Doing Business Guide

Indonesia

1st Edition

KAP Tjahjadi & Tamara

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About This Booklet

This booklet is produced by KAP Tjahjadi & Tamara for the benefit of its clients and associate offices worldwide who are interested in doing business in Indonesia.

Its main purpose is to provide a broad overview of the various things that should be considered by organisations considering setting up a business in Indonesia.

The information provided cannot be exhaustive and - as underlying legislation and regulations are subject to frequent changes - we recommend that anyone considering doing business in Indonesia or looking to the area as an opportunity for expansion should seek professional advice before making any business or investment decision.

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Introduction

History

Indonesia, officially the Republic of Indonesia, is a country in Southeast Asia and Oceania. Its name was derived from the Latin and Greek *Indus*, and the Greek *nèsos*, meaning 'island'. The name dates to the eighteenth century, far pre-dating the formation of independent Indonesia.

The Indonesian archipelago has been an important trade region since at least the seventh century, when Srivijaya and then later Majapahit traded with China and India. Local rulers gradually absorbed foreign cultural, religious and political models from the early centuries CE, and Hindu and Buddhist kingdoms flourished. Indonesian history has been influenced by foreign powers drawn to its natural resources. Muslim traders brought Islam, and European powers brought Christianity and fought one another to monopolise trade in the Spice Islands of Maluku during the Age of Discovery. Following three and a half centuries of Dutch colonialism and Japanese colonialism during World War II (WWII), Indonesia secured its independence after WWII. Indonesia's history has since been turbulent, with challenges posed by natural disasters, corruption, separatism, a democratisation process and periods of rapid economic change.

Geography

Indonesia is the largest archipelago in the world, covering almost 2 million km^2 composed of 20% land and 80% water. It is an archipelagic country of about 17,508 islands (6,000 of which are inhabited) and has 34 provinces. It has five major islands and about 30 smaller island groups. These include the large islands of Java, Sumatera, Borneo (shared with Brunei and Malaysia), New Guinea (shared with Papua New Guinea) and Sulawesi. The islands are surrounded by the South China Sea, the Indian Ocean and the Pacific Ocean.

Java, the fifth largest island in Indonesia and the 13th largest island in the world, is the main and most developed island where almost 60% of the Indonesian population lives and most business and government activities are carried out.

The nation's capital city is Jakarta, located in Java.

Population and culture

There are around 300 distinct native ethnic groups in Indonesia, and 742 different languages and dialects. Most Indonesians have descended from Austronesian-speaking people whose languages can be traced to Proto-Austronesian (PAn), which may have originated in Taiwan. Another major grouping is the Melanesians, who inhabit eastern Indonesia. The largest ethnic group is the Javanese, who comprise 42% of the population and are politically and culturally dominant. The Sundanese, ethnic Malays, and Madurese are the largest non-Javanese groups. A sense of Indonesian nationhood exists alongside strong regional identities. Society is largely harmonious, although social, religious and ethnic tensions have triggered violence in the past.

Chinese Indonesians are an influential ethnic minority comprising about 3–4% of the population. Most of the country's privately owned commerce and wealth are Chinese Indonesian–controlled.

The official national language is Indonesian, a form of Malay, that is universally taught in schools and therefore spoken by most Indonesians. It is the language of business, politics, national media and education. It was promoted by Indonesian nationalists in the 1920s and declared the official language under the name Bahasa Indonesia on the proclamation of independence in 1945. Most Indonesians speak at least one of the several hundred local languages and dialects, often as their first language. Of these, Javanese is the most widely spoken as the language of the largest ethnic group.

Although Bahasa Indonesia is the main language of business, English is generally spoken at a business level in Indonesia. However, when dealing with the government or undertaking business outside the main cities, you may need to communicate using their national language.

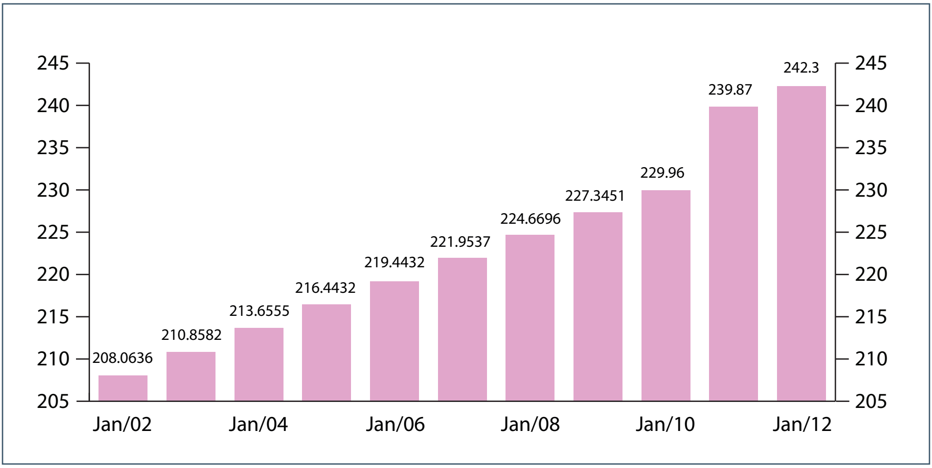
Although religious freedom is stipulated in the Indonesian Constitution, the government only recognises six official religions: Islam, Protestantism, Catholicism, Hinduism, Buddhism and Confucianism.

A shared identity has developed in the country, defined by a national language, ethnic diversity, religious pluralism within a majority Muslim population, and a history of colonialism and rebellion against it. Indonesia's national motto, *Bhinneka Tunggal Ika* ('Unity in Diversity'; literally, 'many, yet one'), articulates the diversity that shapes the country.

Indonesia, with a population of about 240 million (see Table 1) and population growth per year of about 1.49%, is the fourth most populous country in the world and thus offers a large domestic market for investment.

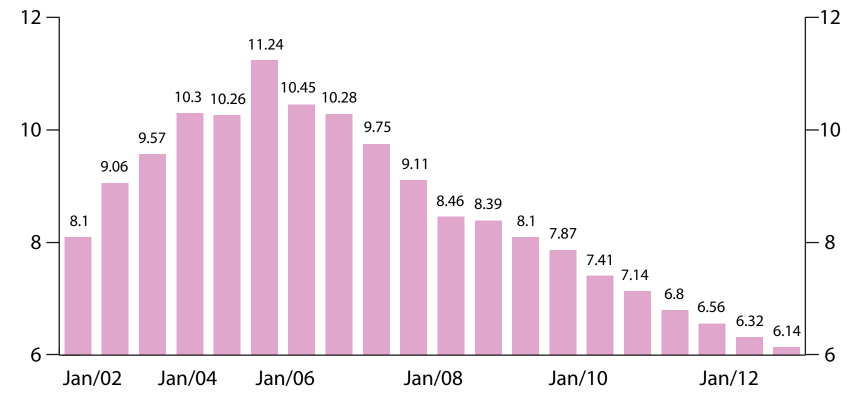
Table 1. Population of Indonesia, 2002–12 (millions).

Source: World Bank (www.tradingeconomics.com).



The unemployment rate in Indonesia decreased to from 6.32% to 6.14% in the 6 months to August 2012. From 1982 until 2012, Indonesia's unemployment rate averaged 6.18%, reaching an all-time high of 11.24% in August 2005 and a record low of 2% in December 1983. In Indonesia, the unemployment rate measures the number of people actively looking for a job as a percentage of the labour force (see Table 2). Indonesia has a labour force of about 113 million.

Table 2. Indonesian unemployment rate as a percentage of the labour force, 2002–13.
Source: Badan Pusat Statistik Indonesia (www.tradingeconomics.com).



Indonesia is a relationship-driven market: time and patience are required to build business relationships. Understanding the Indonesian partner's goals and making the most of meetings and negotiations are important; the following basic etiquette and reminders should be kept in mind.

- Avoid using the left hand to pass or receive anything (this includes business cards and gifts)
- Indonesians place great emphasis on age and respect towards elders in the society. Avoid using first names for someone you are not close to or familiar with. If in doubt, use Mas (younger male), Pak (older male), Ibu (older female) or Mbak (younger female)
- In doing negotiations, be polite and humble and appreciate things. Try not to hurry or hurry others, and don't issue ultimatums
- Companies may be slow to respond quickly to your emails, especially if you are new to them
- During first meetings, establish your bona fides early in the conversation by explaining who you are/represent and how you have come to be visiting them.

For example, if the appointment was given as a result of personal relationships, do talk a little about that relationship

- Short visual presentations are more effective than handouts. MS PowerPoint presentations are more effective when they are not long; use fewer sentences and more pictures
- Try not to be late: Jakarta is notorious for traffic jams, especially during heavy rainfall. Depending on location, only three or four appointments a day are feasible.

Climate

Lying along the equator, Indonesia has a tropical climate, with two distinct monsoonal wet and dry seasons. The main variable of Indonesia's climate is not temperature or air pressure, but rainfall. Winds are moderate and generally predictable, with monsoons usually blowing in from the south and east in June to September and from the northwest in December to March. Typhoons and large-scale storms pose little hazard to mariners in Indonesian waters; greater danger comes from swift currents in channels, such as the Lombok and Sape straits. Generally speaking, the dry season lasts from June to October and the rainy season from November to March.

The general mean maximum temperature in the country is 91.40ºF (33ºC) and the minimum is 69.80F (21ºC), except in mountainous areas where cooler temperatures prevail. The average daily temperature range of Jakarta is 26–30°C (79–86ºF). Humidity is consistently high, particularly during the wet season when it averages 70–90%.

The country is predominantly mountainous with some 400 volcanoes, 100 of which are active. Forests cover just over half the country. The soil is very fertile as a result of volcanic activity, rivers, rainforests and a high volume of rainfall. Indonesia also has an abundance of natural resources, including plantations, food crops, fishery, forestry and mining.

Constitution and law

Indonesia is a republic, with an elected legislature and president. As a unitary state, power is concentrated in the central government. The president of Indonesia is the head of state, commander-in-chief of the Indonesian National Armed Forces, and the director of domestic governance, policymaking and foreign affairs. The president appoints a council of ministers, who are not required to be elected members of the legislature. The president may serve a maximum of two consecutive 5-year terms.

The highest representative body at national level is the People's Consultative Assembly (MPR). Its main functions are supporting and amending the constitution, inaugurating the president, and formalising broad outlines of state policy. It has the power to impeach the president. The MPR comprises two houses: the People's Representative Council (DPR), with 560 members, and the Regional Representative Council (DPD), with 132 members. The DPR passes legislation and monitors the executive branch; party-aligned members are elected for 5-year terms by proportional representation.

Indonesia has various levels of courts where legal disputes are heard (Table 3).

Table 3. The court system in Indonesia.

Court level	Main area of interest
State Court *(Pengadilan Negeri)*	Civil disputes
Supreme Court *(Mahkamah Agung)*	Final cessation appeals and case reviews
Commercial Court	Bankruptcy and insolvency cases
State Administrative Court *(Pengadilan Tata Negara)*	Administrative cases against the government
Constitutional Court *(Mahkamah Konstitusi)*	Disputes for the legality of law, general election and dissolution of political parties
Religious Court *(Pengadilan Agama)*	Sharia law cases

The law of Indonesia is based on a civil law system, intermixed with customary law and the Roman Dutch law. Indonesian legislation comes in different forms. The following official top-down hierarchy of Indonesia legislation is enumerated under Law No. 10, 2004, on the Formulation of Laws and Regulations:

1. 1945 Constitution (*Undang-Undang Dasar* 1945, or UUD'45)
2. Law (*Undang-Undang*, or UU) and Government Regulation in Lieu of Law (*Peraturan Pemerintah Pengganti Undang-Undang*, or Perpu)
3. Government Regulation (*Peraturan Pemerintah*, or PP)
4. Presidential Regulation (*Peraturan Presiden*, or Perpres)
5. Regional Regulation (*Peraturan Daerah*, or Perda)

In practice, there are also Presidential Instruction (*Instruksi Presiden*, or Inpres), Ministerial Decree (*Keputusan Menteri*, or Kepmen) and Circulation Letters (*Surat Edaran*), which sometimes conflict with each other.

Once legislative products are promulgated, the *State Gazette of the Republic of Indonesia (Lembaran Negara Republik Indonesia)* is issued from the State Secretariat. Sometimes, Elucidation *(Penjelasan)* accompanies some legislation in a Supplement of the State Gazette. The Government of Indonesia also produces State Reports *(Berita Negara)* to publish government and public notices.

