

Tax Services

Indonesian Pocket Tax Book 2010

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PRICEWATERHOUSECOOPERS 

Contents

Corporate Income Tax	1
Tax rates; Tax residence; Tax payments; Business profits; Disallowed deductions; Losses; Profit distributions; Deemed profit margins; Special industries and activities; Tax concessions; Transfer Pricing	
Individual Income Tax	15
Tax rates; Main personal relief; Tax residence; Registration and filing; Tax payments; Exit tax; Benefits-in-kind; Jamsostek – social security; Deemed salaries	
Withholding Taxes	24
Tax Treaties	32
Capital Allowances	42
Depreciation; Asset transfers; Revaluation of fixed assets	
Value Added Tax	48
General; Tax facilities; VAT and LST in Batam	
Luxury Sales Tax	63
Taxable goods other than motor vehicles; Motor vehicles	
Stamp Duty	69
Land and Building	71
Tax Payments and Tax Return Filing	76
Accounting for Tax	81
Tax Assessments and Tax Audits	83
Tax Collection Using Distress Warrant	89
Tax Dispute and Resolution	91
Objections and appeals; Another avenue for tax dispute resolution; Judicial Review requests to the supreme court	
Import Duty	96
ASEAN duty rates, FTA Agreement Duty Rates, Duty relief/exemption/ deferral; BKPM masterlist facility; Bonded zone; Bonded warehouse; KITE (Kemudahan Impor Tujuan Ekspor, previously BAPEKSTA/BINTEK) facilities; FTZ in Batam, Bintan, Karimun; MITA Lanes; Import licenses; Customs compliance environment and administrative penalties	
Contacts	101

Corporate Income Tax

Tax rates

A flat rate of 25% applies from 2010. Public companies that satisfy a minimum listing requirement of 40% and other conditions are entitled to a tax discount of 5% off the standard rate, giving them an effective tax rate of 20% (Refer to page 11). Small enterprises, i.e. corporate taxpayers with an annual turnover of not more than Rp50 billion, are entitled to a tax discount of 50% off the standard rate which is imposed proportionally on taxable income of the part of gross turnover up to Rp4.8 billion.

Tax residence

A company is treated as a resident of Indonesia for tax purposes by virtue of having its establishment or its place of management in Indonesia. A foreign company carrying out business activities through a permanent establishment (PE) in Indonesia will generally have to assume the same tax obligations as a resident taxpayer.

Tax payments

Resident taxpayers and Indonesian PEs of foreign companies have to settle their tax liabilities either by direct payments, third party withholdings, or a combination of

both. Foreign companies without a PE in Indonesia have to settle their tax liabilities for their Indonesian-sourced income through withholding of the tax by the Indonesian party paying the income.

Monthly tax instalments (Article 25 income tax) constitute the first part of tax payments to be made by resident taxpayers and Indonesian PEs as a prepayment of their current year corporate income tax liability. A monthly tax instalment is generally calculated using the most recent corporate tax return. Special instalment calculations apply for new taxpayers, finance lease companies, banks and state-owned companies.

The tax withheld by third parties on certain income (Article 23 income tax) or tax to be paid in advance on certain transactions (e.g., Article 22 income tax on imports) also constitute prepayments for the current year corporate tax liability of the income recipient or the party conducting the import. (Refer to pages 28-30 for income items subject to Article 23 income tax and pages 24-26 for transactions subject to Article 22 income tax.)

If the total amounts of tax paid in advance through the year (Articles 22, 23, and 25 income taxes) and the tax paid abroad (Article 24 income tax) are less than the total corporate tax due, the company concerned has to settle the shortfall before filing its corporate income tax return. Such a payment is referred to as Article 29 income tax.

Certain types of income earned by resident taxpayers or Indonesian PEs are subject to final income tax. In this respect, the tax withheld by third parties (referred to as Article 4.2 income tax) constitutes the final settlement of the income tax for that particular income. (Refer to pages 27-28 for income items subject to final income tax under Article 4.2.)

For foreign companies without a PE in Indonesia, the tax withheld from their Indonesia-sourced income by the Indonesian party paying the income (Article 26 income tax) constitutes a final settlement of their income tax due. (Refer to pages 30-31 for income items subject to Article 26 income tax.)

Business profits

Taxable business profits are calculated on the basis of normal accounting principles as modified by certain tax adjustments. Generally, a deduction is allowed for all expenditure incurred to obtain, collect, and maintain taxable business profits. A timing difference may arise if an expenditure recorded as an expense for accounting can not be immediately claimed as a deduction for tax.

Disallowed deductions

These include:

- a. Benefits-in-kind (BIKs) (e.g., free housing, 50% of the acquisition and maintenance costs of certain company

provided cars), except food and drink provided to all employees, employee benefits required for job performance such as protective clothing and uniforms, transportation costs to and from the place of work, accommodation for ship crews and the like, the cost of providing BIKs in remote areas, and 50% of the acquisition and maintenance costs of cellular phones;

- b. Private expenses;
- c. Non-business gifts and aid, except *zakat* (Islamic alms);
- d. Provisions: However, certain types of provision are claimable as deductible expenses: provision for doubtful accounts for banking and financing companies, insurance claims provision for insurance companies, deposit security provision for the Deposit Insurance Corporation (*LPS*), reclamation provision for mining companies, forestation provision for forestry companies, and area closure and maintenance provision for industrial waste processing businesses;
- e. Income tax payments;
- f. Tax penalties;
- g. Profit distributions;
- h. Employer contributions for life, health and accident insurance and contributions to unapproved pension funds, unless the contributions are treated as part of the taxable income of employees;
- i. Expenses relating to income which is taxed at a final rate, e.g., interest on loans relating to time deposits;
- j. Expenses relating to income which is exempt from tax, e.g., interest on loans used to buy shares where

- dividends to be received are not subject to income tax;
- k. Salaries or compensation received by partnership or *firmas* members where their participation is not divided into shares.

Losses

Losses may be carried forward for a maximum of five years. However, for a limited category of businesses in certain regions or businesses subject to certain concessions, the period can be extended for up to ten years. The carrying-back of losses is not allowed. Tax consolidation is not available.

Profit distributions

Tax is withheld from dividends as follows:

- a. Resident recipients
Dividends received from an Indonesian company by a limited liability company incorporated in Indonesia (*PT*), a cooperative, or a state-owned company (*BUMN/ BUMD*), are exempt from income tax if the following conditions are met:
 - the dividends are paid out of retained earnings; and
 - the company earning the dividends holds at least 25% of the paid-in capital in the company distributing the dividends;

If these conditions are not met, the dividends are assessable to the company earning the dividends at

the ordinary tax rates alongside the company's other income. Upon declaration, dividends are subject to Article 23 income tax at 15%, which constitutes a prepayment of the corporate tax liability for the company earning the dividends.

Dividends received by *firmas*, *commanditaires*, foundations and similar organisations are always subject to 15% withholding tax.

Dividends received by resident individual taxpayers are subject to final income tax at a maximum rate of 10%.

b. Non-resident recipients:

20% (lower for treaty countries) final withholding tax is due on dividends paid to a non-resident recipient.

Deemed profit margins

The following businesses have deemed profit margins for tax purposes:

	Deemed Profit on Gross Revenue	Effective Income Tax Rate
Domestic shipping operations	4%	1.20% ¹
Domestic airline operations	6%	1.80%

Foreign shipping and airline operations	6%	2.64% ¹
Foreign oil and gas drilling operations	15%	3.75% ²
Certain Ministry of Trade representative office	1% of export value	0.25% ²

¹ The effective income tax rate (eitr) is calculated using the old tax rate of 30% because the Minister of Finance (MoF) has not revised the decrees which regulate the deemed profit margins.

² The eitr is calculated using the current tax rate of 25%, BPT rate varies according to availability of a reduced rate based on tax treaties.

For toll manufacturing services relating to children's toys rendered by a resident company to its foreign affiliates, taxable income is deemed to be 7% of the total manufacturing costs, excluding direct materials, and taxable at 25%.

Special Industries and activities

Companies engaged in upstream oil and gas and geothermal industries typically have to calculate corporate income tax in accordance with their production sharing contracts (PSCs). Certain companies engaged in metal, mineral and coal mining are governed by a contract of work (CoW) for the income tax calculation. Different provisions may apply to them pertaining to corporate tax

rates, deductible expenses and how to calculate taxable income.

Tax concessions

Tax neutral-mergers

Transfers of assets in business mergers, consolidations, or business splits must generally be at market value. Gains resulting from this kind of restructuring are assessable, while losses are generally claimable as a deduction from income.

However, a tax-neutral merger or consolidation, under which assets are transferred at book value, can be conducted but subject to the approval of the Director General of Tax (DGT). To obtain this approval, the merger or consolidation plan in question must pass a business-purpose test. Tax-driven arrangements are prohibited and therefore tax losses from the combining companies may not be passed to the surviving company.

Subject to a similar, specific DGT approval, the same concession is also available for business splits which constitute part of an initial public offering (IPO) plan. In this case, within one year of the DGT's approval being given, the company concerned must have made an effective declaration about registration for an IPO with the Capital Market and Financial Institution Supervisory Agency (*BAPEPAM-LK*). In the event of complications beyond the

company's control, the period can be extended by the DGT for up to four years.

Investment incentives

The DGT, on behalf of the Minister of Finance (MoF) and based on the recommendation of the Investment Coordinating Board (*BKPM*) chairman, may provide the following tax concessions to PT companies following their investment in certain designated business areas or in certain designated regions:

- A reduction in net income of up to 30% of the amount invested, prorated at 5% for six years of the commercial production, provided that the assets invested are not transferred out within six years;
- Acceleration of fiscal depreciation deductions;
- Extension of tax loss carry-forwards for up to ten years;
- A reduction of the withholding tax rate on dividends paid to non-residents to 10%.

The designated business areas include the following:

- a. Food industries
- b. Garment and textiles
- c. Pulp and paper
- d. Industrial chemical materials
- e. Pharmaceutical industries
- f. Rubber and products made from rubber
- g. Iron and steel
- h. Machinery and equipment
- i. Electronics

- j. Land transportation vehicles
- k. Ship building and reparation
- l. Cement (in Papua, Sulawesi, and Nusa Tenggara)
- m. Products and packaging made from plastic (outside Java)
- n. Geothermal exploitation
- o. Oil refining
- p. Mini natural gas refining

Recommendation from the *BKPM* chairman must firstly be obtained, together with the application of the investment approval, before DGT approval for the tax facilities can be sought.

The same tax facilities can be granted by the DGT to companies conducting business in an Integrated Economic Development Zone (*KAPET*). Specific approval must be obtained from the DGT for these tax facilities. If the company has bonded zone (*Kawasan Berikat/KB*) status, the tax facilities will also include those typically enjoyed by a KB company, for example:

- Non-collection of VAT and sales tax on certain luxury goods transactions;
- Exemption from prepaid income tax (Article 22) on the importation of capital goods and other equipment directly related to production activities;
- Postponement of import duty on capital goods and equipment and goods and materials for processing;
- Exemption from import duty for four years on machinery and certain spare parts.

The designation of an area as a KAPET is set out in a specific presidential decree. Currently there are approximately 25 areas designated as KAPETs.

Tax cut for public companies

With effect from 1 January 2008, a 5% corporate tax cut was granted to public companies that satisfy the following conditions:

- At least 40% of their paid-in shares are publicly owned;
- The public should consist of at least 300 individuals, each holding less than five percent of the paid-in shares;
- These two conditions are maintained for at least six months (183 days) in a tax year.

If in a particular year either or both of the conditions are not met, the facility is not applicable for that year.

