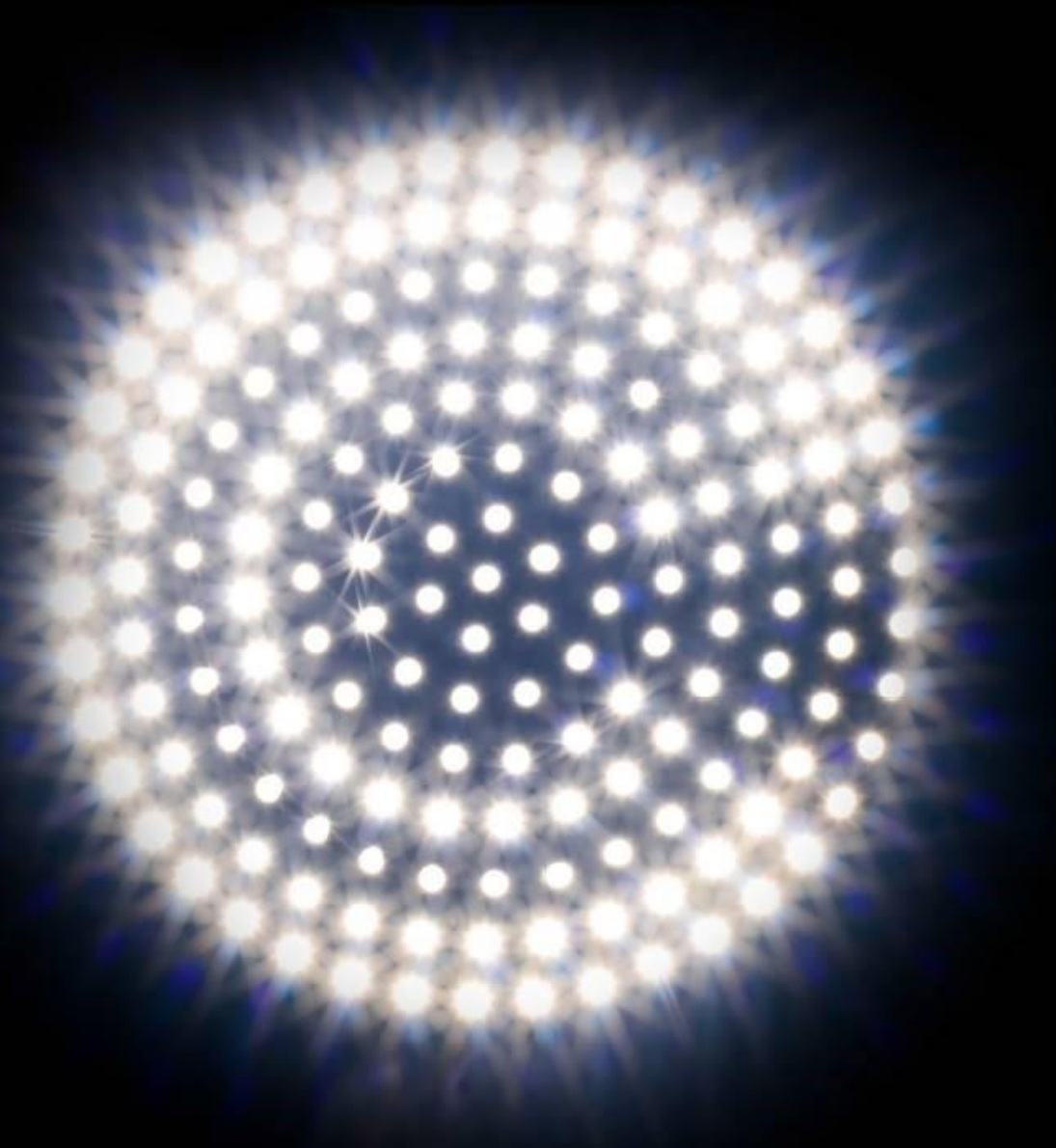


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**Taxation and Investment
in Indonesia 2017**

Contents

1.0 Investment climate

- 1.1 Business environment
- 1.2 Currency
- 1.3 Banking and financing
- 1.4 Foreign investment
- 1.5 Tax incentives
- 1.6 Exchange controls

2.0 Setting up a business

- 2.1 Principal forms of business entity
- 2.2 Regulation of business
- 2.3 Accounting, filing and auditing requirements

3.0 Business taxation

- 3.1 Overview
- 3.2 Residence
- 3.3 Taxable income and rates
- 3.4 Capital gains taxation
- 3.5 Double taxation relief
- 3.6 Anti-avoidance rules
- 3.7 Administration
- 3.8 Other taxes on business

4.0 Withholding taxes

- 4.1 Dividends
- 4.2 Interest
- 4.3 Royalties
- 4.4 Branch profits tax
- 4.5 Wage tax/social security contributions
- 4.6 Other

5.0 Indirect taxes

- 5.1 Value added tax
- 5.2 Capital tax
- 5.3 Real estate tax
- 5.4 Transfer tax
- 5.5 Stamp duty
- 5.6 Customs and excise duties
- 5.7 Environmental taxes
- 5.8 Other taxes

6.0 Taxes on individuals

- 6.1 Residence
- 6.2 Taxable income and rates
- 6.3 Inheritance and gift tax
- 6.4 Net wealth tax
- 6.5 Real property tax
- 6.6 Other taxes
- 6.7 Compliance

7.0 Labor environment

- 7.1 Employee rights and remuneration
- 7.2 Wages and benefits
- 7.3 Termination of employment
- 7.4 Labor-management relations
- 7.5 Employment of foreigners

8.0 Deloitte International Tax Source

9.0 Contact us

1.0 Investment climate

1.1 Business environment

The Republic of Indonesia is a constitutional democracy with an executive presidency. The executive branch is headed by a president and vice president, each of whom is directly elected for a five-year term. The People's Consultative Assembly, or parliament, has two lower houses: a house of representatives that has authority to make legislation, determine the national budget, oversee the implementation of legislation and act as an advisory body, and the house of regional representatives with members from the 34 provinces.

Indonesia has a well-balanced economy, in which all major sectors play an important role. Historically agriculture 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 abundant natural resources. Indonesia produces of a broad range of commodities, as well as consumer and industrial products. Palm oil is the country's largest export category, followed by oil and gas, mining products, chemicals, mineral fuels, textiles, electrical equipment, agricultural products and machinery.

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 also is a member of the ASEAN's free trade agreements with Australia, China, India, Korea (ROK) and New Zealand, and has signed an Economic Partnership Agreement with Japan.

Price controls

A few commodities and services remain classified as "administered prices." These include: petroleum, electricity and liquefied petroleum gas; rice; generic medicines; drinking/piped water; city, air and train transport; toll road tariffs; telephone charges; salt; 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 of Intellectual Property is mandatory. Trademark protection is valid for 10 years and can be extended for an additional 10-year period. A patent generally 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 permits two categories of traditional bank: 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 kinds of banking activity, 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).

