Your Journey Through Indonesia

28 FAQs on Foreign Direct Investment in Indonesia

pwc

A concise guide to the key aspects of doing business in Indonesia

Foreword

Selamat Datang | Welcome

PwC Indonesia is pleased to present "Your Journey Through Indonesia", the one stop guide for foreign companies and investors planning to set up or expand their business presence in Indonesia.

By all accounts, Indonesia is a rising global power on the world stage. Home to the world's largest archipelago, Indonesia is the world's 3rd largest democracy and 16th largest economy with a population of over a quarter billion.

Having a first amongst equal status within the ASEAN states and recent policy initiatives to liberalize the country's economy, has aided in increasing Indonesia's attractiveness as a regional business hub and the gateway towards ASEAN and the greater Asia Pacific.

Indonesia's economy still relies heavily on its commodity sector as it is the world's largest palm oil producer, largest exporter of thermal coal and a significant producer of many minerals. The government however is moving policy towards in-country processing of commodities and is trying to revitalize its ailing manufacturing sector.

Recent initiatives have begun pushing the focus of national development beyond the main island of Java towards the rest of the country and specifically underdeveloped areas. New potential opportunities are being opened every day for investment.

The country is home to a youthful and dynamic demographic where over 165 million people are under the age of 30. The Indonesian population is also one of the most well connected in the world with over 80% smartphone penetration and a mobile phone ownership reaching over 110% of the population.

There are many challenges ahead for this archipelago in areas such as development and corruption. Despite these chronic challenges, the potential is simply too great to ignore and there has never been a better time to invest in Indonesia.

This concise guide is meant as a starting point for foreign inbound businesses looking to enter Indonesia or expand their activities and highlights the key issues from a tax, regulatory, and customs point of view of doing business and investing here.

We Indonesians take pride in our world renowned hospitality and at PwC Indonesia, we hope that our multi-national, multi-disciplinary team of 1,900 people, each one with individual experiences and specialties can assist in any way to make your business journey in Indonesia as smooth and enjoyable as possible.

Terima Kasih | Thank You
PwC Indonesia

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Investing In Indonesia

The lifecycle of a foreign direct investment (FDI) project in Indonesia can generally be divided into three phases:

- o Establishment;
- o Operational; and
- o Termination.

The following are 28 questions commonly asked by investors covering all of the above phases. Topics range from investment, employment, accounting and tax as well as customs regulatory aspects.

Section One

Establishment Phase

- Entering Indonesia

- What type of presence do investors need to set up if they plan to do business in Indonesia?
- Is there a minimum amount of investment needed to establish a PMA company in Indonesia?
- Can investors own 100% of shares in a PMA company?
- Is there a minimum number of shareholders in a PMA company and can they be an individual or a corporate entity?
- Is a nominee arrangement allowed?
- How long does it take to establish a PMA company and how fast can a PMA company start its commercial operations?
- How can investors determine their choice of holding jurisdiction for a PMA company in Indonesia?
- Do shareholders have limited liability status in a PMA company?
- What are the rights of shareholders in a PMA company?
- What are the board/management systems of a PMA company and what are their respective roles and authorities?
- Can investors hold shares with preferential rights?

1. What type of presence do investors need to set up if they plan to do business in Indonesia?

There are generally two ways for investors to set up a business presence within the framework of a foreign direct investment in Indonesia:

(a) establish a local subsidiary in the form of a limited liability company for foreign investment purposes (*Perusahaan Penanaman modal asing* or *PMA* company);

(b) Establish a Representative office (RO).

It is required under Indonesian Investment Law for foreign investors that wish to engage in commercial and business activity (i.e., provide services or sell goods) in Indonesia to set up a PMA company. A PMA company is a fully-fledged incorporated company with legal entity status that can carry out a full range of commercial and business activities as permitted by the prevailing rules and regulations in Indonesia.

Another option is to establish a RO. A RO is a licensed office set up in Indonesia by a foreign company. It has no legal status and its permitted activities are limited in scope, which generally includes carrying out market feasibility studies and liaison activities (i.e., acts as a local contact office to connect its overseas head office with parties in Indonesia).

It is generally restricted for a RO to conduct any business activity in Indonesia (e.g., concluding contracts, issuing invoice, and receiving payment). There are different types of ROs (e.g., regional RO, trade RO, public works RO, etc.) and each type has its own specific permitted activity. The exception to this rule is a Public Works RO that can perform income generating activities, i.e. providing construction services.

