



MERGERS AND ACQUISITIONS

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Taxation of Cross-Border
Mergers and Acquisitions

2010 Edition

TAX

Indonesia

Introduction

As the most populous country and largest economy in Southeast Asia, Indonesia has long been an attractive to investors. The country suffered badly following the 1998 regional economic problems, but is widely thought to have subsequently implemented appropriate economic reforms that have helped the economy to grow at 4 percent per year despite the current global financial crisis. The government is now seeking to establish Indonesia as a logical base for foreign investment within the Association of Southeast Asian Nations (ASEAN), and has recently implemented further reforms to make cross border acquisitions easier. The recent World Bank Doing Business survey concluded that Indonesia has introduced more business-facilitating reforms than any other nation in the Asia-Pacific region.

Historically, one of the perceived barriers to mergers and acquisitions in Indonesia has been high tax costs. Recent and pending tax legislation has done little to address this problem, but the proposed changes to VAT legislation suggest the government is at least seeking to reduce overall tax costs.

Previously Indonesian Company Law only allowed foreign companies and individuals to invest in certain business sectors through the establishment of joint venture companies with local partners. The foreign investor was allowed to establish a wholly-owned company, but was required to transfer some of its shares to a local partner within 15 years from the commencement of commercial operations. This restriction has now been relaxed to allow foreign investment in a wholly-owned company, with no requirement to sell shares to a local partner subsequently.

Restrictions remain. Some sectors are closed to foreign investors. They are published in the Negative Investment List; the most recent edition of which was issued in December 2007. The list designates various restrictions and prohibitions in certain business sectors, such as sectors where small and medium-sized businesses are protected from larger competitors.

Applications for foreign investment also require approval from the Investment Coordinating Board (BKPM), which

evaluates investment applications to determine the adequacy of the proposed investment based on the economic feasibility of the investment project. Foreign companies and foreign individuals may also acquire shares in an existing local company, provided the line of business of the local company is open to foreign investment.

Under Indonesian Generally Accepted Accounting Principles (GAAP) most combinations are accounted for as acquisitions, with merger accounting only being applied in limited circumstances. Merger accounting is not allowed under IFRS; all business combinations must be treated as acquisitions, but Indonesian GAAP currently allow the use of the uniting of interests method in certain rare circumstances. Please note, Indonesia is moving towards IFRS in the near-term.

Recent Developments

The following summary of Indonesian tax developments is based on current tax legislation and guidance applicable in 2009.

In 2008 new regulations and related guidance were introduced to help the Indonesian Tax Office combat what it perceived to be a number of mergers motivated solely to obtain tax advantages. The new provisions are predominantly aimed at restricting tax relief and tightening the documentary requirements for the transfer of assets in a merger, consolidation or expansion.

The new regulations impose more conditions on tax-neutral transfers of assets. The transferor and the acquiring company must pass the business purpose test to ensure the motivation of the merger or expansion is to create strong business links or bolster the capital structure, rather than avoid tax. Where the transfer occurs within the context of a business expansion (separation of a company into two or more entities) the new regulations require the transfer of assets only to be recorded at book value if the transferor and/or acquirer are planning an initial public offering (IPO). If an application for an IPO is not submitted to the Stock Exchange within one year of the transfer, the relief may be clawed back.

A notable absence from the new regulations is the entitlement of a taxpayer to transfer losses. Previously, tax relief for pre-acquisition losses could be transferred to the purchaser under certain conditions. Under the new regulations losses remain with the entity incurring them. If the acquired entity ceases to exist, therefore, or becomes dormant following a business acquisition, the tax losses within that entity become unavailable for relief against any future profits.

