



*cutting through complexity*

# Indonesia Tax Profile

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# 1 Corporate Income Tax

## Corporate Income Tax

Income tax

## Tax Rate

The corporate tax rate is 25 percent.

Listed companies which meet certain conditions are eligible for a five percent reduction in the corporate tax rate.

A company with gross turnover of less than IDR 50 billion (approximately USD 5.5 million) is eligible for a 50 percent reduction in the corporate tax rate on the proportion of taxable income which results when IDR 4.8 billion is divided by the gross annual turnover. Where gross turnover is below IDR 4.8 billion, the reduction applies on all taxable income.

## Residence

A company will be resident in Indonesia if it is incorporated in Indonesia.

Non-resident companies are those which are incorporated overseas, but receive or accrue income from Indonesia. Non-residents are obliged to register for tax purposes if they have a permanent establishment (PE) in Indonesia.

Representative Offices of foreign companies are also required to register as taxpayers, even though they may not be a PE. This is necessary as the Representative Office will have to withhold tax on payments to employees and third parties and lodge relevant tax returns.

## Compliance requirements

Companies are required to self-assess and lodge annual corporate income tax returns. The annual corporate tax returns must be lodged with the relevant Tax Office within four months after the end of the calendar year or tax year, and this deadline may be extended for two months by notifying the Director General of Taxation.

## International Withholding Tax Rates

Withholding tax is imposed at 20 percent on various amounts payable to non-residents (e.g. dividends, interest and royalties), unless the non-resident has a permanent establishment in Indonesia, whereby the rates applicable to payments to residents apply.

The withholding tax rate may be reduced where the foreign resident is exempt or eligible for a reduced rate by virtue of a tax treaty. In order to qualify for any relief under a relevant tax treaty, non-residents must provide a certificate from the tax authority in their country of residence (Form DGT1 for most taxpayers). In most cases, the withholding liability arises when the expense is incurred, not when the payment is made.

Permanent Establishment's of foreign enterprises are also subject to an additional 20 percent Branch Profits tax on their after-tax income, unless eligible for a reduced rate by virtue of a tax treaty.



## **Holding rules**

Dividends paid from an Indonesian resident subsidiary to a non-resident parent will be subject to 20 percent withholding tax or a reduced rate if the non-resident parent resides in a tax treaty country and can meet the requirements to utilize the tax treaty provisions.

Capital gains, regardless of the reason for the disposal of the asset, are taxable.

Certain tax treaties provide an exemption on capital gains on the sale of unlisted shares by the non-resident shareholders, provided that Form DGT-1 is available. In the case that no exemption is available, the sale of unlisted shares is subject to five percent withholding tax on the total transaction value (gross proceeds) and in this case, an independent appraisal report is required to demonstrate that the transaction value is an arms-length price.

## **Tax Losses**

Losses can be carried forward for a period of five years. However, in certain circumstances this may be extended to 10 years under special facilities available for certain regions and/or industries.

Changes in shareholders do not affect the validity of the carried forward losses. Capital losses are treated the same as operating losses provided that the losses are reasonable based on sound market practice. No foreign losses can be included in the tax computation.

There are no loss carry back provisions in Indonesian tax law.

## **Tax Consolidation / Group relief**

No provision exists for grouping or consolidation under Indonesian law.

## **Transfer of listed shares**

Transfers of shares listed on the Indonesian stock exchange are subject to a final transfer tax of 0.1 percent. Founder shares are subject to an additional final tax of 0.5 percent on listing.

## **Transfer of assets**

On the transfer of title of land and buildings, five percent income tax (final) and five percent title transfer tax will apply.

## **CFC rules**

Indonesia has a CFC regime.

A CFC is defined as a foreign unlisted corporation in which an Indonesian resident individual or corporate shareholders, either individually or as a group, hold 50 percent or more of the total paid in capital. Listed corporations are not CFCs. The Indonesian shareholders shall be deemed to receive dividends within four months after filing the tax return; or seven months after the end of the fiscal year where there is no obligation to file an annual tax return, or there is no specific deadline of filing in the country of residence of the CFC.



## **Transfer Pricing**

Indonesia has transfer pricing provisions.

Where the tax authority considers that transactions have not been conducted at arm's length due to the existence of a "special relationship" between the parties, the consideration paid may be adjusted. The tax authority's power extends to all domestic and cross border transactions.

The limited regulations/guidelines which have been issued with regard to transfer pricing are now largely in line with the 2010 OECD Transfer Pricing Guidelines, although guidance to auditors and the rules prior to November 2011 suggest that a hierarchical approach should be taken to the selection of methodology, and the limited nature of the OECD Guidelines allows for broad interpretations.

The Indonesian Tax Office (ITO) may enter into Advance Pricing Agreements (APA) on prices with companies and other tax jurisdictions under certain cases and requirements.

Mutual Agreement Procedure (MAP) applications can be processed simultaneously with a taxpayer's submission of an objection, appeal, or application for the reduction or cancellation of a tax assessment notice.

