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Indonesian Tax Guide 2012

Deloitte Tax Solutions

Contents

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Deloitte in Indonesia
In Indonesia, services are provided by:

- Osman Bing Satrio & Rekan, Registered Public Accounting Firm
- Deloitte Tax Solutions, Tax Consulting Firm
- PT Deloitte Konsultan Indonesia, Financial Advisory & Consulting Services Firm

Deloitte Tax Solutions has extensive experience assisting our clients in developing and implementing creative tax solutions that complement their business strategies. We offer clients practical solutions to address their tax needs and in-depth knowledge of Indonesian tax requirements. With both Indonesian and expatriate tax professionals, we are in a unique position to deal with the complexities and peculiarities of the Indonesian tax system and help businesses to meet the challenges of an increasingly sophisticated market.

Our tax professionals guide clients through the complex tax maze by applying their specialist skills in the areas of:

- Strategic Tax Planning
- Corporate Structures
- Mergers & Acquisitions
- Individuals' Taxation
- Tax Compliance
- Liaison with the Tax Office
- Transaction Assistance
- Transfer Pricing
- Indirect Taxation, including Customs & Global Trade
- Cross-Border Taxation/ International Taxation
- Tax Audits and Tax Dispute Resolution
- Tax Diagnostic Reviews

General Indonesian Tax Provisions

Residency

Taxation in Indonesia is determined on the basis of residency. Residency tests are applied as follows:

- o Individual resident taxpayers are individuals who:
    - are domiciled in Indonesia; or
    - stay in Indonesia for more than 183 days in any 12-month period; or
    - are present in Indonesia during a tax year and intending to reside in Indonesia.
- o Residency of a corporation is based on place of incorporation or domicile or effective place of management.

Basics of the Tax System

- o Tax returns are filed by taxpayers based on a self-assessment system.
- o Members of a group of companies are taxed individually, as there are no group relief provisions available.
- o The statute of limitations with respect to taxation up to fiscal year 2007 is 10 years (but not to exceed year 2013); from fiscal year 2008 and onwards, it is 5 years.
- o Indonesia imposes a range of taxes on individuals and corporate taxpayers. These are summarized below:
    - Income Tax, which includes:
        a) Corporate Income Tax;
        b) Individual Income Tax;
        c) Withholding Tax on employees' remuneration;
        d) Withholding Tax on various payments to third parties.
    - Value Added Tax (VAT) and Luxury Goods Sales Tax (LGST), subject to certain criteria.

Income Recognition

- o Indonesian tax residents are taxed on their worldwide income (foreign tax credits are available for foreign income of residents under certain criteria).
- o Non-residents are taxed on income derived from an Indonesian source, subject to any relief available under applicable tax treaties.

Compliance Timetable

Type of Tax	Monthly payment Deadline	Monthly Filing Deadline	Annual Filing Deadline [1]
Corporate Income Tax	15th of the following month	20th of the following month	End of the 4th month after the tax year ends[2]
Individual Income Tax	15th of the following month	20th of the following month	End of the 3rd month after the tax year ends[2]
Employee Withholding Tax	10th of the following month	20th of the following month	N/A
Other Withholding Taxes	10th of the following month	20th of the following month	N/A
VAT & LGST	Before the VAT return filing deadline[3]	End of the following month	N/A

Note :

1) Any underpayment of tax must be settled before submission of the annual tax return.
2) Taxpayers can extend the period of submission of the annual income tax return for 2 (two) months at the maximum by submitting notification to the Directorate General of Taxation.
3) Except for self-assessed VAT on utilization of intangible taxable goods and/or taxable services from offshore and VAT collected by VAT Collector other than State Treasurer, which is due by the 15th of the following month.

Administration, Books and Records

- Generally, books and records, including those on computers, should be maintained in Rupiah and in the Indonesian language, and kept for 10 years in Indonesia.
- Foreign investment (PMA) companies, permanent establishments, certain entities with foreign affiliations or taxpayers that prepare their financial statements in US Dollar as the functional currency in accordance with the Indonesian financial accounting standards may maintain English language and US Dollar bookkeeping, subject to approval from the Minister of Finance, while for contractors of oil and gas cooperation contract and companies operating under Mining Contracts of Work, only a notification is required.
- Changing of bookkeeping method or period is possible, subject to approval from the Director General of Taxation (DGT).
- For tax purposes, there is no statutory requirement for an audit of a taxpayer's accounts by a public accountant.
- However, if taxpayers do have audited accounts, the Tax Authority may require them to be submitted upon filing.

Tax Audits

- The DGT may conduct a tax audit within the period before the statutory limitation has ended.
- Effective from January 1st, 2008, the statutory limitation is 5 years.
- Where a return is lodged showing an overpayment of tax, this will automatically trigger a tax audit.
- The taxpayer is required to submit all data / documents within 1 (one) month from the request. Data / documents that were not provided during the tax audit process will not be considered in the tax objection process.
- If there is still any dispute before the completion of the audit, the taxpayer may request the case to be reviewed by the Quality Assurance Team from the regional tax office.
- The DGT will issue a tax assessment as a result of the tax audit, which can be a nil, underpayment, or overpayment (refund) tax assessment.

Tax Disputes – Objection process

- A taxpayer may file a tax objection with the DGT against any tax assessment through the Tax Office within 3 months from the date the Tax Office send the tax assessment letter to the taxpayer.
- A taxpayer that is going to file a tax objection with the DGT over an assessment letter must pay at least the payable amount of tax that has been agreed by the taxpayer in the closing conference, before submitting the objection letter.
- If the objection is rejected or approved in part by the DGT, the taxpayer bears an administrative sanction in the form of a tax penalty amounting to 50% of the tax unpaid at the time the objection is submitted, unless the taxpayer files for a tax appeal.
- The DGT should make its decision on the objection within 12 months after receiving the objection; if the DGT fails to issue a decision within this period, the taxpayer's objection will be assumed to be accepted and granted.

Tax Disputes – Appeal process

- A taxpayer may appeal to the Tax Court against the DGT's decision on the taxpayer's objection within 3 months from the date of receiving the DGT decision.
- In order to undertake the appeal, the taxpayer must pay at least 50% of the tax payable before lodging the appeal.
- If the appeal is rejected or approved in part by the Tax Court, the taxpayer must pay a penalty equal to 100% of the tax unpaid at the time the objection is submitted.
- The Tax Court will conduct hearings on the appeal and has to decide within 12 months of the appeal being lodged. In certain special cases, this deadline can be extended up to three months.

Tax Disputes - Request for Judicial Review by Supreme Court

- Either the taxpayer or the DGT can further challenge the Tax Court's decision on an appeal by filing a request for judicial review with the Supreme Court.
- This application is subject to certain conditions and is not automatically available.

- o The request for review should be submitted within 3 months of qualifying condition to file the request.
- o Filing a request for review does not postpone the execution of the Tax Court decision.
- o The Supreme Court should investigate the case and present its decision within 6 months of the filing of the request for review.

Tax Penalties & Sanctions

Circumstances	Penalties and Surcharges
Late reporting	Rp 500,000 for monthly VAT return; Rp 100,000 for other monthly tax return and annual individual tax return; Rp 1,000,000 for annual corporate tax return
Late payments in general	2% per month
Tax underpayment resulting from Issuance of tax assessments	2% per month for a maximum of 24 months or 50% or 100% surcharge of the tax underpayment, depending on the case
Voluntary amendments of returns	2% per month or 50% or 150% surcharge of the tax underpayment, depending on the case
Issuing defective VAT invoice, or not Issuing or late in issuing VAT invoice, or reporting VAT invoice not in accordance with the period of issuance of VAT invoice	2% of the taxable base

Criminal Sanctions

Circumstances	Fines and Imprisonment
Fails to submit tax return through negligence; or submits an incorrect or incomplete tax return or attaches incorrect information	1 – 2 times the tax underpaid or imprisonment from 3 months to 1 year
Deliberately does not register for Tax ID Number (NPWP) or as taxable entrepreneur; improper use of NPWP or taxable entrepreneur number; does not file tax return; submits an incorrect or incomplete tax return; refuses tax audit; does not maintain bookkeeping; does not keep books, records or documents supporting bookkeeping in Indonesia; shows false or falsified bookkeeping/ records; does not remit taxes withheld or collected.	2 – 4 times the tax underpaid and imprisonment from 6 months to 6 years. The sentence will be doubled if commits another criminal act in the taxation field before a period of 1 (one) year has passed, i.e., since the first sentenced period has been served
Misuses or uses without right the NPWP or taxable entrepreneur number, or submits an incorrect or incomplete tax return and/ or information for restitution or compensating or crediting tax	2 – 4 times the tax refund requested/ compensated/ credited and imprisonment from 6 months to 2 years
Intentionally issues and/ or uses tax documents which are not based on the actual transaction; issues tax invoice but not yet confirmed as taxable entrepreneur	2 – 6 times the tax amount and imprisonment from 2 years to 6 years

Note:

1. More severe penalties, surcharges, and imprisonment are imposed for improper bookkeeping, fraud, and embezzlement.
2. Criminal sanction can only be imposed by a decision issued by a civil court

Corporate Income Tax

Tax Rates

The applicable standard corporate income tax rate is 25% for fiscal year 2010 onward. Resident corporate taxpayers with gross revenue up to IDR 50 billion receive a 50% reduction in the corporate tax rate imposed on the taxable income for gross revenue up to IDR 4.8 billion.

