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AN INTRODUCTION TO THE PROPOSED OMNIBUS LAW

According to the World Bank's 2019 Doing Business index, Indonesia sits in 73rd position overall out of 190 countries in terms of ease of doing business. President Joko Widodo has set as a target increasing Indonesia's ranking to 40th position.

To boost investment and ease of doing business in Indonesia, in his inauguration speech on 20 October 2019, President Joko Widodo introduced the idea of enacting an Omnibus Law. Before it is mentioned by President Joko Widodo, the concept of 'Omnibus Law' is rarely heard in Indonesia which adopts a civil law system. Omnibus law or Omnibus bill is a more common concept in the common law system. As the title implies, the Omnibus law, is a single law covering various distinct matters.

The President has asked for two major areas to be covered by the Omnibus Law: the creation of employment and the empowerment of Micro, Small and Medium-scale Enterprises (UMKM). The Omnibus Law that the Government of Indonesia will draw up will amend (or even replace) several laws which are hampering the creation of employment and investment in Indonesia. About 74 laws will be amended or replaced by the Omnibus Law.

In addition to the above, the Omnibus Law will re-regulate the tax sector and licensing matters in Indonesia. The Ministry of Finance is working on the draft Omnibus Law on the tax sector and the Coordinating Ministry of Economic Affairs is working on the draft on licensing.

The Ministry of Finance expects the draft Omnibus Law in the tax sector to be completed in December 2019 before it can be discussed by the House of Representatives (*Dewan Perwakilan Rakyat* / DPR). The Omnibus Law will cover at least seven areas as summarized below.

No.	Issue	Current Provisions	Proposed Change
1.	Corporate Income Tax	Corporate Income Tax is 25% for regular companies and 20% for public companies.	Corporate Income Tax will be reduced in stages from 25% to 22% in the fiscal years 2021 - 2022 and will be reduced to 20% in the fiscal year 2023. Specifically for a company which has just gone public, there will be an additional reduction of 3% in the Corporate Income Tax, ie from 22% to 19%, for five years. Meanwhile, companies which go public in 2023 will benefit from an additional reduction by another 3% so that the Corporate Income Tax they pay will be reduced from 20% to 17%.

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No.	Issue	Current Provisions	Proposed Change
2.	Income Tax on Dividends	Dividends from local companies received by: – Local corporate shareholders with shares ≥ 25% are not subject to income tax; – Local corporate shareholders with shares < 25% are subject to the normal rate of income tax; – Local individual shareholders are subject to 10% income tax. Dividends from offshore companies received by local corporate or individual shareholders are subject to the normal rate of income tax.	Dividends from local companies received by: – Local corporate shareholders with shares ≥ 25% are not subject to income tax; – Local corporate shareholders with shares < 25% are subject to the normal rate of income tax, unless invested in Indonesia for a certain period; – Local individual shareholders are subject to 10% income tax, unless invested in Indonesia for a certain period. Dividends from offshore companies received by local corporate or individual shareholders are subject to the normal rate of income tax, unless invested in Indonesia for a certain period.
3.	Income Tax payers	Income Taxpayers in Indonesia: – Indonesian citizens; and – foreign citizens who reside in Indonesia for more than 183 days. Collection principle: Worldwide Income.	Income Tax payers in Indonesia are Indonesian citizens and foreign citizens who reside in Indonesia for more than 183 days, but limited to income generated in Indonesia. Collection principle: Territorial. Income tax on income from domestic interests received by payers of foreign taxes (*subjek pajak luar negeri*) will also be reduced from the current 20% rate under a separate government regulation.
4.	Input VAT	– Input VAT which was obtained before the company obtained a VAT ID cannot be credited. – Input VAT which was not reported in the VAT return but is found during a tax audit cannot be credited. – Input VAT which was obtained before the company started producing VAT-payable goods/ services can only be credited if they are capital goods.	– Input VAT which was obtained before the company obtained a VAT ID can be credited based on the tax invoice. – Input VAT which was not reported in the VAT return but is found during a tax audit can be credited based on the tax invoice. – Input VAT which was obtained before the company started producing VAT-payable goods/services can be credited. – Input VAT of a Taxable Entrepreneur (*Pengusaha Kena Pajak* / "**PKP**") who obtained goods/services from a non-PKP currently cannot be credited. In the future, the government proposes that they can still credit input VAT up to a maximum of 80%.

No.	Issue	Current Provisions	Proposed Change
5.	Tax administrative sanctions	– The sanction for late payment due to a correction of the Annual Tax Return or the tax assessment (SKP) is 2% per month. – The sanction for not or being late issuing the tax invoice is 2% of the base VAT.	– The sanction for late payment is a fine calculated using the formula (current market interest rate + 5%)/12 for late payment due to a correction of the Annual Tax Return and (current market interest rate + 10%)/12 for late payment due to a tax assessment (SKP). – The sanction for not or being late in issuing the tax invoice is 1% of the base VAT.
6.	Tax Facilities	Currently, various tax facilities are given under several different regulations such as Law No. 25 of 2007 on Investment, Government Regulation No. 45 of 2019 and Government Regulation No. 96 of 2015.	These tax facilities will be regulated under a special section of the Omnibus Law.
7.	Tax on E-Commerce Activities	Not specifically regulated.	To redefine the concept of Permanent Establishment (*Badan Usaha Tetap*) so it is not based on a physical presence but a significant economic presence. This means foreign companies with an economic presence (revenue) in Indonesia, even if they have no physical presence in Indonesia, will have to pay Indonesian income tax.

We will provide an update on any further development in the proposed Omnibus Law, particularly when the Indonesian government finally enacts the law.

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