The Indonesian Economy

Indonesia is the largest economy in Southeast Asia, and one of the emerging market economies of the world. It has a market economy in which the government plays a significant role through ownership of state-owned enterprises (the central government owns more than 160 enterprises) and the administration of prices of a range of basic goods including fuel, rice and electricity.

Indonesia is one of the founding members of the Association of Southeast Asian Nations (ASEAN) and a member of the G-20 major economies. The Indonesian economy is the world's 16th largest by nominal GDP and 15th largest by purchasing power parity. According to the World Bank and International Finance Corporation (*Doing Business in a More Transparent World*, 2012), it ranked 129 out of the 183 countries for ease of doing business.

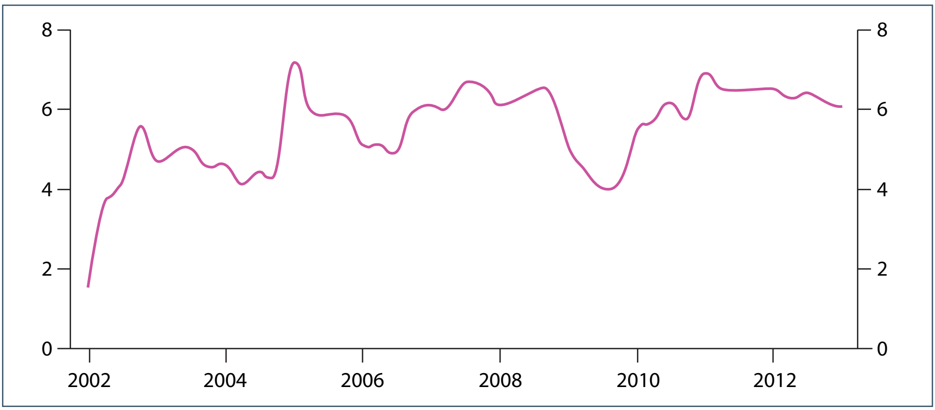
With an average gross domestic product (GDP) growth of around 5–6% per annum over the past 3 years, Indonesia has emerged as one of the world's potential economic powerhouses. As a member of the G-20, Indonesia is already in the process of transforming into one of the developed nations. This fourth most populous country in the world has most of the requirements to reach a higher economic level. Natural resources, population, political stability and a solid macro-economy provide the foundations for Indonesia to achieve its full economic potential.

Economic performance

Indonesia's economy achieved another year of ≥6% growth in 2012, despite falling exports. Sluggish external demand combined with stronger domestic demand to shift the current account into deficit. Inflation fell to a 12-year low. GDP growth is forecast to quicken in the next 2 years. Near-term challenges are to manage risks associated with the current account deficit and keep inflation moderate.

Figure 1. GDP growth rate of Indonesia, 2002 to Q1/2013 (percentage change).

Source: Badan Pusat Statistik Indonesia (www.tradingeconomics.com).



Since 2004, the economy has recovered and growth has accelerated to over 6% in recent years (Figure 1) in the aftermath of the financial and economic crisis that began in mid-1997. Indonesia's economy achieved another year of ≥6% growth in 2012, despite falling exports. Sluggish external demand combined with stronger domestic demand to shift the current account into deficit. Inflation fell to a 12-year low. GDP growth is forecast to quicken in the next 2 years. Near-term challenges are to manage risks associated with the current account deficit and keep inflation moderate.

GDP growth at 6.2% in 2012 was based on robust private consumption and a better performance in fixed-capital investment. Net exports fell, acting as a drag on GDP growth. Private consumption picked up to increase by 5.3%, the strongest pace in 4 years, contributing almost half of total GDP growth on the expenditure side. Consumption got a lift from increases in employment and wages as well as lower inflation. Sales of automobiles rose by nearly 25%, even though Bank Indonesia raised minimum down payments on cars and motorcycles.

Fixed investment accelerated to 9.8% in 2012, building on the previous year's increase of 8.8%, and was the source of 2.4 percentage points of GDP growth. Driving factors included an improved investment climate, a record of solid economic growth over recent years, and the expansion of credit.

Outlays on buildings and infrastructure rose by 7.5%, and investment in machinery and equipment increased by a strong 12.7%. Renewed efforts to improve public infrastructure saw the central government's capital spending rise by 18.9%. As a result, the ratio of fixed capital formation to GDP rose to 33.2%, the highest in at least 20 years.

Realised foreign direct investment (FDI) surged by 26.1% to US$ 23.6 billion, nearly half into manufacturing and 17% into mining (the data exclude investment in oil and gas). Investment in inventories also rose sharply.

The services and manufacturing sectors were key drivers from the supply side. Services expanded by 7.7%, contributing more than half of total growth. Telecommunications continued to record double-digit expansion owing to buoyant demand for mobile telephone and internet services.

Growth in manufacturing decelerated to 5.7%, reflecting weaker export markets. Mining output was lacklustre, showing growth of just 1.5%, largely a result of declining crude oil extraction. Oil production fell by 42,000 barrels a day to 860,000 barrels a day last year, the outcome of ageing oil fields and low investment over many years (a decade ago, production was more than 1.1 million barrels a day).

Construction recorded solid expansion of 7.5% in 2012. A good harvest of food crops lifted growth in agriculture to 4.0%. Paddy production rose by 5.5% to 68.9 million tons, which generated rice surpluses estimated at 5.7 million tons.

Merchandise exports fell by 6.3% in US dollar terms, weighed down by sagging demand in major markets and lower prices for export commodities. Exports of manufactured goods declined by 6.7%. Shipments of commodities including coal and palm oil fell when measured by value despite higher export volumes.

Merchandise imports, in contrast, rose by 8.3%, reflecting buoyant fixed investment, which requires imported capital goods, and growth in imported inputs for the expanding manufacturing industries. Imports of consumption goods were virtually flat, discouraged by a depreciating Rupiah.

These developments – lower exports and higher imports – reduced the trade surplus by 76% to US$ 8.4 billion. The current account shifted into deficit, equivalent to 2.8% of GDP, the first deficit since 1997. This put downward pressure on the Rupiah, which depreciated by 8.0% against the US dollar in 2012.

Strong inflows of portfolio investment and FDI produced a substantial surplus in the capital and financial account. Portfolio investment nearly tripled to US$ 9.2 billion in the previous year, and net FDI inflows were a record at $19.9 billion.

Foreign holdings of government bonds jumped by US$ 3.4 billion to US$ 28.0 billion. The balance of payments recorded a small surplus, and gross international reserves had increased by year-end to US$ 112.8 billion, which covered for 6.1 months of imports and government payments on foreign debt.

The good harvest, lower global food prices, and the postponement of increases in government-controlled fuel prices brought down inflation to an average of 4.3% in 2012, the lowest in 12 years. Inflation generally has trended down over recent years, reflecting the adoption of inflation targeting in 2005 and improved management of supply-side price pressures through an official inflation task force. Food prices started to edge up late in 2012

New jobs generated last year exceeded the number of entrants into the labour market. The unemployment rate fell from 6.6% to 6.1% in the 12 months to August 2012, though the rate of underemployment barely changed at 29%. In a positive development, employment in the formal sector rose by 6.4%, or 2.7 million jobs, in this period, mostly in manufacturing and construction. Informal-sector employment fell by 2.3%, or 1.5 million jobs, as workers left agriculture. Poverty declined by 0.7 percentage points to 11.7% in the 12 months to September 2012. Contributing factors were lower food price inflation, higher wages for agricultural and construction workers, and better income for farmers.

In the context of subdued inflation and a sagging global economy, Bank Indonesia lowered its policy interest rate by 25 basis points to 5.75% in February 2012 and reduced its overnight deposit facility rate by 25 basis points to 3.75%. Although the central bank later reversed the cut in the overnight deposit rate to drain excess liquidity, it maintained the policy rate at 5.75%. A requirement since March 2011 that banks disclose base lending rates to the public helped to bring down lending interest rates in 2012. Growth in credit remained high at 23.1%, with loans for investment up by just over 27%.

Fiscal policy was also set to counter the impact of the global slowdown on the domestic economy. The government has raised spending and widened the budget deficit target to 2.2% of GDP in 2012, double the actual deficit in 2011 of 1.1%. As it turned out, shortfalls in government spending held the budget deficit to 1.8% of GDP. Central government debt fell to 24.0% of GDP, maintaining a downward trend. Reflecting the country's better performance over recent years (Tables 4–6), Moody's raised Indonesia's rating to investment grade Baa3 in January 2012, and Fitch reaffirmed its investment grade rating BBB– in November 2012.

Table 4. Indonesia's GDP and GNP per capita, 2012.

Type of expenditure	2012
GDP per capita at current price	
- Value (million Rupiah)	33.3
- Trends (%)	9.58
- Value (US$)	3,562.6
GNP per capita at current price	
- Value (million Rupiah)	32.4
- Trends (%)	9.52
- Value (US$)	3,459.3

Table 5. Share of each area in GDP for 2012.

Area/Island	%
Sumatra	23.77
Java	57.63
Bali and Nusantara	2.51
Kalimantan	9.30
Sulawesi	4.73
Maluku and Papua	2.06
Indonesia	100.00

Table 6. Share of area by sector group (%) for Q4/2012.

	Sector group		
Area	**Primary**	**Secondary**	**Tertiary**
Java	25.80	65.94	66.15
Outside Java	74.20	34.06	33.85
Total	100.00	100.00	100.00

Economic prospects

Economic growth is forecast to pick up to 6.4% in 2013 and 6.6% in 2014, underpinned by robust private consumption, the improving investment performance, and a gradual pickup in world trade. Growth of 6.6%, projected for 2014, would be the highest in 15 years.

Private consumption is expected to quicken in 2013, fuelled by rising employment, a 30% increase in average minimum wages, a 7% rise in public service wages, and a tax break from January 2013, when the government raised the income threshold at which income tax is payable.

With parliamentary elections scheduled for April 2014 and a presidential election in July 2014, election-related spending is likely to contribute to consumption from the second half of 2013. A consumer survey conducted by Bank Indonesia in February 2013 showed an upturn in consumer confidence from a dip late last year.

Investment, both private and public, looks likely to maintain healthy expansion. Support for this projection comes from the upgrades in sovereign credit ratings, lower interest rates, increased budget allocations for infrastructure, and a lengthening record of good GDP growth. A US$ 2.7 billion expansion by auto maker Toyota over the next 4 years is one of several large FDI-funded investments planned. Businesses planned significant increases in investment in the first half of 2013, according to a survey late last year.

Public investment will benefit from a 55% increase in the 2013 budget allocation for infrastructure, even though the outcome will likely fall short of that target because of chronic delays in the execution of budget projects. With this in mind, the government is directing state-owned enterprises to become more involved in building infrastructure and is making concerted efforts to accelerate budget execution.

The government took two other steps last year to overcome obstacles to infrastructure development:

- Issued implementing regulations for the new land acquisition law passed by Parliament in December 2011, which provides more certainty in the resolution of land acquisition for infrastructure
- Established a viability gap fund to support public–private partnerships (PPPs).

In 2013, officials are reviewing investment regulations, including the list of industries currently closed or only partly open to foreign investment.

Exports are projected to improve in light of stronger growth in the PRC and some other markets in 2013. In 2014, the export recovery should gather pace as prospects brighten for growth in major industrial economies. The drag on GDP growth from net exports is expected to moderate. Monthly data indicate that the decline in exports bottomed out in August 2012. Prices for export commodities have firmed. Merchandise exports are forecast to rise by 7% in 2013. Robust investment will keep imports of capital goods relatively high, though imports of consumption goods will probably be curtailed by the Rupiah's depreciation.

The trade surplus is projected to rise and the current account deficit to narrow. Inflows of direct and portfolio investment are seen keeping the balance of payments in surplus. Downward pressure on the Rupiah is expected to abate as the current account deficit shrinks.

Inflation is forecast to average 5.2% in 2013, rising since last year because of a 15% increase in electricity tariffs, the depreciation of the Rupiah, and a boost in minimum wages. Higher food prices lifted inflation to 5.3% in Q1/2013.

Upward pressure from this source should ease as the harvest season gets underway in April. Inflation in 2014 is expected to average 4.7%, taking into account base effects from the pickup in 2013. These forecasts assume that the government does not raise fuel prices in 2013 or 2014. Inflation would be higher if fuel prices were increased to ease the high cost to the budget of fuel subsidies, or if food supplies are disrupted by bad weather.

The government targets a budget deficit this year equivalent to 1.6% of GDP, narrowing slightly from last year's outcome of 1.8%. The budget contains incentives for oil and gas exploration, the production of low-emission motor vehicles, and manufacturing with higher value added, plus the boost in infrastructure spending.