1.4 Foreign investment

Foreign investment in Indonesia can be in the form of "direct investment," i.e. where capital is invested by a foreigner in a new or existing company to establish a business or business presence in Indonesia and participate in the management of the investee company; or "indirect investment," i.e. portfolio investment by purchasing securities on the capital markets (e.g. stock market). The governing statute, the Investment Law, regulates only direct 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, finance (e.g., securities, leasing, brokerage), banking and insurance industries. The BKPM or the corresponding provincial board approve foreign and domestic investment in all other sectors.

Foreign investors that wish to carry out operations in Indonesia generally must form a limited liability company (with the foreign investor holding shares in the company) and obtain a business license from the BKPM. A company set up with foreign capital is known as a "PMA company." If no foreign investors are involved, the company is called a "PMDN company" or *Penanaman Modal Dalam Negeri*.

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

While many business sectors are open to investment by a PMA company, investment in some sectors and fields is prohibited or only open "conditionally." An official "Negative List for Investment" (DNI) specifically prohibits foreign investment activities, restricts foreign ownership in some industries but allows full foreign ownership in others.

1.5 Tax incentives

Corporate tax benefits and tax allowances

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

- An additional reduction in net income, up to 30% of the amount invested in tangible fixed assets (including land), charged at 5% per annum over six years;
- Accelerated depreciation and amortization;
- Extension of tax loss carryforwards for up to 10 years (and beyond, if certain requirements are met); and
- A reduced 10% withholding tax rate on dividends paid to nonresidents (which may be further reduced under a tax treaty).

To apply for the corporate tax benefits, certain detailed requirements must be met including qualitative criteria, such as high investment value or export-oriented, high labor absorption and high local content. The industry sectors that are eligible include food, textiles, chemicals and chemical products, plantations, forestry and logging, coal and lignite mining, oil, natural gas and geothermal mining.

Tax holidays

Indonesia offers a tax holiday for new domestic or foreign investment in specified business sectors (pioneer industries). The regime grants beneficial tax treatment to projects in high priority sectors i.e. upstream metals, crude oil refining and infrastructure (including projects established as cooperative joint ventures between the government and a business entity), basic organic chemicals, industrial machinery, agriculture, forestry and fishery-based processing, telecommunication, information, communication, and/or economic infrastructure (nongovernment cooperation scheme).

The tax incentives are as follows:

- A corporate income tax reduction of between 10% to 100% for a minimum investment of IDR 1 trillion; or
- A corporate income tax reduction of up to 50% for taxpayers in the telecommunication, information and communication sectors that introduce high technology with a minimum investment value of at least IDR 500 billion, but less than IDR 1 trillion.

In both cases, the tax holiday period is a minimum of five years and a maximum of 15 years from the commencement of commercial operations. An extension of the tax holiday period up to 20 years is possible at the discretion of the Ministry of Finance, depending on the competitiveness and strategic value of the industry.

To qualify, the company must meet the following additional requirements:

- Be a new taxpayer;
- Hold a principal or business license to operate in one of the pioneer industries;
- If approved, deposit at least 10% of the total investment in an Indonesian bank, which cannot be withdrawn before the company undertakes its investment plan;
- Satisfy the debt-to-equity ratio prescribed by the Ministry of Finance; and
- Have a legal entity status which was validated on or after 15 August 2011.

Upon approval, the tax holiday is applicable only to income eligible for the relief. Other income (such as capital gains, dividends, interest, royalties, rental income, debt waivers, revaluations, etc.) remain subject to tax in accordance with the prevailing tax regulations. Taxpayers that have both types of income stream are required to maintain separate bookkeeping for each.

A taxpayer is only eligible for one type of tax facility (either a tax allowance or a tax holiday scheme).

1.6 Exchange controls

The IDR is freely convertible, although approval of Bank Indonesia must be obtained before taking IDR 100 million (or its equivalent in foreign currency) or more out of the country. Authorization by Bank Indonesia may be provided only for the purpose of testing cash machines, overseas exhibitions and other purposes that the banks considers serve the public interest.

A person bringing IDR 100 million (or its equivalent in foreign currency) or more into Indonesia must verify the authenticity of the funds with Indonesian customs upon arrival. A wire transfer with a value of more than USD 100,000 to a nonresident must be supported by a declaration letter and supporting documentation obtained from the customer for the underlying transaction. For transfers with a value not exceeding USD 100,000, only a declaration letter is required. For swap transactions involving the sale of foreign currency against IDR, the relevant threshold is USD 25,000, with transactions exceeding that amount requiring both a declaration letter and supporting documentation from the customer.

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 movements reported monthly, to enable the bank to monitor the country's foreign exchange exposure.

Domestic commercial banks must submit monthly reports on their foreign exchange transactions to Bank Indonesia. Failure to report may result in monetary penalties or revocation of the bank's license. Other financial institutions also are subject to the monthly reporting requirement.

Nonfinancial institutions with total assets or annual sales of at least IDR 100 billion 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, where the transactions are not conducted through a domestic bank or financial services company.

Foreign investors are guaranteed the right to transfer after-tax profits (in the currency of the original investment), some costs and (in the event of nationalization) compensation. In certain circumstances, convertibility is guaranteed for capital repatriation.

IDR must be used in all transactions to settle obligations that require cash payment and other financial transactions conducted in Indonesia. Exemptions are provided for certain transactions related to the implementation of the state budget; the advance or receipt 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

Under the Foreign Investment Law (FIL), foreign investors are restricted to operating as limited liability (*Perseroan Terbatas*, or PT) companies, which is the most common form of business organization. There are restrictions on foreign ownership in certain sectors (see 1.4, above).

Branches of foreign corporations normally are not permitted outside of the banking and oil and gas sectors. Foreign entities also may conduct certain activities in Indonesia through a representative office.

Formalities for setting up a company

To set up a company with foreign equity (PMA company), initial approval must be obtained from the BKPM in the form of a principal license. The license is valid for a minimum of one year, depending on the business activity of the PMA company, e.g., a license for a manufacturing business activity may be valid for up to three years. This is to allow the company to make the necessary preparations before obtaining a business license.

A deed of establishment or articles of association also are necessary. It is standard practice to employ the services of a notary public to draft the incorporation documents. The draft must set out the firm's purpose, location, capital and management rules in accordance with the provisions of the FIL or relevant regulation and the final terms of the foreign investment agreement. It also must include details of the proposed company's founders, first directors and commissioners, and shareholders.

Although the capital of an Indonesian corporation must be denominated in IDR and stated as such in the articles of association, the foreign currency equivalent may be stated in parentheses for the purposes of future capital repatriation. Equity capital owned by foreign shareholders, which may be up to 100% in certain businesses, must equal the IDR value of the government-approved foreign investment, calculated at the foreign exchange rate prevailing on the date the investment permit was issued.

