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International tax

Indonesia Highlights 2012

Investment basics:

Currency – Indonesian Rupiah (IDR)

Foreign exchange control – The rupiah is freely convertible. However, approval of Bank Indonesia (central bank) must be obtained before taking IDR 100 million (or its equivalent in foreign currency) or more out of the country. A person carrying IDR 100 million (or its equivalent in foreign currency) or more into the Indonesian customs territory must verify the authenticity of the funds with Indonesian customs upon arrival. Indonesia does not restrict the transfer of funds to or from foreign countries, but banks must report transfers of funds to foreign countries to Bank Indonesia. There is no set minimum transfer amount for reporting purposes.

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

Accounting principles/financial statements – Indonesian GAAP applies.

Principal business entities – The limited liability company (*Perseroan Terbatas* or "PT") is the most common form of business entity in Indonesia. Foreign companies are allowed to set up a PT or representative office. Branches of foreign corporations normally are not permitted except for construction, oil and gas and banking services. Foreign companies should refer to the negative investment list for the list of sectors that are partially or wholly closed to foreign investment.

Corporate taxation:

Residence – A company is a resident if it is established or domiciled in Indonesia.

Basis – Resident companies are taxed on worldwide income. Nonresident companies are taxed only on income sourced in Indonesia, including income attributable to a permanent establishment in the country.

Taxable income – Taxable net income is defined as assessable income less tax-deductible expenses.

Taxation of dividends – Dividends paid by a domestic corporate taxpayer to a resident company are subject to a 15% withholding tax, which represents an advance payment of tax liability. See also "Participation exemption."

Capital gains – Capital gains are taxable as ordinary income and capital losses are tax-deductible. Gains from certain transactions are taxed under a special regime (e.g. gains from the disposal of land and/or buildings are subject to a final 5% tax of the transaction value).

Losses – Losses may be carried forward for 5 years following the year the loss was incurred (this period may be extended to 10 years for certain industries and for operations in remote areas). Losses may not be carried back.

Rate – The corporate tax rate is 25%. Resident corporate taxpayers with gross revenue up to IDR 50 billion receive a 50% reduction in the corporate tax rate imposed on the taxable income for gross revenue up to IDR 4.8 billion.

Surtax – No

Alternative minimum tax – No

Foreign tax credit – Resident companies deriving income from foreign sources are entitled to a unilateral tax credit with respect to foreign tax paid on the income. The credit is limited to the amount of Indonesian tax.

Participation exemption – Dividends received or derived by a resident company from participation in another Indonesian limited liability company are exempt from tax if the recipient holds at least 25% of the shares of the payer and the dividends are from retained earnings.

Holding company regime – No

Incentives – Tax incentives are available to entities with capital investments in certain approved industry sectors or those operating in certain geographic locations. Incentives include a 30% tax investment allowance (5% per year), accelerated depreciation, the carryforward of losses up to 10 years and a reduced withholding tax rate of 10% on dividends paid to nonresidents. An income tax reduction of 5% may be available to companies listed on the Indonesian stock exchange if certain conditions are satisfied.

Indonesia has a new tax holiday regime for new domestic or foreign investment in specified business sectors. It provides beneficial tax treatment to manufacturing projects in high priority sectors (i.e. base metals, oil refining/ petrochemicals, machinery, renewable energy and telecommunication equipment) and remote areas. The tax incentives are as follows: (a) an exemption from corporate income tax for 5 to 10 years beginning from the date commercial production commences; (b) a 2-year 50% reduction in corporate income tax liability after the end of the tax holiday period; and (c) an extension of the exemption or reduction in corporate income tax depending on the competitiveness and strategic value of the industry.

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

Withholding tax:

Dividends – Dividends paid by a domestic corporate taxpayer to a nonresident are subject to a 20% withholding tax (which is considered a final tax) unless the rate is reduced under a tax treaty. A 10% withholding tax is imposed on dividends paid to a resident individual; the withholding tax is final.

