



KEDUTAAN BESAR REPUBLIK INDONESIA
KUALA LUMPUR



INVESTMENT COORDINATING BOARD

INVESTING IN INDONESIA

FREQUENTLY ASKED QUESTIONS (FAQ) FOR NEW INVESTORS

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Foreword



Invest in Remarkable Indonesia

Indonesia is your investment destination. Abundant natural resources and skilled work force, a large and growing domestic market, combined with an improving investment climate and a higher global profile, are just a few of Indonesia's salient strengths. With stability firmly planted after 13 years of vibrant democratic rule, Indonesia's vast economic potential is in position for takeoff.

Especially for Malaysia, Indonesia is the nearest neighbor that has many similarities in culture, religion and language. It takes just less than 2 hours flight from Kuala Lumpur to Jakarta, and there are so many direct flights connecting cities in Malaysia and Indonesia. I believe, investing in Indonesia will be much easier and more beneficial for Malaysian businessmen rather than investing in any other countries in the best decision.

To make sure business in Indonesia will run smoothly, foreign investors should go through all procedures in accordance with the prevailing laws and regulations in Indonesia. It is the role of the Embassy of the Republic of Indonesia in Kuala Lumpur to assist prospective investors in Malaysia to understand the basic requirements of foreign investment in Indonesia.

Therefore, by publishing this pocket book “Frequently Asked Question (FAQ) of Investment in Indonesia”, the Embassy would like to assist the keen investors to have better understanding on investing and all matters related with doing business in Indonesia. This book consists of answers to simple questions that are frequently asked by prospective investors.

I have to admit that a lot of improvement is needed to make sure this book really helpful and friendly to investors. Our effort does not stop here. In the meantime, I hope this book will encourage further Malaysian investors to investing in Remarkable Indonesia.

Kuala Lumpur, 10 December 2013

HERMAN PRAYITNO

Ambassador of the Republic of Indonesia

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Investing In Indonesia Frequently Asked Question (FAQ) for New Investors

I. INVESTMENT BASIC INFORMATION

Q-1: I want to invest in Indonesia. What are the basic things we should know first?

Answer:

- First you have to check whether your business is allowed for foreign investment in Indonesia. You may refer to investment negative list on the Presidential Decree No 36 Year 2010 that stipulates the sectors which are closed to foreign investment as well as the sectors which the ownership by foreigner are limited.

- If the business sector is not on the negative list, there is no restriction for foreigner to own the share. It could be the majority and even could be up to 100 percent.

- The legal entity of the foreign company should be a Limited Liability Company, or in Indonesian Language called Perseroan Terbatas or PT. The PT company should be owned by minimum two parties, each party is either individual or corporate.

- According to Indonesian Law, any company owning any percentage of foreign shareholding is considered as a foreign company. In Indonesian Language,

foreign company is called PT PMA, stands for Penanaman Modal Asing.

Q-2: What is the minimum investment for foreign investment company?

Answer:

- Minimum investment for a PT. PMA is Rp 10.000.000,- (ten billion Indonesian Rupiah), or equivalent to around USD 1.2 million based on current exchange rate.

It applies to all business sectors. The amount of minimum investment is not including the value of the land and properties of the company.

- The minimum paid up capital of a PT. PMA is Rp 2.500.000.000 (2.5 billion Indonesian Rupiah).

Q-3: How to set up a foreign company in Indonesia?

Answer:

- First of all, you should register your investment plan to Indonesia Investment Coordinating Board (Badan Koordinasi Penanaman Modal/BKPM) in Jakarta to get investment initial approval.

- In the investment registration form, you should mention the name of the company, the shareholders, amount and percentage of capital shares, the exact location and business line, and the investment plan (including the type of goods /services, production capacity, and amount of investment).

- Simultaneously you also could establish the legal entity of your company in Indonesia. The deed of establishment of PT. PMA should be issued by public notary in Indonesia and prepared in Indonesian Language. The deed of establishment contains following information:

1. Name and address of the company
2. Line of business of the company
3. the articles of association
4. Identity of the founders of the Company (minimum 2 person)
5. The composition of the Board of Directors (BOD) and the Board of Commissioners (BOC) of the Company
6. The identity of the Company shareholders and the share of ownership

- After the establishment of the legal entity, the public notary will register the new PT. PMA to the Ministry of Law and Human Right of the Republic of Indonesia. Once registered, the establishment of new PT. PMA will be published in the state gazette.