Gains resulting from revaluations of fixed assets

Gains resulting from a DGT-approved revaluation of fixed assets are subject to final tax at a rate of 10%. (See pages 46-47 for further discussion on the revaluation of fixed assets).

Foreign loan-funded and foreign grant-funded government projects

Government projects funded with foreign loans or foreign grants may be eligible for special tax treatment for the

income derived from that funding. The projects that qualify are typically set out in the state Project Table of Contents (*DIP*) or other similar document.

Main contractors, consultants and suppliers for foreign grant-funded or loan-funded government projects may have their income tax liability borne by the government. This facility is not available for second-level contractors, consultants and suppliers.

Aside from the above conditions, the main contractors, consultants and suppliers also enjoy the following tax facilities on the importation of goods and the use of foreign taxable services and/or foreign intangible goods for foreign grant-funded or foreign loan-funded government projects:

- Exemption from import duty;
- Non-collection of VAT and sales tax on luxury goods;
- Non-collection of import income tax (Article 22).

In the event that the deliverables of a qualifying project are goods or services subject to VAT, the main contractors, consultants and suppliers are required to issue appropriate tax invoices although the VAT is not collected.

If a qualifying project is only partially funded by a foreign loan or a foreign grant, the tax facilities are determined proportionate to the amount of the foreign loan or foreign grant.

Transfer pricing

Transactions between related parties must be consistent with the arm's length principle. If the arm's length principle is not followed, the DGT is authorised to recalculate the taxable income or deductible costs arising from such transactions applying the arm's length principle.

Under the General Tax Provisions and Procedures (*KUP*) Law, the government requires specific transfer pricing documentation to prove the arm's length nature of related-party transactions. Transfer pricing documentation is frequently requested during tax audits because transfer pricing issues are subject to close scrutiny by the tax office.

Detailed transfer pricing disclosures are required in the Corporate Income Tax Return for 2009 and later tax years.

The disclosures required include:

- The nature and value of transactions with related parties;
- The transfer pricing methods applied to those transactions and the rationale for selecting the methods; and
- Whether the company has prepared transfer pricing documentation.

Transfer pricing disputes may be resolved through the domestic objection and appeal process or, where the

dispute involves a transaction with a related party in a country that is one of indonesia's tax treaty partners, the parties may request double tax relief under the Mutual Agreement Procedures (MAP) article of the relevant tax treaty.

The tax law authorises the DGT to enter into advance pricing agreements (APAs) with taxpayers for related-party transactions. The process may or may not involve cooperation with foreign tax authorities. Once agreed, an APA will typically be valid for a certain period. After this period, it is open to renegotiation. As of the date of this tax book, there is no implementing regulation concerning APAs.

Individual Income Tax

Normal tax rates

Most income earned by individual tax residents is subject to income tax at the following normal tax rates:

Taxable Income	Rate	Tax Rp.
On the first Rp. 50,000,000	5%	2,500,000
On the next Rp. 200,000,000	15%	30,000,000
On the next Rp. 250,000,000	25%	62,500,000
On the next amount of over Rp. 500,000,000	30%	30% of the relevant amount

Concessional tax rates

Starting from 16 November 2009, there are changes in tax rates applicable to severance payments and lump-sum pension payments from a government-approved pension fund, old-age security saving payments from the state social security organiser (*Jamsostek*).

The final tax rates for severance payments (if paid within 2 years) are as follows:

Taxable Income	Rate	Tax Rp.
On the first Rp. 50,000,000	Nil	Nil
On the second Rp. 50,000,000	5%	2,500,000
On the next Rp. 400,000,000	15%	60,000,000
On the next amount of over Rp. 500,000,000	25%	25% of the relevant amount

The final tax rates for lump-sum pension payments from a government-approved pension fund, old-age security saving payments from the state Employee Social Security Company (*PT Jamsostek*) if paid within 2 years are as follows:

Taxable Income	Rate	Tax Rp.
On the first Rp. 50,000,000	Nil	Nil
On the next amount of over Rp. 50,000,000	5%	5% of the relevant amount

Payments for year 3 onwards, the usual non final tax rates (according to Article 17 Income Tax Law) will be applied.

Main Personal Relief

Annual non-taxable income (*PTKP*) for resident individuals are as follows:

	Rp.
Taxpayer	15,840,000
Spouse	1,320,000
Each dependant (max. of 3)	1,320,000
Occupational expenses (5% of gross income, max. Rp. 500,000/month)	6,000,000
Employee contribution to Jamsostek for old age security savings (2% of gross income)	Full amount
Pension maintenance expenses (5% of gross income, max. Rp 200,000/month)	2,400,000

Tax residence

An individual is regarded as a tax resident if he/she fulfils any of the following conditions:

- He/she resides in Indonesia;
- He/she is present in Indonesia for more than 183 days in any 12-month period;
- He/she is present in Indonesia during a fiscal year and intends to reside in Indonesia.

Note: The provisions of tax treaties may override these rules.

Non-resident individuals are subject to withholding tax at a rate of 20% (Article 26, subject to treaty provisions) on Indonesia-sourced income (as specified on pages 30-31).

Registration and filing

Resident individual taxpayers who receive or earn annual income exceeding the *PTKP* threshold must register with the DGT Office and file annual income tax returns (Form 1770). The tax return should state all the individual's income, including compensation from employment, investment income, capital gains, overseas income and other income, as well as providing a summary of the individual's assets and liabilities.

A family is generally regarded as a single tax reporting unit with a single tax identity number (*NPWP*) in the name of the head of the family (typically the husband). His wife and his dependant children's income must be reported on the same tax return in his name; they may or may not be taxed together with his income depending on whether their income is subject to Article 21 income tax.

Tax payments

A substantial part of individual income is collected through withholding by third parties. Employers are required to withhold Article 21/26 income tax on a monthly basis

from the salaries and other compensation payable to their employees. If an employee is a resident taxpayer, the amount of tax withheld should be based on the normal tax rates (as set out above). If he/she is a non-resident taxpayer, the withholding tax is 20% of the gross amount (and may be set at a lower rate under a tax treaty).

Various other payments to individuals also call for withholding tax obligations from the payers. These include, among others:

- Pension payments made by government-approved pension funds;
- Severance payments;
- Old-age security saving payments from *Jamsostek*;
- Fees for services;
- Prizes/awards.

Typically the amount of tax withheld from this income (Article 21 Income Tax) is based on normal tax rates. A significant change occurred to fees for non-employee individuals and certain professionals, such as lawyers, notaries, accountants, architects, doctors, actuaries and appraisers, who are required to calculate the tax withheld based on 50% of the gross income at the prevailing rates.

Interest earned on severance payments transferred to a manpower severance pay management board is subject to a 20% final tax if the board is a bank, or to a 15% withholding tax under Article 23 if the board is not a bank.

Exit tax

Individual resident taxpayers who have a tax ID number (*NPWP*) are exempt from exit tax. The exemption also applies to their spouses and dependants covered in the official family card, i.e., *Kartu Keluarga* for Indonesians or *SKSKP* for foreigners.

Exit tax will continue to apply to resident individual taxpayers without an *NPWP* until the end of 2010. The tax is due at the time of departure to a foreign country at the following amounts:

Mode of trip	Exit tax (Rp)
By air	2,500,000
By sea	1,000,000
By land	-

The exit tax paid by an individual may be claimed as a tax credit when he/she has obtained an *NPWP*. This should be done through his/her individual income tax return (Form 1770) filed with the DGT office for the same year in which the exit tax has been paid.

Benefits-in-kind

BIKs, for example cars, housing, education, home leave and reimbursement of an employee's Indonesian tax liability

provided by the employer, are typically not assessable in the hands of the employee. This also applies to BIKs which are required for the execution of a job, for example protective clothing, uniforms, transportation costs to and from the place of work and accommodation for ship crews and the like, and the cost of providing BIKs in remote areas.

However, BIKs are taxable in the hands of the employee if they are provided by:

- Mining companies and production sharing contractors which are subject to tax under the old tax laws, (i.e. pre-1984 income tax laws);
- Representative offices of offshore companies which do not constitute taxpayers;
- Final-taxed companies; and
- Deemed-profit companies.

Jamsostek-social security

Indonesia does not have a comprehensive social security system; however, there is a worker's social security program (*Jamsostek*) which provides compensation in the event of working accidents, deaths, and old age (55 years) as well as sickness or hospitalization. The program is maintained by a designated state-owned company, PT Jamsostek, and calls for premium contributions for the following:

Areas covered	As a percentage of regular salaries/wages	
	Borne by employers	Borne by employees
Working accident protection	0.24-1.74%	-
Death insurance	0.3%	-
Old age saving	3.7%	2%
Health care*	3%	-

*) Maximum Rp 60,000/month for a married employee and Rp 30,000 for a single employee

Employers are held responsible for ascertaining that their employees are covered by *Jamsostek*. Employees' contributions are collected by the employer through payroll deductions. These must be paid to PT Jamsostek together with the contributions borne by the employers.

Expatriates need not be enrolled in *Jamsostek* if they can provide evidence that they are covered by social security programmes of the same type in their home country. A company which provides better company health insurance to its employees can choose not to join the health care programme under *Jamsostek*.

Deemed salaries

Expatriate employees working for oil and gas drilling companies are deemed compensated at specified amounts, which vary by position, resulting in the following deemed taxable income:

	US\$ per month (gross before tax)
General managers	11,275
Managers	9,350
Supervisors and tool pushers	5,830
Assistant tool pushers	4,510
Other crew	3,245

The deemed taxable income takes into account all compensation for their employment, including BIKs.

Withholding Taxes

General

Indonesian income tax is collected mainly through a system of withholding taxes. Where a particular income item is subject to withholding tax, the payer is generally held responsible for withholding or collecting the tax. These withholding taxes are commonly referred to using the relevant article of the Income Tax (*PPH*) Law, as follows.

(i) Article 21 income tax

Employers are required to withhold Article 21 income tax from the salaries payable to their employees and pay the tax to the State Treasury on their behalf. The same withholding tax is applicable to other payments to non-employee individuals (e.g., fees payable to individual consultants or service providers). See page 15 for the relevant tax rates. Resident individual taxpayers without an *NPWP* are subject to a surcharge of 20% in addition to the standard withholding tax.

(ii) Article 22 income tax

Article 22 income tax is typically applicable to the following:

- The import of goods;
- The sale of goods to the government requiring

payment from the State Treasury, the State Budget General Directorate, or certain state-owned companies;

- The sale/purchasing of steel, automotives, cigarettes, cement, and paper products; and
- The sale/purchasing of very luxurious goods.

The tax rates for these are as follows:

Event	Tax rate	Tax base
1. The import of goods – using an Importer Identification Number (<i>API</i>)	2.5%	Import value, i.e., CIF value plus duties payable
2. The import of goods – without an <i>API</i>	7.5%	Import value, i.e., CIF value plus duties payable
3. The sale of goods to the government requiring payment from the State Treasury and certain state-owned companies	1.5%	Selling prices
4. The purchasing of steel products	0.30%	Selling prices
5. The purchasing of automotive products	0.45%	Selling prices

6. The purchasing of paper products	0.10%	Selling prices
7. The purchasing of cement	0.25%	Selling prices
8. The purchasing of luxury goods	5%	Selling prices

Notes:

- The tax does not apply, either automatically or given an Exemption Certificate issued by the DGT, on the following types of imports:
 - Goods exempted from import duties and VAT;
 - Goods that have been temporarily imported (i.e., goods for re-export);
 - Goods for re-importing (i.e., to be repaired or tested for subsequent re-exporting).
- In no. (3) the tax collector (State Treasury, state-owned company, etc.) must withhold Article 22 income tax from the amount payable to a particular supplier (vendor). In the other events, the importer or the buyer of the designated goods must pay Article 22 income tax in addition to the amounts payable for the goods imported or purchased.
- The state-owned companies under (3) include PT Telkom, Pertamina, Bulog, Bank Indonesia, PLN, PT Indosat, PT Garuda Indonesia, PT Krakatau Steel and state-owned banks.
- Vendors of goods under nos (4) – (8) can only collect Article 22 income from buyers if they have been appointed by the DGT to undertake this role, i.e., if there has been a specific DGT Appointment Decision.
- Article 22 income tax constitutes a prepayment of corporate/ individual income tax liabilities for nos (1) – (8).
- Tax exemption applies to certain categories of goods or to the importing/purchasing of goods for non-business purposes.

