Thinking Beyond Borders: Management of Extended Business Travelers - Indonesia

July 2023

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Key message

Indonesia adopts the self-assessment method for individuals to calculate, settle, and report income tax. The extent of the Indonesian tax liability is dependent on the individual's residence status in Indonesia.

1 Key message

Extended business travelers are likely to be taxed on employment income relating to their period of stay in Indonesia. A permanent establishment (PE) may potentially be created as a result of business travels. Corporations should be mindful of the visa used by their extended business travelers to Indonesia.

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Income tax

2 Income Tax

2.1 Liability for income tax

A person's liability for Indonesian tax is determined by residence status. Residents are taxed on their worldwide income, including capital gains, regardless of where such income arises or if funds are remitted into the country/jurisdiction. Taxable income is determined after subtracting allowable deductions and personal allowances.

A person is considered resident in Indonesia if they are present in Indonesia for a total period of more than 183 days in any 12-month period, or if the person resides in Indonesia with the intention of staying.

Non-resident individuals are those who are not resident in Indonesia for tax purposes. Non-residents are assessed only on income sourced in Indonesia.

Based on the new Job Creation Law that has just came into effect on 31 March 2023, the following individuals may be exempted from worldwide income tax rule:

- An Indonesian national who resides outside Indonesia for more than 183 days will be treated as a non-resident taxpayer provided "several conditions" are met.
- Foreigner employees **who qualify as tax resident of Indonesia and** meet "certain skills" requirement will be exempted from worldwide income reporting for four years from when the first arrive in Indonesia. They are only subject to Indonesian-sourced income, **which includes income in connection with a job, service or activity in Indonesia under whatever name or form obtained or paid outside Indonesia.**

2.2 Definition of source

Employment income is generally treated as Indonesian-sourced compensation where the remuneration is paid by, or at the cost of, the Indonesian entity. This definition is recently expanded by Law 6 Year 2023 to include income in connection with a job, service or activity in Indonesia under whatever name or form obtained or paid outside Indonesia to newly arrived foreigner employees who qualify as tax residents of Indonesia (as mentioned above).

2.3 Tax trigger points

Based on domestic income tax law, companies need to be aware that individuals providing services on behalf of an offshore company may trigger a tax position if:

- they are present in Indonesia for more than 60 days in any 12-month period
- the cost is borne or reimbursed by the domestic entity.

For the individual, technically, there is no threshold/minimum number of days that exempts the employee from the requirements to pay tax in Indonesia. While still qualified as a non-resident, the individual is only subject to tax on Indonesian-sourced income.

2.4 Types of taxable income

For extended business travellers who qualify as being resident in Indonesia, the types of income that are generally taxed are their worldwide income, including employment income and personal investment income.

2.5 Tax rates

Net taxable income for residents is taxed at graduated rates. The current rates range from 5 percent up to a maximum of 35 percent for income earned over 5 billion Indonesian rupiah (IDR).

Non-residents are subject to a final withholding tax of 20 percent on gross income

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Social Security

3 Social Security

3.1 Liability for social security

The national social security scheme (BPJS) applies to expatriates who has resided for at least 6 months in Indonesia.

There are two social security agencies, namely Workers Social Security (BPJS Ketenagakerjaan) and Health Social Security (BPJS Kesehatan).

The current old age and pension contribution (the expatriate employees are exempted) rates are 5.7 percent of an employee's gross salary (3.7 percent contributed by the employer and 2 percent contributed by the employee) plus 3 percent on a maximum monthly salary cap of IDR 9,559,600 (2 percent by the employer and 1 percent the by employee). The pension contribution is not mandatory for expatriates.

BPJS also requires employers to make contributions towards work accident insurance, death insurance, and health insurance. The contribution rates are dependent on the employer's industry.

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Compliance obligations

4 Compliance obligations

4.1 Employee compliance obligations

The tax year is the calendar year. Indonesia operates a self-assessment system whereby all individuals are required to complete a tax return and compute their tax liability by 31 March in the following tax year. Annual tax payments are due before this deadline.

In order to file a tax return, an individual must register to obtain a tax identification number (NPWP). Employees without an NPWP are subject to a 20 percent tax surcharge.

Individual entrepreneurs/professionals and individuals who have tax payable because of their passive income are required to pay taxes and file monthly returns by the 15th and the 20th of the following month, respectively.

Based on the current tax regulation, taxpayers in Indonesia are now required to submit their Indonesian Tax Return electronically via e-filing (online tax submission). Hence, the taxpayers should also apply for Electronic Filing Identification Number (e-FIN) to activate their electronic filing account at Tax Office website.

Non-residents do not have an obligation to register for an NPWP or file an individual tax return.

