



# ***INDONESIA***



## INDONESIA

Capital	:	Jakarta
Land Area	:	1,919,317 sq. kms.
Population	:	250 million
Language	:	Bahasa Indonesia
Religion	:	Muslim, Christian/ Catholic, Buddhism, Hinduism
Member of	:	ASEAN, UN, IMF, ESCAP, FAO, ILO, UNESCO, IBRD, IFC, MIGA, IDB, IDA, ADB, WRO, APEC, ASEM, EALAF
Currency	:	Rupiah
GDP	:	Rp. 1,332.2B (2000) current market price
Major Industries	:	Pulp and Paper, Cement, Basic Metals and Fertilizer, Power Generation, Telecommunication, Transportation
Major Exports	:	Textile, Electronic Goods, Footwear, Oil and Gas, Plywood, Sawn Timber
Major Imports	:	Chemical and Pharmaceutical, Fertilizer, Cotton Yarns, Textile Fabric, Machines, Motor Vehicles



## **INTRODUCTION**

Indonesia is the largest archipelago in the world, comprising the five main islands of Java, Sumatra, Kalimantan, Sulawesi, and Irian Jaya, and about 30 smaller archipelagoes totaling 13,667 islands, of which approximately 6000 are inhabited.

The total area is approximately 2,000.000 square kilometers. Much of the country is mountainous with forest or jungle covering nearly two-thirds of the land. It has approximately 400 volcanic peaks, 100 of which are active or dormant, while the remainders are inactive.

Indonesians are predominantly Malay. There are about 365 languages or dialects spoken within Indonesia but majority of Indonesians understood ;Bahasa Indonesia;.

Much of Indonesian law is based on Dutch law. Important exceptions include the more recent laws, such as those applying to foreign investments, companies, specialised industries and taxation.

## **TAXATION**

There are direct and indirect taxation on commercial and business profits:

Direct tax: as governed by the Income Tax Act (Law No, 17 of 2000)

Indirect taxes:

- Value Added Tax on goods and services and sales tax on luxury goods (Law No. 18 of 2000);
- Stamp Duty Act (Law No. 13 of 1985);
- Tax on land and buildings (Law No.12 of 1994)
- Fiscal tax, which is payable by residents when departing Indonesia, currently Rp 1,000,000;
- Regional and local taxes (e.g. entertainment tax, advertisement tax, motor vehicle tax, radio tax and development tax).



## Tax Rate

The tax rate on ordinary companies varies with the amount of income:

Tax Rate (%)	Taxable Income or Profit
10	up to the first Rp 50 million
15	up to the second Rp 50 million
30	above Rp 100 million

The rate on Personal Income Tax varies with the amount of

Tax Rate	Taxable Income on Profit
5	Up to the first of Rp. 25 million
10	Rp. 25.00.001 up to Rp. 50.000.000
15	Rp. 50.00.001 up to Rp. 100.000.000
25	Rp. 100.000.001 up to Rp. 100.000.001
35	Over than Rp. 200.000.001

No differential between companies controlled by non residents and company controlled or own by non residents

## Submission of Accounts

Article 28(1) and 28 (4)(Law no. 28 of 2007) require the taxpayer to have adequate systems of accounts which allows easy calculation of profits or the acquisition price of goods and services, records of cash in bank, a list of accounts payable and receivables, and a stock inventory. A Balance Sheet and Profit and Loss Statement must also be presented.

The accounting recording shall be performed inside Indonesia by using Latin letters, Arabic letters, rupiah denomination and compiled in the Indonesian language. . The accounting in foreign language and currencies other than the rupiah can be applied by Taxpayers after securing permission from the Minister of Finance



## **Certification of Accounts**

The law does not clearly require certification by an auditor. Accounts should be based on the Indonesian accounting principles promulgated by the Indonesian Institute of Accountants (IAI). For purposes of Article 28(4), which requires a Balance Sheet and Profit/Loss Statement on the basis of accounting principles consistent with those of the previous year, an auditor's report or certification of accounts will be adequate proof of the fulfillment of the requirement.

