be issued and paid-up capital. A debt-to-equity ratio in the range of 3:1 normally is permitted. Higher minimums for authorized capital apply in certain sectors (e.g. USD 2 million for a freight forwarding company). All issued capital must be paid up and evidence of payment must be submitted to the Ministry of Justice and Human Rights to obtain approval for the deed of establishment containing the articles of association. All shares issued subsequently must be fully paid up upon issue.

For foreign investment companies, the rupiah value of capital is assigned at the foreign exchange rate prevailing at the time the investment license was granted. However, the rupiah value of payments of capital in foreign currency is calculated at the exchange rate prevailing at the time of payment. This calculation applies to payments in kind, which must be valued by an independent appraiser.

A company may repurchase its shares if (1) payment is made out of net profits and does not cause the company's net assets to fall below the total of subscribed capital plus the required reserve; and

(2) the aggregate nominal total shares owned by—or pledged in favor of—the company or its subsidiary does not exceed 10% of the total subscribed capital.

Increases and decreases of capital must be approved at a general meeting of shareholders; a reduction of capital also requires that there be no objection from a creditor.

Founders, shareholders: At least two shareholders are required at all times, which may be two individuals, two companies or a combination thereof in certain sectors. Shareholder liability is limited to the amount they contribute.

Board of directors/management: Companies must have at least one director and one commissioner. Certain companies, notably public companies, must have at least two directors and two commissioners, while a bank must have at least three directors and two commissioners. When there is more than one director, each is entitled to represent the company (subject to exceptions stated in the articles of association). In foreign/domestic joint ventures, the composition of the board of directors generally reflects the ratio of foreign to local shareholdings.

Directors must carry out their duties in good faith, and a disposal or encumbrance of substantial company assets must be approved at a general meeting of shareholders. At least 75% of issued shares must be represented at the general meeting at which such approval is sought. One or more shareholders representing, collectively, at least one-tenth of a company's total issued shares may, in the name of the company, file a civil complaint against a director or commissioner on the grounds that the company was harmed as a result of mismanagement or negligence.

General shareholder meetings must be held at least once a year to approve the annual report and determine whether profits will be retained or distributed as dividends. The meeting must be held within six months of the closing of the company's financial year. Decisions are taken by majority vote or as provided for in the articles of association. Functions of the general meeting of shareholders that cannot be delegated to the directors or commissioners include amendments to the articles of association, appointment and dismissal of members of the board of directors and commissioners and mergers, consolidations and dissolutions.

Taxes and fees: Notary fees amount to 0.1%-1% of a company's authorized capital, but are negotiable. A nominal stamp duty is charged on the deed of establishment.

Types of shares: The company's capital may be issued in several classifications of equity shares, at least one of which must have the characteristics of ordinary shares. Shares may be registered or bearer, but bearer shares may not be issued until the full value has been paid up. In practice, all shares held by foreign investors must be in registered form. Both common and preferred shares are permitted, but subsequent issues of preferred shares may be sold only to those already holding preferred shares. Each share normally has one vote, unless otherwise provided in the articles of association.

Branch of a foreign corporation

The Investment Law requires that a foreign-owned enterprise operating wholly or mostly in Indonesia as a separate business unit be organized under Indonesian law and resident in Indonesia. Branches, therefore, normally are not permitted, except by foreign banks and oil and gas companies. Other businesses, such as trading, construction or foreign news agencies, may be established as representative offices.

Representative office

A foreign company can set up a trading representative office, but it must obtain approval from the BKPM. A trading representative office can engage only in business promotion or market research activities. A regional representative office, other than an office in the financial sector, must obtain approval from the BKPM to set up. Its activities are limited to supervision and coordination; it may not own or maintain production facilities or operational activities and, therefore, it cannot accept orders, participate in tenders, sign contracts or engage in the importation of goods. A foreign construction service representative office may conduct a construction project through joint operation by obtaining approval from the Ministry of Public Works.

2.2 Regulation of business

Mergers and acquisitions

The Company Law regulates mergers, consolidations, acquisitions and splits of companies. Mergers generally are permitted with the consent of 75% of the shareholders. Some protection for minority shareholders is provided, particularly with respect to the share sale price, which must be "fair." Unless the surviving company retains its name and management, a merged entity must adopt a new name and management.

Mergers of limited liability companies are possible where one or more companies are merged into a single surviving company (with the simultaneous dissolution of the other company or companies). In a consolidation, two or more companies merge into a new entity and each of the original companies is dissolved; in an acquisition, an individual or legal body takes over all or most of the shares of a company, resulting in a transfer of control.

Monopolies and restraint of trade

The Anti-Monopoly and Unfair Competition Law prohibits a company from holding more than a 50% share of the domestic market, or two or three companies from holding 75% of the market between them. Market share is determined by sales value rather than volume. The law prohibits vertical restrictions on competition and any deals or contracts allowing for monopolies, oligopolies, price fixing, cartels, trusts and geographical designations of markets between suppliers. Small enterprises and cooperatives are exempt, as are the production and marketing of goods and services deemed "vital" to public welfare and state companies. Companies violating the law are subject to maximum fines of IDR 100 billion and six-month prison terms for their executives.

2.3 Accounting, filing and auditing requirements

A company must maintain a register of shareholders, as well as a special register for members of the board of directors and commissioners and their family members, detailing share ownership within Indonesia. Changes of share ownership must be recorded in the register of shareholders and the special register. The board of directors must submit an annual report to a general meeting of shareholders within six months of the closing of the company's books. The report must contain at least the following: (1) a consolidated balance sheet and profit and loss statement for the preceding financial year and comparative figures from the previous year, audited by a registered public accountant in certain instances; and (2) a report on the condition and performance of the company.

Five types of limited liability companies (banks and financial institutions, publicly listed companies, companies issuing debt, state-owned companies and companies with assets of at least IDR 50 billion) must publish audited financial statements that have been approved by the general meeting of shareholders. Annual reports should be prepared in accordance with generally accepted accounting principles in Indonesia.

