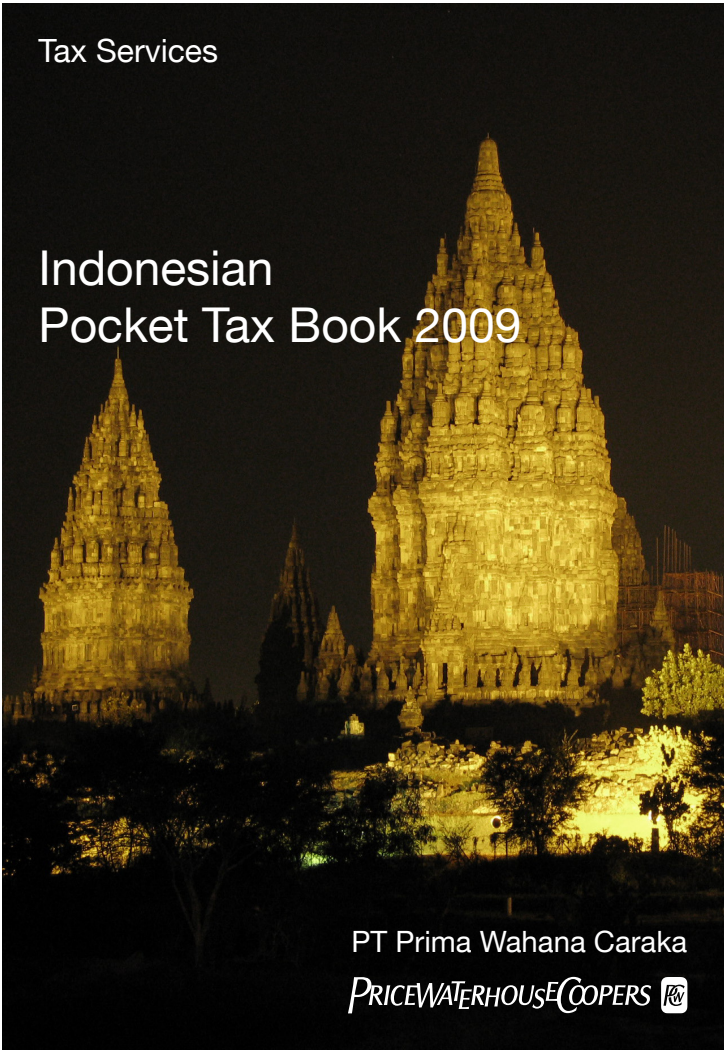
Tax Services

Indonesian Pocket Tax Book 2009



PT Prima Wahana Caraka

PRICEWATERHOUSECOOPERS

Contents

Corporate Income Tax

Tax rates

A flat rate of 28% applies from 2009 and will be reduced further to 25% in 2010. Public companies that satisfy a minimum listing requirement of 40% and other conditions are entitled to a tax discount of 5% of the standard rate, giving them an effective tax rate of 23% in 2009 and 20% in 2010 (Refer to pages 10). Small enterprises, i.e. corporate taxpayers with an annual turnover of not more than Rp50 billion, are entitled to a tax discount of 50% of the standard rate for taxable income of up to Rp4.8 billion.

Tax residence

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

Tax payments

Resident taxpayers and Indonesian PEs of foreign companies have to settle their tax liabilities either by direct payments, third party withholdings, or a combination of both. Foreign companies without a PE in Indonesia have to settle their tax liabilities for their Indonesian-sourced income

through withholding of the tax by the Indonesian party paying the income.

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

The tax withheld by third parties on certain income (Article 23 income tax) or tax to be paid in advance on certain transactions (e.g., Article 22 income tax on imports) constitute other prepayments for the current year corporate tax liability of the income recipient or the party conducting the import. (Refer to pages 27 - 28 for income items subject to Article 23 income tax and pages 24 - 25 for transactions subject to Article 22 income tax.)

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

Certain types of income earned by resident taxpayers or Indonesian PEs are subject to final income tax. In this

respect, the tax withheld by third parties (referred to as Article 4.2 income tax) constitutes the final settlement of the income tax for that particular income. (Refer to page 25-26 for income items subject to final income tax under Article 4.2.)

For foreign companies without a PE in Indonesia, the tax withheld from their Indonesia-sourced income by the Indonesian party paying the income (Article 26 income tax) constitutes a final settlement of their income tax due. (Refer to pages 29 - 30 for income items subject to Article 26 income tax.)

Business profits

Taxable business profits are calculated on the basis of normal accounting principles as modified by certain tax adjustments. Generally, a deduction is allowed for all expenditure incurred to obtain, collect, and maintain taxable business profits. A timing difference may arise if an expenditure recorded as an expense for accounting can 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 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, the cost of providing BIKs in remote areas, and 50% of the acquisition and maintenance costs of cellular phones;

b. Private expenses;
c. Non-business gifts and aid, except *zakat* (Islamic alms);
d. Provisions: However, certain types of provision are claimable as deductible expenses: provision for doubtful accounts for banking and financing companies, insurance claims provision for insurance companies, deposit security provision for the *Deposit Security Blanket Institution (LPS)*, reclamation provision for mining companies, forestation provision for forestry companies, and area closure and maintenance provision for industrial waste processing businesses;
e. Income tax payments;
f. Tax penalties;
g. Profit distributions;
h. Employer contributions for life, health and accident insurance and contributions to unapproved pension funds, unless the contributions are treated as part of the taxable income of employees;
i. Expenses relating to income which is taxed at a final rate, e.g., interest on loans relating to time deposits;
j. Expenses relating to income which is exempt from tax, e.g., interest on loans used to buy shares where dividends to be received are not subject to income tax;
k. Salaries or compensation received by partnership or *firmas* members where their participation is not divided into shares.