Company books ordinarily are kept in IDR, in the Indonesian language. Subject to the approval of the Directorate General of Taxation (DGT), however, books may be maintained in US dollars, using English. The DGT also sets the exchange rate used for 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 PMA company

Capital: The total planned investment should be more than IDR 10 billion, of which at least 25% must be issued and paid-up. Higher minima for authorized capital apply in certain sectors. 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 IDR value of capital is assigned at the foreign exchange rate prevailing at the time the investment license is granted. However, the IDR 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: (i) 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 (ii) 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 in 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. A shareholder's liability is limited to the amount of its contribution. The minimum required ownership by a minority shareholder

is 1% in the case of a foreign shareholder and 5% for a local shareholder. The minimum paid-in capital is IDR 10 million.

Board of directors/management: A company 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 the grant of a charge over substantial company assets must be approved at a general meeting of shareholders representing at least 75% of the issued shares. 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 share: A company may issue several types of equity share, 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 foreign-owned enterprises operating wholly or mostly in Indonesia as a separate business unit to be organized under Indonesian law and resident in Indonesia. Branches, therefore, normally are not permitted, except by foreign banks and oil and gas companies.

Representative office

A foreign company can set up a representative (rep) office rather than establish a PMA company, but it must obtain approval from the BKPM. Rep offices typically are used by businesses involved in trading or construction. Several types of rep office are available, including a trading rep office, regional rep office or a foreign construction service rep office. A trading rep office can engage only in business promotion or market research activities; a regional rep office, other than an office in the financial sector, is limited to supervision and coordination activities; and a foreign construction service rep office may conduct a construction project through joint operations with an Indonesian entity 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 is 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 or group of companies from having a domestic market share of 50% or more; or two or three companies, or a group of companies from holding 75% or more 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: (i) a consolidated balance sheet and profit and loss statement and comparative figures from the previous year, audited by a registered public accountant in certain instances; and (ii) a report on the condition and performance of the company.

Five types of limited liability company (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 and/or report audited financial statements which 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, companies must use their functional currency as their bookkeeping currency for financial reporting purposes. PSAK Number 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 IDR or any other currency, as determined by the hierarchy of indicators.

For tax purposes, foreign investment (PMA) companies, permanent establishments (PEs), certain entities with foreign affiliations and companies that prepare their financial statements using US dollars as the functional currency in accordance with 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 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 corporate income tax, branch profits 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 1.5, above).

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. Central taxes are administered by the DGT.

Indonesia Quick Tax Facts for Companies

Corporate income tax rate	25%
Branch profits tax rate	20%
Capital gains tax rate	0.1%-25%
Basis	Worldwide
Participation exemption	Yes
Loss relief	
<ul style="list-style-type: none">• Carryforward• Carryback	Five years No
Double taxation relief	Yes
Tax consolidation	No
Transfer pricing rules	Yes
Thin capitalization rules	Yes
Controlled foreign company rules	Yes
Tax year	Calendar year or accounting/financial year
Advance payment of tax	Yes
Return due date	Four months after end of calendar year/tax year (can be extended to six months by notification to the DGT)
Withholding tax	
<ul style="list-style-type: none">• Dividends• Interest• Royalties• Technical service fees• Branch profits tax	20% (nonresident); 10%/15% (resident) 20% (nonresident); 15%/20% (resident) 20% (nonresident); 15% (resident) 20% (nonresident); 2% (resident) 20%
Capital tax	No
Social security contributions borne by employers	10.24%-11.74% (subject to salary/wages cap)
Land and building tax	0.3%-0.5%
Land and building acquisition duty	5%
Transfer tax	0.1% (transfer of shares listed on Indonesian stock exchange); 5% (transfer of nonlisted resident company's shares by a nonresident); 0%/1%/2.5% (sale of land and/or buildings)
Tax on founder shares at initial public offering	0.5%

Stamp duty	IDR 3,000/IDR 6,000
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 PE in Indonesia.

The standard corporate tax rate is 25%.

Small-scale entrepreneurs whose gross income for the fiscal year does not exceed IDR 4.8 billion are subject to a 1% tax on gross revenue.

Resident corporate taxpayers with gross revenue between IDR 4.8 billion and IDR 50 billion receive a 50% reduction in the corporate tax rate imposed on the taxable income that is attributable to gross revenue up to IDR 4.8 billion. A public company with 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. An exemption from branch profits tax applies if all of the PE's net profit after tax is reinvested in Indonesia.

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.

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

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

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 (where the resident recipient holds at least 25% of the shares of the payer company and the dividends are distributed from retained earnings) and certain income from investment funds and venture capital companies.

Deductions

All legitimate business expenses directly or indirectly related to earning, collecting or maintaining income are deductible in calculating taxable income. These include 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:

- Benefits-in-kind provided by an employer to its employees (with some exceptions);
- 50% of depreciation, operating and maintenance costs for cars and mobile telephones provided to employees;
- Distributions of profits in the form of dividends;
- The creation of general provisions/reserves, except for doubtful debts provisions for banks, credit providers, finance leasing companies, financing companies, factoring companies, etc.;

- 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; and
- Expenses relating to income that is taxed under the final income tax system, income calculated under a deemed profit margin and income that otherwise is exempt from tax.

Depreciation

Assets with a useful 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 and 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, and 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 nonpermanent 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 may apply for companies operating in the upstream oil and gas or mining industries under government contracts, and special options apply to investment in remote locations. Approval from the DGT is required to change from the straight-line to the declining balance method, and vice versa. Assets may be revalued subject to approval from the DGT and depreciated based on their new value.

Establishment and expansion expenditure with a useful life exceeding one year should be 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 or amortization are available for businesses that locate in certain regions.

Losses

Losses may be carried forward for five years following the year in which the loss was incurred. Subject to approval from the relevant authority, this period may be extended to 10 years for certain industries and operations in remote areas 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 generally is subject to a 2.5% income tax on the sales proceeds. Different rates apply for certain transactions, e.g. the sale or transfer of low cost

houses/apartments by a real estate company (1%) and a transfer to the government in the public interest (0%).

Capital gains derived from the sale of Indonesian assets held by foreigners are taxable at a rate of 5% of the gross proceeds, unless there is relief 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 that 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 fulfil the substance and administrative requirements. The substance requirements constitute general conditions to be met. If the foreign taxpayer receives income for which the article in the relevant tax treaty stipulates a beneficial owner requirement (i.e. dividends, interest and royalties), additional conditions also must be satisfied.

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, which is a part of Form DGT-1 or Form DGT-2. Form DGT-2 is used by banking institutions, pension funds or companies which earn income from bonds or stocks listed on the Indonesian stock exchange. This document 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 any of these requirements.