Article 14 (2) of the Income Tax Act (Law No. 10 of 1994) allows taxpayers whose gross business income is less than Rp 600 million a year not to keep complete accounts, but the taxpayers should make a report on the projection of its Net Income in accordance with the Net Income Calculation Standards stipulated by the Ministry of Finance.

## **Withholding Tax and Fringe Benefits for Employees**

Companies are responsible for withholding income-tax (Income Tax Act, Article 21). Article 9 (d) and Article 4 (a) cover fringe benefits, often called 'benefit-in-kind'.

Benefits-in-kind are generally excluded from the taxable income tax of an employee, and at the same time are not recognized as an allowable deduction in determining the taxable income of the employer. Other benefits paid out in cash are considered income for the employee.

## **Withholding tax for non tax payer**

On income mentioned below, in any names and forms whatsoever, which is paid or owed by government, domestic tax payer, operators of activities, permanent establishment to non domestic taxpayers other than permanent establishment in Indonesia payer is subject to withholding tax at 20 % final of the gross total by the parties who obligated to pay: dividends, interest, royalties, rents, compensation in connection with services, works and activities, prizes, awards, pensions, insurance premium (article 26, law no. 17 of 2001).

If between Indonesian and the countries of the non domestic tax payer have a tax treaty agreement, the 20 % will be adjust with the tariff stipulated in the tax treaty agreement



## MISCELLANEOUS TAXES

### Stamp Duty

There is a stamp duty under Law No. 13 of 1985, 'The Law of Stamp Duty' which imposes a duty on a variety of legal documents and other papers dealing with money at fixed rates of Rp3,000 or Rp6,000. The duty is levied for transactions in the amount of Rp250,000, or more. The Rp3,000 rate is applied for transactions in the amount of between Rp 250,000 and Rp1,000,000, while the Rp6,000 rate is applied for transactions over Rp1,000,000.

### Excise Tax

Excise tax is imposed on tobacco products (mainly cigarettes), sugar, beer and alcohol. For cigarettes, tax rates vary from 0% to 40% according to the types of cigarette and the size of the producing firms. The rates are around 10% for sugar, 50% for beer and 70% for alcohol.

### House and Land Tax

Law No. 12 of 1994 concerning 'Tax on Land and Buildings' establishes property taxes. The tax rate is 0.5% of the value of the property. However, according to Government Regulation No. 46/1985, the rate is 20% of the sales value of the applicable tax object, which means that the effective tax rate is 0.1% of the sales value. The service of an expert can be obtained to get an appraisal on the approximate value of the property, or a 'Land Map' document can be used to find out the fixed value of the property as determined by the Directorate General of Taxation.

### Tax on Sale of Goods or Services and Value Added Tax

The value added tax on goods or services and sales tax on luxury goods are regulated under Law No.18 of 2000. For the value added tax on good and services should be 10% but by the government regulation can be amended to a minimum of 5 % and a maximum of 15 % and for the value added tax in export of taxable goods shall be 0 %. For the tax on luxury goods, there has not been a standard criterion on the term 'Luxury' the rate between 10 % to 75%

### Transport Tax - Fiscal Tax

There is a transport tax called motor-vehicle tax. This type of tax, together with some other taxes, are classified as regional or local taxes which falls under the Home Affairs Ministry's jurisdiction and are collected by the local government.

The fiscal tax, at a single rate of Rp1,000,000 is payable by permanent residents, including expatriates, upon departure from Indonesia, at the point of embarkation. Exemption from tax is accorded to foreign diplomats, foreign employees of international organisations and foreign consultants with service visas.