Losses

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

Profit distributions

Tax is withheld from dividends as follows:

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

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

Dividends received by firmas, commanditaires, foundations and similar organisations are always subject to 15% withholding tax.
Dividends received by resident individual taxpayers are subject to final income tax at a maximum rate of 10%.

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

Deemed profit margins

The following businesses have deemed profit margins for tax purposes:

	On gross revenues	Effective income tax rate
Domestic shipping operations	4%	1.20%
Domestic airline operations	6%	1.80%
Foreign shipping and airline operations	6%	2.64%
Foreign oil and gas drilling service operations	15%	4.20%
Certain Ministry of Trade representative offices	1% of export value	0.42%

For toll manufacturing services relating to children's toys rendered by a resident company to its foreign affiliates, taxable income is deemed to be 7% of the total manufacturing costs, excluding materials, and taxable at a single rate of 28%.

Special Industries and activities

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

Tax concessions

Tax neutral-mergers

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

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

Subject to a similar, specific DGT approval, the same concession is also available for business splits which constitute part of an initial public offering (IPO) plan. In this

case, within one year of the DGT's approval being given, the company concerned must have made an effective declaration about registration for an IPO with the Capital Market Supervisory Board (BAPEPAM). In the event of complications beyond the company's control, the period can be extended by the DGT for 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 provide the following tax concessions to PT companies following their investment in certain designated business areas or in certain designated regions:

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

The designated business areas include the following:

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

f. Rubber and products made from rubber
g. Iron and steel
h. Machinery and equipment
i. Electronics
j. Land transportation vehicles
k. Ship buildings and reparation
l. Cement (in Papua, Sulawesi, and Nusa Tenggara)
m. Products and packaging made from plastic (outside Java)
n. Geothermal exploitation
o. Oil refining
p. Mini natural gas refining

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

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

- Non-collection of VAT and sales tax on certain luxury goods transactions;
- Exemption from prepaid income tax (Article 22) on the importation of capital goods and other equipment directly related to production activities;

- Postponement of import duty on capital goods and equipment and goods and materials for processing;
- Exemption from import duty for four years on machinery and certain spare parts.

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

Tax cut for public companies

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

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

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

Gains resulting from revaluations of fixed assets

Gains resulting from a DGT-approved revaluation of fixed assets are subject to final tax at a rate of 10%. (See pages 43 – 44 for further discussion on the revaluation of fixed assets).

Foreign loan and foreign-grant funded governmental projects

Government projects funded with foreign loans or foreign grants may be eligible for special tax treatment for the income derived from that funding. The projects that qualify are typically set out in the state Project Table of Contents (DIP) or other similar document.

Main contractors, consultants and suppliers for foreign grant-funded government projects may have their income tax liability borne by the government. This facility is no longer available for second-level contractors, consultants and suppliers, i.e., those who receive orders or work from the main contractors, consultants and suppliers, except for contractors on projects with contracts signed before 23 June 2000.

The same facility is enjoyed by the main contractors, consultants and suppliers for foreign loan-funded governmental projects if the contracts for these were signed before 23 June 2000. Second-level contractors, consultants and suppliers for foreign loan-funded projects do not enjoy this tax facility.

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

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

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

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

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

Transfer pricing

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

Before 2008, there was no specific requirement about the need for taxpayers to maintain transfer pricing documentation. However, following the enactment of

the 2007 Tax Administration Law (KUP), the government requires specific transfer pricing documentation to prove the arm's length nature of related-party transactions. As of the date this tax book goes to print, no further guidance is available about what the documentation should consist of.

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

Sunset Policy

Following the enactment of the 2007 KUP, taxpayers are allowed to revise their annual corporate income tax returns (CITR) for years prior to 2007 without facing interest penalties on the underpaid tax amounts. In the normal course of events, underpaid tax would trigger interest penalties at 2% per month.

Aside from the interest exemption, there are additional concessions:

- Any data declared in the revised CITR cannot be used to issue assessments on any other taxes.
- The revised CITR will not be audited unless an overpaid tax refund is due or if it 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 any other taxes unrelated to a tax refund request. The DGT, however, at his own discretion, may decide to continue the audit irrespective of the absence of tax overpayments.

The concession was originally available only up to the end of 2008. However, it has been extended for the period up to 28 February 2009.

Individual Income Tax

Normal tax rates

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

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

Concessional tax rates

The following concessional tax rates are applicable to 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	Rate	Tax Rp.
On the first Rp. 25,000,000	---	Nil
On the second Rp. 25,000,000	5%	1,250,000
On the third Rp. 50,000,000	10%	5,000,000
On the fourth Rp. 100,000,000	15%	15,000,000
On the fifth and over Rp. 200,000,000	25%	25% of the relevan amount

Main personal relief

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

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

Tax residence

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

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

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

Non-resident individuals are subject to withholding tax at a rate of 20% (Article 26, subject to treaty provisions) on Indonesia-sourced income (as specified on pages 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 state all the individual's income, including compensation from employment, investment income, capital gains, overseas income and other income, as well as providing a summary of the individual's assets and liabilities.