Under Indonesia's Generally Accepted Accounting Principles (PSAK) Number 10, which is effective as from 1 January 2012, companies must use their functional currency as their bookkeeping currency for their financial reporting purposes. PSAK 10 defines functional currency as the currency of the primary economic environment in which the entity operates. The determination of the functional currency is based on a hierarchy of indicators set out in the standards. The functional currency may be in rupiah or any other currency, as determined by the hierarchy of indicators.

For tax purposes, foreign investment (PMA) companies, permanent establishments, certain entities with foreign affiliations and companies that prepare their financial statements using US dollars as the functional currency in accordance with PSAK 10 may maintain English language and US dollar bookkeeping, provided approval from the Minister of Finance is obtained (contractors in oil and gas production sharing contracts (PSCs) and companies operating under Mining Contracts of Work need only to provide notification). A change in the method of bookkeeping is possible, subject to approval from the DGT.

3.0 Business taxation

3.1 Overview

The principal taxes applicable to companies doing business in Indonesia are the corporate income tax, branch profits tax, resource royalty tax, withholding tax, value added tax (VAT) and various other indirect levies, such as tax on land and stamp duty. There is no excess profits tax or alternative minimum tax.

Tax exemptions and various tax incentives are available to qualified entities (see above under 1.5).

The main tax laws are the Income Tax Law, VAT Law, Land and Building Tax Law and the Law on General Tax Provisions and Procedures. Taxes are administered by the Directorate General of Taxes (DGT).

Indonesia Quick Tax Facts for Companies	
Corporate income tax rate	25%
Branch tax rate	25%
Capital gains tax rate	5% / 25%
Basis	Worldwide
Participation exemption	Yes
Loss relief	
− Carryforward	5 years
− Carryback	No
Double taxation relief	Yes
Tax consolidation	No
Transfer pricing rules	Yes
Thin capitalization rules	No
Controlled foreign company rules	Yes
Tax year	Calendar year or accounting/financial year
Advance payment of tax	Yes
Return due date	4 months after end of calendar year/tax year
Withholding tax	
Paid to nonresident:	
− Dividends	20%
− Interest	20%
− Royalties	20%
− Branch profit tax	20%
Paid to resident	2% (services) / 15% (dividends, interest, royalties)
Capital tax	No
Social security contributions	7.24%-11.74%
Land and building tax	0.3%
Land and building acquisition duty	5%

Transfer tax	0.1% (transfer of shares listed on Indonesian stock exchange); 5% (transfer of unlisted resident company's shares by a nonresident); 5% of gross proceeds (sale of land and/or buildings)
Tax on founder shares at initial public offering	0.5%
Stamp duty	Varies
VAT	10%

3.2 Residence

A company is considered resident for tax purposes if it is established or domiciled in Indonesia or if its place of effective management is in Indonesia.

3.3 Taxable income and rates

Resident companies are taxed on worldwide income. Nonresident companies are taxed only on Indonesia-source income, including income attributable to a permanent establishment (PE) in Indonesia.

Companies pay tax on taxable profits at a flat rate of 25%. Resident corporate taxpayers with gross revenue up to IDR 50 billion receive a 50% reduction in the corporate tax rate imposed on the taxable income for their gross revenue up to IDR 4.8 billion. A public company that has at least 40% of its total paid-up shares traded on a stock exchange in Indonesia and that complies with other requirements can obtain a 5% reduction in the income tax rate.

PEs are subject to a branch profits tax of 20% (or a lower rate under a tax treaty) on net after-tax profits, in addition to the 25% corporate income tax rate.

Taxpayers engaged in certain business sectors, such as construction and shipping, pay income tax at certain percentage of gross income.

Certain types of income earned by resident taxpayers or Indonesian PEs of foreign companies are subject to a final income tax. The tax withheld by third parties is deemed to be the final settlement of the income tax for the particular type of income.

Companies engaged in the upstream oil and gas industry generally are required to calculate corporate income tax in accordance with a relevant PSC, and certain companies engaged in mining are governed by a contract of work for the income tax calculation (see 3.8 below). The tax provisions for oil and gas, geothermal and sharia-based industries are stipulated separately through specific regulations.

Small-scale entrepreneurs are subject to a 1% tax on gross revenue.

Taxable income defined

Taxable net income is defined as assessable income less tax-deductible expenses. Exempt income includes contributions to capital, dividends from domestic companies and certain income from investment funds and venture capital companies.

Deductions

All legitimate business expenses directly or indirectly related to the earning, collecting or maintaining of income are deductible from assessable income in calculating taxable income. These expenses include but are not limited to: wages, fees, interest, rent, royalties, travel expenses, bad debts (subject to certain qualifications), insurance premiums, administration costs and levies, depreciation and amortization, operating losses, certain donations and contributions to approved pension funds.

A number of nondeductible expenses are specified in the law or in associated regulations and pronouncements. Major categories of nondeductible expenses include:

- Distributions of profits in the form of dividends;
- The creation of general provisions/reserves, except for doubtful debts provisions for banks, credit providers, financial lease companies, financing companies, factoring companies, etc.
- Benefits-in-kind provided by the employer to the employee (with some exceptions);
- 50% of depreciation, operating and maintenance costs for cars and mobile telephones provided to employees;
- Gifts and donations, except those that are required by religion (zakat, etc.) and donations for handling national disasters, R&D performed in Indonesia, social infrastructure development, educational facilities, and sports development;
- Income tax;
- Tax penalties;
- Expenses relating to income that is taxed under the final withholding tax system, income calculated under a deemed profit margin and income that otherwise is exempt from tax.