### **Tax Relief for New Industries**

Tax relief is available for new industries. Investment incentives available to both foreign and domestic investment in the taxation area now include:

- An exemption from withholding tax imposed on newly established foreign and domestic companies of capital goods and one year's raw materials, for the remainder of the calendar in which the company is established.
- An exemption from the transfer duty on the transfer of ownership of ships.
- An exemption from, or reduction of, the import duty on capital goods which are directly needed for construction and production, and a reduction of import duty on capital goods which are indirectly connected with the production.
- An exemption from the import duty in intermediate and auxiliary materials with an import duty rate of less than 5%, and a reduction of rates over 5%.
- An import duty drawback for duty paid by local producers/importers when master list goods are purchased locally.

### **Period of Tax Relief**

Both foreign and domestic companies may enjoy opportunities, for a maximum period of two years, for the exemption or reduction of the import duties on the importation of certain equipment, machinery and spare parts and raw materials and auxiliary goods required for production. It is important to note that foreign companies are treated differently from non-resident companies.

### **Criteria Affecting Relief**

#### **1. Product or Industry**

The Product or industry sought to be established does not affect the relief(s) available, particularly for Non-oil Company.

## 2. Siting on the Industry or Factory

It is unclear whether the special treatment accorded based on the siting of the factory has been revoked by the new Income Tax Act, that is, the special treatment for new industries or factories established outside Java

(called 'Kawasan Berikat', consist of several areas like Batam, Buton, Biak, etc.), where there is an incentives of one year's corporate tax exemption in addition to the standard two years' exemption from corporate tax.

At present, incentive in the form of a 'Tax Holiday' no longer exists. However, there is another incentive in the form of exemption or postponement of the Value Added Tax on Goods and Services, or transfer of the burden of payment of the value added tax to the government. This incentive varies from industry to industry and is applicable to all areas within Indonesia.

There is a special treatment for investors in East Indonesia. The government of that special area may request the Directorate General of Taxation to classify the area as 'remote', which consequently makes it eligible for the investor to obtain 'Incentives for the Remote Area'.

Under the incentive scheme, expenses made for the development of the infrastructures (housing for the workers, roads, worker's health, etc) in the remote area can be recognized as allowable deduction in determining the taxable income of the Company.

## 3. Employment of Local Staff or Contractors

Employment of local staff or contractors does not affect the tax relief available.

### **Existence and Nature of Export Incentives**

There are export incentives in the form of exemptions from the value added tax (VAT) on goods and the sales tax on luxury goods. Where goods are exported from Indonesia, the rate of 0% applies.

## **REGULATION OF BUSINESS - Licensing and Registration**

A business activity or a company must be registered pursuant to Act No. 3 of 1982 which concerns compulsory Registration of Companies.

### **Special Regulation and Control of Foreign Investments**

The area is governed by the Foreign Investment Act (Law No.1, 1967) as amended by Act No. 11 of 1970, together with the guidelines of the government, which were administered by the Capital Investment Coordinating Board (BKPM). Since 1985, the control and restrictions on foreign investments have been substantially relaxed through several times, the last one with the President Degree no, 111 in December 27 1987.

Procedures exist for the supervision of, control and management of the foreign investment through the regulation of or naturalization of the company after ten to fifteen years of its operation. However, it is generally agreed that this scheme does not work. Another control is directly applied by the BKPM, by the Deputy of Implementation Controls of the BKPM who performs the following functions:

- control and supervise the implementation of investment already approved by the government.
- supervise implementation of the facilities enjoyed by investors.
- accommodate problems appearing in the implementation of investments and to assist in providing alternative solutions.
- study and evaluate reports and inputs submitted to the BKPM and thereafter to investigate those reports.
- prepare executive reports of the BKPM's performance either regularly or occasionally, for special purposes.

### **Incentives and Disincentives for Particular Industries**

The incentives are given to all projects approved by the government. To some extent, the projects which are given priority by the government are given more incentives. Most of the incentives take the form of a tax holiday for the first two or three years of the production stage of the business.

### **Commodities Subject to Price Control**

There are no price controls for commodities and services, except for ten basic materials (such as rice, sugar, flour, soya beans), some medicines, hospital charges and doctors' fees, which are subject to certain ceilings.



