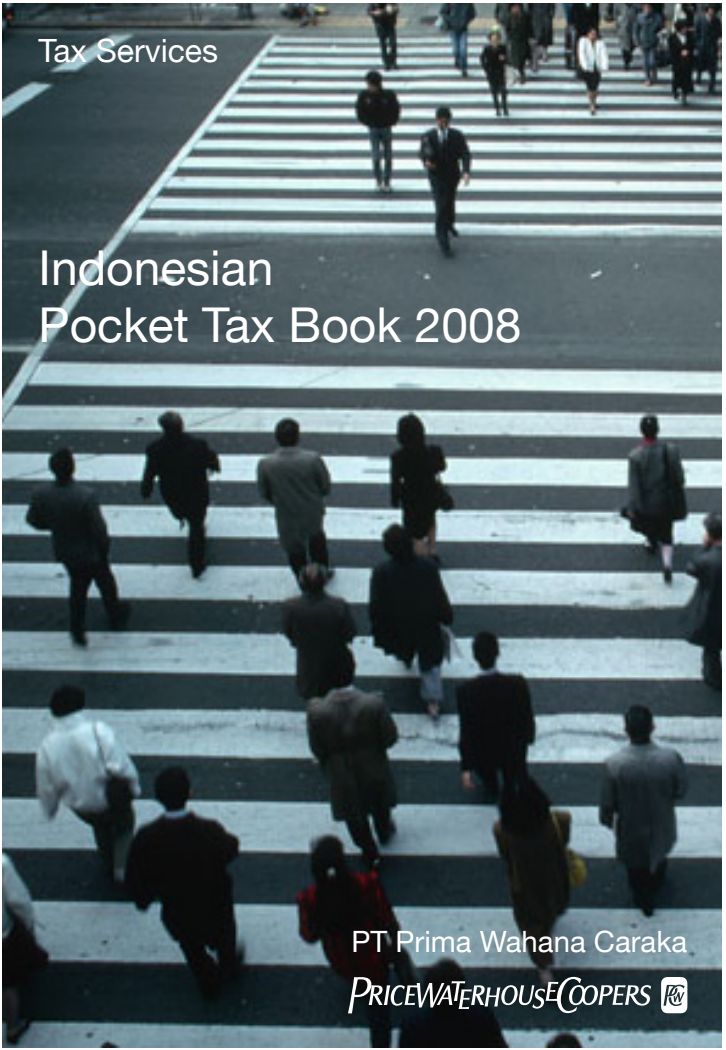
Tax Services

Indonesian Pocket Tax Book 2008



PT Prima Wahana Caraka

PRICEWATERHOUSECOOPERS

Contents

Corporate Income Tax

Tax rates

For resident companies:

	Taxable income Rp	Rate	Tax Rp
On the first	50,000,000	10%	5,000,000
On the next	50,000,000	15%	7,500,000
Over	100,000,000	30%	---

Tax residence

A company is treated as a resident of Indonesia for tax by virtue of 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, by withholding by third parties, or a combination of both. Foreign companies that do not have a PE in Indonesia are to settle their tax liabilities in respect of their Indonesian-sourced income by way of the Indonesian party paying the income withholding the tax.

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 by reference to the most recent corporate tax return. Special calculations of instalments apply to new taxpayers, finance lease companies, banks and state-owned companies. Company-borne exit tax, to the extent that it is related to business, and certain tax paid on sales of land and building rights are also referred to as Article 25 income tax.

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) constitute other prepayments of the current year corporate tax liability of the income recipient or the party conducting the import. (Refer to pages 26 - 29 for income items subject to Article 23 income tax and pages 24 - 25 for transactions subject to Article 22 income tax.)

If the total 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 payment is referred to as Article 29 income tax.

Certain income earned by resident taxpayers or Indonesian PEs is 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 page 25 for income items subject to final income tax under Article 4.2.)

For foreign companies that do not have 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 29 - 30 for income items subject to Article 26 income tax.)

Business profits

Taxable business profits are computed 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 in respect of when an expenditure recorded as an expense for accounting can be 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 in the workplace, 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 and the cost of providing BIKs in remote areas, 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/reserves, except for the provisions for doubtful debts of banks and finance lease companies, provisions for premiums and claims of insurance companies and provisions for reclamation costs of mining companies;
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 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 partnerships 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 subject to certain concessions, the period can

be extended up to ten years. A carry-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, and a state-owned company (BUMN/BUMD), are exempt from income tax if all of the following conditions are met:

- the dividends are paid out of retained earnings;
- the company earning the dividends holds at least 25% of the paid-in capital in the company distributing the dividends;
- the company earning the dividends has an active business other than the shareholding.

If the above conditions are not met, the dividends are assessable to the company earning the dividends at the ordinary tax rates together with the other income of the company. Upon declaration, dividends are subject to Article 23 income tax at 15% which constitutes a prepayment of the corporate tax liability of the company earning the dividends.

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

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

Deemed profit margins

The following businesses have deemed profit margins for tax purposes:

	On gross revenues	Effective income tax rate
Domestic shipping operations	4%	1.2%
Domestic airline operations	6%	1.8%
Foreign shipping and airline operations	6%	2.64%
Foreign oil and gas drilling service operations	15%	---
Certain Ministry of Trade representative offices	1% of export value	0.44%

Toll manufacturing services relating to children's toys rendered by a resident company to its foreign affiliates have their taxable income deemed at 7% of the total manufacturing costs, excluding materials, and are taxable at a single rate of 30%.

Special Industries and activities

As with all tax systems, there is a range of exceptions from normal treatment. In Indonesia, such exceptions include the

tax treatment of production sharing contracts, metal, mineral and coal mining contracts of work, geothermal power plants, companies in bonded zones, bonded warehouses, and foreign aid projects. Partnerships, sole proprietorships, and other business forms are also subject to special tax treatment, but are basically within the general tax framework outlined in this booklet.

Investment funds, pension funds, and venture capital companies enjoy certain exemptions from income tax.

Tax concessions

Tax neutral-mergers

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

However, based on a specific approval of the Director General of Tax (DGT), a tax-neutral merger or consolidation can be conducted, under which assets are transferred at book value. To obtain the DGT 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.

Based on a 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 approval, the company concerned must have an effective declaration about registration for an IPO with the Capital Market Supervisory Board (BAPEPAM). In the event of complications beyond the company's control, the period can be extended by the DGT up to three years.

Investment incentives

The DGT, on behalf of the Minister of Finance (MoF) and based on the recommendation of the National Board of Investment (BKPM) chairman, may give the following tax facilities to PT companies following their investments 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 within six years;
- Acceleration of fiscal depreciation;
- Extension of tax loss carry-forwards up to ten years;
- A reduction to 10% in the withholding tax on dividends paid to non-residents.

The designated business areas, among others, include the following:

a. Food industries
b. Garment and textiles
c. Pulp and paper
d. Industrial chemical materials
e. Pharmaceutical

f. Rubber and rubber-made products
g. Iron and steel
h. Machinery and equipment
i. Electronics
j. Land transportation vehicles
k. Ship buildings and reparation
l. Cement (in Papua, Sulawesi, and Nusa Tenggara)
m. Plastic-made products and packaging (outside Java)

Recommendation from the BKPM chairman must firstly be sought together with the application of the investment approval to obtain the DGT (MoF) approval for the tax facilities.

The same tax facilities can be granted by the DGT to companies conducting business in an Integrated Economic Development Area (KAPET). Specific approval must be obtained from the DGT for the tax facilities. If the company has bonded zone (BZ) status, the tax facilities will also include those typically enjoyed by a BZ company such as:

- VAT and sales tax on luxury goods not collected on certain 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 certain public companies, reducing their corporate tax rate from 30% to 25%. To be eligible for this facility a public company must have more than 40% of its outstanding shares owned by at least 300 persons, each holding less than five percent, and maintains this condition for at least six month in a year. If in particular year any of the conditions are not met, the facility is not applicable.