2. Is there a minimum amount of investment needed to establish a PMA company in Indonesia?

The requirements pertaining to minimum amount of investment in accordance with the investment regulations are as follows:

(i) Total investment must be more than Rp.10,000,000,000 (or its equivalent in USD), comprising equity and loans but excluding land and buildings;

(ii) Paid up capital must be equal to the subscribed capital with an amount of at least Rp. 2,500,000,000 (or its equivalent in USD); and

(iii) Share participation of each shareholder must be at least Rp. 10,000,000 (or its equivalent in USD) and the share percentage shall be calculated based on the nominal value of the shares.

The total investment amount can be a combination of equity and debt. As a rule of thumb from The Investment Coordinating Board (BKPM), the debt to equity ratio should not be greater than 3 to 1. The BKPM however can accept a higher ratio depending on the justification of the business and investment plan. The term 'debt' in this context includes loans from shareholders.

Please note that BKPM or the relevant technical authority may require higher investment for certain types of business (e.g., manufacturing, construction).

3. Can investors own 100% of shares in a PMA company?

Indonesia adopts a Negative Investment List (DNI) which contains a list of businesses which are (i) closed for foreign investment, and (ii) open for foreign investment with certain requirements. With respect to businesses that are opened for foreign investment, the DNI reserves a maximum percentage of foreign shareholding ranging from 49% up to 95%.

Lines of business which are not listed in the DNI are generally construed as 100% open for foreign investment. Please note, however, that as a matter of customary practice, it is advisable to have further discussion with the BKPM to ascertain and ensure that the proposed line of business is indeed wholly open for foreign investors or if there are any additional requirements for the investment. It is possible that even though certain lines of business are not expressly listed in the Investment Negative List, the BKPM may view that the line of business is classified as a line of business that is closed or limited for foreign investment.

4. Is there a minimum number of shareholders in a PMA company and can they be an individual or a corporate entity?

Indonesian Company Law requires a limited liability company to have at least two shareholders, which can be an individual or a legal entity. For investments that are 100% open, the foreign investor needs to identify a second shareholder (which can be its affiliated party) to hold shares in the PMA company.

5. Is a nominee arrangement allowed?

A nominee arrangement (i.e., arrangement for local party holding shares on behalf of foreign party) is prohibited under the Indonesian Investment Law. The purpose of the restriction is to avoid an arrangement whereby a company is formally owned by a party while being beneficially owned by a different party.

According to the Investment Law, a nominee agreement entered by and between a local party and a foreign investor shall be declared null and void.

6. How long does it take to establish a PMA company and how fast can a PMA company start its commercial operations?

Generally, it takes two to six months to establish a PMA company until it is ready to operate commercially.

For investment with certain criteria, BKPM provides 3-hour licensing service which significantly reduce the timing.

In order for a PMA company to operate commercially or start its production activity, it will need to obtain a business license (*izin usaha*) prior to carrying out its commercial operation.

Depending on the business activity, a PMA company may start its commercial operation as soon as possible following its establishment. For example, a PMA company engaging in trading business activity or management consultancy can apply for a business license and start its commercial operation within approximately two or three months after it is legally established (i.e., after obtaining approval from the Ministry of Law and Human Rights on the deeds of establishment).

7. How can investors determine their choice of holding jurisdiction for a PMA company in Indonesia?

From an investment regulatory perspective, investors may take into consideration existing International Investment Agreements between Indonesia and another country. If investors do have a business presence (in the form of an affiliated company within the group) in certain countries that have an International Investment Agreement with Indonesia, investors may enjoy certain incentives for investment in Indonesia (e.g., higher investment protection, higher foreign shareholding).

8. Do shareholders have limited liability status in a PMA company?

Shareholders do have a limited liability status in a PMA company. This means that shareholder's liability is limited to the value of their investment within the PMA company unless certain legal requirements are not met.

9. What are the rights of shareholders in a PMA company?

Shareholders are owners of a PMA company as evidenced by share ownership. A shareholder shall have a say in running the PMA company, i.e., by way of exercising his/her voting rights in the general meeting of shareholders on corporate matters.

10. What are the board/management systems of a PMA company and what are their respective roles and authorities?

The Indonesian Company Law recognizes the two tier governance system, consisting of the Directors and the Board of Commissioners.

The Directors are the executive/management of the company which have the general role and responsibilities managing the day-to-day operations of the company and represent the company with any third party.

The Board of Commissioners is a supervisory board which has the general role and responsibilities of supervising and providing advice to the Board of Directors in management of the company.

11. Can investors hold shares with preferential rights?

Shareholders can hold shares with certain preferential rights. The Indonesian Company Law recognizes classifications of shares, e.g., shares with the right to nominate members of the Board of Directors/Commissioners, shares with priority rights to receive dividends or liquidation proceeds.