Depreciation

Assets with a beneficial life of more than one year may be depreciated using the straight-line or declining balance method, as follows:

- **Category 1:** 50% (declining balance) or 25% (straight-line) on assets with a useful life of four years (furniture/equipment constructed of wood/rattan, office equipment, computers, printers, scanners, special tools for related industries/services, motor vehicles for transport, warehousing and communications).
- **Category 2:** 25% (declining balance) or 12.5% (straight-line) on assets with a useful life of eight years (furniture and equipment constructed of metal, air conditioners, cars, buses, lorries, containers, light industrial machinery, logging equipment, construction equipment, heavy vehicles for transport, warehousing and telecommunications equipment).
- **Category 3:** 12.5% (declining balance) or 6.25% (straight-line) on assets with a useful life of 16 years (machinery for general mining other than oil and gas; machinery for textiles, chemicals and machine-building industries; heavy equipment, docks and vessels for transport and communications; and assets not included in other categories).
- **Category 4:** 10% (declining balance) or 5% (straight-line) on assets with a useful life of 20 years (including heavy machinery for construction, locomotives, railway coaches, heavy vessels and docks).
- **Building category:** 5% (straight-line) on permanent buildings with a useful life of 20 years, or 10% (straight-line) on non-permanent buildings with a useful life of 10 years.

Decrees issued by the Ministry of Finance specify which assets are included in each category. Separate lists of assets and depreciation rates apply for the oil and gas sector and special options apply to investment in remote locations. Investors need approval from the DGT to change from the straight-line to the declining balance method, and vice versa. Assets may be revalued. Revalued assets begin depreciating from their new value.

Establishment and expansion expenditure can be expensed or amortized at the rates prescribed by law (that is, four classes of intangible assets with useful lives of four, eight, 16 or 20 years, and different depreciation rates depending on the method—straight-line or declining balance). Tax incentives providing for accelerated depreciation are available for businesses that locate in certain regions.

Losses

Losses may be carried forward for five years following the year the loss was incurred and 10 years for certain industries that benefit from tax incentives. The carryback of losses is not permitted.

3.4 Capital gains taxation

Capital gains are taxable as ordinary income, and capital losses are deductible. However, the sale of shares listed on the Indonesian stock exchange is subject to a tax of 0.1% of the transaction value. Founder shares also are subject to an additional final tax of 0.5% on the share value at the time of an initial public offering, regardless of whether the shares are held or sold following the offering.

The sale or transfer of land and/or buildings is subject to a 5% income tax on the sales proceeds.

Capital gains derived from the sale of Indonesian assets held by foreigners are taxable at a rate of 5% of the gross proceeds, unless the rate is reduced under a tax treaty.

3.5 Double taxation relief

Unilateral relief

Resident companies deriving income from foreign sources are entitled to a unilateral tax credit for foreign tax paid on the income. The credit is limited to the amount of Indonesian tax otherwise payable on the relevant foreign income. A country-by-country limitation applies, i.e. the credit for foreign tax paid on income from one country is limited to the amount of Indonesian tax otherwise payable on the income from the same country. Indonesia does not grant credit for underlying tax.

Tax treaties

Indonesia has a reasonably broad tax treaty network, with the treaties generally following the OECD model treaty and containing OECD-compliant exchange of information provisions. Treaties generally provide for relief from double taxation on all types of income, limit the taxation by one country of companies resident in the other and protect companies resident in one country from discriminatory taxation in the other.

To claim relief under a tax treaty, the foreign taxpayer must complete and submit to the DGT a specific document issued by the Indonesian Tax Office in lieu of a Certificate of Domicile, and Form DGT-1 or Form DGT-2. Form DGT-2 is specifically for a company that is a banking institution or earns income from bonds or stocks listed on the Indonesian stock exchange. The Certificate of Domicile must be endorsed by the tax authorities of the treaty partner country. If the foreign taxpayer is unable to obtain the endorsement, the foreign taxpayer can use any form of Certificate of Domicile commonly verified or issued by the tax treaty partner's tax authorities, provided certain requirements are met. This form must be attached to a completed Form DGT-1 or Form DGT-2. Treaty relief will be denied if the foreign taxpayer fails to fulfill this requirement.

Indonesia Tax Treaty Network			
Algeria	Hong Kong	New Zealand	Surinam
Australia	Hungary	Norway	Sweden
Austria	India	Pakistan	Switzerland
Bangladesh	Iran	Philippines	Syria
Belgium	Italy	Poland	Taiwan
Brunei	Japan	Portugal	Thailand
Bulgaria	Jordan	Qatar	Tunisia
Canada	Korea (DPRK)	Romania	Turkey
China	Korea (ROK)	Russia	Ukraine
Croatia	Kuwait	Seychelles	United Arab Emirates
Czech Republic	Luxembourg	Singapore	United Kingdom
Denmark	Malaysia	Slovakia	United States
Egypt	Mexico	South Africa	Uzbekistan
Finland	Mongolia	Spain	Venezuela
France	Morocco	Sri Lanka	Vietnam
Germany	Netherlands	Sudan	

3.6 Anti-avoidance rules

Transfer pricing

The DGT requires that related party transactions or dealings with affiliated companies (including profit sharing by multinational companies) be carried out in a "commercially justifiable way" and on an arm's length basis. The most appropriate transfer pricing method must be used.

Domestic related party transactions are outside the scope of the transfer pricing rules, except when taxpayers are subject to different tax rates (e.g. transactions with contractors in the oil and gas industry, taxpayers that are subject to different tax systems).

Documentation must be prepared for domestic and cross-border transactions with a total value with each related party higher than IDR 10 billion within one fiscal year. The documentation should contain information on the following:

- The nature and value of related party transactions;
- The transfer pricing methods used, as well as the rationale for selecting a particular method; and
- A comparability analysis and selected comparables.

An advance pricing agreement (APA) may be entered into with the tax authorities for a maximum period of three years, starting from the tax year in which the APA is agreed. An APA also can be entered into for a year before the APA is agreed, provided the annual income tax return for that tax year has not been audited, no objection or appeal has been filed and there is no indication of criminal conduct in taxation.

Thin capitalization

Indonesia does not have specific thin capitalization rules, although the income tax law authorizes the Ministry of Finance to determine the debt-to-equity ratio of companies for tax calculation purposes.

Controlled foreign companies

A CFC is a foreign company in which an Indonesian resident company or an individual holds at least 50% of the registered capital (either alone or together with other resident taxpayers). The CFC rules apply only to unlisted foreign companies. Indonesia does not have a white or black list of countries.