Inflation within Bank Indonesia's target range of 3.5–5.5% suggests that monetary policy will be accommodative to economic growth. If the government were to increase fuel prices, the central bank might need to quickly lift the policy rate to dampen inflationary expectations and bolster market confidence. Nevertheless, bank lending interest rates are likely to stay relatively low this year and stimulate credit growth.

External risks to this outlook involve the global economy and capital inflows. Slower-than-projected growth in major export markets would delay the recovery in exports and hold down GDP growth. The shift of the current account into deficit has made the country more dependent on capital inflows. A sharp slowdown in inflows, or a reversal to outflows, would put pressure on the balance of payments and could disrupt the financing of the budget. The government has taken steps to manage this risk by establishing a bond stabilisation fund and arranging for a US$ 5 billion standby loan from development partners, among other precautionary measures.

Domestic risks involve investment and inflation. It will be important to maintain efforts to improve the investment climate to safeguard the uptrend in fixed investment. An unexpected spike in inflation, perhaps caused by tight food supplies or a large increase in fuel prices, would hurt consumption, investor sentiment and capital inflows.

Capital market

Currently, there are almost 500 companies, of various industries, listed on the Indonesian Stock Exchange (IDX).

Based on the Fact Book 2012 released by IDX, IDX successfully obtained a positive growth in 2011. The 3.20% growth of Jakarta composite index (JCI) was acknowledged as the second best figure in Southeast Asia. The stock market capitalisation reached Rp 3,537.29 trillion, a growth of 8.94% from 2010 (Figure 2).

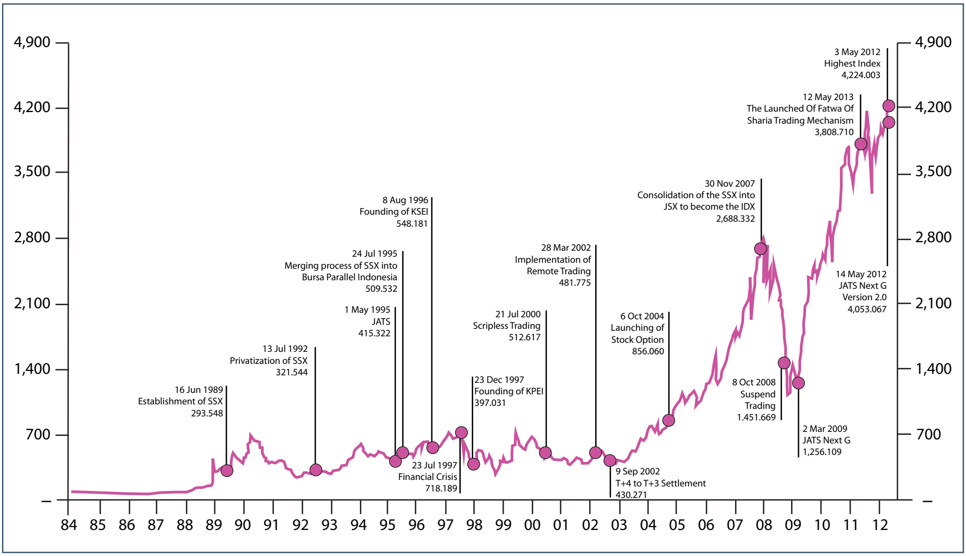


Figure 2. The Jakarta composite index and capital market milestones, 1984 to May 2012.

Why invest in Indonesia?

Improved macroeconomic environment and continued pro-growth policy has increased the attractiveness of Indonesia, among other countries in the region, as a place for investment. In 2012, Indonesia attracted about US$ 22.8 billion of FDI. For 2013, the Indonesian Capital Investment Coordinating Board (BKPM) expects FDI in the country to increase by 23.3%.

The central government's Master Plan for the Acceleration and Expansion of Indonesian Economic Development (MP3EI) for the period 2011–25 is set to facilitate widespread investments of all sizes across the archipelago.

About Rp 4,000 trillion has been earmarked to achieve the desired developments in Indonesia's six designated economic corridors within the MP3EI – most of these are expected to come from the private sector and state-owned enterprises, and a big chunk will go to infrastructure projects to facilitate connectivity within the archipelago.

Indonesia offers various competitive advantages for investors, including:

- Large domestic market and competitive work force arising from its economy and population
- Market-based macroeconomic policy and free foreign currency exchange regime
- Potential outsourcing partners stemming from a large pool of small and medium enterprises throughout the country
- Abundance of diversified natural resources including agriculture, plantations, fisheries, mining, oil and gas
- Strategic location spanning across several vital international sea transportation routes
- A democratically elected government committed to reforming and promoting a climate conducive for investment.

Where to invest in Indonesia?

During Q1/2013, FDI realisation increased by 27.2% as compared to the same period in 2012, with a total of Rp 65.5 trillion investments (Rp 51.5 trillion in 2012). The largest FDI sectors and locations are shown in Tables 7 and 8.

Table 7. The five biggest sectors for FDI realisation.

Sector	Amount (US$)
Mining	1.4 billion
Chemical and pharmaceutical industry	1.2 billion
Metal, machinery and electronic industry	1.0 billion
Transport equipment and other transport industry	0.9 billion
Paper and printing industry	0.6 billion

Table 8. The five biggest locations for FDI realisation.

Location	Amount (US$)
West Java	1.3 billion
Banten	1.1 billion
Papua	0.8 billion
East Java	0.6 billion
Riau	0.6 billion

The BKPM has also offered 17 infrastructure projects with public private ownership (KPS/PPP) scheme worth Rp 106 trillion over the remaining period of 2013. The promotions are conducted in relation to BKPM's role as the front office responsible for promoting PPP-based infrastructure projects.

Legal Structures of Business Organisations

There are various ways under which foreign investors may conduct a business in Indonesia, depending on their needs. Each option has its own advantages and disadvantages and may give rise to different legal and taxation implications as set forth in the details below.

Indonesian Limited Liability Company (PMA)

A company is a legal entity who has a legal identity separate from its shareholders. Thus, shareholders are not personally liable for the obligations of the company unless in bad faith, they directly or indirectly take advantage of the company solely for their personal interest or the relevant shareholders either directly or indirectly unlawfully use company's asset causing the company's assets to be inadequate to settle company's debts. This type of business is a foreign investment company incorporated under Law No. 25 of 2007 on Investment. It may have foreigners as its shareholders so long as it has at least two founders or shareholders, but it has an obligation to invest an unspecified percentage in Indonesia within 15 years.

1. It may have foreigners as directors and commissioners and enjoy certain advantages and protections against expropriation of the investment. However, it has an obligation to regularly report its activities to the BKPM.

All PMA companies in Indonesia must take the form of a limited liability establishment (PT). Other business forms, such as *commanditaire vennootschap* (CV) and *usaha dagang* (UD), are reserved for Indonesians only.

A PMA company can be set up by:

- Establishing a new PT in a joint venture (JV) with other foreign investor(s) (100% foreign owned)
- Establishing a new PT in a JV with Indonesian partner(s)
- Purchasing shares in an existing PT (could be a PMA company, a company established in the framework of the Domestic Investment Law ('PMDN company') or non-PMA company/PMDN company).

Any company with any percentage of foreign shareholding is a PMA company. PMA companies that are 100% foreign-owned are possible in many cases, but some sectors require a proportion of Indonesian shareholding, as determined within the *Negative List of Investment* (*Daftar Negatif Investasi,* DNI).

Incorporation of a PMA company

A key provision in Indonesia's FDI company regime is the DNI, which specifies:

- Business fields (under the government business field classifications) that are closed to investment
- Business fields that are restricted to investment (e.g., reserved for Indonesian SMEs, or strategic state-owned companies)

- Business fields that are open to investment subject to certain conditions, including foreign ownership limitations.

The list thus determines in which fields foreign investors can have 100% ownership of companies, in which fields they are required to partner with Indonesian businesses, and what particular regulations (e.g. compliance with local regulations) should be heeded for other sectors. The DNI was last revised in 2010 and the revised version is planned to be completed by Q3/2013, as stated by the incumbent BKPM chair.

The minimum authorised capital for a PMA company depends on the type of business (e.g., US$ 250,000 for trading company, US$ 2 million for freight forwarding company, etc.) and at least US$ 100,000 or 25% must be issued and paid-up. Higher minimums apply in certain sectors.

In general, there are certain procedures to be accomplished to establish a PMA company under Indonesian law, including (in order of priority):

1. The future shareholder of the PMA company shall make a JV agreement as the underlying document to be made as the deed of establishment. This is subject to the shareholder of the PMA itself, whether it will be 100% ownership by the foreigner or will have an Indonesian partner, subject to the DNI
2. Submission to the BKPM for the approval of such establishment of PMA company
3. Submission to the Ministry of Law and Human Rights for the legalisation of the establishment of PMA company
4. Submission for the registration to the Office of Company's Registration and announcement in the *State Gazette* regarding the established PMA company
5. In line with procedures (3) and (4), submission to any other government agency regarding the licence and permit to be obtained (depending on the nature of the business of the PMA company).

The main documents to be provided by the future shareholders include, but are not limited to, the following:

1. The passport of the future shareholder or the deed of establishment of the company, in the event that the shareholder is a legal entity
2. The JV agreement among the future shareholder (if applicable)
3. The power of attorney to sign the application, in the event that the submission will be performed by a third party
4. Description and explanation of business activity for service sector
5. Agreement with the local partnership (i.e. for vendor agreement).

Representative Office

A representative office can be established depending upon the line of business and the necessary licences issued by the related department of the government. The three most common foreign representative offices allowed to be set up in Indonesia are trading, construction services and regional offices.

The critical limitation of a representative office is that they are not allowed to conduct direct sales and cannot issue bills of lading. Representative offices are set up primarily for marketing, market research, or as buying or selling agents.

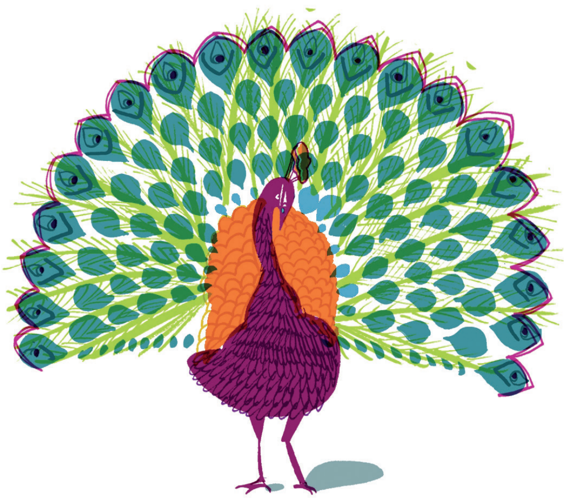
As an exception to these limitations, a construction services representative office is allowed to deliver construction services in Indonesia under a joint operation with an Indonesian construction company.

Branch

Branches of foreign companies are normally not permitted in Indonesia except for banking, construction and oil and gas industries.

Production Sharing Contract (PSC)

The PSC is a business agreement between the government and a foreign company in the oil and gas mining upstream sector (can also be with an Indonesian company) where all revenues will be distributed to the government and the contractor in accordance with the agreement.



Labour and Personnel

The Indonesian Labour Law Act No. 13 of 2013 is the principal legislation that governs the employment relations in Indonesia. This law outlines the principal rules for:

- Establishing an employment relationship
- Employment terms and conditions
- Employment termination.

Hiring

Hiring of employees can be done by either direct hiring or outsourcing. Direct hiring is the type of employment where the work relationship is between the employer and the employee. Outsourcing, on the other hand, is where a third party provides its employees to the company for specific services/roles in the organisation. This type of employment is normally allowed to workers engaged in non-core activities such as security guards and maintenance staff.

Employment agreements

Employment agreements can be made for a definite or an indefinite period of time, either orally or in writing. However, in practice, employment agreements should be made in writing, with an employment agreement made orally only if circumstances do not permit a written contract.

A fixed-term employment agreement must be made in writing, in the Indonesian language, using the Latin alphabet (some Indonesian dialects do not use the Latin alphabet). If an employment agreement is bilingual, the Indonesian version prevails in the event that there are differences in interpretations.

Any written employment agreement (fixed-term or indefinite) must at least state the following:

- Name, address and line of business of the employer
- Name, sex, age and address of the employee
- Position of the employee, or type of work
- Place where the work is to be carried out
- Amount of wages and how they will be paid
- Terms and conditions of employment, stating the rights and obligations of both the employer and the employee
- The effective date of the employment agreement and the period of the employment agreement
- Place and date of the execution of the employment agreement.