Gains resulting from revaluations of fixed assets

Gains resulting from a DGT-approved revaluation of fixed assets are subject to final tax of 10%. (see pages 44 – 45 for further discussion about revaluation of fixed assets).

Foreign loan and foreign-grant funded governmental projects

Government projects funded with foreign loans or foreign grants may enjoy special tax treatment in respect of the income derived therefrom and the related activities. Qualifying projects are typically covered in the state Project Table of Contents (DIP) or other similar documents.

Main contractors, consultants and suppliers in respect of *foreign grant-funded governmental projects* may have their income tax borne by the government. This facility

is no longer available for the second-level contractors, consultants and suppliers, i.e., those who receive orders or work from the main contractors, consultants and suppliers, except for those projects whose contracts were signed before 23 June 2000.

The same facility is enjoyed by the main contractors, consultants and suppliers in respect of *foreign loan-funded governmental projects* to the extent that the relevant contracts were signed before 23 June 2000. Second-level contractors, consultants and suppliers in respect of foreign loan-funded projects may not enjoy this tax facility.

To the extent that the contracts were signed before 23 June 2000, the government also bears the Article 21/26 income tax of the foreign employees working for either the main or the second-level contractors, consultants and suppliers in respect of the *foreign-grant* or f*oreign-loan-funded government projects.*

Apart from the above conditions, the main contractors, consultants and suppliers also enjoy the following tax facilities in respect of 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*:

- Exemption from import duty;
- VAT and sales tax on luxury goods not to be collected
- Import income tax (Article 22) not to be collected.

Where the deliverables of a qualifying project are taxable goods or services, main contractors, consultants and suppliers are bound to issue relevant tax invoices. However the VAT thereon is not collected.

Where a qualifying project is only partially funded by a foreign loan or a foreign grant, the tax facilities should be determined in proportion to the foreign loan or foreign grant-funded amount.

Transfer pricing

Transactions between related parties must be dealt with consistently using the arm's-length principle. If deviation occurs, the DGT is authorised to recalculate taxable income or deductible costs arising from such transactions with reference to the arm's-length principle.

Prior to 2008, there was no specific requirement calling for transfer pricing documentation. However, following the enactment of the 2007 tax administration law, the government requires specifically transfer pricing documentation as a means to prove the arm's length nature of related-party transactions. At the time this pocket tax book goes to print, it is still unclear what the documentation should look like.

The tax law authorises the DGT to enter into advance pricing agreements (APAs) with taxpayers in respect of 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 which it is open to renegotiation. At the time this pocket tax book goes to print, there is no implementing regulation on the APA.

Sunset Policy

Following the enactment of the 2007 tax administration law, taxpayers are allowed to revise their annual corporate income tax returns (CITR) for years before 2007 without facing any interest penalties on the underpaid tax amounts. In the normal situation, an underpaid tax amount would trigger interest penalties at 2% per month.

Apart from the interest exemption, there are other concessions:

- Any data declared in the revised CITR cannot be used as a basis to issue assessments on any other taxes.
- The revised CITR will not be audited unless it claims an overpaid tax refund or proves to be incorrect.
- Filing a revised CITR which calls for an additional tax payment may stop an on-going tax audit. This includes not only the audit of corporate income tax for which the revised CITR has been filed but also the audit of other taxes as long as the relevant tax returns do not claim tax overpayments. The Director General of Taxes (DGT), however, at his own discretion, may decide to continue the audit irrespective of the absence of overpaid tax returns.

The concession is available only up to the end of 2008. Hence, to enjoy the concession, the revised CITR must be filed before 1 January 2009.

Individual Income Tax

Normal tax rates

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

	Taxable Income Rp.	Rate	Tax Rp.
On the first	25,000,000	5%	1,250,000
On the second	25,000,000	10%	2,500,000
On the third	50,000,000	15%	7,500,000
On the fourth	100,000,000	25%	25,000,000
On the fifth and over	200,000,000	35%	---

Concessional tax rates

The following concessional tax rates are applicable for income earned by individual residents in the forms of a lump-sum pension payment from a government-approved pension fund, old-age security saving payments from the state social security organiser (Jamsostek) and severance payments:

	Taxable Income Rp.	Rate	Tax Rp.
On the first	25,000,000	---	Nil
On the second	25,000,000	5%	1,250,000
On the third	50,000,000	10%	5,000,000
On the fourth	100,000,000	15%	15,000,000
On the fifth and over	200,000,000	25%	---

Main personal relief

Annual non-taxable income (PTKP) for resident individuals:

	Rp.
Taxpayer	13,200,000
Spouse	1,200,000
Each dependent (max. of 3)	1,200,000
Occupational expenses (5% of gross income, max. Rp. 108,000/month)	1,296,000
Employee contribution to Jamsostek for old age security savings (2% of gross income)	Full amount
Pension maintenance expenses (5% of gross income, max. Rp 36,000/month)	432,000

Tax residence

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

- Resident in Indonesia;
- Present in Indonesia for more than 183 days within any

12-month period;
- Present in Indonesia within a fiscal year and intends to reside in Indonesia.

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

Non-resident individuals are subject to a 20% withholding tax (Article 26, subject to treaty provisions) on Indonesian source income (as specified on pages 29 - 30).

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 present all of the individual's income, including compensation from employment, investment income, capital gains, overseas income and other income as well as a summary of the individual's assets and liabilities.

A family is regarded as a single tax reporting unit owning only 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 in a single tax return in his name and 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 by way of withholding by third parties. Employers are required

to withhold Article 21/26 income tax from the salaries and other compensation payable to their employees on a monthly basis. If an employee is a resident taxpayer, the tax withheld should be determined based on the normal tax rates above. If he/she is a non-resident taxpayer, the withholding tax is 20% of the gross amount (and may be 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;
- Scholarships;
- Fees for services;
- Prizes/awards.

Typically the tax withheld from the above income is to be determined based on the normal tax rates. (Refer to page 14 for the applicability of the concessional tax rates for certain payments.) This tax must also be withheld from fees paid to individual professionals such as lawyers, notaries, accountants, architects, doctors, actuaries and appraisers for their professional services. The effective tax rate is 7.5% of the fees.

For severance payments transferred to a manpower severance pay management board, the interest earned

thereon is subject to 20% final tax if the board is a bank or 15% withholding tax under Article 23 if the board is not a bank.

Exit tax

An exit tax (Rp. 1,000,000 for exit from Indonesia by plane, Rp. 500,000 by ship) is another form of prepayment of an individual's income tax. If the exit tax is borne by an employer and the overseas trip is for business purposes, the amount paid is a prepayment of the employer's income tax, otherwise the exit tax can be credited against the individual's income tax.

Benefits-in-kind

BIKs e.g., car, 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. The same principle applies to BIKs required to perform a job, such as 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 provided by:

- Mining companies and production sharing contractors which are subject to tax under the old tax laws;
- Representative offices of offshore companies not constituting taxpayers;
- Final-taxed companies;

- 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).

Employers are responsible for the entire amount of contributions to the occupational accident security and death security programs. Contributions for accident security range from 0.24% to 1.74% of an employee's wage, depending on the employer's business (employers are classified under one of five industry categories). The contribution for death security is 0.3% of the employee's wage.

The premium for old age security is jointly borne by the employer and the employee; the employer's share is 3.7% of wages and the employee's share is 2% of wages. Employee contributions to Jamsostek are collected by the employer through payroll deductions. 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.