If the CFC rules apply, the Minister of Finance is authorized to determine when a dividend is deemed to be derived by the Indonesian resident shareholder if no dividends are declared. Dividends are deemed to be derived from a foreign company where an Indonesian resident taxpayer holds at least 50% of the paid-up capital of the foreign subsidiary or, together with other resident taxpayers, holds at least 50% of the paid-up capital. This applies only if the foreign company does not trade its shares on the stock exchange. If no dividends are declared or derived from the offshore company, the resident taxpayer must calculate and report the deemed dividend in its tax return; otherwise, the Ministry of Finance will do so. The dividend is deemed to be derived either in the fourth month following the deadline for filing the tax return in the offshore country, or seven months after the offshore company's tax year ends if the country does not have a specific tax filing deadline.

General anti-avoidance rule

While Indonesia does not have a general anti-avoidance rule, in 2009, the DGT issued a regulation on tax treaty abuse. The regulation requires an income recipient (beneficial owner) to satisfy certain requirements to benefit from a reduced rate under a tax treaty.

3.7 Administration

Tax year

The tax year generally is the calendar year, although a corporate taxpayer can elect to file a corporate tax return based on the book year.

Bookkeeping

For tax purposes, foreign investment (PMA) companies, permanent establishments, certain entities with foreign affiliations and companies that prepare their financial statements using the US dollar as the functional currency in accordance with Indonesia's generally accepted financial accounting standards (PSAK Number 10) may maintain English language and US dollar bookkeeping, provided approval from the Minister of Finance is obtained (contractors of oil and gas PSCs and companies operating under Mining Contracts of Work need only to provide notification). A change in the method of bookkeeping is possible, subject to approval from the DGT.

Filing and payment

All taxpayers carrying out a business or an independent profession must maintain regular and proper accounting records, on which periodic tax payments are based. A foreign company carrying out business activities through a PE in Indonesia generally has the same compliance obligations as a resident taxpayer. A foreign company that does not have a PE settles its Indonesian tax obligations on Indonesian-source income when an Indonesian payer withholds income tax.

Tax collection in Indonesia operates under a self-assessment system. Corporate tax is payable in monthly installments, with tax due on the 15th day of the calendar month following the tax assessment month. Tax returns (as opposed to actual tax payment) must be filed by the 20th of the following month. The annual corporate tax return must be filed within four months of the end of the book year.

When the tax payable in a fiscal year exceeds the tax credit (i.e. monthly corporate income tax installment and relevant withholding taxes (see below)), the tax underpaid must be settled before the submission of the annual corporate income tax return for the relevant fiscal year. This payment is referred to as "article 29 income tax." Overpayments of tax may be recovered, but only after a tax audit has been carried out.

The collection of tax on dividends, interest, royalties, rentals, professional service fees, technical and management service fees, construction service fees, etc. is via withholding at source. If the recipient is an Indonesian resident, the tax withheld is considered a payment on account of the company's final tax liability, but if the recipient is nonresident, the tax withheld represents a final tax. Tax withheld from dividend, interest, royalty and other payments must be paid on the 10th day of the calendar month following the tax assessment month.

Payment of income tax that has been deducted from employees' wages must be paid by the 10th day of the following calendar month.

Penalties vary depending on the situation, such as late tax payment, late filing, tax underpayment and voluntary amendment of returns. The most common penalty is 2% monthly interest on tax underpaid.

Consolidated returns

There is no provision for the filing of consolidated returns or for group relief.

Statute of limitations

The statute of limitations with respect to the assessment and collection of tax is five years each. There is no statute of limitations for criminal acts.

Tax authorities

Income tax and VAT are administered centrally by the DGT, while regional taxes are administered and collected by regional governments, such as provinces and districts.

The DGT is a department under the Ministry of Finance that formulates technical guidelines and procedures for fiscal policy. The DGT has various units that administer taxpayer obligations (e.g. monitoring tax compliance, collecting tax, counseling, conducting tax audits); these offices are classified as small, medium and large tax offices. An account representative from the tax office is assigned to serve each taxpayer.

Rulings

A taxpayer may request a confirmation from the DGT if the application of the tax law and procedure is unclear. There is no timeframe for the DGT to respond to such a request. A tax ruling applies only to the taxpayer that filed the request and generally can be used only to support that taxpayer's position in the event of a tax audit or tax objection. Such a ruling may not be used by other taxpayers.

3.8 Other taxes on business

Corporate tax for Sharia business

The treatment on income and expenses as specified in the Income Tax Law also apply to sharia-based business activities in the same manner as for conventional banking/financial services.

Broadly speaking, Islamic finance differs from traditional finance in that the charging or paying of "interest" is prohibited. Although Shariah law prohibits the charging or paying of interest, it does not preclude other forms of return on an investment, such as rent or profits, which the parties agree on at the time they enter into the contract.

The income tax treatment of sharia banking and sharia financial service can be summarized as follows:

Sharia banking		
Bank	Bonus, profit sharing and margins from transactions of facilitated customers	Interest
	Other income	Treated in accordance with the normal income tax regulation for the relevant transaction
Investor/depositor customer	Bonus, profit sharing and any other income from funds entrusted and placed offshore through an Indonesian sharia bank or an Indonesian branch of an offshore sharia bank	Interest
	Other income	Treated in accordance with the normal income tax regulation for the relevant transaction

Sharia financial services	
Leasing (Ijarah)	Normal operating lease and the leased asset is nondepreciable
Financial lease (*Ijarah Muntahiyah Bittamlik/IMB*)	Similar to a financial lease with an option and the leased asset is non-depreciable
Factoring (*Wakalah bil Ujrah*)	Gain or profit is treated as interest
Consumer financing (*Murabahah, Salam, Istishna*)	Gain or profit margin is treated as interest
Credit card	Fees or other income treated in accordance with the normal income tax rules for the transaction
Other shariah financing	Fees or other income treated in accordance with the normal income tax rules for the transaction

Corporate financing from investor (*Mudharabah,Mudharabah Musytarakah, Musyarakah*)	Gain or profit sharing treated as interest
Delivery of assets (consider directly delivered from supplier to end user)	Treated in accordance with the normal income tax regulation for the relevant transaction

Oil and gas activities

Oil and gas business activities in Indonesia mainly consist of upstream (exploration and exploitation) and downstream (processing, transport, storage and commerce). There are other supporting activities for both the upstream and downstream businesses. The Oil and Gas Law prohibits a business entity engaging in upstream activities from also conducting downstream business activities, and vice versa.