Where an application to transfer assets at book value receives the required approval from the Director General of Taxation (DGT), the acquiring company should assume the asset history of the transferor (that is, the remaining useful life and depreciation method should be recorded and applied by the acquiring company). Such an application is required within six months of the date of transfer, and approval will only be granted if both transferor and transferee have no outstanding tax assessments/unpaid balances due to the Tax Office. The DGT is required to respond within one month of the application. A number of other conditions must be satisfied. If they are not met the transfer of assets would be assessed at market value. It is, therefore, strongly recommended to seek advice when planning an acquisition to ensure the transaction qualifies for relief.

Indonesia's VAT legislation is due to be implemented on 1 April 2010. Among various recent amendments is a new provision on business combinations that should allow the transfer of the trade and assets of a business to be treated as outside the scope of Indonesian VAT (subject to certain conditions). Under current regulations the transfer of taxable goods in the context of an acquisition/merger are subject to the standard rate VAT of 10 percent.

Asset Purchase or Share Purchase

Acquisitions in Indonesia often take the form of a purchase of the shares of a company, as opposed to the trade and assets. The choice is, of course, influenced by commercial as well as tax considerations. The sale of shares listed on the Indonesian stock exchange is subject to a final tax at 0.1 percent of gross proceeds, whereas the transfer of titles to land and buildings under an asset purchase attracts 5-percent final income tax in the hands of the seller, and a 5-percent title transfer tax (duty) in the hands of the acquirer. Under current legislation the transfer of the trade and assets of a business is also subject to VAT at 10 percent (due to change from 1 April 2010).

But there are also a number of benefits for the purchaser in a trade and asset acquisition. Under Indonesian tax audit rules the inheritance of the tax history and liabilities under a share transfer carry a significant risk, and moreover amortization of goodwill arising on the acquisition of the trade and assets of a business should be tax deductible.

It should be noted that the sale of unlisted shares held by a foreign shareholder in an Indonesian company is subject to a final tax of 5 percent of gross proceeds, unless protected by a Double Tax Agreement (DTA).

Purchase of Assets

A purchase of assets will usually result in an increase in the base cost of those assets for the purposes of both corporate income tax (on the taxable gain) and tax depreciation. The gain in asset value would be subject to corporate income tax in the hands of the seller at the current rate of 25 percent (previously 28 percent). Prior tax liabilities remain with the company and are not transferred with the assets.

Purchase Price

For tax purposes, it will be necessary to apportion the total consideration among the assets acquired. There are no specific rules for such an apportionment, but the acquirer should be aware that the chosen method would need to bear scrutiny by the Tax Office.

Goodwill

As with IFRS, under Indonesian GAAP acquired assets and liabilities are measured at fair value on the date of acquisition. As such, goodwill arises on acquisition to the extent that the purchase price exceeds the aggregate of the fair values of the assets, liabilities and contingent liabilities assumed. Such acquired goodwill may be amortized for tax purposes generally for a period not longer than five years, or up to a maximum period of 20 years where such a longer period is justifiable under specified conditions. Goodwill should be evaluated for impairment at each balance sheet date.

The acquisition price of goodwill (with a useful life of more than one year) should be amortized consistently using either the straight-line or declining balance method over the useful life of the asset, following the rates of depreciation for tangible assets.

Depreciation

Depreciation is an allowable deduction in determining taxable income. Depreciable property is defined as tangible property owned and used in the business or

owned for the production, recovery and securing of income, which has a useful life of more than one year. Land is not depreciable, except in certain industries.

Depreciable assets other than buildings and construction are classified by tax regulations into one of four asset categories. Buildings and construction are divided into permanent and non-permanent structures. In practice, the regulations define useful life, irrespective of the taxpayer's own assessment of the asset's life. If, however, the category of assets is not specified in the regulations it may be depreciated based on the useful life. Buildings and other immovable property may only be depreciated using the straight-line method.

For all assets other than buildings and other immovable property, depreciation is calculated using either the declining balance or the straight-line method at the company's option.

As outlined above, an application may be made to transfer assets at book value, subject to passing the 'business purpose' test. Where such an application receives the required approval from the Director General of Taxation, the acquiring company should assume the asset history of the transferor (that is, the remaining useful life and depreciation method should be recorded and applied by the acquiring company).