Health maintenance security for up to three dependants is another feature of Jamsostek. A company which provides better company health insurance to its employees can elect not to join the health care program under Jamsostek. The contribution for the health care program under Jamsostek is

6.0% for a married employee (max. Rp. 60,000 per month) and 3.0% for an unmarried employee (max. Rp. 30,000 per month).

Payments of old-age security savings to individuals by Jamsostek are subject to income tax (see page 15).

Deemed salaries

Expatriate employees working for oil and gas drilling companies are deemed to be 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. Exit tax paid for an expatriate employee can only be credited against Article 21 income tax on his behalf if it is also treated as a tax allowance assessable in his hands on top of the deemed taxable income.

Sunset Policy

The concessions applicable for corporate taxpayers are also applicable for Individual taxpayers who have registered with the ITO and obtained a tax ID number (NPWP) before 1 January 2008. Those who voluntarily register with the ITO and obtain NPWP only in 2008 may also file their annual income tax returns for any years up to 2007 without facing any interest penalties on the underpaid tax amounts.

Withholding Taxes

General

Indonesian income tax is collected mainly through a system of withholding taxes. Most withholding taxes must be paid by the 10th day of the month following payment or its accrual in the books, whichever is earlier. These withholding taxes are commonly referred to by the relevant article of the Income Tax (PPh) Law.

(i) Article 21 – salaries and other payments to individuals

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). (Refer to page 5 for the relevant tax rates.)

(ii) Article 22 - imports

Article 22 income tax is typically applicable in the following events:

- Import of goods;
- Sale of goods to the government calling for payments from the State Treasury, the State Budget General Directorate, or certain state-owned companies;

- Sale/purchase transactions of steel, automotives, cigarettes, cement, and paper products.

The tax rates for the designated events are as follows:

Event	Tax rate %	Tax base
1. Import of goods – using an Importer Identification (API)	2.5	Import value, i.e., CIF value plus duties payable
2. Import of goods – without API	7.5	Import value, i.e., CIF-value plus duties payable
3. Sale of goods to the government calling for payment from the State Treasury and certain state-owned companies	1.5	Selling prices
4. Purchase of steel products	0.30	
5. Purchase of automotive products	0.45	Selling prices
6. Purchase of paper products	0.10	Selling prices
7. Purchase of cement	0.25	Selling prices
8. Purchase of cigarettes	0.15	Retail selling prices (Bandrol)

Notes:

1. The tax is exempt, either automatically or based on an Exemption Certificate issued by the DGT, for these types of imports:
   - Import of goods exempted from import duties and VAT;

- Temporary import of goods (to be re-exported);
- Re-import of goods (to be repaired or tested for subsequent re-export).

2. The *withholding* designation may only be appropriate for no. (3) in the sense that the tax collector (State Treasury, state-owned company, etc.) is to 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 has to pay Article 22 income tax on top of the amounts payable for the goods being imported or purchased.
3. The state-owned companies in (2) include PT Telkom, Pertamina, Bulog, Bank Indonesia, PLN, PT Indosat, PT Garuda Indonesia, PT Krakatau Steel and state-owned banks.
4. Vendors of goods under numbers (4) – (8) can only collect Article 22 income from buyers if they have been appointed by the DGT to undertake this role by virtue of a specific DGT Appointment Decision.
5. Article 22 income tax constitutes a prepayment of (corporate) income tax liabilities for numbers (1) – (7) and final income tax for number (8).
6. Tax exemption applies for certain categories of goods or import/purchase of goods for non-business purposes.
7. Sale of goods to the government calling for payment from the State Treasury and certain state-owned companies
8. Purchase of steel products
9. Purchase of automotive products
10. Purchase of paper products
11. Purchase of cement
12. Purchase of cigarettes

(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. Interest on time or saving deposits and Bank Indonesia Certificates (SBIs) other than that payable to banks operating in Indonesia and government-approved pension funds	20
3. Interest on bonds sold on Indonesian stock exchanges other than that payable to banks operating in Indonesia, government-approved pension funds, and mutual fund companies registered with the Capital Market Supervisory Board (BAPEPAM) for five years from their establishment	20
4. 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, gains on subsequent sales are taxed under normal rules (refer to section (vi) below.)	0.1
5. Income on prizes on lotteries	25
6. Fees for the services of small construction companies that have obtained a small-scale entrepreneur's certificate issued by an authorised institution and have a contract of not more than Rp. 1 billion: • Construction contracting • Construction planning • Construction supervision	 2 4 4

(iv) Article 23 – residents

Article 23 income tax is due on payments of dividends, interest, rents, royalties, prizes and awards, and fees for technical, management and other services to resident taxpayers and PEs other than banks.

Resident companies, PEs, representatives of foreign companies, organisations, and appointed individuals are required to withhold 15% tax from the following payments to other residents:

a. On gross amounts:
   - Dividends (however, see page – regarding profit distributions);
   - Interest, including premiums, discounts, and loan guarantee fees;
   - Royalties;
   - Prizes and awards.

b. On estimated net income
   - Compensation for the following services, including rentals, are subject to Article 23 withholding tax at 15% of the estimated net income (ENI), which is a specified percentage of the gross compensation.

Services	ENI and effective tax rate (%)				
	10	13 1/3	20	26 2/3	30
	1.5	2	3	4	4.5
1. Rentals of land transportation vehicles	●				
2. Rentals of other assets, excluding land and buildings					●
3. Technical services					●
4. Management services					●
5. Consulting except construction consulting					●
6. Construction supervision				●	
7. Construction planning				●	
8. Appraisal					●
9. Actuary					●
10. Accounting					●
11. Designing					●
12. Drilling services in oil and gas mining except those performed by permanent establishment					●
13. Support services in oil and gas mining					●
14. Mining services other than oil and gas support					●
15. Flight and airport support services					●

Services	ENI and effective tax rate (%)				
	10	13 1/3	20	26 2/3	30
	1.5	2	3	4	4.5
16. Forest felling					●
17. Waste processing					●
18. Labour supply					●
19. Intermediary					●
20. Custodianship and storage services except those performed by stock exchanges, KSEI, and KPEI					●
21. Sound dubbing					●
22. Film mixing					●
23. Computer and software-related services					●
24. Installation (electricity, machinery, telephone equipment, etc.)					●
25. Maintenance and improvement (electricity, machinery, telephone equipment, etc.)					●
26. Construction contracting		●			
27. Manufacturing services (Maklon)			●		
28. Investigation and security			●		
29. Event organiser			●		

Services	ENI and effective tax rate (%)				
	10	$13^{1/3}$	20	$26^{2/3}$	30
	1.5	2	3	4	4.5
30. Packaging	●				
31. Provision of space and/or time for disseminating information	●				
32. Pest eradication	●				
33. Cleaning services	●				
34. Catering	●				

(v) Article 26 – Non-residents

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

a. On gross amounts:
   1. Dividends;
   2. Interest, including premiums, discounts (interest), swap premiums, 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. The notional annual distributions of after-tax profits of a branch or PE. After-tax profits of a PE are exempt from withholding tax if they are

reinvested in Indonesia in the form of equity participation in a company established and domiciled in Indonesia for which the PE acts as the founder or one of the founders.

b. On ENI:

	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 shares by non-residents	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. Refer to pages 33 - 35 for withholding tax rates under tax treaties.

(vi) Sales of shares

Sales of shares on an Indonesian stock exchange are subject to final withholding income tax at 0.1% of the gross transaction value. Once an IPO takes place, additional income tax is also due for founder shares. As an option, founder shareowners can pay final income

tax within a month after the company shares are traded on an Indonesian stock exchange at 0.5% of the share value. If the final tax is not paid, gains from sales of founder shares are assessable in accordance with the general income tax rates.

Sales of Indonesian company shares not listed with an Indonesian stock exchange by non-residents are subject to a final tax at 5% of the transaction value. If the shares are sold to an Indonesian resident, the Indonesian buyer is held responsible for withholding the tax. If the shares are sold to a non-resident buyer, the withholding tax responsibility rests with the Indonesian company.

