



**COUNTRY
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The Legal 500 Country Comparative Guides

Indonesia TAX

Contributor

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This country-specific Q&A provides an overview of tax laws and regulations applicable in Indonesia.

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INDONESIA

TAX



1. How often is tax law amended and what is the process?

Normally Tax law is amended once a decade in Indonesia. The recent big changes concerning tax law were the issuance of (a) Law No. 11 of 2020 on job Creations (Omnibus Law) and (b) Law No. 7 of 2021 on Tax Regulation Harmonization (HPP Law). The issuance of these laws affects among others the law on the general provisions and tax procedures, income tax law, VAT and luxury taxed good law, and the excise law.

The plan to draft a new law (including the amendments to existing law) is made in the national legislation program (Prolegnas). The prolegnas is prepared by the House of Representatives, the Regional Representative Council and the Government. Afterwards, either the House of Representatives or the President will prepare the draft of the law. If the draft is prepared by the President, the draft will be prepared by the relevant ministers or non-ministerial government agency leaders – this is the most cases concerning tax laws in Indonesia, thus only this type of lawmaking will be discussed for this purpose. The President will then submit the draft to the House of Representatives to be discussed in the meeting. After being discussed in the meeting, the draft that has been agreed upon between the House of Representatives and the President will be submitted to the President by the head of the House of Representatives to be ratified as Law. Once signed and ratified, the draft would be promulgated into Law. However, various implementing regulations of the tax laws are amended regularly.

2. What are the principal administrative obligations of a taxpayer, i.e. regarding the filing of tax returns and the maintenance of records?

The regulation requires taxpayers to save the documents that are used to prepare their bookkeeping for a period of 10 years.

In addition, the taxpayers are also required to file taxes returns (e.g. VAT, Income Tax and withholding taxes). In addition to the annual tax return that must be filed by the end of April, taxpayers generally must also file a monthly tax return depending on the tax obligations.

3. Who are the key tax authorities? How do they engage with taxpayers and how are tax issues resolved?

The key regulatory authorities concerning tax in Indonesia is the Directorate General of Taxation (DGT) of the Ministry of Finance (MoF).

The difficulty of dealing with the DGT and resolving tax issues would depend on how complex the issues and how complete and proper documentations prepared by taxpayers when they filed tax returns and tax calculation. It may take months to years for a taxpayer to resolve tax issues with the authority depending on the level of difficulty of the issues.

4. Are tax disputes heard by a court, tribunal or body independent of the tax authority? How long do such proceedings generally take?

At the first instance, tax disputes in the form of tax objection filed by a taxpayer would be resolved by the DGT. If the issues cannot be resolved with the DGT, then the taxpayer can appeal the case before the tax court. If the decision of the tax court is deemed unfavorable by a disputing party (either the tax authority or the taxpayers), they can file for a case review (peninjauan kembali) to the Supreme Court. However, the case review process would not postpone any enforcement of the tax court's decision.

The taxpayers can also file a lawsuit to the tax court over (i) the implementation of a distress warrant, warrant letter for implementing confiscation, or auction announcement, (ii) preventive decisions in the context of

tax collection, (iii) decisions concerning on the implementation of tax decisions, other than those regulated under the law, or (iv) issuance of tax assessment letter or a decree of objection which issuance process is in violation of the prevailing laws and regulations.

Tax objection proceeding would be normally decided within few months. On the tax appeal case, the tax court must issue a decision for: (i) an appeal within 15 months (12 months plus 3 months of extension for certain cases), and (ii) for a lawsuit within 9 months (6 months plus 3 months of extension for certain cases).

5. What are the typical deadlines for the payment of taxes? Do special rules apply to disputed amounts of tax?

The followings are brief information on the set dates for payment of tax obligations in Indonesia:

Tax Obligations	Payment Deadline	
	Individual	Corporate
Monthly Installment	15th day of the following month	15th day of the following month
Withholding Tax	N/A	10th day of the following month
Annual Individual Income Tax	The end of March, before filing the tax return	The end of April, before filing the tax return

If the DGT conducts a tax audit and issues a Tax Assessment Letters (SKP) to the taxpayers, the taxpayers must pay the underpaid tax as stated in the SKP within one month after the issuance of the SKP unless the taxpayer files for an objection.

6. Are tax authorities subject to a duty of confidentiality in respect of taxpayer data?

N/A

7. Is this jurisdiction a signatory (or does it propose to become a signatory) to the Common Reporting Standard? Does it maintain (or intend to maintain) a public register of beneficial ownership?

Yes. A tax official is prohibited from disclosing the tax information of the taxpayers. However, the MoF can authorize the tax official to disclose the information in the interest of the State, in the context of investigating,

prosecuting, or in the context of establishing cooperation with State institutions, government agencies, legal entities established through laws or government regulations, or other parties.