Tax Attributes

Under a trade and asset sale the gain on sale proceeds, including any capital gain, is taxed as part of normal income at the corporate income tax rate of 25 percent (previously 28 percent).

Value-Added Tax (VAT)

Under current Indonesian VAT legislation the transfer of the trade and assets of a business should be subject to Indonesian VAT at the standard rate of 10 percent.

Under recent proposals for the amended VAT legislation due to come into force on 1 April 2010, business combinations would fall outside the scope of Indonesian VAT subject to certain conditions. At the time of writing this legislation remained in the draft stage and professional advice should be sought regarding the applicability of Indonesian VAT to any future transfer of assets.

Transfer Taxes

The transfer of title to land and buildings is subject to a 5 percent non-recoverable title transfer tax (duty). In addition a nominal stamp duty tax of IDR 6,000

(approximately USD 0.60) is charged on certain legal documents, such as receipts, agreements, and powers of attorney.

Purchase of Shares

Tax Indemnities and Warranties

In a share acquisition, the purchaser is taking over the target company together with all related liabilities and unpaid taxes. The purchaser will, therefore, require more extensive indemnities and warranties than in the case of the acquisition of the target's trade and assets.

Under Indonesian tax legislation the Tax Office may conduct an audit within five years (currently under transition from 10 years – the transition from 10 years to five is phased in such that for 2007 and prior years, the statute will expire in 2013) from the date of submission of any tax return. A closed tax audit may also be re-opened by the Tax Office when new documentation or information becomes available. By international standards the Indonesian Tax Audit process is quite aggressive as indicated by the revenue's target of USD 1.3 billion from the 2009 tax audit process. This increases the risk for the purchaser in a share transaction and it is recommended that professional advice be taken to ensure the appropriate indemnities and warranties are received, and/or the commercial implications are given full consideration.

Because of the tax risks outlined above, it is common for a purchaser in the Indonesian market to conduct detailed tax due diligence. This process not only highlights the inherent tax risk, but should also provide an agreed tax audit history that can form the basis of the agreed tax indemnities and warranties.

Tax Losses

In general tax losses may be carried forward for a maximum of five years, or 10 years for certain categories of business.

Under the new regulations for business mergers, consolidations and expansions, brought-forward losses of an Indonesian target cannot be offset against the future losses of the acquiring company or merged entity. Such losses would expire at the time of acquisition.

Pre-Sale Dividend

Dividends paid to a corporate shareholder holding in excess of 25 percent of the issued share capital of a company are free from tax. In addition, dividends paid to individuals are subject to final tax at 10 percent. As any

gain realized on the sale of a business would be subject to corporate income tax at 25 percent (28 percent previously), there is a potential to achieve a more tax-efficient structure through the issue of a pre-sale dividend.

Transfer Taxes

There is no stamp duty in Indonesia other than the nominal IDR 6,000 on certain documents discussed earlier in the chapter. However, the following income taxes/duties apply in certain circumstances:

The sale of shares listed on the Indonesian stock exchange is subject to a final tax rate of 0.1 percent of gross proceeds (plus an additional 0.5 percent for founder shares). However, certain types of venture capital companies are not required to pay tax on capital gains in particular circumstances.

There is also a final 5-percent tax on gross proceeds from the sale of unlisted shares held by a foreign shareholder in an Indonesian company, unless stipulated otherwise by a DTA.

Tax Clearances

No specific tax clearances are currently required for acquisitions, with the exception of an application to transfer assets at net book value.

Depending on the circumstances the new VAT legislation due to come into force on 1 April 2010 may require clearance to treat the transfer of the trade and assets of a business as outside the scope of VAT. For transactions after this date KPMG in Indonesia recommends advice is sought on the prevailing legislation at the time.