The upstream business activities are carried out by a business entity (commonly referred to as the "contractor") based on a cooperation contract made with the government. The cooperation contract can be in the form of a PSC or service contract. A PSC is the common contract in the Indonesian upstream business. A cooperation contract generally overrides the general principles of Indonesian income tax law, because the contracts have the status of "*lex specialis*." Reference to the general tax laws and regulations will be made only on matters not specifically mentioned in the cooperation contract.

The taxation of business entities operating in the downstream sector is based on the prevailing tax laws and regulations, except when downstream activities are an integral part of upstream activities.

An entity can enter into only one PSC or have a participating interest in one PSC, and that entity must obtain a tax registration number ("ring fence principle"). Under the ring fence principle, exploration costs or losses incurred by an entity that enters into a PSC cannot be transferred, used or carried over by another entity under another PSC.

Upstream contractors are subject to corporate tax and final tax on after-tax profits (i.e. branch profit tax). The corporate tax and branch profit tax rates of PSCs concluded before the 2010 regulation (Regulation No. 79/2010) refer to the Income Tax Law prevailing on the date the PSC was signed and remain valid throughout the life of the PSC. For contracts signed after GR-79/2010, the PSC contractor can opt to apply the income tax rates that prevailed at the time the contract was signed or follow the changes in tax rates as they take place over time.

Tax on general mining

Before 2009, foreign investors established local subsidiaries to enter into contracts of work with the Indonesian government for the exploration and exploitation of coal and mineral resources. Similar to the cooperation contract in the upstream oil and gas industry, a contract of work generally will override the general principles of Indonesian tax law; reference to the general tax laws will be made only on matters not specifically mentioned in the contract.

The taxation provisions of the contract of work usually stipulate the corporate tax calculation on profits (such as corporate tax rates, deductible expenses, etc.) and other tax obligations that will remain valid throughout the life of the contract. Other contracts may be subject to the general principles of the tax law. A detailed analysis of each contract is necessary to determine the applicable tax treatment of a specific mining contract.

Contract-based mining concession are no longer available following the introduction of the Law on Mineral and Coal Mining No. 4/2009. A foreign investor can operate a mining concession through a mining business license; holders of such a license are taxed under the general tax regime.

Offshore drilling companies

Foreign oil and gas drilling service companies are taxed at a deemed 15% profit level of gross revenue (which results in a 3.75% effective income tax rate, taking into account the deemed profit level). Domestic oil and gas drilling service companies are taxed under the general tax regime.

Vendors and service providers and local content requirements

Certain providers to PSC and mining contractors typically are taxed on a certain percentage of gross revenue. Other midstream and downstream providers generally are taxed based on profits.

PSC contractors must fulfill local (domestic) content requirements. In general, this means that the PSC contractors cannot import goods, equipment or services unless these are not available in Indonesia. Consequently, a foreign provider often cannot enter into a contract directly with a PSC contractor so the foreign service provider is a subcontractor or collaborates with a domestic service provider to enter into a contract with the PSC contractor.

4.0 Withholding taxes

4.1 Dividends

Dividends received by a resident company from another Indonesian company are exempt from tax, provided the dividends come from retained earnings and the recipient company holds at least 25% of the capital of the distributing company. If the recipient company holds less than 25%, the dividends are subject to a 15% withholding tax, which represents an advance payment of the company's tax liability.

Dividends paid to a nonresident are subject to a 20% withholding tax, unless the rate is reduced under a tax treaty. The tax is considered a final tax.

4.2 Interest

Interest paid to a resident bank or financial institution is exempt from tax.

Interest on a savings and deposit account paid to a nonresident is subject to a 20% withholding tax, unless the rate is reduced by a tax treaty. Interest from Indonesian banks and Indonesian branches of foreign banks is subject to a final 20% tax for both companies and individuals.

4.3 Royalties

Royalties paid to a resident are subject to a 15% withholding tax; the rate is 20% on remittances abroad, unless the rate is reduced under a tax treaty. For tax purposes, royalties include any charge for the use of property or know-how in Indonesia and the transfer of a right to use property or know-how in Indonesia.

4.4 Branch profit tax

A branch of a foreign company in Indonesia is taxed at the standard corporate income tax rate, and a 20% branch profits tax is levied on net profits after income tax. An exemption from the branch tax is available if so provided under a tax treaty. An exemption from branch profits tax also applies if all the net profits PE are reinvested in Indonesia in the form of:

- A capital contribution in a newly established company domiciled in Indonesia as a founder or a member of the founders;
- A capital contribution in an existing company established and domiciled in Indonesia;
- Fixed assets to be used by the PE to do business or conduct activities of the PE in Indonesia; or
- Investment in intangible goods to be used by the PE to do business or conduct activities of the PE in Indonesia.

4.5 Wage tax/social security contributions

The employer is responsible for calculating, deducting and remitting tax due on employees' salaries and other remuneration. The employer must file an employment withholding tax return on a monthly basis.

The employer is required to contribute to the general social security scheme, as follows: 3% to 6% of wages for the health scheme; 3.7% of wages to the retirement scheme, 0.24% to 1.74% to the accident compensation fund; and 0.3% to the death compensation fund. The employee also makes a contribution.

4.6 Other

A 2% withholding tax applies on domestic payments made for technical, management and consulting services and rentals, except for land and building rentals, which are subject to a 10% final withholding tax.

5.0 Indirect taxes

5.1 Value added tax

VAT is levied at each stage of the production and distribution chain and is levied on the supply of goods and the provision of services at a standard rate of 10%. VAT on exports of taxable goods and certain taxable services is zero rated. Zero-rated export services are limited to: toll manufacturing services; repair and maintenance services attached to or for movable goods utilized outside the Indonesian customs area; and construction services attached to or for immovable goods located outside the Indonesian customs area.

