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An Introduction to

Doing Business in Indonesia 2020

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This edition of Doing Business in Indonesia was produced by a team of professionals at Dezan Shira & Associates, with Ayman Falak Medina as Editor and Richelle Tay as Technical Editor.
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About Dezan Shira & Associates

At Dezan Shira & Associates, our mission is to guide foreign companies through Asia's complex regulatory environment and assist them with all aspects of establishing, maintaining and growing their business operations in the region. Since its establishment in 1992, Dezan Shira & Associates has grown into one of Asia's most versatile full-service consultancies with operational offices across China, Hong Kong, India, Singapore and Vietnam, as well as liaison offices in Italy, Germany and the United States, and partner firms across the ASEAN region. With over 25 years of on-the-ground experience and a large team of professional advisers, we are your reliable partner in Asia.

Preface

ALBERTO VETTORETTI
Managing Partner
Dezan Shira & Associates

An Introduction to Doing Business in Indonesia 2020, the latest publication from Dezan Shira & Associates is out now and available for download through the Asia Briefing Publication Store.

After gaining independence in 1945, Indonesia experienced rapid industrialization during the 1970s on the back of strong oil exports before labor-intensive industries became the new engine of growth in the late 1980s. This economic growth came to a sudden halt at the onset of the 1997-1998 Asian financial crisis. Since the crisis, the country has implemented sound fiscal policies and political reforms, which have reduced public debt and improved the investment climate.

The government has vowed to continue implementing prudent macroeconomic policies and structural reforms to further enhance the ease of doing business and improve the country's investment climate. These include issuing various tax incentives as well as widening the number of positions open to expatriate workers.

This publication, designed to introduce the fundamentals of investing in Indonesia, was compiled by the experts at Dezan Shira & Associates, a specialist foreign direct investment practice, providing corporate establishment, business intelligence, tax advisory and compliance, accounting, payroll, due diligence and financial review services to multinationals investing in emerging Asia.

An Introduction to Doing Business in Indonesia 2020 covers the following:

- Corporate establishment;
- Tax and accounting; and
- Human resources and payroll.

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Dezan Shira & Associates Indonesia

Indonesia's business environment has flourished since the Asian Financial Crisis. Its major industries such as mining, petroleum, and manufacturing have grown to support a US$1 trillion economy, making it the largest in ASEAN and Southeast Asia.

Underlying this vibrant economy is political stability and a young population, with a median age of approximately 30.2 years. The country is fast becoming a popular destination for foreign investors who are benefiting from improving infrastructure, facilities, and the continued transformation of the country into a knowledge-based economy.

With an office in Jakarta and years of experience helping foreign enterprises set up operations in the country, Dezan Shira & Associates is well positioned to assist your company in entering the Indonesian market. For more information, please email us at indonesia@dezshira.com

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- Business structures and set up process
- Indonesia's free trade agreements

What are my options for investment?

Despite making improvements in the World Bank's Ease of Doing Business ranking, Indonesia continues to be a challenging environment for foreign investors. The disharmony between the regulations issued by the central government and those at the regional level is often a major barrier for businesses.

Investors should assess their specific needs carefully before deciding which corporate structure to operate from. Using a reliable local advisor is recommended for first-time investors in the country, as they find it easier to remain compliant with applicable regulations.

There are two legal options for foreign investors looking to set up in the country: a foreign investment company (PT PMA) or representative office (RO).

Business structures and set up process

Foreign investment company

Establishing a foreign investment company or PT PMA, is the preferred structure for companies looking to have a legal presence in the country. Foreign investors will need to have an investment plan of a minimum 10 billion rupiah (US$601,000) and a minimum paid-up capital equivalent of 2.5 billion rupiah (US$150,000).

Prior to setting up, applicants should study the Negative Investment List (NIL) to see which business sectors are unavailable or restricted for foreign ownership. For business sectors that are restricted, foreign investors will need to engage in a joint venture with a local company.

There are several advantages of PT PMAs, including:

- Special financial and non-financial incentives, particularly in pioneer industries;
- Incentives for setting up in special economic zones (SEZs);
- Foreign investors can own as little as one percent and as much as 100 percent of the company (depending on the industry);
- Able to participate in government sponsored business tenders in the country;
- Ease of processing for business licenses;
- Ease of processing for work permits;
- Lower tax and import duties;
- Simple organization structure (requiring only one director, one commissioner, and two shareholders); and
- Ability to sponsor foreign executives and employees.

There are no restrictions on where the PT PMA can set up in the country, but the business can only focus on one specific sector or area. Moreover, all applicants will need approval from the Indonesian Investment Coordinating Board (BKPM) and should submit an investment plan (this must show their intended investment realizations).

Set up requirements for a foreign investment company

According to the Investment Coordinating Board Regulation No. 14 of 2015 (BKPM Reg 14/2015), investors looking to incorporate a PT PMA need to adhere to the following requirements:

- A total investment plan of a minimum of 10 billion rupiah (US$600,000) (excluding land and properties);
- A minimum paid up capital of 2.5 billion rupiah (US$150,000 or equivalent to 25 percent of the total investment);
- Appointment of two shareholders (these can be foreign individuals or corporations);
- There must be minimum equity of 10 million rupiah (US$601) per share;

- The appointment of at least one commissioner and a director (these can be held be foreign individuals); and
- The director will be responsible for running the day to day activities of the company.

Set up process for a PT PMA

1. Reserve a company name with the Ministry of Labor (which should not be similar to the name of other companies or contain vulgar language);
2. Establish a legal entity with the company's activities stated in the Deed of Establishment (this must be done with a local notary and the Deed of Establishment will have to be ratified by the Ministry of Law and Human Rights);
3. Obtain a taxpayer identification number from the local tax office and domicile letter from the district government;
4. Obtain a Single Business Number (NIB) by applying through the Online Single Submission system (the NIB applies as the company's import identification number, customs ID, and registration certificate; the NIB will also automatically register your company under the government's health and social security scheme); and
5. Some companies may need to apply for additional licenses (such as for mining and fintech) based on the type of industry.

Representative offices

Opening an RO is the fastest and simplest way of establishing a legal entity in the country. This set up is a temporary arrangement – ROs are not allowed to engage in any commercial activities, issue invoices, sign contracts, or earn any revenue. Foreign investors, however, can own 100 percent of this business entity and don't have to contribute the same paid-up capital required by PT PMAs.

The business activities of ROs are limited to – market research activities, obtaining information on potential clients, developing trade contacts, and gather information on regulations and laws. There are four types of ROs, which we explore below.

General representative office (KPPA)

A KPPA is a general RO, ideal for investors who are still exploring opportunities in Indonesia.

The KPPA has two main responsibilities:

- Represent, supervise, and manage its parent company in Indonesia; and
- Prepare for the establishment of a limited liability company for the parent company.

The KPPA must be incorporated in the capital of any Indonesian province and must be located in an office building. The KPPA permit is valid for an initial three years and can be extended twice for one year each time.

Representative office for a foreign trading company (KP3A)

A KP3A is similar to a KPPA but is more ideally suited for manufacturers or product owners looking to establish a network of distributors in the country. The KP3A is divided into the following categories:

- Can act as a buying/or selling agent for the parent company, performing liaising or promotional activities; or
- Act as a manufacturing agent with its activities also limited to market research and liaising.

Unlike a KPPA, the KP3A does not have to be established in the capital city of a province; they can set up in any district or regency in the country.

Foreign investors will also need to obtain a Foreign Company Trade Representative license (SIUP3A), which can be done through the OSS system of the BKPM. The KP3A permit is limited to two months (temporary license) to a maximum of one year (permanent license).

Representative office for a foreign construction company (BUJKA)

A BUJKA is an RO for foreign construction companies, and unlike the KPPA and KP3A entities, a BUJKA can undertake projects in Indonesia through a joint venture with a local construction company. The BUJKA license is valid for three years and the local partner must be a limited liability company.

Applicants must prove to the National Construction Services Development Board (LPJK) that they are classified as a 'large' construction company, and they must have a service business license issued by the Department of Public Works.

Representative office for a foreign oil and gas company (KPPA MIGAS)

Foreign oil companies can set up a representative office through a KPPA MIGAS permit. The license is valid for three years and applicants will need to seek prior approval from the BKPM.

General set up requirements for ROs

Foreign investors looking to open an RO will need to fulfil the following requirements:

- Register through the OSS online system;
- The parent company's Articles of Association legalized by a notary and the Indonesian Embassy of the parent company's country of origin;
- Letter of Appointment by the Indonesian Embassy located in the parent company's country of origin;
- Latest financial statements of the parent company.
- Letter of intent legalized by a notary and the Indonesian Embassy located in the parent company's country of origin;
- Certificates demonstrating competency in the relevant industry or sub-sector;
- Recommendation letter from the Ministry of Energy and Mineral Resources (for KPPA MIGAS applicants;
- Lease agreements;
- Must be located in the capital of a province (unless it is a KP3A applicant); and
- A letter that states the RO will not engage in any commercial activities in Indonesia.

