An Introduction to Taxation in Indonesia

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## Contents

1. Introduction

2. Key facts about the Indonesia tax system

3. Investing in Indonesia

4. Trading with Indonesia

5. Using the Singapore-Indonesia DTA
### Snapshot of Taxes

<table>
<thead>
<tr>
<th>Description</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporate income tax</td>
<td>25% on all income</td>
</tr>
<tr>
<td>VAT (Value Added Tax)</td>
<td>Input and Output mechanism</td>
</tr>
<tr>
<td></td>
<td>The current rate is 10%</td>
</tr>
<tr>
<td>Individual tax</td>
<td>Subject to progressive rate of 5% to 30%</td>
</tr>
<tr>
<td></td>
<td>The maximum rate applies to annual income in excess of IDR500Mil/USD55K</td>
</tr>
<tr>
<td>Withholding tax for payments to residents</td>
<td>15% for interest, dividends and royalties</td>
</tr>
<tr>
<td></td>
<td>2% for services</td>
</tr>
<tr>
<td></td>
<td>These withholding taxes are considered corporate tax prepayments</td>
</tr>
<tr>
<td></td>
<td>10% for land and building rental (final tax)</td>
</tr>
<tr>
<td></td>
<td>Withholding tax calculated on sales/revenue is considered a final tax</td>
</tr>
<tr>
<td>Withholding tax for payments to non-residents</td>
<td>20% under domestic law, but can be reduced</td>
</tr>
<tr>
<td></td>
<td>by using tax treaty provisions, or exempt for services that qualify as business profits</td>
</tr>
<tr>
<td>Tax losses</td>
<td>Can be carried forward for 5 years</td>
</tr>
</tbody>
</table>
Type of Tax System

- Taxation of total world-wide income
  - Register for a tax ID
  - Register for VAT
- Significant tax reporting and withholding requirements
  - Monthly tax filings, including: Corporate income tax, VAT, Withholding taxes and Payroll
- Self-assessment system with tax audits
- Objections, appeals and penalties
- No application of legal precedence
- Taxed on a stand-alone basis
- Transfer pricing
Establishing a business

- Company versus Branch versus Rep Office

- Legal establishment issues will affect your tax position
  - Branches only possible for a few industries (e.g. oil & gas, banking, construction and shipping)
  - Business plan, including capital structure to be approved by BKPM
  - Negative investment list and licensing requirements
  - Incentives

- Accounting and tax reporting
  - Audit required?
  - Possibility of accounting and tax filing in foreign currencies
Acquiring a business: Asset purchase implications

- Share purchase versus a purchase of business and assets
- In an acquisition of business and assets, tax history remains with the seller
- Seller is taxed on its gain at 25%
- Buyer subject to input-VAT of 10% on transferred assets
- Buyer subject to transfer title tax of 5% on land and buildings
- Need for an independent valuation
- Employee transfer issues
Acquiring a business: Share purchase implications

- Acquisition of shares means acquiring target’s past tax liabilities
- Direct share purchase (and future sale) results in 5% tax on share transfer value (to be withheld by Target Co)
- Indirect share purchase (and future sale) may not result in tax in Indonesia
- Consider treaty protections
- Employee transfer issues still triggered by a change of shareholders
Holding implications

- 20% withholding taxes on payments to a non-resident e.g. dividends, royalties, interest and service fees
- 10% input-VAT on royalties and services
- Return of capital: tax free, but requires approval
- Management fees paid to a foreign parent are often contentious
- Deemed interest and withholding tax on interest free loans (exception for certain shareholder loans)
- Transfer pricing considerations
- Tax treaty considerations
Trading with Indonesia

- 20% withholding taxes on service fees and royalties charged by a non-resident
- 10% input-VAT on services and royalties
- Permanent establishment risks and penalties
- Tax treaty considerations
- Transfer pricing considerations for related party transactions
### Utilising the Singapore – Indonesia tax treaty

<table>
<thead>
<tr>
<th>WHT rate</th>
<th>Dividends</th>
<th>Interest</th>
<th>Royalty</th>
<th>Sale of shares in unlisted companies</th>
<th>Time test</th>
</tr>
</thead>
</table>
|          | 10% or 15% (if lower than 25% shareholding) | 10%      | 15%     | 5%                                   | • 183 days for construction  
|          |                                                     |          |         |                                      | • 90 days for services      |

For utilising tax treaty provision a Form DGT-1 that has been acknowledged by the Respected Country Tax Authority shall be provided to the Indonesian payer and if not, 20% withholding tax will be applied.
Utilising the Singapore – Indonesia tax treaty

- The Indonesian Tax Office has issued the following beneficial owner principles for utilising tax treaty relief:
  - The creation of the entity and/or the transaction structure is not motivated by reasons to take advantage of benefit of the tax treaty
  - The company has its own management to conduct the business and such management has independent discretion
  - The company employs sufficient qualified personnel
  - The company engages in active conduct of a trade or business
  - The earned income from Indonesia is subject to tax in the recipient country
  - No more than 50 per cent of the company's income is used to satisfy claims by other persons in the form of interest, royalties, other fees, etc. (excludes dividends and normal business expenses)

- Very limited guidance as to how the above requirements are to be measured in practice
Thank You

Presentation by Steven Solomon