Choice of Acquisition Vehicle

Indonesian corporate law permits foreign companies to invest in a business sector open to foreign investment, either through the establishment of a joint venture company with a local partner or a wholly-owned company. For a purchase by a foreign entity of the shares, or trade and assets of a business, investment approval from the Investment Coordinating Board (BKPM) is required. The target company should not operate within a on the Negative Investment List.

Local Holding Company

Under new provisions for foreign investment, a local holding company owned by a foreign investor would not require any divestment of shares to a local partner. A PT Company (limited liability company) is the most common form of corporate business entity in Indonesia.

When a foreign investor holds the shares of a PT Company it is referred to as a PMA Company (foreign investment company).

A foreign investor may establish a new PMA Company, or alternatively convert an existing PT Company, provided the company operates in an approved sector. The BKPM will evaluate investment applications to determine the adequacy of the proposed investment, based on the economic feasibility of the investment project.

Foreign Parent Company

A foreign parent company would be permitted to acquire shares in an existing local company, provided the line of business of the local company is open to foreign investment. The company format (PMA Company) and applicable restrictions would be as defined above. On exit there is a final tax, of 5 percent of the gross proceeds on the sale of unlisted shares held by a foreign shareholder in an Indonesian company, unless stipulated otherwise by a DTA.

Dividends and/or interest paid by a local company to the foreign parent would be subject to withholding tax (WHT) of 20 percent, unless an applicable tax treaty provides for a lower rate.

Where a foreign parent company purchases the trade and assets of a business in Indonesia (subject to BKPM approval), this is likely to be deemed a Permanent Establishment (PE) of the foreign company within Indonesia. Generally the PE of a foreign enterprise should be treated as a domestic resident and, as such, domestic WHT rates of 15 percent would apply to payments of dividends/interest to the PE. In addition, the PEs of foreign enterprises are subject to 20-percent WHT on their after-tax income unless eligible for a reduced rate under a DTA, or in certain cases where profits are re-invested in Indonesia.

It should be noted that for regulatory purposes the establishment of a foreign permanent establishment is restricted to a very limited number of sectors, and would be subject to receipt of approvals from relevant government ministries.

Non-Resident Intermediate Holding Company

It should be noted that new regulations have been introduced to combat tax avoidance through off-shoring in tax haven countries. They include a look through provision where shares are sold in a company established in a tax haven country that itself holds shares in an Indonesian company. As a result, the sale of a shareholding in a non-resident intermediate holding

company may be deemed a sale subject to final tax in Indonesia of 5 percent of the gross proceeds.

However, through careful planning it may be possible to achieve a non-resident holding structure in a country with an appropriate tax treaty, which may result in lower WHT on dividends/interest, and/or a tax free exit route. The acceptability of such a structure would depend on the commercial reality and the specifics of the acquisition concerned.

Local Branch

Operating as a branch/PE in Indonesia is limited to specific industries and branch structures for cross-border mergers are, as a consequence, very rare.

PEs of foreign enterprises are subject to 20-percent WHT on their after-tax income unless eligible for a reduced rate by virtue of a DTA.

There are various types of Representative Office that may obtain licenses from government authorities, but by and larger they are only allowed to perform auxiliary services, such as acting as an intermediary, handling promotional activities and gathering information for a head office abroad.

Joint Ventures

A foreign entity may enter into a joint venture through the shared ownership of an Indonesian company with a local partner. The foreign investor cannot create legal partnership, but a profit-sharing consortium is permitted for certain sectors and is most common in the construction industry.

There are no additional tax considerations for joint ventures beyond those covered above.

Choice of Acquisition Funding

A purchaser using an Indonesian vehicle will need to decide whether to fund the acquisition with debt or equity. Hybrid instruments are not yet a common feature of Indonesian banking functions. The principal tax advantage of debt is the potential tax-deductibility of interest; dividends are not tax-deductible.