Indonesia's free trade agreements

Indonesia has ratified several free trade agreements (FTAs) both bilateral and regional (as a member of ASEAN). These are:

Indonesia-Pakistan PTA

Indonesia and Pakistan signed a preferential trade agreement (PTA) in 2013. Trade between the two countries reached more than US$2 billion in 2019, with Pakistan being a major market for Indonesian palm oil products. Both countries are aiming to upgrade the PTA into an FTA going forward.

Indonesia-Chile IC-CEPA

The Indonesia-Chile Comprehensive Economic Partnership Agreement (IC-CEPA) was ratified in October 2019. Under the agreement, Chile has eliminated 89 percent of tariffs for Indonesian products while Indonesia eliminated 86 percent of tariffs for imports from Chile.

Palm oil and its derivatives, automotive products, footwear, furniture, and textile products are some of the main products imported by Chile from Indonesia.

Indonesia-Japan Economic Partnership Agreement

The Indonesia-Japan Economic Partnership Agreement (IJEPA) came into effect in July 2008. Indonesia eliminated 93 percent of its 11,000 tariffs on Japanese goods and Japan eliminated 90 percent of its 9,000 tariffs on Indonesian products. Both countries are set to upgrade the IJEP.

ASEAN-Australia and New Zealand FTA

The ASEAN-Australia and New Zealand Free Trade Area (AANZFTA) came into force in January 2010. Through the AANZFTA, 90 percent of tariffs were eliminated and barriers to trade in services have been progressively liberalized following increased market access.

ASEAN-People's Republic of China FTA

This agreement was signed in 2002 and by 2004, Indonesian exports were open to the Chinese market. Some 90 percent of tariffs on imported goods have been reduced or eliminated.

ASEAN-Hong Kong, China FTA (AHKFTA)

This trade agreement came into force in June 2019. Indonesia will eliminate duties for 75 percent of its products within 10 years and another 10 percent of its tariff lines within 14 years.

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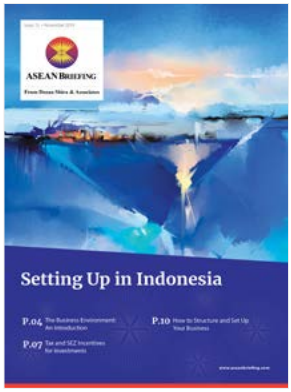

Setting up in Indonesia
ASEAN Briefing Magazine
November, 2019

This edition of ASEAN Briefing magazine covers: Indonesia's business environment, the tax incentives offered to foreign investors, and corporate establishments.

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ASEAN-India FTA

The ASEAN-India Free Trade Area (AIFTA) was signed in 2009, resulting in one of the world's largest FTAs. The agreement has seen tariffs eliminated for 90 percent of products traded between the two regions which includes palm oil, pepper, tea, and coffee.

ASEAN-Japan Comprehensive Economic Partnership

The ASEAN-Japan Comprehensive Economic Partnership (AJCEP) was enforced in 2008. AJCEP liberalizes trade in goods between Japan and the bloc particularly in areas such as intellectual property, agriculture, fisheries, and forestry.

ASEAN-Republic of Korea Comprehensive Economic Cooperation Agreement

The ASEAN-Republic of Korea Free Trade Agreement (AKFTA) was signed in 2005 and has eliminated more than 90 percent of tariffs between ASEAN and the Republic of Korea. Additionally, the agreement has also liberalized the investment process and there has been enhanced cooperation in trade services.

ASEAN Free Trade Area

The ASEAN Free Trade Area (AFTA) was signed in 1992 with the aim to be a catalyst to help ASEAN become a production base for global markets. Under the agreement, goods originating in ASEAN are applied a 0-5 percent tariff rate.

Preferential Tariff Arrangement-Group of Eight Developing Countries

The agreement, also known as D-8, was signed in 2008 and includes the countries of Malaysia, Iran, Indonesia, Pakistan, Nigeria, Bangladesh, Egypt and Turkey. Tariffs between these countries has been reduced ranging from 25-8 percent for various products.

Indonesia’s Tax Regimes

- Corporate taxation
- Individual income tax
- E-commerce tax
- Tax incentives for businesses
- Income tax incentives
- Audit and compliance
- Indonesia’s DTA network

Corporate taxation

Taxation in Indonesia is based on Law No. 16, 2009, which sets out the various taxes that companies, individuals, and investors need to comply with. These include corporate income tax (CIT), personal income tax, value-added tax, and luxury tax.

Corporate income tax in Indonesia

Corporate income tax is set at a basic rate of 25 percent, although the government has stated it will gradually reduce CIT to 22 percent by 2022. Other applicable CIT rates are:

- Public companies that offer the minimum requirement of 40 percent of total share capital are subjected to a five percent tax cut from the standard rate, allowing them to pay a 20 percent CIT;
- Companies that have an annual turnover of 50 billion rupiah (US$3.5 million) are eligible for a 50 percent tax cut from the standard rate, which is imposed proportionally on the part of the gross turnover of 4.8 billion rupiah (US$341,000); and
- Companies with gross turnover of no more than 4.8 billion rupiah (US$341,000) are subject to a 0.5 percent tax of total turnover.

Value-added tax

Value-added tax (VAT) in Indonesia is imposed on the provision of services or the transfer of taxable goods. VAT rates are set out below:

- 10 percent imposed on most manufacturers, retailers, wholesalers, and importers;
- Export of tangible and intangible goods are subject to zero percent VAT; and
- Export of services is subject to zero percent VAT.

The government's negative investment list sets out all the goods and services that are non-taxable. These include among others – mining or drilling products, basic food commodities, medical health services, financial services, and educational services.

Export services in Indonesia: Eligible for zero-rated VAT

On March 29, 2019, Indonesia's Ministry of Finance (MOF) issued regulation *PMK-32* that expands the list of export services eligible for zero-rated VAT. *PMK-32*, which amends the previous regulation, *PMK-70*, 2011, aims to encourage greater development of the country's services sector and improve the competitiveness of domestic providers in the global market.

However, businesses that are eligible need to conduct some administrative work to obtain zero-rated VAT for their exported services.

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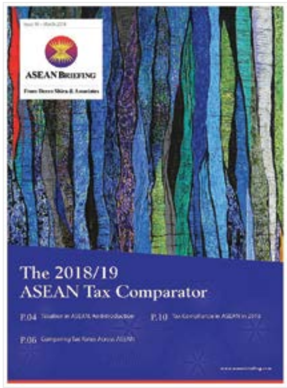

The 2018/19 ASEAN Tax Comparator
ASEAN Briefing Magazine
March, 2018

In this issue of ASEAN Briefing magazine, we discuss both the continuity and change in ASEAN's tax landscape and what it means for foreign investors.

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Businesses that require guidance should seek to consult their advisors to understand whether their product is eligible and what they need to do to obtain the benefit. Meanwhile, service sector businesses that haven't invested in the country should consider whether their products are eligible.

Requirements for zero-rated VAT

Under *PMK-32*, export services are defined as services (production of goods, facilities, or rights) produced within Indonesian territory by a taxable business or entrepreneur for the benefit of recipients outside of Indonesia.

The following types of exported services subject to zero-rated VAT:

- Toll manufacturing;
- Repair and maintenance;
- Freight forwarding services for export-orientated goods;
- Construction consulting services (which includes the development of feasibility studies, assessments, and designing of a building or master plan that is located outside of Indonesia);
- Information and technology services;
- Research and development services;
- Charter of aircraft or ships for international flights or shipping services;
- Business consultation and management;
- Legal consultation;
- Architecture and interior design consulting;
- HR consulting;
- Marketing;
- Engineering;
- Accounting or bookkeeping;
- Taxation;
- Financial audits;
- Trading services to find Indonesian suppliers for export purposes; and
- Interconnection, satellite providers, and/or communication and data connectivity.

Export services eligible for zero-rated VAT must comply with two formal requirements. There must be a written agreement between the Indonesian taxable business and the foreign recipient that must include the type of service, the value of the exported services, and a description of the service provided by the Indonesian taxable business that will be utilized by the foreign recipient, and show supporting documents for payments from the recipient of the exported service to the Indonesian service provider.

Failure to meet the above requirements will mean the service is deemed to have occurred within the territory of Indonesia and will be subject to 10 percent VAT.

PMK-32 underscores the potential for greater service sector reform.

Previous Indonesian governments have been reluctant to liberalize the country's services sector despite its increasingly influential role in the economy; it accounted for 45 percent of the GDP in 2018. Furthermore, the sector has become the largest source of job creation, constituting 45 percent of total employment in the country in 2018.

As such, the recent introduction of *PMK-32* demonstrates the government's commitment to realizing the potential of this sector. If the government continues to expand on reforms like *PMK-32*, it may inspire greater foreign investment into services, which would increase the competitiveness of the sector.

This could lead to increasing demand for skilled local talent, leading to more training opportunities for the working population from the informal sector – more than 50 percent of Indonesia's workforce of 120 million is in the informal sector.

Additionally, providing greater market access to the service sector would allow the economy to take advantage of high-quality services available in the region, in addition to providing domestic producers with opportunities for technology and knowledge transfer, boosting efficiency and production.