Indonesia Tax Treaty Network

Algeria	Hong Kong	New Zealand	Sudan
Armenia	Hungary	Norway	Surinam
Australia	India	Pakistan	Sweden
Austria	Iran	Papua New Guinea	Switzerland
Bangladesh	Italy	Philippines	Syria
Belgium	Japan	Poland	Taiwan
Brunei	Jordan	Portugal	Thailand
Bulgaria	Korea (DPRK)	Qatar	Tunisia
Canada	Korea (ROK)	Romania	Turkey
China	Kuwait	Russia	Ukraine
Croatia	Laos	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		

Exchange of information

Exchange of information (EOI) may be carried out based on provisions stipulated in:

- A double taxation agreement/treaty;
- A tax information exchange agreement (TIEA);
- The Convention on Mutual Administrative Assistance in Tax Matters;
- A multilateral or bilateral competent authority agreement;
- An intergovernmental agreement; or
- Another bilateral or multilateral agreement.

The OECD has developed a Common Reporting Standard (CRS) for the automatic exchange of tax and financial information at a global level, with the intention of reducing the possibility of tax evasion. The CRS provides for the exchange of nonresident financial account information with the tax authorities in the account holders' country of residence. Participating jurisdictions that implement Automatic Exchange of Information (AEOI) send and receive pre-agreed information each year, without having to send a specific request.

Indonesia, as one of the participating countries, is expected to conduct the first information exchange by 2018. In preparation for the AEOI, financial institutions have been instructed by the Ministry of Finance to release certain financial information for tax purposes to the tax office, with sanctions for those who do not comply.

3.6 Anti-avoidance rules

Transfer pricing

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

The Indonesian tax authorities have issued detailed transfer pricing guidelines, which, in principle, are in line with the OECD's approach; namely, regulations No. PER-43/PJ/2010 (PER-43) and PER-32/PJ/2011 (PER-32) regarding the application of the arm's length principle in related party transactions. More recently, the Minister of Finance issued regulation No. 213/PMK.03/2016 (PMK-213), effective from 30 December 2016, to implement the three-tiered approach to transfer pricing documentation to support the OECD's BEPS action 13 initiative. The three-tiered documentation approach refers to the master file, local file and country-by-country report (CbC report).

PMK-213 does not revoke PER-32 or PER-43. Therefore, some provisions in PER-32 or PER-43 remain applicable as long they have not been superseded by PMK-213.

Based on this new regulation, taxpayers having related party transactions and meeting any one of the following thresholds/conditions are required to prepare the master file and local file:

Condition	Threshold
Gross revenue in the preceding tax year	Exceeding IDR 50 billion
Tangible goods transactions in the preceding tax year; or	Exceeding IDR 20 billion
Services, royalties, interest or other transactions in the preceding tax year	Exceeding IDR 5 billion
Related party transactions with an affiliated party located in a jurisdiction with a tax rate lower than that in Indonesia	Any value

In addition, an Indonesian taxpayer that qualifies as a parent entity of a business group having consolidated gross revenue of IDR 11 trillion also is required to maintain the master file and local file.

If the preceding tax year covers a period less than 12 months, the gross revenue and/or the related party transactions must be annualized.

Where books are kept in a currency other than IDR, the monetary value of the threshold is calculated using the exchange rate at the end of the tax year set by the Ministry of Finance for tax calculation purposes.

PMK-213 confirms that taxpayers that do not meet the above threshold to maintain master and local files still must adhere to the arm's length principle for related party transactions. The regulation also states that the master file and local file must be available for submission, if requested, within four months after the end of the tax year and must be accompanied by a letter, signed by the party providing the transfer pricing documentation, confirming the date from which the documents are available.

The master file and local file must be submitted upon request within the time specified under the provisions of tax laws and regulations. The reports must be in the local language (Bahasa Indonesia). Reports submitted late will not be considered and additional penalties may apply for noncompliance.

PMK-213 also requires taxpayers to file a summary of the master file and local file as an attachment to the corporate tax return in the format prescribed. The summary contains a declaration that the master file and local file meet the minimum content requirements and provides the date on which the master file and local file became available. The summary is in addition to the Special Attachment Forms (Forms 3A/3A-1 and Forms 3B/3B-1).

A CbC report must be prepared and submitted by a taxpayer that qualifies as the parent entity of a business group having consolidated gross revenue of at least IDR 11 trillion. Where the parent entity is located in a foreign jurisdiction, the resident taxpayer is required to submit the CbC report when the country of the parent entity:

- Does not require submission of a CbC report; or
- Does not have an agreement with the government of Indonesia on exchange of information; or
- Has such an agreement but the CbC report cannot be obtained by the government of Indonesia.

The CbC report is to be based on data and information available up to the end of the tax year. If this condition is not satisfied, the taxpayer will be deemed not to have applied the arm's length principle.

The regulation also stipulates that the CbC report must be available within 12 months after the end of the tax year. The first year for which reports are required is financial year 2016 and the report must be filed with the annual corporate tax return for the subsequent tax year (i.e. tax year 2017).

The CbC report must be prepared in the prescribed format as an attachment to PMK-213. The format is broadly aligned with the CbC report template recommended in BEPS action 13 with certain additional requirements.

The Ministry of Finance also has issued regulations on mutual agreement procedure (MAP) and advance pricing agreements (APA) as part of the alternate dispute resolution mechanism.

Thin capitalization

A certain portion of borrowing costs arising from debt is nondeductible for tax purposes if the taxpayer's debt-to-equity ratio exceeds 4:1. Exceptions to this rule exist for taxpayers in certain industries, i.e. banks, financial institutions, insurance and reinsurance companies; infrastructure operations; upstream oil and gas and mining under certain government contracts; and for taxpayers subject to final income tax. If the taxpayer's debt-to-equity ratio exceeds the 4:1 threshold, the excess borrowing costs are nondeductible for income tax purpose. Disallowed borrowing costs may not be carried forward or back. Noninterest bearing shareholder loans are considered as equity for the purpose of calculating the debt-to-equity ratio.

This rule applies to both related and third-party debt, whether domestic or foreign. In addition, taxpayers with foreign private debt must submit a report to the tax authorities. No official guidance has yet been issued on the information which the report should contain.

Controlled foreign companies

A controlled foreign company (CFC) is a foreign company in which an Indonesian resident company or individual holds, either directly or indirectly, at least 50% of the total paid-in capital or voting rights (either alone or together with other resident taxpayers). The CFC rules apply throughout the ownership chain, with the 50% threshold criterion applied at each level of subsidiary. 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, and no dividends are declared or derived from the offshore company, the resident taxpayer must calculate and report the deemed dividend in its tax return. For directly held CFCs, the deemed dividend is calculated based on the net after tax income of the CFC multiplied by the taxpayer's percentage shareholding. For indirect CFCs, the tax base is the indirect CFC's net income after tax multiplied by the effective shareholding percentage of the direct CFC in the indirect CFC. If no actual dividends are declared and the Indonesian taxpayer fails to calculate and report the deemed dividend, the Minister of Finance is authorized to determine the relevant amount.