Interest – Interest paid to a nonresident is subject to a 20% withholding tax, unless the rate is reduced under a tax treaty. Interest paid by a domestic taxpayer to a resident is subject to a 15% withholding tax, which represents an advance payment of tax liability.

Royalties – A 20% withholding tax is imposed on royalties remitted abroad, unless the rate is reduced under a tax treaty. For tax purposes, royalties refer to any charge for the use of property or know-how in Indonesia, as well as 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, with the payment representing an advance payment of tax liability.

Technical service fees – A 2% withholding tax applies on gross payments made by a domestic taxpayer to a resident taxpayer for technical, management and consulting services and rentals (except for land and building rentals). Under the domestic tax law, a 20% withholding tax is imposed on technical service fees remitted abroad. The rate may be reduced or exempted under a tax treaty, subject to standard rules.

Branch remittance tax – Permanent establishments are subject to a 20% branch profits tax on after-tax profits. This rate may be reduced under a tax treaty.

Other – See "Technical services fees," above.

Other taxes on corporations:

Capital duty – No, but various registration fees apply.

Payroll tax – An employer is required to withhold, remit and report income tax on the employment income of its employees.

Real property tax – Land and building tax is payable annually on land, buildings and permanent structures. The rate is typically not more than 0.3% of the sale value of the property.

Social security – An employer must contribute to Indonesia's social security system if it employs 10 or more individuals or maintains a payroll expense of at least IDR 1 million per month. The employer's contribution for old-age compensation is 3.7%.

Stamp duty – Certain documents are subject to stamp duty at a nominal amount of IDR 3,000 or IDR 6,000.

Transfer tax – An acquisition of land or a building is subject to duty at a maximum 5% of the object's acquisition value. Each taxpayer is entitled to a non-taxable threshold with a minimum of IDR 60 million.

Other – Sales of shares listed on the Indonesian stock exchange are subject to a final tax of 0.1% of the transaction value; an additional tax of 0.5% applies to the share value of founder shares at the time of an initial public offering. The transfer of a non-listed 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.

Anti-avoidance rules:

Transfer pricing – Transactions between parties that have a special relationship must be carried out in a "commercially justifiable way" and on an arm's length basis. Documentation is required, which at a minimum should cover an overview of the taxpayer's business operation and structure, its transfer pricing policy, comparability analysis, selected comparables and an explanation of how the arm's length price or profit was determined (including the transfer pricing methodology). The authorities have issued detailed transfer pricing guidelines, which, in principle, are in line with the OECD's approach.

Thin capitalization – Indonesia does not have specific rules on thin capitalization, but the general law authorizes the Ministry of Finance to determine the debt-to-equity ratio of companies for tax calculation purposes.

Controlled foreign companies – The Ministry of Finance is authorized to determine when a dividend is deemed to be derived from a foreign company established in another country where an Indonesian resident taxpayer holds at least 50% of the paid-up capital of the foreign company or, together with other resident taxpayers, holds at least 50% of the paid-up capital. This applies only if the foreign company does not trade its shares on the stock exchange. If no dividends are declared or derived from the offshore company, the resident taxpayer must calculate and report the deemed dividend in its tax return; otherwise, the Ministry of Finance will do so. The dividend is deemed to be derived either in the fourth month following the deadline for filing the tax return in the offshore country or 7 months after the offshore company's tax year ends if the country does not have a specific tax filing deadline.

Other – No

Disclosure requirements – A taxpayer must provide certain information regarding transfer pricing transactions with related parties in an attachment to the annual tax return. The information will be maintained by the tax authorities and may be tested by tax auditors in the course of a tax audit.

Administration and compliance:

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

Consolidated returns – Consolidated returns are not permitted; each company must file a separate return.

Filing requirements – The monthly tax installment operates under a self-assessment system, with tax due on the 15th day of the calendar month following the tax-assessment month. The monthly tax installment must be filed by the 20th of the following month. Annual corporate tax returns must be filed within 4 months of the end of the book year.