4.2 Employer reporting and withholding requirements

The obligation to withhold and report tax on cash compensation paid in connection with employment rests with the employer entity. Income tax withheld by employers must be remitted on a monthly basis by the 10th day of the following month and reported by the 20th day of the following month.

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Other issues

5 Other issues

5.1 Work permit/visa requirements

Business travelers holding passports of certain jurisdictions traveling to Indonesia for the purpose of business meetings can obtain a visa on arrival for a period of 30 days. This ‘business meeting’ visa cannot be used for working in Indonesia. For the purposes of working, individuals are required to apply for a work visa, sponsored by an Indonesian entity, before entering Indonesia.

5.2 Double taxation treaties

In addition to Indonesia’s domestic arrangements that provide relief from international double taxation, Indonesia has entered into double taxation treaties with around 66 countries/jurisdictions to prevent double taxation and allow cooperation between Indonesia and overseas tax authorities in enforcing their respective tax laws. When applying for relief, a certificate of domicile should be presented.

5.3 Permanent establishment implications

A PE may be created through the provision of services (in any form) by an individual for more than 60 days in a 12-month period. However, the potential should be reviewed on a case-by-case basis and with a reference to the PE article of the applicable double tax treaty for the time test.

5.4 Indirect taxes

The value-added tax (VAT) rate that is generally applied to taxable goods and services is 11 percent. Sales tax on luxury goods may be as high as 200 percent. There are also regional taxes imposed by the local government on various facilities.

VAT registration may be required in some circumstances for a corporation or an entity. VAT registration by non-residents, however, is not permitted.

5.5 Transfer pricing

Income Tax Law 36/2008 introduces a potential adjustment to the employment cost where the Indonesian employer treats the employment cost as a fee or other expenses paid to an offshore related-party company.

5.6 Local data privacy requirements

The Privacy Data Protection (PDP) regulations set out that any processing of personal data requires a valid consent as a legal basis, which has to be express either in writing or recorded (either electronically or manually). Transfer of personal data both within and outside the territory of Indonesia is permitted by the PDP Law 27/2022. Specifically, for cross-border transfers of personal data, the data controllers transferring the data must ensure that the recipient country maintains equivalent or better standards of personal data protection.

Several sectoral regulations that have been in place prior to the PDP Law No. 27 of 2022 also regulate the same provisions, including in the context of labour and taxation. In taxation context, some requirements can be waived for the purposes of criminal investigation or by request/permission from the Minister of Finance.

5.7 Exchange control

Indonesia has no foreign exchange controls and funds may be freely transferred to and from abroad. Transfers exceeding 10,000 US dollars (USD), however, must be reported to the Bank of Indonesia. All major currencies are freely convertible into IDR, and deposit accounts can be maintained in foreign currencies.

Purchase of foreign currency against IDR in excess of USD25,000 or equivalent in a month, may only be granted if there is evidence of the underlying transaction. The required supporting documents include:

- valid documents on the underlying transactions
- the customer's identity card and copy of the tax identification number (for residents)
- statement signed by the authorized person with adequate stamp duty, which guarantees the validity of the documents, informs the purpose for purchasing foreign currencies against Rupiah and the total needs, purpose and date of foreign currencies utilization, if the documents on underlying transactions are in estimated form.

For purchase of foreign currency below USD25,000, the bank has to obtain a statement from the customer with adequate stamp duty that the customer will not purchase foreign currency in excess of USD25,000 in less than a month.

5.8 Non-deductible costs for assignees

Starting in fiscal year 2022, employees' benefits-in-kind are taxable income for employees and therefore deductible for Corporate Income Tax payable calculation purposes, if they are provided in the context of normal business arrangements. Some exemptions still apply for benefits-in-kind provided to all employees in remote areas, for indispensable work funded by a state/regional government revenue budget and other certain employees' benefits.

5.9 Tax exemption for Indonesian nationals working overseas

An Indonesian national working overseas for more than 183 days in a 12-month period may qualify as a non-resident, and consequently, would be exempted from reporting their foreign-sourced income in Indonesia, if they can prove that they do not reside in Indonesia.

The term 'resides' is defined as having "a place of residence in Indonesia", either occupied by the individual alone, or together with their family, and either owned, rented or available for use as:

- residence (permanent dwelling place), which is not temporary and not for visits only
- a place to perform their daily activities or habits (ordinary course of life) related to economic, financial or personal social activities in the community, membership of organizations, groups or associations in Indonesia
- a place to perform their habits (place of habitual abode) as a hobby or favorite activity either routine, frequent or not.

Additionally, as proof of their overseas residence, the individual should be prepared to provide official identification documents showing residence in the foreign jurisdiction, such as identity card, student card, employment pass, notification letter from an Indonesian Embassy, or having the address stated in the passport duly stamped by foreign immigration.

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