Indonesia

EY Contacts:

Jakarta

EY
Indonesia Stock Exchange Building
Tower 1, 14th Floor
Jl. Jend. Sudirman Kav. 52-53
Jakarta 12190
Indonesia

Bambang Suprijanto
bambang.suprijanto@id.ey.com
+62 21 5289 5060

Kartina Indriyani
kartina.indriyani@id.ey.com
+62 21 5289 5240

1. Types of tax

1.1 Inheritance tax

Indonesia does not levy inheritance tax since inheritance is not taxable in Indonesia.

1.2 Gift grant tax

Indonesian income tax law stipulates that grants or gifts from the parent directly to the children (or vice versa) and grants or gifts received by religious, educational or social organizations, including foundations, cooperatives or individuals who carry on micro and small-scale enterprise, as stipulated by the Minister of Finance, are not taxable as long as there is no relation with business, employment/work, ownership or control among the parties concerned.

1.3 Real estate transfer tax

The transfer of real estate (i.e., land and/or building) is subject to a final tax with the following rate:

- 1% of the gross transfer value (tax base) for the transfer of a basic house (*rumah sederhana*) and basic flat (*rumah susun sederhana*) by a taxpayer whose main business is transfer of land and/or building
- 0% of the gross transfer value (tax base) for the transfer of land and/or building for public interest to the government
- 2.5% of the gross transfer value (tax base) for transfer of land and/or building other than specified above

The gross transfer value (tax base) refers to:

a. Value based on decision of the authorized government official, in the event of a transfer of rights to the government
b. Value based on minutes of auction (*risalah lelang*), in the event that the transfer of rights is in accordance with the auction regulation (*Vendu Reglement Staatsblad Year 1908 Number 189 alongside its amendment(s) thereto*)
c. Value that should be received or earned, if the transfer of rights to land and/or building is made between related party, other than transfers as intended in point a and b above
d. Value that is received or earned, in the event that transfer of rights to land and/or building is not made between related party, other than the transfer as intended in sub-paragraph a. and b.
e. Value that should be received or earned based on market value, in the event that the transfer of rights to land and/or buildings is conducted by exchange, waiver of rights, transfer of rights, grant, inheritance or other manners as agreed upon by the parties

1.4 Endowment tax

There is no endowment tax in Indonesia.

1.5 Acquisition duty

A land and building acquisition duty of 5% (varies by region, maximum 5%) is payable on the tax base when a person obtains rights to land or a building. The tax base should refer to:

a. Transaction price, in the event of sales and purchase
b. Transaction price as mentioned in the minutes of auction (*risalah lelang*), in the event of appointment of auction's buyers
c. Market price (for transactions other than a. and b.)
d. Sales value of taxable object (*NJOP*) in the case that the abovementioned tax base cannot be identified or lower than NJOP used to determine the tax on land and building in the acquisition year

To compute the land and building acquisition duty, the duty rate is multiplied by the abovementioned tax base subtracted by the allowable nontaxable threshold (*NPOP*), which varies by region with a minimum of IDR80 million (for inheritance-*hibah* wasiat or will-*waris*, a minimum of IDR300 million) for the taxpayer's first right (*hak pertama*) in the area where the duty is owed. Both thresholds will be further determined by regional government regulation. A number of exemptions may apply to certain transactions or events, such as land and/or building for diplomatic and consular representatives based on the principle of reciprocal treatment, individual or entity for religious purposes, etc. The acquisition duty is governed by regional tax regulation.

1.6 Net wealth tax

There is no net wealth tax. However, Indonesian income tax law states that an increment in wealth, originating in income not yet subject to tax, is taxable. In the Indonesian individual income tax return, the individual taxpayer is required to declare assets, liabilities and income. The tax office may impose additional income tax should there be any increment of the assets, which may be purchased using income not yet reported in the tax return.

2. Who is liable?

2.1 Residency/domicile

Resident taxpayer

Under Indonesian tax law as amended by the Harmonization of Taxation Regulations Law, an individual, whether an Indonesia or foreign citizen, is qualified as an Indonesian tax resident if the individual:

- Resides in Indonesia
- Has been in Indonesia for more than 183 days within a 12-month period
- Resides in Indonesia during a fiscal year with the intention to reside in Indonesia

Nonresident taxpayer

The provisions under the Harmonization of Taxation Regulations Law re-emphasizes that an Indonesian citizen is considered as a nonresident taxpayer if he/she:

- Resides outside of Indonesia for more than 183 days within a 12-month period
- Meets certain conditions: place of residency, place of main activity, place of habitual abode, tax subject status and/or other certain conditions

Nonresident taxpayers are taxed only on Indonesian-sourced income.

3. Rates

As Indonesia does not have any inheritance, gift, endowment or net wealth tax, this is not applicable.

For real estate transfer tax, the final tax rate for resident taxpayers is as follows:
- 1% of the gross transfer value (tax base) for the transfer of a basic house (*rumah sederhana*) and basic flat (*rumah susun sederhana*) by a taxpayer whose main business is transfer of land and/or building
- 0% of the gross transfer value (tax base) for the transfer of land and/or building for public interest to the government
- 2.5% of the gross transfer value (tax base) for transfer of land and/or building other than specified above

The table below shows the statutory income tax rate for a resident taxpayer who receives other taxable income.