If the vendors are residents of a country that has a tax treaty with Indonesia, they may be entitled to an exemption from the above taxes.

Tax Treaties

Indonesia's tax treaties provide for tax benefits in the form of withholding tax exemption for service fees and reduced withholding tax rates for dividends, interest, royalties, and branch profit tax 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 the least, present its certificate of residence (CoR) to the DGT through the Indonesian party paying the income. Without this document, entitlement to the tax benefit is denied and tax will be withheld at 20%.

For interest, dividends, and royalties, only the beneficial owner is acknowledged as the party entitled to the tax treaty benefits. Beneficial owner is not clearly defined in tax law and regulations. However, conduit companies, pass-through companies, paper companies and the like are declared as non-beneficial owners.

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. Belgium		15%	10%	10/0%	10%	10%
5. Brunei		15%	15%	15/0%	15%	10%
6. Bulgaria		15%	15%	10/0%	10%	15%
7. Canada		15%	10%	10/0%	10%	15%
8. China		10%	10%	10/0%	10%	10%
9. Czech Republic		15%	10%	12.5/0%	12.5%	12.5%
10. Denmark		20%	10%	10/0%	15%	15%
11. Egypt		15%	15%	15/0%	15%	15%
12. Finland		15%	10%	10/0%	15/10%	15%
13. France		15%	10%	15/10/0%	10%	10%
14. Germany	1	15%	10%	10/0%	15/10%	10%
15. Hungary	4,5	15%	15%	15/0%	15%	20%
16. India		15%	10%	10/0%	15%	10%
17. Iran		7%	7%	10/0%	12%	7%
18. Italy		15%	10%	10/0%	15/10%	12%
19. Japan		15%	10%	10/0%	10%	10%
20. Jordan	4	10%	10%	10/0%	10%	20%
21. Korea (North)		10%	10%	10/0%	10%	10%
22. Korea (South)	2	15%	10%	10/0%	15%	10%
23. Kuwait	5	10%	10%	5/0%	20%	10/0%

	Notes	Dividends		Interest	Royalties	Branch Profit Tax
		Portfolio	Substantial holdings			
24. Luxembourg	1	15%	10%	10/0%	12.5%	10%
25. Malaysia	7	15%	15%	15/0%	15%	12.5%
26. Mauritius	6	10%	5%	10/0%	10%	10%
27. Mexico		10%	10%	10/0%	10%	10%
28. Mongolia		10%	10%	10/0%	10%	10%
29. Netherlands	3	10%	10%	10/0%	10%	10%
30. New Zealand	4	15%	15%	10/0%	15%	20%
31. Norway		15%	15%	10/0%	15/10%	15%
32. Pakistan	1	15%	10%	15/0%	15%	10%
33. Papua New Guinea		20%	15%	15/10/0%	15%	20%
34. Philippines		20%	15%	15/10/0%	15%	20%
35. Poland		15%	10%	10/0%	15%	10%
36. Portuguese		10%	10%	10/0%	15%	10%
37. Romania		15%	12.5%	12.5/0%	15/12.5%	12.5%
38. Russia		15%	15%	15/0%	15%	12.5%
39. Seychelles		10%	10%	10/0%	10%	20%
40. Singapore		15%	10%	10/0%	15%	15%
41. Slovakia		10%	10%	10/0%	15/10%	10%
42. South Africa	4,5	15%	10%	10/0%	10%	20%
43. Spain		15%	10%	10/0%	10%	10%
44. Sri Lanka	4	15%	15%	15/0%	15%	20%
45. Sudan		10%	10%	15/0%	10%	10%

	Notes	Dividends		Interest	Royalties	Branch Profit Tax
		Portfolio	Substantial holdings			
46. Sweden		15%	10%	10/0%	15/10%	15%
47. Switzerland	1	15%	10%	10/0%	12.5%	10%
48. Syria		10%	10%	10%	20/15%	10%
49. Taiwan		10%	10%	10/0%	10%	5%
50. Thailand		20%	15%	10/0%	15%	20%
51. Tunisia		12%	12%	12/0%	15%	12%
52. Turkey		15%	10%	10/0%	10%	10%
53. Ukraine		15%	10%	10/0%	10%	10%
54. United Arab Emirates		10%	10%	5/0%	5%	5%
55. United Kingdom		15%	10%	10/0%	15/10%	10%
56. United States		15%	10%	10/0%	10/0%	10%
57. Uzbekistan		10%	10%	10/0%	10/0%	10%
58. Venezuela		15%	10%	10/0%	20/10%	10%
59. Vietnam		15%	15%	15/0%	15%	10%

Note: Numbers in parentheses correspond to the following notes:

1. Fees for technical, management and consulting services rendered in Indonesia are subject to withholding tax at the rates of 5%, 7.5%, 10% and 15% for Switzerland, Germany, Luxembourg and Pakistan respectively.
2. VAT is reciprocally exempted from the income earned from the operation of ships or aircraft in international lanes.
3. The re-negotiated tax treaty has been effective since 1 January 2004. The zero-rated tax on qualifying interest is suspended pending an agreement between the Indonesia and the Netherlands

tax authorities regarding the mode of application.
4. The treaty is silent concerning branch profit tax rate. The Indonesian Tax Office (ITO) interprets this to mean that the tax rate under Indonesian Tax Law (20%) should apply.
5. Tax only applies if the profits are remitted.
6. Effective only from 1 January 1999 to 31 December 2004.
7. Subject to a protocol ratification, Labuan may be excluded from the territory of Malaysia for tax treaty purposes and withholding tax on interest, dividends, and royalties may be reduced to 10%.

In addition to the above treaties, there are agreements with Saudi Arabia, Morocco, Bangladesh, Croatia, South Africa and Laos for the reciprocal exemption of taxes and customs duty on the activities of the two countries' air transport enterprises.

Permanent establishment time test

Certain activities may give rise to the creation of a PE if they are conducted in Indonesia for more than the time test. The following is a summary of the time test for those 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. Belgium	6 months	6 months	6 months	6 months	3 months
5. Brunei	183 days	3 months	3 months	183 days	3 months
6. Bulgaria	6 months	6 months	6 months	6 months	120 days

	Bldg. Site Construction	Installation	Assembly	Supervisory Activities	Other Services
7. Canada	120 days	120 days	120 days	120 days	120 days
8. China	6 months	6 months	6 months	6 months	6 months
9. Czech Republic	6 months	6 months	6 months	6 months	3 months
10. Denmark	6 months	6 months	6 months	6 months	3 months
11. Egypt	6 months	4 months	4 months	6 months	3 months
12. Finland	6 months	6 months	6 months	6 months	3 months
13. France	6 months	---	6 months	183 days	183 days
14. Germany	6 months	6 months	---	---	---
15. Hungary	3 months	3 months	3 months	3 months	4 months
16. India	183 days	183 days	183 days	183 days	91 days
17. Iran	6 months	6 months	6 months	6 months	183 days
18. Italy	6 months	6 months	6 months	6 months	3 months
19. Japan	6 months	6 months	---	6 months	---
20. Jordan	6 months	6 months	6 months	6 months	1 months
21. Korea (North)	12 months	12 months	12 months	12 months	6 months
22. Korea (South)	6 months	6 months	6 months	6 months	3 months
23. Kuwait	3 months	3 months	3 months	5 months	3 months
24. Luxembourg	5 months	5 months	5 months	---	---
25. Malaysia	6 months	6 months	6 months	6 months	3 months
26. Mauritius	6 months	6 months	6 months	6 months	4 months
27. Mexico	6 months	6 months	6 months	6 months	91 days
28. Mongolia	6 months	6 months	6 months	6 months	3 months
29. Netherlands	6 months	6 months	6 months	6 months	3 months
30. New Zealand	6 months	6 months	6 months	6 months	3 months

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

	Bldg. Site Construction	Installation	Assembly	Supervisory Activities	Other Services
54. United Arab Emirates	6 months	6 months	6 months	6 months	6 months
55. United Kingdom	6 months	183 days	183 days	183 days	91 days
56. United States	183 days	120 days	120 days	120 days	120 days
57. Uzbekistan	120 days	6 months	6 months	6 months	3 months
58. Venezuela	6 months	6 months	6 months	6 months	---
59. 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 consistently using either the straight-line or 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, and equipment for the semi-conductor industry.

