



Doing business in
Indonesia





P R E F A C E

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Doing Business in Indonesia has been designed for the information of readers. Whilst every effort has been made to ensure accuracy, information contained in this booklet may not be comprehensive and recipients should not act upon it without seeking professional advice. The information given is current at the time of going to press.

Up-to-date advice and general assistance on Indonesian matters can be obtained from Johan Malonda Astika & Rekan. Contact details are provided at the end of this booklet.

July 2007

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1 INTRODUCTION

Indonesia is the largest country in south-east Asia and the world's largest archipelago. The entire archipelago has a total land area of about 2m km² and 13,667 islands, of which around 6,000 islands are inhabited. The main islands are Java, Sumatra, Kalimantan, Sulawesi and West Papua.

The country has 33 provinces; Jakarta is the capital city and the main business centre. Indonesia has a population of about 220 million people, of which around 55% live in Java.

The official language is Bahasa Indonesia but English is widely used in the business community. There are around 200 dialects spoken. Many groups have their own culture, clothing and food; some have their own written language. The main religions are Islam, Christian, Buddhism and Hindu.

Indonesia is rich in natural resources such as oil and gas, palm oil, rubber etc. The country is south-east Asia's largest crude oil producer and the region's only OPEC member.

2 FINANCE AND INVESTMENT

2.1 Foreign Investment

Foreign investment in Indonesia is supervised by the Investment Co-ordinating Board (BKPM) and governed by the Foreign Investment Law No. 1 (as amended by Law No. 11).

In line with its desire to stay competitive in the global market and to attract foreign investment, the government has issued deregulation packages on foreign direct investment (FDI). This is a significant step towards a more conducive and attractive investment environment. Among the new investment deregulation measures are:

- Foreign parties can own 100% of the issued capital of an Indonesian company, apart from those companies whose business activities are categorised as important to the state and public in general, where foreign investment is limited to 95%
- There is no prescribed minimum amount of capital required to be invested in a FDI company
- Foreign shareholders are no longer required to sell down their capital in a 100% foreign-owned FDI company to a minority position at some future time. The 100% foreign-owned FDI company is only required to sell at least a part of its shares to Indonesian citizens or entities within a maximum of 15 years after the start of commercial operations
- The business activities of a FDI company can now be located anywhere in Indonesia, with the proviso that factories must be established in areas zoned for manufacturing
- The legal life of a FDI company has been extended by allowing the renewal of the operating license for an additional 30 years after a 30-year initial operating period.

A FDI company may be established in the form of a joint venture between foreign capital and domestic capital owned by Indonesian citizens or entities, or direct investment, in the sense that 100% of the capital is owned by foreign citizens or entities.

BKPM has a list of sectors that are closed for foreign investment, known as the Negative List. The Negative List is not applicable to portfolio investment, where the purchase of shares of the existing company is carried out through the domestic stock exchange.

A copy of the Negative List can be acquired from the BKPM office or through the Jakarta office of Johan Malonda Astika & Rekan.

2.2 Investment Tax Facilities

2.2.1 Capital investment schemes

Investments conducted under the foreign or domestic capital investment schemes (PMA and PMDN) may enjoy certain tax facilities if conducted in a certain line of business or in certain areas.

The tax facilities are:

- A reduction in net income of up to a maximum of 30% divided over six years from investments made
- Accelerated depreciation and amortisation
- Carried forward losses of more than five years up to a maximum of ten years
- Income tax on dividends of 10%, except when the tax treaty states a lower rate.

2.2.2 Bonded zones

Companies operating in bonded zones may enjoy the following facilities:

- Postponement of import duties
- Exemption from value added tax (VAT) and luxury sales tax
- Exemption from import withholding tax
- Exemption from excise duties.

2.2.3 Integrated Economic Development Zones (KAPET)

Companies operating and domiciled in KAPET zones may enjoy the following facilities:

- A reduction in net income of up to a maximum of 30% divided over six years from investments made from the commencement of commercial production
- Accelerated depreciation and amortisation
- Compensation of carried forward losses for up to a maximum of ten years
- Income tax on dividends of 10%, except when the tax treaty states a lower rate.

Companies operating in bonded zones located in KAPET zones enjoy the facilities of both zones.

2.2.4 Venture capital

Income received by a venture capital company from its venture business partner is exempt from tax provided that:

- The venture business partner is a small or medium-sized company, or is engaged in the business sectors determined by a finance minister decree
- Its shares are not traded on the Indonesian Stock Exchange.

2.2.5 Pension funds

Income received by a finance minister-approved pension fund from investments in certain businesses as determined through a finance minister decree is exempt from tax.

2.2.6 Mutual funds

Interest income from bonds received by a mutual fund company during the first five years of operation following its establishment or from obtaining an operating license is exempt from tax.