Taxpayers without an *NPWP* will be subject to a surcharge of 100% in addition to the standard tax rate.

(iii) Article 4 (2) – final income tax

Resident companies, PEs, representatives of foreign companies, organisations, and appointed individuals are required to withhold final tax from the following gross payments to resident taxpayers and PEs:

Description	Tax rate
1. Rental of land and/or buildings	10%
2. Proceeds from transfers of land and building rights	5%
3. Fees for construction work performance	2/3/4%
4. Fees for construction work planning	4/6%
5. Fees for construction work supervision	4/6%
6. Interest on time or saving deposits and on Bank Indonesia Certificates (SBIs) other than that payable to banks operating in Indonesia and to government-approved pension funds	20%
7. Interest on bonds other than that payable to banks operating in Indonesia and government-approved pension funds	15%
8. Sale of shares on Indonesian stock exchanges Founder shareholders may opt to pay tax at 0.5% of the market price of their shares upon listing. If they do not opt for this, gains on subsequent sales are taxed under normal rules (under certain tax treaties, this tax may not be due)	0.1%

9. Income from lottery prizes	25%
10. Forward contract derivatives	2.5%

Notes:

1. If the recipient is a mutual fund registered with the Capital Market Supervisory Board (*BAPEPAM*), the tax rate is 0% for 2009-2010, 5% for 2011-2013 and 15% thereafter. If the recipient is a non-resident taxpayer, the tax rate is 20% or a lower rate in accordance with the relevant tax treaty.
2. Applicable to the “initial margin”.

(iv) Article 23 income tax

Certain types of income paid or payable to resident taxpayers are subject to Article 23 income tax at a rate of either 15% or 2% of the gross amounts:

- a. Article 23 income tax is due at a rate of 15% of the gross amounts on the following:
 1. Dividends (but see page 5 - 6 concerning profit distributions);
 2. Interest, including premiums, discounts, and loan guarantee fees;
 3. Royalties;
 4. Prizes and awards.
- b. Article 23 income tax is due at a rate of 2% of the gross amounts on the fees for the following:
 1. Rentals of assets other than land and buildings
 2. Technical services

3. Management services
4. Consulting services
5. Appraisal services
6. Actuary services
7. Accounting, bookkeeping and attestation services
8. Design services
9. Drilling services for oil and gas mining except for those performed by a PE
10. Support services for oil and gas mining
11. Mining services other than oil and gas support
12. Flight and airport support services
13. Forest felling services
14. Waste processing services
15. Labour supply/outsourcing services
16. Intermediary/agency services
17. Custodianship and storage services except for those performed by stock exchanges, KSEI, and KPEI
18. Sound dubbing services
19. Film mixing services
20. Computer and software-related services
21. Installation services (for example, of electricity, machinery, or telephone equipment) except for those rendered by licensed construction companies
22. Maintenance and improvement services (for example, for electricity, machinery, or telephone equipment) except for those rendered by licensed construction companies

23. Manufacturing services (Maklon)
24. Investigation and security services
25. Event organisation services
26. Packaging services
27. Provision of space and/or time in mass media,
outdoor media and other media for the dissemination
of information
28. Pest eradication services
29. Cleaning services
30. Catering services

(v) Article 26 – Non-residents

Resident taxpayers, organisations, and representatives of foreign companies are required to withhold tax at a rate of 20% from the following payments to non-residents:

- a. On gross amounts:
 1. Dividends;
 2. Interest, including premiums, discounts and guarantee fees;
 3. Royalties, rents and payments for the use of assets;
 4. Fees for services, work, and activities;
 5. Prizes and awards;
 6. Pensions and any other periodic payments;
 7. Swap premiums and other hedging transactions;
 8. Gains from debt write-offs;
 9. After-tax profits of a branch or PE.

- b. On Estimated Net Income (ENI), being a specified percentage of the gross amount:

	ENI	Effective tax rate
Insurance premiums paid to non-resident insurance companies:		
by the insured	50%	10%
by Indonesian insurance companies	10%	2%
by Indonesian reinsurance companies	5%	1%
Sale of non-listed Indonesian company shares by non-residents	25%	5%
Sale by non-residents of a conduit company where this company serves as an intermediary for the holding of Indonesian company shares or a PE	25%	5%

Where the recipient is resident in a country which has a tax treaty with Indonesia, the withholding tax rates may be reduced or exempted. See pages 34-37 for withholding tax rates under tax treaties.

Tax Treaties

Indonesia's tax treaties provide for tax benefits in the form of withholding tax exemptions for service fees and for reduced withholding tax rates on dividends, interest, royalties, and branch profits received by residents of a country with which Indonesia has signed a tax treaty. Tax exemption on the service fees is typically granted only if the foreign party earning the income does not have a PE in Indonesia.

To claim the reduced rates, the foreign party must, at a minimum, present its certificate of residence (CoR) to the DGT through the Indonesian party paying the income. Without this document (in the form prescribed by the ITO), the party is not entitled to the tax benefit and tax is withheld at a rate of 20%.

For interest, dividends, and royalties, only the beneficial owner is acknowledged as the party entitled to the tax treaty benefits. Under a regulation issued by the DGT in November 2009, to be the "beneficial owner" the following criteria should be satisfied:

- a. For individuals, that they are not receiving income as an agent or nominee.

- b. An institution that is explicitly named in the tax treaty or one that has been agreed to by the Competent Authority in Indonesia and its treaty country partner.
- c. An offshore company (*WPLN*) which earns income through a custodian from share or bond transactions made on the Indonesian Stock Exchange (except interest and dividends), that is not an agent or nominee.
- d. A company whose shares are listed on the stock exchange and traded regularly.
- e. A bank, or
- f. Any other company which meets the following requirements:
 - 1. the establishment of the company in the tax treaty partner country and the way the transaction is structured/undertaken are not merely done to enjoy tax treaty benefits, the business activities are managed by the company's own management which has sufficient authority to carry out transactions.
 - 2. the company has employee(s).
 - 3. the company has activities or an active business.
 - 4. income derived from Indonesia is taxable in the recipient's country.
 - 5. the company does not use more than 50% of its total income to fulfil its obligations to other parties, such as interest, royalty, or other payments.

The withholding tax rates applicable under tax treaties are summarised below:

	Notes	Dividends		Interest	Royalties	Branch Profit Tax
		Portfolio	Substantial holdings			
1. Algeria		15%	15%	15/0%	15%	10%
2. Australia		15%	15%	10/0%	15/10%	15%
3. Austria		15%	10%	10/0%	10%	12%
4. Bangladesh		15%	10%	10/0%	10%	10%
5. Belgium		15%	10%	10/0%	10%	10%
6. Brunei		15%	15%	15/0%	15%	10%
7. Bulgaria		15%	15%	10/0%	10%	15%
8. Canada		15%	10%	10/0%	10%	15%
9. China		10%	10%	10/0%	10%	10%
10. Czech Republic		15%	10%	12.5/0%	12.5%	12.5%
11. Denmark		20%	10%	10/0%	15%	15%
12. Egypt		15%	15%	15/0%	15%	15%
13. Finland		15%	10%	10/0%	15/10%	15%
14. France		15%	10%	15/10/0%	10%	10%
15. Germany	1	15%	10%	10/0%	15/10%	10%
16. Hong Kong	6	10%	5%	10%	5%	5%
17. Hungary	3,4	15%	15%	15/0%	15%	20%
18. India		15%	10%	10/0%	15%	10%
19. Iran	7	7%	7%	10/0%	12%	7%

	Notes	Dividends		Interest	Royalties	Branch Profit Tax
		Portfolio	Substantial holdings			
20. Italy		15%	10%	10/0%	15/10%	12%
21. Japan		15%	10%	10/0%	10%	10%
22. Jordan	3	10%	10%	10/0%	10%	20%
23. Korea (North)		10%	10%	10/0%	10%	10%
24. Korea (South)	2	15%	10%	10/0%	15%	10%
25. Kuwait	4	10%	10%	5/0%	20%	10/0%
26. Luxembourg	1	15%	10%	10/0%	12.5%	10%
27. Malaysia	5	15%	15%	15/0%	15%	12.5%
28. Mexico		10%	10%	10/0%	10%	10%
29. Mongolia		10%	10%	10/0%	10%	10%
30. Netherlands		10%	10%	10/0%	10%	10%
31. New Zealand	3	15%	15%	10/0%	15%	20%
32. Norway		15%	15%	10/0%	15/10%	15%
33. Pakistan	1	15%	10%	15/0%	15%	10%
34. Papua New Guinea	7	20%	15%	15/10/0%	15%	20%
35. Philippines		20%	15%	15/10/0%	15%	20%
36. Poland		15%	10%	10/0%	15%	10%
37. Portuguese		10%	10%	10/0%	15%	10%

	Notes	Dividends		Interest	Royalties	Branch Profit Tax
		Portfolio	Substantial holdings			
38. Qatar		10%	10%	10%	5%	10%
39. Romania		15%	12.5%	12.5/0%	15/12.5%	12.5%
40. Russia		15%	15%	15/0%	15%	12.5%
41. Seychelles		10%	10%	10/0%	10%	20%
42. Singapore		15%	10%	10/0%	15%	15%
43. Slovakia		10%	10%	10/0%	15/10%	10%
44. South Africa	3,4	15%	10%	10/0%	10%	20%
45. Spain		15%	10%	10/0%	10%	10%
46. Sri Lanka	3	15%	15%	15/0%	15%	20%
47. Sudan		10%	10%	15/0%	10%	10%
48. Sweden		15%	10%	10/0%	15/10%	15%
49. Switzerland	1	15%	10%	10/0%	10%	10%
50. Syria		10%	10%	10%	20/15%	10%
51. Taiwan		10%	10%	10/0%	10%	5%
52. Thailand		20%	15%	15%	15%	20%
53. Tunisia		12%	12%	12/0%	15%	12%
54. Turkey		15%	10%	10/0%	10%	10%
55. Ukraine		15%	10%	10/0%	10%	10%

	Notes	Dividends		Interest	Royalties	Branch Profit Tax
		Portfolio	Substantial holdings			
56. United Arab Emirates		10%	10%	5/0%	5%	5%
57. United Kingdom		15%	10%	10/0%	15/10%	10%
58. United States		15%	10%	10/0%	10/0%	10%
59. Uzbekistan		10%	10%	10/0%	10/0%	10%
60. Venezuela		15%	10%	10/0%	20/10%	10%
61. Vietnam		15%	15%	15/0%	15%	10%

Notes:

1. Fees for technical, management and consulting services rendered in Indonesia are subject to withholding tax at rates of 5%, 7.5%, 10% and 15% for Switzerland, Germany, Luxembourg and Pakistan respectively.
2. VAT is reciprocally exempted from the income earned on the operation of ships or aircraft in international lanes.
3. The treaty is silent concerning the branch profit tax rate. The Indonesian Tax Office (ITO) interprets this to mean that the tax rate under Indonesian Tax Law (20%) should apply.
4. Tax only applies if the profits are remitted.
5. Not yet effective, subject to a protocol ratification and the exchange of ratification documents, Labuan will be excluded from the territory of Malaysia for tax treaty purposes and the withholding tax on interest, dividends, and royalties will be reduced to 10%.
6. Subject to a protocol ratification, and the exchange of ratification documents.
7. Not yet effective, ratified but pending the exchange of ratification documents.