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, machinery for agriculture, plantation, forestry, fishery, food and drink, and light machinery, logging

equipment, equipment for construction, heavy vehicles for transportation, warehousing, and communication, telecommunications equipment, and equipment for the semi-conductor industry.

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 machinery for general mining other than oil and gas, machinery 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 is heavy machinery for construction, 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 buildings is the land and building transfer duty (DAL&BR) on building rights.

Lists of the assets included in each category are set out in MoF decrees. Separate lists of assets and depreciation rates for the oil and gas sector are also specified in a MoF

decree.

Special rules apply to assets used in certain areas for certain industries and KAPETs (see page 9).

Intangible property or costs, including the cost of extending building use rights, rights for business use, rights for use and DAL&BR 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*, based on the useful life of the property:

   Category 1 - Four years

   Category 2 - Eight years

   Category 3 - Sixteen years

   Category 4 - Twenty years

   The category is determined on the basis of the nearest useful life (i.e., an intangible asset with a useful life of six years may be Category 1 or Amortisation Category 2, while an intangible asset with a useful life of five years is Category 1).

b. Costs of incorporation and expansion of the capital of an enterprise are claimed in full in the year 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 having a beneficial life greater than one year are amortised using the production-unit method.

d. Costs incurred for acquiring mining rights, forest concessions, and other rights to exploit natural resources and natural products with a beneficial life of more than one year are amortised using the production-unit method but not exceeding 20% per annum.

e. Costs incurred before commercial operations commence with a useful life of more than one year are capitalised and amortised according to the rates in point 2.

Asset transfers

Sales of a company's assets may result in capital gains or losses whose amounts are determined from 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 only tax deductible if the asset concerned is required for running the business, i.e., for obtaining, collecting, and securing assessable income.

Revaluation of fixed assets

Subject to DGT approval, corporate taxpayers and PEs other than those maintaining accounting in US Dollars (USD) may revalue their non-current tangible assets for tax purposes. The revaluation may cover all or some part of their business-related assets located in Indonesia and may be conducted at a maximum of once in five years. Before requesting the DGT's approval, the company concerned must ascertain that it has settled all its outstanding tax liabilities.

The revaluation must be conducted on a market or fair value basis. The market values are to be determined by a government-recognised appraiser, subject to DGT adjustments if the values, in DGT's view, do not represent the fair or market values of those assets.

Once approved, as far as depreciable assets are concerned, the depreciation must be based on the new tax book values (approved values) on the basis of a full useful life as if the assets were new.

The excess of the fair market value over the old tax book value of the revalued assets should be offset against any current or prior year tax losses. The remaining balance is then subject to final income tax at 10%. Based on a specific DGT approval, taxpayers facing financial difficulties may pay this tax in instalments for one to five years.

Fixed assets falling under categories 1 and 2 must be retained at least up to the end of their useful life. Land, buildings, and assets falling under categories 3 and 4 must be retained at least within 10 years from the revaluations date. Additional final income tax of 20% is imposed if the revalued assets are sold or transferred before the end of the minimum retention period (does not apply to assets transferred to the government or transferred in the course of a tax-neutral business merger, a consolidation, or a business split).

Value Added Tax

General

Value Added Tax (VAT) is typically due on events involving transfers of taxable goods or provisions of taxable services in the Indonesian Customs Area. The taxable events include:

a. Deliveries of taxable goods in the Customs Area by an enterprise;
b. Importation of taxable goods;
c. Deliveries of taxable services in the Customs Area conducted by an enterprise;
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. Exportation of taxable goods by an enterprise.

Deliveries of taxable goods are defined very broadly and include 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 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 and certain assets 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, at the DGT's approval, centralises its VAT reporting;
g. Deliveries of goods on consignment.

The VAT rate is typically 10%, which can be reduced or increased by the government using a government regulation to 5% or 15%. However, VAT on export of taxable goods is fixed at 0%. The effective VAT rate on deliveries and import of tobacco products is 8.5%.

Tax rates and tax base

VAT for a particular taxable event is calculated by applying the VAT rate to the relevant tax base. In most cases, the tax base is the transaction value agreed between the parties concerned. For certain events or situations, other parameters 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-inventoriable) 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, from the head office to branches);

c. Auction price for deliveries of taxable goods to an intermediary trader of an auction officer;
d. 10% of selling price for used cars;
e. 5% of the total service charges, provisions, and discounts for factoring services;
f. Average selling price for video and audio recording products;
g. 4% of total costs incurred or paid, exclusive of the acquisition price of land, for the self-construction of a building;
h. Retail selling prices for deliveries or import of tobacco products;
i. 10% of the actual billing for package shipment services.

By law all goods and services, unless stated differently, constitute taxable goods or taxable services. The legal negative list sets out the following goods and services categorised as non-taxable goods or non-taxable services:

Non-taxable Goods

a. mining or drilling products extracted directly from their sources such as crude oil, natural gas, geothermal energy, sand and gravel, coal before being processed into coal briquettes, iron ore, tin ore, copper ore, gold ore, silver ore and bauxite ore;
b. basic commodities needed by society – rice, salt, corn, sago and soy beans;
c. food and drink served in hotels, restaurants and the like;
d. money, gold bars and securities.

Non-taxable Services

a. medical health services;
b. social services such as orphanages and funeral services;
c. mail services with stamps;
d. banks, insurance, and finance leasing services;
e. religious services;
f. educational services;
g. commercial art and entertainment services which are taxed under regional entertainment tax;
h. broadcasting services not for advertising purposes;
i. public transportation on land and water and international air transport;
j. manpower services;
k. hotel services;
l. public services provided by the government.

VAT reporting

Companies and individuals designated as taxable enterprises are bound to report their business activities and settle VAT liabilities thereon on a monthly basis. Typically VAT is to be accounted for on a decentralisation basis. Hence, 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 with the relevant KPP. It is in this context that internal deliveries of taxable goods within a company are subject to VAT.

Based on specific DGT approval, a company may centralise its VAT reporting and thereby may exclude internal deliveries of taxable goods from the VAT scope. To obtain DGT approval, a company must satisfy a number of conditions, including sales administration centralisation and the restriction of the business units to be centralised from any deliveries of taxable goods. However, companies who file e-tax returns may choose to centralise their VAT reporting without regard to the fulfilment of the other conditions, merely by submitting a written notification to the DGT.

Despite this default VAT reporting basis, 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 to be settled by an input-output mechanism. A vendor of taxable goods or a taxable service is typically to 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 which, from its perspective, is an input tax. To the extent that the goods are relevant for running the buyer's business, the input tax can be credited against its own output tax. Similarly, the vendor will also offset the output tax against its own 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 concerned has to settle the difference by the 15th of the following month. On the contrary, if the accumulated input tax for a particular

month exceeds the accumulated output VAT, the taxpayer may ask for a refund on a monthly basis 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 may be understood in the context of the standard input-output mechanism.

Because the non-resident vendor or service provider cannot charge VAT (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 relevant for running the importer/service recipient's business, the input VAT (import VAT and self-assessed VAT) should be claimable as a tax credit.