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

Rulings – The Minister of Finance and the Director General of Taxation may issue rulings in certain cases, such as the determination of debt-to-equity ratios or the tax effects of a proposed transaction.

Personal taxation:

Basis – Individuals resident in Indonesia are taxed on their worldwide gross income less allowable deductions and nontaxable income.

Residence – An individual is resident if he/she is present in Indonesia for 183 days or more in any 12-month period or present in Indonesia in the fiscal year and intends to reside in Indonesia. An individual is nonresident if he/she is present in Indonesia for less than 183 days with no intention to reside in the country. A nonresident is not required to register for tax purposes.

Filing status – The family is considered a single economic unit; hence, joint filing is required. Separate filing is allowed only if there is a pre-nuptial agreement between the husband and wife.

Taxable income – Taxable income of individuals includes profits from a business, employment income, capital gains, etc.

Capital gains – Capital gains derived by an individual are taxed as ordinary income at the normal rates; gains on shares listed in Indonesia 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 are taxed at 5% (final tax) of the transaction value.

Deductions and allowances – An individual who conducts a business may deduct expenses from business income. Expenses generally are deductible if they are incurred for the purposes of generating income. Allowances are provided for the taxpayer, the taxpayer's spouse and up to 3 dependent children.

Rates – Personal tax rates are 5% on the first IDR 50 million of annual taxable income; 15% on amounts exceeding IDR 50 million up to IDR 250 million; 25% on amounts exceeding IDR 250 million up to IDR 500 million; and 30% on amounts exceeding IDR 500 million.

Other taxes on individuals:

Capital duty – There are no taxes on capital or assets, apart from the land and building tax.

Stamp duty – Certain documents are subject to stamp duty at a nominal amount of IDR 3,000 or IDR 6,000.

Capital acquisitions tax – No

Real property tax – Land and building tax is payable annually on land, buildings and permanent structures. The rate is typically no more than 0.3% of the sale value of the property. The acquisition of land or a building is subject to duty at a maximum 5% of the object's acquisition value. Each taxpayer is entitled to a non-taxable threshold with a minimum of IDR 60 million.

Inheritance/estate tax – No

Net wealth/net worth tax – No

Social security – Employed individuals who are residents of Indonesia must make social security contributions in an amount equal to 2% of monthly compensation.

Administration and compliance:

Tax year – Calendar year

Filing and payment – Personal income taxes in Indonesia are levied only at the national level. The law makes employers responsible for calculating, deducting and remitting tax due on employees' salaries and other remuneration. Most non-salaried taxpayers assess their own taxable income and must file their taxes by 31 March after the close of the previous tax year. Individual taxpayers who conduct a business or independent profession may elect to be exempt from the accounting requirement and only maintain records of revenue. In that case, taxable income is assessed based on deemed profits.

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

Value added tax:

Taxable transactions – VAT is levied on the "delivery" of taxable goods and the provision of taxable services. In general, delivery means sale, but this is not always the case. VAT also applies to intangible goods (including royalties) and to virtually all services provided outside Indonesia to Indonesian businesses. 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. Certain goods and services are non-taxable for VAT purposes.

Rates – The standard rate is 10%. VAT on 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.

Registration – Entrepreneurs exceeding a certain amount in annual sales of taxable goods and/or taxable services are required to register for VAT purposes and issue a VAT invoice on the delivery of taxable goods and/or taxable services.

Filing and payment – A monthly VAT return must be filed by the 20th of the following month, while the monthly VAT payment deadline is before the VAT return is filed.

Source of tax law: VAT Law 18/2000 as amended by Law 42/2009; Income Tax Law 17/2000, as amended by Law 36/2008; General Rules & Procedures of Taxation Law 16/2000, as amended by Law 28/2007

Tax treaties: Indonesia has concluded almost 60 tax treaties.

Tax authorities: Director General of Taxation

International organizations: WTO, OPEC

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