- The registration required additional documents:

1. Domicile letter. Could be obtained from the office building management, industrial estate management or from the local authority where the PT. PMA is located.
2. Tax registration number (Nomor Pajak Wajib Pajak/ NPWP) obtained from the relevant local tax office where the company is located.

- Within 30 days of the approval of the Ministry of Law and Human Rights, the approved Deed of Establishment must be registered with the Local Trade Office to obtain Company Registry (Tanda Daftar Perusahaan/TDP)

Notes:

- Before establishing the PT PMA, you should check the availability of the name of the company that you want to set up from the Ministry of Law and Human Rights of the Republic of Indonesia. The name checking could only be done by the public notary in Indonesia.

- All information on the application submitted by the company to get the licenses from BKPM and other government institution in Indonesia should refer to the deed of establishment of PT. PMA. Any changes of company's condition which is not relevant with the deed of establishment, such as the change or expansion of business sector, change of company's location or business activity's location, should be informed to the BKPM and related government agencies to get licenses amendments.

Q-4: Are there any other licenses required to start the business?

Answer:

- It depends on the business sector. If it is a trading or service provider company, they can start the business operation after obtaining business license from the BKPM.

- However, for the other business sector, such as manufacture, plantation, information and technology, education, medical and health, hospitality, they should obtain specific license from related government agencies/ministries.

- The company operation that would have environmental impact would also required to undertake environmental impact analysis to be approved by the Ministry of Environment of Indonesia.

Q-5: How to set up a new Representative Office in Indonesia?

Answer:

-A foreign company Representative Office (Kantor Perwakilan Perusahaan Asing /KPPA) is not a legal entity because it just represents a foreign company located outside Indonesia. Representative office is not allowed to undertake business transactions or receive sales payments in Indonesia.

- A Representative Office shall be established with the approval of the BKPM. After getting the approval, the representative office should get Company Registration Certificate (Tanda Daftar Perusahaan / TDP) from the local Department of Trade before start the operation.

- Requirements for BKPM approval are:

1. Application form (KPPA form);
2. Copy of Articles of Association and its amendment of the head office (parent company);
3. Letter of appointment from the head office (parent company) to the Head of the Representative Office;
4. Copy of valid passport (for expatriate) or identity card/KTP (for Indonesian) of proposed Head of the Representative Office;
5. Statement letter from the Head of the Representative Office concerning the willingness to stay and only work in the position as the Head of the Representative Office without doing any other business in Indonesia; and
6. Power of attorney (if necessary).

- Requirements for TDP are:

1. Letter of Domicile (Surat Keterangan Domisili) from the relevant building management and head of village;
2. Taxpayer Registration Number (Nomor Pokok Wajib Pajak /NPWP) of the Representative Office from the relevant Tax Service Office.

Q-6: Can I set up a company anywhere in Indonesia?

Answer:

- Yes, you can set up a company in any part of Indonesia. But in some region there are restrictions for some particular business sector.

- Especially for manufacturing industry, it should be located inside the industrial estate park in Indonesia, unless it is regulated by specific regulation.

Q-7: For registration to the BKPM office, do I have to do it at Jakarta Head office?

Answer:

- For the time being, investors should apply at the BKPM head office in Jakarta or Batam Island if the investment will be done there. The government is on the process to delegate the authority to BKPM regional office to make it easier for investor.

Q-8: What sector is recommended for foreign investors like me to invest in Indonesia?

Answer:

- The Government of Indonesia has released the Master Plan for Acceleration and Expansion of Indonesia Economic Development in 2011. The vision of the Master plan is to achieve Indonesia as high income country in 2025 with the national per capita income USD 15.000.

- According to the Master Plan, there are 22 priority sectors, some of them are infrastructure, transportation, oil and gas, power plant, mining, telecommunications; manufacturing and agriculture.

Q-9: How to open a bank account?

Answer:

- The regulation of Central Bank of Indonesia requires that all banking transaction (such as capital injection, administration of loans, payment of capital equipment, raw material, etc) of a newly established Foreign Investment Company be transacted through a special foreign investment bank account in Indonesia. The required documents as follows:

1. BKPM Initial Investment Approval, Deed of establishment, domicile letter, tax number
2. The power of attorney to the person who is given the authority to open bank account
3. Copy ID/passport of the authorized person to open bank account
4. Photo of the authorized person to open bank account
5. Minimum deposit is Rupiah 1 million or USD 1.000

Note:

There is possibility that each bank has additional requirements.

II. TAXATION

Q-10: How is the tax structure for foreign investment?