Another impact of liberalizing Indonesia's services sector would be its potential to reduce the current account deficit in the face of dwindling commodity prices and stagnant growth in the country's manufacturing sector. The country currently does not include many service components in its exports, and a major source of its current account deficit is from the import of services, particularly in transportation and financial services.

The introduction of *PMK-32* is one step in removing the obstacles for the advancement of Indonesia's service sector. This will in-turn, move the sector towards the new perspective of global value chain (GVC) development, in which the service sector functions as 'enablers' to other sectors and economic activities.

Individual income tax

Expatriate workers need to know that personal income tax (PIT) in Indonesia is determined through a self-assessment scheme.

The country has adopted a worldwide income taxation system, meaning that individuals considered as Indonesian tax residents must pay tax to the government on the income they earned in Indonesia, and also on income they earned from abroad, unless there is an applicable double tax agreement.

Non-resident taxpayers will only be liable to pay PIT for income they earn in Indonesia, unless the country in which they are a tax resident has an applicable tax treaty with Indonesia. In these cases, the taxpayer might not pay any tax in Indonesia or pay a reduced amount.

Given these tax treatments, it is important for expatriate workers to understand their tax liabilities in Indonesia. It is advisable to use the services of registered local tax advisors to help determine which tax law regime will be applicable along with any exemptions that may bring.

Who is eligible to pay personal income tax in Indonesia?

Foreign workers that are designated as tax residents in Indonesia must pay PIT. The key criteria to determine whether or not an individual must be considered as an Indonesian tax resident isn't nationality, but rather length of stay (or intended length of stay).

A foreign individual is considered a tax resident of Indonesia when they meet the following conditions:

- In-country for more than 183 days during a 12-month period in Indonesia (anyone who has spent that length of time in the country, regardless of the type of visa they are using to visit the country, will be considered a tax resident in Indonesia);
- Intends to reside in the country for more than 183 days even if they have spent less than 183 days in the country (for instance, in cases where the individual's dependents have moved to Indonesia and it was clear they are staying in the country for a reasonable length of time); and
- Individuals who work abroad for more than 183 days within a 12-month period but are still earning any form of income in Indonesia, must pay PIT on the Indonesian income.

Individuals that work oversees for more than 183 days within a 12-month period and do not earn any income in Indonesia are not eligible to pay Indonesian PIT.

Notably, an expatriate will be considered a tax resident in Indonesia until the date of their final departure from the country.

Individuals exempted from personal individual tax

Certain foreign expatriates, because of their special legal status, are not considered as Indonesian tax residents and are exempted from paying PIT, even if they stay for more than 183 days per year or reside and intend to stay in Indonesia.

These exemptions apply for:

- Foreign diplomatic and consular personnel;
- Military personnel and civilian employees of foreign armed services; and
- Representatives of international organizations specified by the Minister of Finance.

Scope of taxable income in Indonesia

According to the Personal Income Tax Law, income must be defined as any increase in economic capacity. It can consist of, among others, employment income, and personal investment income.

According to article 4 of chapter 3 of the Law, income includes:

- Employment income;
- Income from the exercise of an independent profession or business;
- Passive income (dividends, royalties, interest, insurance gains);
- Capital gains (from the sale or transfer of property); and
- Rents and other income from the use of property.

Tax rates

When it comes to tax rates, residents and non-residents are taxed differently:

- Residents are subject to a withholding progressive tax (their net taxable income is set at graduated rates, with current rates ranging from five percent up to a maximum of 30 percent, depending on an individual's income); and
- Non-residents are subject to a final withholding flat tax of 20 percent on gross income.

The progressive tax rate is currently structured around four income bands, with rates that apply to the fractional income within each band.

Income Tax Rates	
Annual income	**Rate (in %)**
Up to 50 million rupiah (US$3,000)	5
Between 50 - 250 million rupiah (US$3,000 – US$15,000)	15
Between 250 - 500 million rupiah (US$15,000 – US$30,000)	25
500 million rupiah (US$30,000) and above	30

Deductions and relief

There are several elements that can be deduced from the gross income when determining the annual taxable income of an individual.

It is worth noting that a family is regarded as a single tax reporting unit with a single tax identity number (NPWP) in the name of the head of the family. The head of the family needs to report the income of their dependent spouse and children in their tax return.

The following personal deductions are available for resident taxpayers.

Income Tax Deductions	
Source of deduction	**Deductible amount per year**
Individual taxpayer	54 million rupiah (US$3,200)
Spouse	Additional 4.5 million rupiah (US$272)
Each dependent (max 3)	Additional 4.5 million rupiah (US$272)

Employer compliance obligations

Income tax in Indonesia is mostly paid by the employer. The tax withheld by employers must be remitted to the government body on a monthly basis.

Employee compliance obligations

Expatriate employees are required to complete an annual tax return and compute their tax liability by March 31 of the following tax year.

The majority of PIT is paid through statutory employer withholdings on earned income. However, for any other income that a taxpayer in Indonesia earns on a regular basis, they must make monthly provisional tax payments to the tax department based on the income earned in the previous year.

Filing a tax return

In order to file a tax return, an individual must register as a taxpayer in order to obtain a tax identification number (NPWP). Expatriates must obtain a NPWP if they are a tax resident.

While employers are responsible for deducting tax from their employees' salaries, but it is the individual employee's responsibility to register as a taxpayer and file their tax returns.

When leaving Indonesia

It is highly recommended that expatriates leaving Indonesia permanently cancel their tax registration to avoid any misunderstandings, and thus avoid being continuously considered a tax resident of Indonesia.

To do so, expatriates should submit an application to the local tax office, which will then perform a tax audit on the taxpayer's returns and supporting documents prior to granting approval to deregister.

The individual should ensure that all tax related documents are readily available in anticipation of a tax audit (including bank statements, salary slips, foreign tax documentation if applicable, work contracts, etc.).

E-commerce tax

In late November 2019, Indonesia introduced its long-awaited law on e-commerce through Government Regulation 80 of 2019 (*GR 80, 2019*). *GR 80, 2019* was issued to improve the governance of internet-based and electronic trading activities in addition to ensuring tax compliance among e-commerce businesses.

The regulation, which will apply to domestic and international internet companies, defines the type of entities that can engage in e-commerce. Additionally, the regulation addresses the specific set up requirements businesses will need to comply with, as well as the framework for online contracts and transactions, and the provisions for consumer right protection. Businesses will have until November 2021 to adhere to the new provisions.

What are the entities allowed to engage in e-commerce?

GR 80, 2019 addresses the types of entities that are permitted to engage in e-commerce activities. These are:

- Business practitioners;
- Consumers;
- Non-business individuals; and
- Government agencies.

The term 'business practitioners' can be divided into the following categories:

- Merchants (sellers) – business entities or individuals who conduct trade through an 'electronic system,' which they own or manage directly or through a third party;
- E-commerce providers (PPSME) – any business entity, individual, or government agency that provide facilities or business models that enable e-commerce transactions. These can include:
  - » Online retail websites;
  - » Online classified ads;
  - » Price comparison websites; and
  - » Daily deal websites.
- Intermediary service providers – business entities or individuals that provide search engine services, hosting services, or caching services.

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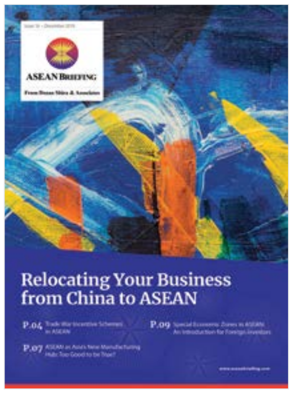

Relocating Your Business from China to ASEAN
ASEAN Briefing Magazine
December, 2019

This edition of the ASEAN Briefing magazine covers: the incentives issued by ASEAN countries to attract investments, productivity levels, and the increasing importance of special economic zones.

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What are the set up requirements for e-commerce entities?

As per the new regulation, businesses and individuals (domestic or foreign) engaging in e-commerce activities must adhere to several new requirements. This includes obtaining:

- A business license – this is done through the government's Online Single Submission System (OSS);
- A tax identification number;
- A technical license; and
- A business identification number.

Another key provision of the set up requirement is to prioritize the trade of domestic goods or services, improve their competitiveness, and facilitate a special section or area to promote such goods or services on online marketplaces.

Online marketplaces must also store their data (subscribers, payments, complaints, contracts, shipments etc.) in local data centers in addition to having domain names that 'reflect' Indonesia (that is, dot id). Online marketplaces are asked to retain financial data for up to 10 years and non-financial data for five years.

Foreign e-commerce entities

Foreign e-commerce businesses or internet companies that have a significant economic presence in Indonesia will be classified as having a permanent establishment in the country, and as such, deemed as an Indonesian tax residence. These entities would need to satisfy the following criteria:

- Reach a certain number of transaction volumes;
- Achieve certain transaction values;
- Achieved a certain volume of packages shipped; and
- Achieve a certain volume of traffic accessing who accesses the businesses' platform.

Businesses that do fulfill the categories must also appoint a local representative in Indonesia and adhere to all applicable tax regulations.