It has to be noted that there are no implied terms in employment agreements under the Labour Law or other applicable laws and regulations. In general, there are no official filings when employing people. However, an employer must register the employment contract for employees who work for a definite period.

Remuneration

There is no national minimum wage. Instead, all provinces settle their own minimal wage every year, which varies depending on the industry. The minimum wage is generally set based on the estimated amount required to cover all basic needs. The minimum wage in Jakarta for 2013 is set at Rp 2.2 million (about US$ 228) per month.

The minimum wage is intended to cover employees working a 40-hour week in the formal sector (i.e., any job sector or industry that is recognised, monitored and regulated by the government). The minimum wage requirement only applies to employees (whether working under a definite or indefinite employment contract) whose length of service is less than 1 year.

The two types of minimum wage are as follows:

- Provincial or regency-based minimum wage
- Sectoral-based minimum wage, which is determined by a sector in a province or in regency.

Sectoral-based minimum wages are established by business groups in a district, province or regent throughout Indonesia. This type of wage may not, in any case, be lower than the minimum wage of the respective province or regency.

The minimum wage of regency (*kabupaten*) may not be higher than the minimum wage of the province.

There is some evidence of the increasing role of trade unions in wage bargaining. If the salary is composed of basic wage and fixed allowances, then the amount of the basic wage must not be less than 75% of the total remuneration.

Bonuses

The only recognised bonus under the Labour Law is the *Tunjangan Hari Raya* (THR; Religious Allowance). This is similar to other countries' 13th-month pay, and is paid to workers who have been working for a period of >3 months. Workers who have been working for a consecutive 12-month period are entitled to a minimum THR of 1 month's salary. The THR must be paid no later than 7 days before the Idul-Fitr holiday. In practice, contractual or discretionary bonuses can be provided to employees.

Pension and social security/Jamsostek Programme

Employers who have more than 10 employees or pay a monthly salary of more than Rp 1 million must register with the Jamsostek programme, which provides working accident protection, death insurance, old-age savings and healthcare insurance.

All of the components are mandatory with the exception of healthcare, where the employer can opt to provide additional health insurance on top of the Jamsostek program (social security system).

The program is maintained by a designated state-owned company, PT Jamsostek. Jamsostek contributions are tax deductible. The contribution rates by employers and employees under this programme are shown in Table 9.

Table 9. Jamsostek contribution rates.

Description	Contribution by employers	Contribution by employees
Old age or retirement/pension	3.7%	2%
Death	0.3%	–
Accident	0.24–1.74% (based on sector risk)	–
Medical/health	3% for single employees; maximum of Rp 30,000/month 6% for married employees; maximum of Rp 60,000/month	–

An employee becomes entitled to the pension when they either:

- Reach the age of 55
- Are permanently disabled, as confirmed by a physician.

An employee who resigns from a company before reaching the age of 55 and who has made contributions under the Jamsostek programme for at least 5 years can claim payment of their pension.

Under the Pension Fund Law No. 11 of 1992 (Pension Fund Law), a private sector employer is not required to provide a pension plan to a worker. However, once a pension fund has been established, the employer must maintain it.

There are two main types of pension fund plans covered under the Pension Fund Law:

- Employer's pension fund – a pension fund that is set up and controlled by the employer through a separate legal entity
- Financial institution pension fund – a pension scheme administered through a financial institution.

Approval from the Ministry of Finance is required to establish and maintain both types of pension funds.

Employees of a foreign subsidiary company can participate in a pension scheme established by a parent company in Indonesia. It should be noted that the value of the pension is not linked to the employee's salary, nor to employer/employee contributions, but is determined by the terms of the pension agreement.

There is no regulatory body that oversees the operation of supplementary pension schemes beyond the Director General of Pension Funds (DGPF). The DGPF is a director under the Director General of Financial Institutions (DGFI) who answers directly to the Ministry of Finance.

Prudential supervision of pension funds must be performed by the Ministry of Finance (Pension Fund Law). The Ministry of Finance then delegates daily activities to the DGFI who, in turn, oversees the DGPF. The DGPF oversees and regulates the operation of supplementary pension schemes in Indonesia. Pension taxation requirements are regulated and overseen by the Director General of Tax.

Working hours

An employee can work a maximum of 40 hours per week, allocated in one of the following ways:

- 7 hours per day/6 days per week
- 8 hours per day/5 days per week.

It is prohibited to employ the following employees between 23:00 and 07:00:

- Female employees aged <18 years
- Pregnant employees who, under a doctor's statement, are at risk of damaging their health or harming their own safety or the safety of their unborn child if they work.

In general, employers who require an employee to work outside normal working hours must pay overtime wages unless the employee's position, function or job is that of a 'thinker, planner, implementer or controller' whose working hours cannot be limited to normal working hours. These categories of employee are not paid overtime, but are entitled to a higher basic salary.

Redundancy/layoff pay

The redundancy pay/severance package is calculated on the basis of the employee's:

- Monthly salary
- Period of service
- Allowance and benefits such as leave, and medical and housing entitlements.

Since redundancy/layoff is treated as dismissal without cause, the employee is entitled to two times the severance pay amount (as stated in the Labour Law) plus the standard service appreciation pay and compensation.

Rest breaks

Employees are entitled to at least one half-hour break after 4 hours of continuous work.

Shift workers

Under Indonesian labour legislation, shift workers are those normally employed as blue-collar workers and security guards. The total working hours per day is 8 hours and no more than 40 hours per week.

Holiday entitlement

Minimum holiday

Workers who work a 5-day week have Saturday and Sunday off. Workers who work 6 days a week are entitled to Sunday off. All employees are entitled to at least 12 working days of paid vacation per year after 1 year's uninterrupted service.

Public holidays

Workers are not obliged to work on formal public holidays. Employers who require their employees to work on formal public holidays must pay the concerned employees for overtime work. The Ministry of Manpower, together with the Ministry for Religious Affairs and the Ministry for the Utilization of State's Apparatus, issues a Joint Ministerial Decree every year, stipulating the specific date for each public/national holiday. Most public holidays are religious dates, and as most religious concessions function by a different calendar (such as the lunar cycle), the exact dates vary from year to year. Public holidays are included in the minimum holiday entitlement.

Other employee rights

Redundancy/termination

The labour regulations do not contain provisions on redundancy notification. There is no specific definition of redundancy or layoff in the Indonesian Labour Law. Redundancy or layoff would be treated as dismissal without cause. An employer should provide evidence of grounds for the redundancy, especially if the case is brought to a government institution that handles labour cases.

Employers who wish to dismiss employees must first obtain approval from the Industrial Relations Court. Following this, consultation or discussion with the employee or labour union is required prior to mass or individual dismissal.

Labour union

Workers are given the opportunity to form their own labour union, which can enter into collective bargaining agreements and perform other acts on their behalf. Each labour union must have its own by-laws and manage its own budget.

Other matters

Companies are obliged to submit a Manpower Report annually. This report consists of working conditions such as the minimum/maximum and average wage, number and education level of both local or foreign employees, etc.

Expatriate workers

Indonesian labour laws and regulations do not expressly differentiate between regulations imposed on foreign nationals and regulations imposed on Indonesian nationals.

Generally, foreign nationals can work in Indonesia, provided that the work to be performed cannot be performed by Indonesian nationals. Employment of expatriates is temporary in nature and available only for certain positions such as Director or Technical Advisor. Normally, this requirement is applied leniently and is further subject to additional regulations in a number of industries.

Where a company cannot hire an Indonesian national with the appropriate skills, the company is allowed to employ foreign employees provided that at least two Indonesian nationals are simultaneously employed and trained by the company.

The Indonesian Labour Department has determined that employment of foreign nationals falls under the employment for a definite period category (*Perjanjian Kerja Waktu Tertentu*, or PKWT) because:

- Not all positions in Indonesia can be held by foreign nationals
- In relation to positions that foreign nationals are allowed to hold, they are required to obtain a work permit and other related permits and these permits are only valid for a 1-year period (even though an extension can be applied for upon expiration).

Therefore, not all the provisions of the PKWT apply to foreign employees. For example, the provisions of the PKWT relating to the extension of the contract period that stipulate that the contract can only be extended once do not apply to foreign employees. This is because the foreign nationals' employment is for a specific position and a specified period of time.

Taxation System

General

Indonesian taxation is based on Article 23A of UUD 1945 (1945 Indonesian Constitution), where tax is an enforceable contribution imposed on all Indonesian citizens, foreign nationals and certain residents. Indonesia has a stratification of taxation including income tax, local tax (Pajak Daerah) and central government tax.

Income tax in Indonesia is progressive, calculated by self-assessment.

The relevant eight fundamental tax laws of Indonesia include:

1. General Provisions and Taxation Procedures Law (*Undang-undang Ketentuan Umum dan Tatacara Perpajakan*/UUKUTp): Law No. 6/1983, amended by Law No. 16/2000
2. Income Tax Law (*Undang-undang Pajak Penghasilan*/UU PPh): Law No. 7/1983, amended by Law No. 17/2000; ameded by Law No. 36/2008
3. Value added tax (VAT), termed 'Goods and Services and Sales Tax on Luxury Goods' (*Undang-undang Pajak Pertambahan Nilai atas Barang dan Jasa dan Pajak Penjualan atas Barang Mewah*/UU PPN/PPn BM): Law No. 8/1983, amended by Law No. 18/2000
4. Land Tax and Building Tax (*Undang-undang Pajak Bumi dan Bangunan*/UU PBB): Law No. 12/1985, amended by Law No. 12/1994.
5. Warrant for Tax Collection (*Undang-undang Penagihan Pajak dengan Surat Paksa*/UU PPSP): Law No. 19/1997, amended by Law No. 19/2000
6. Fees for Acquisition of Rights to Lands and Buildings (*Undang-undang Bea Perolehan Hak atas Tanah dan Bangunan*/UU BPHTB) Law No. 21/1997, amended by Law No. 20/2000
7. Tax Court Law (*Undang-undang Pengadilan Pajak*/UU PP): Law No. 14/2002
8. Stamp Duty (*Undang-undang Bea Meterai*/UU BM): in short, Law No. 13/1985.

Statutory bodies

Statutory bodies are defined by Indonesian tax law as groups of persons and/or capital that constitute a unit. These are more clearly defined as such entities undertaking or not undertaking businesses, covering limited liability companies, limited partnership companies, other companies, state or regional administration-owned companies in whatever names and forms, firms, joint companies, cooperatives, pension funds, partnerships, groups, foundations, mass organisations, social and political organisations or organisations of the same type, institutions, permanent establishments and other forms of statutory bodies.

Tax residence of a company

A company is treated as a resident of Indonesia for tax purposes by virtue of having its establishment or its place of management in Indonesia.

A foreign company carrying out business activities through a permanent establishment (PE) in Indonesia generally assumes the same tax obligations as a resident taxpayer.

Tax residence of an individual

An individual is regarded as a tax resident if they are:

- Resident in Indonesia
- Present in Indonesia for >183 days in any 12-month period
- Present in Indonesia during a fiscal year and intending to reside in Indonesia.

Tax period

The Indonesian tax period is defined as 1 calendar month or other periods stipulated by a decision of the Ministry of Finance at a maximum of 3 calendar months (quarters). The tax year shall be the period of 1 calendar year, unless taxpayers use accounting years that are different from the calendar year.

Situs of taxation

All resident taxpayers are taxed on worldwide income. Non-resident taxpayers are taxed only on income earned in Indonesia.

Taxable profit

Taxable business profits are calculated on the basis of normal accounting principles as modified by certain tax adjustments. Generally, a deduction is allowed for all expenditures incurred to obtain, collect, and maintain taxable business profits. A timing difference may arise if an expenditure recorded as an expense for accounting cannot be immediately claimed as a deduction for tax. The allowed and disallowed tax deductions and taxable and non-taxable income are enumerated in Indonesian tax law.

Tax payments of companies

Resident taxpayers and Indonesian PEs of foreign companies have to settle their tax liabilities either by direct payments, third-party withholdings, or a combination of the two. Foreign companies without a PE in Indonesia have to settle their tax liabilities for Indonesian-sourced income through withholding of the tax by the Indonesian party paying the income (i.e., final income tax).

Tax payments of individuals

A substantial part of individual income is collected through withholding by third parties. Employers are required to withhold income tax on a monthly basis from salaries and other compensation payable to their employees.