Answer:

- The basic tax obligation is income tax which is progressive and applied to both individual (s) and enterprises. A PT, PMA who is located and carrying out business activities in Indonesia as well as foreign individual who is working and earn income in Indonesia will generally have to assume the same tax obligations as a resident taxpayer. A self-assessment method is used to calculate the tax.

- The tax rate for individual (s) and corporate as follows:

a. The Tax Rate For Individual(s)

Taxable annual income	Income Tax Rate
Up to Rp 50 million	5%
Over Rp 50 million to Rp 250 million	15%
Over Rp 250 million to Rp 500 million	25%
Over Rp 500 million	30%

b. The Tax Rate For Corporate(s)

Year	Income Tax rate
2009	28%
2010 and onwards	25%
Limited Company which 40% of their shares trade in stock exchange market	5 % Lower than normal rate
Gross turnover up to Rp.50 billion	50 % deduction from normal rate

- Withholding tax system is used in Indonesia to collect the income tax. Where a particular item of income is subject to withholding tax, the payer is responsible for withholding or collection of the tax. For example, employers are required to withhold income tax of the salaries payable to their employee and pay the tax to the tax office on their behalf.

Note:

- Detail information of income tax should be referred to the Income Tax Law No. 36 Year 2008

Q-11: Is there any other information related to tax obligation for foreign investors?

Answer:

- Land & building tax. The owners of land & building also have to pay tax annually on land, buildings and permanent structures. The effective rates are nominal, typically not more than one tenth of one percent per annum (0.1%) of the value of property.

- Value Added Tax. In normal cases, 10% Value Added Tax (VAT) is applied to imports, manufactured goods and most services. However, according to the government regulation No. 7 Year 2007, Free Charge of VAT to the importation of certain VAT charged goods having the strategic term which are consist of:

1. Capital Goods in the form of machineries and factory equipments, either in installed or separated, including spare parts
2. Feed of poultry and fish and raw materials to make feed
3. Seed and or seeding of agricultural material, plantation, forestry, livestock, aquaculture, or fishery
4. Agricultural products;

- Sales Tax on Luxury Goods. This tax ranging from 10% to 75%. The list of the tax should be referred to the Government Regulation No. 12/2001 jo. No. 43/2002 jo. 46/2003 and other related tax implementation regulations.

- Stamp Duty. The stamp duty nominal are either Rp. 3,000 or Rp. 6,000 on certain documents. The rate of Rp. 6,000 is applicable for letters of agreement and other letters, Notary Deed and Land Deed including its copies. For all documents bearing a sum of money, the rate is Rp. 6,000 when the value stated in the document is more than Rp. 1 million, and Rp. 3,000 when the value is between Rp. 500,000 and Rp. 1 million. Below Rp. 500,000 is not subject to stamp duty. For cheques, the rate is Rp. 3,000 regardless of money value stated.
- Besides tax, local government at provincial or municipal level sometimes applied retribution for business sector. It varies from each region.

III. INVESTMENT INCENTIVES

Q-12: Is there any incentive provided by the Indonesian Government for foreign investors?

Answer:

Yes. Indonesian government provides incentives as follows:

A. Import Duties

All investment projects of PMA as well as PMDN projects which are approved by the Investment Coordinating Board or by the Office of Investment in the respective districts, including existing PMA and PMDN companies expanding their projects to produce similar product(s) in excess of 30% of installed capacities or diversifying their products, will be granted the following facilities:

1. Relief from import duty so that the final tariffs become 0 %. This facility applicable on:

- the importation of capital goods namely machinery, equipments, spare parts and auxiliary equipments for an import period of 2 (two) years, started from the date of stipulation of decisions on import duty relief.
- the importation of goods and materials or raw materials regardless of their types and composition, which are used as materials or components to produce finished goods or to produce services for the purpose of two years full production (accumulated production time).

- the decree as above mentioned is not applied to the assembling of cars and motor bikes except for its component industries.

2. Exemption from Transfer of Ownership Fee for ship registration deed / certificate made for the first time in Indonesia.

B. Tax Facilities

The government has introduced a Tax Bill No's 16, 17, 18, 19 and 20 of 2000 and applied since January 1, 2001. Based on this tax law, the domestic and foreign investors will be granted tax allowances in certain sector and/or area as follows:

1. An Investment Tax Allowance in the form of taxable income reduction as much as 30 % of the realized investment spread in 6 (six) years.
2. Accelerated depreciation and amortization.
3. A Loss carried forward facility for period of no more than 10 (ten) years.
4. A 10 % income tax on dividends, and possibly being lower if stipulated in the provisions of an existing particular tax treaty.