Tax compliance

Online sellers must now adhere to prevalent regulations regarding income tax. This is governed by Law 30 of 2008 and would mean that online businesses classified as small or medium enterprises (SMEs) must pay 0.5 percent in income tax while large companies pay the 25 percent corporate tax rate. Additionally, individual taxpayers who are earning at least 4.8 billion rupiah (US$289,000) from their online business must charge their customers value-added tax (VAT).

Consumer protection

GR 80, 2019 states that e-commerce businesses must respect consumer protection and rights as stated in Law 8 of 1999. Furthermore, the regulation addresses more specific protection framework regarding personal data protection, consumer complaints, and dispute resolutions.

Personal data protection

Online marketplaces and e-commerce businesses who collect personal data must follow the data protection standards set out in *GR 80, 2019*. These include:

- Obtaining personal data in a legal manner;
- Personal data must be accurate and up-to-date, providing the data owner with the opportunity to change the information;
- The personal data obtained must be relevant to what is described in the online marketplace;
- Parties that store personal data must use the appropriate security system to prevent breaches or other illegal uses;
- The personal data collected is prohibited to be utilized or controlled beyond the estimated utilization period; and
- The data collected is prohibited from being transferred or sent to other countries unless the said country has the same standards of data protection as Indonesia.

Consumer complaint services

GR 80, 2019 also states that e-commerce businesses must provide a complaint service for consumers. This must include at least:

- The proper procedures that set out the process on how consumers can complain;
- An address and contact number to file complaints;
- Staff that are competent in handling complaints;
- Follow-up procedures for complaints; and
- The time period for resolving complaints.

Electronic contracts

GR 80, 2019 recognizes two types of electronic contracts: purchase agreements and license agreements. For the agreement to be deemed valid and binding, they must abide by the following requirements:

- Must contain information stated in the electronic offer (an offer can be made through emails, websites, and other electronic media);
- Must include the information of the parties involved;
- The contract must be in the Indonesian language;
- Include transaction value;
- Payment terms and conditions;
- Details of shipment terms and conditions; and
- Exchange and cancellation policies.

Payments

Online marketplaces are permitted to cooperate with online payment service systems that are authorized by Bank Indonesia (the central bank). Payment service operators are required to maintain the highest standards of security for electronic systems, which is regulated by the Financial Services Authority, the State Cyber and Cryptography Agency, and the central bank.

Import tax

From January 2020, the government will lower the import tax threshold value on consumer goods sold via e-commerce platforms. Goods now worth at least US$3 will be liable for import tax; the threshold was previously at US$75.

This new rule is aimed at controlling the number of cheap foreign products entering the country in addition to protecting domestic firms.

Additionally, there will be different tariff rates for imported textiles, shoes, and bags. Textiles will be subject to 15-20 percent in import duties, as are bags, while shoes will be subject to a 25-30 percent rate. This is also before applying the 10 percent VAT and 7.5 percent in income tax.

Optimizing Indonesia's digital economy

GR 80, 2019 comes as Indonesia's internet economy experiences rapid growth with over 10 percent of Indonesia's 270 million population indulging in online shopping – making the country's e-commerce industry one of the most dynamic and largest in Southeast Asia.

By issuing *GR 80, 2019*, the government aims to address underlying issues that have plagued Indonesia's e-commerce industry, in particular, regarding the legal and tax obligations of online storefronts, and consumer protection guidelines.

The regulation has faced rejection from e-commerce platforms and online vendors who claim that it would discourage small and medium enterprises from expanding online and stifle the growth of the industry and result in smaller sellers shifting to social media sites.

However, the legal framework laid out in the regulation will be encouraging for foreign investors, who are eager to capitalize on an industry that is predicted to have a gross market value of: more than US$53 billion by 2025.

Foreign investors have until November 2021 before the regulation comes into effect. They should also keep track of any changes introduced in the transition period.

Tax incentives for businesses

Since 2015, Indonesia has introduced an array of policies ranging from tax incentives to economic stimulus packages aimed at developing the logistics sector, enhancing the ease of doing business, and ultimately, increasing foreign investment.

One significant initiative targeted at improving the country's investment climate was the issuance of the 16th Economic Policy Package in 2018. The policy package provides tax holidays for certain business sectors and tax cuts for companies that repatriated their export earnings.

Under the package, foreign investors could attain a 50 percent corporate income tax (CIT) cut for up to five years if they invested 100 billion rupiah (US$6 million) and up to 500 billion rupiah (US$30 million).

Capital investments worth more than 500 billion Rupiah (US$35 million) but less than 1 trillion Rupiah (US$71 million) are eligible for 100 percent CIT cut for a period of five years.

Tax Incentives Availables

Investment type	Capital investment	Tax holiday (%)	Period (years)
1	Up to 100 billion rupiah (US$6 million) less than 500 billion Rupiah (US$30 million)	50	5
2	More than 500 billion Rupiah (US$6 million) less than 1 trillion rupiah (US$60 million)	100	5
3	More than 1 trillion rupiah (US$60 million) less than 5 trillion Rupiah (US$300 million)	100	7
4	More than 5 trillion rupiah (US$300 million) less than 15 trillion Rupiah (US$902 million)	100	10
5	More than 15 trillion rupiah (US$902 million) less than 30 trillion rupiah (US$1.8 billion)	100	15
6	More than 30 trillion rupiah (US$1.8 billion)	100	20

Note: US$1=16,602 rupiah as of March 23

There are further CIT reductions offered for two years following the end of the timeline from the table above. These reductions are an additional 25 percent tax holiday allowance for investment type 1 and an additional 50 percent tax holiday allowance for investment types 2 through 6.

How to obtain tax incentives

To obtain a tax incentive, investors must have an Indonesian legal entity, comply with the Indonesian thin-capitalization rule by having a debt to equity ratio of not more than 4:1, and the minimum capital investment requirement of 100 billion rupiah (US$6 million).

Furthermore, companies must make new investments into pioneer industries, which is defined as any industry that provides added value for the national economy, broad connections, and introduces new technology.

Pioneer industries

Under the latest economic package, two new sectors – digital economy and agricultural commodity processing – are now open for 100 percent foreign ownership. There are also modifications to certain pioneer industries on the list, as the government aims to bring its industries beyond assembly and up the value chain. This can be seen from the introduction of irradiation, electro medical, or electrotherapy equipment and robotics components to support the creation of manufacturing machinery as new sectors open for investment.

The full list of sectors consists of:

- Oil and gas purification and or refinery industry;
- Organic base chemical industry;
- Manufacturing industry of main components for industrial engines and main components for engines;
- Inorganic base chemical industry;
- Petrochemical industry, based on petroleum, natural gas, or coal;
- Economic infrastructures;
- Manufacturing of irradiation equipment, electro medical, or electrotherapy;
- Manufacturing of electronic and telematics devices, main components such as semiconductors wafer, backlight for liquid crystal display, electrical driver, or displays;
- Pharmaceutical raw material industry;
- Manufacturing of the main components for ships;
- Upstream base metal industry;
- Manufacturing of the main components for aircraft and other supporting aircraft industries;
- Manufacturing of the main components for electrical power generation engines;
- Manufacturing of the main components for trains;
- Manufacturing of robotic components, which support the engines manufacturing industry;
- Agricultural, plantation or forestry-based processing industries that produce pulp;
- Manufacturing of vehicle and the main components for vehicles; and
- Digital economy that includes data processing, hosting, and other related activities.

Investors that want to engage in an industry not listed above can make a request to the Ministry of Finance, and will assess their application in coordination with the Indonesian Investment Coordinating Board (BKPM).

Online application process

Investors must now apply for the tax holiday through the Online Single Submission System (OSS), a one-stop-shop business licensing system. After entering their details onto the platform, the system will issue a business registration number and business license on the same day.

New tax incentives

In June 2019, the Indonesian government issued *GR 45/2019*, which sets out a series of tax incentives for businesses that invest in labor intensive industries, training programs, as well as research and development (R&D).

GR 45/2019 also amends *GR 94/2010* by expanding the criteria for taxpayers eligible to receive tax incentives irrespective of industry. Under *GR 94/2010*, those eligible for tax facilities were those that had invested in pioneer industries.

Taken together, the incentives are designed to encourage more foreign direct investment (FDI), expand the skilled labor base, and develop industry.

Investment in labor-intensive industries

Taxpayers that invest or expand into labor-intensive or pioneer industries can enjoy a net income reduction of 60 percent of their total investment in the form of tangible fixed assets, which includes any land used for the main business activities over a certain period.

The Ministry of Industry defines a labor-intensive industry as one that employs a minimum of 200 workers with labor costs not exceeding 15 percent of production costs, while the Ministry of Finance defines a pioneer industry as one that provides value-added economic consequences to surrounding areas.

To attain this tax facility, the taxpayer must not obtain any other tax allowance facilities under Article 31A of the Income Tax Law.

Still, investors will need to wait for upcoming Ministry of Finance regulations that are expected to explain the duration of the facility period and more details on the specific industries that are eligible for the tax incentive.

Foreign investors can take advantage of this new incentive – along with the country's manufacturing base, competitive labor costs, and large consumer market – to establish bases in Indonesia for key sectors, such as textiles and garments, commodities, as well as services.