Permanent establishment time test

Certain activities may give rise to the creation of a PE if they are conducted in Indonesia for more than a certain period of time. The following is a summary of these periods for the activities specified in the relevant tax treaties:

	Bldg. Site Construction	Installation	Assembly	Supervisory Activities	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	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. Czech Republic	6 months	6 months	6 months	6 months	3 months
11. Denmark	6 months	6 months	6 months	6 months	3 months
12. Egypt	6 months	4 months	4 months	6 months	3 months
13. Finland	6 months	6 months	6 months	6 months	3 months
14. France	6 months	---	6 months	183 days	183 days
15. Germany	6 months	6 months	---	---	---

	Bldg. Site Construction	Installation	Assembly	Supervisory Activities	Other Services
16. Hong Kong	183 days	183 days	183 days	183 days	183 days
17. Hungary	3 months	3 months	3 months	3 months	4 months
18. India	183 days	183 days	183 days	183 days	91 days
19. Iran	6 months	6 months	6 months	6 months	183 days
20. Italy	6 months	6 months	6 months	6 months	3 months
21. Japan	6 months	6 months	---	6 months	---
22. Jordan	6 months	6 months	6 months	6 months	1 months
23. Korea (North)	12 months	12 months	12 months	12 months	6 months
24. Korea (South)	6 months	6 months	6 months	6 months	3 months
25. Kuwait	3 months	3 months	3 months	5 months	3 months
26. Luxembourg	5 months	5 months	5 months	---	---
27. Malaysia	6 months	6 months	6 months	6 months	3 months
28. Mexico	6 months	6 months	6 months	6 months	91 days
29. Mongolia	6 months	6 months	6 months	6 months	3 months
30. Netherlands	6 months	6 months	6 months	6 months	3 months
31. New Zealand	6 months	6 months	6 months	6 months	3 months
32. Norway	6 months	6 months	6 months	6 months	3 months
33. Pakistan	3 months	3 months	3 months	3 months	---
34. Papua New Guinea	120 days	120 days	120 days	120 days	120 days
35. Philippines	6 months	3 months	3 months	6 months	183 days

	Bldg. Site Construction	Installation	Assembly	Supervisory Activities	Other Services
36. Poland	183 days	183 days	183 days	183 days	120 days
37. Portuguese	6 months	6 months	6 months	6 months	183 days
38. Qatar	6 months	6 months	6 months	6 months	6 months
39. Romania	6 months	6 months	6 months	6 months	4 months
40. Russia	3 months	3 months	3 months	3 months	---
41. Seychelles	6 months	6 months	6 months	6 months	3 months
42. Singapore	183 days	183 days	183 days	---	90 days
43. Slovakia	6 months	6 months	6 months	6 months	91 days
44. South Africa	6 months	6 months	6 months	6 months	120 days
45. Spain	183 days	183 days	183 days	183 days	3 months
46. Sri Lanka	90 days	90 days	90 days	90 days	90 days
47. Sudan	6 months	6 months	6 months	6 months	3 months
48. Sweden	6 months	6 months	6 months	6 months	3 months
49. Switzerland	183 days	183 days	183 days	183 days	---
50. Syria	6 months	6 months	6 months	6 months	183 days
51. Taiwan	6 months	6 months	6 months	6 months	120 days
52. Thailand	6 months	6 months	6 months	6 months	183 days
53. Tunisia	3 months	3 months	3 months	3 months	3 months
54. Turkey	6 months	6 months	6 months	6 months	183 days
55. Ukraine	6 months	6 months	6 months	6 months	4 months

	Bldg. Site Construction	Installation	Assembly	Supervisory Activities	Other Services
56. United Arab Emirates	6 months	6 months	6 months	6 months	6 months
57. United Kingdom	6 months	183 days	183 days	183 days	91 days
58. United States	183 days	120 days	120 days	120 days	120 days
59. Uzbekistan	120 days	6 months	6 months	6 months	3 months
60. Venezuela	6 months	6 months	6 months	6 months	---
61. Vietnam	6 months	6 months	6 months	6 months	3 months

Capital Allowances

Depreciation

Expenditure incurred in relation to assets with a beneficial life of more than one year are categorised and depreciated from the month of acquisition by the consistent use of either the straight-line or the declining-balance method, as follows:

- 1. Category 1 – 50%** (declining-balance) or **25%** (straight-line) on assets with a beneficial life of four years. Examples of assets in this category are computers, printers, scanners, furniture and equipment constructed of wood/rattan, office equipment, motorcycles, special tools for specific industries/services, kitchen equipment, manual equipment for agriculture, farming, forestry and fishery industries, light machinery for the food and drink industries, motor vehicles for public transportation, equipment for the semi-conductor industry, tools and accessories for deep water anchor equipment rentals, and base station controller for the cellular telecommunication services.
- 2. Category 2 – 25%** (declining-balance) or **12.5%** (straight-line) on assets with a beneficial life of eight years. Examples of assets in this category are furniture and equipment constructed of metal, air conditioners,

cars, buses, trucks, speed-boats, containers and the like. The category also covers machinery for agriculture, plantations, forestry activity, fisheries, and for food and drink, and light machinery, logging equipment, equipment for construction, heavy vehicles for transportation, warehousing, and communication, telecommunications equipment, equipment for the semi-conductor industry, tools for deep water anchor equipment rentals, and tools for cellular telecommunication services.

3. **Category 3 – 12.5%** (declining-balance) or **6.25%** (straight-line) on assets with a beneficial life of 16 years. Examples of assets in this category are machines for general mining other than in the oil and gas sector, machines for the textile, timber, chemical, and machinery industries, heavy equipment, docks and vessels for transportation and communication, and other assets not included in the other categories.
4. **Category 4 – 10%** (declining-balance) or **5%** (straight-line) on assets with a beneficial life of twenty years. Example of assets in this category are heavy construction machinery, locomotives, railway coaches, heavy vessels, and docks.
5. **Building category – 5%** (straight-line) on assets in the permanent building category with a useful life of 20 years; or 10% (straight-line) on assets in the

non-permanent building category with a useful life of ten years. Included in the cost of the buildings is the Duty on the Acquisition of Land and Building Rights (*BPHTB*) .

More comprehensive lists of the assets included in each category are set out in certain Minister of Finance (MoF) regulations. Separate lists of assets and depreciation rates for the oil and gas sector are also specified in a MoF regulation.

Special rules apply to assets used in certain areas for certain industries and KAPETs (see page 10-11).

Intangible property or costs, including the cost of extending building use rights, rights for business use, rights for use and BPHTB on land rights with a useful life of more than one year, should be amortised on the following bases, as appropriate:

- a. By using the straight-line or the declining-balance method at the rates specified in categories 1, 2, 3, and 4 under *Depreciation* (above), based on the useful life of the property:

Category 1: 4 years

Category 2: 8 years

Category 3: 16 years

Category 4: 20 years

Membership of the category is determined on the basis of the nearest useful life (e.g., an intangible asset with a useful life of six years may fall under Category 1 or Category 2, while an intangible asset with a useful life of five years is under Category 1).

- b. The costs of incorporation and expansion of the capital of an enterprise are claimed in full in the year in which the expenditure is incurred or are amortised using either the declining-balance or straight-line method at the following rates:

Category 1: 50% declining-balance; 25% straight-line

Category 2: 25% declining-balance; 12.5% straight-line

Category 3: 12.5% declining-balance; 6.25% straight-line

Category 4: 10% declining-balance; 5% straight-line

- c. Costs incurred for acquiring the right to oil and natural gas concessions with a beneficial life of longer than one year are amortised using the production-unit method.
- d. Costs incurred in the acquisition of mining rights, forest concessions, and other rights to exploit natural resources and natural products with a beneficial life of longer than one year are amortised using the production-unit method but may not exceed 20% per annum.

- e. Costs incurred before the commencement of commercial operations with a useful life of longer than one year are capitalised and amortised according to the rates set out in point b (above).

Asset transfers

Sales of a company's assets (other than land and building) may result in capital gains or losses, calculated as the difference between the sales proceeds and the tax written-down value of the assets concerned. Capital gains are assessable whilst a capital loss is tax-deductible only if the asset concerned is used in the running of the business, i.e., for obtaining, collecting, and securing assessable income.

Revaluation of fixed assets

Subject to DGT approval, corporate taxpayers and PEs who maintain rupiah accounting may undertake a revaluation of their non-current tangible assets for tax purposes. This may be carried out once every five years. Each revaluation must include all business-related assets which are owned by the company and located in Indonesia, except for land and buildings (these may be omitted). Before requesting the DGT's approval, the company concerned must determine that it has settled all of its outstanding tax liabilities.

The revaluation must be conducted on a market or fair value basis. The market values must be determined by a government-approved appraiser. These are subject

to DGT adjustments if the values, in DGT's view, do not represent the fair or market values of the assets.

Once approved, the depreciation applied to depreciable assets must be based on the new tax book values (approved values) on the basis of a full useful life (in other words, as if the assets were new).

The excess of the fair market value over the old tax book value of the revalued assets is subject to final income tax at a rate of 10%. Subject to DGT approval, taxpayers facing financial difficulties may pay this tax in instalments over 12 months.

Fixed assets falling under categories 1 and 2 must be retained at least to the end of their useful life. Land, buildings, and assets falling under categories 3 and 4 must be retained for at least 10 years after the revaluation date. Additional final income tax at a rate of 15% is imposed on the original revaluation gains if the revalued assets are sold or transferred before the end of this minimum retention period (this does not apply to: a. Transfer of assets because of force major based on a Government decision/policy or court decision; b. Transferred in the course of a tax-neutral business merger, consolidation, or business split; c. Withdrawal of fixed assets of a company because of irreparable damage).

Value Added Tax

General

The Value Added Tax (VAT) Law has been amended and the amendments are effective from 1 April 2010. VAT is typically due on events involving the transfer of taxable goods or the provision of taxable services in the Indonesian Customs Area. The taxable events are:

- a. Deliveries of taxable goods in the Customs Area by an enterprise;
- b. Import of taxable goods;
- c. Deliveries of taxable services in the Customs Area;
- d. Use or consumption of taxable intangible goods originating from outside the Customs Area in the Customs Area;
- e. Use or consumption of taxable services originating from outside the Customs Area in the Customs Area;
- f. Export of taxable goods (tangible and intangible) by an enterprise.
- g. Export of taxable services by an enterprise.

The delivery of taxable goods is defined very broadly; it includes the following:

- a. Deliveries of a title to taxable goods according to an agreement;

- b. Transfers of taxable goods according to a leasing-with-option or a finance-lease agreement;
- c. Deliveries of taxable goods to an intermediary trader or an auction official;
- d. Own-use and/or free gift of taxable goods;
- e. Remaining taxable goods in the forms of inventories and/or assets, which were originally not for sale, at a company's dissolution;
- f. Deliveries of taxable goods within a company (e.g., between branches, or between the head office and its branches) unless the company, subject to the DGT's approval, centralises its VAT reporting;
- g. Deliveries of taxable goods on consignment;
- h. Deliveries of taxable goods by a taxable entrepreneur in the framework of *syariah-based* financing, whereby the deliveries are deemed to take place directly from the taxable entrepreneur to the party in need of the taxable goods.