The standard corporate income tax rate also applies to income received or earned by a non-resident through a permanent establishment (''PE'') in Indonesia. A PE will also be subject to 20% branch profits tax, which is applied to the PE's net profit after tax. If a PE receives or earns income that is subject to final income tax, the tax base of the branch profits tax shall be the taxable income (after fiscal adjustment) less the amount of final income tax. This general rate of 20% may be reduced pursuant to the applicable tax treaty.

An exemption from branch profits tax applies if all the net profit after tax of a PE is 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;
b) Capital contribution in an existing company established and domiciled in Indonesia;
c) Fixed assets to be used by the PE to do business or conduct activities of the PE in Indonesia; or
d) Investment in intangible goods to be used by the PE to do business or conduct activities of the PE in Indonesia.

Certain requirements must be met in relation to the reinvestment and/or purchase of assets or intangible goods, among other:

- The timeline to reinvest in Indonesia;
- The length for which the reinvestment/ fixed assets/ intangible goods must be held by the PE;
- Reporting requirement to the Tax Authority.

Corporate Tax Incentives

A public company which has a minimum of 40% of its total paid up shares traded on a stock exchange in Indonesia and complies with other requirements, which will be further stipulated through a government regulation, can obtain a 5% reduction from the applicable standard corporate income tax rate.

Tax Objects

Tax Object are broadly defined as income, that is, any increase in economic capability received or accrued by a Taxpayer from within or outside Indonesia, which can be used for consumption or to increase the wealth of a taxpayer, in whatever name or form.

Additional tax objects under the new Income Tax Law are as follows:

- Profits from the sale or transfer of part or all of a mining concession or an interest or capital participation in a mining company;
- Income from sharia business;
- Refund of tax payment which has been recorded as expenses, and additional tax refund;
- Interest income as compensation for tax refund;
- Bank Indonesia surplus.

Calculation of Income - Deductible Expenses

Under the new Income Tax Law, all legitimate business expenses directly or indirectly related to earning, collecting, or maintaining income are deductible from the assessable income to calculate the taxable income. These expenses include but are not limited to:

- Expenses that are directly or indirectly related to business activity such as:
  - Material expense;
  - Salary, wages expense;
  - Interest, dividend and royalty;
  - Travelling expense;
  - Insurance premium;
- Depreciation and amortization expense;

- Promotion and selling expenses, provided that a nominative list in a required format is available and the expenses constitute the cumulative amount of the following costs:
  - Costs of advertising in electronic media, print media, and/ or other media;
  - Costs of product exhibition;
  - Costs of introducing new products;
  - Costs of sponsorship associated with product promotion;
- Losses from the sale or transfer of assets that are owned and used in a company or that are owned to obtain, collect and maintain income;
- Write-off of uncollectible receivables for certain transactions, provided that the following conditions are met:
  - The write-off must have already been booked as expense in the commercial income statement of the creditor;
  - The taxpayer must submit a list of uncollectible receivables to the DGT; and
  - The collection case has been brought to the District Court or the government or there is written agreement on nullification of accounts receivables/ debt release and discharge between the creditor and debtor concerned; or it has been announced in general or special publications; or the debtor acknowledges that its debts have been nullified for a certain amount;
- Donations and expenses for handling national disasters, research and development, educational facilities, sports development, and construction of social infrastructure, as long as the fund/donations are made directly through the relevant authorized institution and the following requirements are met:
  - The previous year's corporate income tax return of the taxpayer that claims such donation expense must be in a fiscal profit position;
  - The donation is supported with sufficient supporting documentation;
  - The institution that receives the donation must be registered as a taxpayer, except for those that are exempted by Law and is not a related party of the contributor;
  - The total donations or expenses for one fiscal year should not exceed 5% of the previous year's fiscal profit.

  There are also certain requirements that must be fulfilled in terms of type or form of donation and how to value the donation that is not made in the form of cash.

- o Compulsory Tithe (''Zakat'') or religious contribution, provided that valid supporting evidence is available and certain requirements are met;
- o Non-creditable input VAT that has been paid and incurred from a transaction that is related to the activity of generating, collecting, and maintaining income. If the input VAT relates to an asset that has useful life of more than 1 (one) year, it must be capitalized and expensed through amortization or depreciation.

Calculation of Income - Non-Deductible Expenses

There are a number of non-deductible expenses. These non-deductible expenses are specified in the law or in associated regulations and pronouncements. Major categories of non-deductible expenses include:

- o Benefits-in-kind provided by the employer to the employee (however, this is also subject to certain exceptions, e.g., meals and uniforms provided to all employees are deductible, as are benefits provided in certain qualifying remote areas);
- o 50% of depreciation, operating and maintenance costs for cars and mobile telephones provided to employees;
- o Distribution of profits in the form of dividend;
- o Gifts and donations, except those that are required by religion (zakat, etc.) and donations for handling national disasters, research and development performed in Indonesia, social infrastructure development, educational facilities, and sports development;
- o The creation of general provisions/ reserves, except for doubtful debts provisions for banks, credit providers, financial lease companies, financing companies, factoring companies, Savings and Loan Cooperatives (Koperasi Simpan Pinjam), PT Permodalan Nasional Madani (PNM), and insurance companies (except life insurance reserves related to unit link, which are accumulated in accordance with income that is subject to final tax and/or not subject to tax, which shall be treated as non-deductible expenses), including provisions for social assistance formed by a Social Security Administration Agency, provisions for underwriting of the Deposit Insurance Corporation, provisions for the reclamation costs of mining companies, provisions

for reforestation costs for forestry companies, and provisions for closing and maintenance costs of waste disposal facilities of waste processing companies;

- o Income tax;
- o Tax penalties;
- o Expenses relating to income which is taxed through a final-rate withholding tax system, income that is imposed with tax based on the Net Income Calculation Norm (deemed profit margin), and income which is otherwise exempt from tax (non-tax object); and
- o Salaries received by partners in a partnership or members of a firm where their participation is not divided into shares.

Gain from foreign exchange is taxable and loss incurred from foreign exchange can be treated as deductible expense, except for those arising from transactions that are subject to final tax or non-tax object.

Depreciation/ Amortization

- o Either straight-line or declining balance method of depreciation is allowable, except for buildings, for which only the straight-line method is permitted.
- o The chosen depreciation method must be applied consistently to assets.
- o When adopting a declining balance method, the remaining book value at the end of the useful life of an asset must be depreciated in a lump sum.
- o Depreciation commences either in the year the expenditure occurs or in the year construction/ installation of an asset is completed. With the approval of the Director General of Taxes, however, depreciation may commence in the year the asset is first used or when production starts or when business income is first earned.
- o The useful life and tariffs of depreciation of tangible assets are governed as follows:

Group of Tangible Assets	Useful Life	Tariffs of Depreciation	
		Straight Line Method	Double Declining Method
I. Non Buildings			
Group 1	4 years	25%	50%
Group 2	8 years	12.5%	25%
Group 3	16 years	6.25%	12.5%
Group 4	20 years	5%	10%
II. Buildings			
Permanent	20 years	5%	
Non Permanent	10 years	10%	

- The Minister of Finance determines the asset categories subsumed into the groups of non-building tangible assets.
- Intangible assets (including goodwill) are amortized on the same basis as the non-buildings groups in the table above.

Loss Carried Forward

- Losses are available to be carried forward for a maximum of five years.
- Carry back of losses is not allowed.

Non-Taxable Income

(applies to corporate and individual taxpayers)

The law specifies a number of categories of income that are exempted from tax. These are:

- Aid, donations, zakat, religious donations or gifts received, provided there is no business, work, or ownership relationship between the parties concerned;
- Inheritances;
- Dividends received by a resident company from another resident company, provided that the dividends are paid out from retained earnings and the recipient owns 25% or more of the investee company;

- o Payments by an insurance company to an individual in connection with health, accident, life, or education insurance;
- o Assets, including cash, received by an entity in exchange for shares or capital contribution;
- o Profits distributed to a venture-capital company by a small or medium-size enterprise engaging in certain businesses in Indonesia; and
- o The share of profit received by a member of a limited partnership without share capital, partnership, association, or firm, including the participation unit holders of collective investment agreements.

Sale of Land and/or Building

- o Final tax at 5% is generally imposed on corporate taxpayers, while transfer of basic houses (rumah sederhana) and basic apartments (rumah susun sederhana) by a taxpayer whose main business is to engage in transfer of land and buildings is subject to 1% final tax. Transfer duty of 5% is payable by the purchaser (See ''Land and/or Building Acquisition Duty'', page 42).
- o Exemptions are granted for certain types of transfer of land and buildings, including grant, inheritance, and sale of land with value less than IDR 60 million by an individual taxpayer whose annual income does not exceed the non-taxable income threshold.

Income from Derivative Transactions

Income from derivative transactions in stock exchange and future market is no longer subject to final income tax with retroactive effect from 1 January 2009. In this case, the gain on such transaction shall be recognized as taxable income that is subject to normal corporate income tax tariff under Article 17 of the Income Tax Law.