Greater FDI into labor-intensive industries will generate employment and help improve the existing infrastructure and business ecosystem – companies that invest now will also benefit from a first mover advantage.

Apprenticeships and training activities

Investors looking to start apprenticeship programs or training activities to develop workers based on 'certain competencies' can receive a gross income reduction of up to 200 percent of the total costs incurred. The regulation defines 'certain competencies' as developing human resources that can meet the labor requirements needed by national industries and businesses.

This incentive will be particularly advantageous for foreign companies that need to develop a skilled labor pool or improve the efficiency of their operations. Meanwhile, companies already based in the country who undertake regular training of its workers, especially those in high-end manufacturing, such as automotive production and electronics, will benefit.

This incentive will likely increase demand for vocational training, which offers further downstream opportunities for investors. Language courses for instance, are in high demand as students and professionals are eager to equip themselves with the language skills needed to compete in today's global economy.

Furthermore, the fields of hospitality and IT are also becoming increasingly popular as many secondary schools do not have the capabilities to prepare students for the job market. The country is also in need of quality teachers, another opportunity for foreign investment in vocational education.

R&D activities

Taxpayers that engage in R&D initiatives can receive a tax facility of 300 percent in gross income reduction of total costs incurred. To avail of this facility, the taxpayer must be conducting R&D that is assessed by the government to be advancing the national economy, new industries and technologies, or the transfer of foreign technology to local businesses.

It is still unclear whether the 300 percent tax reduction is applicable for the first year only or for every year and investors will have to wait for the upcoming Ministry of Finance regulation for further details.

This incentive is designed to encourage more companies to generate innovation and shift to more high technology industries and products, whether it be developing specialized fabric finishes or new farming cultivation methods. This type of innovation is a necessity for expanding industries.

Indonesia is currently behind its neighbors in the field of R&D. According to UNESCO, Indonesian companies only conducted some half a million dollars' worth of R&D compared to that of Malaysian and Singaporean companies, which conducted US$4 billion and US$6 billion, respectively.

However, Indonesia has plenty to contribute to the world of science, technology, and academia. Its position on the Asia Pacific ring of fire presents unique opportunities for foreign education partners in niche subjects, such as herbal medicine, in addition to marine science, renewable energy, and horticulture technology – Indonesia is the world's largest exporter of crude palm oil – among many others.

Tax incentives for developing talent

On September 6, 2019, the Ministry of Finance issued Regulation No. 128 of 2019 (*GR 128, 2019*), which sets out tax incentives for businesses that invest in developing talent in Indonesia.

GR 128, 2019 follows the tax incentives provided in *GR 45, 2019*, which set out a range of tax incentives for investment in labor intensive industries, training programs, as well as research and development (R&D). *GR 128, 2019* is specific to the incentives offered for training programs, and clarifies that human resource development activities include apprenticeships, work experience programs, vocational programs, and learning activities.

The government hopes this regulation will help attract foreign investors that would like to shift part of their supply chain or sell to the country's massive market. Some analysts report that the size of Indonesia's skilled labor base has limited the growth of the country's industries and their competitiveness in comparison to its neighbors in Southeast Asia.

Under *GR 128, 2019*, investors can receive a gross income deduction of up to 100 percent for the total costs incurred for internships, learning sessions, and training activities.

To receive the additional 100 percent tax deductions, taxpayers must provide evidence for the following requirements:

- A 'Cooperation Agreement' with government registered vocational schools, schools, higher-education institutions, or government agencies that organize manpower affairs regarding human resources development activities;
- The human resources development activities were conducted within 'certain competencies' that are taught in vocational schools, higher-education institutions, training centers, or at diploma-program institutions;
- Not in any financial loss during the fiscal year; and
- Submit a fiscal certificate that proves the taxpayer is complying with current tax obligations.

GR 128, 2019 describes 'certain competencies' as developing specific skills for industries deemed by the government as being vital for the country. These include sectors such as manufacturing, healthcare, agribusiness, digital economy, and tourism, among many others. A full list can be found on page 14 of the regulation.

What costs are covered by the incentive

Under *GR 128, 2019*, the total 'costs incurred' include the following:

- For the provision of physical facilities in the form of supporting physical facilities for the purpose of carrying out the human resources development activities;
- Utility bills such as for electricity, water, fuel, maintenance costs;
- Costs incurred for hiring instructors or educators;
- Costs for goods and materials for these activities;
- Honorarium payments given to participants of the human resources development activities (these are not eligible to participants who have a relation of blood family, business, or ownership with the owners and/or administrators of the taxpayer); and
- Competency certification costs.

Developing local talent to improve competitiveness

Despite the country issuing various tax incentives and widening the number of positions open to expatriate workers, a major issue continuing to plague foreign investors is the skills mismatch of the Indonesian workforce.

The regulation will be advantageous for investors who already have operations in the country and are looking to develop their skilled labor pool. This could improve efficiency and increase employee productivity, enabling businesses to move up the value-chain. The country was ranked 67 out of 119 in the Global Talent Competitiveness Index report in 2019, lagging behind Malaysia (27), the Philippines (58), and Thailand (66), and Singapore (17).

Sectors that could benefit from this new law are those in hospitality and IT, particularly since the government has been pushing for an increase in international tourists and the establishment of more digital startups. The government wants to reap the economic potential of this sector after witnessing the success of local tech company Go-Jek, which contributed US$3 billion to the country's economy in 2018.

Furthermore, *GR 128, 2019* could develop other downstream opportunities, such as increasing demand for language – especially for English – and technical training courses, which will become increasingly important as Indonesian companies become more integrated with the global supply chain.

Income tax incentives: Opportunities in specific sectors and regions

Indonesia's government on December 13, 2019, issued Government Regulation 78 of 2019 (*GR 78, 2019*), which sets out a variety of income tax incentives for businesses investing in specific industries and provinces in the country.

These incentives come in the form of tax deductions, the accelerated depreciation of fixed tangible assets, and the accelerated amortization of intangible assets. The regulation also increases the period for fiscal loss compensation, in addition to setting the income tax rate on dividends for foreign taxpayers at 10 percent.

GR 78, 2019, along with *GR 45, 2019* (which was issued earlier this year), are designed to encourage more foreign investment and develop major industries. As such, investors should seek the assistance of registered local tax advisors to better understand how these incentives can best benefit their business.

What are the criteria for the incentives?

Investors will need to meet various requirements to be eligible for the incentives under *GR 78, 2019*.

They are only allowed to:

- Invest in specific sectors as listed in Appendix I of the regulation (page 28); and
- Invest in specific sectors in certain provinces in Indonesia as listed in Appendix II of the regulation (page 71).

These sectors include pharmaceuticals, geothermal energy, and IT, among others

Additionally, investors must:

- Prove that their investments are of high-financial value;
- Prove that the sector they are investing in is export-oriented;
- Have their business absorb a large workforce (labor-intensive); and
- Utilize high volumes of local content in any production process.

Net income deduction

Taxpayers that fulfil the aforementioned requirements are eligible to receive a net income reduction of 30 percent of their total investment of any fixed tangible assets. This incentive is granted for up to six years with annual deductions set at five percent.

The fixed tangible assets (which includes land) must be utilized in core business activities. The assets must also be documented on principal business and investment permits, as well as investment registration certificates. Moreover, the assets must be obtained in new condition, unless it is being imported or relocated from overseas.

Accelerated depreciation of assets

Under *GR 78, 2019*, taxpayers are eligible to receive a tax incentive in the form of the accelerated depreciation of their fixed tangible assets. This type of depreciation reduces the taxable income much earlier in the life of the asset and thus businesses can reduce their tax liability.

There are two methods to measure depreciation used in the regulation – straight-line method, and the declining balance method.

Under the straight-line method, the depreciating value of the asset is spread evenly for every year the asset is still functional, useful, and profitable. The formula for calculating straight-line depreciation is as follows:

Straight-line depreciation = (cost of the asset- estimated salvage value (value of an asset at the end of its residual life)) ÷ estimated useful life of the asset

Through the declining balance method, a constant percentage decrease is applied to the value of the asset each year. This results in greater depreciation in the early years of the asset and smaller depreciation in the later years.

GR78, 2019 sets out the two methods and their new depreciation percentages as well as the length of the benefit periods as stated in the following table.

Methods of Calculating Depreciation of Assets			
Class of fixed tangible assets	**Benefit period**	**Depreciation tariff**	
		Straight-line method	**Declining balance method**
Non-buildings			
Class I (e.g. wooden furniture, printers, scanners, photocopiers, computers, motorbikes, telephones, buses, taxis, steel buoys etc.)	2 years	50%	100%
Class II (e.g. metal furniture, cars, trucks, tractors, agricultural machinery, semi-conductor equipment etc)	4 years	25%	50%
Class III (e.g. machinery for the production of textiles, garments, bleaching, drying, machinery for the production of chemicals, cargo ships, passenger ships, airplanes, helicopters etc)	8 years	12.5%	25%
Class IV (e.g. heavy equipment, trains, cars, passenger ships, cargo ships that weigh above 1,000 deadweight tonnage (DWT), floating docks etc)	10 years	10%	20%
Buildings			
Permanent	10 years	10%	-
Non-Permanent	5 years	20%	-

Accelerated amortization of intangible assets

GR 78, 2019 provides for the acceleration of the amortization of intangible assets. The benefit period and depreciation tariffs are as shown in the following table.