## **Thin Capitalisation**

Where a "special relationship" exists between parties, interest may be disallowed as a deduction where such charges are considered excessive, such as interest rates in excess of commercial rates. Interest-free loans from shareholders may, in certain cases, create a risk of deemed interest being imposed, giving rise to withholding tax obligations for the borrower.

The law allows the tax authority to issue a decree defining the maximum ratio of debt to equity in determining deductible interest. However, such a decree has not yet been finalised (the draft proposal was for a 5:1 ratio). Special rules on tax deductibility of interest apply in the mining, and oil and gas sectors.

## **General Anti-avoidance**

No general anti-avoidance rules apply other than mentioned above.

## **Anti-treaty shopping**

To utilize the tax treaty provisions, a non-resident must confirm in Form DGT-1 (for non-resident banks, they must use Form DGT-2) that the transaction has economic substance and is not solely designed to take advantage of tax treaty benefits.

## **Other specific anti-avoidance rules**

No other specific anti-avoidance regimes rules apply.

## **Rulings**

Indonesia has a ruling system in place. However, tax rulings are not generally published, and are only applicable to the relevant tax payer that requested such ruling.



<b>Intellectual Property Incentives</b>	None
<b>R&amp;D Incentives</b>	Research and development undertaken in Indonesia is deductible expenditure.
<b>Other incentives</b>	Other tax incentives are available for certain entities in specific industries, including: <ul style="list-style-type: none"> <li>▪ Tax holidays</li> <li>▪ Tax exemptions for certain transactions, e.g. merger and spin-off, and newly established foreign owned company</li> <li>▪ Income tax relief on investment in certain business and/or certain regions in the form of additional deductions, accelerated tax depreciation, and extended loss carry forward periods.</li> </ul>
<b>Hybrid Instruments</b>	The treatment of hybrid instruments for tax purposes will generally follow the accounting treatment, and the related tax obligations will be determined based on such accounting treatment.
<b>Hybrid entities</b>	There are no specific rules that apply to hybrid entities in Indonesia.
<b>Special tax regimes for specific industries or sectors</b>	As of May 2015, income tax relief is available for investments in 24 selected sectors (66 sub-sectors) and/or 16 selected sectors in selected locations (77 sub-sectors). The selected business sectors are economic sectors that have high priority on a national scale, particularly in respect of boosting exports. The selected regions are remote regions, which are economically potentially worthy of development, but whose economic infrastructure is generally inadequate, and where access by public transport is difficult.

## Related Business Factors

### *Forms of legal entities typically used for conducting business*

Limited liability companies are the typical legal entity used for conducting business in Indonesia. A limited liability company with a foreign shareholder(s), known as PMA Companies, are the only form permitted under the Foreign Investment Law.

A PMA Company is currently not allowed to be a pure holding company. Indonesian residents can establish regular limited liability companies ("PT Biasa" or "PT PMDN") to hold offshore investments. These companies are allowed to be established as pure holding companies.

### *Capital requirements for establishing a legal entity*

There is no general capital requirement for establishing a legal entity. Rather, the Indonesia Investment Co-ordinating Board ("BKPM") will assess each entity on its facts and circumstances and set a minimum capital requirement for establishing that particular entity. However, there must be a debt to equity ratio of 3:1 on the investment amount.

In practice, as a general guide, the BKPM will require a minimum of USD250,000 of share capital for establishing a service company.

### *Other local requirements for establishing a legal entity*

Foreigners are generally permitted to invest with no restriction on the maximum size of the investment, the source of funds (subject to 3:1 debt to equity ratio) or whether the products are destined for export or the domestic market.

However, there are certain industry sectors which are closed or restricted to limited foreign investment ownership (must have a local partner) on the Investment Negative List.

### *Foreign exchange control rules*

There are no foreign exchange restrictions in Indonesia, but there are some administrative reporting requirements for transfers exceeding USD10,000 (disclosure of the underlying transaction of this transfer).

### *Use of Indonesian Rupiah ("IDR") for transactions in Indonesia*

Unlike before where a foreign currency could be used in invoices (normally the USD), as of 1 July 2015, it is mandatory to use IDR for all transactions (either cash or non-cash settlements) conducted in the territory of Indonesia. There are certain limited exceptions for this requirement.

## 2 International Treaties for the Avoidance of Double Taxation

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

Source: <http://www.pajak.go.id/>

### 3 Indirect Tax (e.g. VAT/GST)

**Indirect Tax**

Value Added Tax (VAT)

**Standard Rate**

The standard rate of VAT in Indonesia is 10 percent and applies to goods, services and imports into Indonesia.

Exports of goods are subject to zero percent VAT, however only certain exports of services are entitled to zero percent VAT, i.e. subcontracting services, repair and maintenance services attached to movable goods utilized outside of the Indonesian customs area and construction services attached to immovable goods situated outside of the Indonesian customs area.