The dividend is deemed to be derived either in the fourth month following the deadline for filing the tax return in the foreign country, or seven months after the foreign company's tax year ends if the country does not have a specific tax filing deadline.

Indirect sale, transfer or purchase of Indonesian shares or assets

The sale or transfer of shares of a conduit or special purpose company (SPC) owning Indonesian shares located in a tax haven country by a nonIndonesian tax resident can be deemed to be a sale of shares of the Indonesian party by the nonIndonesian tax resident insofar as there is a special relationship between the SPC and the Indonesian party. A tax haven country is defined as a country that has a corporate tax rate less than 50% of the Indonesian rate (i.e. less than 12.5% for 2017) or a country that does not exchange financial information with Indonesia.

The indirect purchase of shares or assets of an Indonesian taxpayer by another Indonesian party through an entity established specifically for such a purpose can be deemed to be the purchase of shares or assets by the other Indonesian party if the SPC has a special relationship with the other Indonesian party and there is non-arm's length pricing.

General anti-avoidance rule

While Indonesia does not have a general anti-avoidance rule, there is a regulation on tax treaty abuse that requires an income recipient to meet certain substance requirements to obtain benefits under a tax treaty, as follows:

- There is a relevant economic motive for establishment of the entity;
- The entity's business activities are managed by its own management and the management has sufficient authority to carry out transactions;
- The entity has fixed and nonfixed assets, sufficient and adequate to carry on business activities in the tax treaty partner state or partner jurisdiction other than the assets that generate income from Indonesia;
- The entity has a sufficient number of employees with relevant expertise in the specific business field; and
- The entity has activities or active business operations, other than receiving income in the form of dividends, interest and/or royalties originating from Indonesia.

If a foreign taxpayer receives income for which the article in the relevant tax treaty stipulates a beneficial owner requirement, the following additional conditions also must be satisfied:

- For an individual foreign taxpayer, he/she does not act as an agent or nominee; or
- For a corporate foreign taxpayer, it does not act as an agent or nominee, or conduit, and must fulfil the following conditions:
 - Have control to use or enjoy funds, assets or rights that generate income from Indonesia;
 - Not more than 50% of its income is used to fulfill obligations to other parties;
 - Bear the risks of the assets, capital and/or its liabilities that it owns; and

- Does not have an obligation, written or unwritten, to provide part or all of the income received from Indonesia to another party.

Failure to satisfy one of these conditions may jeopardize the eligibility for treaty benefits.

BEPS measures

The following table summarizes the steps Indonesia has taken to date to implement the BEPS recommendations:

Action	Implementation
VAT on business to customers digital services (Action 1)	Not yet known.
Hybrids (Action 2)	Not yet known.
CFCs (Action 3)	Indonesia already has CFC rules.
Interest deductions (Action 4)	A domestic thin capitalization rule is based on a debt-to-equity approach (balance sheet test), as opposed to the fixed or group ratio recommended by action 4.
Harmful tax practices (Action 5)	Not yet known.
Prevent treaty abuse (Action 6)	Indonesia already has a rule to prevent treaty abuse.
Permanent establishment status (Action 7)	Not yet known.
Transfer pricing (Actions 8-10)	Regulations issued in 2013 require taxpayers to prove the role of parties in developing intellectual property, in line with the OECD transfer pricing guidelines, to align the allocation of taxable income with value creation. It is not yet known whether additional measures in line with actions 8-10 will be implemented.
Disclosure of aggressive tax planning (Action 12)	Not yet known.
Transfer pricing documentation (Action 13)	The Ministry of Finance has introduced the three-tiered level of documentation requirement for tax years commencing on or after 1 January 2016 (see "Transfer pricing," above). The requirements are broadly in line with the action 13 recommendations, with additional information requirements in both the master file and local file. The documents must be prepared in Bahasa, Indonesia and made available within four months from the end of the tax year. There also are new thresholds for determining the documentation requirements and the inclusion of domestic related parties within the scope of the transfer pricing rules.
CbC reporting (Action 13)	CbC reporting has been introduced in line with action 13 requirements, with certain additional details and applies for tax years commencing on or after 1 January 2016. The CbC report must be available within 12 months from the end of the tax year and must be filed with the annual corporate tax return for the subsequent tax year. (For further details, see "Transfer pricing," above.) Further implementing guidance is expected to be issued by the tax authorities with regard to CbC filing. Indonesia is one of the countries that signed a multilateral competent authority agreement for the automatic exchange of CbC reports.
Dispute resolution (Action 14)	Not yet known.

Multilateral instrument (Action 15)

Indonesia signed the MLI on 7 June 2017 and provided its "MLI position" (a list of reservations and notifications), which includes the provisional choice of the principal purposes test, plus the simplified limitation on benefits test.

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 (subject to approval from the tax authority).

Bookkeeping

For tax purposes, PMA companies, PEs, 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 is obtained from the Minister of Finance. Contractors of oil and gas PSCs and companies operating under Mining Contracts of Work do not require approval and need only provide notification. A change in the method of bookkeeping is possible, subject to approval from the DGT. For tax purposes, there is no statutory requirement for a taxpayer's accounts to be audited by a public accountant. However, if taxpayers do have audited accounts, the DGT requires these to be submitted together with the annual tax filing. Generally, books and records, including those held electronically, should be maintained in IDR and Bahasa Indonesia, and kept for 10 years in Indonesia.

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. The Indonesian tax obligations on Indonesian-source income of a foreign company that does not have an Indonesian PE are settled when an Indonesian payer withholds income tax.

A self-assessment system of tax collection applies. Corporate tax is payable in monthly installments, with tax due on the 15th day of the calendar month following the tax assessment month. Monthly tax returns 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, but the deadline can be extended by up to two months. There also are schedules for the payment of other taxes. Overpayments of tax may be recovered, but only after a tax audit has been carried out.

Tax payments are made via an online e-billing system. Taxpayers are required to generate an e-billing code which is valid for a specified time period and must be provided to the bank for the payment to be made.

Tax on dividends, interest, royalties, rentals, professional service fees, technical and management service fees, construction service fees, etc. is collected 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 dividends, interest, royalties 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 are imposed for late payment of tax, late filing of returns, underpayment of tax and voluntary amendment of returns. The penalty varies depending on the situation, but the most common penalty is 2% monthly interest on tax under or late paid.

Consolidated returns

There is no provision for the filing of consolidated returns or for group relief. Each company must file a separate return.