Section Two

Operational Phase

Maintaining Foreign Investment in Indonesia

- What taxes are applicable in Indonesia?
- Can a PMA company employ expatriates in Indonesia?
- Can a PMA company maintain non-Rupiah bookkeeping and use Non-Indonesian Language?
- Is there a mandatory requirement to have audited accounts?
- Is there a foreign exchange control/restriction in Indonesia?
- Are there any conditions on distributing dividends from a PMA company in Indonesia?
- What are the Investment Facilities available for foreign investors?
- Who are the parties eligible for conducting import activities?
- What are the prevailing regulations to be referred to when conducting import activities?
- How can a PMA company be eligible to conduct import activities? What licenses and procedures are required when conducting import activities?
- What are the import taxes and duties involved when conducting import activities?
- What are the import restrictions and regulations to comply with?
- Are there any preferential import tariffs for Foreign Direct Investment?
- Is there any Customs facility for export oriented companies?
- Is there any post Customs audit?

12. What taxes are applicable in Indonesia?

(a) Income Tax :

A Tax resident (corporate or individual) is taxed on worldwide income. Resident taxpayers and Indonesian Permanent Establishments (PE) of foreign companies have to settle their tax liabilities either by direct payments, third party withholding or a combination of both.

(i) Corporate Income Tax (CIT)

A flat CIT rate of 25% applies to net taxable income. CIT rate concessions are available for certain taxpayers.

(ii) Withholding Tax (WHT)

Indonesian income tax is also collected through a WHT system. Where a particular item of income is subject to a WHT, the payer is generally held responsible for withholding or collecting the tax.

The types of WHT are PPh 21, PPh 22 (various rates ranging from 0.25% to 7.5%), PPh 23 (at 2% or 15%), PPh 26 (at 20%) and PPh Final (various rates ranging from 2% to 15%).

(iii) Employee Income Tax (EIT)

Employers are required to withhold EIT/ PPh 21 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.

(iv) Individual Income Tax

A tax resident is taxed on worldwide income. Most income earned by individual tax residents is subject to income tax at progressive tax rates (from 5% to 30%).

Non-resident individuals are subject to withholding tax (PPh 26) in respect of their Indonesian-sourced income. Concessions are, however, available where a DTA is in force.

(b) Value Added Tax (VAT)

VAT is applicable on deliveries of goods and services within Indonesia at a rate of 10%. VAT on export of goods is zero-rated while import of goods is subject to VAT at a rate of 10%. Zero-rated VAT is also applicable on exported services, it is however subject to a Ministry of Finance (MoF) limitation.

(c) Luxury Goods Sales Tax (LGST)

Some goods (e.g. certain household appliances, sport equipment, motor vehicles, luxury residences) are subject to LGST upon import or delivery by the manufacturer to another party. The LGST tariff is between 10% and 200%.

(d) Stamp Duty

Stamp duty is nominal and payable as a fixed amount of either IDR 6,000 or IDR 3,000 on certain documents, such as letters of agreement, proxy letters, statement letters and notarial deeds.

(e) Land and Building Tax

Land and buildings tax (*Pajak Bumi dan Bangunan/PBB*) is a part of regional taxes, which are governed under Regional Taxes and Retribution (*Pajak Daerah dan Retribusi Daerah or PDRD*) Law and enacted by a Regional Government Regulation (*Peraturan Pemerintah Daerah/PERDA*).

The PBB rate is a maximum of 0.3% on NJOP (*Nilai Jual Objek Pajak*/the sale value of the tax object) deducted by non-taxable NJOP (set at a minimum of Rp 10 million).

The scope of PBB under the PDRD Law covers all land and buildings except for forestry, plantation, and mining areas, which are governed by separate regulations.

(f) Duty on the acquisition of land and building rights

In a land and building transfer, the acquirer is liable for duty on the acquisition of land and building rights (*Bea Pengalihan Hak atas Tanah dan Bangunan or BPHTB*) at a maximum of 5% of the greater of the transaction value or the government-determined value. BPHTB is a part of regional taxes and collected by the local provincial government through a relevant PERDA.

(g) Other regional taxes

A corporate taxpayer may be liable for a number of regional taxes and retributions. The rates range from 1.5% to 35% of a wide number of reference values determined by the relevant regional governments. The following are regional taxes that may apply:

- Motor vehicle tax.
- Motor vehicle ownership transfer fee.
- Motor vehicle fuel tax.
- Surface water tax.
- Cigarette tax.
- Hotel tax.
- Restaurant tax.
- Entertainment tax.
- Advertisement tax.
- Road illumination tax.
- Non-metal and rock minerals tax
- Parking tax.
- Ground water tax.
- Swallow-nest tax.