A deviation from the standard mechanism, however, prevails for deliveries of taxable goods and services to VAT collectors. Presently, a VAT Collector can be either the State Treasury or a PSC company including Pertamina.

Input-output mechanism

As the name implies, a VAT Collector is required to collect the VAT due by a taxable enterprise (vendor) on the delivery of taxable goods or services to it 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 (Refer to page 54 about the VAT refund).

Crediting input VAT

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

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 to qualify as a standard tax invoice:

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 on luxury goods that have been collected (if any);
f. the code, serial number and date of issue of the invoice;
g. the name, position and signature of the authorised signatory to the invoice.

Failure to satisfy the minimum information requirement will

classify the tax invoice as just a simple tax invoice, which cannot be claimed as a tax credit.

Moreover, a tax invoice must be issued in the allowable time. In a particular situation, a tax invoice can be issued within two months after the occurrence of the underlying event (a delivery of taxable goods or services without any payment). Issuing a tax invoice in the next three months, in a particular situation, may still preserve the status of the tax invoice as a standard tax invoice; however, at this stage, the issuer is liable to an administrative penalty at 2% of the VAT base. Issuing a tax invoice after the three month period, besides triggering the same administrative penalty, will render the VAT invoice completely invalid.

For the purpose of crediting input tax, the DGT deems the following documents to bear the status of a standard tax invoice:

a. import declarations (PIBs) together with tax payment slips or tax collection slips issued by Customs;
b. export declarations (PEBs);
c. instruction letters for the distribution of milled flour and sugar from the state organiser of staple distribution (Bulog or Dolog);
d. Pertamina delivery invoices;
e. telephone/telecommunications service bills, electricity bills, airway bills, or delivery bills issued for domestic air transportation services;
f. tax payment slips for the self-assessed VAT on the use

or consumption of foreign taxable services or intangible goods;

g. sales invoices issued for deliveries of port services.

VAT refunds

By default, having conducted a tax audit, the DGT has to decide on a VAT refund application within 12 months after receipt of the complete set of the application. If no decision is made within 12 months, the application is considered legally approved.

If overpaid VAT has resulted from export activities or deliveries of taxable goods and services to VAT Collectors, the DGT's time to issue a decision is reduced to two months for low-taxable companies or four months for high-risk taxable companies. If no decision is made within these time periods, the application is by law considered approved. Nevertheless, if the VAT refund application is processed in the course of a complete tax audit, the 12-month period rule applies.

For this purpose, the following types of companies (exporters and/or suppliers taxable goods or services to tax collectors) are categorised as low-risk taxable companies:

- Manufacturers who process at least 75% of their products using their own manufacturing facilities;
- Public companies (having their shares listed in Indonesian stock exchanges);
- State-owned companies.

The other companies are categorised as high-risk taxable companies.

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

A taxpayer designated as an *obedient taxpayer* is entitled to obtain early (pre-audit) VAT refunds. Such a refund is to be based only on a verification of the VAT returns and must be granted within a month after a completed VAT refund application is received. The DGT may conduct a tax audit after the early VAT refund is granted. If it proves, based on the tax audit, that the taxpayer has received a higher VAT refund than it should, the excess amount is subject to an administrative penalty at 100%.

The *obedient taxpayer* designation is a status granted by the DGT to taxpayers who fulfil certain criteria, such as filing of tax returns on time within a certain period, no tax in arrears, no criminal involvement, etc. With reference to these criteria, the DGT every year designates certain taxpayers as obedient taxpayers. Once a taxpayer is granted this status, the company is eligible to apply for early VAT refunds. It has to notify the DGT in writing if it does not want to use the privilege.

Tax facilities

Based on government regulations, tax facilities are granted to certain taxpayers in the form of VAT due is not to be collected or VAT is exempt. These are covered in the following schemes:

Bonded zones

A BZ status is typically granted upon request to export-oriented manufacturing companies. The aim is to minimise idle investments in input VAT and luxury sales tax (LST) overpayments resulting from export activities pending refund approval. Hence, the BZ status brings about a tax facility in the form of *VAT and LST not to be collected* in respect of:

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

The traffic of goods between BZ companies as well as between a BZ company and its supporting contractors is also eased with the same tax facility. Hence, VAT and LST are also not to be collected for the following traffic of goods:

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

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

Apart from the above conditions, shipments of goods to a BZ company from the Customs Area are exempt from excise to the extent the goods are to be processed further. Import income tax (Article 22 income tax) is also not to be collected in respect of imports of office equipment, plant machinery and equipment related directly with manufacturing activities, and goods for a further process.

A BZ status is to be granted by the MoF at the request of the company concerned. To preserve the BZ status, the company is to observe the maximum volume at which it can sell or ships its products to non-BZ companies in the domestic market. Such domestic sales are only allowed at the following maximum volumes:

- 50% of the current-year production value for goods not requiring any 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 BZ companies engaged in oil and gas, domestic ship building, and oleo chemical industries.

Taking into account the domestic sales above, the other portion of the current-year production must be:

- Exported;
- Shipped to companies having an import facility for export purposes;
- Special import facility (KITE) for a further process;
- Destroyed under the supervision of the Director General of Customs and Excise (DGCE).

Special Import Facility

Instead of obtaining a BZ status from the MoF, an export-oriented company may request a KITE from the DGCE. Unlike the BZ facility, this facility is applicable only for the importation of goods for further processing, assembly, or affixing to other goods for further exportation and includes:

- Customs and excise exemption;
- VAT and LST not to be collected.

To enjoy KITE, a company must firstly obtain a Company Master Number (NIPER) from the DGCE. The actual facility may then be requested on an annual basis. The request

must be supported by at least the *Import and Export Plan for the Next 12 Months* and the *Export Realisation Report for the Last 12 Months*. The DGCE is to decide 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 exempt and VAT and LST are not to be collected before the release of the imported goods. The company is bound to realise its export or sales to BZ companies typically 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 previously exempt and the VAT and LST not collected along 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 in respect of the importation of goods and the use of foreign taxable services and/or foreign intangible goods relating to foreign-grant or foreign-loan-funded governmental projects by the main contractors, consultants and suppliers. (Refer to pages 10 - 12).

Deliveries and/or import of taxable goods designated as strategic goods are exempt from VAT. The designation

of strategic goods is made by virtue of a government regulation and presently such designation comprises the following goods:

a. Capital goods in the forms of machinery and plant equipment required for the manufacture of taxable goods;
b. Agricultural, plantation and forestry products, animal husbandry products, including hunting and trapping, and cultivation or fishery products, including the catching 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 cattle, poultry and fish feed;
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 some other appliances for use by the armed forces and the state police;
b. polio vaccines for the implementation of the *National Immunisation Program*;

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, modest 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, modest flats and places of worship;
l. rental of low-cost houses.

VAT and LST in Batam

For years Batam has been treated as a special BZ with more VAT facilities than those granted to ordinary BZs. After being deferred several times, certain steps have finally been taken to turn Batam into an ordinary BZ. At present, while the designation of the whole Batam area as a special BZ still prevails, a company can only have a BZ status based on a specific MoF approval.

Batam BZ companies are entitled to the same VAT (and customs) facilities as that granted to other BZ companies outside Batam (Refer to pages 56 - 57). The difference is that VAT and LST in Batam should be imposed gradually on a selective basis with respect to taxable goods and taxable services procured or consumed by Batam companies. Presently, only importation and deliveries in/to Batam companies of the following taxable goods will call for VAT:

- Motor vehicles;
- Cigarette and tobacco products;
- Alcoholic beverages;
- Electronic goods.

Use or consumption of foreign taxable services or foreign taxable intangible goods has been subject to self-assessed VAT since 1 January 2004. Deliveries of taxable services within or to Batam, as of 1 January 2006, have not yet called for VAT.