Fiscal losses

Fiscal losses may be carried forward by companies for a maximum of 5 years, but can be carried forward for a further 5 years upon meeting certain conditions. Carrying back of losses, or offsetting losses within a corporate group, is not permitted.

Related party transactions

Transactions between related parties (transfer pricing) must be dealt with consistently using the arm's-length principle. If the arm's-length principle is not followed, the Directorate General of Taxes (DGT) is authorised to recalculate the taxable income or deductible costs arising from such transactions applying the arm's-length principle. Under Indonesian tax law, the government requires specific transfer pricing documentation to prove the arm's-length nature of related party transactions. The DGT has issued guidance on the implementation of transfer pricing.

Tax assessments and credits

The penalties for tax evasion and avoidance are very strict in Indonesia and can be served via letters, warrants and administrative sanctions. Tax credits for overtaxation or overpayment are withheld until the subsequent year, as payouts are not issued within the same financial year.

Statute limitation

Under the 2008 Tax Administration Law, the DGT can issue an underpaid tax assessment letter for the years up to 2007 only within 10 years after the incurrence of a tax liability, the end of a tax period (month) or the end of (part of) a tax year, but no later than 2013. For the year 2008 onwards, the time span for issuing underpaid tax assessment letters is reduced to 5 years.

Tax objection

A taxpayer who does not agree with a tax assessment letter can submit an objection (*Keberatan*) to the DGT office within 3 months from the letter's issuance date. The objection must state the taxpayer's calculation of tax due and set out the reasons for the disagreement with the DGT tax assessment. The DGT must issue a decision within 12 months from the date of filing the objection; if no decision is issued within 12 months, it will be deemed approved by the DGT.

Tax appeal

A taxpayer who does not accept the objection decision of DGT can file an appeal (*Bandang*) with the Tax Court within 3 months from the receipt of the DGT decision. Before filing an appeal, the taxpayer must settle 50% of the tax assessed to be due. The tax court typically issues a decision to the appeal within 12 months.

Taxation rates

Individual income tax

Income taxation is subject to regional (*propinsi*) government regulations, defined by the economic realities of that particular area.

Most income earned by resident individuals is subject to income tax in the rates shown in Table 10.

Table 10. Income tax rates for Indonesian residents.

Taxable income	Rate	Tax (Rp)
First Rp 50,000,000	5%	2,500,000
Next Rp 200,000,000	15%	30,000,000
Next Rp 250,000,000	25%	62,500,000
Amount over Rp 500,000,000	30%	30% of the relevant amount

Non-resident individuals are subject to a withholding tax of 20% (subject to provisions of treaties) on Indonesia-sourced income.

Resident individual taxpayers without a tax identity number (*Nomor Pokok Wajib Pajak*, or NPWP) are subject to a surcharge of 20% on top of the standard income tax.

Corporate income tax (CIT)

Resident companies are generally taxed at a rate of 25%, for both domestic and international-sourced income. If the total amount of taxes paid in advance during the year (i.e., income tax Articles 22, 23 and 25) and taxes paid abroad (i.e., Article 24) are less than the CIT due, the company concerned has to settle the shortfall before filing its CIT return. Such payment is referred to as income tax Article 29.

Small enterprises (corporate taxpayers with an annual turnover of not more than Rp 50 billion; about US$ 5.8 million) are entitled to a tax discount of 50% off the standard rate, which is imposed proportionally on taxable income of gross turnover up to Rp 4.8 billion or equivalent to US$ 565,000.

Value added tax (VAT)

VAT is typically levied at a rate of 10% at the point of sale of taxable goods and services. This may be increased to 15% or decreased to 5% according to government regulations. VAT is fixed at 0% on export of tangible and intangible goods and services. Export of services is zero-rated, subject to certain limitations.

VAT is computed by applying the VAT rate to the relevant tax base. In most cases, this is the transaction value agreed between the buyer and the seller; however, for certain events or situations, other criteria must be used as a tax base, as enumerated in Indonesian tax law.

By law, all goods and services are taxable, unless otherwise stated in the legal negative list.

Withholding and other income taxes

Indonesian income tax is mainly collected through a system of withholding taxes. Where a particular income item is subject to withholding tax, the payer is generally held responsible for withholding or collecting the tax. These withholding taxes are commonly referred to using the relevant article of Income Tax (PPh) Law, as follows:

1. Article 21 – this pertains to income taxes withheld by the employers from the salaries of their employees (based on the graduated income tax table) and is paid to the State Treasury. This income tax is also applicable to other payments to non-employee individuals (e.g., fees payable to individual consultants or service providers)
2. Article 22 – the typical transactions subject to this withholding tax (which, depending on the transaction, may either constitute a prepayment of corporate/individual income tax liabilities or final income tax) and the corresponding income tax rates and tax base are outlined in Table 11.

Table 11. Typical transactions subject to withholding tax under Article 22 of the Indonesian Income Tax (PPh) Law.

	Transaction	Tax rate (%)	Tax base
1	Importation of goods (except for certain importations) using Importer Identification Number (*Angka Pengenal Impor*, or API);	2.5	Import value (i.e., CIF value plus duties payable)
2	Importation of soybeans, wheat and flour wheat using an API	0.5	Import value
3	Importation of goods without an API	7.5	Import value
4	Auction of imported goods	7.5	Auction price
5	Sale of goods to the government requiring payment from the State Treasury and Proxy of Budget user (*Kuasa Pengguna Anggaran*, or KPA)	1.5	Selling price
6	Purchase of oil fuel by state-owned gas station	0.25	Selling price
7	Purchase of oil fuel by private gas stations and non-gas stations	0.3	Selling price
8	Purchase of gas fuel	0.3	Selling price
9	Purchase of lubricants	0.3	Selling price
10	Purchase of steel products	0.3	Selling price
11	Purchase of automotive products	0.45	Selling price
12	Purchase of paper products	0.1	Selling price
13	Purchase of cement	0.25	Selling price
14	Purchase of materials by appointed manufacturers or exporters in forestry, plantation, agriculture and fishery from wholesalers	0.25	Selling price
15	Purchase of very luxurious goods	5	Selling price

Article 22 does not apply, either automatically or when given an exemption certificate issued by the DGT, to the following types of import:

- Goods exempted from import duties and VAT
- Goods that have been temporarily imported (i.e., goods for re-export)
- Goods for re-importing (i.e., to be repaired or tested for subsequent exporting).

Taxpayers without an NPWP will be subjected to a surcharge of 100% on top of the standard tax rate.

The transactions enumerated in Table 11 are subject to conditions and limitations as set forth in Indonesian taxation law.

3. Article 23 – certain types of income paid or payable to resident taxpayers are subject to this income tax article at either 15% or 2% of gross amounts, as shown in Table 12.

Table 12. Transactions subject to 2% or 15% tax under Article 23 of the Indonesian Income Tax (PPh) Law.

	Transactions subject to 15% tax
1	Dividends (see table 15 for taxes on dividends)
2	Interest, including premiums, discounts and loan guarantee fees
3	Royalties
4	Prizes and awards

	Transactions subject to 2% tax
1	Rental of assets other than land and buildings
2	Various services, including:
	management
	consulting
	appraisal
	actuarial
	accounting
	design
	drilling for oil and gas mining except for those performed by a PE
	mining, other than oil and gas support
	flight and airport support
	forest felling
	waste processing
	labour supply/outsourcing
	custodianship and storage services except for those performed by stock exchanges, KSEI and KPEI

(Cont... Transactions subject to 2% tax)

	sound dubbing
	film mixing
	computer and software related
	installation (e.g., electricity, machinery, telephone, etc.), except those rendered by licensed construction companies
	toll manufacturing
	investigation and security
	event organisation
	packaging
	pest control
	cleaning
	catering
3	Provision of space and/or time for the dissemination of information

4. Article 24 – this pertains to creditable taxes paid or accrued on income earned outside Indonesia.

5. Article 25 – this pertains to monthly tax instalments of companies which constitute the first part of tax payments to be made by the resident tax payers and Indonesian PEs as a prepayment of their current year corporate income tax liability. Special instalment calculations apply for new taxpayers, finance lease companies, banks and state-owned companies.

6. Article 26 – resident taxpayers, organisations and representatives of foreign companies are required to withhold tax at a rate of 20% from the following payments to non-residents (subject to provisions of tax treaties):

a. On gross amounts:

- Dividends
- Interest, including premiums, discounts (interest), swap premiums and guarantee fees
- Royalties, rentals and prepayments for the use of assets
- Fees for services, work and activities
- Prizes and awards
- Pensions and any other periodic payments
- After-tax profits of a branch or PE.

b. On estimated net income (ENI), being a specified percentage of gross amount (Table 13).

Table 13. Tax on estimated net income under Article 26 of the Indonesian Income Tax (PPh) Law.

Description	ENI (%)	Effective tax rate (%)
Insurance premiums paid to non-resident insurance companies by:		
• the insured	50	10
• Indonesian insurance companies	10	2
• Indonesian reinsurance companies	5	1
Sale of non-listed Indonesian company shares by non-residents	25	5
Sale by non-residents of a conduit company where this company serves as an intermediary for the holding of an Indonesian company shares or a PE	25	5

7. Article 4(2) – resident companies, PEs, representatives of foreign companies, organisations and appointed individuals are required to withhold final income tax from certain gross payments to resident taxpayers and PEs (subject to certain conditions) – see Table 14.

Table 14. Final income tax withheld from gross payments under Article 4(2) of the Indonesian Income Tax (PPh) Law

Description	Final income tax rate (%)
Rentals of land and buildings	10
Proceeds from transfers of land and building rights	5
Fees for construction work performance	2/3/4
Fees for construction work planning	4/6
Fees for construction work supervision	4/6
Interest on time or saving deposits and on Bank Indonesia Certificates (SBIs) other than that payable to banks operating in Indonesia and to government-approved pension funds	20
Interest on bonds other than that payable to banks operating in Indonesia and to government-approved pension funds	15
Sale of exchange-traded shares on the Indonesian stock exchange	0.1
Income from lottery prizes	25
Forward contract derivatives	2.5

Taxes on dividends

Subject to provisions of tax treaties for payments to non-residents, withholding tax is levied on dividend payments to corporations and individuals, both resident and non-resident (see Table 15).

Table 15. Withholding tax is levied on dividend payments to corporations and individuals under Article 23 of the Indonesian Income Tax (PPh) Law.

	Dividends	
Description	**Portfolio** **%**	**Substantial holdings*** **%**
Resident corporations	15	Nil
Resident individuals	10	10
Non-resident corporations and individuals	20	20

*The payee owns ≥25% of the paid-in capital of the company.

Land and building tax

Land tax and tax for buildings constructed there upon (*Pajak Bumi dan Bangunan*, or PBB) must be paid annually, or may be paid via arrangement in 10-year blocks by Indonesian land title deed-holders, pursuant to relevant criteria for exclusions as set forth in Indonesian tax law. Land-holding businesses must also pay this type of tax.

The PBB rate is specified at 0.5%. The actual tax due on a particular object is calculated by applying the tax rate to the taxable sales value (*Nilai Jual Kena Pajak*, or NJKP) of the object. NJKP is a predetermined proportion of the sales value of the tax object (*Nilai Jual Objek Pajak*, or NJOP) of a particular land and building. NJKP is currently stipulated to be either 20% (for NJOP up to Rp 1 billion) or 40% (for NJOP above Rp 1 billion). The government can increase the NJKP rate by up to 100% of the NJOP. As a result, the effective PBB tax at present is either 0.1% or 0.2% of the NJOP.

Luxury goods sales tax (LST)

In addition to VAT, deliveries or imports of certain manufactured taxable goods may be subject to LST. A particular item may only attract LST once – that is, tax will be charged either upon importation of the goods or upon delivery by the resident manufacturer to another party. The rate for this type of tax ranges from 10% to 75%.

Deemed profit margins

Certain businesses (see Table 16) have deemed profit margins for tax purposes.

Table 16. Profit margins of various business for tax purposes.

Business	Deemed profit on gross revenue (%)	Effective income tax rate (%)
Domestic shipping operations	4	1.2*
Domestic airlines	6	1.80*
Foreign shipping and airline operations	6	2.64*
Foreign and gas drilling operations	15	3.75†
Certain Ministry of Trade representative offices	1% of export value	0.25%†

*The effective income tax rate (EITR) is calculated using the old tax rate of 30% because the Ministry of Finance has not revised the decrees regulating the deemed profit margins.

†The EITR is calculated using the current tax rate of 25%, while a branch profit tax rate varies according to availability of a reduced rate based on tax treaties.