13. Can a PMA company employ expatriates in Indonesia?

Yes, A PMA company may employ expatriates. There is, however, a list of positions issued by the Ministry of Manpower that cannot be assumed by expatriates. As a general rule, an expatriate cannot assume a position that handles a human resources matter.

Expatriates working in Indonesia must obtain a working and stay permit.

Indonesian Manpower Law also requires the employer to employ Indonesian employees to act as a counterpart for each expatriate employee as a prerequisite to grant a work permit for an expatriate employee. In general, the Ministry of Manpower and Transmigration will require a minimum one to three Indonesian counterparts for each expatriate.

14. Can a PMA company maintain non-Rupiah bookkeeping and use Non-Indonesian Language?

For tax purposes, a company's books must be maintained in Rupiah, composed in Indonesian and stored in Indonesia. Certain taxpayers can use USD and English bookkeeping through an application or notification, which must be submitted at the latest three months prior to the start of the fiscal year.

In terms of language, all accounting books, records and financial statements should be prepared using the Indonesian language. A company is allowed to use other languages only after obtaining permission from the Ministry of Finance.

15. Is there a mandatory requirement to have audited accounts?

The following companies must have audited financial statements:

(a) Publicly-listed companies;

(b) Companies involved in accumulating funds from the public (such as banks and insurance companies);

(c) Companies issuing debt instruments;

(d) Companies with assets of IDR 25 billion or more;

(e) Bank debtors whose financial statements are required by the bank to be audited;

(f) Certain types of foreign entities engaged in business in Indonesia that are authorized to enter into agreements - which shall include a PMA company; or

(g) Certain types of state-owned enterprises.

16. Is there a foreign exchange control/restriction in Indonesia?

There is no exchange control on foreign currency. Investors can freely transfer foreign currency funds to or from Indonesia. However, the transfer of funds in foreign currency to and from abroad shall be subject to a reporting obligation to Bank Indonesia. There are also some reporting requirements to Bank Indonesia regarding offshore assets and liabilities.

17. Are there any conditions on distributing dividends from a PMA company in Indonesia?

Dividends may be distributed from net profits of the company that have been deducted with certain amounts allocated for reserves and can only be distributed if there is a positive balance of profits. Dividend distribution must be approved by the general meeting of the shareholders of the company.

Dividend payments by a PMA Company to its (non-resident) shareholders is subject to 20% withholding tax. A lower rate is available subject to the applicable tax treaties.

18. What are the Investment Facilities available for foreign investors?

There are both Import Facilities and Tax Facilities available for foreign investors:

Import Facilities:

Import facilities on capital goods and raw materials give investors exemption from import duty and import taxes. This however requires prior approval before importation.

(a) Import Duty Exemption:
Based on regulation PMK.176/PMK.011/2009., investors can enjoy investment facility which provides exemption on imported duty for capital goods and raw material being imported. This facility is often referred to as the Master List Facility. Certain requirements must be met for the goods to be imported which are:

- Not yet produced in Indonesia.
- Produced in Indonesia but not according to the specification required.
- Produced in Indonesia with the specification required above but does not meet the industry demand.

The above exemption can only be applied by a company which provides or produces taxable goods or services.

(b) Import Tax Exemption:
In conjunction with the import duty exemption facility, it is common that investors also seek Import Taxes Exemption Facility for Import VAT and Income Tax Article 22.

Import VAT

Under Government Regulation Number 81 Year 2015 (“GR-81”) and its implementing Minister of Finance Regulation Number 268/PMK.03/2015, there are various important notes that need to be taken into account prior to obtaining this facility, such as:

- only a VAT-able Entrepreneur is able to obtain an exemption from the DGT.
- the VAT exemption facility would only apply to the factory machinery and equipment constituting one integrated unit, either in installed or disassembled condition, used directly in the production process of VAT-able goods by VAT-able Entrepreneurs producing the VAT-able goods, excluding spare parts. Please refer to Article 1 of GR-81 for more strategic goods covered in the VAT exemption facility.
- an application shall be submitted prior to the importation/delivery of the goods and then the DGT will issue a decision (VAT Exemption Letter/*Surat Keterangan Bebas Pajak Pertambahan Nilai*) within five working days upon receipt of a complete application.
- if within four years since the importation and/or acquisition the goods were not used for the original purposes or transferred to another party either partly or entirely, the exempted VAT on the importation and/or acquisition of goods will be due.

Income Tax Article 22

Income Tax Article 22 is due at rates of 2.5% or 7.5% depending on whether the Importer holds an Import Identification Number or not. This facility is regulated under DGT Regulation No. 21/PJ/2014 which provides an exemption if the Taxpayer demonstrates that no Income Tax liability will exist against the tax credit that should be paid. Please note that this exemption is however at the discretion of the DGT.