Tax rates and tax base

The VAT rate is typically 10%. This may be increased or decreased to 15% or 5% according to a government regulation. However, VAT on the export of taxable tangible and intangible goods as well as export of services is fixed at 0%.

VAT is calculated by applying the VAT rate to a relevant tax base. In most cases, the tax base is the transaction value agreed between the parties concerned. For certain events

or situations, other criteria must be used as the tax base, including:

- a. Market value for transactions between related parties, remaining inventories of taxable goods at a company's dissolution, and sales of (non-inventory) assets originally not for sale;
- b. Cost of sales for own-use or free gifts and internal deliveries of taxable goods (e.g., between branches, or from the head office to branches);
- c. Auction price for deliveries of taxable goods through an auction officer;
- d. Agreed price for deliveries of tax able goods through an intermediary trader;
- e. 5% of the total service charges, provisions, and discounts for factoring services;
- f. Average selling price for video and audio recording products;
- g. Average result per film for movies
- h. 4% of total costs incurred or paid, exclusive of the acquisition price of land, for the self-construction of a building;
- i. Retail selling prices for deliveries or imports of tobacco products;
- j. 10% of the actual billing for package shipment services, tour and tourism agency services.

By law, all goods and services, unless otherwise stated, constitute taxable goods or taxable services. The legal negative list sets out which goods and services are categorised as non-taxable, as follows:

Non-taxable Goods

- a. mining or drilling products extracted directly from their sources, for example crude oil, natural gas, geothermal energy, sand and gravel, coal (before processing into coal briquettes), iron ore, tin ore, copper ore, gold ore, silver ore and bauxite ore;
- b. basic commodities, for example rice, salt, corn, sago and soy beans;
- c. food and drink served in hotels, restaurants and the like, either consumed in the vicinity or taken away, including food and drink delivered by caterers;
- d. money, gold bars and securities.

Non-taxable Services

- a. medical health services;
- b. social services, for example orphanages and funeral services;
- c. mail services using stamps;
- d. financial services;
- e. insurance services;
- f. religious services;
- g. educational services;
- h. art and entertainment services
- i. broadcasting services which are not used for advertising;
- j. public transportation on land and water and international air transport;
- k. manpower services;

- l. hotel services;
- m. public services provided by the government;
- n. parking area services

VAT reporting

Companies and individuals designated as taxable enterprises (*Pengusaha Kena Pajak/ PKP*) are required to report their business activities and settle the VAT liabilities on these every month. VAT is usually to be accounted for on a decentralisation basis. As a result, a company carrying out business activities through a number of business units (branches) in the working areas of different district tax service offices (*KPP*) must register each unit with the relevant *KPP*. It is in this context that internal deliveries of taxable goods within a company are subject to VAT.

However, from 1 April 2010, a company may centralise its VAT reporting and so may exclude internal deliveries of taxable goods from the scope of VAT by submitting a written notification to the DGT.

Companies registered with certain tax service offices (*KPP PMA*, *KPP Badora*, *KPP Go Public*, *LTO*, and *MTO* tax offices) are required to centralise their VAT reporting.

VAT liabilities are typically settled by using an input-output mechanism. A vendor of taxable goods or a taxable service must typically charge VAT to the buyer. From the vendor's perspective, it is an output tax. The buyer has to pay the

VAT to the vendor. From the buyer's perspective, it is an input tax. To the extent that the goods are necessary for running the buyer's business, the input tax can be credited against the buyer's own output tax. Similarly, the vendor can also offset the output tax against input tax on the acquisition of taxable goods or taxable services. If the accumulated output tax for a particular month exceeds the accumulated input tax for the same period, the taxpayer in question has to settle the difference by the 15th* of the month following. If, however, the accumulated input tax for a particular month exceeds the accumulated output VAT, the taxpayer may ask for a monthly refund or carry over the overpaid VAT to the following months.

Import VAT on goods and self-assessed VAT on the consumption or use of foreign taxable services or intangible goods should be understood in the context of the standard input-output mechanism.

Because the non-resident vendor or service provider cannot charge VAT (in other words, cannot issue tax invoices) to the Indonesian buyer/importer, the Indonesian buyer/ importer has to pay the VAT for and on behalf of the non-resident vendor or service provider. To the extent that goods/ services imported or procured are necessary for running the importer/service recipient's business, the input VAT (import VAT and self-assessed VAT) is claimable as a tax credit.

*) From 1 April 2010 before the reporting date and the reporting deadline is the end of the following month.

A deviation from the standard mechanism, however, is in force for deliveries of taxable goods and services to VAT collectors. The VAT Collector is currently either the State Treasury or PSC companies (including Pertamina).

Input-output mechanism

As the name implies, a VAT Collector is required to collect the VAT due from a taxable enterprise (vendor) on the delivery to it of taxable goods or services and to pass the VAT payment directly to the government, rather than to the vendor or the service provider. A company engaged in deliveries of taxable goods or services to a VAT Collector tends accordingly to be in an overpaid VAT position. (See page 55-56 concerning VAT refunds.)

Crediting input VAT

VAT must be accounted for to the DGT every month. Input tax for a particular tax period (month), in principle, must be claimed as a tax credit against the output VAT for the same tax period. However, the claim can still be made within three months of the end of the particular tax period if the input tax has not yet been expensed or if a tax audit has not yet been started.

The validity of particular tax invoices is key to successfully claiming the input tax as a tax credit. A tax invoice must contain the following minimum information:

- a. the name, address and tax ID number of the taxpayer delivering the taxable goods or services;

- b. the name, address and tax ID number of the purchaser;
- c. the type of goods or services, the quantity, the sales price or compensation and any discounts;
- d. the VAT that has been collected;
- e. the sales tax collected (if any) on luxury goods;
- f. the code, serial number and date of issue of the invoice;
- g. the name and signature of the authorised signatory to the invoice.

Failure to satisfy the minimum information requirement will mean that the input tax cannot be used as a tax credit.

A tax invoice must be issued at:

- a. the time of delivery of taxable goods or services;
- b. the time a payment is received if the payment is received prior to the delivery of taxable goods or services;
- c. the time a term-payment is received in the case of delivery of a part of the work phase;
- d. such other time as maybe stipulated by MoF decree.

VAT refunds

Refund applications can be made at the end of a book year. The DGT is required to make a decision on a VAT refund application, on the basis of a VAT audit, within 12 months of the receipt of a complete application. If no decision has been made within 12 months, the application is considered to have been approved.

Relevant supporting documents for a VAT refund must be delivered to the DGT within one month of the application date. Any documents delivered after that period may be ignored by the DGT in the VAT refund calculation.

A taxpayer classified as a golden taxpayer is entitled to obtain early (pre-audit) VAT refunds. The golden taxpayer designation is a status granted by the DGT to taxpayers who fulfil certain criteria, such as the filing of tax returns on time, the absence of tax in arrears, and the lack of any criminal involvement. The DGT every year designates, on the basis of the criteria, certain taxpayers as golden taxpayers. Once a taxpayer is granted this status, the company is eligible to apply for early VAT refunds. It must notify the DGT in writing if it does not want to make use of the privilege.

A pre-audit refund can be based only on a verification of the VAT returns and must be granted within a month after the completed VAT refund application is received. The DGT may conduct a tax audit after the early VAT refund is granted. If it proves, on the basis of the tax audit, that the taxpayer has received a higher VAT refund than it should have done, the excess amount is subject to an administrative penalty of 100%.

Monthly refunds are possible for certain taxpayers (exporters of goods or services, suppliers to VAT collectors, companies in the pre-production stage and suppliers of goods or services for which VAT is not collected).

Tax facilities

As stated in government regulations, tax facilities are granted to certain taxpayers in the form of non-collection of VAT or VAT exemption. These facilities are covered by the following schemes:

Bonded zones

Bonded Zone (*Kawasan Berikat/KB*) status is typically granted by MoF at the request of export-oriented manufacturing companies. The aim is to minimise idle investments in input VAT and Luxury Sales Tax (LST) overpayments resulting from the existence of refunds pending approval for export activities. As a result, the KB status brings about a non-collection of VAT and VAT exemption facilities in respect of:

- Importation or domestic purchases of goods for further processing;
- Importation of office equipment to be used only by the KB company concerned;
- Importation of plant equipment and machinery related directly to manufacturing activities to be used only within or by the KB company concerned.

The traffic of goods between KB companies as well as between a KB company and its supporting contractors is also facilitated by means of the same tax facility. As a result, VAT and LST do not need to be collected for the following traffic of goods:

- Shipments of products from a KB company to another KB company for further processing;

- Shipments of goods and/or materials from a KB company to a non-KB company within the Customs Area in a subcontract arrangement, as well reshipments of goods processed by the non-KB company to the KB company;
- The lending of plant, machinery or equipment by a KB company to another KB company or non-KB company within the Customs Area, and the reshipment of the same machinery or equipment to the KB company in a subcontract arrangement.

Apart from the above conditions, shipments of goods to a KB company from outside Indonesia Customs Area are granted postponement of import duty and excise (if any) to the extent that the goods are to be processed further. Import income tax (Article 22 income tax) is not collected on imports of office equipment, plant, machinery and equipment related directly to manufacturing activities, and on goods for further processing.

To preserve its KB status, a company must observe the maximum volume at which products to non-KB companies in the domestic market may be shipped or sold. Such domestic sales are allowed only at the following maximum volumes:

- 50% of the current-year production value for goods requiring no further processing and which can be used by end consumers;
- 60% of the current-year production value for other goods;

- 75% of the current-year production value for goods supplied to mining and oil and gas companies;
- 75% of the current-year production value for KB companies engaged in the oil and gas, the domestic ship building, and the oleo chemical industries.

Given these domestic sales volumes, the other portion of the current-year production must be either:

- Exported;
- Sent to other KB company;
- Sent to a special import facility (*KITE*) for further processing; or;
- Destroyed under the supervision of the Director General of Customs and Excise (DGCE).

Special Import Facility

Instead of obtaining a KB status from the MoF, an export-oriented company may request a KITE from the DGCE.

Unlike the KB facility, this facility is applicable only for the importation of goods for further processing, for assembly, or for affixing to other goods for further exportation. It includes:

- Postponement of import duty and excise;
- Non-collection of VAT and LST.

To acquire the KITE status, a company must first obtain a Company Master Number (*NIPER*) from the DGCE. The actual facility may then be requested every year. The request must be supported by at least an Import and Export Plan for the Next 12 Months and an Export Realisation Report for the Last 12 Months. The DGCE must make a decision on the facility request within 14 days.

If the request is approved, the company must provide the DGCE with a bank guarantee or a promissory note worth as much as the duties and excise to be exempted and the VAT and LST which will not be collected, before the release of the imported goods. The company is typically required to realise its export or sales to KB companies within 12 months of the KITE approval. Failure to fulfil this requirement may lead the DGCE and the DGT to recollect the duties and excise duty on the goods that were previously exempted and the VAT and LST that was not collected, together with applicable administrative sanctions (such as a penalty at 100% of the import duty due and interest at 2% per month for a maximum of 24 months on the underpaid VAT and LST).

Foreign-Grant or Foreign-Loan-Funded Governmental Projects

VAT, LST and import income tax are not to be collected on the importation of goods and the use of foreign taxable services and/or foreign intangible goods relating to foreign-grant or foreign-loan-funded government projects by the main contractors, consultants and suppliers. (See pages 12-13).