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

taxed together with his income depending on whether their income is subject to Article 21 income tax.

Tax payments

A substantial part of individual income is collected through withholding by third parties. Employers are required to withhold Article 21/26 income tax on a monthly basis from the salaries and other compensation payable to their employees. If an employee is a resident taxpayer, the amount of tax withheld should be based on the normal tax rates (as set out above). If he/she is a non-resident taxpayer, the withholding tax is 20% of the gross amount (and may be set at a lower rate under a tax treaty).

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

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

Typically the amount of tax withheld from this income is based on normal tax rates. Fees for certain professionals, such as lawyers, notaries, accountants, architects, doctors, actuaries and appraisers, have a special withholding tax rate of 7.5%.

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

Exit tax

Effective from 1 January 2009, individual resident taxpayers who have obtained a tax ID number (NPWP) are exempt from exit tax. The exemption also applies to their spouses and dependants covered in the official family card, i.e., *Kartu Keluarga* for Indonesians or *SKSKP* for foreigners.

Exit tax will continue to apply to resident individual taxpayers without a tax identification number (NPWP) up to 2010. The tax is due at the time of departure to a foreign country at the following amounts:

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

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

Starting from 2011, exit tax will be completely eliminated. This will apply for all individuals irrespective of whether they have an NPWP.

Benefits-in-kind

BIKs, for example cars, housing, education, home leave and reimbursement of an employee's Indonesian tax liability provided by the employer, are typically not assessable in the hands of the employee. This also applies to BIKs which are required for the execution of a job, for example protective clothing, uniforms, transportation costs to and from the place of work and accommodation for ship crews and the like, and the cost of providing BIKs in remote areas.

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

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

Jamsostek-social security

Indonesia does not have a comprehensive social security system; however, there is a worker's social security program (Jamsostek) which provides compensation in the event of working accidents, deaths, and old age (55 years) as well as sickness or hospitalization. The program is maintained by a

designated state-owned company, PT Jamsostek, and calls for premium contributions for the following:

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

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

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

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

Deemed salaries

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

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

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

Sunset Policy

The concessions applicable to corporate taxpayers are also applicable to individual taxpayers. Taxpayers who registered with the ITO and obtained a tax ID number (NPWP) before 1 January 2008 may file their annual income tax returns under this scheme until 28 February 2009. Those who registered with the ITO and obtained a NPWP only in 2008 may also file their annual income tax returns until 31 March 2009 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. Where a particular income item is subject to withholding tax, the payer is generally held responsible for withholding or collecting the tax. These withholding taxes are commonly referred to using the relevant article of the Income Tax (PPh) Law, as follows.

(i) Article 21 income tax

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

(ii) Article 22 income tax

Article 22 income tax is typically applicable to the following:

- The import of goods;
- The sale of goods to the government requiring payment from the State Treasury, the State Budget

General Directorate, or certain state-owned companies;
- The sale/purchasing of steel, automotives, cigarettes, cement, and paper products; and
- The sale/purchasing of very luxurious goods.

The tax rates for these are as follows:

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

Notes:
1. The tax does not apply, either automatically or given an Exemption Certificate issued by the DGT, on the following types of imports:
   - Goods exempted from import duties and VAT;

- Good that have been temporarily imported (i.e., goods for re-export);
- Goods for re-importing (i.e., to be repaired or tested for subsequent re-exporting).

2. In no. (3) the tax collector (State Treasury, state-owned company, etc.) must withhold Article 22 income tax from the amount payable to a particular supplier (vendor). In the other events, the importer or the buyer of the designated goods must pay Article 22 income tax in addition to the amounts payable for the goods imported or purchased.
3. The state-owned companies under (3) include PT Telkom, Pertamina, Bulog, Bank Indonesia, PLN, PT Indosat, PT Garuda Indonesia, PT Krakatau Steel and state-owned banks.
4. Vendors of goods under nos (4) – (8) can only collect Article 22 income from buyers if they have been appointed by the DGT to undertake this role, i.e., if there has been a specific DGT Appointment Decision.
5. Article 22 income tax constitutes a prepayment of corporate/individual income tax liabilities for nos (1) – (8).
6. Tax exemption applies to certain categories of goods or to the importing/purchasing of goods for non-business purposes.

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

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

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

Description	Tax rate
1. Rental of land and/or buildings	10%
2. Proceeds from transfers of land and building rights	5/1%
3. Fees for construction work performance	2/3/4%
4. Fees for construction work planning	4/6%
5. Fees for construction work supervision	4/6%
6. Interest on time or saving deposits and on Bank Indonesia Certificates (SBIs) other than that payable to banks operating in Indonesia and to government-approved pension funds	20%
7. Interest on bonds other than that payable to banks operating in Indonesia and government-approved pension funds	15%[1]
8. Sale of shares on Indonesian stock exchanges Founder shareholders may opt to pay tax at 0.5% of the market price of their shares upon listing. If they do not opt for this, gains on subsequent sales are taxed under normal rules (see section (vi) below.)	0.1%
9. Income from lottery prizes	25%
10. Forward contract derivatives	2.5%[2]

Notes:

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

(iv) Article 23 income tax

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

a. Article 23 income tax is due at a rate of 15% of the gross amounts on the following:

1. Dividends (but see page 5 - 6 concerning profit distributions);
2. Interest, including premiums, discounts, and loan guarantee fees;
3. Royalties;
4. Prizes and awards.

b. Article 23 income tax is due at a rate of 2% of the gross amounts on the fees for the following:

1. Rentals of assets other than land and buildings
2. Technical services
3. Management services
4. Consulting services
5. Appraisal services
6. Actuary services
7. Accounting services
8. Design services
9. Drilling services for oil and gas mining except for those performed by a PE
10. Support services for oil and gas mining
11. Mining services other than oil and gas support

12. Flight and airport support services
13. Forest felling services
14. Waste processing services
15. Labour supply/outsourcing services
16. Intermediary/agency services
17. Custodianship and storage services except for those performed by stock exchanges, KSEI, and KPEI
18. Sound dubbing services
19. Film mixing services
20. Computer and software-related services
21. Installation services (for example, of electricity, machinery, or telephone equipment) except for those rendered by qualifying construction companies
22. Maintenance and improvement services (for example, for electricity, machinery, or telephone equipment) except for those rendered by licensed construction companies
23. Manufacturing services (Maklon)
24. Investigation and security services
25. Event organisation services
26. Packaging services
27. Provision of space and/or time for the dissemination of information
28. Pest eradication services
29. Cleaning services
30. Catering services

(v) Article 26 – Non-residents

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

a. On gross amounts:
   1. Dividends;
   2. Interest, including premiums, discounts (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. After-tax profits of a branch or PE.

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

	ENI	Effective tax rate
Insurance premiums paid to non-resident insurance companies:		
• by the insured	50%	10%
• by Indonesian insurance companies	10%	2%
• by Indonesian reinsurance companies	5%	1%

Sale of non-listed Indonesian company shares by non-residents	25%	5%
Sale by non-residents of a conduit company where this company serves as an intermediary for the holding of Indonesian company shares or a PE	25%	5%

Where the recipient is resident in a country which has a tax treaty with Indonesia, the withholding tax rates may be reduced or exempted. (See pages 31-35 for withholding tax rates under tax treaties.)

(vi) Sales of listed shares

Sales of shares in companies listed 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 on founder shares. Founder shareowners have the option of paying final income tax at 0.5% of the company share value within a month after trading has begun in the shares on an Indonesian stock exchange. If the final tax is not paid, the gains from the sales of the founder shares are assessable in accordance with the general income tax rates.

Under certain tax treaties, this tax may not be due.

Tax Treaties

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

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

For interest, dividends, and royalties, only the beneficial owner is acknowledged as the party entitled to the tax treaty benefits. "Beneficial owner" is not clearly defined in the 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	9	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	9	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. Qatar		10%	10%	10%	5%	10%
38. Romania		15%	12.5%	12.5/0%	15/12.5%	12.5%
39. Russia		15%	15%	15/0%	15%	12.5%
40. Seychelles		10%	10%	10/0%	10%	20%
41. Singapore		15%	10%	10/0%	15%	15%
42. Slovakia		10%	10%	10/0%	15/10%	10%
43. South Africa	4,5	15%	10%	10/0%	10%	20%
44. Spain		15%	10%	10/0%	10%	10%
45. Sri Lanka	4	15%	15%	15/0%	15%	20%

	Notes	Dividends		Interest	Royalties	Branch Profit Tax
		Portfolio	Substantial holdings			
46. Sudan		10%	10%	15/0%	10%	10%
47. Sweden		15%	10%	10/0%	15/10%	15%
48. Switzerland	1,8	15%	10%	10/0%	12.5%	10%
49. Syria		10%	10%	10%	20/15%	10%
50. Taiwan		10%	10%	10/0%	10%	5%
51. Thailand		20%	15%	15%	15%	20%
52. Tunisia		12%	12%	12/0%	15%	12%
53. Turkey		15%	10%	10/0%	10%	10%
54. Ukraine		15%	10%	10/0%	10%	10%
55. United Arab Emirates		10%	10%	5/0%	5%	5%
56. United Kingdom		15%	10%	10/0%	15/10%	10%
57. United States		15%	10%	10/0%	10/0%	10%
58. Uzbekistan		10%	10%	10/0%	10/0%	10%
59. Venezuela		15%	10%	10/0%	20/10%	10%
60. Vietnam		15%	15%	15/0%	15%	10%

Notes:

1. Fees for technical, management and consulting services rendered in Indonesia are subject to withholding tax at rates of 5%, 7.5%, 10% and 15% for Switzerland, Germany, Luxembourg and Pakistan respectively.
2. VAT is reciprocally exempted from the income earned on the operation of ships or aircraft in international lanes.
3. A 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 Indonesian and the Dutch tax authorities regarding the method 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 the withholding tax on interest, dividends, and royalties may be reduced to 10%.
8. Subject to a protocol ratification, the tax on royalties may be reduced to 10%.
9. Not yet effective, pending the exchange of ratification documents.