Corporate Tax Facilities

Companies investing in certain business sectors and/ or in certain less developed regions having high priority on a national scale can be granted tax facilities in the form of:

a) Additional net income reduction, up to a maximum of 30% of the amount of investment, which shall be charged at 5% per annum for six years;

b) Accelerated depreciation and amortization;
c) The period of loss carry forward being extended up to ten years; and
d) Income tax on dividend as mentioned in Income Tax Law Article 26 at 10%, unless the relevant tax treaty stipulates a lower rate.

The above mentioned facilities can only be used after the taxpayer has realized a minimum of 80% of its investment plan. This requirement does not apply to taxpayers whose application for this tax facility has been approved pursuant to the previous regulation, i.e. Government Regulation No. 1 Year 2007 and its amendment.

Taxpayers who have obtained approval from the Investment Coordinating Board (BKPM) before the enactment of the new Government Regulation No. 52 Year 2011, i.e. 22 December 2011 can still avail the afore-mentioned income tax facilities provided that they meet the following requirements:
a) Have an investment plan amounting to at least IDR 1 trillion (or equal to USD 111 million); and
b) Have not commenced its commercial operation until the date the regulation was put into effect, i.e. 22 December 2011.

The number of industry sectors that are eligible for this income tax facilities are, among others, food; textile; chemical substance and its product; forestry and logging; coal and lignite mining; oil, natural gas, and geothermal mining; etc.

Tax Holiday Facility

Taxpayers making a new investment in a pioneer industry, but are not entitled to any tax facilities under Article 31A of the Income Tax Law (as mentioned in the above paragraph), can now obtain exemption or reduction of income tax as mentioned in Article 18(5) of the Investment Law No. 25 of 2007. The said pioneer industry shall be industries possessing a broad connection, giving added value and high externality, introducing new technology, as well as possessing strategic values for the national economy.
The tax exemption or reduction facility (tax holiday) applies for certain industries, such as basic metal industry; oil-mill industry and/or organic basic chemical industry using oil and gas as its source; machinery industry; renewable energy industry; and telecommunication equipment industry.

The tax facilities provided are:

a) Exemption from corporate income tax for a maximum of 10 (ten) fiscal years and a minimum of 5 (five) fiscal years effective from the start of commercial production;
b) When the above exemption ends, the taxpayer will be given a 50% reduction to their corporate income tax liability for 2 (two) fiscal years;
c) The Ministry of Finance can extend the period of exemption or reduction to the corporate income tax by taking into account certain factors, i.e. competitiveness of national industry and the strategic value of certain industries.

In order to apply for the tax holiday facility, the following requirements must be met:

a) New taxpayer that invests in a pioneer industry;
b) New taxpayer with new investment plans, which has been validated by an authorized institution and with a minimum investment of IDR 1 trillion;
c) New taxpayer that has deposited a minimum of 10% of the total investment plan referring to point b) above, in Indonesian banks and the fund cannot be withdrawn before the investment started to be realized; and
d) New taxpayer with an Indonesian legal entity status that has been validated within the last 12 (twelve) months before 15 August 2011, or existing taxpayers whose status have been validated on or after 15 August 2011.

The tax holiday facility can be used by taxpayer as long as its investment has been realized and the commercial production has been started. Taxpayer who obtains the tax holiday facility also needs to meet certain reporting requirements (i.e. quarterly and annual reporting) for the fund utilization and realization of capital investment.

Corporate Tax for Certain Industries

The tax provisions for the oil and gas, geothermal, and general mining (including coal) industries and for sharia-based industries shall be stipulated separately through Government Regulations.

Corporate Tax for Sharia Business

The treatments on income and expenses as specified in the Income Tax Law also apply to sharia-based business activities in the same manner as in the conventional banking/ financial service (mutatis mutandis). The income tax treatment of sharia banking and sharia financial service can be summarized as follows:

1. Sharia Banking

Income Recipient	Type of Income	Tax Treatment
Bank	Bonus, profit sharing, and margin from transactions of facilitated customer	Treated as interest
	Income other than those mentioned above	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	Treated as interest
	Income other than those mentioned above	Treated in accordance with the normal income tax regulation for the relevant transaction

2. Sharia Financial Service

Type of Transactions	Tax Treatment
Leasing *(Ijarah)*	Normal operating lease and the leased asset is non-depreciable
Financial Lease *(Ijarah Muntahiyah Bittamlik /IMB)*	Similar to financial lease with option and the leased asset is non-depreciable
Factoring *(Wakalah bil Ujrah)*	Gain or profit is treated as interest
Consumer Financing *(Murabahah, Salam, Istishna)*	Gain or profit margin is treated as interest
Credit Card	Fee or other income is treated in accordance with the normal income tax regulation for the relevant transaction
Other Sharia Financing	Fee or other income is treated in accordance with the normal income tax regulation for the relevant transaction
Corporate Financing from investor *(Mudharabah, Mudharabah Musytarakah, Musyarakah)*	Gain or profit sharing is treated as interest
Delivery of Assets (consider directly delivered from supplier to end user)	Treated in accordance with the normal income tax regulation for the relevant transaction

Deemed Profit Margins

The following types of income derived from certain business have a deemed profit margin.

Type of Income	On Gross Revenues	Effective Income tax rate *)
Foreign oil and gas drilling service operations	15%	3.75%
Foreign shipping and airline operations	6%	2.64%
Domestic shipping operations	4%	1.20%
Domestic airline operations	6%	1.80%
Trade representative offices	1% of export value	0.44%

*) The effective income tax rate may deviate, as it may be subject to tax treaty or any changes of rate in the income tax law and/or regulations.

Controlled Foreign Company (CFC) Rules

- o The Income Tax Law, through a Minister of Finance Decree, determines the time of receipt of dividend by a resident taxpayer on capital participation in a business entity abroad other than a business entity that sells its shares on a stock exchange in these cases:
  - a. the amount of capital participation of the resident taxpayer is a minimum of 50% (fifty percent) of the number of paid-up shares; or
  - b. jointly with other resident taxpayer(s) owns a minimum capital participation of 50% (fifty percent) of the number of paid-up shares.
- o The time of receipt of dividend by a resident taxpayer with the above conditions is as follows:
  - a. in the fourth (4th) month after the deadline for the submission of the Annual Corporate Income Tax Return of the foreign entity for the fiscal year concerned; or
  - b. in the seventh (7th) month after the end of a fiscal year if such foreign entity does not have any obligation to submit an Annual Corporate Income Tax Return or if there is no deadline for the

submission of the Annual Corporate Income Tax Return.

- The amount of dividend shall be the total amount of dividend that the local taxpayer is entitled to, from the profit after tax, according to its capital participation in the foreign entity other than a business entity that sells its shares on a stock exchange.

Indirect Purchase of Indonesian Shares or Assets Involving Special Purpose Companies

The indirect purchase of shares or assets of an Indonesian taxpayer by another Indonesian party through an entity established especially for such purpose (Special Purpose Company - SPC) can be stipulated as the purchase of shares or assets by the other Indonesian party if the SPC has a special relationship with the other Indonesian party and where there is unreasonable pricing.

Indirect sale of Indonesian Shares Involving Special Purpose Company

- The sales of shares of a conduit company (SPC) owning Indonesian shares located in a tax haven country by a non-Indonesian tax resident, can be deemed as a sale of shares of Indonesian party by the non-Indonesian tax resident so long as there is a special relationship between the SPC and the Indonesian party.
- Tax haven country is defined as a country that has a corporate tax rate 50% lower than that of Indonesia or a country that does not have a provision of exchange of information with Indonesia.

Tax-Neutral Mergers

- Generally, transfers of assets in business mergers, consolidations, or business spin-offs are conducted at market value, resulting in taxable gain, while the loss is generally tax deductible.
- The assets can be transferred at book value for a tax-neutral merger or consolidation upon approval from the DGT, provided that business purpose tests are fulfilled.
- This facility is also available for business spin-offs as part of an Initial Public Offering (IPO) plan.

Individual Income Tax

Tax Rates

The applicable tax rates are as follows:

Taxable Income	Rate
Up to Rp 50,000,000	5%
Over Rp 50,000,000 but not exceeding Rp 250,000,000	15%
Over Rp 250,000,000 but not exceeding Rp 500,000,000	25%
Over Rp 500,000,000	30%

The applicable tax rates on severance payment are as follows:

Taxable Income	Rate *)
Up to Rp 50,000,000	0%
Over Rp 50,000,000 but not exceeding Rp 100,000,000	5%
Over Rp 100,000,000 but not exceeding Rp 500,000,000	15%
Over Rp 500,000,000	25%

The applicable tax rates on payment of pension fund or old age saving funds are as follows:

Taxable Income	Rate *)
Up to Rp 50,000,000	0%
Over Rp 50,000,000	5%

*) These tax rates are final and only applicable on lump sum payment or payment made within a two-year period. Payment made in the third year and thereafter would be subject to normal tax rates and can be claimed as tax credit.

Non-resident individuals are generally subject to a 20% withholding tax on income received from Indonesia (Article 26 withholding tax). However, this rate may vary depending on the circumstances and applicable tax treaty provisions.