The deliveries and/or import of taxable goods designated as strategic goods are exempt from VAT. The designation of strategic goods is made through a government regulation. Currently, the following goods are included:

- a. Capital goods in the form of machinery and plant and

equipment required for the manufacturing of taxable goods;

- b. Agricultural, plantation and forestry products, animal husbandry products, including hunting and trapping, and fishery products, including the capture and cultivation of fish;
- c. Electricity, except household electricity exceeding 6,600 watts;
- d. Clean water distributed through pipes by drinking water companies;
- e. Cattle, poultry and fish feed, and the raw materials for manufacturing these;
- f. Seeds and seedlings for agricultural, plantation, forestry, farm and animal husbandry products.

Other VAT Exemption Schemes

To support the achievement of certain national objectives, VAT is exempt on the import and/or deliveries of the following taxable goods or taxable services:

- a. weapons, ammunition, transportation vehicles and various other appliances for use by the armed forces and the state police;
- b. polio vaccines for use in the *National Immunisation Programme*;
- c. general education and religious books;
- d. ships and spare parts for use by national commercial shipping companies or national fishing companies;
- e. aircraft and spare parts for use by national commercial airline companies;

- f. trains and spare parts for use by PT Kereta Api Indonesia;
- g. low-cost housing, basic flats and student accommodation;
- h. train maintenance and repair services received by PT Kereta Api Indonesia;
- i. services received by national commercial shipping companies or national fishing companies, including ship rental, seaport services and ship maintenance or docking services;
- j. services received by national commercial airline companies, including aircraft rental and maintenance services;
- k. services rendered for the construction of low-cost housing, basic flats and places of worship;
- l. rental of low-cost houses.

VAT and LST in Batam

Batam is now a Free Trade Zone (FTZ) of which most of the transactions to enter goods or services into Batam, the VAT and LST are not collected provided that the administrative requirements are fulfilled. Please refer to Section FTZ in Batam, Bintan and Karimun (page 98).

Luxury Sales Tax

In addition to VAT, deliveries or imports of certain manufactured taxable goods may be subject to Luxury Sales Tax (LST). A particular item will only attract LST once, i.e., tax will be charged either on importation of the good or on delivery by the (resident) manufacturer to another party.

LST must be accounted for every month together with VAT. The importer or the manufacturer of the goods is held responsible for the settlement of the LST.

A summary of the indicative LST rates is set out below. It should be noted that the inclusion of a particular item in the summary does not necessarily mean that the item will always be subject to LST. Whether or not the particular item is subject to LST depends on other factors, including capacity, size, or price.

To ascertain whether or not a particular item is subject to LST and to identify the LST rate, reference should be made to the *Customs Book* using the relevant *harmonised system* (HS) code.

With the amendment of the VAT & LST Law which will be effective on 1 April 2010, the LST Rate may be increased up to 200%.

Group	LST Rates (%)					
	10	20	30	40	50	75
Household appliances, coolers, heaters, and television broadcasting receivers, aerials, aerial reflectors	●	●				
Sport equipment, articles and accessories.	●		●		●	
Air conditioners, dish washing machines, driers, and electromagnetic devices	●	●				
Video recording or reproduction devices.	●					
Photographic and cinematographic devices and related accessories.	●					
Luxury residences such as luxury houses, apartments, condominiums, town houses and the like.		●				
Perfumes.		●				
Ships or other water vehicles, row boats and canoes, except for state or public transportation needs.			●	●		
Musical instruments.		●				

Group	LST Rates (%)					
	10	20	30	40	50	75
Alcoholic beverages.				●		●
Articles made of leather or artificial leather.				●		
Carpets made from silk or wool.				●		
Glassware of lead crystal of the type used for tables, kitchens, makeup, offices, or indoor decoration for similar purposes.				●		
Articles partly or wholly made of precious metal or metal coated with precious metal or a mixture thereof, and/or pearl or a mixture thereof.				●		●
Balloons, dirigibles, and other un-powered aircraft.				●		
Shotguns and other arm cartridges, firearms and other arms, except for the state purposes.				●	●	
Footwear.				●		
Home and office furniture and fixtures.				●		

Group	LST Rates (%)					
	10	20	30	40	50	75
Articles made of porcelain, china clay, or ceramic.				●		
Articles partly or wholly made of stones, other than curb stone.				●		
Carpets made of fine animal hair.					●	
Aircraft other than those for the state or commercial air-transport purposes.					●	
Luxury cruisers, except for the need of the state and public transport.						●

Motor vehicles

Vehicle Type	Wheel Driver System	Motor System Engine	Cylinder Capacity (CC)	LST Rate
Passenger vehicles, capacity fewer than ten people.				

Vehicle Type	Wheel Driver System	Motor System Engine	Cylinder Capacity (CC)	LST Rate
• Sedan/ station wagon	N/A	Spark ignition	<=1500 >1500 up to 3000 >3000	30% 40% 75%
• Other than Sedan Station wagon	4X2	Spark ignition	<=1500 >1500 up to 2500 >2500 up to 3000 >3000	10% 20% 40% 75%
		Compression ignition (Diesel/ semi diesel)	<=1500 >1500 up to 2500 >2500	30% 40% 75%
		Spark ignition	<=1500 >1500 up to 3000 >3000	30% 40% 75%
	4X4	Compression ignition (Diesel/ semi diesel)	<=1500 >1500 up to 2500 >2500	30% 40% 75%
Passenger vehicles, capacity 10 to 15 people	All types	All types	All types	10%

Vehicle Type	Wheel Driver System	Motor System Engine	Cylinder Capacity (CC)	LST Rate
Double-cabin vehicles	All types	All types	All types	20%
Special-purpose vehicles				
<ul style="list-style-type: none"> All types of vehicles for golf Vehicles used to travel on snow, beaches, and mountains Caravan-type trailers and semi-trailers for residential and camping purposes 				50%
				60%
				75%
Two-wheel motor vehicles			>250 up to 500 >500	60% 75%

Stamp Duty

Stamp duty is nominal, and payable as a fixed amount of either Rp. 6,000 or Rp. 3,000 on certain documents.

Examples of documents subject to stamp duty are as follows:

- a. Letters of agreement and other letters (such as authorisation letters, letters bestowing gifts, or declarations) which are prepared for the purpose of being used as evidence of act, fact, or condition of a civil nature.
- b. Notarial deeds and their copies.
- c. Deeds prepared by a designated land notary (*Pejabat Pembuat Akta Tanah/PPAT*).
- d. All documents bearing a sum of money which:
 - state the receipt of money
 - state the recording or deposit of money in a bank
 - contain notification of a bank balance
 - contain the acknowledgement of debt wholly or partly paid or compensated
 - are in the form of valuable documents such as drafts, promissory notes, or acceptances
 - are in the form of securities, in whatever name or form
 - are in the form of cheques.

- e. Documents to be used as instruments of evidence before a court:
- ordinary letters or internal papers
 - papers originally exempt from stamp duty on the basis of their purpose of use, if they serve other aims or are used by other parties, and deviate from their original purpose.

The Rp. 6,000 rate is applicable to (a), (b), (c), and (e). For (d), the rate is Rp. 6,000 when the money value stated in the document is more than Rp. 1 million, and Rp. 3,000 when the value is between Rp. 250,000 and Rp. 1 million. Values below Rp. 250,000 are not subject to stamp duty. For cheques, the rate is Rp. 3,000 regardless of the monetary value stated.

Land and Building

Land and building tax

Land and Building tax (*PBB*) is a type of property tax chargeable on all land and/or buildings, unless exempted. The negative list setting out land and buildings not subject to PBB includes those:

- Used simply for public interest in the areas of religious and social affairs, health, education and national culture, and not for the purpose of making a profit;
- Used as a cemetery, ancient heritage site or similar;
- Constituting protected forests, natural reserve forests, tourism forests, national parks, grazing land controlled by a village, and state land with no right imposed on it;
- Used by a diplomatic representative, based on the reciprocal treatment principle;
- Used by an agency or representative of an international organisation, as determined by the MoF.

PBB rate is specified at 0.5%. The actual tax due on a particular object is calculated by applying the tax rate to the taxable sale value (*NJKP*) of the object. *NJKP* is a predetermined proportion of the sale value of the tax object (*NJOP*) of a particular L&B. *NJKP* is currently stipulated to be either 20% (for *NJOP* up to Rp. 1 billion) or 40% (for *NJOP* above Rp. 1 billion). The government can increase

the NJKP rate by up to 100% of the NJOP. As a result, the effective PBB at present is either 0.1% or 0.2% of the NJOP.

NJOPs are to be determined by the DGT on behalf of the MoF and may be updated every one to three years depending on the economic development of the region in question. In accordance with MoF guidelines, NJOPs should take into account the market value of the land & building in the region. Where a piece of land & building is used for business purposes in the areas of plantation, forestry, mining, or breeding, the NJOP should also take into account the investment standard applicable on these.

PBB is payable annually following an official assessment issued by the DGT. The assessment process is typically initiated by the DGT submitting a Tax Object Notification Form (*SPOP*) to the taxpayer in question.

The form must be filled out by the taxpayer and returned to the DGT within 30 days. Using the completed *SPOP* and taking into account the NJOP-related information, the DGT issues a Tax Due Notification Letter (*SPPT*), presenting the official tax assessment made by the DGT. The taxpayer in question is required to pay the tax due within six months of receipt of the *SPPT*.

Incorrectly filling in a SPOP, late filing of the completed SPOP, or ignoring the SPOP can expose a taxpayer to a potential penalty of 25% of the PBB due.

An individual or an organisation that owns a right to a piece of land, and/or takes benefits therefrom, and/or owns, controls, and/or takes benefits from a building can by law be regarded as the PBB taxpayer for that piece of land and/or building. Each taxpayer is entitled to a non-taxable NJOP, which at present set at Rp.12,000,000. The MoF is authorised by law to make adjustments to the non-taxable NJOP.

Tax on land and building transfer

A transfer of land & building (L&B) will cause income tax on the deemed gain on the transfer/ sale to be charged to the transferor (seller). The tax is set at 5% of the gross transfer value (tax base). However, for transfers of simple houses and apartments conducted by taxpayers engaged in a property development business, the tax rate is 1%. This tax must be paid by the time the rights to L&B are transferred to the transferee. All the tax paid constitutes a final tax.

In general, the tax base is the higher of the transaction values stated in the relevant L&B right transfer deed or NJOP. However, in a transfer to the government, the tax base is the amount officially stipulated by the government officer in question in the relevant document. In a

government-organised auction, the gross transfer value is the value stipulated in the relevant deed of auction.

A notary is prohibited from signing a transfer of rights deed until the income tax has been fully paid.

Duty on the acquisition of land and building rights

A transfer of L&B rights will typically also give rise to Duty on the acquisition of land and building rights (*BPHTB*) liability for the party receiving or obtaining the rights.

Qualifying L&B rights transfers include sale-purchase and trade-in transactions, grants, inheritances, contributions to a corporation, rights separations, buyer designation in an auction, the execution of a court decision with full legal force, business mergers, consolidations, expansions, and prize deliveries. Acquisitions of L&B rights in certain non-business transfers may be exempt from BPHTB.

BPHTB is based on the Tax Object Acquisition Value (*NPOP*), which in most cases is the higher of the market (transaction) value or the NJOP of the L&B rights concerned. The tax due on a particular event is determined by applying the applicable duty rate (5%) to the relevant NPOP, minus an allowable non-taxable threshold. The non-taxable threshold amount varies by region: the maximum is Rp. 60 million, except in the case of an inheritance, for which it may reach Rp. 300 million. The government may change the non-taxable threshold via regulation.