Amortization of Intangible Assets			
Class of intangible assets	**Benefit period**	**Depreciation tariff**	
		Straight-line method	**Declining balance method**
Class I	2 years	50%	100%
Class II	4 years	25%	50%
Class III	8 years	12.5%	25%
Class IV	10 years	10%	20%

Fiscal loss compensation

In Indonesia, businesses that are operating at a loss can be compensated in the following tax period for five years. Under *GR 78, 2019*, this period is extended, for up to 10 years.

An additional one-year of compensation is granted if investors implement one of the several options laid out in the regulation. These are:

- Invest in a sector and region as stated under *GR 78, 2019*;
- Invest in industrial or bonded zones;
- Engage in activities related to renewable energy;
- Assign 10 billion rupiah (US$600,000 million) on social infrastructure programs;
- Utilize domestic raw materials or components by at least 70 percent by the second year of operations; or
- Employ at least 300 local workers and maintain this number for four consecutive years.

To gain a two-year extension, investors can:

- Employ 600 Indonesians and maintain this number for four consecutive years;
- Assign at least five percent of their total investment value to research and development aimed at improving their products or services; or
- Export at least 30 percent of their total sales in a fiscal year (applies to specific sectors and are not located in bonded zones).

Imposition of dividends

The new regulation states that the rate of income tax on dividends paid to foreign taxpayers who do not have a permanent establishment in Indonesia is set at 10 percent; unless there is an applicable double tax agreement (DTA) in place, from which the lower rate between the two countries is used.

OSS submission

To apply for these incentives, taxpayers will need to submit their application to the government's Online Submission System (OSS), and the approval will be issued within five working days.

Audit and compliance

There is currently no single unifying regulation on auditing and compliance in Indonesia. Foreign investors will need to be aware that regulations regarding auditing, accounting, and financial reporting are stipulated over several laws and by laws, and that a good understanding of these can ensure their business stays compliant.

Foreign investors should, however, focus on the Company Law, which dictates the terms for when audits become obligatory in addition to the accounting standards companies should adhere to when preparing financial statements.

Investors should use the services of registered local advisors to make sure they understand the prevailing regulations.

What other laws should investors be paying attention to?

The Investment Law lays out the basic requirements on how to operate in Indonesia. These are part of key compliance norms:

- Implementing good corporate governance;
- Undertake corporate social responsibility activities;
- Comply with the labor law;
- Submit quarterly investment activities to the Investment Coordinating Board (BKPM); and
- Honor the cultural traditions of communities.

Who is obligated to be audited?

The Company Law mandates that financial statements of a limited liability company must be audited by a public accountant registered in Indonesia if they meet at least one of the following criteria:

- Companies with assets exceeding 50 billion rupiah (US$3 million);
- Public companies;
- Companies that issue debt instruments;
- The company is a state-owned enterprise; or
- The company collects or manages public funds (such as banks and insurance companies).

By law, a company must keep its accounting records and books for at least 10 years from the end of its reporting period. Moreover, audits are to be conducted based on the Indonesian Financial Accounting Standards (SAK), which are set by the Financial Accounting Standards Board (DSAK IAI) and the Indonesian Sharia Accounting Standards Board (DSAS IAI), for Sharia-based companies.

Since 2015, the DSAK IAI has converged its accounting standards with that of the International Financial Reporting Standards (IFRS), issued by the IFRS Foundation and the International Accounting Standards Board (IASB). (The IFRS are a set of global accounting standards that apply to all financial reporting, quality control, and auditing standards relating to all profit-oriented entities.)

This is part of Indonesia's efforts to make local financial statements more comparable and understandable across international boundaries as the country aims to attract greater foreign investment and play a more prominent role within the G20.

Auditor independence

The auditor must be a registered and independent public accountant as stipulated by the Ministry of Finance (MOF). They must avoid all potential conflicts of interests and adhere to MOF regulations.

The MOF does not allow a company to use the services of an auditing firm for six consecutive years unless there have been significant changes of partners at the company.

Public companies

Under the Capital Markets Law, foreign companies are allowed to be listed in the country's bourse.

Their prospectus, however, must first be audited by an auditing firm that is recognized by the country's Financial Services Authority (OJK), the main regulator of Indonesia's financial services sector.

Public companies must also establish internal audit committees, an internal audit unit, and a company secretary. The audit committee supports the board of commissioners to ensure the effectiveness and integrity of a company's financial statements and internal controls.

Additionally, the committee will also review the risk management activities conducted by the board of directors and oversee the implementation of the recommendations of the internal and external auditors.

Annual reports

Every registered company must submit their annual financial statements to a regional tax office once a year. Financial statements consist of the following:

- Balance sheet;
- Cash flows;
- Profit and loss statement; and
- Statement of changes in equity.

Financial statements are required to provide both the current and previous year's figures and need to be presented on a comparative basis. All financial statements must be prepared in the Indonesian language. A company can use another language only if it has received permission from the MOF.

The accounting books must also use the rupiah as its currency. Companies will need to seek permission from the tax authorities for the use of the US dollar, the only other eligible functional currency.

Deadlines

The annual deadline for reporting and paying corporate income tax is April 30 – if a company's fiscal year is calculated from January 1 – December 30. If a company's fiscal year differs from the calendar year, then their deadline is four months after the end of their fiscal year.

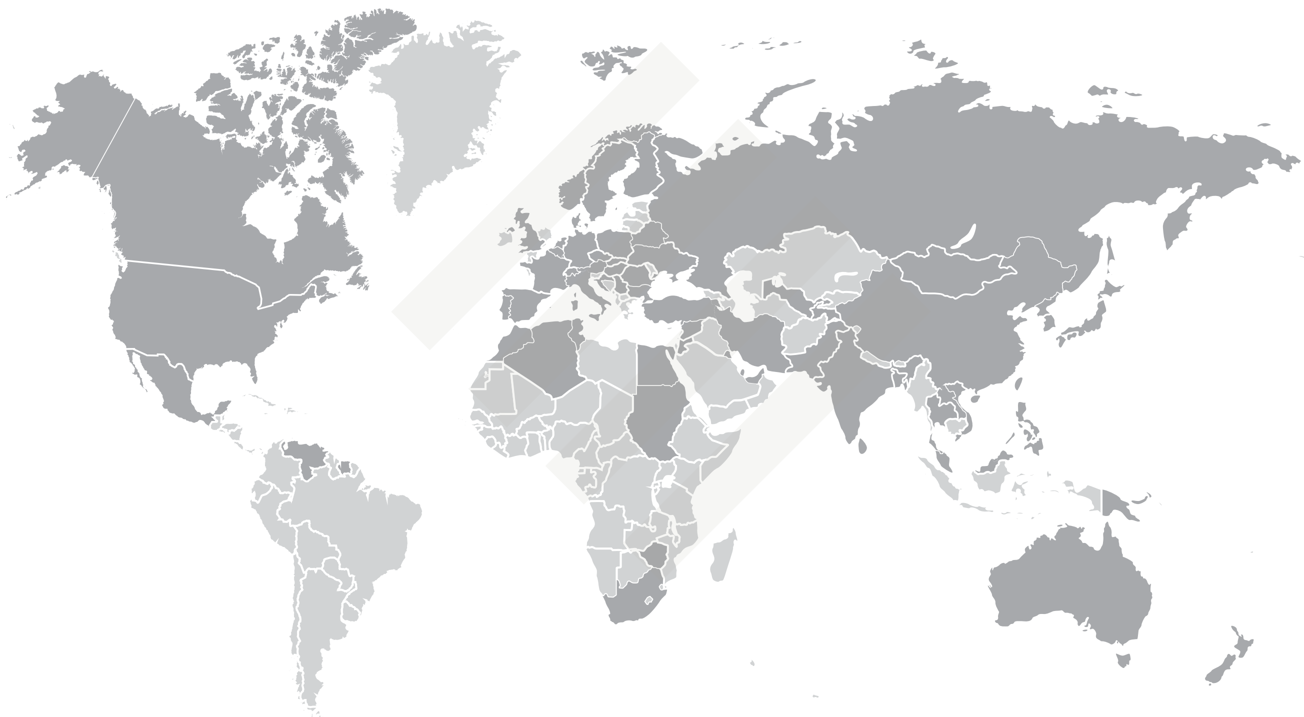
Penalties for non-compliance

Companies that fail to comply with Indonesia's audit and tax requirements can expect to receive monthly interest penalties starting from two percent and up to 48 percent. Furthermore, issuing false tax and accounting documents can also result in imprisonment.

Indonesia’s DTA network

Indonesia has signed over 90 DTAs with various countries which eliminate instances of double taxation from cross-border activities, such as trade, knowledge sharing, as well as investments between two countries. Foreign investors should seek the help of registered tax advisors to better understand how they can benefit from this network.

