Film Financing and Television Programming

A Taxation Guide

For more than a decade, the KPMG Film Financing and Television Programming Taxation Guide has been recognized as a valued reference tool for industry professionals, filled with information drawn from the knowledge of the KPMG International global network of member firm media and entertainment Tax professionals. The 2022 edition is a fundamental resource for film and television producers, studio and streaming production executives, tax executives, finance executives, and attorneys involved with the commercial side of production.

Doing business across borders can pose major challenges and may lead to potentially significant tax implications, and a detailed understanding of the full range of potential tax implications can be as essential as the actual financing of a project. The Guide helps industry executives assess the many issues surrounding cross-border business conditions, financing structures, and issues associated with them, including development costs and rules around foreign investment. Recognizing the role that tax credits, subsidies, and other government incentives play in production financing, the Guide includes a robust discussion of relevant tax incentive programs in each country.

Each chapter focuses on a single country and provides a description of commonly used financing structures, as well as their potential commercial and tax implications for the parties involved. Key sections in each chapter include:

Introduction
A thumbnail description of the country’s industry contacts, regulatory bodies, and financing developments and trends.

Key Tax Facts
At-a-glance tables of corporate, personal, and value-added (VAT) tax rates; normal nontreaty withholding tax rates; and tax year-end information for companies and individuals.

Financing Structures
Descriptions of commonly used financing structures in production and distribution, and the potential commercial tax implications for the parties involved. This section of each chapter covers rules surrounding co-productions, partnerships, equity tracking shares, sales and leaseback, subsidiaries, and other tax-efficient structures.

Tax and Financial Incentives
Details regarding the tax and financial incentives available from central and local governments as they apply to investors, producers, distributors, and actors, as well as other types of incentives offered.

Indonesia

Corporate Tax
Explanations of the corporate tax in the country, including definitions, rates, and how they are applied.

Personal Tax
Personal tax rules from the perspective of investors, producers, distributors, artists, and employees.

Streaming Tax Considerations
Provides a look at the unique tax issues that need to be addressed in this evolving segment of the industry. With considerations such as identifying tax collection and reporting obligations in a variety of jurisdictions, understanding international tax implications is essential for streaming providers.

KPMG and Member Firm Contacts
References to KPMG and other KPMG International member firms' contacts at the end of each chapter are provided as a resource for additional detailed information.

Please note: While every effort has been made to provide up-to-date information, tax laws around the world are constantly changing. Accordingly, the material contained in this publication should be viewed as a general guide only and should not be relied upon without consulting your KPMG or KPMG International member firm Tax advisor.

Production opportunities are not limited to the countries contained in this Guide. KPMG and the other KPMG International member firms are in the business of identifying early-stage emerging trends to assist clients in navigating new business opportunities. We encourage you to consult a KPMG or KPMG International member firm Tax professional to continue the conversation about potential approaches to critical tax and business issues facing the media and entertainment industry.

We look forward to helping you with your film and television production ambitions.

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Indonesia

Introduction

The Indonesian government has revised the tax administration, income tax, and value-added tax (VAT) laws several times in an attempt to attract foreign investors, increase tax collection, and provide a more neutral, simple, and transparent tax environment.

In addition, the Indonesian government has also entered into tax treaties with several countries. As of February 2022, Indonesia has tax treaties with 71 countries.

The filmmaking industry has been open to foreign investors since the release of Presidential Regulation No. 44/2016 on May 18, 2016 (and further confirmed under the Omnibus Law (Law No. 11/202) and its guidelines (Presidential Decree No. 10/2021 and Presidential Decree No. 49/2021)). Film companies may hire foreign artists or employ foreign technical assistance services, etc. As there are no specific regulations on the film industry, ordinary tax provisions operate.

Key Tax Facts

Corporate income tax rate	22%
Highest personal income tax rate	35%
VAT rate	10% (will be 11% as of April 1, 2022)
Normal non-treaty withholding tax rates: Dividends	20%
Interest	20%
Royalties	20%
Tax year-end: Companies	12-month period
Tax year-end: Individuals	December 31

The year-end tax for companies is determined based on the company's policy as long as the fiscal year covers a 12-month period.