2.3 Exchange Control

Indonesia has no foreign exchange control. FDI companies are required to report on the realisation of investments. Indonesian companies and individuals receiving loans from overseas must report to Bank Indonesia (BI), the central bank of Indonesia, for statistical purposes.

Money transfers of US\$10,000 and above must be reported to BI.

2.4 Banking and Finance

BI controls the country's banking system. Its main functions are to issue monetary policy, supervise and regulate the banking sector and act as the lender of last resort to the banking system. Companies in Indonesia can obtain loans in foreign currencies from domestic or offshore banks, or both.

There are 130 banks operating in Indonesia, comprising five state commercial banks, 35 foreign exchange banks, 36 non-foreign exchange banks, 17 joint venture banks and 11 foreign banks. All offer a wide range of banking services.

There are also 26 privately-owned rural banks (Bank Perkreditan Rakyat or BPR) operating all over the country. BPRs also offer various banking services but on a limited scale.

Non-bank financial institutions such as multi-finance and leasing companies are the country's other sources of financing.

Credit and charge cards, both local and international, are widely used in almost all major cities in the country. Visa, MasterCard, American Express and Diners are among the commonly used international cards.

3 BUSINESS ENTITIES

3.1 Limited Liability Companies

A limited liability company (Perseroan Terbatas or PT) is the most commonly used form of business entity for commercial purposes and is classified as a private company or public company (with shares listed on the stock exchange). Presently, all PTs are governed by the 1996 Corporation Law. Public companies are supervised by the Capital Market Supervisory Board (BAPEPAM). The Corporation Law requires that a PT must have at least two shareholders.

To establish a PT, the Articles of Association should be prepared and notarised and submitted for approval by the Ministry of Justice and Human Rights.

The management of a PT is performed by the board of directors (BOD); the supervision of the BOD is vested with the board of commissioners (BOC). Members of both the BOD and BOC are appointed at a general shareholders' meeting (GSM). Generally, there is no minimum number of members of the BOD and BOC, except in specific industries. Non-Indonesian citizens, except in FDI companies, may not be directors nor foreign investment commissioners.

The GSM consists of the annual GSM and extraordinary GSM. The annual GSM must be held within the second half of the financial year. The extraordinary GSM may be held from time to time as needed.

3.2 Representative Offices

A foreign representative office is normally formed to act as facilitator of business transactions between local suppliers/buyers and foreign buyers/suppliers. As such, it can act as a liaison office, act as quality inspector and facilitate the preparation of import and export documents. It can not, however, perform commercial activities such as submitting bids, receiving orders or signing contracts.

A foreign trading representative office must obtain approval from the Ministry of Trade; foreign regional trading representatives must get approval from the BKPM.

3.3 Joint Operations

Joint operations (JO) are usually formed between domestic and foreign construction companies to execute construction projects, especially government projects funded by IBRD, ABD, World Bank and other funding agencies.

The foreign party must establish a representative office in Indonesia for which approval must be obtained from the Ministry of Public Works. A JO is not established as a legal entity in Indonesia.

3.4 Other Business Organisations

Government-owned companies (Badan Usaha Milik Negara or BUMN) mainly operate in the plantation, mining and service industries.

Privately trading enterprises (Perusahaan Dagang or PD) are mostly sole proprietorships.

Limited liability partnerships are called CV. Such limited liability applies only to silent partners. Unlimited liability partnerships are called Firma.

4 ACCOUNTING AND REPORTING REQUIREMENTS

The government requires that every business with revenues above a certain amount must maintain proper accounting records for financial reporting and income tax purposes. Accounts must be done in accordance with the Statement of Financial Accounting Standards established by the Indonesian Institute of Accountants. Accounting records must be retained for at least ten years.

The Corporation Law requires an independent audit of financial statements only of those companies whose business activities are connected with the mobilisation of public funds and those who have issued debt instruments.

Companies usually obliged to have their accounts audited by public accountants are public companies, stock brokers, underwriters, banks, non-bank financial institutions, insurance, and logging companies. Foreign investment companies and companies with assets of Rp25bn and above are required to submit audited financial statements to the Department of Trade. Exporting companies enjoying exemption from import duties and other tax facilities are also required to submit audited accounts.

4.1 Language and Currency

Only the English language and the US Dollar can be used in company accounts other than Bahasa Indonesia and the Rupiah. Companies are required to report such intention at the latest three months prior to the related book year. Tax returns must be filed in Bahasa Indonesia. For newly established companies, such intention must be reported within three months after its establishment date.

5 TAXATION

5.1 Taxation of Companies

Resident companies are subject to corporate income tax on their worldwide income. Foreign investment companies are liable for corporate income tax on their Indonesian-sourced profit.

The tax rates on income subject to corporate income tax are 10% on the first Rp50m, 15% on profits in excess of Rp50m up to Rp100m, and 30% on profits above Rp100m.

Income subject to corporate income tax is equivalent to taxable income less allowable deductions. Foreign taxes paid are allowed as credits from income tax to be paid.