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 a certain period of time. The following is a summary of these periods for the activities specified in the relevant tax treaties:

	Bldg. Site Construction	Installation	Assembly	Supervisory Activities	Other Services
1. Algeria	3 months	3 months	3 months	3 months	3 months
2. Australia	120 days	120 days	120 days	120 days	120 days

	Bldg. Site Construction	Installation	Assembly	Supervisory Activities	Other Services
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
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

	Bldg. Site Construction	Installation	Assembly	Supervisory Activities	Other Services
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
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. Qatar	6 months	6 months	6 months	6 months	6 months
38. Romania	6 months	6 months	6 months	6 months	4 months
39. Russia	3 months	3 months	3 months	3 months	---
40. Seychelles	6 months	6 months	6 months	6 months	3 months
41. Singapore	183 days	183 days	183 days	---	90 days
42. Slovakia	6 months	6 months	6 months	6 months	91 days
43. South Africa	6 months	6 months	6 months	6 months	120 days
44. Spain	183 days	183 days	183 days	183 days	3 months
45. Sri Lanka	90 days	90 days	90 days	90 days	90 days
46. Sudan	6 months	6 months	6 months	6 months	3 months
47. Sweden	6 months	6 months	6 months	6 months	3 months
48. Switzerland	183 days	183 days	183 days	183 days	---
49. Syria	6 months	6 months	6 months	6 months	183 days
50. Taiwan	6 months	6 months	6 months	6 months	120 days

	Bldg. Site Construction	Installation	Assembly	Supervisory Activities	Other Services
51. Thailand	6 months	6 months	6 months	6 months	183 days
52. Tunisia	3 months	3 months	3 months	3 months	3 months
53. Turkey	6 months	6 months	6 months	6 months	183 days
54. Ukraine	6 months	6 months	6 months	6 months	4 months
55. United Arab Emirates	6 months	6 months	6 months	6 months	6 months
56. United Kingdom	6 months	183 days	183 days	183 days	91 days
57. United States	183 days	120 days	120 days	120 days	120 days
58. Uzbekistan	120 days	6 months	6 months	6 months	3 months
59. Venezuela	6 months	6 months	6 months	6 months	---
60. Vietnam	6 months	6 months	6 months	6 months	3 months

Capital Allowances

Depreciation

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

1. **Category 1 – 50%** (declining-balance) or **25**% (straight-line) on assets with a beneficial life of four years. Examples of assets in this category are computers, printers, scanners, furniture and equipment constructed of wood/rattan, office equipment, motorcycles, special tools for specific industries/services, kitchen equipment, manual equipment for agriculture, farming, forestry and fishery industries, light machinery for the food and drink industries, motor vehicles for public transportation, 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. The category also covers machinery for agriculture, plantations, forestry activity, fisheries,

and for food and drink, and light machinery, logging equipment, equipment for construction, heavy vehicles for transportation, warehousing, and communication, telecommunications equipment, 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 machines for general mining other than in the oil and gas sector, machines for the textile, timber, chemical, and machinery industries, heavy equipment, docks and vessels for transportation and communication, and other assets not included in the other categories.

4. **Category 4 – 10%** (declining-balance) or **5**% (straight-line) on assets with a beneficial life of twenty years. Example of assets in this category are heavy construction machinery, locomotives, railway coaches, heavy vessels, and docks.

5. **Building category – 5%** (straight-line) on assets in the permanent building category with a useful life of 20 years; or 10% (straight-line) on assets in the non-permanent building category with a useful life of ten years. Included in the cost of the buildings is the land and building transfer duty (DAL&BR) on building rights.

More comprehensive lists of the assets included in each category are set out in certain Minister of Finance (MoF)

regulations. Separate lists of assets and depreciation rates for the oil and gas sector are also specified in a MoF regulations.

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* (above), based on the useful life of the property:

   Category 1 - 4 years
   Category 2 - 8 years
   Category 3 - 16 years
   Category 4 - 20 years

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

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

   Category 1 - 50% declining-balance; 25% straight-line
   Category 2 - 25% declining-balance; 12.5% straight-line
   Category 3 - 12.5% declining-balance; 6.25% straight-line
   Category 4 - 10% declining-balance; 5% straight-line

c. Costs incurred for acquiring the right to oil and natural gas concessions with a beneficial life of longer than one year are amortised using the production-unit method.

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

e. Costs incurred before the commencement of commercial operations with a useful life of longer than one year are capitalised and amortised according to the rates set out in point 2 (above).

Asset transfers

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

Revaluation of fixed assets

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

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

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

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

Fixed assets falling under categories 1 and 2 must be retained at least to the end of their useful life. Land, buildings, and assets falling under categories 3 and 4 must be retained for at least 10 years of the revaluation date. Additional final income tax at a rate of 18% is imposed on the original revaluation gains if the revalued assets are sold or transferred before the end of this minimum retention period (this does not apply to 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 the transfer of taxable goods or the provision of taxable services in the Indonesian Customs Area. The taxable events are:

a. Deliveries of taxable goods in the Customs Area by an enterprise;
b. Importation of taxable goods;
c. Deliveries of taxable services in the Customs Area;
d. Use or consumption of taxable intangible goods originating from outside the Customs Area in the Customs Area;
e. Use or consumption of taxable services originating from outside the Customs Area in the Customs Area;
f. Exportation of taxable goods by an enterprise.