Debt

Broadly, a company's accounting treatment for interest will be followed for tax purposes as long as it fairly represents the interest and expenses of the company's loan relationships. Where debt is held through an intercompany loan, the Indonesian Tax Office should be expected to take a detailed interest in the allocated transfer price. Under recent procedural changes, corporate income tax returns must now include detailed

information on related-party transactions, including information on both the amount and method of transfer pricing.

Deductibility of Interest

Interest on funds borrowed by a company for the purposes of obtaining, collecting and maintaining income is deductible from gross income.

The DGT has the authority to re-determine the amount of interest income and/or interest expense and to reclassify debt as equity in determining taxable income if a taxpayer has a special relationship with another taxpayer. The objective of these provisions is to prevent the taxpayer from reducing tax payable by means of charging excessive interest costs (such as interest rates in excess of commercial rates) between related parties. Interest-free loans from shareholders may in certain cases create the risk of the imposition of deemed interest and withholding tax obligations for the borrower.

Withholding Tax on Debt and Methods to Reduce or Eliminate

Withholding tax is imposed at 20 percent on various amounts payable to non-residents (including both dividends and interest), unless the non-resident has a PE in Indonesia, and then the rates applicable to payments to residents apply. The withholding tax may be reduced where the foreign resident is exempt or eligible for a reduced withholding tax rate by virtue of a DTA.

In order to qualify for treatment under a certain tax treaty, non-resident status should be supported with a Certificate of Domicile (COD) issued by the Competent Authority of the non-resident's country of domicile. The country of domicile of the non-resident that receives income from Indonesia is deemed to be the actual residence or domicile of the non-resident receiving the income (beneficial owner). In the case of a corporation, the country of domicile is defined as the country where at least 50 percent of the shareholders, or the effective seat of management resides.

Payments of interest by an Indonesian company to a resident company (including a PE of a foreign entity) are subject to WHT at 15 percent.

Checklist for Debt Funding

- The use of Indonesian bank debt may avoid thin-capitalization problems
- Consider whether level of profitability would enable tax relief for interest payments to be effective

- Payments of interest either domestic or international are subject to 15-percent and 20-percent WHT respectively

Equity

A purchaser may use equity to fund its acquisition possibly by issuing shares to the seller in satisfaction of the consideration, or by raising funds through a seller placing. Further, the purchaser may wish to capitalize the target post-acquisition. The use of equity, rather than debt, offers less flexibility should the parent subsequently wish to recover the funds it has injected, for example because capital reductions may be troublesome and there may not be a market for the shares at the price required. However, equity may be more appropriate than debt in certain circumstances, such as:

- Where the potential target is loss-making it may not be possible to obtain immediate tax relief for interest payments – what further explanation is required? The target is loss making, therefore there is no immediate tax benefit from interest deductions
- Where the company is thinly capitalized, it could be disadvantageous to increase borrowings without also obtaining an injection of fresh equity

Other Considerations

Thin-Capitalization

Where a special relationship exists, interest may be disallowed as a deduction if such charges are considered excessive, such as interest rates in excess of commercial rates. Interest-free loans from shareholders may, in certain, cases create a risk of interest being deemed, giving rise to WHT obligations for the borrower.

The law allows the Ministry of Finance to issue a decree defining the maximum ratio of debt to equity in determining deductible interest. Such a decree, proposing a maximum 3:1 ratio for all industries, was issued in 1984. However, a subsequent decree postponed its implementation indefinitely. The DGT later issued a draft proposal for a 5:1 ratio, but this has never been finalized. Special rules on tax deductibility of interest apply in the mining, and oil and gas sectors.

Group Relief/Consolidation

There are no provisions for grouping or consolidation under Indonesian law and furthermore, under the regulations issued in 2008, losses may not be transferred to a separate entity on a merger.

