

Indonesia enacts Job Creation Law

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The Indonesian President signed the Job Creation Law on 2 November 2020, which revises more than 70 laws impacting investment and industry, taxation, health, land, limited liability companies, environment and human resources. Implementing regulations are expected to be issued within three months and should provide more clarification of the changes.

This Tax Alert highlights the key changes in the tax laws and the potential impacts for multinational companies (MNC).

Detailed discussion

Income tax exemptions for foreign-sourced income earned by qualifying expatriate tax residents

This change is expected to improve MNC's human resource planning in Indonesia. The exemption applies:

- ▶ For the first four years of the Indonesian tax residency of an expatriate
- ▶ When expatriates possess certain expert skills¹

Income tax exemptions for dividends and certain foreign-sourced income derived by tax residents²

The following changes are made to encourage increased investment in Indonesia:

- ▶ Domestic dividend distributions are exempt from income tax for corporate tax resident shareholders.
- ▶ Dividends paid by an offshore company or the net profit after tax of a permanent establishment is exempt from income tax if a certain portion is invested in Indonesia.
- ▶ Foreign-sourced income earned by tax residents is exempt from income tax if it is invested in Indonesia and meets certain criteria.³

Interest withholding tax (WHT) reduction

To promote investment in Indonesia via foreign lending, the interest WHT rate will be reduced from the current statutory rate of 20%. The implementing regulations will provide the new rate.

New Value Added Tax (VAT) treatment for certain goods

Goods under consignment arrangements and in-kind contributions made in exchange for shares are no longer subject to VAT at 10%. However, coal mining products are now subject to VAT at 10%.

Ability to claim input VAT is broadened

The Job Creation Law enables input VAT to be creditable in the following situations to improve companies' cash flow:

- ▶ Input VAT is paid by a company prior to the company being registered for VAT.
- ▶ Any input VAT which: (i) has not been reported in the monthly VAT return but is identified during a tax audit; (ii) collected by a tax assessment; or (iii) paid by the company during its pre-operating stage.

Restructuring of penalties for tax liabilities and interest for tax overpayments

The Job Creation Law introduces: (i) reduced and streamlined tax penalties; and (ii) an interest reward for tax overpayments to promote voluntary compliance. Interest payable by taxpayers for tax underpayments is reduced from a rate of 2% per month to a benchmark interest rate⁴ plus a mark-up of 0% to 15%, prorated on a monthly basis. Interest paid to taxpayers for certain tax overpayments is calculated based on a benchmark interest rate on a monthly basis.

Endnotes

1. To be defined in the implementing regulations.
2. The implementing regulations will be issued to provide the specific criteria, procedures and investment timeline.
3. The income relates to an active business overseas and is not generated by an overseas company owned by the tax resident.
4. The benchmark rate will be determined by the Minister of Finance on a regular basis.

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