VAT applies to intangible goods (including royalties) and to virtually all services provided outside Indonesia to Indonesian businesses (i.e. imported services). VAT applies equally to all manufactured goods, whether produced locally or imported. Manufacturing is defined as any activity that changes the original form or nature of a good, creates a new good or increases its productivity. This includes fabricating, cooking, assembling, packing and bottling.

The VAT on inputs is creditable against the VAT on outputs.

Indonesia does not have a VAT grouping concept. If a company has one or more branches situated in different tax office jurisdictions, the company can file a request for centralization of VAT payment and filing of the VAT return. The centralization usually is made by the main/head office, but it can also be centralized at the level of an active branch, provided certain criteria are met.

5.2 Capital tax

There is no capital tax.

5.3 Real estate tax

Land and building tax is payable annually on land, buildings and permanent structures. The rate is typically not more than 0.3% of the value of the property, although higher rates apply to certain high-value housing and large estates.

A land and building acquisition duty of 5% is payable when a person obtains rights to land or a building with a value greater than IDR 60 million. Various exemptions apply, including on transfers in connection with a merger and transfers to relatives.

For certain businesses (i.e. oil and gas, geothermal, mining, plantation, forestry) land and building tax is regulated under a specific regime.

5.4 Transfer tax

The sale of shares listed on the Indonesian stock exchange is subject to a tax of 0.1% of the transaction value. Founder shares also are subject to a final tax of 0.5% on the share value at the time of an initial public offering, regardless of whether they are held or sold following the offering.

The transfer of a resident company's shares by a nonresident is subject to a withholding tax equal to 5% of the transfer value, unless otherwise provided under a tax treaty.

5.5 Stamp duty

Stamp duty applies to financial transactions, deeds and receipts, at rates ranging from IDR 3,000 to IDR 6,000, depending on the amount of the transaction and type of document.

5.6 Customs and excise duties

Any goods coming from overseas into the Indonesian customs area are treated as "imports" and generally are subject to import duty and import taxes. The importer must register with the Minister of Trade to obtain an Importer Identication Number, known as an API, and must register with the Directorate General of Customs and Excise to obtain a Customs Identification Number (NIK).

Certain exemptions apply (e.g. goods in a bonded zone or warehouse and goods in an import facility for export purposes).

Preferential tariff rates are extended to countries that have signed Free Trade Agreements (FTA) and Economic Partnership Agreements (EPA). This means that customs duties for selected imported goods that originate from the FTA/EPA partner countries are lower or totally eliminated. Currently, Indonesia has preferential tariffs in the following schemes:

- ASEAN Trade in Goods Agreement (ATIGA): This is a preferential tariff based on an agreement between Indonesia and ASEAN countries. This tariff is applicable for the import of goods from ASEAN countries into Indonesia.
- ASEAN-China FTA (AFTA): This is an agreement between the ASEAN countries to build a free trade area with China. China refers to the Mainland and excludes the Special Administrative Regions (Hong Kong and Macau) and Taiwan.
- ASEAN-Korea FTA (AKFTA): This is an agreement between the ASEAN countries and Korea to build the economic partnership between the countries.
- Indonesia-Japan Economic Partnership Agreement (IJEPA): This is an agreement between the governments of Indonesia and Japan to build the economic partnership between the two countries, and increase trade and investment in both countries.
- ASEAN-Australia-New Zealand FTA (AANZFTA): This is an agreement between ASEAN countries to build a free trade area with Australia and New Zealand.
- ASEAN-India FTA (AIFTA): This is an agreement between ASEAN countries to build a free trade area with India.
- Indonesia-Government of Islamic Republic of Pakistan, stipulation of import duty tariff: This stipulation is made within the framework of the Preferential Trade Agreement between Indonesia and the Government of the Islamic Republic of Pakistan.

Excise duties are also imposed on certain goods as part of the government's effort to curb the distribution of such goods in Indonesia. A number of excise duties are levied, primarily on alcohol and tobacco products.

Customs, import taxes and excise duty payables should be settled before goods are released from the customs area (ports). Failure to comply can give rise to an administrative penalty of 10% of the customs duty payable.

5.7 Environmental taxes

The central government does not have any specific environmental taxes. However, in certain regions, a permit to dump liquid waste into certain water resources is subject to a retribution collected by the regional government.

5.8 Other taxes

A luxury goods tax is levied on a variety of goods at rates ranging from 10% to 200%. The tax is levied upon importation or, in the case of manufacturing, at the time of the delivery of the luxury goods by the producing company.

6.0 Taxes on individuals

Indonesia Quick Tax Facts for Individuals	
Income tax rates	5%-30%
Capital gains tax rates	Same as income tax rates
Basis	Worldwide income
Double taxation relief	Yes
Tax year	Calendar year
Return due date	31 March
Withholding tax	
− Dividends − Interest − Royalties	10% (residents); 20% (nonresidents) 20% 15%
Net wealth tax	No
Social security: - (BPJS Manpower) - (BPJS Healthcare)	 2% 0.5% (1 January 2014-30 June 2015) 1% (as from 1 July 2015)
Inheritance tax	No
Land and building tax	0.3%
Land and building acquisition duty	5%
Transfer tax	0.1% (transfer of shares listed on Indonesian stock exchange); 5% (transfer of unlisted resident company's shares by a nonresident); 5% of gross proceeds (sale of land and/or buildings)
Tax on founder shares at initial public offering	0.5%
VAT	10%

6.1 Residence

An individual is resident in Indonesia if he/she is present in the country for 183 days or more in any continuous 12-month period, or resides in Indonesia during the fiscal year and intends to remain there. An individual is considered nonresident if he/she is present in Indonesia for fewer than 183 days with no intention to reside in Indonesia. A nonresident is not required to register for tax purposes.