Transfer Pricing

Any transaction determined to be non arm's length including unreasonable purchase/sales prices; interest rates applied to inter-company loans; and purchases of a company's assets by shareholders (owners) or parties having a special relationship at prices that are higher or lower than market prices may be subject to adjustment by the DGT. A special relationship includes common ownership or control (direct or indirect), ownership of 25 percent or more of the capital of another party, and a family relationship. The transfer pricing rules apply to domestic as well as international transactions.

Among many recent procedural changes relating to requirements for submitting corporate income tax returns are additional directions on the format of disclosure requirements for related-party transactions. This change is in line with an increased focus by the Indonesian Tax Office on transfer pricing requirements since 2007.

Foreign Investments of a Local Target Company

Effective 1 January 2009, the Controlled Foreign Companies (CFC) rules, which may make Indonesian-resident shareholders subject to tax on deemed dividends, were changed. A CFC is now defined as a foreign unlisted corporation in which Indonesian resident individual or corporate shareholders, either individually or as a group, hold 50 percent or more of the total paid in capital. Listed corporations are not CFCs. The Indonesian shareholders shall be deemed to receive dividends within four months of filing the tax return, or seven months after the end of the fiscal year where there is no obligation to file an annual tax return or there is no specific deadline for filing in the country of residence of the CFC.

Comparison of Asset and Share Purchases

Advantages of Asset Purchases

- Purchaser does not acquire the tax history and liabilities of the target company.
- Amortization of acquired goodwill should be deductible for tax purposes.
- Under new VAT legislation proposals the transfer of the trade and assets of a business is likely to fall outside the scope of VAT from 1 April 2010.
- Under certain conditions the acquired assets may be transferred at net book value, thereby achieving a tax-neutral transfer.

Disadvantages of Asset Purchases

- The transfer of title to land and buildings could be subject to 5 percent final income tax in addition to 5-percent title transfer tax (duty).
- Under current VAT legislation the transfer of the trade and assets of a business is subject to standard rate VAT at 10 percent.

Advantages of Share Purchases

- It is likely to be more attractive to the seller, both commercially and from a tax perspective, so the price may be lower.
- There is usually a lower capital outlay (purchase of net assets only).
- The sale of shares listed on the Indonesian stock market are subject to a final tax rate of only 0.1 percent of gross proceeds.
- Sale of shares is exempt from VAT.

Disadvantages of Share Purchases

- Purchaser acquires the tax history and liabilities of the target company.
- Sale of unlisted shares by a foreign company subject to a final tax, of 5 percent of gross proceeds, unless stipulated otherwise by a DTA.

Withholding Tax Rate Chart

The rate information and footnotes contained in this table are from the 2009 IBFD/KPMG Global Corporate Tax Handbook.

Country	Dividends		Interest ¹ (%)	Royalties (%)
	Individuals, Companies (%)	Qualifying Companies ² (%)		
Algeria	15	15	15	15 ³
Australia	15	15	10	10 ⁴ /15
Austria	15	10	10	10
Bangladesh	15	10	10	10
Belgium	15	10	10	10
Brunei	15	15	15	15
Bulgaria	15	15	10	10
Canada	15	10	10	10 ⁵
China (People's Rep.)	10	10	10	10 ³
Czech Republic	15	10 ⁶	12.5	12.5
Denmark	20	10	10	15
Egypt	15	15	15	15 ³
Finland	15	10	10	10 ⁷ /15
France	15	10	10 ⁸ /15	10 ¹⁶
Germany	15	10	10	10 ⁴ /15/7.5 ¹⁷
Hungary	15	15	15	15
India	15	10	10	15
Italy	15	10	10	10 ⁴ /15
Japan	15	10	10	10
Iran	7	7	10	12
Jordan	10	10	10	10
Korea (Rep.)	15	10	10	15
Korea (Dem. Rep.)	10	10	10	10
Kuwait	10	10	5	20
Luxembourg	15	10	10	12.5/10 ¹⁷
Malaysia	15	15	15	15
Mexico	10	10	10	10 ³
Mongolia	10	10	10	10
Netherlands	10	10	10/0 ¹⁹	10 ⁵
New Zealand	15	15	10	15
Norway	15	15	10	10 ⁹ /15
Pakistan	15	10	15	15
Philippines	20	15	15/10 ¹⁸	15
Poland	15	10 ⁶	10	15 ³
Portugal	10	10	10	10
Qatar	10	10	10	5
Romania	15	12.5	12.5	12.5 ⁹ /15
Russia	15	15	15	15 ³
Seychelles	10	10	10	10
Singapore	15	10	10	15
Slovak Republic	10	10	10	10 ¹⁰ /15
South Africa	15	10 ¹¹	10	10 ³
Spain	15	10	10	10
Sri Lanka	15	15	15	15
Sudan	10	10	15	10
Sweden	15	10	10	10 ⁴ /15
Switzerland	15	10	10	10 ^{16,17}
Syria	10	10	10	15 ⁷ /20
Taiwan	10	10	10	10
Thailand	20	15 ¹²	15	15 ¹³
Tunisia	12	12	12	15
Turkey	15	10	10	10
Ukraine	15	10 ⁶	10	10