The government has also introduced provisions No's 146 of 2000 of 2000 and 12 of 2001 on the importation and/or delivery of Selected Taxable Goods, and or the provision of Selected Taxable Services as well as the importation and or delivery of Selected Strategic Goods which are exempted from Value Added Tax.

C. Export Manufacturing

There are many incentives provided for exporting manufacture products. Some of these incentives are as follows;

Restitution (drawback) of import on the importation of goods and materials needed to manufacture the exported finished products.

Exemption from Value Added Tax and Sales Tax on Luxury goods and materials purchased domestically, to be used in the manufacturing of the exported products.

The company can import raw materials required regardless of the availability of comparable domestic products.

D. Bonded Zones

The industrial companies which are located in the bonded areas are provided with many incentives as follows;

1. Exemption from import duty, excise, income tax of Article 22, Value Added Tax on Luxury Goods on the importation of capital goods and equipment including raw materials for the production process.
2. Allowed to divert their products amounted to 50% of their export (in term of value) for the final products, and 100% of their exports (in term of value) for other than final products to the Indonesian customs area, through normal import procedure including payment of customs duties.
3. Allowed to sell scrap or waste to Indonesian custom area as long as it contains at the highest tolerance of 5% of the amount of the material used in the production process.

3. Allowed to sell scrap or waste to Indonesian custom area as long as it contains at the highest tolerance of 5% of the amount of the material used in the production process.
4. Allowed to lend their own machineries and equipments to their subcontractors located outside bonded zones for no longer than 2 (two) years in order to further process their own products.
5. Exemption of Value Added Tax and Sales Tax on Luxury Goods on the delivery of products for further processing from bonded zones to their subcontractors outside the bonded zones or the other way around as well as among companies in these areas.

Q-13: What about Tax Holiday for foreign investors?

Answer:

- In August 2011, the Ministry of Finance of Indonesia introduced Regulation No. 130/PMK.011/2011 regarding tax holidays for large scale investments for 5 to 10 years. Such exemptions are granted for FDI projects of at least 1 trillion RP or 117 million USD. Applications for such projects must meet the specified criteria and are to be submitted to the Ministry of Industry which will deem whether the investment is eligible for the tax break.

- Summary of Ministry of Finance Regulation No. 130/PMK.011/2011:

a. Should the company meet the following criteria:

1. The company was established as an Indonesian business entity after 15th August 2010
2. The capital investment must be greater than 1 trillion RP with a minimum of 10% of the investment held as a deposit on a bank account in Indonesia until commercial production begins
3. Be involved in 'pioneer industries' such as petrochemical refineries, infrastructure, renewable energy, telecommunication equipment and base metals production.

b. Then it is eligible for the following incentives:

1. An exemption from corporate income tax for a period from 5 and up to 10 years, beginning from the first date of commercial production
2. After the initial 'tax holiday' period expires, an additional incentive of a 50% reduction in the amount of corporate income tax payable may be made available for an additional two year period.

IV. LAND OWNERSHIP

Q-14: Can I buy and own land in Indonesia?

Answer:

- According to the Investment Law no. 25 Year 2007, the land rights available to investors are as follow:

1. Right to Cultivate or Hak Guna Usaha (HGU) is the right to exploit land that is owned by the state for farming, fishery and livestock purposes. HGU may be given for 95 years by giving the right in advance for 60 years and could be renewed for 35 years.
2. Right to Build or Hak Guna Bangunan (HGB) is the right to construct and own buildings on land owned by the state or individuals and which are not farm lands. HGB may be given for 80 years by giving the right in advance for 50 years and could be renewed for 30 years.
3. Right to Use or Hak Pakai is the right to use and/or earn income from land owned by the state or individuals. The stipulation on the right to use is set by a relevant official or under an agreement with the land owner. The right to use may be given for 70 years by giving the right in advance for 45 years and could be renewed for 25 years.

- HGU and HGB rights can be held by Indonesian citizens and corporate bodies that are established under Indonesian law and are based in Indonesia (including PT. PMA) but not by foreign individuals or foreign representative offices. This right could change hands during the contract period.

- Right to Use can be held by Indonesian citizens and corporate bodies that are established under Indonesian law and are based in Indonesia (including PMA) as well as by foreign individuals or representative offices. If the land belongs to the state, the Right to Use can be transferred to another party with approval of the relevant government official. The Right to Use land belonging to individuals can also change hands.