Countries with Signed DTAs with Indonesia (as of January 2020)



Algeria
Armenia
Australia
Austria
Bangladesh
Belarus
Belgium
Brunei
Bulgaria
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Czech Republic
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Finland
France
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Hong Kong
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India
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Italy
Japan
Jordan
Korea (North)
Korea (South)
Kuwait
Laos
Luxembourg
Malaysia
Mexico
Mongolia
Morocco
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Philippines
Poland
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Syria
Taiwan
Tajikistan
Thailand
Tunisia
Turkey
Ukraine
United Arab Emirates
United Kingdom
United States of America
Uzbekistan
Venezuela
Vietnam
Zimbabwe

Human Resources

- Labor law
- Employment visa categories
- Minimum wage
- Social insurance

Labor law

The Labor Law (Law No 13 of 2003) regulates all employment in Indonesia. Employer's must fulfil the following rights for employees:

- Receive the minimum wage, this varies depending on sector and province;
- Receive social security, which includes pension, healthcare, life insurance, accident insurance, and old-age benefits;
- Receive religious holiday allowance (1 month's salary)
- Receive statutory absence or payment when the employee does not take annual leave; and
- Receive payment for overtime.

Employment Visa Categories

There are a variety of visas foreign visitors can apply for depending on their purpose of visit.

Business visas

This is a single-entry visa valid for 60 days upon arrival and can be extended up to four times. This type of visa is intended for businesspeople who are engaging in meetings in the country, attending conferences, or undertaking market research.

This visa must be sponsored by a legal entity in Indonesia and the holders are not allowed to gain employment while in the country.

The application requirements for the business visa is as follows:

- A passport valid for at least six months;
- A letter of invitation from the Indonesian-based sponsor mentioning the purpose of the applicant's visit, and length of stay. The Indonesian sponsor will also need to do an online application to the immigration office in Jakarta on behalf of the applicant;
- The process usually takes five working days by which the immigration office will issue a visa approval letter. This will then be sent to the applicant's nearest Indonesian Embassy, who will issue the visa.
- A business cover letter from the applicant's own company;
- One passport-sized photograph (white background);
- A copy of the applicant's round trip, electronic airline ticket;
- Pay the US$50 fee; and
- A bank statement proving the applicant has at least US$1,500.

Multiple entry business visas

Multiple entry business visas allow foreign visitors to make repeated trips into Indonesia for one year. The visa, however, has a 60-day limit upon arrival, meaning that visitors will have to leave the country before it expires before entering Indonesia again.

The requirements for obtaining this visa type is the same as that of the business visa. The fee is US$100.

Working visas

A work visa (IMTA) can only be applied by the Indonesian company that will hire the foreign worker. The company must prove to the Ministry of Manpower (MOM) that the foreign applicant is required to fulfil certain positions.

RELATED READING

Managing Contracts and Separation in ASEAN
ASEAN Briefing Magazine
July, 2018

In this issue of ASEAN Briefing magazine, we discuss how to manage contracts and separation in five major ASEAN economies – Indonesia, Malaysia, the Philippines, Singapore and Thailand.

AVAILABLE HERE

The MOM will issue a recommendation letter to the Directorate General of Immigration in Jakarta, who will issue the final approval. Other than employees, applicants who have an Indonesian spouse are also eligible for this visa with the Indonesian spouse acting as the sponsor.

The applicant's sponsor must then pay US$100 in advance as part of the Development Fund for Expatriate Workers Law (DKPTKA) to the MOM. This amount is to be paid monthly to the MOM.

The MOM will issue the IMTA, and the immigration office will issue a limited stay visa (VITAS). Upon arriving in Indonesia, the applicant must convert their VITAS into a limited stay permit (KITAS).

Foreign employees in Indonesia are not allowed to obtain work in the following sectors:

- Human resource management;
- Legal;
- Health and safety;
- Quality control; and
- Supply chain management.

Permanent stay visas

The permanent stay visa (KITAP) allows expatriates to permanently stay in Indonesia. To qualify for this visa, expatriate workers would need to have held a KITAS for four consecutive years, work in the same company, and having the same position. As with other visas, applicants will need a local sponsor. In addition to their employer, this could also be their spouse (who must be Indonesian).

Visa on arrival

Foreign tourists can obtain visas on arrival at any of the country's main international airports. Those that are eligible must belong to one of the 73 nationalities listed in the Directorate General of Immigration's website. The visa is valid for 30 days and can be extended by an additional 30 days. Holders of this visa are not permitted to work in Indonesia.

Minimum wage

On October 15, 2019, the Minister of Labor issued circular *B-M 308, 2019*, which mandates provincial governors throughout Indonesia to increase their provinces' minimum wage by 8.51 percent, starting from January 1, 2020.

Companies are prohibited from paying their workers – which includes those that are hired for less than one year – below the prescribed minimum wage.

Businesses that are unable to comply can submit a letter to the governor of the province from which their company is registered and ask for a postponement of payment. The letter must be sent a minimum of 10 days before the new minimum wage rates come into force.

As the minimum wage for each province differs, foreign investors should seek the help of registered local advisors to help understand how these latest changes will affect their operations.

How is minimum wage calculated?

Minimum wage is implemented through Government Regulation 78 of 2015 (GR,2015), which provides a formula to calculate how much the percentage increase of the minimum wage should be. The formula is as follows:

National Inflation + National Economic Growth = percentage increase of minimum wage

For 2020, the government calculated the minimum wage rate by using data from October 2019, which is as follows:

National Inflation (3.39 percent) + National Economic Growth (5.12 percent) = 8.51 percent in minimum wage increase.

With this data, the governor of every province, in cooperation with the provincial Wage Councils, will then calculate the minimum wage rate (taking into account the living wage) through the following formula:

New minimum wage = current minimum wage + (current minimum wage x percentage of minimum wage increase (8.51%)).

The minimum wage for each province for 2020 is expected to be:

Minimum wage in Indonesia		
Province	**Minimum wage 2019**	**Minimum wage 2020**
Aceh	2,916,000 rupiah (US$175)	3,165,000 rupiah (US$190)
North Sumatra	2,303,000 rupiah (US$138)	2,499,000 rupiah (US$150)
West Sumatra	2,289,000 rupiah (US$137)	2,484,000 rupiah (US$149)

Minimum wage in Indonesia		
Province	**Minimum wage 2019**	**Minimum wage 2020**
Riau	2,662,000 rupiah (US$161)	2,888,000 rupiah (US$175)
Riau Islands	2,769,000 rupiah (US$167)	3,005,000 rupiah (US$182)
Jambi	2,423,000 rupiah (US$146)	2,630,000 rupiah (US$158)
South Sumatra	2,804,000 rupiah (US$169)	3,043,000 rupiah (US$183)
Bangka Belitung	2,976,000 rupiah (US$179)	3,230,000 rupiah (US$194)
Bengkulu	2,040,000 rupiah (US$123)	2,213,000 rupiah (US$133)
Lampung	2,240,000 rupiah (US$135)	2,431,000 rupiah (US$146)
Banten	2,267,000 rupiah (US$136)	2,460,000 rupiah (US$148)
DKI Jakarta	3,940,000 rupiah (US$237)	4,200,000 rupiah (US$253)
West Java	1,668,000 rupiah (US$100)	1,810,000 rupiah (US$109)
Central Java	1,605,000 rupiah (US$96)	1,742,000 rupiah (US$105)
Special Region of Yogyakarta	1,570,000 rupiah (US$94)	1,704,000 rupiah (US$102)
East Java	1,630,000 rupiah (US$98)	1,768,000 rupiah (US$106)
Bali	2,297,000 rupiah (US$138)	2,493,000 rupiah (US$150)
West Nusa Tenggara	2,012,000 rupiah (US$121)	2,183,000 rupiah (US$131)
East Nusa Tenggara	1,793,000 rupiah (US$108)	1,945,000 rupiah (US$117)
West Kalimantan	2,211,000 rupiah (US$133)	2,399,000 rupiah (US$144)
South Kalimantan	2,651,000 rupiah (US$160)	2,877,000 rupiah (US$173)
Central Kalimantan	2,663,000 rupiah (US$160)	2,903,000 rupiah (US$175)
East Kalimantan	2,747,000 rupiah (US$165)	2,981,000 rupiah (US$179)
North Kalimantan	2,765,000 rupiah (US$166)	3,000,000 rupiah (US$180)
Maluku	2,400,000 rupiah (US$144)	2,604,000 rupiah (US$157)
North Maluku	2,508,000 rupiah (US$151)	2,721,000 rupiah (US$164)
Gorontalo	2,350,000 rupiah (US$141)	2,586,000 rupiah (US$155)
North Sulawesi	3,051,000 rupiah (US$183)	3,310,000 rupiah (US$199)
Southeast Sulawesi	2,351,000 rupiah (US$141)	2,552,000 rupiah (US$153)
Central Sulawesi	2,123,000 rupiah (US$128)	2,303,000 rupiah (US$138)
South Sulawesi	2,860,000 rupiah (US$172)	3,103,000 rupiah (US$187)
West Sulawesi	2,369,000 rupiah (US$142)	2,571,000 rupiah (US$155)
Papua	3,240,000 rupiah (US$195)	3,516,000 rupiah (US$212)
West Papua	2,934,000 rupiah (US$177)	3,134,000 rupiah (US$189)

Minimum wage based on sector

Based on Minister of Labor Regulation No 7 of 2013 (*Reg 7, 2013*), 'leading sectors or industries' in a province, can determine their own minimum wage rate, also known as the Regional Minimum Wages by Sector (UMSP).