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

a. Deliveries of a title to taxable goods according to an agreement;
b. Transfers of taxable goods according to a leasing-with-option or a finance-lease agreement;
c. Deliveries of taxable goods to an intermediary trader or

an auction official;
d. Own-use and/or free gift of taxable goods;
e. Remaining taxable goods and certain assets, which were originally not for sale, at a company's dissolution;
f. Deliveries of taxable goods within a company (e.g., between branches, or between the head office and its branches) unless the company, subject to the DGT's approval, centralises its VAT reporting;
g. Deliveries of goods on consignment.

Tax rates and tax base

The VAT rate is typically 10%. This may be increased or decreased to 15% or 5% according to government regulation. However, VAT on the export of taxable goods is fixed at 0%. The effective VAT rate on deliveries and import of tobacco products is 8.5%.

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 criteria must be used as the tax base, including:

a. Market value for transactions between related parties, remaining inventories of taxable goods at a company's dissolution, and sales of (non-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, or from the head office to branches);

c. Auction price for deliveries of taxable goods to the intermediary trader of an auction officer;
d. 10% of the 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 imports of tobacco products;
i. 10% of the actual billing for package shipment services.

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

Non-taxable Goods

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

Non-taxable Services

a. medical health services;
b. social services, for example orphanages and funeral services;
c. mail services using stamps;
d. 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 which are not used for advertising;
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 required to report their business activities and settle the VAT liabilities on these every month. VAT is usually to be accounted for on a decentralisation basis. As a result, a company carrying out business activities through a number of business units (branches) in the working areas of different district tax service offices (KPP) must register each unit with the relevant KPP. It is in this context that internal deliveries of taxable goods within a company are subject to VAT.

Subject to DGT approval, a company may centralise its VAT reporting and so may exclude internal deliveries of taxable goods from the scope of VAT. To obtain DGT approval, a company must satisfy a number of conditions, including sales administration centralisation and the removal 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 satisfying the other conditions; they simply need to submit 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 settled by using an input-output mechanism. A vendor of taxable goods or a taxable service must typically charge VAT to the buyer. From the vendor's perspective, it is an output tax. The buyer has to pay the VAT to the vendor. From the buyer's perspective, it is an input tax. To the extent that the goods are necessary for running the buyer's business, the input tax can be credited against the buyer's own output tax. Similarly, the vendor can also offset the output tax against input tax on the acquisition of taxable goods or taxable services. If the accumulated output tax for a particular month exceeds the accumulated input tax for the same period, the taxpayer in question has to settle the difference by the 15th of the month following. If, however, the accumulated input tax for a particular month

exceeds the accumulated output VAT, the taxpayer may ask for a monthly refund or carry over the overpaid VAT to the following months.

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

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

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

Input-output mechanism

As the name implies, a VAT Collector is required to collect the VAT due from a taxable enterprise (vendor) on the delivery to it of taxable goods or services and to pass the VAT payment directly to the government, rather than to the vendor or the service provider. A company engaged in

deliveries of taxable goods or services to a VAT Collector tends accordingly to be in an overpaid VAT position. (See page 51 concerning VAT refunds.)

Crediting input VAT

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

The validity of particular tax invoices is key to successfully claiming the input tax as a tax credit. A tax invoice must contain the following minimum information 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. tthe type of goods or services, the quantity, the sales price or compensation and any discounts;
d. the VAT that has been collected;
e. the sales tax collected (if any) on luxury goods;
f. the code, serial number and date of issue of the invoice;
g. the name, position and signature of the authorised signatory to the invoice.

Failure to satisfy the minimum information requirement will mean that the tax invoice will be classified as a simple tax invoice, and this cannot be used as a tax credit.

In addition, a tax invoice must be issued within the time allowed. In a particular situation, a tax invoice can be issued within two months of the underlying event (a delivery of taxable goods or services with no subsequent payment). Issuing a tax invoice in the three months following, 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 of 2% of the VAT base. Issuing a tax invoice after the three month period, as well as triggering the same administrative penalty, will render the VAT invoice invalid.

For crediting input tax, the DGT declares that the following documents bear the status of standard tax invoices:

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 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

The DGT is required to make a decision on a VAT refund application, on the basis of a VAT audit, within 12 months of the receipt of the complete application. If no decision has been made within 12 months, the application is considered, in law, to have been approved.

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

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

A pre-audit refund can be based only on a verification of the VAT returns and must be granted within a month after the completed VAT refund application is received. The DGT may

conduct a tax audit after the early VAT refund is granted. If it proves, on the basis of the tax audit, that the taxpayer has received a higher VAT refund than it should have done, the excess amount is subject to an administrative penalty of 100%.

Tax facilities

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

Bonded zones

BZ status is typically granted by MoF at the request of export-oriented manufacturing companies. The aim is to minimise idle investments in input VAT and luxury sales tax (LST) overpayments resulting from the existence of refunds pending approval for export activities. As a result, the BZ status brings about a non-collection of VAT and VAT exemption facilities in respect of:

- Importation or domestic purchases of goods for further processing;
- Importation of office equipment to be used only by the BZ company concerned;
- Importation of plant equipment and machinery related directly to manufacturing activities to be used only within or 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 faciliatated by means of the same tax facility. As a result, VAT and LST do not need to be collected for the following traffic of goods:

- Shipments of products from a 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 reshipments of goods 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 duty to the extent that the goods are to be processed further. Import income tax (Article 22 income tax) is not collected on imports of office equipment, plant, machinery and equipment related directly to manufacturing activities, and on goods for further processing.