Special industries and activities

Companies engaged in upstream oil and gas and geothermal industries typically have to calculate CIT in accordance with their PSCs. Certain companies engaged in metal, mineral and coal mining are governed by a contract of work (COW) for the CIT calculation. Different provisions may apply to them pertaining to corporate tax rates, deductible expenses and how to calculate taxable income. Such contractual-based concessions are no longer available to new mining projects since the enactment of the Mining Law in 2009. This law stipulates that general prevailing tax laws/regulations apply to mining projects, and hence any tax facilities should be provided accordingly, except as otherwise stated in a particular mining licence.

Stamp duty

Stamp duty is nominal and payable as a fixed amount of either Rp 6,000 or Rp 3,000 on certain documents.

Import duty

Import duties in Indonesia vary between 0% and 150%. Customs value is calculated on cost, insurance and freight level.

Tax treaties

Indonesia's tax treaties provide for tax benefits in the form of withholding tax exemptions for service fees and for reduced withholding tax rates on dividends, royalties, interest, and branch profits received by residents of a country with which Indonesia has signed a tax treaty (Table 17). Tax exemption on the service fees is typically granted only if the foreign party earning the income does not have a PE in Indonesia.

For interest, dividends and royalties, usually only the beneficial owner is acknowledged as the party entitled to the tax treaty benefits. The beneficial ownership requirement is only applied to foreign taxpayers' income if the relevant tax treaty refers to beneficial ownership. In order to be a 'beneficial owner', various criteria must be met, as set forth in Indonesian tax law.

Table 17. Withholding tax rates applicable to countries with which Indonesia has tax treaties.

Taxable item	Tax rate (%)
Dividends – portfolio	7/10/12/15/20
Dividends – substantial holdings	5/7/10/12/12.5/15
Interest	0/5/10/12/12.5/15
Royalties	5/10/12/12.5/15/20
Branch profit tax	0/5/7/10/12/12.5/15/20

Certain activities may give rise to the creation of a PE if they are conducted in Indonesia for more than a certain period of time as specified in the tax treaties.

Banking and Finance

Banks

Bank Indonesia is the central bank and the currency in Indonesia is the Indonesian Rupiah (Rp).

Indonesian banks serve as a financial intermediary that takes deposits from surplus units and channels financing to deficit units. Indonesian banking law typically classifies banking institutions into commercial and rural banks. Commercial banks differ from rural banks in the sense that the latter are not directly involved in payment systems and have a restricted operational area. Banks in Indonesia operate according to syariah (Islamic) and/or non syariah (commercial) principles. There are 120 commercial banks in Indonesia (four state banks and 116 private), and about 1,837 rural banks (154 of which are Islamic).

Throughout Jakarta, foreign and local banks offer a full range of banking services. Many offer both Rupiah and foreign currency (usually US$) savings and checking accounts, term deposits, as well as credit and debit card accounts and foreign exchange services. Safe deposit boxes are also available in some banks.

Indonesia's main financial centres are located at Jakarta, Semarang, Bandung and Surabaya (on the main island of Java), Medan, Palembang (on the island of Sumatera), Denpasar (Bali) and Makassar (in Sulawesi). Singapore functions as Indonesia's offshore banking centre.

Financing

Local financing is also available through bank loans or the capital markets. Such companies used to introduce capital from foreign sources by using a commercial bank to exchange foreign currency for Rupiah.

A company may also raise funds by selling shares to local and foreign investors through IDX. Foreign exchange controls do not currently exist in Indonesia. However, transfers of funds exceeding US$ 10,000 (or its equivalent) from and within Indonesia should be reported to the Central Bank. Finance companies are governed by the Ministry of Finance.

Insurance companies

The Indonesian insurance industry has seen continued growth in recent years. Partly because of the long-term characteristics of life insurance products, this segment of the industry has grown faster than general insurance or re-insurance. However, the industry penetration is low, with only 7.84% of GDP (the total for financial, ownership and business services industry) at the end of 2012. This suggests that there are significant growth opportunities for the industry.

Opening a corporate bank account

Normally a company should open an Indonesian bank account after its incorporation, for use in its day-to-day business. Registering a corporate account normally takes about 2 working days. Each bank has different requirements for opening an account, and the minimum balance and charges vary. Typical documents required to set up a corporate account after company registration are:

- Copy of PT tax card (NPWP)
- Copy of PT domicile letter
- Copy of BKPM investment registration letter (SIUP)
- Copy of deed of establishment (AKTA)
- Copy of ID card of all board of directors, shareholders, and authorised signers
- Copy of company registration letter (TDP)
- Copy of PT deed of establishment's approval from Ministry of Law and Human Rights (*Pengesahan, KEPMENHUMHAM*)

If the company is not yet registered, the following documents are usually required to set up a corporate account:

- Copy of PT tax card (NPWP)
- Copy of PT domicile letter
- Copy of BKPM investment registration Letter (SIUP)
- Copy of deed of establishment (AKTA)
- Copy of ID card of all board of directors, shareholders, and authorised signers
- Letter of attorney from all shareholders, board of directors and all commissioners to all authorised signatories; all documents for opening the bank account should be signed on each page by shareholders, board of directors and commissioner
- Cover note from notary mentioning that the approval of the company deed of establishment is still in progress at the Ministry of Law and Human Rights.

Once available, the following documents should also be submitted within 1 month after the bank account application:

- PT deed of establishment's approval from Ministry of Law and Human Rights (KEPMENHUMHAM)
- BKPM investment registration letter (SIUP)
- Copy of company registration letter (TDP).

Statutory and Reporting Requirements

Books of accounts and statutory records

Indonesian law requires business enterprises to maintain books and records in such a manner that their financial position may be determined at any time. The Commercial Code requires that books and records be preserved for 30 years; tax law requires that records be kept for 10 years.

Companies generally must maintain their books in Rupiah and in Indonesian. The records must be kept in Indonesia. The tax year must coincide with the book year, which may be the calendar year or any 12-month period ending on a specified date, but consistency must be maintained. However, based on specific DGT approval, foreign-owned Indonesian companies and PEs can maintain their books in US$ and in English. An approval application must be filed with the DGT no less than 3 months before the commencement of the US$ accounting year. The DGT must issue a decision on the application within 1 month. If no decision is made within 1 month, the application is considered approved.

Financial statements

Businesses are required to maintain accounting records and prepare annual financial statements in accordance with the Indonesian Financial Accounting Standards (SAK), which are generally adopted from International Financial Reporting Standards (IFRS) as issued by the International Accounting Standard Board (IASB).

The financial statements of publicly listed companies are also prepared in accordance with the Regulations of Capital Market and Supervisory Board and Financial Institution (*Bapepam-LK*) No. VIII.G.7 (Revised 2012).

Financial institutions

On 18 October 2012, Bank Indonesia issued Regulation No. 14/14/PBI/2012 regarding Bank Transparency and Report Publication. Generally, this regulation requires a bank to issue financial reports as outlined in Table 18.

Table 18. Financial reports required from Indonesian banks under Regulation No. 14/14/PBI/2012 regarding Bank Transparency and Report Publication.

Table 18

Report Type	Requirements	Due date/other details
Annual report	a. Other than to shareholders, must be submitted to at least: • Bank Indonesia • Indonesia Consumer Agency Foundation (*Yayasan Lembaga Konsumen Indonesia*, or YLKI) • Rating agencies in Indonesia • Banking associations in Indonesia • Indonesia Banking Development Agency (*Lembaga Pengembangan Perbankan Indonesi*a, or LPPI) • Two research agencies in the field of economy and finance • Two economy and finance magazines.	a. Not later than 5 months after the end of the fiscal year
	b. Publication of annual report on the bank's website	b. 1 working day as of the date of the above-mentioned submission. This must be maintained for at least two respective periods of reporting
Quarterly financial report	a. Publication at the end of each March, June, September and December Bank Indonesia can require a bank to also publish: • financial reports for periods other than the above; and/or • other information as determined by Bank Indonesia	a. Must be signed by at least two directors of the bank; for the end of December quarterly report, the name of the public accountant office that audited the annual financial report, as well as the name of the accountant responsible for the audit and the opinion provided, must be indicated
	b. Publication in at least in an Indonesian language daily newspaper that has a wide circulation at the domicile of the bank	b. 15th day of the second month after the end of the reporting month, for the end of March, June and September reports; and 15 April of the following year, for the end of December report. Bank Indonesia will announce the quarterly published financial reports submitted by banks on Bank Indonesia's website
	c. Publication on the bank's website	c. 1 working day as of the date of publication of the quarterly financial report in the newspaper. This must be maintained for at least two respective periods of reporting

Report Type	Requirements	Due date/other details
Monthly financial reporting	Publication of the monthly financial report	Must be prepared based on the data of the Commercial Bank Monthly Report (*Laporan Bulanan Bank Umum*, or LBU) which has been reclassified by Bank Indonesia based on the Standard Financial Accounting Statement (*Pernyataan Standar Akuntansi Keuangan*) and Bank Indonesia's rules. Prior to the publication, Bank Indonesia will send online the reclassified LBU to the Bank through the Headquarters Commercial Bank Monthly Report for examination of the accuracy and for necessary adjustment and information addition for the purpose of the monthly publication
Consolidated financial report	A bank that has a subsidiary or which is a part of a business group must present its consolidated financial report in its annual and quarterly financial reports	A bank's temporary share participations which cause it to become a controlling shareholder are exempted from the consolidated financial report
Other reports	• Report on the credit base interest rate (*Suku Bunga Dasar Kredit*, or SBDK) • Other reports as requested by Bank Indonesia The SBDK must be published in a newspaper having a wide circulation	7 working days after the end of March, June, September and December, at the latest

Sanctions for non-compliance with these regulatory requirements range from monetary sanctions and announcement of the names of the non-complying bank to written warnings, administrative sanctions and downgrading of the bank's health rating.

For financial institutions other than banks, the Ministry of Finance Decree No. 424/KMK.06/2003 requires insurance companies to submit quarterly and annual financial statements to Bapepam-LK. In addition, Ministry of Finance Decree No. 509/Kmk.06/2002 requires pension funds to submit semi-annual and annual financial statements.

Publicly listed companies

The annual financial statements of all publicly listed companies must be audited and filed with Bapepam-LK within 90 days of the calendar year end. Half-yearly financial statements must also be filed with Bapepam-LK within 30, 60, or 90 days if unaudited, reviewed, or audited, respectively. Listed companies are also required to publish their annual audited statement of financial position and statement of comprehensive income in at least two Indonesian newspapers, one of which has nationwide circulation, within 90 days of the statement of financial position date.

The half-yearly financial statements are required to be published in at least one nationally circulated newspaper. The IDX also publishes the full financial statements of all listed companies on its website.

Listed companies are also required to submit their annual reports to Bapepam-LK within 4 months of the statement of financial position date, as well as special notices to inform of particular events. They are also required to report any related party transaction within 2 business days of the transaction and to ask independent shareholders through general meetings for approval in cases of potential conflicts of interest relating to certain transactions.

Audit requirements

Statutory audit by a qualified auditor is mandatory for the following types of entity, which are required to submit their annual financial statements to the Ministry of Trade:

- Publicly listed companies
- Companies involved in accumulating funds from the public (such as banks and insurance companies)
- Companies issuing debt instruments
- Companies with assets of Rp 25 billion or more
- Bank debtors whose financial statements are required by the bank to be audited
- Certain types of foreign entities engaged in business in Indonesia that are authorised to enter into agreements
- Certain types of state-owned enterprises.

Audits are conducted based on auditing standards promulgated by the Indonesian Institute of Certified Public Accountants (IICPA).

To be able to issue an audit report on a set of financial statements, a public accountant must have professional certification, obtain a licence to practice from the Ministry of Finance, and become a member of the IICPA. The Ministry of Finance oversees the auditing profession in Indonesia. Bapepam-LK, part of the Ministry of Finance, also performs the oversight function of auditors that audit public companies.

The Indonesian Auditing Standards require auditors to maintain their independence and to avoid potential conflicts of interests in delivering their professional services to audit clients. In addition, auditors should observe and comply with the relevant independence rules issued by the regulator bodies (Ministry of Finance), including independence rules issued by Bapepam-LK for auditors of publicly listed clients. The Ministry of Finance also requires rotation of firms that have provided audit services for 6 consecutive years, if there have been no significant changes in the composition of partners in the firm.

Tax payments and tax return filing

Tax payments for a particular period or year are typically paid to the State Treasury through a designated tax-payment bank (a Bank Persepsi) and then accounted for to the DGT office through the filing of the relevant tax returns. The tax payments and tax return filing for a particular tax must be undertaken monthly or annually, or both monthly and annually, depending on the tax obligation in question; see Tables 19 and 20.