Film Financing

Financing Structures

Placement of share capital is not a taxable event. Dividends payable on share capital cannot be deducted for tax purposes.

Aside from share capital, financing in the film industry could also be done in the form of borrowing. The film industry may borrow from local and overseas banks or private lenders by utilizing the available tax treaty protection to reduce the 20% domestic withholding tax rate on the interest payments. There are no specific tax regulations on film industry financing. Interest payable on loans and other forms of business debt can generally be deducted for tax purposes, subject to thin capitalisation rules and arm's length transfer pricing rules if the loan is a related-party loan. However, the loan principal cannot be deducted in calculating taxable profit.

Other Financing Considerations

Stamp Duties

Stamp duty of 10,000 Indonesian Rupiah (IDR) applies for each commercial document entered into, such as agreements, commercial papers, and invoices.

Exchange Controls and Regulatory Rules

There are no specific exchange controls or other regulatory rules in Indonesia. However, there is a requirement by the Indonesian Central Bank to report the purpose of any transfer made to an overseas recipient (the underlying transaction). In addition, when purchasing USD $25,000 or more (or its equivalent) in a single month by way of spot transaction or USD $100,000 or more (or its equivalent) by way of derivative transaction, the purchaser should attach their tax ID number, state the purpose of the purchase, and attach a statement that the purpose of the purchase is accurate in their report.

Other than the above-mentioned, there is nothing to prevent the repatriation of income arising in Indonesia back to foreign lenders or foreign artists.

Corporate Taxation

Indonesian companies are subject to corporate tax of 22%. Taxable income is calculated based on the commercial income statement after adjustments for non-taxable income and non-deductible expenses. Interest expense is generally deductible for the purposes of calculating the corporate tax payable, subject to thin capitalisation rules and arm's length transfer pricing rules if the loan is a related-party loan.

Film Distribution Company

If an Indonesian company acquires distribution rights by way of a lump-sum payment from another production company (local or overseas), the payment for the acquisition of the rights is normally treated as an expense in earning profits. The expense is not regarded as the purchase of an intangible asset but as a royalty payment. If such rights cover several years, the royalty payment should be amortized in calculating the corporate tax payable.

Where the recipient of payments is a non-resident, payments for distribution rights are subject to domestic regulation withholding tax of 20%. However, if the recipient resides in a tax treaty country, the withholding tax rate can be reduced by the relevant treaty.

Examples of the relevant treaty royalty withholding rates are as follows:

United States	10%
United Kingdom	15%
Netherlands	10%
Japan	10%
Singapore	15%
Malaysia	10%
Thailand	15%

The income arising from exploiting such rights is normally recognized as trading income. A distribution company will be taxed on the income derived from the exploitation of any of its acquired films, wherever and however these are sublicensed, provided the parties are not connected. If they are connected, the tax authorities may question the level of income returned.

Other Expenditure

As there are no specific tax regulations for a film distribution company or a film production company, they are subject to the ordinary rules applicable to other companies. For example, in calculating taxable income, most day-to-day business expenditures—such as the cost of film rights, salaries, rents, advertising, travel expenses, and legal and professional costs which normally relate to the business—may be deducted.

Certain other expenditures cannot be deducted, e.g., any bad debt provisions, employees' benefits in-kind, depreciation of luxury vehicles, etc. Capital expenditure, such as the purchase of land and buildings, equipment, and motor vehicles, should be depreciated. For tax purposes, the useful life of the assets is categorized as either 4 years, 8 years, 16 years, or 20 years depending on the type of assets.

Losses

Tax losses can be carried forward up to a maximum five years.

Indirect Taxation

Value Added Tax (VAT)

VAT of 10% is payable by an entity on taxable supplies it delivers (output VAT). The VAT rate increased to 11% on April 1, 2022 and will increase to 12% on January 1, 2025. Most services, including royalty, professional services, and goods, are subject to VAT in Indonesia, including film distribution income. Interest is not subject to VAT. Export of goods is subject to VAT of 0%.

An entity is also entitled to claim tax credits for the VAT component (input VAT) of its local purchases and imports of goods and services against the payable VAT. If the input VAT is higher than the output VAT, the excess may be carried forward to the following month to be compensated with the output VAT. A refund application is also allowed. However, a refund application will trigger a tax audit.