Tax Facilities:

(a) Tax Exemption:

CIT exemption or reduction for a period of five to ten years from the start of commercial production. After the end of the CIT exemption, the companies will receive a 50% CIT reduction for two years. These facilities are provided to firms in pioneer industries which have a wide range of connections, provide additional value and high externalities, introduce new technologies, and have strategic value for the national economy.

(b) Tax Concessions:

Tax concessions are given if the investments are in certain designated business areas or in certain designated regions:

(i) 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;
(ii) Accelerated depreciation deductions;
(iii) Extension of tax losses carry-forward for up to ten years;
(iv) A reduction of the withholding tax rate on dividends paid to non-residents to 10% (or lower if treaty relief is available).

19. Who are the parties eligible for conducting import activities?

According to the Indonesian Customs Law No. 10 of 1995 and its amendment Law No. 17 of 2006, Article 1 points 12 and 13:
“12. Person shall be any individual or legal entity.
13. Import shall be any activity of entering goods into the customs area.”

Thus, any individual or Indonesian legal entity can be an importer bringing goods into the Indonesian customs area.

20. What are the prevailing regulations to be referred to when conducting import activities?

- Customs Law No. 10 of 1995 jo. Law No. 17 of 2006;
- Minister of Finance Regulation No. 213/PMK.011/2011 jo. Minister of Finance Regulation No. 35/PMK.010/2016 regarding Stipulation of Goods Classification System and Import Duty Tariff for Imported Goods;
- Minister of Finance Regulation No 160/PMK.04/2010 jo. Minister of Finance Regulation No. 34/PMK.04/2016 regarding Stipulation of Goods Classification System and Import Duty Tariff for Imported Goods;
- Minister of Trade Regulation No. 70/M-DAG/PER/9/2015 regarding Importer Identification Number;
- Minister of Finance Regulation No. 59/PMK.04/2014 regarding Customs Registration;
- Minister of Trade Regulation No. 87/M-DAG/PER/10/2015 regarding provisions of Certain Import Products;
- Minister of Trade Regulation No. 50/M-DAG/PER/7/2015 regarding Special Importer Identification Number;
- Government Regulation No. 2 of 1996, Government Regulation No. 42 of 1997, and Government Regulation No. 16 of 1998 as the amendment regarding Company Activity which was established for Foreign Investment on Export and Import.

21. *How can a PMA company be eligible to conduct import activities? What licenses and procedures are required when conducting import activities?*

Importation can be done by a PMA company. As a legal entity, a PMA company can obtain an import license to allow it to import products into Indonesia. The main required licenses for a PMA company to perform importation are:

a) Importer Identification Number (*Angka Pengenal Impor* or API)

There are two types of API issued by either the Ministry of Trade (MoT) or the Investment Coordinating Board (*Badan Koordinasi Penanaman Modal*/BKPM):

- Producer Importer Identification Number (*Angka Pengenal Impor Produsen* or "**API-P**"). An API-P is required for the importation of machines/equipment, goods and materials to be used in the importer's production process.

- General Importer Identification Number (*Angka Pengenal Impor Umum* or "**API-U**"). An API-U shall be granted only to companies that conduct the import of certain goods for trading purposes. The import of certain goods shall only be for groups/types of goods included in one section in the Classification System of Goods under the Customs laws and regulations.

The applicable import license for the a PMA company in distribution activity is an API-U.

b) Customs Identity Number (*Nomor Identitas Kepabeanan*/NIK)
A NIK is required for all importers and exporters. A NIK is issued by the Directorate General of Customs and Excise (DGCE).

22. What are the import taxes and duties involved when conducting import activities?

In general, upon the importation of goods into Indonesia, the following import duties and taxes apply:

- ***Import duty***

  The applicable import duty rates would depend on the Harmonized Commodity Description and Coding System (HS). Based on Customs Law, the maximum import duty in Indonesia is 40%. However, most imported items will attract duties in the range of 0% to 15%.

  The import duty is calculated by multiplying the import duty rate by the import value under the Cost, Insurance, and Freight (CIF) term.

- ***Excise Duty***

  Excise goods are ethyl alcohol or ethanol, beverages containing ethyl alcohol and tobacco products.

  For imported goods, the excise duty is calculated by:

  Excise Duty Rate × Customs Value + (Import Duty Or Excise Duty Rate × Retail Price)

  Based on Excise Law, the maximum excise duty rate for tobacco products is 275% of customs value plus import duty or 57% of retail price. For the other products the maximum excise rate is 1,150% of customs value plus import duty or 80% of retail price

- ***VAT***

  VAT is a single rate of 10%. The import VAT is calculated by multiplying the VAT rate of 10% by the CIF price plus Import duty.