6.2 Taxable income and rates

Resident individual taxpayers are taxed on their worldwide gross income, less allowable deductions and nontaxable income. Nonresident individuals are taxed only on Indonesian-source income.

Taxable income

Personal income taxes in Indonesia are levied only at the national level. Taxable income includes employment income, income from the exercise of a business or profession and other income, such as passive income (dividends, interest, royalties), capital gains, etc. Benefits in kind received by employees' housing are not taxable to the employee (or deductible for the employer).

Tax relief is available for contractors and suppliers under grant-funded government projects, although taxes apply on their personnel, subcontractors, subconsultants and subsuppliers.

Deductions and reliefs

Deductions generally are available for expenses incurred in generating income.

Basis of deduction	Deductible amount (per year)
Taxpayer	IDR 24,300,000
Spouse	IDR 2,025,000 (additional IDR 24,300,000 for a wife whose income is combined with the husband's)
Dependents	IDR 2,025,000 each (up to a maximum of three individuals related by blood or marriage)
Occupational support	5% of gross income, up to a maximum of IDR 6 million

The Minister of Finance is authorized to re-determine the amounts of the personal deductions.

Rates

The personal tax rates are 5% on the first IDR 50 million of annual taxable income, 15% on amounts exceeding IDR 50 million up to IDR 250 million, 25% on amounts exceeding IDR 250 million up to IDR 500 million and 30% on amounts exceeding IDR 500 million.

Dividends received by a resident individual from an Indonesian company are subject to a 10% final withholding tax.

Payments to a nonresident individual in the form of salary, dividends, interest, royalties, rents for property, prizes or awards and payment for technical, management and other services wherever performed are subject to a 20% withholding tax, subject to any reduced rates under a tax treaty.

Capital gains derived by an individual are taxed as income at the normal income tax rates; gains on shares listed on the Indonesian stock exchange, however, are taxed at 0.1% of the transaction value. (An additional tax of 0.5% applies to the share value of founder shares at the time of an initial public offering.) Gains on the disposal of land are taxed at a final 5% of transaction value. The transfer of an unlisted resident company's shares by a nonresident is subject to withholding tax of 5% of the transfer value, unless an exemption applies under a tax treaty.

Small-scale entrepreneurs are subject to a 1% tax on gross revenue.

6.3 Inheritance and gift tax

Indonesia does not levy inheritance or gift tax.

6.4 Net wealth tax

Indonesia does not levy a net wealth tax.

6.5 Real property tax

Land and building tax is payable annually on land, buildings and permanent structures. The rate is typically not more than 0.3% of the value of the property, although higher rates apply to certain high-value housing and large estates. A certain nontaxable amount of the sales value is excluded from this tax.

The sale of land and/or buildings by an individual (other than the sale of a simple house and basic apartment by taxpayers whose main business is the transfer of land or buildings) is subject to a tax of 5% of the gross proceeds. Exemptions are granted for the transfer of land and/or buildings as part of a grant or inheritance and the sale of land valued at less than IDR 60 million by an individual taxpayer whose annual income does not exceed the nontaxable income threshold.

A land and building acquisition duty of 5% is payable when a person obtains rights to land or a building with a value greater than IDR 60 million. A taxpayer who receives such rights by way of inheritance is entitled to a nontaxable threshold of a minimum of IDR 300 million.

6.6 Social security contributions

The social security premium is paid by both the employer and the employee. The premium is 4.5% of the employee's monthly salary (4% is paid by the employer and 0.5% by the employee during the period 1 January 2014 to 30 June 2015). As from 1 July 2015, the premium will be 5% of the employee's monthly salary (4% will be paid by the employer and 1% by the employee). The cap for the employee's monthly salary used to determine the premium amount is two times the Indonesian tax exemption amount (married with one child) ..

The BPJS Manpower is mandatory as from 1 July 2015. The premium will remain the same as Jamsostek premium, i.e. 0.24% to 1.74% (paid by the employer) for workers' accident insurance, 0.30% (paid by the employer) for life insurance, 3.70% (paid by the employer) and 2% (paid by the employee) for the retirement plan.

Under the current rules, a participant includes a foreign worker (expatriate) who works at least six months in Indonesia and holds a valid work/stay permit.

6.7 Other taxes

The rental of land and/or a building by an individual is subject to a 10% withholding tax, and a 20% tax is withheld on interest paid on a savings and fixed deposit account.

6.8 Compliance

The tax year is the calendar year.

Indonesia has a self-assessment system, under which individuals are required to compute their tax liability and file a return. However, the employer withholds tax on behalf of the employee, and an employee whose income is under the nontaxable income threshold is not required to file an annual return. If a return is due, it must be submitted by 31 March following the end of the tax year.

Self-employed individuals must make monthly advance tax payments based on the previous year's tax liability. Each payment is due on the 15th day of the month following the income month.

7.0 Labor environment

7.1 Employee rights and remuneration

Manpower Law No. 13 of 2003 governs the bargaining power of employees, specifies minimum standards for working conditions and sets rules for severance and compensation payments. Although the law recognizes employees' right to strike, it also restricts strike action, including a requirement that strikes be legal, orderly and peaceful.

Indonesia has ratified the main conventions of the International Labor Organization (ILO), including conventions on the rights of assembly and collective negotiation; on equal wages for men and women for the same work; and on forced labor, freedom of association and protection of the rights of association. ILO Convention 138 on the minimum age for employment is incorporated in Indonesian law, and ILO Convention 182 on the elimination of the worst forms of child labor was ratified and incorporated into law in 2000.

The government has issued several regulations that expand or modify labor laws, including decrees on the employment of foreigners, occupational health and safety, work competency standards and overtime standards and pay.

7.2 Wages and benefits

Provincial wage councils set minimum wage levels for each province and for each of the districts within the province. These councils comprise representatives from the Ministry of Manpower and Transmigration, the All-Indonesia Workers' Union, employers' associations and academia. Wage levels have been increasing over the past few years in line with inflation. District level minimum wages can be substantially higher than provincial wages.