Indonesia is a signatory to the Common Reporting Standard. Since 2018, Indonesia also requires a company to declare its beneficial ownership – to be reported to the Minister of Law and Human Rights system. However, this information is not accessible to the public. The information is only accessible to several authorized institutions.

8. What are the tests for determining residence of business entities (including transparent entities)?

Individual

Individual taxpayers are deemed as resident taxpayers if they (a) reside in Indonesia, (b) are present in Indonesia for more than 183 days in 12 months, or (c) are present in Indonesia in a fiscal year and have an intention to reside in Indonesia. If none of the above condition is met, generally the individual would be a nonresident taxpayer.

In the event an individual has also a tax resident status in another jurisdiction, he/she would be an Indonesian taxpayer unless the tie breaker rule for dual resident in any relevant tax treaty requires otherwise.

Corporations

For corporations, they are treated as Indonesian tax resident if they (a) are established in Indonesia, or (b) have its place of management in Indonesia (including having domicile in Indonesia as stated in its deed of incorporation, having its principal office in Indonesia, having a domicile for its center of administration or financial center in Indonesia, having a principal office in Indonesia that carries out control, its management holds a meeting in Indonesia to decide on strategic decision, or its management is located or domiciled in Indonesia). In addition, a non-resident corporation can be treated as having taxable presence if it is deemed as running business or carrying out activities in Indonesia.

9. Do tax authorities in this jurisdiction target cross border transactions within an international group? If so, how?

Yes. There are several provisions under the prevailing laws and regulations that target cross border transactions within an international group, among

others:

a. Transfer Pricing

b. Expansion on Definition of Affiliated Transaction

The definition of affiliated transaction is expanded into transactions affected by special relationship that includes transactions between parties without special relationship but the affiliated party of one or both transacting party determines the counterparty and the transaction price.

c. Controlled Foreign Corporation

please see our elaboration on the exemption of tax dividend in point 23 below.

10. Is there a controlled foreign corporation (CFC) regime or equivalent?

Yes, Indonesia has a CFC (please see the elaboration in point 8 above), Thin Cap (the government sets the maximum amount of debt-to-equity ratio as 4:1) and transfer pricing (see no 8). It is also possible to obtain an advance pricing agreement in Indonesia.

11. Is there a transfer pricing regime? Is there a "thin capitalization" regime? Is there a "safe harbour" or is it possible to obtain an advance pricing agreement?

Question answered above.

12. Is there a general anti-avoidance rule (GAAR) and, if so, how is it enforced by tax authorities (e.g. in negotiations, litigation)?

There is no GAAR regulation, however, the HPP Law extends the authority of the government to establish and/or implement taxation agreements and/or memorandum of understanding with partnered country or partnered jurisdiction for the purpose of among others (i) double tax avoidance and the prevention of tax evasion and (ii) prevention of tax base erosion and profit shifting. The HPP Law also regulates on benchmarking that will be applied to the taxpayers who report (i) smaller amount of profit compared to other taxpayers with similar business activities or (ii) unreasonable loss for the taxpayers who have carried out their business or five years. In this case, the authority will use the financial performance of taxpayers with similar business activities as the benchmark.

13. Is there a digital services tax? If so, is there an intention to withdraw or amend it once a multilateral solution is in place?

Yes. The Indonesian government recently issued a new regulation that targets the imposition of taxation on:

a. the financial technology market, including among others the Peer-to-Peer lending and payment services provider. The regulation requires the Fintech operator who has been appointed as a taxable entrepreneur to collect the VAT over the fee, commission, merchant discount rate or other consideration obtained from the services provided to the consumer. The tariff is 11%.

b. the crypto market, by imposing VAT on (i) intangible taxable goods in the form of crypto assets by the crypto asset's sellers, (ii) taxable services in the form of the provision of electronic facilities for crypto assets trading by the trade organizer through the electronic system, and (iii) taxable services in the form of verification of crypto assets transactions and/or management services of the mining pool of crypto assets by the mining pool. In addition, the regulation also imposes income tax on any incomes received by the crypto market players. For the crypto income of the crypto assets traders, they will be subject to final income tax with the tariff of 0.1% of the transaction amount (if the electronic system that is used is registered with the authority) or 0.2% of the transaction amount (if the electronic system is not registered with the authority).