Utilizing overseas services and payments of royalties to overseas recipients is subject to self-assessed VAT at 10%. This is treated similar to input VAT on local purchases.

Non-residents cannot register for VAT purposes in Indonesia.

Customs Duties

Importation of cinematographic films, exposed and developed, is subject to customs duty of 15%. Customs duty on publicity, advertising, and promotional materials will depend upon the particular type of good. For example, some advertising materials are free of customs duty while other materials are generally subject to a customs duty of 5%. The value of the customs duty and VAT is calculated at the time of importation and is the customs value, plus overseas freight and insurance.

Personal Taxation

Non-resident Artists (self-employed)

Income Tax Implications

Subject to its double tax treaties, Indonesia taxes the income earned by a non-resident artist from a performance in Indonesia and any other activities carried on in Indonesia.

If a non-resident artist receives any payment arising from or in consequence of an Indonesian activity, the Indonesian payer is obliged to deduct withholding tax and account for this tax to the authorities. This withholding tax obligation also applies to payments made to related support staff (e.g., choreographer, costume designer, director, director of photography, film editor, musical director, producer, production designer, or set designer) who are not engaged as employees. The rate of withholding tax for payments to entertainers and their associates that are individuals is 20% under the local regulation.

Indonesia's double tax agreements provide the following rules:

United States	U.S. artists are taxable in Indonesia where the payment for remuneration, including expense reimbursements, exceeds US$D 2,000 in any consecutive 12-month period, except under cultural agreement between governments (Article 17).
United Kingdom	U.K. resident artists are taxable in Indonesia to the extent which they perform services in Indonesia, except under cultural agreement between governments or where the visit is supported by government funds (Article 17).
Netherlands	Dutch resident artists are taxable in Indonesia to the extent to which they perform services in Indonesia (Article 18).
Japan	Japanese resident artists are taxable in Indonesia to the extent which they perform services in Indonesia, except under cultural agreement between governments or where the visit is supported by government funds (Article 17).
Singapore	Singapore resident artists are taxable in Indonesia to the extent to which they perform services in Indonesia, except where the visit is supported by government funds (Article 16).
Malaysia	Malaysian resident artists are taxable in Indonesia to the extent to which they perform services in Indonesia, except where the visit is supported by government funds (Article 16).
Thailand	Thai resident artists are taxable in Indonesia to the extent to which they perform services in Indonesia, except where the visit is supported by government funds (Article 17).

Resident Artists (self-employed)

Resident artists are taxable as individuals.

Employees

Income Tax Implications

Employers are obliged to make regular, periodic payments to the Indonesian tax authorities in respect of employees' personal tax liabilities arising from salaries or wages paid to them. Deductions are made for the non-taxable income band based on the number of dependents (to a maximum of three). The current progressive withholding tax rates applicable are between 5% and 35% for annual income (the maximum 35% rate is applicable to annual income exceeding IDR 5 billion).

Social Security Implications

Healthcare insurance managed by the newly established Healthcare and Social Security Agency (*Badan Penyelenggara Jaminan Sosial Kesehatan* or BPJS *Kesehatan*), previously Social Security Agency (Jamsostek):

- Employer's contribution: 4%; and
- Employee's contribution: 1%.

The above rates are applied to basic salary and fixed allowances up to a maximum of IDR 12,000,000 per month.

Digital Media

Digital media has grown significantly for the last five years in Indonesia, including retail market and digital advertisement. Currently, not only individuals but business entities also use social media platforms on a regular basis. Under the current regulation, retail sales through the internet are open for foreign investments with partnership scheme with local business.

Provision of digital media and electronic services are taxable based on the general rules. The main tax obligations for digital media providers are 10% VAT (this VAT rate increased to 11% on April 1, 2022 and will increase to 12% on January 1, 2025) and 22% corporate income tax based on the net taxable profit generated. At the transaction date, the Indonesian corporate tax resident service recipient is obliged to perform tax withholding on the service fee payments to Indonesian service providers (i.e., 2% on gross basis). The tax withheld constitutes prepaid tax for the service provider for the purpose of calculating year-end corporate tax payable.

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