- ***Income Tax Article 22 (“PPh 22”)***

  A rate of 0.5% or 10% applies. Income Tax Article 22 is calculated by multiplying the rate by the CIF price plus import duty.

- ***Luxury Goods Sales Tax (LGST)***

  The Indonesian customs agency uses an import duty schedule based on the Harmonized Commodity Description and Coding System for classifying goods. An additional Luxury Goods Sales Tax (LGST) is imposed on certain goods that are defined as luxury goods.

  Upon the importation of goods into Indonesia the importer would prepare an Import Declaration and pay for the import collections prior to the clearance of the goods, unless the imported goods are covered by import duty and/or import tax exemption approvals. The import taxes and duties should be paid prior to the release of the goods from the Customs Office (provided that the import is without any import concession).

  The import VAT is generally creditable by the owner of the goods as long as the import document (PIB) specifically states the good’s owner’s name, NPWP, address and other information required by the regulation. PPh 22 in general is a prepaid income tax which should be creditable against corporate income tax due (but not for a company whose income is subject to final tax).

23. What are the import restrictions and regulations to comply with?

Every export and import transaction should be covered by the required exporter and/or importer licenses from relevant ministries. Every good can be exported or imported, except the goods that are prohibited, restricted or determined by Law. Several goods were stipulated in the regulation from Ministry of Finance regarding restrictions and prohibitions. The Exporters or Importers are responsible to fulfil the requirements of export or import restrictions and prohibitions.

Exporters or Importers should submit the supporting documents to fulfil the export or import restrictions and/or prohibitions along with the import declaration to Customs.

24. Are there any preferential import tariffs for Foreign Direct Investment?

Preferential Tariffs are provided for several imported goods from countries which have a Free Trade Agreement with Indonesia. Currently, Indonesia has seven agreements with:

- Japan (Indonesia and Japan for an Economic Partnership Agreement – IJEPA);
- ASEAN (ASEAN Trade in Goods Agreement – ATIGA);
- China (ASEAN-China Free Trade Area – ACFTA);
- Korea (ASEAN-Korea Free Trade Area – AKFTA);
- India (ASEAN-India Free Trade Area – AIFTA);
- Australia and New Zealand (ASEAN-Australia-New Zealand Free Trade Area – AANZFTA); and
- Pakistan (Indonesia-Pakistan Preferential Trade Agreement – IPPFTA).

25. *Is there any Customs facility for export oriented companies?*

A. Bonded Zone

Business activities carried out mainly for export may enjoy Bonded Zone facilities such as:

- Imported raw materials which are processed into finished goods and then exported will have no import duties and taxes (including VAT, LGST and Prepaid Income Tax Article 22). For sales to the domestic market, the payment of import duties and taxes on the imported materials is deferred until the delivery of the finished goods.
- The ability to import capital goods for use in the manufacturing process within the Bonded Zone.

Companies having a Bonded Zone license may sell for domestic consumption a maximum of 50% of the previous year's export realisation value and/or sales value to other Bonded Zone areas.

The Bonded Zone is administered by the Directorate of Customs and Excise.

B. Import Facilities for Export Purpose (KITE)

The KITE Facility is divided into 2 (two) types, as follows:

- KITE Exemption
  Import Duty and VAT exemption for raw materials to be processed, manufactured, and installed where the finished goods are exported.
- KITE Drawback
  Import Duty and VAT drawback for raw materials to be processed, manufactured, and installed where the finished goods are exported.

Companies which already have a NIPER (Company Registration Number) can enjoy the KITE Facility and companies which are engaged in industrial manufacturing for export.

26. *Is there any post Customs audit?*

The Customs Authority conducts a post Customs audit on a regular basis. The audit will commonly focus on valuation, classification and Customs incentives and facilities.

Undervaluation and/or incorrect type and/or quantity may incur penalties ranging from 100% up to 1,000% of the underpaid import duty.

Non-compliance with the administrative requirements of Customs incentives and facilities may carry the risk of severe penalties.

Section Three

Termination Phase

- Exit Strategy

- What is the procedure involved in liquidating a PMA company in Indonesia and how long does it take to liquidate a PMA company?
- What are the investors' obligations as shareholders of a liquidated company?

27. What is the procedure involved in liquidating a PMA company in Indonesia and how long does it take to liquidate a PMA company?