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

- 50% of the current-year production value for goods requiring no further processing and which can be used by end consumers;
- 60% of the current-year production value for other goods;
- 75% of the current-year production value for goods supplied to mining and oil and gas companies;
- 75% of the current-year production value for BZ companies engaged in the oil and gas, the domestic ship building, and the oleo chemical industries.

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

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

Special Import Facility

Instead of obtaining a 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, for assembly, or for affixing to other goods for further exportation. It includes:

- Customs and excise exemption;
- Non-collection of VAT and LST.

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

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

Foreign-Grant or Foreign-Loan-Funded Governmental Projects

VAT, LST and import income tax are not to be collected on the importation of goods and the use of foreign taxable services and/or foreign intangible goods relating to foreign-grant or foreign-loan-funded government projects by the

main contractors, consultants and suppliers. (See pages 11 – 12.)

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

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

Other VAT Exemption Schemes

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

a. weapons, ammunition, transportation vehicles and various other appliances for use by the armed forces and the state police;

b. polio vaccines for use in the *National Immunisation Programme*;
c. general education and religious books;
d. ships and spare parts for use by national commercial shipping companies or national fishing companies;
e. aircraft and spare parts for use by national commercial airline companies;
f. trains and spare parts for use by PT Kereta Api Indonesia;
g. low-cost housing, basic flats and student accommodation;
h. train maintenance and repair services received by PT Kereta Api Indonesia;
i. services received by national commercial shipping companies or national fishing companies, including ship rental, seaport services and ship maintenance or docking services;
j. services received by national commercial airline companies, including aircraft rental and maintenance services;
k. services rendered for the construction of low-cost housing, basic flats and places of worship;
l. rental of low-cost houses.

VAT and LST in Batam

For years Batam has been treated as a special BZ with more VAT facilities than are granted to ordinary BZs. After steps to convert Batam into an ordinary BZ have been being deferred several times, these are finally being taken. At present, while the whole Batam area is still designated a special BZ,

a company may only have a BZ status based on a specific MoF approval.

Batam BZ companies are entitled to the same VAT (and customs) facilities as those granted to BZ companies outside Batam (see pages 54 - 55). The difference is that VAT and LST in Batam are imposed gradually on a selective basis on taxable goods and taxable services procured or consumed by Batam companies. Currently, only importation and deliveries in/to Batam companies of the following taxable goods will attract VAT:

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

The 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 attracted VAT.

Luxury Sales Tax

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

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

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

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

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

Examples of documents subject to stamp duty are as follows:

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

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

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

Land and Building

Land and building tax

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

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

L&B tax rate is specified at 0.5%. The actual tax due on a particular object is calculated by applying the tax rate to the taxable sale value (NJKP) of the object. NJKP is a predetermined proportion of the sale value of the tax object (NJOP) of a particular L&B. NJKP is currently stipulated to be either 20% (for NJOP up to Rp. 1 billion) or 40% (for NJOP above Rp. 1 billion). The government can increase the NJKP rate by up to 100% of the NJOP. As a result, the

effective 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 region in question. In accordance with MoF guidelines, NJOPs should take into account the market value of the L&B in the region. Where a piece of L&B is used for business purposes in the areas of plantation, forestry, mining, or breeding, the NJOP should also take into account the investment standard applicable on these.

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

The form must be filled out by the taxpayer and returned to the DGT within 30 days. Using the completed 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 in question is required 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 for that piece of land and/or building. Each taxpayer is entitled to a non-taxable NJOP, which at present set at Rp. 12,000,000. The MoF is authorised by law to make adjustments to the non-taxable NJOP.

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

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

A notary is prohibited from signing a transfer of rights deed until the 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 DAL&BR liability for the party receiving or obtaining the rights. Qualifying L&B rights transfers include sale-purchase and trade-in transactions, grants, inheritances, contributions to a corporation, rights separations, buyer designation in an auction, the execution of a court decision with full legal force, business mergers, consolidations, expansions, and prize deliveries. Acquisitions of L&B rights in certain non-business transfers may be exempt from DAL&BR.

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

DAL&BR is typically due on date that the relevant deed of L&B right transfer is signed before a public notary. In a business merger, consolidation, or expansion, the duty is due on the date of signing of the merger, consolidation or expansion act. In an auction, the duty is due on the date of signing dat 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% for L&B rights transfers in business mergers or consolidations at book value, as well as for L&B rights obtained as compensation for the release of L&B rights for a public-interest governmental project. In certain non-business L&B rights transfers, the DGT may also grant, at the request of a taxpayer, 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 must typically be paid to the State Treasury through a designated tax-payment bank (a bank persepsi) and then accounted for to the DGT office through the filing of the relevant tax returns. The tax payments and tax return filing for a particular tax must be undertaken monthly or annually, or both monthy and annually (depending upon the tax obligation in question.

A summary of these tax obligations is as follows:

Monthly tax obligations

	Type of tax	Tax payment deadline	Tax return filing deadline
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 these taxes incur interest penalties at 2% per month. (Part of a month, for example, a single day, is considered a full month.)

Late filing of a tax return or complete failure to file a tax return incurs an administrative penalties 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

For annual income tax returns, taxpayers may extend the filing deadline by up to two months. This may be done by filing a written notification to the DGT before the deadline, attaching a tentative tax calculation. The tax due according to the tentative calculation (if any) must be settled before submitting the extension notification. If the actual tax due based on the final tax calculation is higher than the tentative calculation, an interest penalty of 2% per month will apply to the difference until the shortfall is paid.