Statute of limitations

The statute of limitations for the tax authorities to issue an assessment for underpaid tax is five years (10 years 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 within the Ministry of Finance and formulates technical guidelines and procedures for fiscal policy. The DGT has various offices that deal with tax administration (e.g. monitor tax compliance, collect tax, provide advice, conduct tax audits etc.); classified as small, medium or large, in line with the size of the businesses for which they are responsible. A named account representative from the tax office is assigned to serve each taxpayer.

Rulings

A taxpayer may request confirmation from the DGT if the application of a tax law or procedure is unclear. There is no timeframe for the DGT to respond to such a request and there is no charge for a ruling. 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. The ruling may not be used by other taxpayers.

3.8 Other taxes on business

Sharia business

One of the fundamental differences between Sharia (Islamic) finance law and traditional finance law is that Sharia finance law prohibit the charging or paying of "interest." Sharia law, however, does not preclude other forms of return on investment (e.g. rent or profits) that the parties agree on at the time they enter into a contract.

The treatment of income and expenses for conventional banking/financial services also applies to Sharia-based business activities and can be summarized as follows:

Sharia banking

Income recipient	Type of income	Tax treatment
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

Type of transaction	Tax treatment
Leasing (<i>Ljarah</i>)	Normal operating lease and the leased asset is nondepreciable
Financial lease (<i>Ljarah Muntahiyah Bittamlik/IMB</i>)	Similar to a financial lease with an option and the leased asset is nondepreciable

Factoring (<i>Wakalah bil Ujrah</i>)	Gain or profit is treated as interest
Consumer financing (<i>Murabahah, Salam, Istishna</i>)	Gain or profit margin is treated as interest
Other Sharia financing	Fees or other income are treated in accordance with the normal income tax regulations for the relevant transaction
Corporate financing from investor (<i>Mudharabah, Mudharabah Musytarahah, Musyarakah</i>)	Gain or profit sharing is treated as interest
Delivery of assets (deemed to be delivered directly from supplier to end user)	Treated in accordance with the normal income tax regulations for the relevant transaction

Upstream oil and gas contracts

Oil and gas activities are controlled by the state and conducted by the government. The most common form of cooperation contract with businesses is a production sharing contract (PSC). 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 to, used by or carried over by another entity under another PSC.

A cooperation contract generally will override the general principles of Indonesian income tax law, because these contracts have the status of *lex specialis*. Reference to the general tax laws will be made only on matters not specifically covered in the contract.

Investment and expenditure incurred under a PSC must be approved by the government. The contractor recovers the costs it incurred to carry out the exploration and exploitation activities in line with the work plan and budget, and the authorization of financial expenditure approved by the government ("cost recovery" mechanism).

PSC contractors generally will recover operating costs out of production. If the operating costs in a calendar year exceed the value of crude oil or gas produced, the unrecovered excess may be carried forward and recovered in subsequent years until the end of the contract. The remaining crude oil and natural gas will then be shared between the government and the PSC contractors according to the production sharing splits agreed in the contract.

The "uniformity principle" is adopted by the upstream operation. This principle provides that the deductible costs for tax purposes are identical to the costs recovered by the PSC contractors from the government within the framework of the PSC, and vice versa.

Upstream contractors are subject to corporate tax and final tax on after-tax profits (i.e. branch profits tax). The corporate tax and branch profits tax rates of PSCs concluded before the issuance of regulation GR-79/2010 are those applicable under the income tax law in force 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 in force at the time the contract was signed or the relevant current rates as they change over time.

In January 2017, the government introduced the "gross split" PSC regime to incentivize petroleum activities. A fundamental difference with this regime is that total gross production is split between the government and the contractor and consequently there is no allocation of production for first tranche petroleum, cost recovery or profit share, as in the traditional PSC.

Certain entities providing services to PSC and mining contractors, such as construction or shipping, etc. 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, often a foreign provider cannot enter into a contract directly with a PSC contractor so, in a number of cases, the foreign service provider subcontracts or collaborates with a domestic service provider to enter into a contract with the PSC contractor.

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 usually will override the general principles of Indonesian tax law; reference to the general tax laws will be made only on matters not specifically addressed in the contract.

Depending on the terms of 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 term of the contract. Other contracts may be subject to the general tax law principles. A detailed analysis of each contract is necessary to determine the applicable tax treatment.

Contract-based mining concessions are no longer available. Foreign investors now can operate a mining concession through Mining Business Licenses (*Izin Pengembangan Usaha*, or IUP). IUP holders are taxed under the general tax regime.

Offshore drilling companies

Foreign oil and gas drilling service companies are taxed on a deemed profit of 15% of gross revenue (resulting in a 3.75% effective income tax rate for 2017). Domestic oil and gas drilling service companies are taxed under the general tax regime.

4.0 Withholding taxes

4.1 Dividends

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.

Dividends paid by a domestic corporate taxpayer to a resident company or cooperative are subject to a 15% withholding tax (unless the participation exemption applies, i.e. the recipient holds at least 25% of the capital of the payer company and the dividends come from retained earnings), which represents an advance payment of the company's tax liability. A 10% final withholding tax is imposed on dividends paid to a resident individual.

4.2 Interest

Interest paid to a nonresident is subject to a 20% withholding tax, unless the rate is reduced by a tax treaty.

Interest paid by a domestic taxpayer to a resident generally is subject to a 15% withholding tax, which represents an advance payment of the tax liability. Interest paid to a resident bank or financial institution is exempt from withholding tax.

Interest paid by Indonesian banks and Indonesian branches of foreign banks to a tax resident is subject to a final 20% tax for both companies and individuals.

4.3 Royalties

A 20% withholding tax is imposed on royalties remitted 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.

Royalties paid by a domestic taxpayer to a resident are subject to a 15% withholding tax, which represents an advance payment of the tax liability.

4.4 Branch profits 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, unless the tax is reduced or eliminated 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 conduct business or activities of the PE in Indonesia; or
- Investment in intangible assets to be used by the PE to do business or conduct activities of the PE in Indonesia.

4.5 Wage tax/social security contributions

An employer must withhold tax from remuneration paid to its employees and submit the tax to the DGT on a monthly basis, with the employment withholding tax return.

Comprehensive social security schemes, i.e. a manpower scheme (*BPJS Ketenagakerjaan*) and a healthcare scheme (*BPJS Kesehatan*) are applicable for Indonesian nationals, as well as foreigners who work in Indonesia for at least six months. Expatriates need to be able to prove their participation in the social security schemes when renewing their work permits. Contributions to the manpower scheme are intended to provide social insurance for work accidents, death, old age and pensions.

The employer contributions are based on salary as follows: 4% for the health scheme (subject to a salary cap); 3.7% to the old age scheme; 2% for the pension plan (subject to a salary cap); 0.24%-1.74% to the work accident compensation fund and 0.3% to the death compensation fund. The

employee also makes a contribution for the health, old age and pension schemes, although contributing to the pension plan is not mandatory for expatriates.