Luxury Sales Tax

In addition to VAT, deliveries or imports of certain manufactured taxable goods may be subject to LST. A particular good will only call for LST once, i.e., either upon importation of that good or upon delivery of the good by the (resident) manufacturer to another party.

LST must be accounted for on a monthly basis 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 that particular item is subject to LST may still depend on some factors such as its capacity, size, or price or some other attribute.

To ascertain whether a particular item is subject to LST and to identify the LST rate, reference should be made to the *Customs Book* in light of the relevant *harmonised system* (HS) code.

Group	LST Rates (%)					
	10	20	30	40	50	75
a. Household appliances, coolers, heaters, and television broadcasting receivers, aerials, aerial reflectors	●	●				
b. Sport equipment, articles and accessories.	●		●		●	
c. Air conditioners, dish washing machines, driers, and electromagnetic devices	●	●				
d. Video recording or reproduction devices.	●					
e. Photographic and cinematographic devices and related accessories.	●					
f. Luxury residences such as luxury houses, apartments, condominiums, town houses and the like.		●				
g. Perfumes.		●				
h. Ships or other water vehicles, row boats and canoes, except for state or public transportation needs.		●	●	●		
i. Musical instruments.			●			
j. Alcoholic beverages.				●		●
k. Articles made of leather or artificial leather.				●		
l. Carpets made from silk or wool.				●		

Group	LST Rates (%)					
	10	20	30	40	50	75
m. Glassware of lead crystal of the type used for tables, kitchens, makeup, offices, or indoor decoration for similar purposes.				●		
n. 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.				●		●
o. Balloons, dirigibles, and other un-powered aircraft.				●		
p. Shotguns and other arm cartridges, firearms and other arms, except for the state purposes.				●	●	
q. Footwear.				●		
r. Home and office furniture and fixtures.				●		
s. Articles made of porcelain, china clay, or ceramic.				●		
t. Articles partly or wholly made of stones, other than curb stone.						
u. Carpets made of fine animal hair.					●	
v. Aircraft other than those for the state or commercial air-transport purposes.					●	
w. 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.				
• 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%

Vehicle Type	Wheel Driver System	Motor System Engine	Cylinder Capacity (CC)	LST Rate
Passenger vehicles, capacity 10 to 15 people	All types	All types	All types	10%
Double-cabin vehicles	All types	All types	All types	20%
Special –purpose vehicles				
• 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, at either Rp. 6,000 or Rp. 3,000 on certain documents.

Examples of documents which are subject to stamp duty include:

a. Letters of agreement and other letters (such as authorisation letters, letters bestowing gifts, 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*).
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, 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 money value stated.

Land and Building

Land and building tax

Land and Building (L&B) tax is a type of property tax chargeable on every piece of land and/or building unless stated differently. The *negative list* containing L&B not subject to L&B tax includes those:

- Used merely for the public interest in the areas of religious and social affairs, health, education and national culture, and not for the purpose of profit earning;
- Used for a cemetery, ancient heritage or the like;
- Constituting protected forests, natural reserve forests, tourism forests, national parks, Grazing land controlled by a village, and state land not yet charged with any right;
- 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.

L&B tax rate is specified at 0.5%. The actual tax due for a particular object is calculated by applying the tax rate to the t*axable 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 up to 100% of the NJOP. Hence, the effective L&B tax 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 relevant regions. In accordance with MoF guidelines, NJOPs should take into account the market value of the L&B in the relevant regions. Where a piece of L&B is used for a business in the areas of plantation, forestry, mining, or breeding, the NJOP should also take into account the investment standard applicable thereon.

L&B tax is payable annually pursuant to an official assessment issued by the DGT. The assessment process is typically initiated by the DGT submitting a *Tax Object Notification Form* (TONF) to a particular taxpayer.

The form must be filled out by the taxpayer with the relevant data and returned to the DGT within 30 days. Based on the completed TONF and taking into account the NJOP-related information, the DGT issues a *Tax Due Notification Letter* (TDNL), presenting the official tax assessment made by the DGT. The taxpayer concerned has to pay the tax due within six months of receipt of the TDNL.

Incorrectly filling in a TONF, late filing of the completed TONF, or ignoring the TONF can expose a taxpayer to a

potential penalty of 25% of the L&B tax 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 L&B tax taxpayer in respect of that piece of land and/or building. Each taxpayer is entitled to a non-taxable NJOP, which at present is stipulated to be Rp. 12,000,000. The MoF is authorised by law to make adjustments to the non-taxable NJOP.

Tax on land and building rights transfer

A transfer of L&B rights will call for a tax on L&B right transfers to be charged to the transferor. The tax is specified to be 5% of the *gross transfer value* (tax base). This tax must be paid by the time the rights to L&B are transferred to the transferee.

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 relevant governmental officer in the relevant document. In a government-organised auction, the gross transfer value is the value stipulated in the relevant deed of auction.

If the transferor is a corporate taxpayer not engaged in the property development business, the tax paid will constitute a prepayment of its corporate tax liability (Article 25 income tax). This tax is exempt if the transferor is a corporate

taxpayer engaged in the property development business and the transfer is undertaken in the course of its business activities.

Foundations and individual taxpayers, including individuals engaged in the business of L&B rights transfers, are also required to pay this tax on the transfers of L&B rights. In this respect, this tax constitutes a final tax.

A notary is prohibited from signing a transfer of rights deed until the above taxes have been fully paid.

Duty on the acquisition of land and building rights

A transfer of L&B rights will typically also give rise to a liability of DAL&BR to the party receiving or obtaining the rights. Qualified L&B rights transfers include sale-purchase and trade-in transactions, grants, inheritances, contributions to a corporation, rights separations, the 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 DAL&BR.

DAL&BR is to be based on the *Tax Object Acquisition Value* (NPOP), in most cases being the higher of the market (transaction) value or the NJOP of the L&B rights concerned. The tax due for 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 being Rp. 60 million,

except for inheritance which may reach Rp. 300 million. With a government regulation, the government may change the non-taxable threshold.

DAL&BR is typically due on the signing date of the relevant deed of L&B right transfer 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 signing date of the Auction Report by the authorised officer.

At the request of a taxpayer, the DGT may grant a DAL&BR reduction of up to 50% in respect of L&B rights transfers in business mergers or consolidation at book value as well as 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, at the request of a taxpayer, the DGT may also grant DAL&BR at 25%, 50% or 75% of the duty due.

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

Regional Taxes

This booklet does not cover regional taxes and local charges as determined by provinces and regencies/cities.

Tax Payments and Tax Return Filing

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

A summary of these tax obligations is as follows:

Monthly tax obligations

Type of tax	Tax payment deadline	Tax return filing deadline
1. Article 21/26 Income Tax	The 10th of the following month	The 20th of the following month
2. Article 23/26 Income Tax	The 10th of the following month	The 20th of the following month
3. Article 25 Income Tax	The 15th of the following month	The 20th of the following month
4. Article 22 Income Tax – Tax Collector	The 10th of the following month	The 20th of the following month
5. Article 4(2) Income Tax	The 10th of the following month	The 20th of the following month

Type of tax	Tax payment deadline	Tax return filing deadline
6. VAT and LST – Taxable Enterprise	The 15th of the following month	The 20th of the following month
7. VAT and LST – VAT Collector	The 15th of the following month	The 20th of the following month

Annual tax obligations

Type of tax	Tax payment deadline	Tax return filing deadline
1. Corporate Income Tax	The end of the forth month after the book year end before filing the tax return	The end of the forth month after the book year end
2. 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
3. Land and Building (L&B) Tax	Six months after the receipt of a Tax Due Notification Letter (SPPT) from the DGT Office	N/A
4. Duties on the Acquisition of L&B Rights	On the acquisition date	N/A

Late payments of the above taxes will incur an interest penalty at 2% per month, part of a month (e.g., 1 day) being considered as a full month.