Table 19. Summary of monthly tax obligations.

Type of tax	Deadline for payment	Deadline for tax return filing
Income Tax Article 21/26	10th day of the following month	20th day of the following month
Income Tax Article 23/26	10th day of the following month	20th day of the following month
Income Tax Article 25	15th day of the following month	20th day of the following month
Income Tax Article 22 – Tax Collector	10th day of the following month	20th day of the following month
Income Tax Article 4(2)	10th day of the following month	20th day of the following month
VAT and LST – Taxable Enterprise and VAT Collector	Prior to deadline for tax return filing	End of the following month

Table 20. Summary of annual tax obligations.

Type of tax	Deadline for payment	Deadline for tax return filing
Corporate Income Tax (Income Tax Article 29)	End of 4th month after book year end and before filing tax return	End of 4th month after book year end
Individual Income Tax	End of 3rd month after year end and before filing tax return	End of 3rd month after year end
PBB	6 months after receipt of Tax Due Notification Letter (SPPT) from DGT	N/A

If the deadline for payment and reporting/filing coincides with holidays including Saturday or public holidays, the payment and filing should be done on the next working day.

Penalties for late filing of a tax return or failure to file a tax return, or for late payments, are shown in Tables 21 and 22.

Table 21. Administrative penalties for late filing of a tax return or failure to file a tax return.

Type of tax return	Amount (Rp)
VAT return	500,000
Other monthly tax returns	100,000
Individual income tax return	100,000
Corporate income tax return	1,000,000

Table 22. Administrative penalties for late payments, and other tax penalties.

Description	Penalty
Late payment of tax liabilities	2% interest per month, computed from due date of the tax liability up to the date of payment
Incorrect tax returns – taxpayer voluntarily discloses the error after the tax audit but before the conduct of tax investigation	150% of the underpaid tax liability
Incorrect tax returns – taxpayer voluntarily discloses the error before a notice of tax assessment is issued	50% of the underpaid tax liability
Notice of underpaid tax assessment	The administrative penalty shall be increased by: - 2% interest per month for a maximum of 24 months based on the underpaid tax - 50% of any income tax unpaid or underpaid in a taxable year - 100% of any income tax which has not been withheld or is under-withheld or collected but not remitted or under-remitted - 100% of any unpaid or underpaid VAT for goods and services and LST - 200% of the underpaid tax if the taxpayer committed negligence for conveying untrue content or incomplete in the tax return for the first time that results in losses of state income through underpaid tax assessment
Tax collection notice	- 2% interest per month, computed from the due date of the tax liability up to the issuance of tax collection notice of the underpaid tax - 2% of the tax base for non-compliance with the VAT Law of 1984 and its amendments
Rejection or partial approval of a tax objection	50% of the amount of taxes based on the decision on objection less the amount of taxes already paid before filing the objection of the taxpayer is rejected or partially approved
Rejection or partial approval of a tax appeal	100% penalty of the amount of taxes based on the decision of the appeal less the amount of taxes already paid before filing the objection if the appeal of the taxpayer is rejected or partially approved

Corporate income tax return

Taxpayers may extend the filing deadline for a maximum of 2 months by submitting a written notification to the DGT before the deadline, attaching a tentative tax calculation. Tax payments must be made before filing the return or before filing the notification for extension based on the tentative tax calculation.

VAT reporting

Taxpayers are required to report their business activities and settle the related VAT liabilities on a monthly basis. VAT is usually accounted for on a decentralised basis (i.e., branches located in different tax districts have different tax registrations and reporting; and internal deliveries of taxable goods within the company are subject to VAT), except for those registered in certain tax service offices, which are required to have centralised VAT reporting and those which are not registered in any of those tax service offices but have the approval of the DGT to centralise their VAT reporting.

VAT liabilities are typically settled using the input/output mechanism (i.e., input from the perspective of the buyer and output from the perspective of the seller). Any accumulated net output VAT for a particular month has to be settled in the tax office the following month. Any accumulated net input VAT for a particular month can be carried over to the following months or claimed as a yearly refund at the end of the tax period, subject to DGT approval. Monthly refunds are possible for certain taxpayers. If no decision has been made within 12 months from the date of receipt of a complete application for VAT refund, it is considered to have been approved.

Import restrictions

Companies importing goods into Indonesia must obtain an importer identification number from the Ministry of Trade or the Investment Coordinating Board. In addition, importers of certain types of products (including textiles, shoes and electronic goods) must possess a special import licence from the Ministry of Trade.

To protect domestic industry from certain imported goods, the government imposes import restrictions on certain products including alcoholic drinks, ammunition, and hazardous waste.

Customs issues may create a serious compliance obligation. Non-compliance may lead to significant additional exposure to administrative penalties, which can be up to 500%.

Restrictions on land ownership

- Indonesian land legislation does not really recognise the concept of freehold land rights. Various rights attached to the land are divided into separate elements and areas subject to separate titles. The ownership of land in Indonesia is limited by the Constitution Act, 1945 and principally regulated by the Basic Agrarian Law No. 5/1960, which recognises several types of land rights. Right of ownership (*Hak Milik*) can be inherited, and can be held only by Indonesian citizens. For companies (including a PMA company), the following are the three main land rights that can be acquired:

- Right of exploitation (*Hak Guna Usaha*) – This pertains to the right to cultivate state-owned land for agriculture and plantation purposes. The duration of the licence is for a maximum of 25 years, renewable for another 35 years, and should be registered at the Land Register at the National Land Agency (*Badan Pertanahan National*, or BPN)
- Right of use of building (*Hak Guna Bangunan*) – This pertains to the right to construct and own buildings. This right is usually granted for 20 or 30 years, and may be renewed at the discretion of the local government
- Right of use (*Hak Pakai*) – Foreign investors who have obtained mining rights from the Ministry of Energy and Mineral Resources or the Ministry of Forestry have automatically obtained the right to use the land within their concession boundaries for purposes directly connected with the operations of the companies.

Restrictions on commissioners and directors

Indonesian Company Law No. 40/2007 (Company Law) outlines the requirements, constraints and conditions in relation to company directors. The law is silent on any age restrictions imposed on company directors. Article 93 provides that the director must simply be 'capable of performing legal actions'. Therefore, the individual must have mental capacity to perform legal decision-making actions and have reached the age of majority (usually, age 21 years).

The Company Law also explicitly states that company directors and commissioners cannot hold a position in a company if, within the 5 years preceding their appointment:

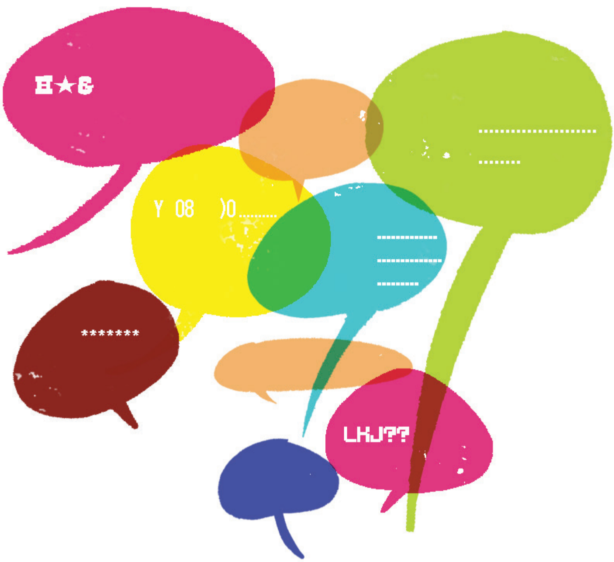
- They have been declared bankrupt
- They have been members of a board of directors or a board of commissioners of a company and were declared to be at fault in causing that company to be declared bankrupt
- They have been sentenced for crimes causing losses to the state and/or related to the finance sector.

In addition, the authorised technical agencies are entitled to determine additional requirements under the applicable legislative regulations. The members of a board of directors must be appointed by a general meeting of shareholders (GMS). A company's articles of association can also provide certain additional requirements and procedures for the election of these officers.

Foreign investor involvement in the capital market

On 11 September 1997, the Ministry of Finance of the Republic of Indonesia published Decision Letter No. 467/KMK.010/1997 and the BAPEPAM's Letter No. S-2138/PM/1997 stating that there is no more buying limitation on the listed stocks in the JSX (name of IDX at that time) for foreign investors, except for banks' stocks, which allows the maximum of 49% of the paid-in capital. In May 1999, the Indonesian government released Regulation No. 29/1999 on the Buying of the Shares of Commercial Banks, which regulates the portion of ownership of foreign investors as follows:

- Ownership of shares of banks by foreign investors and/or foreign institutions through direct placement or through the Stock Exchange is allowed for a maximum of 99% of the total shares
- The purchase of shares by foreign investors or foreign institutions through the IDX can reach 100% of the total shares listed on the IDX
- Banks can list their shares in the IDX to a maximum of 99% of the total shares
- At least 1% of the banks' shares, which are not listed in the IDX, must still be owned by an Indonesian citizen or by an Indonesian company.



Incentives for Investments and Grants

Special economic zones (SEZ)

SEZ is a certain zone or area in the jurisdiction of the Republic of Indonesia. Its function is to carry out and develop business in the fields of trade, services, industry, mining and energy, transportation, fisheries and maritime, post and telecommunications, tourism and other sectors. Accordingly, SEZ consists of one or more zones, such as export processing, logistics, industry, technology development, tourism, and energy that can be devoted to export and/or local activities.

Incentives that can be granted in a SEZ vary (see Table 23) but are generally designed to improve the competitiveness of SEZ and attract further investment in the designated area or business sector.

Table 23. SEZ incentives

Type	Facilities
Tax	• Corporate income tax facilities in accordance with the prevailing regulations • Tax incentives in the form of lower land and building tax for a certain period
Customs and importation	• Import duty deferment • Excise exemption for raw and supporting materials for production • Non-collection of value added tax and luxury goods tax • Non-collection of corporate income tax on importation
Delivery of taxable goods to SEZ from other Indonesian customs area	• Non-collection of VAT and luxury goods tax in accordance with the prevailing regulations
Regional tax and/or retribution	Exemption or reduction of regional tax and/or retribution
Land	Ease of obtaining land rights
Licences/permits	Easiness to obtain licences/permits and expatriate employment
Requirement of foreign shareholding	Does not apply except for certain businesses; reserved for cooperative or micro/small/medium-scale companies

Tax incentives

The DGT, on behalf of the Ministry of Finance and based on the recommendation of the BKPM chair, may provide the following tax concessions to Indonesian PT companies following their investment in certain designated business areas or in certain designated regions:

- A reduction in net income of up to 30% of the amount invested (generally the amount spent on assets), prorated at 5% for 6 years, and provided the assets are not transferred out within 6 years
- Acceleration of fiscal depreciation deductions
- Extension of tax losses carry forwards for up to 10 years
- A reduction of the withholding tax rate on dividends paid to non-residents to 10%.

As of 2012 (for new investments), the tax facilities can only be utilised after the taxpayer has realised ≥80% of its investment plan.

Recommendation from the BKPM chair must firstly be obtained, together with approval of the investment application, before DGT approval of the tax facilities can be sought.

The same tax incentives can also be granted by the DGT to companies conducting business in an Integrated Economic Development Zone (*Kawasan Pengembangan Ekonomi Terpadu*, or KAPET). Specific approval must be obtained from the DGT for these tax facilities. If the company has bonded zone (*Kawasan Berikat*, or KB) status, the tax facilities will also include those typically enjoyed by a KB company, such as:

- Non-collection of VAT and sales tax on certain luxury goods transactions
- Exemption from prepaid income tax (Article 22) on the importation of capital goods and other equipment directly related to production activities
- Postponement of import duty on capital goods and equipment and goods and materials for processing
- Exemption from import duty for 4 years on machinery and certain spare parts.

There are other tax incentives, such as tax-neutral mergers for qualifying transactions and exemption from income tax for venture capital companies, provided certain conditions are met; and exemption from branch profit tax for PEs that reinvest their after-tax profits in Indonesia within the same year or in the following year.

Tax holiday

New corporate taxpayers in certain pioneer industries may enjoy CIT exemption for a period of 5–10 years from the start of commercial production. After the end of the CIT exemption, the company will receive a 50% CIT reduction for 2 years. To be eligible for this, taxpayers should:

- Be newly incorporated in Indonesia (not earlier than 14 August 2010)
- Have a legalised new capital investment plan of at least Rp 1 trillion
- Deposit a minimum of 10% of their planned investment value in banks located in Indonesia; this should not be withdrawn prior to realisation of the investment plan.