- According to the Law, the PT. PMA can buy and own the land in Indonesia but the status of the land ownership is either HGU, HGB or Hak Pakai.

Q-15: Can a foreigner or PT. PMA purchase a property in Indonesia?

Answer:

- It depends on the type of property:

1. For a landed building (house, office, factory) it is only allowed for a PT. PMA and the status of the land is HGB or the Right to Use (Hak Pakai).
2. For a condominium or apartment and office space, the foreign individual or PT. PMA can own it as long as it isn't a part of a government-subsidized housing development) and the land status of the building is strata title status under the Right to Use (Hak Pakai).

Q-16: I want to buy plantation land in Indonesia. What will be the status of the land?

Answer:

- The title of the plantation land is Land Cultivation Right (Hak Guna Usaha or HGU) for agricultural, fishery or animal husbandry purposes. You may buy and own the land, but the status of the land is state-owned land and the HGU is only valid for certain period of time.

- The type of plantation crops should be suitable with the HGU.

- This right can be held by Indonesian individuals/entities as well as government approved PT. PMA (foreign joint venture) companies, and may be mortgaged.

Q-17: What is the status of land for a PT. PMA who is a property developer?

Answer:

- PT. PMA who is a property developer may buy a land in Indonesia to develop the property. The status of the land is Right to Build or Hak Guna Bangunan (HGB) which will be split to small lots accordingly. Later on, the buyer of the property could apply to change the status of the land lots to freehold right (Hak Milik) which is allowed only for Indonesian citizen.

V. IMMIGRATION

Q-18: Do I need a visa to visit Indonesia?

Answer:

- Certain nationalities need to obtain a visa to visit Indonesia. This depends on the purpose of visit and the length of stay. For nationalities of ASEAN countries, they do not need visa to visit Indonesia for socio culture and tourism purpose. They may stay up to 30 days in Indonesia. For the government official of ASEAN countries who hold official and diplomatic passport, they may visit Indonesia without visa for 30 days.

- For the other purposes, such as business trip, ASEAN countries nationalities should apply visa from the Indonesian Embassy in their respective countries.

Q-19: What are the general requirements to apply visa?

Answer:

- All the applicants for any types of visa must comply with the general requirements below:

1. Provide a complete and signed visa application form. The application forms is available in the Embassy or could be downloaded from the website.
2. The original passport and the copy.

3. The passport must have at least 2 blank pages left for the use of visa sticker and stamps. For single entry visa, the passport must be valid for at least 6 months after the date of entry, and for the multiple business visa and temporary stay visa (VITAS), it must be valid for at least 18 months after the date of entry.
4. A guarantee of the available of funds to cover living expenses while in Indonesia (e.g the last 3 months bank statements or traveller's cheque)
5. 2 photographs (any backgrounds, passport size)
6. The applicants are not in the immigration alert list and come in person.

Notes:

- The embassy has the authority to reject any applicants
- Additional documents will be required, depending on the purpose of stay

Q-20: How much should I pay for the visa?

Answer:

- The Indonesian Embassy in Kuala Lumpur imposes the fee as follows:

CATEGORY VISA	FEEES
TOURIST VISA	RM170
SOCIAL CULTURAL VISA	RM170
SINGLE BUSINESS VISA	RM170
MULTIPLE BUSINESS VISA	RM375
TEMPORARY STAY VISA FOR 1 - 6 MONTHS	RM190
TEMPORARY STAY VISA FOR 7 - 12 MONTHS	RM375
TEMPORARY STAY VISA FOR 2 YEARS	RM660

Q-21: How to apply for visa to work and stay in Indonesia?

Answer:

- Any foreigner intending to work and stay in Indonesia must get temporary stay visa (Visa Izin Tinggal Sementara/VITAS).

- To get VITAS, applicant must have a sponsor both in their home country and in Indonesia.

- The application should be submitted by sponsor in Indonesia to the Directorate General of Immigration in Jakarta. Once the application approved, the Directorate General of Immigration in Jakarta will give the approval letter to the sponsor/counterpart in Indonesia and to the Indonesian Embassy where the visa will be collected.

- The Embassy will issue the VITAS only after receiving approval letter from the Directorate General of Immigration in Jakarta.

- Once the foreigner enters Indonesia by using VITAS, they should apply for temporary stay permit card (Kartu Izin Tinggal Terbatas /KITAS) from the local immigration office.

Note: Application of working permit will be explained in the labor law below.