Generally, the procedures for (voluntarily) liquidation are as follows:

(a) General meeting of shareholders approving the liquidation and nomination of the liquidator;
(b) Notification to creditors by announcing the liquidation and the plan for distributing assets in a newspaper and notification to the Ministry of Law and Human Rights;
(c) Cancelation/revocation of all company licenses (including business licenses and tax number – Tax office will perform tax audit for the purpose of revocation of tax number);
(d) Making payment to creditors and distribution of liquidation proceeds to shareholders (if any);
(e) General meeting of shareholders granting acquittal and discharge of the liquidator;
(f) Notification to the Ministry of Law and Human Rights on the result of the liquidation. The Ministry of Law and Human Rights shall revoke the company's name from the Company Registry and de-register the company's status as a legal entity, after receiving the notification;
(g) Announcement of the result of liquidation in a newspaper.

It can take approximately 2 (two) years to complete a liquidation process.

28. What are the investors' obligations as shareholders of a liquidated company?

Shareholders shall have the obligation to appoint a liquidator to carry out the liquidation process in the general meeting of shareholders approving the liquidation. If there is no appointed liquidator, the Board of Directors shall act as the liquidator.

Creditors shall have the rights to submit their claims within a period of two years as of the date of the liquidation announcement in the newspaper. Creditors may only file their claims if there is a liquidation proceeds available for shareholders. If the proceeds have been distributed to shareholders, the shareholders shall have the obligation to return the proceeds to the liquidator to satisfy the claims from the creditors in proportional amount.

Glossary

API	*Angka Pengenal Impor* / Importer Identification Number
API-P	*Angka Pengenal Impor Produsen* / Importer Identification Number For Manufacturers
API-U	*Angka Pengenal Impor Umum* / General Importer Identification Number
ASEAN	Association of Southeast Asian Nations
ATIGA	ASEAN Trade in Goods Agreement
BI	*Bank Indonesia* / Central Bank of Indonesia
BKPM	*Badan Koordinasi Penanaman Modal* / Investment Coordinating Board
BPHTB	*Bea Perolehan Hak atas Tanah dan Bangunan* / Land and Building Rights Duty
CIF	Cost, Insurance, Freight
CIT	Corporate Income Tax
DGCE	Directorate General of Customs and Excise
DNI	*Daftar Negatif Investasi* / Negative List of Investment
EIT	Employee Income Tax
HS	Harmonized Commodity Description and Coding System
KITE	*Kemudahan Impor Tujuan Ekspor* / Import Facilities For Export Purposes
LGST	Luxury Goods Sales Tax
NIK	*Nomor Identitas Kepabeanan* / Customs Identification Number
NIPER	*Nomor Induk Perusahaan* / Company Registration Number
NJOP	*Nilai Jual Objek Pajak* / The Sale Value of the Tax Object
PBB	*Pajak Bumi dan Bangunan* / Land and Building Tax
PDRP	*Pajak Daerah Dan Restribusi Daerah* / Regional Tax and Retribution
PE	Permanent Establishment
PERDA	*Peraturan Pemerintah Daerah* / Regional Government Regulation
PMA	*Perusahaan Penanaman Modal Asing* / Foreign Investment Company
PPh	*Pajak Penghasilan* / Income Tax
PT	*Perseroan Terbatas* / Limited Liability Company
RO	Representative Office
VAT	Value Added Tax
WHT	Withholding Tax

How we can help you set up business in Indonesia

Indonesia is considered to be a country with a complex regulatory environment. It does not matter what business you are in, what phase you are in or whether you will enter the Indonesian market through a new establishment, merger or acquisition; with our extensive knowledge, expertise and experience, we can assist you to always comply with regulatory and compliance requirements.

Once you enter the market, we can also help you manage your non-core functions including bookkeeping, payroll and corporate secretarial so that you can always focus on your core business: an important factor to your success.

Pre-Establishment Phase

We can help you to plan your investment and advise you on various tax and regulatory considerations before you decide to establish or acquire a business in Indonesia.

Establishment Phase

We can assist you to go through the required licensing process and liaise with various authorities in Indonesia. Our local expertise and experience will help ensure a smooth process for your new establishment, merger or acquisition.

Post-Establishment Phase

Once you set up your business in Indonesia, you can focus on your core business while we manage your important back-office functions. We will help you to manage your corporate secretarial, accounting and payroll functions and ensure that you always comply with compliance and governance requirements.

Our Services

We focus our services to meet the needs of businesses entering the Indonesian market. We recognise the need for intensive support in the critical period when you first enter Indonesia.

Our business services can be tailored to meet you specific needs, allowing you to select services appropriate to your situation and the current phase of your business. Our services are coordinated by a team that includes both Indonesian and international members.