An application for the tax holiday must be submitted to the Ministry of Industry or to the BKPM chair. A Ministry of Finance proposal will be made by the Ministry of Industry or the BKPM chair after carrying out research on the applicant. Tax holiday proposals may be submitted to the Ministry of Finance only until 15 August 2014.

Incentives for publicly listed companies

A 5% corporate tax reduction can be granted to public companies that satisfy the following requirements:

1. At least 40% of their paid-in shares are publicly owned
2. The public company should consist of at least 300 individuals, each holding <5% of the paid-in shares
3. The two above mentioned conditions are maintained for ≥6 months (183 days) in a taxable year.

If in a particular year either or both of the conditions are not met, the facility is not applicable for that year.

Import duty

To promote investment and international trading, various customs facilities are available, including:

Association of Southeast Nations (ASEAN) duty rates

Limited relief is given to ASEAN countries on importation of goods that have ≥40% ASEAN content and have been directly shipped between such countries. The Indonesian government has been implementing this ASEAN Trade in Goods Agreement since 1 January 2010.

Free Trade Area (FTA) agreement duty rates

Indonesia has implemented the following FTA duty rates with various Asian countries:

1. ASEAN – China FTA
2. ASEAN – Korea FTA
3. ASEAN – India FTA
4. Indonesia – Japan Economic Partnership Agreement.

Duty relief/exemption/deferral

The Indonesian government offers duty relief, exemption and deferral concessions to foreign and domestic investors in order to promote the development of local and export industries, including:

- BKPM master list facility – This provides duty exemption for eligible machinery and raw materials
- Bonded zone (*Kawasan Berikat,* or KB) – This is a facility for encouraging exports by exempting imported capital equipment and raw materials from import duty and other import taxes (VAT, LST and Income Tax Article 22) provided that the finished goods are mainly for export. The domestic sales quota is only 25% of the previous year export realisation value and/or sales value to other bonded zones
- Bonded warehouse – The bonded warehouse concession allows for the payment of import duty and import taxes to be deferred until the goods have been delivered to the domestic market, on condition that the goods support the manufacturing industry.

Import duty exemption

Import duty exemption facility allows for most raw materials to be imported without payment of import duty, provided the finished products are exported.

Import duty drawback

Import duty drawback facility allows for the recovery of import duty paid on imported raw materials that are incorporated into finished products that are subsequently exported.

Free trade zones (FTZ) in Batam, Bintan and Karimun

Goods entered into and goods delivered among companies inside the FTZ or Kawasan Perdanganan Bebas (KPB) are exempted from import duty and excise taxes; in addition, import taxes are not collected.

Agencies Providing Assistance to Entrepreneurs

Table 24 shows the main government agencies that can help to address the needs of foreign investors looking to do business in Indonesia.

Table 24. Government agencies that support foreign investors in Indonesia.

Government agency	Main area of interest
Capital Investment Coordinating Board (BKPM)	Serves as an investment promotion agency and a regulatory body, as well as the agency in charge of approving investment planned in Indonesia. This currently has various regional offices to better serve both foreign and domestic investors
Ministry of Laws and Human Rights	Has the authority to approve the establishment of a limited liability company in Indonesia
Ministry of Trade	Acts as a service and support structure for the domestic and international commercial and trading sector
Directorate General of Taxes (DGT)	Responsible for the collection of state revenue and is under the Ministry of Finance. It is also responsible for ensuring tax compliance of taxpayers (executive function); issuing regulations, implementing tax laws and providing tax law interpretations (legislative function); and handling any tax objection to tax assessments (judicial function)
Directorate General of Customs and Excise	Responsible for the collection of state revenue from import activities such as import duties
Environmental Control Agency	Coordinates and controls the environment including corporate governance, conservation and disaster mitigation and environmental capacity development
Ministry of Manpower	A regulatory body that aims to enhance good corporate governance and to support the growth of employment opportunities in Indonesia. This also grants work permits allowing a company to employ expatriates in Indonesia
Directorate General of Immigration	Monitors immigration flows and grants entry visas for expatriates entering Indonesia; also grants stay permits for expatriates working and residing in Indonesia
Other agencies for specific sectors (technical department)	Issue licences for industry-specific companies, such as (but not limited to) Ministry of Transportation for the shipping sector and Ministry of Energy and Mineral Resources for the oil and gas, mining and general mining sector

Expatriate Living

Foreigners working in Indonesia

A foreign national must obtain a Limited Stay Visa (KITAS) to be able to work in Indonesia. This is valid for either 6 months or 1 year, and costs about US$ 100/month. The processing normally takes about 1 month.

VITAS and KITAS processing

The employer must first obtain approval from the Ministry of Manpower of its Expatriate Manpower Utilization Plan (RPTKA), which is the master document for processing individual work permits for foreign employees. The RPTKA contains information on the number, functions and employment periods of the foreign employees. Applications cost about Rp 1.25 million; the approval process takes around 10–15 working days. Following approval of the RPTKA, the employer can submit a VITAS application to the Immigration Office.

If the VITAS application is accepted, the Immigration Office will send a telex confirming approval to the Indonesian embassy in the foreign national's country of domicile. The foreign national must then collect the approval at the Indonesian embassy and get the VITAS stamp on their passport.

For VITAS approval, the foreign worker must submit the application for the limited stay permit to the Immigration Office no later than 7 days after their arrival in Indonesia (verified by the entry permit). If the application is approved, the Immigration Office issues a Limited Stay Permit Card (KITAS), following which the employee receives a 'control blue book' to record changes, if any, to their immigration status. The KITAS is valid for 1 year.

An employer must further obtain a work permit (IMTA) from the Ministry of Manpower and transmigration for its foreign employees. The IMTA is valid for 1 year.

In certain regions, foreign nationals who work in Indonesia must also obtain a number of other permits.

Taxation on expatriate workers

Resident foreign employees are taxed on the part of their salary earned in Indonesia and other remuneration the employee earns during their stay in Indonesia (for example, bonus, and religious holiday allowance). The Indonesian portion of the salary is taxed at source, and the employer must withhold the tax.

Non-resident employees (anyone not residing in Indonesia who is present in Indonesia for <183 days in any 12-month period, or anyone not domiciled in Indonesia who is not conducting business or carrying out activities in Indonesia through a PE) are generally subject to a withholding tax of 20% of their gross income from Indonesia.

Indonesia has concluded several tax treaties and agreements with other states. Taxation rates and deductions can be altered under these treaties.

Double taxation treaties offer a lower withholding tax rate, usually 10% or 15%. In addition, most treaties provide an exemption from withholding tax where interest is paid to the government or other specified authority of the other country.

The treaties also provide a 'time test' for determining when a permanent establishment is deemed to exist. Indonesia had negotiated and implemented tax treaties with about 65 countries.

Deductions can be made for dependent spouses and children. In addition, foreign nationals may be able to claim for some expenses that are paid for by the employer, such as accommodation or vehicles. However, this depends on how the employer has classified these payments. Items such as healthcare costs, which may be covered by the employer, are classed as income.

Foreigners doing business in Indonesia

A foreign national who wishes to come to Indonesia for business purposes may apply to the Indonesian Embassy in their own country of residence for a business visit visa with no permit to work. This visa is valid for a maximum period of 2 months and expires as soon as the holder leaves the country. As long as the holder is still in the country, the business visit visa may be extended in Jakarta up to four times, each time with a maximum validity of 1 month.

The holder of this visa may visit offices and attend business meetings, but is not allowed to perform actual work. If, during the initial 2-month period, the holder wishes to interrupt their stay in Indonesia, it is more efficient for them to apply for a multiple visit visa. The multiple visit visa is valid for 12 months, with a maximum duration of 2 months for the initial visit and a maximum duration of 1 month for subsequent visits. With this multiple visit visa, a foreign national can travel in and out of Indonesia as often as required in any 12-month period, and can undertake all activities that a holder of a business visit visa with no permit to work would be entitled to.

Other visa requirements

Visa on arrival

Citizens from 63 specified countries and one region are eligible to apply for a visa on arrival (VOA), which can be applied for on landing at certain airports and seaports in Indonesia; 20 airports and 23 seaports currently offer this facility. A list of these countries can be found in the official website of Ministry of Foreign Affairs of the Republic of Indonesia - http://www.kemlu.go.id.

The maximum stay permitted by the VOA is 30 days; this cannot be converted or extended to obtain an immigration permit – except upon approval from the Director General of Immigration of the Republic of Indonesia in case of natural disaster, illness or accident. Overstaying visitors will incur a penalty of US$ 20/day per person for stays of <60 days; for stays >60 days, the penalty is a 5-year prison sentence or a fine of Rp 25 million.

Visa-free

Citizens from certain ASEAN countries are allowed to enter Indonesia visa-free and stay for a maximum of 30 days. A list of these ASEAN countries can be found in the official website of Ministry of Foreign Affairs of the Republic of Indonesia - http://www.kemlu.go.id.

Visa-free short visits may only be extended upon approval from the Ministry of Law and Human Rights/Director General of Immigration of the Republic of Indonesia based on natural disaster, illness or accident, but cannot be transferred to another type of visa. Overstaying visitors will incur a penalty of US$ 20/day per person for stays of <60 days; for stays >60 days, the penalty is a 5-year prison sentence or a fine of Rp 25 million.

Social/cultural visit visa

This is a single-entry visa granted by the Indonesian Embassy to applicants who are visiting Indonesia for social/cultural reasons, such as visiting relatives/friends; social organisations; exchange visits between educational institutions; undertaking research and attending training programmes. This is valid for a maximum of 60 days and can be extended upon approval of the immigration authorities. Multiple entry visas can be obtained from the Immigration Office of Indonesia, and are valid for 3 months from the date of issue.

Transit visa

This single-entry visa is given to persons continuing their journey to another country within a reasonable time provided they hold valid and confirmed tickets/documents for travel to their next destination.

Working in Indonesia

Working in Indonesia is not without its challenges; however, it can also be one of the most rewarding places to work, as it can offer an excellent work/life balance and job satisfaction. The key to achieving results in Indonesia (as with any country) is to accept the system in place and to find the best way to work within that system. Being professional, treating people with respect and demonstrating a high level of integrity will go a long way to establishing a successful long-term career within Indonesia.

Accommodation

The variety of hotels and accommodation available in Jakarta is as diverse as the city itself. Visitors to the city can choose from a budget hotel, or moderately-priced 2-, 3- or 4-star hotels; there are also about 35 5-star hotels, some of which are ranked among the leading hotels in the world.

Food

Indonesian cuisine is very diverse, drawing on the influences from its various islands and varying greatly by region. Some popular Indonesian dishes such as nasi goreng, gado-gado, sate and soto are familiar enough across the country to be considered Indonesian national dishes.

Transportation

Indonesia has various modes of public transportation such as trains, buses, taxis, minibuses (*angkutan kota*), motorcycles (*ojek*) and traditional vehicles (*becak*).

Indonesia has about 230 airports (international and domestic), mostly operated by the Transportation Ministry technical operation units and state-owned PT Angkasa Pura I & II.

In Indonesia, traffic moves on the left-hand side and cars overtake on the right. Foreigners are allowed to use an international driver's licence to drive in Indonesia. Important documents such as driver's licence, a photo ID or passport, vehicle registration and certificate of motor insurance should always be carried in the vehicle. If the driver is not the owner the vehicle, they must carry a letter from the owner authorising them to drive.

Education

Education in Indonesia is the responsibility of the Ministry of Education and Culture (*Kementerian Pendidikan dan Kebudayaan*, or Kemdikbud) and the Ministry of Religious Affairs (*Kementerian Agama*, or Kemenag). All citizens must undertake 9 years of compulsory education, consisting of 6 at elementary level and 3 years at secondary level. Islamic schools are the responsibility of the Ministry of Religious Affairs.

The Constitution notes that education in Indonesia is categorised as either formal or non-formal. Formal education is further divided into three levels: primary, secondary and tertiary education.

Schools in Indonesia are run either by the government (*negeri*) or private sectors (*swasta*). Some private schools refer to themselves as 'national plus schools', which means that they intend to go beyond the minimum government requirements, especially with the use of English as medium of instruction or having an international-based curriculum instead of the national one. These schools are also open for expatriate students and are an important alternative to the more expensive international schools for expatriates whose companies will not cover the cost of education, as well as for the children of mixed Indonesian–expat marriages.

The Next Step

Contact KAP Tjahjadi & Tamara to discuss your needs.

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