Taxable income bracket (IDR)	Tax rate
Up to 60 million	5%
Over 60 million but not exceeding 250 million	15%
Over 250 million but not exceeding 500 million	25%
Over 500 million but not exceeding 5 billion	30%
Over 5 billion	35 %

The tax rate for a nonresident taxpayer who receives Indonesian-sourced income (as prescribed under Art. 26 of Income Tax Law) is 20% (final).

4. Exemptions and reliefs

For real estate transfer tax, an exemption is available under the following conditions:
- The transfer of land and/or building as part of the gift/grant by an Individual as long as the transfer is in accordance with the requirement mentioned in Section 1.2 above
- The transfer of land and/or building as part of inheritance
- The transfer of land and/or building if the transfer value is less than IDR60 million by an individual whose annual income is less than the threshold of non-taxable income (i.e., IDR54 million)
- The transfer of land and/or building by individual under the arrangement of build-operate-transfer, build-transfer-operate or utilization of state-owned assets
- The transfer of land and/or building by individual who is exempted from the definition of Indonesian tax subject

The exemption as stipulated above is granted through the issuance of an Exemption Certificate. The Exemption Certificate shall be issued if the individual fulfils the following requirements:

a. Has submitted annual corporate income tax returns for the last two fiscal years and/or monthly value-added tax returns for the last three fiscal periods, if applicable

b. Has no outstanding tax debt or has obtained an approval to postpone or install the payment of the tax debt

c. Has submitted the relevant statement letter as an attachment to the application (e.g., for the transfer of land and/or building as part of inheritance, the individual must attach the statement of inheritance distribution)

5. Filing procedures

The due date of the payment for the land and/or building transfer tax is before the deed of transfer is signed by the authorized official. If the transfer of the land and/or building is done by a taxpayer engaged in the business of sale and purchase of land and/or building, the tax payment is due before the deed of transfer is signed by the authorized official or by the 15th of the following month after payment is received.

Late payment of tax will be subject to a penalty of a monthly interest rate determined by the Minister of Finance (calculated based on a reference interest rate plus 5% then divided by 12) on the amount of tax due, which is calculated from the due date until the date when the tax is paid, for a maximum of 24 months. The penalty is collected through issuance of a tax collection notice from the tax authority.

The due date for filing the monthly tax return is by the 20th of the following month after the transfer is incurred or the payment is received. Late filing of the monthly tax return is subject to a penalty of IDR100,000, payable upon issuance of a tax collection notice from the tax authority.

Furthermore, the individual is required to report the transactions above in his or her individual income tax return. Note that it is for reporting purposes only and there will be no additional tax on the transfer of real estate. The annual filing due date is no later than three months after the end of the individual's calendar year. Late filing of the annual individual income tax return is subject to a penalty of IDR100,000, to be collected through issuance of a tax collection notice from the tax authority.

6. Assessments and valuations

See Section 1.3.

7. Trusts, foundations and private purpose funds

Indonesia does not recognize the trust concept and there is no specific tax regulation concerning trusts. However, overseas income, which includes the net income recorded by the offshore trust computed by its accounting treatment, received or earned by an Indonesian tax resident shall be subject to Indonesian income tax under Foreign Tax Credit regulation.

In general, foundations are considered as a corporate taxpayer, which is subject to general corporate tax compliances. However, the difference of the income over the expenses recognized by certain foundations (i.e., a nonprofit organization engaged in education, research development, social and religious activity) can be exempted from corporate tax if it is reinvested in the form of relevant facilities and infrastructure within the prescribed periods (i.e., within four years), under certain conditions.

8. Grants

See Section 1.2.

9. Life insurance

An insurance premium of the employee paid by an Indonesian employer to an insurance company constitutes taxable income for the employee (i.e., subject to employee income tax withholding: the progressive tax rate, 5% to 35%, is applied). If it is paid by the individual employee him/herself, the premium paid is not deductible when calculating the employee income tax. Further, when there is a claim for a life insurance benefit, the amount received by the employee is not taxable to the individual beneficiary.

10. Civil law on succession

10.1 Estate planning

This may not be applicable in Indonesia because there is no inheritance tax.

10.2 Succession

Under Indonesian law, there are two ways to receive an inheritance: as heirs based on the laws or appointed in a testament.

10.3 Forced heirship

The forced heirship varies according to the applicable law when distributing the inheritance, which can be based on Islamic inheritance law, customary law (many Indonesian tribes have their own rule on inheritance) or Indonesian civil code.

10.4 Matrimonial regimes

By default, the assets acquired during marriage become joint property of the spouses. For assets owned before the marriage, the right is fully within the spouse who brought the assets. For assets granted to a spouse during marriage, the right is also fully with the spouse who received the grant (gift), unless he or she agreed otherwise.

Based on Indonesian Marriage Law, assets that are taken into account in a marriage consist of joint matrimonial property (*Harta Bersama*, namely assets acquired during a marriage) and personal assets (*Harta Bawaan*, namely assets originally owned by each individual and assets obtained from gifts or inheritance). For the joint matrimonial property, the husband or wife can act with the consent of both parties. Whereas for the personal assets, the husband or wife has the full right over their own respective assets. According to the Constitutional Court ruling of 2016, exception from the above principle can be obtained based on pre- or post-nuptial agreement in so far it does not conflict with the applicable laws and regulations, decency and public order.

10.5 Intestacy

Under Indonesian law, the heirs will receive the inheritance based on civil code, customary law or Islamic law. There are two ways to receive an inheritance: as heirs based on the laws or appointed in a testament.

11. Estate tax treaties

Indonesia does not have any estate tax treaties.