Late filing of a tax return or complete failure to file a tax return will incur an administrative penalty at the following amounts:

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

With respect to annual income tax returns, taxpayers may extend the time span for the tax return filing by up to two months. This may be done by filing a written notification to the DGT before the deadline with a tentative tax calculation attached to it. The tax still due according to the tentative calculation, if any, must be settled before filing the extension notification. If the actual tax due based on the final tax calculation is higher than the tentative calculation, an interest penalty at 2% per month will apply to the difference until the shortfall is paid.

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

at 50% of the assessed tax.

By default, except for corporate and individual income taxes, taxes are typically to be accounted for on a decentralised basis. A company with business units (branches) spread over the country must accordingly account for the performance of the tax obligations to the district service tax offices with which those units 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 the whole tax-related information is presented in soft files using DGT-provided applications. For taxpayers registered with the designated tax service offices above, e-tax returns have been mandatory since 1 January 2005. E-tax returns can be filed with 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 through 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.

Based on a 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) may qualify for maintaining USD accounting to the extent 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 commencement of the USD accounting year. The DGT is bound to decide on the application within a month. If no decision is made within a month, automatic DGT approval applies.

Companies governed by a *Production Sharing Contract* (PSC) or a *Contract of Work* (CoW) with the government may opt to apply USD accounting in English merely based on a written notification to the DGT. Such a notification must be submitted to the DGT office no later than a month before the commencement of the USD accounting year.

A company may also compose their books in English but still 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 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 not allowed. 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. With respect to corporate income tax, relevant assertions are to 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 based on a specific DGT approval. Once such approval is granted, the company may not re-apply for USD accounting approval during the five years from the cancellation of the USD accounting.

Tax Assessments and Tax Audits

Tax assessments

Background

Indonesian taxation relies on a self-assessment system under which taxpayers are trusted to calculate, pay, and report their own taxes by themselves 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 other information the taxpayer has not fully paid its 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 in 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.

One tax assessment letter pertains 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 and accordingly there are three types of tax assessment letters:

- Overpaid Tax Assessment Letter (OTAL) if the tax due is less than the tax credit amount;
- Underpaid Tax Assessment Letter (UTAL) if the tax due exceeds the tax credit amount;
- Nil Tax Assessment Letter (NTAL) if the tax due amount is equal to the tax credit amount.

Where a UTAL is issued, this could 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 applying 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 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 onward, the time spans to issue 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 a new data (novum) or certain information which was not (adequately) disclosed in the tax returns and/or during tax audits. The issue of an Additional Underpaid Tax Assessment Letter (AUTAL) will call 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 UTAL or AUTAL 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. An UTAL or an AUTAL issued in such a situation will include an interest penalty totalling 48% of the underpaid tax.

Tax audits

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

offices, or 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 commence within 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.

Some other conditions may trigger a tax audit, including:

- 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) criteria of the DGT.

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 lead the DGT to determine

the tax liabilities on a deemed basis.

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. The taxpayer will typically have to respond to the notification in writing within seven days. In certain cases, at the tax auditors' discretion, the time limit can be extended up to 21 days. By the end of the third week of the notification, a final discussion about the tax audit findings (closing conference) will be held between the tax auditors and the taxpayer.

A 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* with each of the proposed corrections therein. 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.

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 and Tax Collection Letters (TCLs), which must be based on the closing conference document. A TCL 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 thereon.

Tax Collection Using Distress Warrant

Based on a legal tax collection instrument, the DGT may by law issue a Distress Warrant 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 will 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 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 decides on the objection or the tax court rules on the appeal not in the taxpayer's favour.

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

a. Issue a Warning Letter if the underpaid tax is not settled within seven days of the due date;
b. Issue a Distress Warrant if the underpaid tax is not settled within 21 days of the Warning Letter being issued;
c. Issue a Confiscation Order if the underpaid tax is not settled within 48 hours of the Coercion Letter being issued;
d. Publish an auction announcement with respect to the confiscated assets if the underpaid tax is not settled within 14 days of the Confiscation Order being issued;
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* or a TCL by the DGT which the taxpayer does not agree with. A UTAL, an AUTAL, and a TCL constitute legal tax collection instruments based on 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 still give rise to another tax dispute between the parties. Apart from this, a tax dispute may also arise between two taxpayers because one taxpayer has withheld too much tax from the income payable to the other taxpayer.

What follows is a discussion on the ways available to resolve such tax disputes.

Objections and appeals

A taxpayer who does not agree with a tax assessment letter can file an Objection with the DGT office within three months of the issue date. The Objection must state the tax due in accordance with the taxpayer's calculation and set out the reasons for his/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. With respect the unpaid portion of the assessment penalties will subsequently be applied if the taxpayers objection is rejected or a subsequent tax appeal to the Tax Court is unsuccesfull. 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 surcharged 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 to file the Objection and for the DGT to decide upon it apply to this type of Objection.

A taxpayer who does not (fully) accept the DGT Objection decision can file an Appeal with the Tax Court within three months of the receipt of the DGT Objection. To the extent 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. According to the 2007 tax administration law, this requirement is no longer

applicable. 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 amounts resulting from the tax court decision are 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 TCL, or their derivatives issued based on 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 a Tax Assessment;
- Decision Letters on an Early Refund of Overpaid Tax.

A Correction Request is an alternative for a taxpayer to the Objection by which to solve a dispute with the DGT in respect of a particular tax assessment letter. This avenue is also applicable for other tax disputes arising from virtually any other DGT decision. However, lodging an objection is generally regarded as a more robust approach.

The DGT has to issue a decision on an Amendment Request within six months of the filing date. If no decision is issued

by the DGT within six months, the Correction Request is automatically deemed to be approved by the DGT.

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

The Tax Court will typically have to decide on an appeal within six months.

Reconsideration request to the Supreme Court

A Tax Court Decision is considered to be a final decision bearing full legal force. However, the parties involved in a tax dispute may file a Reconsideration Request with regard to 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 from 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 not demanded was granted;
5. The Decision is patently inconsistent with prevailing tax regulations.

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

Import Duty

Import duty is payable at the 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	5 to 60
Automobile Parts		15
Electronic Goods		0 to 10
Footwear		20 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 for 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 are directly shipped between such countries.

This scheme is intended to boost inter-ASEAN trade by reducing duty rates on most goods to between 0% and 5% by the year 2003, with the aim of eliminating most duties by 2010.

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, BZ, bonded warehouse, KITE.

BKPM Masterlist facility

The BKPM Masterlist facility provides duty relief for eligible machinery and raw materials, with a maximum 5% duty rate payable.

Bonded zone

A BZ 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 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 goods are

delivered to the domestic market.

KITE facilities

The KITE exemption allows for goods to be imported without payment of import taxes, provided 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.

Priority lane

Priority lane facility allows the importer to be free from physical examination1 and to be able to receive periodic payments for customs, excise, and import taxes.

Import licenses

Import restrictions apply to certain products, including alcoholic drinks, ammunition and hazardous waste. A special Importer Identification Number (NPIK) also needs to be obtained to import certain items, including textile products, shoes, and electronic goods.

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 import duty has been underpaid.

[1]except to goods for re-import, intelligence note, and temporary import

Contacts

Our Tax Department is available to advise and help you with all aspects of taxation and to ensure that you meet your commitments in an orderly and timely manner.

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

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A Summary of Indonesian Tax

The information in this booklet is based on tax law and practice as of 30 May 2008.

This booklet is intended as a general guide. While every care has been taken in the preparation of this booklet, no warranty is given as to the correctness of the information it contains and no liability is accepted for any statement or opinion, or for any error or omission. In specific circumstances, professional advice should be sought.

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