The government has also issued regulation that imposed tax on electronic system trading after the case precedent of a foreign giant platform against the Indonesian government. To prevent losses, the Indonesian government issued a regulation that can be used as a basis to impose (i) VAT in the utilization of intangible taxable goods and/or taxable services from outside of Indonesia in Indonesia through an electronic system transaction, and (ii) income tax or electronic transaction tax for the electronic system transaction carried out by foreign tax residents who fulfill the criteria of significant economic presence, i.e., having certain amount of consolidated gross circulation of a business group, having sales in Indonesia for certain amount, having active users of digital media in Indonesia for certain amount.

14. Have any of the OECD BEPS recommendations, including the OECD's recent two-pillar solution to address the tax challenges arising from digitalisation of

the economy, been implemented or are any planned to be implemented?

Indonesia's tax provisions prior to the agreement on the BEPS Action Plan have accommodated the BEPS Action Plan, among others CFC regulation and transfer pricing regulation. Indonesia also has regulation implementing Action 13 of the Action Plan, i.e., the country-by-country reporting.

As for the OECD's recent two-pillar solution to address the tax challenges arising from digitalization of the economy, Indonesia has issued some regulations to impose taxation on digital services globally (please see the elaboration in question number 11).

Generally, the Indonesian government supports the BEPS Action Plan and it seems that the prospects for further implementation of the BEPS Action Plan in Indonesia are quite promising. The HPP Law also extends the authority of the government to establish and/or implement taxation agreements and/or memorandum of understanding with partnered country or partnered jurisdiction for the purpose of (i) double tax avoidance and the prevention of tax evasion, (ii) prevention of tax base erosion and profit shifting (iii) tax information exchange, (iv) tax collection assistance, and (v) other tax cooperation.

15. How has the OECD BEPS program impacted tax policies?

Indonesia has been supportive of BEPS project since 2013. The government supports the BEPS Action Plan and has implemented some of the Action Plan into the existing laws and regulations, among others the CFC rules, thin capitalization rules, promoting the exchange of tax information, transfer pricing regulations, the regulation on digital tax. Recently, through the HPP Law, the government also implemented the following:

- The identification number will be regarded as a taxpayer identification number – this is regulated in the hope to simplify tax procedures for the taxpayers in fulfilling their tax obligations.
- Amend the Mutual Agreement Procedures (MAP) provisions to promote fairness to the taxpayers and to follow the international best practice. Different from the previous regulation that stopped the MAP if there was a tax court or supreme court decision even though the substance of the decision was not the same as the substance in the MAP application, the HPP Law states that the MAP

application can be conducted simultaneously with objection or appeal proceedings.

- Promote the exchange of information between, as elaborated in point 12 above.
- Implement the new tax amnesty program following the success of the first tax amnesty program in 2016. In addition to collect more taxable income, the government also utilizes the information that is submitted during the tax amnesty program to ensure a better tax compliance of the taxpayers.

16. Does the tax system broadly follow the OECD Model i.e. does it have taxation of: a) business profits, b) employment income and pensions, c) VAT (or other indirect tax), d) savings income and royalties, e) income from land, f) capital gains, g) stamp and/or capital duties? If so, what are the current rates and how are they applied?

Yes, the Indonesian tax system are affected by the recognized OECD model. Business profits, employment income and pensions, income from land and capital gains are generally regarded as income tax. Unless otherwise regulated, the tax rates are:

	Rate	
	Individual	Corporate
Income Tax	0-60mio 5% > 60-200mio 15% > 250-500mio 25% > 500mio – 5 bio 30% > 5 bio 35%	22%
VAT	11%	11%
Savings Income	Interest paid by Indonesian bank to Indonesian residents is subject to a 20% final withholding tax	
Royalties	15%/20% ¹	15%/20% ¹
Capital Gains	0.1% – 35% ²	22% ²
Stamp Duties	Duty stamp sticker at the nominal amount of Rp 10,000,-.	

¹ Please see the elaboration on point 2 (withholding taxes).

² Gains on the listed shares on the Indonesian Stock Exchange are subject to a final tax of 0.1% (founder shares will be imposed with additional 0.5% final tax on the share value at the time of the IPO), capital gains on disposal of land/buildings generally are subject to 2.5% income tax of the sale proceeds.

17. Is business tax levied on, broadly, the revenue profits of a business computed in accordance with accounting principles?

Generally, the Indonesian GAAP would be the basis (with some adjustments due to certain differences from tax regulations) to compute the income tax on the net basis. For certain types of income (e.g. construction, crypto trading, etc.), there are final flat tax rate based on gross revenue.

18. Are common business vehicles such as companies, partnerships and trusts recognised as taxable entities or are they tax transparent?

Yes except for trust. Partnership and firm are transparent for tax purposes and are used for tax efficiency on the profit distribution to the partners vis a vis profit distribution to shareholders by a company.