Tax Registration and Tax Filing

- o All individual tax residents (including expatriates) are obliged to register with the Tax Office and obtain a Tax ID number. An exemption from registration is available for those earning below the non-taxable income threshold and for those who do not qualify as individual tax residents.
- o Individual taxpayers are required to file annual individual income tax returns (Form SPT 1770 or 1770 S or 1770 SS). Where applicable, monthly tax payments and filing are required.

Personal Deductions

The following personal deductions are available for resident individual taxpayers in calculating their taxable income, depending on the taxpayer's personal circumstances.

Basis of Deduction	Deductible Amount (per year)
Taxpayer	Rp 15,840,000
Spouse	Rp 1,320,000 (additional Rp 15,840,000 for a wife whose income is combined with her husband's)
Dependents	Rp 1,320,000 each (up to a maximum of 3 individuals related by blood or marriage)
Occupational Support	5% of gross income up to a maximum of Rp 6,000,000
Pension Cost (available to pensioners)	5% of gross income up to a maximum of Rp 2,400,000
Contribution to approved pension fund, e.g. Jamsostek	Amount of self-contribution

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

Withholding Tax and Final Tax

System

- To facilitate the Director General of Taxation's (DGT's) tax collection, taxpayers are subject to a number of obligations to withhold taxes on various payments to residents and non-residents.
- The tax withheld from payments made to residents may represent either a final income tax on the income for the recipient, or (advance) prepaid tax, which is creditable by the recipients against their final tax liability or refundable.
- Withholding tax on payments made to non-residents is a final tax.

Withholding Tax under Article 21

- Employers are required to withhold tax from remuneration and severance payment paid to employees (the progressive tax rates are as described in the individual income tax section).
- Pension funds approved by the Minister of Finance (MoF) and the State Workers Social Security Company (PT Jamsostek) are required to withhold tax from pension and old age saving fund payments, respectively.
- Rates are 20% higher for individuals who do not have Tax ID Numbers.
- According to the MoF regulation, the Tax Authority can re-determine amount of income received by an individual taxpayer from an employer which has a special relationship with offshore company.

Withholding Tax under Article 22

- A creditable withholding tax of 2.5% (or 7.5% if the importer does not hold an import license) applies upon importation of goods;
- A creditable withholding tax of 1.5% is collected by State Treasurers and State-owned enterprises on the purchase of goods;
- Article 22 tax is also due on the local purchase of certain commodities;
- Rates are 100% higher for taxpayers that do not have Tax ID Numbers.

WHT Rate [1][2] (on gross amounts)	Type of Payment
	Article 22 WHT on Payment to Indonesian Tax Resident
2.5% of import value	Import of goods with Importer Identification Number (API)
7.5% of import value	Import of goods without Importer Identification Number (API)
1.5% of the sales value	Sale of goods to the Government that involves payment from the State Treasury and certain State-Owned Companies
0.3% of the sales value	Purchase of steel products
0.45% of the sales value	Purchase of automotive products
0.1% of the sales value	Purchase of paper products
0.25% of the sales value	Purchase of cements
5% of the sales value	Purchase of extraordinary luxury goods[3]*

WHT Rate [1][2] (on gross amounts)	Type of Payment
0.3% of the sales value	Sales of fuels to non-fuel stations
0.25% of the sales value	Sales of kerosene made to Pertamina fuel stations
0.5% of the sales value	Sales of kerosene made to non - Pertamina fuel stations
0.3% of the sales value	Sales of lubricants

Notes:

1. Rates are 100% higher for taxpayers that do not have tax ID.
2. Minister of Finance has added the following entities as the Article 22 income tax collector: Authorized Budget User ("Kuasa Pengguna Anggaran"/KPA), KPA or government officials authorized by KPA to issue Payment Order Instruction, and Treasures that make payments using

the reserve money (''Uang Persediaan''/UP) method.

Notes:
1. Rates are 100% higher for taxpayers that do not have tax ID.
2. Minister of Finance has added the following entities as the Article 22 income tax collector: Authorized Budget User ("Kuasa Pengguna Anggaran"/KPA), KPA or government officials authorized by KPA to issue Payment Order Instruction, and Treasures that make payments using the reserve money ("Uang Persediaan"/UP) method.
3. Extraordinary luxury goods refer to private airplane, cruiser, house along with the land (with building area of more than 500m²), apartment and condominium (with building area of more than 400m²), and vehicle with cylinder capacity of more than 3,000 cc – subject to certain se-ing prices as stipulated through MoF regulation.

The followings are now exempted from Article 22 income tax:

a. Import of gifts for disaster relief;
b. Import of goods for nature conservation;
c. Import of goods used in upstream oil and natural gas activities by Production Sharing Contractors; and
d. Payments for purchase of goods using School Operational Assistance (BOS) funds.

Withholding Tax under Articles 23/26

The other major categories of withholding are referred to as Article 23 or Article 26 Income Tax. The relevant types of payment and their generally applicable rates are as follows:

WHT Rate [1][2] (on gross amounts)	Type of Payment
	Article 23 WHT on Payment to Indonesian Tax Resident
15%	Dividends [3], interest [4], swap premiums, loan guarantee fees, and royalties
2%	Rental and other income for use of property, except rental of land and/ or buildings [5]
2%	Remuneration for technical, management, construction, consultant services and certain other services, viz.: • Appraisal services • Actuarial services • Accounting/ audit/ attest services • Design services • Drilling services in the oil/ gas industry, except those provided by a permanent establishment • Auxiliary services in the oil/ gas mining industry • Mining and support services in the General mining sector • Airline & airport support services • Forest tree felling services • Waste management services • Manpower supply services • Broker/agency services • Services in securities trading, except for trading performed by the Indonesian Stock Exchange, KSEI (Indonesian Central Securities Depository), and KPEI (Indonesian Clearing and Guarantee Corporation) • Custodian services, except for services provided by KSEI • Dubbing services • Film mixing services • Service in relation to computer software, including repairs and maintenance

WHT Rate [1][2] (on gross amounts)	Type of Payment
	• Installation services, except for installation services performed by a licensed construction company • Repair and maintenance services, except for building repair and maintenance services performed by a licensed construction company • Toll-manufacturing *(maklon)* services • Investigation and security services • Event organizer services • Packaging services • Service in providing space and/or time in mass media, outdoor media or other media for delivering information • Pest eradication services • Cleaning services • Catering services
	Article 26 WHT on Payment to Non-Indonesian Tax Resident
20%	Any payment (other than for purchases of goods) to a non-resident recipient is subject to withholding tax of 20%. [7][8]
5%	Sale or transfer of assets in Indonesia in the form of luxury jewelry, polished diamonds, gold, diamonds, luxury watches, antiques, paintings, cars, motorcycles, yachts, and/or light aircraft, other than those subject to article 4 (2) withholding tax, that is received by a Non-Indonesian Tax Resident other than a PE is subject to final tax on the transaction value. [6][7].
5%	Sale of non-listed company shares by Non-Indonesian Tax Residents are subject to a final tax on transaction value. [7]

Notes:

1. The withholding tax does not apply to payments to banks operating in Indonesia.
2. Rates are 100% higher for taxpayers that do not have tax ID.

3. Dividends paid to Indonesian limited liability companies holding at least 25% of shares could be exempt from tax under certain conditions. Dividends paid to Individuals are subject to final tax (see below).
4. Certain interest income is subject to final tax (see below).
5. The withholding tax does not apply to payments made in relation to financial leases.
6. Exemptions apply for sale or transfer of assets at Rp 10 million or less per transaction.
7. Subject to reduced rate or exemption based on applicable Tax Treaty (including deemed interest from the shareholders loan that does not meet certain requirements).
8. Purchase of import film that meets certain conditions is not subject to Article 26 withholding tax.

Final Tax collected through withholding and self-assessment

The following transactions are subject to final tax, either by way of withholding or through self-assessment:

Type of Income	Effective Withholding Tax Rates	
	Resident Recipient & PE	Non-Resident Recipient (1)
Dividends paid to Individuals	10%	20%
Lottery prizes	25%	20%
Interest or discount on bonds, including zero coupon bonds	15% (2)	20%
Interest or discount on bonds, received by registered mutual fund:		
1. For year 2009 to 2010	0%	N/A
2. For year 2011 to 2013	5%	N/A
3. For year 2014 onwards	15%	N/A
Interest on deposit paid by cooperative to its members > IDR 240,000	10%	20%
Airline / Shipping Services		
- international airline & shipping operations	–	2.64% (3)
- domestic airline operations (charter only)	1.8% (3)	–
- domestic shipping operations	1.2% (3)	–

Type of Income	Effective Withholding Tax Rates	
	Resident Recipient & PE	Non-Resident Recipient [1]
Insurance premium paid to offshore companies	N/A	1%, 2% or 10% (4)
Construction Planning & Supervisory Services	4% / 6% [5]	20%
Construction Contracting Services	2% / 3% / 4% [6]	20%
Sale of listed shares (of the gross proceeds)	0.1%	0.1%
Additional tax on sale of 'Founder shares' at IPO price [7]	0.5%	0.5%
Sale of land and/or buildings by Individual	5% / 1% [8]	N/A [8]
Rental of land and/or buildings	10%	20%
Interest or discount on Bank Indonesia Certificates (SBI), savings & fixed deposits [9]	20%	20%
Gain on approved asset revaluation	10% or 20% [10]	N/A
Sharia business income	20% [11]	20% [11]