4.6 Other

Fees for technical services remitted abroad are subject to a 20% withholding tax, unless the rate is reduced under a tax treaty.

A 2% withholding tax applies on domestic payments made for technical, management, consulting and certain services, as well as rentals (except for land and building rentals, which are subject to a 10% final withholding tax). The rates are doubled for taxpayers who do not have a tax identification number.

5.0 Indirect taxes

5.1 Value added tax

VAT is levied at a standard rate of 10% at each stage of the production and distribution chain, on the supply of goods and the provision of services. Exports of taxable goods and certain taxable services are 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 manufacturing, cooking, assembling, packing and bottling.

VAT on inputs is creditable against VAT on outputs, subject to certain requirements. Overpayments of VAT may be carried forward or, after a tax audit has been carried out, may be repaid. Claims for VAT refunds can only be made at the end of a tax year, except for certain VATable entrepreneurs that are eligible to claim monthly tax refunds.

VAT incentives are available in the form of VAT exemptions, deferrals or noncollection of the VAT otherwise due for certain imports or purchases, including:

- Strategic goods, such as machinery, factory equipment, etc.;
- Raw materials for processing by companies inside a bonded zone;
- Delivery and/or import of taxable goods into a free trade zone;
- Import of foods and/or materials for processing, assembling or combining with other goods to be exported by a manufacturer who has an NIPER (an ID number for the KITE exemption facility);
- Imports and delivery of services, equipment and other supplies required to perform a project financed by foreign aid;
- Imports and purchases made by companies in certain industries such as national shipping or airline companies, etc.; and
- Import of certain goods that are exempt from duty.

Entrepreneurs whose annual sales of taxable goods and/or taxable services exceed IDR 4.8 billion are required to register for VAT purposes and issue a VAT invoice on the delivery of those goods and services.

A VAT invoice is an instrument to levy VAT (for the seller) and to claim VAT credit (for the buyer). All VATable entrepreneurs are required to supply e-VAT invoices. Entrepreneurs must first obtain an activation code and password and also request an electronic certificate, either from the tax office where they are registered or through the DGT website. The e-VAT invoices, including replacement and cancellation, must be generated via an electronic system designated by the DGT, denoted in IDR and signed electronically.

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 centralized payment and filing usually is undertaken by the main/head office, but can be done by an active branch, if certain criteria are met.

VAT returns must be submitted monthly, by the end of the following month. The monthly VAT payment should be made before the VAT return is filed, with proof of payment obtained from the bank and attached to the return. The deadline for payment of self-assessed VAT on the utilization of taxable intangible goods or services from abroad is no later than the 15th day of the month following the time when the VAT becomes due.

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 typical rate is a maximum of 0.3% of the estimated sales value of the property (*Nilai Jual Objek Pajak*, NJOP), although higher rates apply to certain high-value housing and large estates.

Land and building tax for certain businesses (i.e. oil and gas, geothermal, mining, plantation, forestry) is regulated under specific land and building tax regimes.

5.4 Transfer tax

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

The transfer of the shares of an unlisted resident company by a foreign shareholder is subject to a WHT of 5% of the transfer value, unless otherwise provided under a tax treaty.

Certain disposals of land and/or buildings are subject to a final tax of 2.5% of the transaction value.

A land and building acquisition duty of a maximum of 5% of the acquisition value or the NJOP, whichever is the highest, 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.

5.5 Stamp duty

Stamp duty applies to financial transactions, deeds and receipts, at nominal amounts of IDR 3,000 or 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 Identification 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) with Indonesia. Customs duties for selected imported goods that originate from the FTA/EPA partner countries may be reduced or eliminated. Indonesia has preferential tariffs under the following:

- ASEAN Trade in Goods Agreement (ATIGA): A preferential tariff based on an agreement between Indonesia and ASEAN countries that is applicable for the import of goods from ASEAN countries into Indonesia.
- ASEAN-China FTA (ACFTA): 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 South Korea to build an economic partnership between the countries.
- Indonesia-Japan Economic Partnership Agreement (IJEPA): An agreement between Indonesia and Japan to build an economic partnership between the two countries, and increase trade and investment in both countries.
- ASEAN-Australia-New Zealand FTA (AANZFTA): An agreement between the ASEAN countries to build a free trade area with Australia and New Zealand.

- ASEAN-India FTA (AIFTA): 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 also are 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 ethyl alcohol or ethanol, alcoholic beverages and tobacco products.

5.7 Environmental taxes

The central government does not levy any specific environmental taxes. However, in some 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 in addition to VAT on a variety of goods at rates ranging from 10% to 125%. 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	5%-30% (capital gains are taxed as ordinary income at income tax rates)
Basis	Worldwide income
Double taxation relief	Yes
Tax year	Calendar year
Return due date	31 March
Withholding tax	
• Dividends	10% (resident); 20% (nonresident)
• Interest	15%/20% (resident); 20% (nonresident)
• Royalties	15% (resident); 20% (nonresident)
Net wealth tax	No
Social security:	
- (BPJS Healthcare)	1%
- (BPJS Manpower – Pension Plan)	1%
- (BPJS Manpower – Old Age Saving)	2%
Inheritance tax	No
Land and building tax	0.3%
Land and building acquisition duty	5%
Transfer tax	0.1% (transfer of shares listed on the Indonesian stock exchange); 5% (transfer of nonlisted resident company's shares by a nonresident); 0%/1%/2.5% (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 domiciled in the country, is present in Indonesia for more than 183 days in any continuous 12-month period or intends to reside in Indonesia. An individual's intention to reside in Indonesia would be supported by having a work visa for more than 183 days, renting accommodation in Indonesia and moving accompanying family members to Indonesia. A foreigner who qualifies as a tax resident in Indonesia becomes a resident as from the date of arrival in the country until the date of departure.

An individual is a nonresident if he/she is present in Indonesia for fewer than 183 days with no intention to reside in Indonesia.

An Indonesian national is considered a tax resident from birth unless he/she leaves Indonesia permanently. If an Indonesian national leaves the country on a temporary basis, for example, to work in another country for a period of at least six months, he/she can be considered nonresident during the assignment period and will be taxed only on Indonesian-source income.

Resident individuals must register with the tax authorities and obtain a tax identification (ID) number (a 20% surcharge on the tax imposed on employment income is levied for failure to obtain a tax ID). Nonresidents are not required to have a tax ID.

6.2 Taxable income and rates

Resident individual taxpayers are taxed on their worldwide income, regardless of source; 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 and royalties), capital gains, etc.

Employment income includes salaries and wages, bonuses, commissions, overseas allowances, and fixed allowances for education, housing and medical care given in the form of cash. Benefits in kind (e.g. medical benefits such as medical insurance or in-house medical facilities, company cars, etc.) received by employees are not taxable on the employee (or deductible for the employer). Employment income in Indonesia is subject to tax, regardless of where the income is paid.