Wages include a minimum wage, overtime pay, sick pay and holiday pay. Cash wages must constitute 75% of the minimum wage, with the remainder typically allotted for food and transport. Foreign firms typically start employees at salaries that are double the minimum wage. Most local firms pay rates slightly above the minimum wage.

Fringe benefits include annual holidays (typically 12 days a year) and paid leave for national holidays, religious obligations, family obligations (including marriage), paid maternity leave and sick leave. Severance compensation is required upon termination or retirement. Employees receive a one month's bonus before the Lebaran holiday (Ramadan). The extra month salary is to be paid before Lebaran for Muslims, before Christmas for Christians, before Nyepi Day for Hindus and before Buddha's Enlightenment Day for Buddhists.

Pensions and social insurance

A new health insurance scheme was launched in 2014, headed by the social security organizing body (BPJS). The BPJS insurance scheme is divided BPJS Health and BPJS Manpower. BPJS Healthcare covers the health insurance program and BPJS Manpower covers workers' accident insurance, the retirement plan, pension plan and life insurance (death benefit) programs.

BPJS Healthcare is mandatory as from 1 January 2014. The premium for this program is paid by both the employer and employee. The premium is 4.5% of the employee's monthly salary (4% paid by the employer and 0.5% paid by the employee during the period 1 January 2014 to 30 June 2015). As from 1 July 2015, the premium will be 5% of the employee's monthly salary (4% will be paid by the employer and 1% by the employee). The cap for the employee monthly salary used to determine the premium amount is two times the Indonesian tax exemption amount (married with one child).

BPJS Manpower will be mandatory as from 1 July 2015. The premium will remain the same as Jamsostek premium, i.e. 0.24% to 1.74% (paid by the employer) for workers' accident insurance, 0.30% (paid by the employer) for life insurance, 3.70% (paid by the employer) and 2% (paid by the employee) for the retirement plan.

Under the current rules, a participant includes a foreign worker (expatriate) who works at least six months in Indonesia and holds a valid work/stay permit.

Other benefits

Individual negotiations or collective bargaining determine other fringe benefits. They usually include family and cost-of-living allowances, free medical care (including dental care) for the employee and his/her family, housing, transport and work clothes. Many firms offer pension schemes. Senior executives often receive additional benefits such as a company car and annual home leave.

7.3 Termination of employment

There are legal restraints on the dismissal of an employee who has been employed continuously for at least three months. Even if a production cutback is needed or the employee is deemed unfit, the employer may not discharge the employee without a severance pay settlement agreed between the employee and the employer. If an agreement cannot be reached, the employer must obtain the approval of the Ministry of Manpower and Transmigration.

Severance payments consist of one to nine times the employee's last monthly salary (depending on the length of service), and (after at least three years of service) a gratuity payment at double the employee's last monthly salary. Other entitlements upon termination of employment include cash payments for accrued annual leave, and housing and medical benefits equal to 15% of the severance and gratuity payments.

7.4 Labor-management relations

Labor contracts are common, and typically cover employees who enter a firm within a certain time period. Contracts can be renewed for one to three years. Collective bargaining typically is conducted at the company level if a union represents or gains the approval of at least 51% of the workforce. Labor disputes are addressed by a special provincial-level commercial court.

7.5 Employment of foreigners

Employment of foreigners is allowed only in positions that Indonesians cannot fill and only if regular and systematic training is provided so that Indonesians can eventually replace the expatriates. There are normally no difficulties in obtaining permission to employ foreign managers and technicians if the government believes no Indonesians are available to fill the positions. However, foreigners are not eligible to fill certain positions (e.g. personnel managers).

Foreigners fall into four classes: professionals, managers, supervisors and technicians/operators. Work permits are required for all four classes.

Foreigners must have minimum university degree to work in Indonesia and must have an Indonesian counterpart (except for director or commissioner positions). The ratio is 1:1 for a foreign representative office and for a foreign investment company in the form of a limited liability company.

Firms must submit a mandatory report, staff welfare report and expatriate utilization plan manpower report to the Ministry of Manpower and Transmigration before inviting the expatriates. The report should state all positions to be filled by expatriates during a one-year period, the qualifications for each position and plans for training Indonesian staff. The ministry grants individual work permits based on approved manpower plans. Approval for work-permit applications can take up to three months.

Non-directorship positions and others not included in the BKPM plans need approval from the Ministry of Manpower and Transmigration's Office for Placement of Foreign Workers.

8.0 Deloitte International Tax Source

The Deloitte International Tax Source (DITS) is a free online database that places up-to-date worldwide tax rates and other crucial tax information within easy reach.

Connect to the source and discover:

A database that allows users to view and compare tax information for 65 jurisdictions that includes –

- Corporate income tax rates;
- Historical corporate rates;
- Domestic withholding tax rates;
- In-force and pending tax treaty withholding rates on dividends, interest and royalties;
- Indirect tax rates (VAT/GST/sales tax); and
- Information on holding company and transfer pricing regimes.

Guides and Highlights – Deloitte's Taxation and Investment Guides analyze the investment climate, operating conditions and tax systems of most major trading jurisdictions, while the companion Highlights series concisely summarizes the tax regimes of over 150 jurisdictions.

Tax publications – Global tax alerts and newsletters provide regular and timely updates and analysis on significant cross-border tax legislative, regulatory and judicial issues.

Tax resources – Our suite of tax resources includes annotated, ready-to-print versions of holding company and transfer pricing matrices; a summary of controlled foreign company regimes for the DITS countries; an R&D incentive matrix; monthly treaty updates; and expanded coverage of VAT/GST/Sales Tax rates.

Webcasts – Live interactive webcasts and Dbriefs by Deloitte professionals provide valuable insights into important tax developments affecting your business.

DITS is free, easy to use and readily available!

http://www.dits.deloitte.com

9.0 Office locations

To find out how our professionals can help you in your part of the world, please contact us at the office listed below or through the “contact us” link at **http://www.deloitte.com/tax**

Jakarta
Plaza Office Tower 32nd Floor
Jl. MH Thamrin Kav 28-30
Jakarta 10350
Indonesia
Tel: +62 (21) 2992 3100