BPHTB is typically due on date that the relevant deed of L&B right transfer is signed before a public notary. In a business merger, consolidation, or expansion, the duty is due on the date of signing of the merger, consolidation or expansion act. In an auction, the duty is due on the date of signing date of the Auction Report by the authorised officer.

At the request of a taxpayer, the DGT may grant a BPHTB reduction of up to 50% for L&B rights transfers in business mergers or consolidations at book value, as well as for L&B rights obtained as compensation for the release of L&B rights for a public-interest governmental project. In certain non-business L&B rights transfers, the DGT may also grant, at the request of a taxpayer, BPHTB at 25%, 50%, 75% or 100% of the duty due.

A notary is prohibited from signing a deed transferring rights until the BPHTB has been paid.

Tax Payments and Tax Return Filing

Tax liabilities for a particular period or year must typically be paid to the State Treasury through a designated tax-payment bank (*bank persepsi*) and then accounted for to the DGT office through the filing of the relevant tax returns. The tax payments and tax return filing for a particular tax must be undertaken monthly or annually, or both monthly and annually (depending upon the tax obligation in question).

A summary of these tax obligations is as follows:

Monthly tax obligations

Type of tax	Tax payment deadline	Tax return filing deadline
Article 21/26 Income Tax	The 10th of the following month	The 20th of the following month
Article 23/26 Income Tax	The 10th of the following month	The 20th of the following month
Article 25 Income Tax	The 15th of the following month	The 20th of the following month
Article 22 Income Tax – Tax Collector	The 10th of the following month	The 20th of the following month

Type of tax	Tax payment deadline	Tax return filing deadline
Article 4(2) Income Tax	The 10th of the following month	The 20th of the following month
VAT and LST – Taxable Enterprise*	The 15th of the following month	The 20th of the following month
VAT and LST – VAT Collector*	The 15th of the following month	The 20th of the following month

* starting from 1 April 2010, VAT and LST tax payment deadlines are before the reporting date. Meanwhile, the VAT and LST tax reporting deadlines are the end of the following month.

Annual tax obligations

Late payments of these taxes incur interest penalties at 2% per month. Part of a month, for example a single day, is considered a full month.

Type of tax	Tax payment deadline	Tax return filing deadline
Corporate Income Tax	The end of the fourth month after the book year end before filing the tax return	The end of the fourth month after the book year end

Type of tax	Tax payment deadline	Tax return filing deadline
Individual Income Tax	The end of the third month after the book year end before filing the tax return	The end of the third month after the book year end
Land and Building Tax (PBB)	Six months after the receipt of a Tax Due Notification Letter (SPPT) from the DGT Office	N/A

Late filing of a tax return or failure to file a tax return incurs an administrative penalties at the following amounts:

Type of tax return	Rupiah
VAT return	500,000
Other monthly tax returns	100,000
Individual income tax return	100,000
Corporate income tax return	1,000,000

For annual income tax returns, taxpayers may extend the filing deadline by up to two months. This may be done by filing a written notification to the DGT before the deadline, attaching a tentative tax calculation. The tax due according

to the tentative calculation (if any) must be settled before submitting the extension notification. If the actual tax due based on the final tax calculation is higher than the tentative calculation, an interest penalty of 2% per month will apply to the difference until the shortfall is paid.

Failure to file a tax return by the relevant deadline may lead the DGT to issue a warning letter to the taxpayer in question. The warning letter will typically require the taxpayer to file the tax return within 30 days of the warning letter date. Ignoring such a letter can prompt the DGT to issue an official tax assessment along with an administrative penalty of 50% of the assessed tax.

Except for corporate and individual income taxes, taxes are to be accounted for on a decentralised basis. A company with business units (branches) spread over the country must accordingly account for the tax obligations to the district service tax offices with which the branches are registered. However, taxpayers registered with certain designated tax service offices (PMA, Go Public, state-own company tax offices, LTO, and MTO) are required to centralise their VAT reporting to those designated tax service offices.

In general, the main form of a tax return must be prepared in a conventional format (hard copy). However, the DGT is encouraging the use of e-tax returns in which all the tax information is presented electronically using software

provided by the DGT. For taxpayers registered with the designated tax service offices listed above, e-tax returns have been mandatory since 1 January 2005. E-tax returns can be filed to the DGT office either in the conventional manner, i.e., submitting the hard copy and the soft copy of the tax returns to the relevant tax service office, or by using an application service provider (e-filing).

Accounting for Tax

Generally, for tax purposes, a company's books must be maintained in accordance with the prevailing accounting standards unless the tax law stipulates otherwise. By default, the books must be stated in Rupiah, composed in Indonesian, and stored in Indonesia.

Subject to specific DGT approval, foreign-investment (*PMA*) companies, PEs, and subsidiaries of foreign companies can maintain their books in USD and compose them in English. A collective investment contract (*KIK*) is allowed to use USD accounting to the extent that it issues USD-denominated investment funds. An application for DGT approval must be filed with the DGT office no later than three months before the beginning of the USD accounting year. The DGT is required to decide on the application within a month. If no decision is made within that time, the application is automatically approved.

Companies governed by a *Production Sharing Contract* (PSC) or a *Contract of Work* (CoW) with the government may decide to apply USD accounting in English simply by notifying the DGT in writing. This notification must be submitted to the DGT office no later than 3 (three) months before the beginning of the USD accounting year.

A company may also compose its books in English but maintain them in Rupiah. In such a case, the company must submit a written notification to the DGT no later than three months after the beginning of the tax year in which the books are composed in English.

The use of a foreign language other than English and a foreign currency other than USD in a company's books is prohibited. Irrespective of the currency and the language used, companies typically have to settle their tax liabilities in Rupiah (except for PSC companies) and file tax returns in Indonesian. For corporate income tax, the assertions must be presented in USD side by side with Rupiah in the annual corporate income tax returns.

A company that has obtained approval to maintain USD accounting may return to Rupiah accounting subject to DGT approval. Once approval is granted, the company may not re-apply for USD accounting approval during the five years after the cancellation of the USD accounting.

Tax Assessments and Tax Audits

Tax assessments

Background

Indonesia uses a self-assessment system under which taxpayers are trusted to calculate, pay, and report their own taxes in accordance with prevailing tax laws and regulations. However, the DGT may issue tax assessment letters to a particular taxpayer if it finds that, based on a tax audit or on other information, the taxpayer has not fully paid all tax liabilities. A tax assessment letter may also be issued by the DGT to a taxpayer who ignores a warning letter to file a tax return within a specified period. Failure to maintain books in accordance with the prescribed standards is another condition that may lead the DGT to issue an official tax assessment.

A tax assessment letter applies only to one specific tax for one particular tax period or year and typically takes into account the following factors:

- The tax due;
- The applicable tax credits;
- The resulting balance between the tax due and the tax credits (overpaid, nil, or underpaid);
- The administrative penalty (interest or a surcharge).

Types of tax assessment letter

The name of a tax assessment letter refers to the resulting balance between the tax due and the tax credits. Accordingly, there are three types of tax assessment letters:

- Overpaid Tax Assessment Letter (*SKPLB*) if the tax due is less than the tax credit amount;
- Underpaid Tax Assessment Letter (*SKPKB*) if the tax due exceeds the tax credit amount;
- Nil Tax Assessment Letter (*SKPN*) if the tax due amount is equal to the tax credit amount.

If a *SKPKB* is issued, this may include one of the following administrative penalties:

- Interest at 2% per month for a maximum of 24 months;
- A 50% surcharge for income tax liability;
- A 100% surcharge for withholding tax liability;
- A 100% surcharge for VAT and LST liabilities.

Which penalties are applicable will depend on the type of wrongdoing the taxpayer has committed. The penalty amounts are determined by the application of the relevant rate to the underpaid tax amounts.

Statute of limitation

Under the 2007 Tax Administration Law, the DGT can issue an underpaid tax assessment letter for the years up to 2007 only within ten years after the incurrence of a tax liability,

the end of a tax period (month) or the end of (part of) a tax year, but no later than 2013. For years from 2008 onwards, the time spans for the issuing of underpaid tax assessment letters is reduced to five years.

Once a tax assessment letter for a particular tax of a particular month or year has been issued, additional tax assessment letters may still be issued within the specified time limits (five or ten years depending on the tax years) to the extent there is new data (*novum*) or information which was not disclosed (or not adequately disclosed) in the tax returns and/or during tax audits. The issue of an Additional Underpaid Tax Assessment Letter (*SKPKBT*) calls for a 100% surcharge on the tax due as an administrative penalty. However, a taxpayer may avoid the surcharge if they voluntarily notify the DGT of the *novum* or the undisclosed information.

The tax due reported in a tax return is considered certain if no tax assessment letter is issued within the specified time limit. Nevertheless, a *SKPKB* or *SKPKBT* can still be issued beyond the specified time limit to a taxpayer who, by virtue of a court verdict, is found guilty of a taxation crime after the specified time limits. A *SKPKB* or a *SKPKBT* issued in such a situation will include an interest penalty totalling 48% of the underpaid tax.

Tax audits

The tax audit of a company may cover only a particular tax or all taxes for a particular tax period (a tax month) or tax year. It may be conducted at the company's premises, at the DGT offices, or at both.

Conditions triggering a tax audit

A tax refund request will always trigger a tax audit. Due to the requirement for the DGT to decide on a refund request within 12 months, a tax audit will typically begin from a few weeks to several months from the refund request date. A corporate tax refund request will normally trigger a complete tax audit covering all taxes. A refund request of any other tax will normally trigger a tax audit covering only one particular tax. The DGT will likely broaden the tax audit scope to include other taxes.

Other events may trigger a tax audit; these include:

- A tax return in an overpayment position (not necessarily accompanied by a refund request);
- An annual income tax return presenting/claiming a tax loss;
- A tax return not filed within the prescribed time;
- A tax return meeting certain (undisclosed) DGT criteria.

One-month rule

Taxpayers being audited are required to provide documents and information requested by the tax auditors within a month of the request date. This may include transfer pricing

documentation if the taxpayers are engaged in related-party transactions. Failure to provide the documents or information within a month may prompt the DGT to determine the tax liabilities on a deemed profit basis. Where documents and information are not supplied within the one month period, they cannot be used later by the taxpayer to dispute the amount of tax assessed.

Closing conference

At the end of a tax audit, the tax auditors will provide the taxpayer being audited with a written notification of the tax audit findings containing their proposed tax audit corrections. If there is a disagreement regarding the tax audit findings, the taxpayer must respond to the notification in writing within seven working days and attend a closing conference (the final discussion) with the tax auditors.

The closing conference will serve as the last opportunity for the taxpayer to reassert its position with regard to the tax audit corrections and to present the relevant supporting documents. The tax auditors may change some of the suggested corrections in light of the taxpayer's response to the tax audit findings notification and the closing conference discussion.

The results of the final discussion are then summarised in a closing conference document. The taxpayer will have to state Agree or Disagree to each of the proposed corrections in the document. The document should also set out which

part of the taxpayer's arguments are accepted by the tax auditors and accordingly lead to the cancellation or reduction of some particular suggested corrections. By the end of the closing conference, the tax auditors and the taxpayer have to sign the closing conference document.

The signing of the closing conference document should take place no later than a month after the delivery of the audit findings notification letter to the taxpayer.

For certain tax years (2008 onward), the corrections agreed to in the closing conference document will constitute a basis for the minimum amount the taxpayer must pay of the tax assessment issued based on the document.