Notes:

1. Subject to reduced rate or exemption based on applicable Tax Treaty.
2. On the gross amount of interest, or on excess of nominal value over the acquisition value.
3. Effective tax rate after applying a deemed profit margin. For international airline & shipping operations, the withholding is done through the Permanent Establishment (PE).
4. If the payer is an Indonesian insurance or reinsurance company, the rate will be 2% or 1%, respectively; otherwise, the rate will be 10%.
5. Effective tax rates:
   - o 4% for certified contractors
   - o 6% for non-certified contractors

   The rate does not include the branch profit tax for permanent establishment service providers.
6. Effective tax rates:
   - o 2% for small-scale certified contractors
   - o 3% for medium and large certified contractors
   - o 4% for non-certified contractors

   The rate does not include the branch profit tax for permanent establishment service providers.
7. Applies to non-residents, unless the seller is resident in a country that has a tax treaty with Indonesia, in which case an exemption may apply.
8. Tax rate:
   - o 1% for sale of simple houses and basic apartments by taxpayers whose main business is to engage in transfer of land and/or buildings
     5% for sale of land and/or buildings other than above
   - o Exemptions are granted for transfer of land and/or buildings in the cases of grant, inheritance, and sale of land with value < IDR 60 million by an individual taxpayer whose annual income does not exceed the non-taxable income threshold.
9. For amounts above IDR 7.5 million (the total of time deposits, saving accounts, and Bank Indonesia Certificates); exceptions apply for banks and certain approved pension and mutual funds for certain periods.
10. Additional final income tax of 15% is imposed if the revalued assets are:
    a) Sold or
    b) Transferred prior to expiration of the new useful life of the revalued assets or
    c) Transferred prior to 10 years for land and/ building and fixed assets with tax useful life of more than 8 years (does not apply to certain situations such as assets transferred in the course of a tax-free business merger, combination or expansion, etc.).
11. Income in the form of 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; and/or gain or profit derived from Sharia Financial Service such as Factoring (Wakalah bil Ujrah), Corporate Financing from investor (Mudharabah, Mudharabah Musytarakah, Musyarakah), Consumer Financing (Murabahah, Salam, Istishna) – are treated as interest, that is taxed in the same manner as interest in the conventional banking / financial services.

Value Added Tax

Threshold for VAT Registration

Registration as a VAT payer is based on sales of taxable goods and/or services. Entrepreneurs exceeding certain annual sales of taxable goods and/ or services are required to register. However, entrepreneurs domiciled in a Free Trade Zone are not required to register.

Taxable Events

Value Added Tax (VAT) is an indirect tax imposed on taxable goods and/ or services and due on the following taxable events, among others:

- Import and export of taxable goods;
- Local supply of taxable goods and/ or services;
- Consumption of services and/ or intangible goods from offshore within the Indonesian customs zone;
- Movement of taxable goods between the head office and a branch and between branches of the same legal entity;
- Movement of goods on consignment;
- Assets/ inventories left behind in the course of a company's dissolution;
- Supply of goods through a third party or a Government auctioneer;
- Supply of goods through a finance lease arrangement;
- Self-use of taxable goods;
- Delivery of taxable goods in the context of a Sharia financing arrangement, which delivery is considered to be directly from the VATable entrepreneur to the party that needs the taxable goods;
- Taxable goods given away at no charge;
- Export of intangible taxable goods and taxable services.

VAT Invoice

A VAT invoice is an instrument to levy VAT (for the seller) and to claim VAT credit (for the buyer).

The format and contents of a VAT invoice must follow guidelines set by the Director General of Taxation (DGT). Incomplete preparation of a VAT invoice can cause it to be considered deficient and thus subject to penalties for the seller and disallowed as credit for the buyer.

VAT Invoice must be issued at one of the following events:
- o The delivery of taxable goods and/or services; or
- o The payment is received if the payment occurs before the delivery of taxable goods and/or services; or
- o The progress payment is received if the work is delivered in phase basis; or
- o Other defined events determined by MoF.

Certain documents are treated as VAT invoices. These include:
- o Export Declaration on taxable goods, taxable services and intangible goods (with accompanying invoice);
- o Import Declaration (with accompanying payment slips);
- o Goods Delivery Order (SPPB) from BULOG/ DOLOG for wheat delivery;
- o Delivery Note (PNBP) issued by Pertamina;
- o Invoices issued by a Telecommunication Company;
- o Ticket, airway bill or delivery bill issued for domestic air transport services;
- o Service Delivery Note issued for port service;
- o Invoices issued by an Electricity Company;
- o Tax payment slip (SSP) for payment of self-assessed VAT on the use of offshore intangible goods and/ or services.
- o Invoice issued by a Drinking Water Company for delivery of taxable goods or services;
- o Trading confirmation from stock brokerage company;
- o Invoice issued by Bank for delivery of VATable services

VAT Rates

The general VAT rate is 10%. However, a VAT rate of 0% (zero percent) is applied to the following taxable events:

a. Export of taxable goods;
b. Export of intangible taxable goods; and
c. Export of certain taxable services, i.e.:
   - o toll manufacturing;
   - o repair and maintenance services related to movable goods utilized outside the customs zone; and
   - o construction service related to immovable goods that are located outside the customs zone.

The rates are applied on a VAT base equivalent to sales price/ services fee or import/ export value.

Special VAT Rates

Certain businesses or activities are subject to output VAT based on a deemed percentage of transaction value and are not entitled to claim credits for the input VAT incurred, i.e.:

o	Travel agent	1%
o	Courier service	1%
o	Certain small-scale retailers	4%/3%*
o	Self-construction	4%
o	Used cars retailer	1%
o	Gold jewelry retailer	2%

* 4% for taxable services and 3% for taxable goods

Self-Assessed VAT

Resident taxpayers receiving and utilizing taxable services and/ or taxable intangible goods from offshore or from a Free Trade Zone are obliged to self-assess, report and pay 10% VAT calculated from the gross amount paid or payable. The self-assessed VAT is due when the intangible taxable goods and/ or services start to be utilized in Indonesia. The deadline for payment of self-assessed VAT is no later than 15th of the month following the time when the VAT becomes due. Such self-assessed VAT serves as input VAT, subject to the general rules for creditable input VAT.

VAT Collectors

To safeguard VAT revenues, the Government Treasurer, the State Cash and Treasury Office, Contractors of oil and gas cooperation contract with the Indonesian Government, and Geothermal Energy Contractors or License Holders (including head office, branches or units) and State Owned Companies are assigned to act as VAT withholding agents (VAT collectors).

Goods and Services Not Subject to VAT

Certain goods and services are not subject to VAT. These include:

Non-Taxable Goods

- o Goods produced from mining or from drilling that are extracted directly from the source;
- o Basic commodities vital to the general public;
- o Food and beverages served in restaurants, including food and beverages delivered by catering businesses; and
- o Money, gold bars, and commercial paper.

Non-Taxable Services

- o Medical/ health services;
- o Social services;
- o Mail delivery service using stamps;
- o Financial services *);
- o Insurance services;
- o Religious services;
- o Educational services;
- o Arts and entertainment services;
- o Non-broadcast service advertisements;
- o Public transport services on land and on water and air transport services within the country which are an inseparable part of air transport services to abroad;
- o Labor services;
- o Hotel services;
- o Services provided by the government in respect of carrying out general governmental administration;
- o Parking provision;
- o Public telephone services using coins;
- o Money transfer services using postal money orders; and
- o Catering services.

*) DGT has defined characteristics of services provided by banks which are not subject to VAT as outlined below:
  - Financial services in the form of financing services that receive compensation in the form of interest, or
  - Financial services provided by a bank directly to its customers that are not financing services.

Other banking services that are not subject to VAT include:

- Factoring activity
- Credit card business
- Provision of financing and/or other activity based on sharia principles in accordance with Bank Indonesia (Indonesian Central Bank) regulation.

Available VAT Incentives

Certain import and purchases are exempted from VAT or VAT is not collected through incentives provided by the government.
These include:

- Strategic goods, such as machinery, factory equipment, etc.;
- Raw materials for processing by companies inside a Bonded Zone;
- Imports 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.;
- Imports of raw materials for processing by an export manufacturerholding an Exemption Decree; and
- Delivery and/ or import of taxable goods into a Free Trade Zone.

VAT Refund

o Excess of input VAT over output VAT can be requested for refund or carried forward without limitation.

o Claims for VAT refund can only be made at the end of a tax year, except for certain VATable entrepreneurs that are eligible to claim tax refund at each monthly period.

o A refund request usually results in a tax audit, and such reviews are very strict on the quality of documentation. It is important for taxpayer to reconcile their corporate tax returns and books for the year-end VAT Return.

o The time frame to obtain a Refund Decision varies, depending on the category of business applying for the refund. In general, it takes 12 months from submission of the VAT refund request.

- o Failure of production: For those VATable entrepreneurs that are in the pre-production stage, if they fail to commence production within three years from when the input VAT is credited, the VAT that has been refunded must be repaid.
- o VAT Refund for foreigners: VAT paid by foreign individuals on purchases in designated retail stores can be claimed for refund by the foreigners upon leaving Indonesia. The minimum amount for a claim is IDR 500,000.