Country	Dividends		Interest ¹ (%)	Royalties (%)
	Individuals, Companies (%)	Qualifying Companies ² (%)		
United Arab Emirates	10	10	5	5
United Kingdom	15	10 ¹⁴	10	10 ⁴ /15
United States	15	10	10	10 ¹⁵
Uzbekistan	10	10	10	10
Venezuela	15	10 ¹¹	10	20/10 ¹⁷
Vietnam	15	15	15	15 ³

Notes

- Many of the treaties provide for an exemption for certain types of interest, such as interest paid to public bodies and institutions, or in relation to sales on credit or for a specified period. Such exemptions are not considered in this column.
- The rate generally applies with respect to participations of at least 25 percent of capital or voting stock, as the case may be, unless otherwise indicated.
- The definition of royalty includes payments for the use of, or the right to use, or the supply of information concerning industrial, commercial or scientific equipment as well as total or partial forbearance in respect of the use or supply of any property right considered as royalties in the treaty.
- The lower rate applies to supply of commercial, industrial or scientific equipment or information.
- The definition of royalty does not include payments relating to technical services, such as studies of a scientific, geological or technical nature, engineering contracts, consultancy, and supervisory services.
- The rate generally applies to participations of at least 20 percent of capital.
- The lower rate applies to copyright of literary, artistic, or scientific work including cinematograph films, and films or tapes for television or radio broadcasting.
- The lower rate applies to interest paid by a bank or financial institution and enterprises involved in agriculture, plantation, forestry, fishery, mining, manufacturing, industries, transportation, low-cost housing projects, tourism and infrastructure, and for interest paid to a bank or to another enterprise.
- The lower rate applies for the use of any patent, trademark, design or model, plan, secret formula or process, and for the supply of commercial, industrial or scientific equipment or information.
- The lower rate applies to the use of copyright for motion picture films, films or videos used in television and tapes used in radio broadcasting or partial forbearance in respect of the use or supply of any property right considered as royalties in the treaty.
- The rate generally applies to participations of at least 10 percent of capital.
- The lower rate applies to a company engaged in an industrial undertaking.
- The definition of royalty includes the right to receive payment in connection with the exploitation of minerals, oil or gas deposits, quarries, or other places of extraction or exploitation of natural resources.
- The rate applies to dividends paid to a company that controls directly or indirectly at least 15 percent of the voting shares of the payer.
- The definition of royalty includes gains derived from the sale, exchange or other dispositions of property. It does not include payments for the use of ships, aircraft or container.
- Definition of royalties excludes use of equipment.
- The lower rate applies to technical services.
- The lower rate applies to bonds issued to the public. The 0-percent rate applies to specific loans for equipment and those with a maturity greater than two years [N.B. the Indonesian Tax office is disputing the application].

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