Products of a tax audits

The legal products of a tax audit consist mainly of Tax Assessment Letters (*SKP*) and Tax Collection Letters (*STP*), which must be based on the closing conference document. A STP typically serves as a legal instrument to collect administrative tax sanctions not covered in a tax assessment letter. In some other situations, it may also be used by the DGT to collect tax due in a particular tax period (month) within the current year and the interest penalty on this.

Tax Collection Using Distress Warrant

Using a legal tax collection instrument, the DGT may by law issue a Distress Warrant (*Surat Paksa*) to a taxpayer. The instruments include the following documents:

- Tax Collection Letters;
- Underpaid Tax Assessment Letters;
- Additional Underpaid Tax Assessment Letters;
- Tax Objection Decision Letters (which demand an additional payment from the taxpayer);
- Tax Court Decisions (which demand an additional payment from the taxpayer);
- Correction Decision Letters (which demand an additional payment from the taxpayer).

The relevant taxpayer is required to pay the underpaid tax stated in a tax collection instrument within a month of the instrument date. Any late payments trigger an interest penalty at 2% per month. Filing an objection, a revision request, an appeal, or a lawsuit is not an excuse for suspending the underpaid tax payment.

However, under the 2007 Tax Administration Law, taxpayers are bound to pay only the minimum amount they have agreed to in the closing conference, provided that they file an objection or an appeal in respect to the

particular tax assessment letter. The remaining part of the assessment not agreed during the closing conference will only be due after the DGT has made a decision on the objection or the tax court makes a ruling on the appeal that is not in the taxpayer's favour.

If the underpaid tax is not paid within the time allowed, the DGT may undertake the following steps as part of the execution of the Distress Warrant:

- a. Issue a Warning Letter (*Surat Teguran*) if the underpaid tax is not settled within seven days of the due date;
- b. Issue a Distress Warrant (*Surat Paksa*) if the underpaid tax is not settled within 21 days of the issuing of the Warning Letter;
- c. Issue a Confiscation Order (*Surat Sita*) if the underpaid tax is not settled within 48 hours of the issuing of the Distress Warrant;
- d. Publish an auction announcement with respect to the confiscated assets if the underpaid tax is not settled within 14 days of the issuing of the Confiscation Order;
- e. Undertake a public auction if the underpaid tax is not settled within 14 days of the auction announcement.

Tax Dispute and Resolution

A tax dispute between a taxpayer and the DGT will typically arise following the issuing of a tax assessment letter (SKP) by the DGT which the taxpayer does not agree with. A SKPKB, an SKPKBT, and a STP constitute legal tax collection instruments on the basis of which the DGT may issue a Distress Warrant if the taxpayer fails to settle the underpaid tax on time. The way the DGT executes the Distress Warrant may give rise to another tax dispute between the parties. A tax dispute may also arise between two taxpayers if one taxpayer has withheld too much tax from the income payable to the other taxpayer.

A discussion of the ways available to resolve such tax disputes follows.

Objections and appeals

A taxpayer who does not agree with a tax assessment letter can submit an Objection (*Keberatan*) to the DGT office within three months of the date of issue of the assessment letter. The Objection must state what the taxpayer has calculated as the tax due and set out the reasons for his or her disagreement with the DGT tax assessment.

In accordance with the 2007 tax administration law, as far as an underpaid tax assessment is concerned, the taxpayer must pay at least the amount agreed during the closing conference before filing the Objection. The unpaid portion of the assessment penalties will subsequently apply if the taxpayer's objection is rejected or if a subsequent tax appeal to the Tax Court is unsuccessful. The penalties are outlined below.

The DGT has to issue a decision on the tax Objection within 12 months of the filing date of the Objection. If no decision is issued by the DGT within 12 months, the objection is automatically deemed approved by the DGT.

If the objection is rejected by the DGT, any underpayment is subject to a surcharge of 50%. However, the underpaid tax and the surcharge are not payable if the taxpayer files an appeal with the tax court in respect of the objection decision.

An Objection may also be filed by a taxpayer with the DGT office with respect to tax withheld by a third party. The same time limits on filing the Objection and for the DGT's decision apply to this type of Objection.

A taxpayer who does not accept the DGT Objection decision can file an Appeal (*Banding*) with the Tax Court within three months of the receipt of the DGT Objection. To the extent that the DGT Objection Decision calls for a

payment of tax due, according to the tax court law, at least 50% of the tax due must be settled before filing the Appeal. As set out in the 2007 tax administration law, the taxpayer is only required to pay an amount agreed in the tax audit closing conference. This creates a mismatch and taxpayers are generally advised to pay the 50% amount to ensure the Tax Court accepts the case.

The Tax Court will typically have to decide on an Appeal within 12 months. Any underpaid tax resulting from the tax court decision is subject to a surcharge of 100%.

Another avenue for tax dispute resolution

The DGT, following a taxpayer request, or by virtue of its official position, may correct or cancel a tax assessment letter, a STP, or their derivatives issued on the basis of those letters. The derivatives include, among others:

- Objection Decision Letters;
- Decision Letters on the Reduction or Cancellation of Administrative Sanctions;
- Decision Letters on the Reduction or Cancellation of Tax Assessment;
- Decision Letters on an Early Refund of Overpaid Tax.

A Correction Request is an alternative available to a taxpayer, allowing the resolution of a dispute with the DGT concerning a particular tax assessment letter. This avenue can also be used for other tax disputes arising from virtually any other DGT decision.

The DGT must issue a decision on a Correction Request within six months of the date of filing. If no decision is issued by the DGT within six months, the Correction Request is automatically deemed to have been approved by the DGT.

Taxpayers who do not (fully) accept the DGT Decision on a Correction Request can file a lawsuit with the Tax Court (*Gugatan*) within 30 days of the receipt of the DGT decision. A lawsuit against the DGT can also be filed with the Tax Court for the execution of Distress Warrant. In this case, the lawsuit must be filed no later than 14 days after the execution date.

The Tax Court must decide on an appeal within six months.

Judicial Review Request to the Supreme Court

A Tax Court Decision is considered to be a final decision with full legal force. However, the parties involved in a tax dispute may file a Judicial Review Request (*Peninjauan Kembali/PK*) for a Tax Court Decision with the Supreme Court. This can be done only if any of the following conditions prevail:

1. The Decision has been based on a perjury, a deception, or false evidence on the part of the opposing party;
2. A piece of important written evidence is found which, had it been considered previously, would have led to a different Decision;

3. Some part of the claim has been ignored without reason;
4. Something which was not demanded was granted;
5. The Decision is clearly inconsistent with prevailing tax regulations.

A Judicial Review Request must be filed with the Supreme Court within an allowable request time limit. For conditions 1 and 2, the time limit is three months after the condition is identified. For conditions 3, 4 and 5, the time limit is three months after the court decision.

Import Duty

Import duty is payable at rates from 0% - 150% on the customs value of imported goods. Customs value is calculated on cost, insurance and freight level (CIF).

Group	Good	Rate (%)
Automobiles	Passenger & commercial vehicles	0 to 50
Automobile Parts		15
Electronic Goods		0 to 15
Footwear		5 to 25
Ethyl Alcohol & Alcoholic Drinks	Ethyl alcohol, beer, wine, spirits	30 to 150
Agricultural Products	Animal & vegetable products	0 to 25
Other	Chemicals, pharmaceutical products, rubber, etc.	0 to 10

As a commitment to liberalising trade, the Indonesian government is progressively lowering import duty rates on most products. Higher duty rates remain to protect certain industries and goods regarded as sensitive for security or social and cultural reasons.

ASEAN duty rates

Limited relief is given to Association of South East Asian Nations (ASEAN) countries on imports of goods that have at least 40% ASEAN content and have been directly shipped between such countries.

This scheme is intended to increase inter-ASEAN trade by reducing duty rates on most goods to between 0% and 5%.

Free Trade Area (FTA) Agreement duty rates

Indonesia has also implemented the following FTA duty rates with other Asian countries:

- a. ASEAN – China FTA (ACFTA)
- b. ASEAN – Korea FTA (AKFTA)
- c. Indonesia – Japan Economic Partnership Agreement (IJEPA)

Duty relief/exemption/deferral

The Indonesian government offers duty relief, duty exemption and duty deferral facilities to foreign and domestic investors in order to promote the development of local and export industries. Such facilities include the BKPM Masterlist, KBs, bonded warehouses, KITE facilities and Free Trade Zone (FTZ) in Batam, Bintan and Karimun.

BKPM Masterlist facility

The BKPM Masterlist facility provides duty exemption for eligible machinery and raw materials.

Bonded zone

A bonded zone (*Kawasan Berikat /KB*) is a facility for encouraging exports by exempting imported capital equipment and raw materials from import duty, provided at least 50% of the production value of the finished goods (or 40% in the case of semi-finished products) is exported.

Bonded warehouse

The bonded warehouse facility allows for the payment of import duty and import taxes to be deferred until the goods have been delivered to the domestic market, but the goods should support the manufacturing industry.

KITE facilities

The KITE (*Kemudahan Impor Tujuan Ekspor*) exemption allows for goods to be imported without payment of import taxes, provided that the finished products are mostly exported. A KITE drawback allows for the recovery of import duty paid on imported goods that are incorporated into goods which are subsequently exported.

FTZ in Batam, Bintan and Karimun

Goods entered into FTZ and goods delivered amongst companies inside Free Trade Zone (FTZ) are exempted from import duty, and excise; in addition, the import taxes (ie. VAT, LST and Income Tax Article 22) are not collected.

Goods exit from FTZ to other Indonesia Customs area, the liable import duty and import taxes should be paid.

Some administrative requirements in FTZ:

1. Business License from the Management Board of FTZ (*Badan Pengusahaan*)
2. Masterlist (type of goods and quantity) from the Management Board of FTZ, the goods should relate to the business activities.
3. Consumable goods for the FTZ residence should be entered by registered entrepreneurs.
4. Customs procedures (including customs audit, customs penalties) are applicable in FTZ.
5. No requirement to be registered as a Taxable Enterprise (*PKP*).

Transactions of intangible goods and taxable services are exempted from VAT, except for those delivered to other Indonesia Customs area and Bonded Zone companies.

MITA (“Main Partners”) lanes

There are two types of MITA lanes, namely MITA priority and MITA Non priority lanes. The MITA priority lane allows the importer to clear the import goods without physical examination and documentation check. Non priority lane also allows the importer to clear the import goods without physical examination and documentation check, subject to some exceptions eg, high risk importation, temporary

import, re-import, import duties borne facility, and import of certain other specified products.

Import licenses

Import restrictions apply to certain products, including alcoholic drinks, ammunition and hazardous waste. A special Importer Identification Number (*NPIK*) needs to be obtained to import certain items including textile products, shoes, and electronic goods. In addition, for the importation of garments, electronics, food and drinks (including tobacco), toys and footwear products, the importer should also have registered as Registered Importer (*IT*) with the Ministry of Trade.

Customs compliance environment and administrative penalties

Customs may re-determine the classification or valuation of an importer's goods within two years of the date of an import declaration.

Administrative penalties of up to 1000% (one thousand percent) may be imposed where, within two years, Customs determines that the import duty has been underpaid.

Contacts

Our Tax Department is available to advise and help you with all aspects of taxation and to ensure that you meet your commitments efficiently and promptly.

If you have any queries, contact your usual consultant or any of the following tax professionals:

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When specific problems occur in practice, it may be necessary to refer to laws and regulations and to obtain appropriate tax and other advice.

A Summary of Indonesian Tax

The information in this booklet sets out tax law and practice as of 19 March 2010.

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