Indonesia announces plan for key tax changes

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Indonesia's Minister of Finance announced on 3 September 2019 the Government's plan to introduce legislation on a number of tax changes (the New Tax Law). The New Tax Law will impact the Income Tax, Value Added Tax (VAT), and General Tax Provision laws. The legislative process is at a very early stage and many key aspects of the proposals will not be clear until the draft law is circulated to the public.

Key highlights of the proposed changes are:

- The corporate income tax (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. Newly listed Indonesian companies will receive an additional three percentage point reduction (CIT rate of 19% for tax years 2021 and 2022 and 17% for tax years 2023 and thereafter for a period of five years. After the five years, the rate becomes 20%.
- Tax exemptions will be provided for Indonesian resident companies and individuals on dividends received from both domestic and foreign companies, if the dividend is reinvested in Indonesia. Currently, an Indonesian company pays 25% CIT on all foreign source dividends, and on domestic dividends when the company's shareholding is less than 25%.

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- Tax penalties will be reduced to encourage voluntary compliance. The penalty for failure to issue, or for the late issuance of a VAT invoice would be reduced from 2% to 1% of the VAT transaction value. The 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[1] plus 5%, prorated on a monthly basis. A new penalty of 1% of the VAT transaction value will be introduced if a person fails to register for VAT purposes.
- The ability to claim input VAT will be broadened to potentially cover pre-production periods and certain other situations.
- The legal and regulatory frameworks for Indonesia's various incentives will be consolidated into one part of the law.
- International digital companies will be required to register for, collect and report VAT at a rate of 10%. The international digital companies will be able to appoint a representative in Indonesia to meet their VAT obligations. It appears that the New Tax Law covers international sellers, international service providers and international platform companies but very little detail is currently available.
- A new domestic permanent establishment (PE) definition (without physical presence) will be introduced that may apply the "significant economic presence" concept. It appears that the PE definition in Indonesia's Income Tax Law will be updated to reflect this change that allows the Indonesian Government to tax profits without physical presence in Indonesia. The announcement did not address the expected impact of treaty definitions of PE, but the Director General of Taxation has been subsequently quoted as stating that such treaty articles will still apply.

Endnote

1. The benchmark rate will be determined by the Minister of Finance on a regular basis.

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