19. Is liability to business taxation based on tax residence or registration? If so, what are the tests?

Indonesia implements worldwide income basis for its tax resident. However, for non-resident taxpayer, Indonesia generally applies a territorial basis of income taxation unless it becomes a permanent establishment in Indonesia since Indonesia may impose force of attraction rule. The first test would be a tax residency test as elaborated in point 7 above. Once there is ambiguity on the residency of the taxpayers, the tie breaker rule should be used to determine the main residency and avoid a double taxation. The criteria of the tie breaker rule is (i) permanent home, (ii) center of vital interest, (iii) habitual abode, (iv) nationality, and (v) MAP between tax authorities of each countries.

If it is a nonresident taxpayer based on the first test, its income generally is subject to tax if it is earned in Indonesia.

20. Are there any favourable taxation regimes for particular areas (e.g. enterprise zones) or sectors (e.g. financial services)?

Yes. As a part of the government's support to Individual Micro, Small and Medium Enterprises (UMKM), the HPP Law regulates that the UMKM will be exempted from income tax if their gross turnover is less than or equal to

Rp 500 million. From >Rp 500 million onwards, their income will be subject to 0.5% final income tax tariff.

In addition, the government also provides certain fiscal incentives for certain businesses that fulfill the following criteria (i) it can be considered as national strategic projects, (ii) it is capital intensive, (iii) it is labor-intensive, (iv) it uses high technology, (v) it is a pioneer industry, (vi) it is an export-oriented industry, or (vii) it is a research, development, and innovation-oriented industry. The incentives that can be given to these industries are among others tax holiday, tax allowance, investment allowance, custom incentives.

21. Are there any special tax regimes for intellectual property, such as patent box?

No.

22. Is fiscal consolidation permitted? Are groups of companies recognised for tax purposes and, if so, are there any jurisdictional limitations on what can constitute a tax group? Is there a group contribution system or can losses otherwise be relieved across group companies?

No.

It should be structured via company reorganization. A qualified internal restructuring may offer possibility to utilize certain fiscal losses of entity participating in the reorganization.

23. Are there any withholding taxes?

Yes, the following are the applicable withholding taxes in Indonesia:

Type of Payment	Residents		Non-residents
	Company	Individual	
Dividends	0%	0%/10% ¹	20% (or lower tariff according to the applicable tax treaty)
Interest	15%/20% ²	15%/20% ²	10%/20% (or lower tariff according to the applicable tax treaty)
Royalties	15%	15%	20% (or lower tariff according to the applicable tax treaty)

¹ Please see further elaboration on this in question number 23.

² Interest paid by a non-bank institution is subject to a 15% withholding tax while the interest by bank

institution is subject to a 20% final withholding tax.

³ After the issuance of the Omnibus Law, starting from 3 August 2021, the government reduced the interest payable to non-permanent establishment foreign tax subjects.

24. Are there any environmental taxes payable by businesses?

The government recently introduces carbon tax in HPP Law. The first implementation of the carbon tax should have been implemented against the coal power plant sector on 1 April 2022 but to the best of our knowledge, it has not been implemented yet as of the date of this publication.

The tariff of the carbon tax is higher or equal to the market price, with a minimum tariff of Rp 30,- per kg of CO₂e.

25. Is dividend income received from resident and/or non-resident companies taxable?

Onshore Dividend

Dividend income earned from domestic listed and non-listed companies, that is declared in a shareholders meeting, is exempted from tax if:

- a. the recipient is a domestic individual recipient, provided that the dividend is reinvested into Indonesia within certain period, as regulated by the MoF regulations.
- b. the recipient is a corporate entity.

Offshore Dividend

Offshore dividend is divided into:

a. Stock Exchange Dividend

Stock exchange dividend will be exempted from income tax if the dividend is re-invested in Indonesia for a minimum period of three tax years.

b. Non-stock Exchange Dividend

To be exempted from income tax, the non-stock exchange dividend must be re-invested in Indonesia for a minimum period of three tax years. In addition to this requirement, there are additional requirements that must be fulfilled, among others (i) the invested amount should be at least 30% of the profit after-tax, (ii) the dividend must be re-invested before the DGT issues a tax statement to the taxpayer, and (iii) the dividend arises from profit after-tax from the tax year of 2020 that is obtained or received after 2 November 2020.

26. What are the advantages and disadvantages offered by your jurisdiction to an international group seeking to relocate activities?

As one of the global investment destinations after India, China and the United States of America, Indonesia has abundant natural resources, a big market and demographic bonus. The uncertainty in law enforcement and lack of infrastructure would be considered as the main disadvantages.

Apologize for the technical issues. I was attaching the email correspondence in the previous email. Attached is the output, for your file.

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