Input VAT Not Allowed for Credit

Certain transactions may generate VAT that will not be available for credit. These situations include:

- o VAT incurred prior to a business being registered for VAT;
- o VAT incurred before the entrepreneur starts production and makes taxable delivery, except from the acquisition of capital goods;
- o VAT on purchases with no direct connection to the conduct of the company's business;
- o VAT imposed by way of tax assessments;
- o Defective VAT invoice;
- o Purchase & maintenance of sedan and station wagon type of vehicles, unless they are inventory for sale/ rental;
- o Overlooked input VAT not yet credited and only discovered after a tax audit has commenced;
- o Purchases made by those exempted from charging output VAT.

Luxury Goods Sales Tax

In addition to the general VAT rate of 10%, certain goods considered as ''luxury'' items are subject to a surcharge of 10% to 200%. Luxury goods are those that fulfill certain criteria, i.e:

- o Does not constitute a basic staple;
- o Consumed by an exclusive group of (upper income) consumers;
- o Goods consumed for status rather than for their utility;
- o Certain luxurious residential properties.

Free Trade Zone

Batam Island, Bintan Island and Karimun Island have been designated as Free Trade Zone (Free Trade and Free Port Zones). This provides certain facilities, such as:

a) A company domiciled in a Free Trade Zone is not required to register as a VAT-able entity;
b) The delivery of taxable goods in a Free Trade Zone is exempted from the imposition of VAT and/ or LGST;
c) The importation of goods into a Free Trade Zone is exempted from the imposition of import VAT and/or LGST;
d) The delivery of intangible taxable goods or taxable services in a Free Trade Zone is exempted from VAT;
e) The delivery of taxable services from other places within customs area into free trade zone is subject to VAT except for certain delivery of services pursuant to Minister of Finance regulation.

Land and/or Building Tax And Duties

Land and/or Building Tax

Land and/ or Building Tax (''PBB'') is generally imposed on land and/ or buildings (''tax object''). Starting from 1 January 2010, PBB is now regulated under Local Tax and Retribution Law (previously was regulated under PBB Law). The old PBB Law is still effective until 31 December 2013 or until a PBB regulation is issued by the Local Government.

Under the old PBB Law, PBB due on the tax object is calculated by applying the tax rate to the taxable sale value (''NJKP''). The tax rate is 0.5%, while the NJKP is a predetermined portion of the tax object sale value. Currently, NJKP is 20% for tax objects with sale value (''NJOP'') below IDR 1 billion or 40% for NJOP IDR 1 billion and above. The NJKP rate can be increased up to 100% of NJOP by the government. In summary, the effective PBB rate applied currently is 0.1% (for NJOP below IDR 1 billion) or 0.2% of NJOP (for NJOP IDR 1 billion and above). Each taxpayer is entitled to a non-taxable NJOP, which currently is IDR 12 million. The amount of non-taxable NJOP can be adjusted by the Minister of Finance.

NJOP for non-oil and gas mining companies other than geothermal and C mining category is determined as 9.5 multiplied by the net mining products of the year prior to the current fiscal year.

Under the Local Tax and Retribution Law, PBB due on a tax object is calculated by applying the tax rate to NJOP. The tax rate is maximum 0.3%. Each taxpayer is entitled to a non-taxable NJOP, with a minimum threshold of IDR 10 million.

PBB is due annually based on an official assessment issued by the Director General of Taxation.

Land and/or Building Acquisition Duty

An acquisition or transfer of land and/ or building is subject to duty at a maximum 5% of the acquisition or market value. The duty is charged to the party receiving or obtaining the land and/ or building title (the buyer). The duty object's acquisition value is the transaction value or the NJOP (please refer to Land and/ or Building Tax, above) of the land and/ or building concerned, whichever is higher. Each taxpayer is entitled to a non-taxable threshold with a minimum of IDR 60 million. A specific threshold at a minimum of IDR 300 million is applied for inheritances.

As the final income tax on sale of land/ building (please see ''Sale of Land and/ or Building'', page 16) and the Land and/ or Building Acquisition Duty both relate to the same transaction, a notary public is not allowed to sign a land and/ or building title transfer deed unless both the Income Tax and the Land and/ or Building Acquisition Duty have been paid. The notary must also ensure that the party transferring title to the land and/ or building has obtained a stamp on the final income tax payment slip from the Tax Authority which serves as evidence of review by the Tax Authority.

Transfer Pricing

General

- The Indonesian transfer pricing (TP) provisions give the Director General of Taxation (DGT) the power to adjust taxpayers' income or costs in transactions with related parties not carried out on arm's-length terms.
- In practice, this generally means that the taxpayers have wide responsibilities for maintaining and providing information to substantiate their pricing methods, especially in the event of a tax audit.
- Effective from the 2002 tax year, taxpayers are required to attach a statement about transactions conducted through ''special relationships'' to their corporate tax returns. The disclosures are quite detailed and illustrate that the DGT is following the lead of a number of other countries in the Asia-Pacific region that have some form of disclosure requirements in their annual income tax returns.
- The new Income Tax Law, which became effective on January 1, 2009, has introduced the methods for determining arm's length transactions, e.g. comparable uncontrolled price method, resale price method, cost plus method and other methods (profit split method and transactional net margin method). These methods are more or less in line with the OECD guidelines.
- In September 2010, the DGT issued regulation No. PER-43/PJ/2010 (PER-43) to provide guidelines for taxpayers on the application of arm's length principle by outlining the steps required to conduct comparability analysis on the transactions with related parties and the determination of comparables, selection of TP methodologies, documentation of TP analysis, the authority of DGT and the taxpayers' rights.
- In 11 November 2011, the DGT issued PER-32/PJ/2011 (PER-32) as an update to PER-43.
- With those rules, the taxpayers have to voluntarily perform the TP analysis on the transactions with related parties to ensure that the transactions conform to the arm's length principle, prepare and maintain the TP documentation and declare it in the tax return.

- Several salient points in PER-32 are among others:
  - More focus on cross-border related party transactions. Domestic related party transactions are outside the purview of transfer pricing rules except when availing tax tariff difference arising out of treatment on final or non-final Income Tax imposition in certain business sectors, Imposition of Luxury Goods Sales Tax (LGST); or transactions with contractor of cooperation contract in oil and gas industry.
  - The requirement of the analysis to be performed on transactions with each related party with value of greater than IDR 10 billion.
  - The application of the most appropriate TP methodology, replacing the hierarchical basis that previously applied.
  - Additional requirement to provide TP document with its appendices (i.e. one set of main document and one set of appendix of the main document).
  - Additional definition of intangibles and explained briefly upon the concept of costs contribution arrangement.

''Special Relationship'': Definition

A special relationship is deemed to exist in the following circumstances:

a) Where a taxpayer directly or indirectly holds 25% or more of the capital of another taxpayer, or where a company holds 25% or more of the capital of two taxpayers, in which case the latter two taxpayers are also considered to be related parties; or

b) Where there is a control through management or the use of technology, even though ownership relations are not present.

Mutual Agreement Procedure (''MAP'')

The DGT regulation No. PER-48/PJ/2010 provides technical guidelines on the application of Mutual Agreement Procedure (''MAP''), including:

- Circumstances that may give rise to MAP application;
- Application procedure, timeline, and required information and documentation;
- Circumstances that may give rise to Tax Authority's rejection to the MAP application; and

- In relation to TP correction – Formation of a special team to prepare the DGT's position paper. The team is to coordinate and supervise the related units in the DGT, and to become a part of DGT delegation team when there are discussions held during the MAP process.

Effective 1 January 2012, with the issuance of GR No. 74/2011 on Dec 2011, the taxpayer eligible for MAP can have it processed simultaneously with their application for objection, appeal or reduction or cancellation of incorrect Tax Assessment Letter. In the event that MAP results in a mutual agreement, then the DGT will amend the tax assessment decision in accordance with the MAP results, unless, if the decision on the tax payer's appeal is released by the tax court prior to conclusion of a MAP, then the DGT will terminate the MAP.

Advance Pricing Agreement ("APA")

- The DGT regulation No. PER-69/PJ/2010 provides implementation guideline on APA. APA is an agreement with the DGT made in advance, which can be used by taxpayer to resolve TP issues. APA can be an agreement with the DGT on certain criteria (transfer price method determination and factors used in the analysis of critical assumptions) or agreement on how to determine the arm's length price or profit of all or some of the taxpayer's transactions with its related parties.
- An APA may be applied for a maximum of three tax years, starting from the tax year in which the APA is agreed. An APA can also be applied for a year before the APA is agreed, as long as the annual income tax return for that year has not been audited, no objection or appeal on it has been filed, and there is no indication of criminal conduct in taxation. Application of APA to the preceding fiscal years is done through amendment of that year's tax return with a compensating adjustment.
- In the case where an APA is applied for a transaction between a taxpayer and a domestic related party (domestic transfer pricing), a secondary adjustment for that other taxpayer may be made with the approval of the DGT.