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

A resident individual can claim domestic tax credits against the tax due at the end of the fiscal year for income tax on employment income withheld by the employer; tax collected on business income; WHT on other income that is not final tax in nature; and provisional monthly income tax installments made by the taxpayer during the fiscal year. Foreign tax credits can be claimed for tax paid abroad on a country-by-country basis up to the total Indonesian income tax due on the foreign income.

Deductions and reliefs

Deductions generally are available for expenses incurred in generating income.

Basis of deduction	Deductible amount (per year)
Taxpayer	IDR 54 million
Spouse	IDR 4.5 million (additional IDR 54 million for a wife whose income is combined with the husband's)
Dependents	IDR 4.5 million 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
Pension cost (available to pensioners)	5% of gross income, up to a maximum of IDR 2.4 million
Contribution to approved pension fund (e.g. BPJS Manpower)	Amount of personal contribution

The Minister of Finance is authorized to amend the amounts of the personal deductions.

The social security contributions payable by employed resident individuals are 2% of monthly compensation to the old age savings plan, 1% to the pension plan and a 1% healthcare contribution (subject to a monthly compensation cap). An employee may add other family members, but he/she will be liable to make an additional 1% contribution per family member per month. The contribution to the pension plan is not mandatory for expatriates.

Rates

Personal tax rates in Indonesia range from 5% to 30%. The rate is 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 from Indonesian companies are subject to a 10% final withholding tax. Payments to nonresident individuals in the form of salary, dividends, interest, royalties, rents for property, prizes or awards and payments for technical, management and other services wherever performed, are subject to a 20% withholding tax, subject to any reduced rates under a tax treaty. Foreign-source interest income received by a resident is taxed at standard income tax rates. Interest on Indonesian bonds is subject to final tax at 15%.

Individual capital gains generally are taxed as income at the normal rates; gains on shares listed on the Indonesian stock exchange are taxed at 0.1% (final tax) 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 and/or buildings generally are taxed at a final 2.5% of the transaction value. The transfer of a nonlisted 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 whose business earnings do not exceed IDR 4.8 billion within a fiscal year 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 typically is not more than 0.3% of the NJOP, 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.

6.6 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.

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 2.5% 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% of the higher of the acquisition value or the NJOP 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.

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

6.7 Compliance

The tax year is the calendar year.

Indonesia operates a self-assessment system, under which all resident taxpayers (including expatriates) are required to register for tax purposes and to declare their worldwide income, assets and liabilities. The forms are Form 1770 (for resident taxpayers with business income), Form 1770-S (for resident taxpayers who receive income from employment and other income) and Form 1770-SS (for resident taxpayers with annual gross income not exceeding IDR 60 million).

Resident taxpayers may need to pay monthly tax installments. The annual tax return must be filed no later than 31 March of the year following the income year. The return can be filed directly with the tax office where the taxpayer is registered, or through "drop boxes."

If an individual only receives employment income, 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. The employer must calculate and withhold income tax on the salary on a monthly basis and pay the tax to the state treasury on the individual's behalf, and then report to the tax office.

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. Individual taxpayers who conduct a business or independent profession with turnover up to a certain threshold

may elect to be exempt from the bookkeeping requirement and only maintain records of revenue. In that case, taxable income is assessed based on deemed profits.

Married women are exempt from the requirement to register for tax purposes, as they will fulfill their tax obligation jointly with their husband. A family is considered a single economic unit and separate filing is allowed only if there is a pre-nuptial agreement between husband and wife.

Nonresidents are taxed only on Indonesian-source income, with the tax withheld at source by the Indonesian payer.

Penalties are imposed for late payment of tax, late filing of returns, underpayment of tax and voluntary amendment of returns. The penalty varies depending on the situation, but the most common penalty is 2% monthly interest on tax underpaid.

7.0 Labor environment

7.1 Employee rights and remuneration

Manpower Law No. 13 of 2003 governs the bargaining power of workers, specifies minimum standards for working conditions and sets rules for severance and compensation payments. Although the law recognizes workers' right to strike, it also restricts strike action and imposes 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 and ILO Convention 182 on the elimination of the worst forms of child labor have been incorporated into Indonesian law.

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 bonus of an extra month's salary, to be paid before the Lebaran holiday (Ramadan) for Muslims, before Christmas for Christians, before Nyepi Day for Hindus and before Buddha's Enlightenment Day for Buddhists.

Pensions and social insurance

BPJS Healthcare is a statutory body set-up to administer the health insurance program, while BPJS Manpower is a statutory body set-up to administer the work accident insurance, retirement plan, pension plan and life insurance (death benefit) programs. Contributions to both are mandatory.

The contribution to the BPJS Healthcare program is paid by both the employer and the employee and amounts to 5% of the employee's monthly salary (4% paid by the employer and 1% paid by the employee). The employee's 1% contribution covers both spouses and up to three dependents; an additional 1% premium is payable per additional family member. A monthly salary/wage cap of IDR 8 million per month currently applies, which is adjusted periodically.

The contribution to the BPJS Manpower program consists of four elements:

1. Work accident insurance: 0.24% to 1.74% borne by employer, no contribution by employee;
2. Death insurance: 0.3% borne by employer; no contribution by employee;
3. Old age savings: 3.7% borne by employer, 2% borne by employee; and
4. Pension plan: 2% borne by employer, 1% borne by employee. The regular salary/wages cap is currently IDR 7,703,500 per month, which may be adjusted periodically. Contribution to the pension plan is not mandatory for expatriates.

Participants also include foreign workers (expatriates) who work for at least six months in Indonesia (provided that 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 a worker who has been employed continuously for at least three months. Even if a production cutback is needed or the worker is deemed unfit, the employer may not discharge the worker without a severance-pay settlement agreed between the employee and 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 of twice 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

The employment of foreigners is allowed only in positions that Indonesians cannot fill and only if regular and systematic training is provided so that Indonesians eventually can replace the expatriates. There normally are 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 a university degree to work in Indonesia and must have an Indonesian counterpart (except for director or commissioner positions). The ratio is 1:3 for a representative office, so that a representative office that employs one expat (with a university degree) must employ three resident Indonesians (WNI). For a foreign investment company in the form of a limited liability company (PT PMA), the ratio is 1:1.

Firms must submit a mandatory report, staff welfare report and expatriate utilization plan (RPTKA) 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. DITS is accessible through mobile devices (phones and tablets), as well as through a computer.

Connect to the source and discover:

A database that allows users to view and compare tax information for different 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 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 100 jurisdictions.

Jurisdiction-specific pages: These pages link to relevant DITS content for a particular jurisdiction (including domestic rates, tax treaty rates, holding company information, Taxation and Investment Guides and Highlights).

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

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