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Global Tax Alert

Indonesian Government proposes key tax changes

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Executive summary

The Indonesian Government submitted the draft New Tax Law[1] to the Parliament on 31 January 2020. If passed, the New Tax Law will introduce changes which are likely to be welcomed by multinational companies with a presence in Indonesia, including a reduction in the corporate income tax (CIT) rate, a reduction in the interest withholding tax (WHT) and more flexibility in claiming input Value Added Tax (VAT). Multinational companies should also consider the impact of other changes including new tax provisions targeting the digital economy.

This Alert summarizes the key highlights of the proposed changes.

Detailed discussion

Tax measures

1. CIT rate reduction

The CIT rate will be reduced in phases, from 25% to 22% for tax years 2021 and 2022, with a further reduction to 20% for tax years 2023 and thereafter. Qualifying listed Indonesian companies[2] are entitled to receive an additional three percentage point reduction (CIT rate of 19% for tax years 2021 and 2022 and 17% for tax years 2023 onwards).

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2. Interest WHT rate reduction

The interest WHT rate will be reduced from 20%. The new rate, and whether it would apply to all forms of borrowing, is yet to be determined.[3] Interest subject to WHT includes coupons, premiums, discounts, and guarantee fees.

3. Ability to claim input VAT is broadened

The New Tax Law enables input VAT to be creditable in the following situations:

- Input VAT is paid by a company prior to the company being registered for VAT.[4]
- An incomplete input VAT invoice is received and the invoice contains only the buyer's name and identification number.
- Any input VAT which: a) has not been reported in the monthly VAT return but is identified during a tax audit; b) collected by a tax assessment; or c) paid by the company during its pre-operating stage.

4. New tax provisions for the digital economy

New VAT collection mechanism for international digital companies for the supply of intangible goods or services from outside Indonesia

Certain international sellers, international service providers, and international and local e-commerce platform provider companies will be required to collect 10% VAT from Indonesian customers. The Ministry of Finance will issue regulations to set out the criteria and mechanics of VAT collection and whether this would be administered directly or via Indonesian agents. It is not yet clear whether the non-Indonesian parties would be full VAT taxpayers or operate on a "payment only" basis

Digital permanent establishment (PE) and Electronic Transaction Tax (ETT)[5]

International sellers, international service providers, or international e-commerce platform providers that actively offer and/or conduct activities with consumers domiciled in Indonesia may be deemed to have a PE in Indonesia if they exceed certain thresholds with respect to:

- Consolidated group gross revenue
- Revenue derived from Indonesia
- Number of active users in Indonesia

If the PE definition under a treaty overrides this domestic law, the New Tax Law introduces an electronic transaction tax (ETT) that will tax income sourced from Indonesia.[6]

The draft New Tax Law also covers the following changes.

1. Restructuring of tax penalties and interest

The New Tax Law introduces reduced tax penalties. Interest for the underpayment of tax (due to tax return amendments and tax assessment letters) would be reduced from 2% per month to a benchmark interest rate[7] plus a mark-up of 0% to 15%, prorated on a monthly basis. The benchmark interest rate (without any mark-up) is applied in calculating any interest payable to a taxpayer for certain overpayments of income tax, customs duty and excise.

2. Tax exemption on dividends and offshore income received by Indonesian residents

Tax exemptions will be provided for Indonesian resident companies and individuals on dividends or offshore income received from local or offshore companies or business activities,[8] if the dividend is reinvested in Indonesia.[9] If the tax exemption applies, any tax paid on such income in another country cannot be credited, refunded or claimed as a deductible expense.

3. Consolidation of incentive law

To provide more certainty for investors, the legal and regulatory frameworks for Indonesia's various incentives will be consolidated into one part of the law.[10]

4. Single rate for regional taxes and levies

The Central Government will introduce a single rate for each type of regional tax and levy.

Endnotes

1. See EY Global Tax Alert, *Indonesia announces plan for key tax changes*, dated 10 September 2019.
2. At least 40% of the company's shares are required to be traded on the Indonesian Stock Exchange (other requirements to be determined by Ministry of Finance (MOF) regulations).
3. The new rate will be provided by Government Regulations.
4. The input VAT is creditable up to 80% of any output VAT liability.
5. MOF regulations will be issued to provide clarity on these provisions.
6. Further information regarding the ETT rate has not yet been released.
7. The benchmark rate will be determined by the Minister of Finance on a regular basis.
8. The exemption applies to dividend income received from: a) local companies; b) foreign listed companies; c) foreign non-listed companies and permanent establishments, with a minimum reinvestment of at least 30% of its net income after tax; d) other offshore active businesses.
9. MOF regulations will be issued to provide clarity on these provisions.
10. The tax incentive programs covered in the New Tax Law include:
    - Tax exemption or reduction for pioneer industries
    - Tax exemption, reduction or allowance for certain sectors in special economic zones (SEZ)
    - Tax exemption, reduction or allowance for development and management of the certain industrial areas and investment in certain industrial areas
    - Bonus deductions for certain labor-intensive sectors
    - Super deduction program for internship, apprenticeship and teaching activity programs
    - Super deduction program for research and development activities
    - Tax exemption or reduction for income related to bond issued in the international market
    - Relief, reduction or exemption from regional taxes

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