- In the case that a taxpayer is of the opinion that the APA could lead to double taxation, the taxpayer can submit a written request to DGT to conduct a MAP with the competent authority of the treaty partner country.
- An APA does not prevent the DGT from conducting a tax audit under the applicable tax law.
- In the event no agreement is reached during the negotiation of an APA, any documents used during the APA process must be duly returned to the taxpayer and such documents cannot be used as the basis for tax audit purposes, preliminary examination, or criminal investigations on tax issues by the DGT.

Summary of Double Tax Avoidance Agreements

Indonesia has signed Double Tax Avoidance Agreements (DTA) with many countries all around the world. The summary of the various reduced tax rates and PE time tests under the DTAs is provided in the table provided below.

In order to claim the relief under the DTA, a foreign taxpayer has to complete and submit a specific document issued by the Directorate General of Taxation (DGT) in lieu of Form DGT-1 or Form DGT-2. Form DGT-2 is specifically for a company that is a banking institution or earns income from bonds or stocks listed in the Indonesian Stock Exchange. A company that does not fulfill those criteria must use Form DGT-1. These forms contain a Certificate of Domicile (COD) which must be endorsed by the Tax Authority of the DTA partner country.

In the case that the foreign taxpayer is unable to obtain the endorsement, the foreign taxpayer can use any form of COD commonly verified or issued by the DTA partner's Tax Authority. This document must meet the following requirements:

1. presented in English;
2. issued on or after 1 January 2010;
3. contains at least the name of the foreign taxpayer;
4. the original or copy document must be legalized by the Tax Authority where the withholding tax agent is registered;
5. the document is signed by the relevant competent Tax Authority.

This form will serve as an attachment to the completed form DGT-1 or DGT-2. The relief under the DTA provisions will be denied by the DGT if the foreign taxpayer fails to fulfill the requirement.

No	Country [28]	Dividends		Interest [3]	Royalties [4]	PE Tax [5]	Tax on Disposal of shares	PE Time Test[6]
		For Investor Companies [2] %	Other %	%	%	%	%	
1	Algeria	15	15	15	15	10	-	3 months
2	Australia	15	15	10	10 or 15 [10]	15 [8]	- or 5[25]	120 days
3	Austria	10	15	10	10	12 [8]	-	6 or 3 months
4	Bangladesh	10	15	10	10	20 [19]	- or 5[25]	183 or 91 days
5	Belgium	10	15	10	10	10 [18]	-	6 or 3 months
6	Brunei Darussalam	15	15	15	15	10	-	3 months or 183 days
7	Bulgaria	15	15	10	10	15 [8]	-	6 months or 120 days
8	Canada	10	15	10	10	15	- or 5 [25]	120 days
9	China	10	10	10	10	10	- or 5[25]	6 months
10	Croatia[28]	10	10	10	10	10 [8]	- or 5 [25]	6 or 3 months
11	Czech Republic	10	15	12.5	12.5	12.5	-	6 or 3 months
12	Denmark	10	20	10	15	15 [8]	-	6 or 3 months
13	Egypt	15	15	15	15	15	- or 5[25, 26]	6 or 3 or 4 months
14	Finland	10	15	10	10 or 15 [11]	15 [8]	- or 5 [25]	6 or 3 months
15	France	10	15	10 or 15 [16]	10	10	- or 5 [25]	6 months or 183 days
16	Germany	10	15	10	15,10, 7.5[12]	10	-	6 months

No	Country [28]	Dividends: For Investor Companies [2] %	Dividends: Other %	Interest [3] %	Royalties [4] %	PE Tax [5] %	Tax on Disposal of shares %	PE Time Test[6]
17	Hungary	15	15	15	15	20 [19]	-	3 or 4 months
18	Hong Kong [28]	5	10	10	5	5 [8]	5 [29]	183 days
19	India	10	15	10	15	10 [8]	-	183 or 91 days
20	Iran	7	7	10	12	7	- or 5 [25]	6 months or 183 day
21	Italy	10	15	10	10 or 15 [7]	12 [8]	-	6 or 3 months
22	Japan	10	15	10	10	10 [8]	-	6 months
23	Jordan	10	10	10	10	20 [19]	5	6 or1 month(s)
24	Korea (North)	10	10	10	10	10	- or 5 [25]	12 or 6 month
25	Korea (South)	10	15	10	15	10 [8]	-	6 or 3 months
26	Kuwait	10	10	5	20	10 [20]	-	3 months
27	Luxembourg	10	15	10	10 or 12.5 [13]	10 [8]	-	5 months
28	Malaysia [24]	10	10	10	10	12.5 [8]	- or 5 [25]	6 or 3 months
29	Mexico	10	10	10	10	10 [8]	- or 5 [25]	6 months or 91 days
30	Mongolia	10	10	10	10	10	-	6 or 3 months
31	Morocco [28]	10	10	10	10	10	- or 5 [25]	6 months or 60 days
32	Netherland	10	10	10 [9]	10	10	-	6 or 3 months
33	New Zealand	15	15	10	15	20 [19]	-	6 or 3 months
34	Norway	15	15	10	10 or 15 [14]	15 [8]	- or 5 [26]	6 or 3 months

No	Country [28]	Dividends: For Investor Companies [2]	Dividends: Other	Interest [3]	Royalties [4]	PE Tax [5]	Tax on Disposal of shares	PE Time Test [6]
		%	%	%	%	%	%	
35	Pakistan	10	15	15	15 [15]	10	- or 5 [25]	3 months
36	Papua New Guinea [28]	15	15	10	10	15	-	120 days
37	Philippines	15	20	10 or 15 [17]	15	20	- or 5 [25]	3 or 6 months or 183 days
38	Poland	10	15	10	15	10 [8]	-	120 or 183 days
39	Portugal	10	10	10	10	10	-	6 days or 183 days
40	Qatar	10	10	10	5	10	-	6 months
41	Romania	12.5	15	12.5	12.5 or 15 [21]	12.5	-	6 or 4 months
42	Russia	15	15	15	15	12.5	-	3 months
43	Seychelles	10	10	10	10	20	-	6 or 3 months
44	Singapore	10	15	10	15	15 [8]	5	183 or 90 Days
45	Slovakia	10	10	10	10 or 15 [22]	10	-	6 months or 91 days
46	South Africa	10	15	10	10	20 [19]	-	6 months or 120 days
47	Spain	10	15	10	10	10	-	183 days or 3 months
48	Sri Lanka	15	15	15	15	20	-	90 days
49	Sudan	10	10	15	10	10	-	6 or 3 months
50	Suriname [28]	15	15	15	15	15	-	6 months or 91 days
51	Sweden	10	15	10	10 or 15 [12]	15	-	6 or 3 months

No	Country (28)	Dividends		Interest (3)	Royalties (4)	PE Tax (5)	Tax on Disposal of shares	PE Time Test[6]
		For Investor Companies (2) %	Other %	%	%	%	%	
52	Switzerland	10	15	10	10	10 (8)	-	183 days
53	Syria	10	10	10	15 or 20 (14)	10	-	6 months or 183 days
54	Taiwan	10	10	10	10	5 (8)	-	6 months or 120 days
55	Thailand	15	20	15	15	20 (19)	5	6 months or 183 days
56	Tunisia	12	12	12	15	12 (8)	-	3 months
57	Turkey	10	15	10	10	10 (8)	- (27)	6 months or 183 days
58	UAE	10	10	5	5	5	-	6 months
59	Ukraine	10	15	10	10	10 (8)	- or 5 (25)	6 or 4months
60	United Kingdom	10	15	10	10 or 15 (18)	10 (8)	-	91 or 183 days
61	United States	10	15	10	10	10 (8)	-	120 days
62	Uzbekistan	10	10	10	10	10 (8)	-	6 or 3 months
63	Venezuela	10	15	10	10 or 20 (23)	10 (8)	- or 5 (25, 26)	6 months
64	Vietnam	15	15	15	15 (15)	10	- or 5 (25)	6 or 3 months
65	Zimbabwe (28)	10	20	10	15	10 or 5 (30)	- or 5 (25)	6 months or 120 days

Notes to summary of DTA Withholding Tax Rate and PE Time Tests:

1. This is a general summary of the current treaty provisions. For more comprehensive information, please refer to the relevant treaty.
2. These rates are applicable only if the shareholders are the beneficial owner of the dividends. The lower rate applies where the recipient holds 25% (10% in the case of South Africa,

Venezuela and Bangladesh) or more of the capital of the paying company (voting shares in Japan). For Thailand, 15% applies to dividends paid to shareholders by companies engaged in industrial undertakings; 20% in other cases. For the Czech Republic, Poland and Ukraine, the lower rate applies if the recipient controls 20% or more of the capital of the paying company. For the UK, the lower rate applies if the recipient controls 15% or more of the voting power.

