Tax Alert

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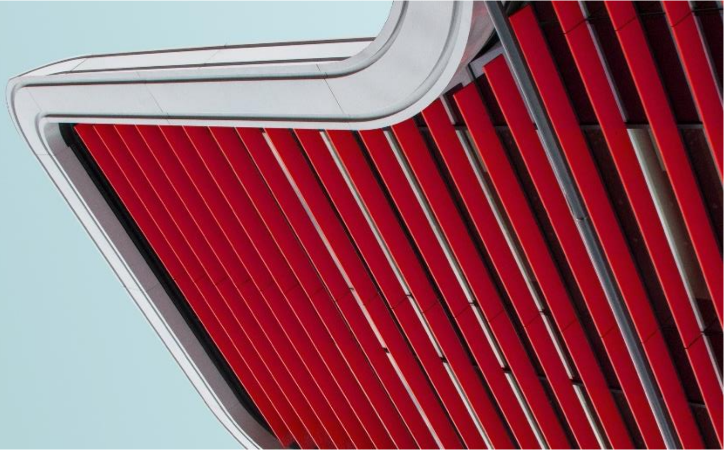

Omnibus Law on Job Creation

Part 1: Implication on Income Tax

On 2 November 2020, the Indonesian Government issued Law No 11 Year 2020 regarding Job Creation. This publication specifically addresses implication of the Law on the **income tax**. Further aspects on VAT and General Tax Provision will be addressed in coming publications.

Determination of non-resident individual for Indonesian citizen

An Indonesian citizen who is abroad for more than 183 days within 12-months period and does meet certain conditions, i.e. place of residency, place of main activity, place of habitual abode, status of tax subject, and/or other certain conditions, is considered as a non-resident taxpayer. Further implementing regulation will be specified through Minister of Finance Regulation.

Exemption of foreign-sourced income for expatriate individual tax resident

An expatriate individual, being Indonesia resident taxpayer, who has certain expertise will be taxed only upon income derived from Indonesia, applicable for 4 years since the expatriate individual is considered as a resident taxpayer. The definition of income as mentioned above includes any income that is paid outside Indonesia in relation to an employment, services, or activities carried out in Indonesia. However, if the expatriate individual is enjoying tax treaty benefits, the afore-mentioned provision shall not be applicable.

Tax exemption for dividends and certain foreign source income

The following income is tax-exempted:

a. Dividend paid by a domestic company received by a domestic individual taxpayer, provided the dividend is reinvested in Indonesia for certain period of time.
b. Dividend paid by a domestic company received by a domestic corporate taxpayer (in the past it is only applicable if received by an Indonesian company whose at least 25% of paid-up capital).
c. Dividend paid by an offshore company and after-tax profit of an offshore permanent establishment, that is received by an individual or a corporate tax resident, as long as such income: (i) is reinvested in Indonesia or is used to support business in Indonesia for certain period of time by the amount of at least 30% of after-tax profit or (ii) the dividend paid by a non-listed offshore company before the issuance of tax assessment letter upon the enforcement of the Article 18 (2) of the Income Tax Law, commonly known as CFC Rule. If the invested amount is less than 30%, the difference between 30% of after-tax profit and the invested amount will be taxable, while the rest of after tax-profit will be tax-exempted. Any tax credit on the exempted amount is not allowable.
d. Foreign-source income not from a permanent establishment, received or earned by an individual or a corporate taxpayer, as long as it is reinvested in Indonesia for certain period of time. The income shall be related to an active overseas business and is not generated from an overseas company owned by the taxpayer.

Potential reduction of 20% WHT rate on outbound payment of interest

Current WHT Art. 26 rate of 20% on outbound payment of interest (including premium, discount, and guarantee fee) may be reduced by further Government Regulation.

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