

# TaxFlash



## *Proposal of New Negative List of Investment*

The Government has announced the 10th Economic Policy Package on 11 February 2016 that focuses on the draft amendment to the current Negative List of Investment (NLI) stipulated in Presidential Regulation No.39/2014. It is expected that the Presidential Regulation on the new NLI will be approved by the President in March or April 2016. Until the new NLI is issued, the current NLI still applies.

The new NLI is intended to accelerate both foreign and domestic investments distributed across Indonesia and to develop the country's competitiveness in the international market. At the same time, this new NLI is also aimed to protect national strategic business as well as Indonesian small and medium enterprises (SMEs).

The proposed new NLI sets out the following:

- a. To remove 35 business lines from NLI resulting in these business lines being open for 100% foreign ownership.
- b. To increase the permitted foreign ownership in 36 business lines.
- c. To remove 20 business lines reserved for domestic investors meaning that those businesses are now open for foreign investors at a certain percentage.
- d. To remove specific recommendation requirements from the relevant Ministers for 82 business lines (no changes in the ownership rate).
- e. To add one business line that will be closed for any investment due to environmental reasons, i.e. extraction and distribution of coral.
- f. To provide more protection for SMEs, among other things by reserving additional business lines for SMEs, increasing the project values in the construction sector that are reserved for SMEs, and adding several business lines that require a partnership with a local SME.

We have highlighted some of the proposed changes in points (a) to (c) in the below table.

No.	Sector	Lines of Business	Current	Proposed Change
1	Industry	Crumb rubber industry	Closed for foreign ownership (100% domestic ownership)	Open to have 100% foreign ownership
2	Trade	Cold storage	Permitted to have (a) 33% foreign ownership in Sumatra, Java and Bali and (b) 67% foreign ownership in Kalimantan, Sulawesi, Nusa Tenggara, Maluku and Papua	Open to have 100% foreign ownership
3		Distribution	Permitted to have 33% foreign ownership	Permitted to have 67% foreign ownership
4		Warehouses	Permitted to have 33% foreign ownership	Permitted to have 67% foreign ownership
5	Manpower and Transmigration	Work training	Permitted to have 49% foreign ownership	Permitted to have 67% foreign ownership
6	Tourism and Creative Economy	Restaurants	Permitted to 51% foreign ownership	Open to have 100% foreign ownership
7		Bars	Permitted to have 49% foreign ownership or 51% if in partnership with SMEs	Open to have 100% foreign ownership
8		Cafes	Permitted to 49% foreign ownership or 51% if in a partnership with SMEs	Open to have 100% foreign ownership
9		Sport centres	Permitted to have 49% foreign ownership or 51% if in a partnership with SMEs	Open to have 100% foreign ownership
10		Film industry in general (including film distribution)	Closed for foreign ownership (100% domestic ownership)	Open to have 100% foreign ownership
11		Film processing laboratories	Permitted to have 49% foreign ownership	Open to have 100% foreign ownership
12		Travel bureaus	Permitted to have 49% foreign ownership	Permitted to have 67% foreign ownership
13	Private museums	Permitted to have 51% foreign ownership	Permitted to have 67% foreign ownership	
14	Telecommunication and Information	E-commerce and marketplace platforms with an ownership of more than IDR100billion	Not regulated	Open to have 100% foreign ownership
15		Telecommunication equipment testing laboratories	Permitted to have 95% foreign ownership	Open to have 100% foreign ownership
16		Integrated telecommunication network providers	Permitted to have 65% foreign ownership	Permitted to have 67% foreign ownership
17	Public Works	Toll roads	Permitted to have 95% foreign ownership	Open to have 100% foreign ownership

No.	Sector	Lines of Business	Current	Proposed Change
18		Non-hazardous waste management	Permitted to have 95% foreign ownership	Open to have 100% foreign ownership
19		Construction consultancy services	Permitted to have 55% foreign ownership	Permitted to have 67% foreign ownership (with project values over IDR 10 billion)
20		Raw pharmaceutical materials industry	Permitted to have 85% foreign ownership	Open to have 100% foreign ownership
21	Health	Healthcare support services	Closed for foreign ownership (100% domestic ownership) or a maximum of 49% foreign ownership if throughout Indonesia	Permitted to have 67% foreign ownership
22		Air transportation supporting services	Permitted to have 49% foreign ownership	Permitted to have 67% foreign ownership
23	Transportation	Land transportation for passengers	Closed for foreign ownership (100% domestic ownership)	Permitted to have 49% foreign ownership
24	Energy and Mineral Resources	Extra-high voltage installation	Closed for foreign ownership (100% domestic ownership)	Permitted to have 49% foreign ownership

### Additional tax considerations

Investors may consider taking into account the relevant tax concession applicable to their industries when planning to invest in Indonesia. Some lines of business liberalised in the proposed new NLI are also eligible for tax concessions available in Indonesia.

No.	Lines of Business	Tax Concessions	Description of the concessions
1	<ul style="list-style-type: none"> <li>Telecommunication and information</li> <li>Sea transportation</li> </ul>	Corporate Income Tax (CIT) Reduction	<ul style="list-style-type: none"> <li>CIT reduction of 10% – 100% of the CIT due for 5 – 15 years from the start of commercial production</li> </ul>
2	<ul style="list-style-type: none"> <li>Telecommunication and information</li> <li>Land transportation</li> <li>Renewable energy and geothermal power plants</li> <li>Rubber industry</li> </ul>	Income Tax Allowance	<ul style="list-style-type: none"> <li>A reduction in net taxable income of up to 30% of the amount invested in the form of fixed assets, prorated at 5% for 6 years of the commercial production</li> <li>Acceleration of tax depreciation and amortisation deductions</li> <li>A reduction of the withholding tax rate on dividends paid to non-residents to 10% or the applicable reduced tax treaty rate</li> <li>Extension of tax-loss carry forwards for longer than 5 years but not more than 10 years</li> </ul>
3	<ul style="list-style-type: none"> <li>Telecommunication and information</li> <li>Transportation</li> <li>Toll roads</li> <li>Renewable energy and geothermal power plants</li> <li>Non-hazardous waste management</li> <li>Hospitals and specialized medical clinics</li> </ul>	Public Private Partnership	Not yet regulated

No.	Lines of Business	Tax Concessions	Description of the concessions
4	<ul style="list-style-type: none"> <li>• Distribution and warehouses</li> <li>• Rubber industry</li> <li>• Tourism</li> </ul>	Special Economic Zone	<ul style="list-style-type: none"> <li>• CIT Reduction or Income Tax Allowance</li> <li>• Non-collection or exemption of import taxes</li> </ul>
5	<ul style="list-style-type: none"> <li>• Distribution and warehouses</li> </ul>	Bonded Stockpiling	<ul style="list-style-type: none"> <li>• Non-collection or exemption of import taxes (i.e. Value Added Tax, Luxury-goods Sales Tax, Article 22 Income Tax, Import Duty, and Excise)</li> </ul>

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