3. These rates are applicable only where the recipient is the beneficial owner of the interest. With the exception of Switzerland, if amounts are paid to the Government, the Central Bank, or a bank or financial institution specifically mentioned in the treaty, they will be exempted from interest withholding tax.
4. These rates are applicable only where the recipient is the beneficial owner of the royalties. Royalties paid to the Government of Brunei are exempt.
5. Only on amounts actually remitted for Belgium and the Philippines; levied on total after-tax profits for all other countries.
6. Where two periods are stated, the longer one usually applies to a site building, construction, assembly or installation project or supervisory services in connection therewith, and the shorter, consulting and other services. Details of the time test of those activities for each country shall refer to the table from page 56 up to 58.
7. The 10% rate applies to royalties for the use of or information regarding industrial, commercial or scientific equipment or experience; the 15% rate applies to all other royalties.
8. There is a specific provision regarding the application of branch profit tax in production-sharing contracts and mining contracts of work (or similar contracts) in the oil and gas or mining sector concluded by the Government of Indonesia.
9. According to the treaty's provision, the withholding tax rate can be reduced to Nil, as long as certain conditions are met, e.g. interest is paid on long-term borrowings (beyond 2 years). By issuing PER-62/PJ/2009 dated 5 November 2009, the DGT has revoked circular letter No. SE-17/PJ./2005 dated 1 June 2005, stipulating that this provision is not yet exercisable in Indonesia, until both countries' competent authorities agree on the procedures for exempting interest from withholding tax. Accordingly, the procedures for exempting interest from withholding tax is yet to be clarified.
10. The 10% rate applies to the right to use industrial, commercial and scientific information. In all other cases the rate is 15%.
11. The 10% rate applies to copyright of literary and artistic works, including cinematographic films, films, or tapes for television or radio broadcasting. In all other cases the rate is 15%.
12. The 15% rate applies to copyrights, patents, trademarks, secret formulas, literary and artistic works, or designs; the 10% rate applies to the use of / right to use or information regarding industrial, commercial or scientific equipment or experience; the 7.5% rate applies to technical, managerial or consulting services (Germany).
13. The 10% rate applies to fees for technical services; the 12.5% rate applies to royalties.

14. The 10% (20% in the case of Syria) rate applies to patents, trademarks, secret formulas, designs and the use of or right to use industrial, commercial or scientific equipment or experience; the 15% rate applies to copyrights.
15. The 15% rate applies to royalties in all other cases and for technical services as well.
16. The 10% rate is applied if the interest is paid by a bank or financial institution, or by an enterprise the activities of which are mainly carried on in the fields of agriculture, plantation, forestry, fishery, mining, manufacturing, industries, transportation, low-cost housing projects, tourism and infrastructure, and is paid to a bank or to another enterprise; 15% for interest on other types of debt.
17. 10% for interest on public issues of bonds, debentures and similar obligations; 15% for interest on other types of debt.
18. The 10% rate applies to royalties for use of or the right to use industrial, commercial, and scientific equipment; the 15% rate applies to royalties for copyrights, patents, know-how, designs or models, trademarks, plans, secret formulas, or processes.
19. The treaty provisions are silent on the rate. The tax authority interprets this to mean that the rate stipulated by Indonesian Tax Law (i.e. 20%) should apply.
20. Tax is only applicable if profits are remitted to head office within 12 months after the profits accrue.
21. The 12.5% rate applies to patents, trademarks, secret formulas, designs and the use of or right to use industrial, commercial or scientific equipment or experience; the 15% rate applies to copyrights. Further, under article 12 of the Romania-Indonesia DTA, the 10% rate is applied for any payment in relation to commissions.
22. The 10% rate applies to royalties for the use of or the right to use motion picture films, films or videos for use in connection with television, or tapes for use in connection with radio broadcasting; the 15% rate applies in all other cases.
23. The 10% rate applies to fees for technical services; the 20% rate applies to royalties in all other cases.
24. Rates for Malaysia are based on the newly-signed protocol amending the tax treaty between Indonesia and Malaysia which came into force as of 15 July 2010 and is applied effectively on any tax collected from payments or credited or withheld on or after 1 September 2010. The tax treaty with Malaysia does not cover business activity conducted in Labuan offshore, as defined in the Malaysian Labuan Offshore Business Activity Act of 1990.
25. The 5% rate applies to alienation of shares in a company, the assets of which consist wholly or principally of immovable property or real property situated in Indonesia.
26. The 5% rate applies to alienation of shares that represents a certain percentage participation interest in a company.
27. The exemption applies if the holding period between the acquisition and the alienation exceeds 1 (one) year.
28. The agreement shall have effect on or after 1 January 2013.

29. The 5% rateapplies to alienati:>n of shares ofa compa'o/ deriving rmrethan % of s assets value director indirectfrom immovable property, except for the followings:

Thealienation isin the frameworkof a reorganizati:>n ofa compa'o/.a me ger, eissi:>nor a similarope ation.

Thealienation of shares ina compa'o/ deriving more than 50% of s aslets value from immovable property in which carries onits business.

30. The 10% ateapplies in Indonesia;5% rateapplies in Zimbabwe.

Permanent Establishment Time Test

Certain activities conducted in Indonesia for more than certain period may trigger a creation of PE. The following is summary of the period specified in the relevant tax treaties:

No	Country	Construction	Installation	Assembling	Supervisory	Other Services
1	Algeria	3 months	3 months	3 months	3 months	3 months
2	Australia	120 days	120 days	120 days	120 days	120 days
3	Austria	6 months	6 months	6 months	6 months	3 months
4	Bangladesh	183 days	183 days	183 days	183 days	91 days
5	Belgium	6 months	6 months	6 months	6 months	3 months
6	Brunei Darussalam	183 days	3 months	3 months	183 days	3 months
7	Bulgaria	6 months	6 months	6 months	6 months	120 days
8	Canada	120 days	120 days	120 days	120 days	120 days
9	China	6 months	6 months	6 months	6 months	6 months
10	Croatia	6 months	6 months	6 months	6 months	3 months
11	Czech Republic	6 months	6 months	6 months	6 months	3 months
12	Denmark	6 months	3 months	3 months	6 months	3 months
13	Egypt	6 months	4 months	4 months	6 months	3 months
14	Finland	6 months	6 months	6 months	6 months	3 months
15	France	6 months	-	6 months	183 days	183 days
16	Germany	6 months	6 months	-	-	-
17	Hungary	3 months	3 months	3 months	3 months	4 months
18	Hong Kong	183 days	183 days	183 days	183 days	183 days
19	India	183 days	183 days	183 days	183 days	91 days
20	Iran	6 months	6 months	6 months	6 months	183 days
21	Italy	6 months	6 months	6 months	6 months	3 months

No	Country	Construction	Installation	Assembling	Supervisory	Other Services
22	Japan	6 months	6 months	-	6 months	-
23	Jordan	6 months	6 months	6 months	6 months	1 month
24	Korea (North)	12 months	12 months	12 months	12 months	6 months
25	Korea (South)	6 months	6 months	6 months	6 months	3 months
26	Kuwait	3 months	3 months	3 months	3 months	3 months
27	Luxembourg	5 months	5 months	5 months	5 months	-
28	Malaysia	6 months	6 months	6 months	-	3 months
29	Mexico	6 months	6 months	6 months	6 months	91 days
30	Mongolia	6 months	6 months	6 months	6 months	3 months
31	Morocco	6 months	-	6 months	6 months	60 days
32	Netherland	6 months	6 months	6 months	6 months	3 months
33	New Zealand	6 months	6 months	6 months	6 months	3 months
34	Norway	6 months	6 months	6 months	6 months	3 months
35	Pakistan	3 months	3 months	3 months	3 months	-
36	Papua New Guinea	120 days	120 days	120 days	120 days	120 days
37	Philippines	6 months	3 months	3 months	6 months	183 days
38	Poland	183 days	183 days	183 days	183 days	120 days
39	Portugal	6 months	6 months	6 months	6 months	183 days
40	Qatar	6 months	6 months	6 months	6 months	6 months
41	Romania	6 months	6 months	6 months	6 months	4 months
42	Russia	3 months	3 months	3 months	3 months	-
43	Seychelles	6 months	6 months	6 months	6 months	3 months
44	Singapore	183 days	183 days	183 days	-	90 days
45	Slovakia	6 months	6 months	6 months	6 months	91 days
46	South Africa	6 months	6 months	6 months	6 months	120 days

No	Country	Construction	Installation	Assembling	Supervisory	Other Services
47	Spain	183 days	183 days	183 days	183 days	3 months
48	Sri Lanka	90 days	90 days	90 days	90 days	90 days
49	Sudan	6 months	6 months	6 months	6 months	3 months
50	Suriname	6 months	6 months	6 months	6 months	91 days
51	Sweden	6 months	6 months	6 months	6 months	3 months
52	Switzerland	183 days	183 days	183 days	183 days	-
53	Syria	6 months	6 months	6 months	6 months	183 days
54	Taiwan	6 months	6 months	6 months	6 months	120 days
55	Thailand	6 months	6 months	6 months	6 months	6 months
56	Tunisia	3 months	3 months	3 months	3 months	3 months
57	Turkey	6 months	6 months	6 months	6 months	183 days
58	UAE	6 months	6 months	6 months	6 months	6 months
59	Ukraine	6 months	6 months	6 months	6 months	4 months
60	United Kingdom	183 days	183 days	183 days	183 days	91 days
61	United States	120 days	120 days	120 days	120 days	120 days
62	Uzbekistan	6 months	6 months	6 months	6 months	3 months
63	Venezuela	6 months	6 months	6 months	6 months	-
64	Vietnam	6 months	6 months	6 months	6 months	3 months
65	Zimbabwe	6 months	6 months	6 months	6 months	120 days

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