Client Update: Indonesia

2 April 2020

Government Issues More Tax Policies in Response to Covid-19

Adding to tax incentives and policies that have been rolled out in the past few weeks, on 31 March 2020, the government issued Government Regulation in lieu of Law No. 1 of 2020. The purpose of this regulation is to provide a legal basis for the government and relevant agencies in issuing further policies and mitigations and it introduces and amends existing regulations in certain sectors, including tax.

Below we provide a brief summary of the tax incentives granted under the regulation:

1. **Companies Enjoy a Tax Cut**

   To further support businesses during this pandemic and ensure their survival, the government reduces the prevailing corporate income tax rate to be as follows:

   a. 22% for 2020-2021 fiscal year and 20% for 2022 fiscal year onwards, from previously 25% for domestic corporate taxpayers and permanent establishment;

   b. an additional 3% cut if the domestic corporate taxpayer is a listed company that satisfies certain criteria under the regulation (effectively, 19% and 17% for 2020-2021 fiscal year and 2022 fiscal year onwards, respectively).

2. **Tax on E-Commerce Sales from Foreign Merchants and Providers**

   Unlike the allowance given to domestic companies, foreign merchants and providers who conduct e-commerce transactions with customers in Indonesia must now pay tax. While this concept has already been introduced in Indonesia's E-Commerce Law, which was only introduced at the beginning of this year, the regulation sets the regulatory bases to impose Indonesian tax to these e-commerce transactions. Now, the following taxes will apply:

   a. ***VAT on import of intangible taxable goods and services through e-commerce***

   While VAT on import of intangible taxable goods and services is not new, the regulation obliges a foreign e-commerce service provider that enters into an e-commerce transaction with a purchaser or recipient in Indonesia to collect, settle and report the VAT of the purchased goods and services, instead of the customers or buyers as stipulated under the VAT Law.

b. ***Income tax***

It used to be the case that a foreign merchant, service provider or e-commerce provider must pay income tax if they satisfy the 'permanent establishment' test. The regulation adds a new criterion of 'significant economic presence' under the 'permanent establishment'. An entity will satisfy the significant economic presence criterion if:

(i). their group's consolidated gross turnover reaches a certain threshold;
(ii). their total sales in Indonesia reaches a certain threshold; and/or
(iii). the number of their active users (purchasers of goods or recipient of service through an e-commerce transaction) in Indonesia reaches a certain threshold.

c. ***Electronic transaction tax***

Despite the protection against permanent establishment determination that may be enjoyed by foreign merchants, service providers or e-commerce providers under a double taxation avoidance agreement (and indeed, the regulation does acknowledge such protection), these entities will still be liable to pay tax in the form of electronic transaction tax.

This is a new concept introduced under the regulation, and this tax is imposed on sales transaction of goods and/or services from outside Indonesia by a non-tax resident, either directly or through a foreign e-commerce provider, to purchasers or users in Indonesia.

As such, a foreign merchant, service provider or e-commerce provider must settle and report either the income tax as detailed in point b or the electronic transaction tax.

A foreign merchant, service provider or e-commerce provider can appoint a representative in Indonesia to collect, settle and report the VAT and/or the income tax or the electronic transaction tax. It is expected that more regulations would be issued to stipulate items such as tariff, calculation procedures, significant economic presence concept and appointment of a representative.

Failure to fulfil the above requirements may subject the foreign merchant, service provider or e-commerce provider to administrative sanctions as stipulated under the General Tax Provisions and Procedures Law. These entities may also be subject to termination of access by the Minister of Communication and Information.

3. Extension of the Objection Deadline

Following the government's extension of the national emergency until 29 May 2020 (subject to further changes based on the government's further assessment), the government grants a six-month extension to taxpayers to submit an objection to their tax assessment letters if the deadline for objection falls within the national emergency period.

4. Import Duty Exemptions or Reliefs

Following the regulations issued by some agencies covering certain incentives, which are detailed in our previous update), this regulation amends Articles 25(1) and 26(1) of the Customs Law. The Minister of Finance is now authorised to exempt or reduce import duty of goods if those goods are used to handle the Covid-19 outbreak.

Conclusion

It is likely that the government will issue more policies and incentives in the weeks to come. Thus, it is important that taxpayers, both businesses and individuals, keep abreast of these developments, considering their potentially significant impact.

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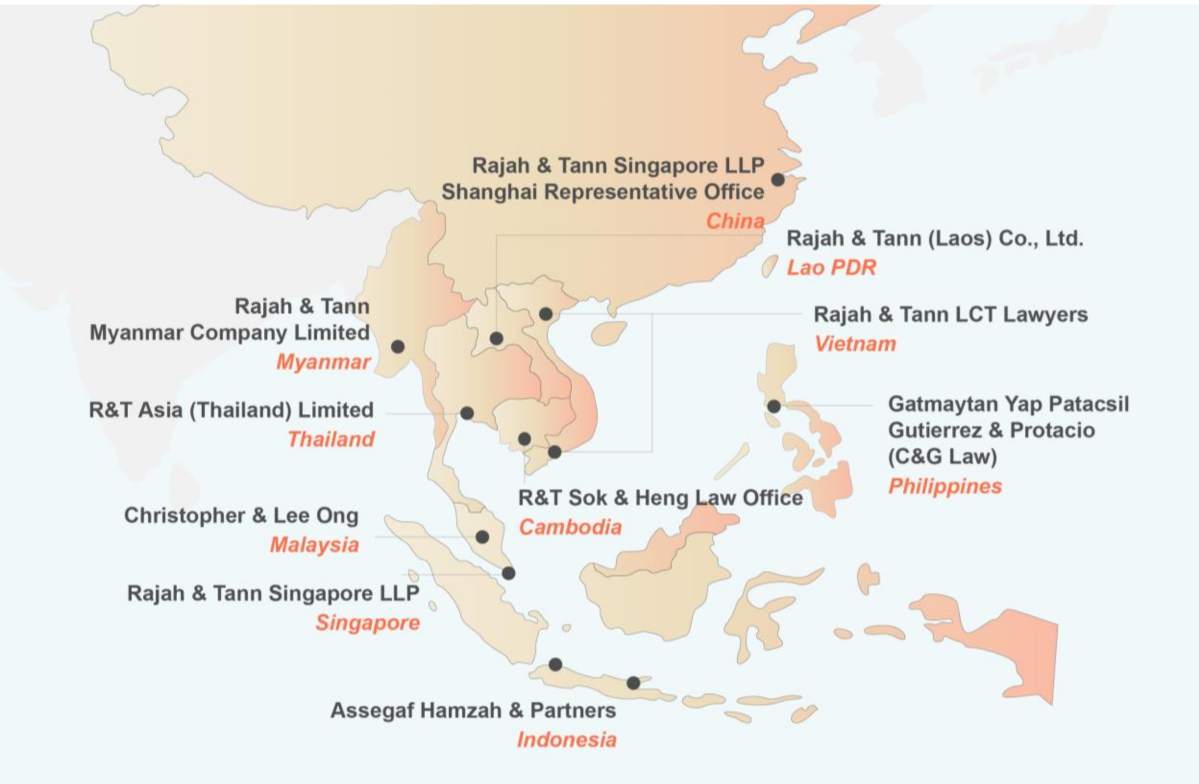

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