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

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

In general, the main form of a tax return must be prepared in a conventional format (hard copy). However, the DGT is encouraging the use of e-tax returns in which all the tax information is presented electronically using software provided by the DGT. For taxpayers registered with the designated tax service offices listed above, e-tax returns have been mandatory since 1 January 2005. E-tax returns can be filed to the DGT office either in the conventional manner, i.e., submitting the hard copy and the soft copy of the tax returns to the relevant tax service office, or by using an application service provider (e-filing).

Accounting for Tax

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

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

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

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

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

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

Tax Assessments and Tax Audits

Tax assessments

Background

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

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

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

Types of tax assessment letter

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

- Overpaid Tax Assessment Letter (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.

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

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

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

Statute of limitation

Under the 2007 tax administration law, the DGT can issue an underpaid tax assessment letter for the years up to 2007 only within ten years after the incurrence of a tax liability, the end of a tax period (month) or the end of (part of) a tax

year, but no later than 2013. For years from 2008 onwards, the time spans for the issuing of underpaid tax assessment letters is reduced to five years.

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

The tax due reported in a tax return is considered certain if no tax assessment letter is issued within the specified time limit. Nevertheless, a 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

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

DGT offices, or at both.

Conditions triggering a tax audit

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

Other events may trigger a tax audit; these include:

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

One-month rule

Taxpayers being audited are required to provide documents and information requested by the tax auditors within a month of the request date. This may include transfer pricing documentation if the taxpayers are engaged in related-party transactions. Failure to provide the documents or information within a month may prompt the DGT to determine the tax liabilities on a deemed profit basis. Where

documents and information are not supplied within the one month period, they cannot be used later by the taxpayer to dispute the amount of tax assessed.

Closing conference

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

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

The results of the final discussion are then summarised in a closing conference document. The taxpayer will have to state Agree or Disagree to each of the proposed corrections in the document. The document should also set out which part of the taxpayer's arguments are accepted by the tax auditors and accordingly lead to the cancellation or reduction of some particular suggested corrections. By the end of the closing conference, the tax auditors and the taxpayer have to sign the closing conference document.

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

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

Products of a tax audits

The legal products of a tax audit consist mainly of tax assessment letters 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 on this.

Tax Collection Using Distress Warrant

Using 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 trigger an interest penalty at 2% per month. Filing an objection, a revision request, an appeal, or a lawsuit is not an excuse for suspending the underpaid tax payment.

However, under the 2007 tax administration law, taxpayers are bound to pay only the minimum amount they have agreed to in the closing conference, provided that they file an objection or an appeal in respect to the particular tax

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

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

a. Issue a Warning Letter 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 issuing of the Warning Letter;
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 issuing of the Confiscation Order;
e. Undertake a public auction if the underpaid tax is not settled within 14 days of the auction announcement.

Tax Dispute and Resolution

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

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

Objections and appeals

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

In accordance with the 2007 tax administration law, as far as an underpaid tax assessment is concerned, the taxpayer

must pay at least the amount agreed during the closing conference before filing the Objection. The unpaid portion of the assessment penalties will subsequently apply if the taxpayer's objection is rejected or ifa subsequent tax appeal to the Tax Court is unsuccesful. The penalties are outlined below.

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

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

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

A taxpayer who does not (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 that the DGT Objection Decision calls for a payment of tax due, according to the tax court law, at least 50% of the tax due must be settled before filing the Appeal. As set out in the 2007 tax administration law, 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 resulting from the tax court decision is subject to a surcharge of 100%.

Another avenue for tax dispute resolution

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

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

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

The DGT must issue a decision on an Amendment Request within six months of the date of filing. If no decision is issued by the DGT within six months, the Correction

Request is automatically deemed to have been approved by the DGT.

Taxpayers who do not (fully) accept the DGT Decision on 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 for the execution of Distress Warrant. In this case, the lawsuit must be filed no later than 14 days after the execution date.

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

Reconsideration request to the Supreme Court

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

1. The Decision has been based on a perjury, a deception, or false evidence on the part of the opposing party;
2. A piece of important written evidence is found which, had it been considered previously, would have led to a different Decision;
3. Some part of the claim has been ignored without reason;
4. Something which was not demanded was granted;
5. The Decision is patently inconsistent with prevailing tax regulations.

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

Import Duty

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

Group	Good	Rate (%)
Automobiles	Passenger & commercial vehicles	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 social and cultural reasons.

ASEAN duty rates

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

This scheme is intended to increase inter-ASEAN trade by reducing duty rates on most goods to between 0% and 5% 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, BZs, bonded warehouses, and KITE facilities.

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 the finished goods (or 40% in the case of semi-finished products) is exported.

Bonded warehouse

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

KITE facilities

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

MITA ("Main Partners") lanes

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

Import licenses

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

also have registered as Registered Importer (“IT”) with the Ministry of Trade.

Customs compliance environment and administrative penalties

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

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

[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 efficiently and promptly.

If you have any queries, 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 sets out tax law and practice as of 15 February 2009.

This booklet is intended as a general guide. While every care has been taken in its preparation, no guarantee 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 it. In specific circumstances, professional advice should be sought.

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