To be considered a leading sector or industry, the provincial Wage Council will undertake research and data collection regarding the specific industry to see if it fulfills the following criteria:

- The specific industry can generate added-value to the local economy;
- The proposed UMSP must be higher than the provincial minimum wage (usually by 5 percent and above);
- Involves a large number of businesses;
- The industry requires significant manpower;
- The industry is export-orientated; and
- The related trade and labor unions are in agreement with the proposal.

Once an industry is deemed as 'leading', the provincial Wage Council will cooperate with local trade and labor unions as well as businesses to determine the minimum wage. This proposal is then sent to the governor of the province for approval.

The industries that have been covered by the UMSP have included:

- Public works;
- Automotive manufacturing;
- Tourism;
- Telecommunications;
- Retail;
- Food and beverages;
- Pharmaceutical and healthcare;
- Finance and banking;
- Textile manufacturing;
- Chemicals, energy and mining; and
- Electronics and machinery.

Investors should note that these industries vary from province to province as does the UMSP rate.

What does it mean for business?

Despite the yearly increases in the minimum wage, productivity amongst Indonesia's workforce continues to remain low. Less than half of the country's workforce can be classified as 'skilled', resulting in the slow advancement of vital business sectors such as manufacturing.

This is an ongoing concern for local companies who are looking to expand their business operations internationally or are seeking foreign investments. Additionally, analysts have pointed out that the formula used for calculating the minimum wage rate does not take into account labor productivity or sector-level productivity.

Small and medium-sized business owners, that are registered with the government, have traditionally been hit the hardest with the yearly increases. Businesses in leading sectors will also have to increase their UMSP rate, which in turn can increase their overall costs and make their exports less competitive.

These formal businesses have long complained of the lack of enforcement in implementing the minimum wage regulation on businesses in the informal sector – some 57 percent of Indonesia's 120 million workforce is in the informal sector – who often pay employees below the standard rate.

Labor unions, particularly those in the manufacturing sector, have rejected the 8.51 percent increase with some stating an increase by as much as 10-20 percent is more befitting. They highlighted the rising cost of living, especially for staple foods, fuel, and electricity as the main factors affecting household consumption.

Positions open for employment for expatriate workers

On August 27, 2019, Indonesia's Ministry of Labor issued Regulation No. 228 of 2019 (*Reg 228, 2019*) to define the types of job positions foreign employees can hold in the country. The new regulation widens the number of positions open to expatriate workers, consolidates the list of positions into one, and simplifies the approval process for foreigners and their employers.

Reg 228, 2019 lists more than 2,000 job titles across 18 sectors that can now be filled by expatriates. The job titles are taken directly from the International Standard Classification of Occupations (ISCO), issued by the International Labor Organization (ILO). The job positions and the requirements in *Reg 228, 2019* will be re-evaluated by the government in two years.

This regulation was issued as an implementing regulation for Ministry of Labor Regulation No. 10 of 2018 (*Reg 10, 2018*), intended to attract highly skilled foreign employees into Indonesia. Regulation 10 was also designed to provide greater convenience for local employers – previous regulations regarding foreign workers were scattered across individual sectors.

Sectors and Positions Open to Foreign Employees	
Sector	**Number of positions available**
Construction	181
Real estate	6
Education	780
Manufacturing/processing industry	70
Water and waste management, recycling, remediation	19
Art and entertainment	57
Transportation and warehousing	51
Hospitality and F&B	12
Agriculture, forestry and fisheries	10
Leasing, manpower, travel agencies, and other support services	3
Financial services and insurance	32
Health and social activities	4
Information and telecommunications	244
Mining and Excavation	592
Wholesale and retail trade, repair and maintenance of cars and motorcycles	46
Procurement of electricity, gas, geothermal, and cool air	40
Miscellaneous services	8
Professional, scientific, and technical activities	20

The full list of positions that can be filled by foreign employees can be found on page eight of *Regulation 228, 2019*. The sectors with the highest number of positions open to expatriates are construction, information technology, mining, and education.

What does the reform mean for expatriates and employers?

The Ministry of Labor can now directly approve work permits for foreigners who hold titles or positions that are not listed in *Regulation 228, 2019*. Previously, applicants needed a recommendation from a relevant technical ministry before being approved by the Ministry of Labor, if their job title was not specifically mentioned as open to foreign employees.

Regulation 228, 2019 also reiterates that expatriates are still able to hold positions as directors and commissioners (for non-HR roles) in Indonesian companies.

Other aspects of *Regulation 10, 2018* kept in *Regulation 228, 2019* include the requirement of foreigners to have at least five years of work experience, more than eight for directors and commissioners, and the obligation to help transfer their expertise to their Indonesian colleagues or employees.

The government hopes that this latest regulation will attract highly skilled and experienced foreign workers that can fill the skills gap in the Indonesian workforce.

Many large-scale projects – particularly in sectors involving construction, banking, engineering, and energy – are struggling to find the workers they need to succeed because of a skills gap.

The country's strict labor laws, which make termination of employees extremely difficult, is another challenge for employers, particularly for foreign-invested employers, who do not have a full understanding of the HR industry in the country.

Social insurance

Indonesia's social security programs are run by two organizations – the Social Security Administrator for Health (BPJS Kesehatan) for healthcare and the Workers Social Security (BPJS Ketenagakerjaan) for pensions.

The government will raise the taxable wage cap for the national pension plan program from March 2020.

The government launched its ambitious universal healthcare and pension programs in 2014. Since its inception, the healthcare program has become the biggest in the world with more than 185 million participants. Registered Indonesians and expatriates are eligible for free health services ranging from dental care to medicines to physiotherapy. Further, patients are also eligible for free emergency and chronic care, in addition to organ transplants.

Who is eligible?

The government has made it mandatory for all Indonesian citizens and expatriates to participate in the social security programs. Expat employees must also enroll their families in the programs.

How to determine healthcare class facilities

The BPJS healthcare system is divided into three classes. This does not determine the level of treatment a patient receives, but it does determine the type of hospital room they will be given. Hospital rooms in Indonesia come with varying levels of comfort and size.

Class I patients are provided rooms with two or three other patients while class II patients have to share with three to six others. Class III patients will have to share with 10 or more patients.

How to calculate the healthcare premiums for employees?

The premium for employees is calculated as five percent of the monthly salary, with a salary cap of 12 million rupiah (US$722).

In the private sector, the employer must pay four percent and the employee the remaining one percent. For civil servants, the government contributes to three percent while the employee contributes two percent.

In addition to the employee, the premium also covers their spouse and up to four dependent children up to the age of 21. Employees earning less than 4 million rupiah (US$241) per month are eligible to receive Class I room facilities at the hospitals. Employees earning lower than this can receive Class II and III room facilities.

How to calculate the healthcare premiums for non-employees?

The premiums for individuals that are classed as non-employees/self-employed /non-formal workers can be seen in the following table.

Healthcare Premiums for Non-Employees in Indonesia	
Class type	**Rates**
Class I	25,500 rupiah (US$1.53) per person, per month
Class II	51,000 rupiah (US$3) per person, per month
Class III	81,000 rupiah (US$4.88) per person, per month

How to calculate the pension premium for employees?

The pension program covers the following:

- Work compensation – provides protection for accidents occurring during or as a result of work;
- Old age benefits – provides protection for participants that are in retirement, laid off;
- Pension benefits – provides guaranteed income in retirement; and
- Life insurance – upon the death of the participant, their heirs can claim the benefits.

Based on Government Regulation No. 45 of 2015, the required rate of contribution to the pension fund is three percent of the employee's monthly wages. This is divided between the employer (two percent) and the employee (one percent).

Furthermore, there is a maximum wage base for these deductions. As of March 2020, this will be raised to 8,939,700 rupiah (US$539). and increase from 8,512,400 rupiah (US$513) in 2019.

The government calculates the maximum wage base through the following formula:

Highest wage limit in 2019 x (1+Gross domestic population growth rate in 2019)

Therefore:

8,512,400 rupiah (US$513) x (1+5.02/100) = 8,939,700 rupiah (US$539)

As of 2018, the number of participants in the pension program has reached 11.5 million people. Only medium and large companies are obligated to join the program whereas small and micro enterprises can participate on a voluntary basis.

Some 90 percent of workers in large companies and 60 percent in medium-sized companies are already covered by the pension program.

The social security system can be summarized through the table below:

Social Security Scheme in Indonesia			
Scheme	**Areas covered**	**% of regular salaries/wages**	
		Employer contribution	**Employees contribution**
BPJS Ketenagakerjaan (Pension scheme)	Accident insurance	0.24% - 1.74%	-
	Life insurance	0.3%	-
	Old age benefits	3.7%	2%
	Pension plan	2%	1%
BPJS Kesehatan (Healthcare)		4%	1%

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