Dividends received by a company (either resident or FDI) from another company incorporated in Indonesia (domestic tax subject) are not taxable income if:

- The source of dividends is retained earnings
- There is a minimum of 25% ownership from paid-in capital
- The company conducts active business besides investments.

Non-resident companies are liable to income tax only on income derived from Indonesia in the form of withholding tax.

Tax losses can be carried forward for five years to offset against future profits. Certain industries can extend the carry forward of losses to a maximum of eight years for initial losses sustained, except for companies that obtain investment tax facilities (please refer to 2.2 Investment Tax Facilities).

5.2 Taxation of Individuals

Resident individuals are liable to Indonesian income tax on all their worldwide income. Residents are defined as individuals living in Indonesia in excess of 183 days within a 12 month period.

Income tax rates for individuals are:

Up to Rp25m	5%
Over Rp25m and up to Rp50m	10%
Over Rp50m and up to Rp100m	15%
Over Rp100m and up to Rp200m	25%
Over Rp200m	35%

Certain personal allowances and deductions are permitted in determining income subject to tax.

Generally, business expenses incurred by a resident are in principle deductible from taxable income.

All employers are required by law to calculate, withhold and pay the income tax of their employees' income on a monthly basis.

Dividends received by resident individuals are subject to a 15% withholding tax, which represents a tax credit for the recipient.

Non-residents are liable to income tax on Indonesian-sourced income at the rate of 20%. The tax rate may be reduced for residents of tax treaty countries.

5.3 Capital Gains Tax

Capital gains are treated the same as the company's normal profit and subject to the same corporate income tax rates. However, capital gains on the sale of land and buildings by individuals are subject to a 5% final tax based on the transaction's value or market value – whichever is higher.

5.4 Withholding Taxes

Collections of income tax in Indonesia are made mainly through a system of withholding taxes. These withholding taxes are referred to by the corresponding article number of the income tax law (PPH), as follows:

- Article 21 for salaries
- Article 22 for imports
- Article 23 for interests, dividends, royalties (15%), prizes, awards (25% final), rental and other services rendered in Indonesia ranging from 1.5% to 4.5%
- Article 26 for payments to non-residents, ranging from 5% to 20%
- Article 4(2) for rental of land and buildings, sale of land and buildings (5%), fees for small contractor (2% and 4%), sale of stocks (0.1%) and bonds (20% on interest income/discount) in stock exchanges, and interest income from banks (20%).

Founding stockholders are charged an additional 0.5% upon sales of shares effective at the time of IPO.

5.5 Foreign-Sourced Income

Foreign-sourced income is subject to income tax. Withholding tax at source is a tax credit.

5.6 Other Taxes/Charges

All sales of manufactured products and services are subject to a 10% VAT. Exported goods are subject to 0% VAT.

In addition to VAT, certain luxury goods are subject to sales tax at rates ranging from 10% to 75%.

Land and buildings owned by a company or an individual are subject to property tax, which is based on the market value of the land and building and is payable annually.

Road tax is applicable to all motor vehicles and payable annually. The amount of tax is dependent on the vehicle's value.

Transfer tax is imposed on every purchase and transfer of ownership of motor vehicles.

Excise duty is imposed on all cigarettes and alcohol manufactured in or imported into Indonesia.

Stamp duty is charged on certain documents, contracts, deeds and others at either Rp6,000 or Rp3,000.

5.7 International Tax Agreements

Indonesia has tax agreements with a number of countries, including: Algeria, Australia, Austria, Bangladesh, Belgium, Brunei Darulssalam, Bulgaria, Canada, China, Czech Republic, Denmark, Egypt, Finland, France, Germany, Hungary, India, Iran, Italy, Japan, Jordan, Kuwait, South Korea, North Korea, Luxembourg, Malaysia, Mexico, Mongolia, Netherlands, New Zealand, Norway, Pakistan, Philippines, Poland, Romania, Russia, Saudi Arabia, Seychelles, Singapore, Slovakia, South Africa, Spain, Sri Lanka, Sudan, Syria, Sweden, Switzerland, Taiwan, Thailand, Tunisia, Turkey, UAE, Ukraine, United Kingdom, United States of America, Uzbekistan, Venezuela and Vietnam.

The agreements aim to avoid double taxation of income by allowing foreign tax credits.

6

EMPLOYMENT AND INDUSTRIAL RELATIONS

Employment relationships are regulated by the Ministry of Manpower.

Wage levels vary according to location. The minimum wage in Jakarta amounts to approximately Rp900,560 per month commencing 1 January 2007. Fringe benefits are about 30% of the wage.

There are two main labour unions in Indonesia. Workplaces with more than 25 employees may establish their own workers' union.

Expatriates can be employed provided they are expert in their respective field, thus enabling them to train their Indonesian counterparts. They require a work permit to be able to work in the country.

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NOTES



NOTES

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