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## Indonesia Seeks to Woo Investment in New Capital City through Ease of Doing Business

The Indonesian government's decision to move the country's capital city from Jakarta to Ibu Kota Nusantara ("IKN") in East Kalimantan has generated a lot of excitement, as well as plenty of questions over how the ambitious project will be funded. With the recent release of a comprehensive government regulation on investing in IKN, the opportunities, incentives and rules for investors are now clearly laid out.

Government Regulation No. 12 of 2023 on Business Licensing, Ease of Doing Business, and Capital Investment Facilities for Business Entities in IKN ("GR 12/2023") was issued in March 2023 to attract both domestic and foreign investors to the nation's future capital city.

This advisory provides an overview of the incentives available to potential investors in IKN, as well as their rights and obligations under GR 12/2023. It covers the investment facilities available, tax and customs incentives, exemption from foreign ownership limitations, rights over land, and foreign worker utilization.

Read on to discover how your business can navigate the regulatory landscape of investing in IKN and become part of the country's future economic superhub.

### Tax and Customs Incentives

Based on multiple news reports, Nusantara Capital City Authority ("OIKN") has received up to 200 letters of intent for investment in IKN. This is not surprising given the numerous investment opportunities that have been promoted in IKN through GR 12/2023.

#### a. Income Tax Reduction, Value-Added Tax Exemption, and Import Duty Exemption

GR 12/2023 offers various investment facilities for businesses in IKN, including income tax reduction, value-added tax exemption, and import duty exemption. For example, companies constructing residential areas and offices are eligible for a 100% reduction in corporate income tax, while those providing construction or leasing services for residential housing, apartments, and offices can benefit from value-added tax exemption. The duration of the corporate income

tax deduction depends on the business sector of the investment and when it was made. For example, an investment in the infrastructure sector made during 2023-2030 will enjoy the deduction for 30 years, while an investment made during 2036-2045 will only experience the deduction for 20 years.

Further, there are tax deductions for activities such as research and development, work practices, apprenticeships, and donations for public and social facilities. GR 12/2023 also covers income tax (PPH), including Article 21 PPh on employment income. Certain micro, small, and medium-scale enterprises may also benefit from a 0% final PPh on their gross turnover. Customs exemptions and import tax facilities are also available for goods imported for the public interest, capital goods, and industrial development within IKN and partner areas.

b. Tax Incentives for Head and Regional Office Relocation

Companies with foreign tax subject status that establish and/or transfer their head or regional office to IKN can benefit from a corporate income tax deduction. This deduction is provided in the amount of 100% of the total corporate income tax payable. The reduction facility is granted for a period of 10 tax years. After this period ends, taxpayers are given a 50% tax deduction on corporate income tax payable for the next 10 tax years.

To qualify for these incentives, businesses must have legal entities with at least two affiliated units or related entities outside of Indonesia, demonstrate economic substance in IKN, and form a limited liability company in Indonesia.

To this date, several offices of the central government, ministries, and institutions have confirmed that they will transfer the head offices to IKN. For example, Financial Services Authority and Bank Indonesia are currently preparing the relocation of the head office to IKN in 2024.

The above incentives may likely be regulated further in the implementing regulations of GR 12/2023, such as the regulations of the Ministry of Finance.

### **Exemption from Foreign Ownership Limitations**

GR 12/2023 introduces the concept of "partner areas" in Kalimantan that support the development of IKN as an economic superhub. These areas must receive official designation through a decree issued by the Head of the OIKN.

Under GR 12/2023, licenses issued for businesses operating in IKN and its partner areas are exempt from foreign ownership limitations. However, it is currently unclear whether this completely lifts all foreign ownership restrictions for all businesses operating in IKN or only those with licenses issued by the OIKN. This is because foreign ownership restrictions under the 2021 Positive Investment List are implemented in business sectors, not on the business licenses themselves. We will need to wait and see how the government will apply the 2021 Positive Investment List in IKN in conjunction with the implementation of GR 12/2023.

In any case, to qualify for the exemption, they must, among others, form a partnership with micro, small, or medium enterprises or cooperatives.

To further encourage investment, GR 12/2023 allows business entities to invest in IKN without first having to confirm their Indonesian taxpayer status with the relevant authority.

## Rights Over Land

Land rights for business purposes in IKN are granted in three forms: the right to build (*Hak Guna Bangunan* – HGB), the right to cultivate (*Hak Guna Usaha* – HGU), or the right to use (*Hak Pakai*). The durations of HGU can be granted for up to 95 years per cycle, while HGB and Hak Pakai can be both granted for up to 80 years per cycle, with the following stages:

	<b>HGU</b>	<b>HGB</b>	<b>Hak Pakai</b>
Land Title Granting	35 years	30 years	30 years
Land Title Extension	25 years	20 years	20 years
Land Title Renewal	35 years	30 years	30 years
<b>Total Period Granted</b>	<b>95 years</b>	<b>80 years</b>	<b>80 years</b>

With GR 12/2023, companies can extend their land usage rights for another cycle, provided they obtain approval from the OIKN. This extension is only applicable to land in IKN and not in other regions.

Additionally, transfer rights over land and/or buildings, including the sale of land in IKN, are eligible for a 100% income tax deduction on the amount of income tax payable for the transfer of land and/or building rights.

## Other Points to Be Considered

### a. Business Licenses

GR 12/2023 regulates differently for business licenses issued in IKN in comparison with the risk-based licensing regime. According to GR 12/2023, business actors who will carry out its business activities in IKN must fulfil (i) basic business license; and (ii) sectoral business license.

Under GR 12/2023, the Indonesian government grants the authority to the OIKN to issue the basic business license and the sectoral business license for business activities carried out in IKN. The OIKN will approve the business licenses once they have been verified by the OIKN or certified/accredited institutions or professionals appointed by the OIKN. However, GR 12/2023 does not explain further on sectoral business licenses.

## b. Foreign Worker Utilization

Companies in IKN that employ foreign workers can enjoy certain benefits under GR 12/2023. For instance, they may obtain a Foreign Worker Utilization Plan (RPTKA) that is extendable for up to 10 years, rather than the usual maximum period of two years or five years.

Furthermore, companies employing foreign workers for national strategic projects in IKN are exempt from paying mandatory compensation funds (DKP-TKA), with the exact exemption period to be determined in a forthcoming regulation by the OIKN. Foreign workers in IKN are also eligible to receive stay permits that are extendable for up to 10 years.

## Conclusion

The Indonesian government has taken significant steps to make IKN an attractive destination for investment and living. With various guarantees and incentives as elaborated above, businesses operating in IKN can benefit greatly. While future regulations will provide further details, GR 12/2023 demonstrates the government's commitment to creating a favorable investment climate for growth in IKN. As investors seek to take advantage of the opportunities available in IKN, sound legal advice will help to ensure they are well-equipped to best understand the intricacies of GR 12/2023 and to reap the benefits.

### ABOUT M&T ADVISORY


M&T Advisory is a digital publication prepared by the Indonesian law firm, Makarim & Taira S.

It informs generally on the topics covered and should not be treated as legal advice or relied upon when making investment or business decisions.

Should you have any questions on any matter contained in M&T Advisory, or other comments in general, please contact us at the emails provided at the end of this article.

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