## **IMPORT AND EXPORT CONTROLS**

### **Restrictions on Import of Goods**

There is a range of restrictions on importation of goods in Indonesia. The most importation recent legal regulation is found in Presidential Instruction No. 4 of 1985. Some of the restrictions are directed at the type of goods imported, while other restrictions are directed on the importer. A third type of restriction arises through the imposition of duties and taxes.

There are three types of licenses available for importers and all other imports must be made through an import agent, except imports for private purposes which are require a special exemption. It is necessary to lodge deposits in respect of imports or to cover imports by letter of credit as a matter of government policy, but it is advisable to have exports to Indonesia to be covered by appropriate financial arrangements.

### **Restriction on Export of Goods**

Indonesia operates a variety of export controls. Some are directed towards the country of destination, that is, no exports are allowed to Angola, Israel or South Africa. Again, the export of specified products is prohibited.

Import and export licenses, permits and approvals are granted by the Department of Trade.

### **Rates of Customs Duties**

Indonesia has adopted the Customs Co-operation Council Nomenclature, wherein rates of customs duties range from 0% to 100% with luxury items liable for duties up to 225%. There are four main categories of imports. Items identified as of crucial importance attract a duty of 10% to 40%. Less essential items attract a duty of 50% to 70%, while luxury items attract a duty of 100%. The latter two categories include goods which are produced locally and the tariff are imposed partly as a protectionist measure.

### **Taxes**

In addition to customs duties, imported goods may also be subject to value added, luxury sales tax and to a special income tax. Withholding tax of 2.5% is assessed on the cost, insurance, freight (CIF), value of imports which include import duties but not Value Added Tax.



A special value added luxury sales tax on important goods was established to replace sales tax. The normal rate is 10% of CIF value excluding import duties but luxury items may attract a further 10% or 20% tax. The taxes may either be paid by the importer or in specified circumstances, by the purchaser.

### **Free Trade Zones**

Indonesia operates one free trade zone and industrial estate at Batam Island and also a number of bonded zones, located at the main port area of Tanjung Priok (Jakarta) administered by PT Bonded Warehousing Indonesia (PTBWI), a semi-government organisation.

### **International Treaties**

Indonesia is the signatory to the GATT and participates in UNCTAD, the Multifibre Agreement (MFA), ICO, INRO, ITA and OPEC. As a developing country, Indonesia's exports commodities enjoy some incentives or tax exemptions that are provided by other countries through the Generalized System of Preferences (GSP). Indonesia is also a party of Uniform Customs and Practice for Documentary Credits, 1983 Revision, of the International Chamber of Commerce (ICC Publications No. 400, in force from 1 October 1984).

### **EXCHANGE CONTROL**

No exchange controls are in existence and the rupiah is freely convertible. Investors are therefore, able to move funds freely in and out of the country through local or foreign currency-denominated accounts. Bank Indonesia is responsible for the foreign exchange regulations. Upon approval of the foreign investment by BKPM, an exchange rate is set for translating the approved foreign investment into share capital that is denominated in Indonesia Rupiah. The exchange rate approved by BKPM is based on the prevailing rate on the foreign exchange market when the investment plan is approved and is fixed for the total foreign equity investment, including any subsequent expansions.

### **Major Objectives of Exchange Control Policies**

The Indonesia economy relies heavily on foreign investments, foreign debts and foreign aid. The majority of Indonesia foreign is channeled through the inter-governmental Group on Indonesia (IGGI) which has been meeting for some time on an annual basis in the Hague (convened by the Netherlands) to nationalize multilateral and bilateral aid to Indonesia.



The underlying policy objective of the government in maintaining a freely convertible currency has been to encourage each of these avenues of capital injection to Indonesia. The government has tried to maintain high oil prices and is slowly devaluing the currency to promote exports of other manufactured and agricultural products. These have been important to the foreign exchange structures during the period of rapid economic deregulation following the decline of oil prices (Indonesia's main export) in 1987.



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It will often be necessary to refer to the laws and regulation of Indonesia and to obtain appropriate accounting and legal advice when specific problem occurs in practice.