**Further information**

For more detailed information regarding the VAT in Indonesia, refer to:

[KPMG Asia Pacific Indirect Tax Guide](#)



## 4 Personal taxation

### Income Tax

Personal tax

### Top Rate

The top marginal personal tax rate is 30 percent and applies to taxable income exceeding IDR 500 million.

### Social Security

Healthcare Insurance, managed by the newly established Healthcare and Social Security Agency (Badan Penyelenggara Jaminan Sosial Kesehatan or "BPJS Kesehatan"), previously Social Security Agency (Jamsostek), requires the following contributions:

- Employer's contribution: 4 percent up to maximum IDR 189,000
- Employee's contribution: 0.5 percent up to maximum IDR 23,625 (starting 1 July 2015 onwards this contribution would be 1 percent up to maximum IDR 47,250)

The above rates are applied to basic salary and fixed allowances up to a maximum of IDR 4,725,000 per month.

We are still waiting for regulations regarding implementation and expatriate participation. The previously issued Minister of Manpower and Transmigration Regulation No. PER.02/MEN/XII/2004 states that employers do not have an obligation to register expatriates in Jamsostek as long as the expatriates already have similar coverage in their home country. We are looking forward to hearing further clarification of whether any similar exemption will be available for the new program considering that Indonesia does not have a Totalization Agreement (International Social Security Agreement) with any other country.

### Further information

For more detailed information regarding the personal taxation matters in Indonesia, refer to:

[KPMG's Thinking Beyond Borders](#)



## 5 Other Taxes

### Customs duty

Customs duties are imposed on items imported into Indonesia, generally on an ad valorem basis.

Duties are payable based on the Harmonized System (HS) classification. Duties are based on the cost, insurance and freight (CIF) value of the imported item and, in general, are imposed at rates of zero percent to 20 percent for most goods, 25 percent to 80 percent for cars, and 170 percent for alcoholic drinks. The Indonesian customs procedures are based upon General Agreement on Tariffs and Trade (GATT) principles.

### Excise duty

Excise duties are levied on specific products whose consumption is restricted or controlled, namely alcoholic beverages and tobacco products.

### Stamp duty

A stamp duty tax of either IDR 3,000 or IDR 6,000 is charged on certain documents such as receipts, agreements, powers of attorney and other legal documents.

### Tax on land and buildings

This is a tax levied on the holding of land or buildings within Indonesia. The tax authority, or in practice - delegated regional authorities, will initially determine who the taxpayer is and issue a 'report on the tax object' to that property. Normally, the owner is responsible for paying the tax due.

Tax is currently imposed at 20 percent or 40 percent of the full statutory rate, which is 0.5 percent of the sales value of the tax object. Thus, the actual tax rate is 0.1 percent or 0.2 percent. The sales value is the actual transaction price or, in the absence of a transaction, the price of a similar object can be used. The law provides that the sales value is to be fixed every three years, except for certain areas where it is fixed annually.

### Property title transfer tax

A transfer tax is payable on every transfer of title of land, or land and buildings. The taxpayer is the recipient of the rights. The tax is five percent of the transfer price and there is a non-taxable amount of IDR 60 million. The amount to be taxed is the acquisition cost. If the deemed sale value determined for land and buildings tax purposes is higher, that amount will be used as the basis for the transfer tax.

Certain reductions and exemptions apply.

### Regional and local taxes

Regional and local taxes include: entertainment tax, advertisement tax, motor vehicle taxes, hotel and restaurant tax, street lighting tax, and tax on the use of underground and surface water.



## 6 Free Trade Agreements

### In force

- The ASEAN Trade in Goods Agreement (ATIGA)
- ASEAN – Australia New Zealand Free Trade Agreement
- ASEAN – China Free Trade Agreement
- ASEAN – India Free Trade Agreement
- ASEAN – Republic of Korea Free Trade Agreement
- Indonesia – Japan Free Trade Agreement / Indonesia – Japan Economic Partnership Agreement (IJEPA)
- Indonesia – Pakistan Free Trade Agreement

# 7 Tax Authority

## Tax Authority

[Direktorat Jenderal Pajak](#)

## Tax audit activity

The tax authority predominantly adopts a risk based approach to the selection of returns for audit, and can also select candidates for audit by random selection. Refunds of tax will usually result in a tax audit being opened. Most listed companies are subject to an annual tax audit.

A typical tax audit commences with a site visit followed by submitting all the required information. The tax auditor will also ask questions and require additional documents for the taxpayer's response, including reconciliations between the tax returns and the financial statements. Audits into any given return generally last 12 months.

The tax authority's approach to tax audits is largely a manual approach, including detailed consideration of invoices and key documents.

Key focus areas for the tax authority in tax audits conducted in recent years have included:

- Transfer pricing
- Deductibility of expenses and taxability of income
- Compliance with withholding tax obligation
- Compliance with VAT obligation

## Appeals

If there is any dispute with the tax assessments, a taxpayer is allowed to file an objection. A taxpayer can then submit an appeal to the Tax Court on the disputed tax audit results. Each process will take 12 months to complete, but an appeal process can be extended further.

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