Inward Investment Services

Inward Investment Advisory

We will provide you with advisory work which can include:

- Advice on the tax and regulatory requirements for the establishment of a business/entity in Indonesia, such as procedures and licensing requirements
- Advice on the tax and regulatory requirements for mergers, acquisitions and business expansions
- Advice on the various compliance/governance requirements for your entity in Indonesia;
- Compliance reviews;
- Advice on employment and compliance aspects such as employment terms and conditions and employment contracts
- Advice on the requirements for liquidating an entity in Indonesia.

Business Licensing and Immigration Services

We can assist you with various procedures and liaison with government authorities, which services can include:

- Assistance with various licenses/approvals/permits for company establishment, business expansion and amendments, mergers and acquisitions
- Liaison with government agencies/authorities such as the Investment Board, Ministry of Trade, Ministry of Industry, Ministry of Laws and Human Rights and Financial Services Authority
- Arrangements for proper permits and administration for the employment of an expatriate
- Assistance in the disposal of assets, settlement of liabilities and other required procedures to liquidate an entity in Indonesia.

Investment Facilities

We can assist you to plan, make and submit a complete application for obtaining investment facilities, which can include :

- Assistance in planning and applying for tax allowance and tax holiday facilities
- Assistance in planning and applying for import duty exemption for capital goods and raw materials

Corporate Services

Corporate Secretarial

Good corporate governance is a key aspect for foreign investment in Indonesia. We will assist you to manage governance according to the requirements under the Indonesian Company Law.

- Maintenance of corporate secretarial matters for your company, such as the arrangement and administration of Shareholders' Meetings/Circulars/ Resolutions
- Amendment of Articles of Association
- Liaison with Public Notaries and the Ministry of Law and Human Rights

Accounting Services

Monthly Accounting

We will maintain your transactions and bookkeeping and produce financial statements in accordance to the Indonesian Accounting Standards as well as manage your non-tax compliance/reporting requirements. This will ensure you produce proper and timely records and reports:

- Provision of cash management services
- Maintenance of transaction records and bookkeeping;
- Production of financial statements in accordance with the Indonesian Accounting Standard

Compliance Administration

We can advise and assist in various non-tax compliance requirements, which include:

- Preparation and submission of Offshore Loan Reports and Prudential Principle Reports to the Indonesian Central Bank
- Preparation and submission of Investment Activity Reports to the Investment Board
- Preparation of Import Realisation Reports for the Ministry of Trade

Payroll Services

Payroll Administration

Our payroll administration services will ensure that you can manage accuracy, security and confidentiality as key aspects of your payroll, as well as getting access to our technology and expertise in employment compliance matters:

- Calculation of monthly payroll including bonus, allowances, overtime, take-home pay, employee income tax and employee social security contributions
- Payment of take-home pay to each employee's bank account, including the distribution of salary slips
- Administration of social security, insurance and pension contributions
- Calculation, payment and reporting of employee income tax

Payroll Related Advisory

We can advise on employment compliance-related aspects, which include:

- Advice on compliance with legislation such as employment contracts and social security and pension contributions;
- Guidance on employee stock option plans;
- Recommendations on payroll schemes such as the composition of salary and allowances, benefits in-kind, etc.

Employee Termination and Resignation

We can assist you with the employment termination/resignation process, which can include:

- Calculation and payment of severance packages including the related income tax
- Drafting of employment termination agreements
- Socialisation and communication of termination/resignation matters to employees

PwC Indonesia Services

Our broader PwC team can provide other services to support your business in Indonesia. Our highly qualified, experienced professionals provide industry focused services, including:

- **Assurance Services** provide assurance over any system, process or controls and over any set of information to the highest PwC quality.
  - Risk Assurance
  - Financial Audit
  - Capital Market Services
  - Accounting Advisory Services

- **Tax Services** optimise tax efficiency and contribute to overall corporate strategy through the formulation of effective tax strategies and innovative tax planning. Some of our value-driven tax services include:
  - Corporate tax
  - International tax
  - Transfer pricing (“TP”)
  - Mergers and acquisitions (“M&A”)
  - VAT
  - Tax disputes
  - International assignments
  - Customs
  - Investment and corporate services

- **Advisory services** implement an integrated suite of solutions covering deals and transaction support and performance improvement.
  - Business Recovery Services
  - Capital Projects & Infrastructure
  - Corporate Finance
  - Corporate Value Advisory
  - Deal Strategy
  - Delivering Deal Value
  - Transaction Services

- **Consulting services** help organisations to work smarter and grow faster. We consult with our clients to build effective organisations, innovate and grow, reduce costs, manage risk and regulations and leverage talent. Our aim is to support you in designing, managing and executing lasting beneficial change.
  - Management Consulting
  - Risk Consulting
  - Technology Consulting
  - Strategy Consulting

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