Q-22: Can I bring my family to Indonesia?

Answer:

Yes, you can bring your family to Indonesia. They should get VITAS and KITAS by following the same procedures mentioned above.

VI. LABOR LAW

Q-23: What is the minimum wages in Indonesia?

Answer:

- In Indonesia, minimum wage is evaluated and adopted annually by provincial government. Therefore the nominal varies in each province and each year. The increase of minimum wage should not be more than 20 percent. For example, the Provincial Government of Jakarta has decided to set the minimum wage for labor in Jakarta in 2014 at the amount of Rp. 2,44 million, higher than in 2013 which is Rp. 2,2 million.

Q-24: What is the standard of working hours per week/month for labor in Indonesia?

Answer:

- In accordance to the Act No. 13 of 2003 on Manpower, the standard working hours in general as follows:

1. 7 (Seven) hours per day and 40 (forty) hours per week for 6 (six) working days in a week; or
2. 8 (Eight) hours per day and 40 (forty) hours per week for 5 (five) working days in a week.

- The provisions concerning the working hours as mentioned above do not apply to certain business sectors or certain types of works which are regulated by related government agency.

Q-25: Is there any obligation for employer to pay employees provident fund?

Answer:

- Yes. According to the Act No 3/1992 regarding the Labor Social Security Program, employers and employee in Indonesia must participate in the labor social security program organised by PT. Jaminan Sosial Tenaga Kerja (PT. Jamsostek). This program provides retirement benefit, health care benefit, work related accident benefit, and death benefit for labor.

- The burden to pay fund shared by the employee and the labor. Detail amount of payment should be referred to Government Regulation No. 53/2012.

Q-26: Can I employ foreigners in my company and how many foreigners are allowed?

Answer:

- Yes, in the framework of investment, expatriates are allowed to hold positions where Indonesian nationals are not available or do not meet the requirements to do the job and subject to the conditions that such positions are open for expatriates. Expatriates can be employed in Indonesia only for certain positions and period.

- Employers employing expatriates shall have an expatriate assignment plan (Rencana Penggunaan Tenaga Kerja Asing/ RPPTKA) to be approved by the Ministry of Manpower and Transmigration of Indonesia and BKPM.

The RPTKA shall contain at least information about:

1. Reason for employing expatriates;
2. Position and/or status of expatriates in the organizational structure of the said companies;
3. Period of assignment of expatriates;
4. Appointment of manpower being Indonesian citizens as counterpart of the employed expatriates.

- Employers of expatriates shall:

1. Appoint Indonesian citizens as counterpart of the employed expatriates for the transfer of technology and expertise from the said expatriates;
2. Provide education and training for the Indonesian as stipulated in the above letter a according to the qualification of positions assumed by the expatriates

- The ratio of expatriate to local worker is 1:5. It means the employment of 1 expatriate should be followed by the employment of minimum 5 local works.

- Expatriates shall be prohibited from assuming positions in charge of personnel and/or certain positions.

-Expatriates must pay Capability and Skill Development Program at the amount of USD 1,200 annually to the Ministry of Manpower and Transmigration.

Q-27: What about employing foreigner as a member of board of director?

Answer:

- Foreigner could hold position as a member of director except the position of human resources director who should be an Indonesian citizen.

Q-28: How much the charges working permit for foreigner?

Answer:

- Companies employing foreigners are charged USD100/month (USD 1,200 per year per expatriate employee to offset the costs of training Indonesian nationals (Article 47 Manpower Act number 13 Year 2003). This charge is administered through the Ministry of Manpower and Transmigration.

Q-29: What is the procedure to a recruit foreign worker?

- First of all, the company (either local or PT. PMA) should submit RPTKA to the Ministry of Manpower and Transmigration of Indonesia to get approval.
- Once approved, the company will get a visa recommendation from the Ministry of Manpower and Transmigration of Indonesia as a requirement to apply temporary stay visa (Visa Izin Tinggal Sementara/VITAS) for an expatriate at the Directorate General of Immigration in Jakarta.

- Once the VITAS application approved, the intended expatriate should collect the VITAS at the Indonesian Embassy where she/he lives.

- The VITAS approval can be used by the employer to apply for a working permit (Ijin Mempekerjakan Tenaga Asing/ IMTA) from the Ministry of Manpower and Transmigration. General requirement for IMTA as follows:

1. Contract agreement between the expatriate and the employer
2. Bank transfer receipt of Capability and Skill Development Program (USD 1,200 per year)
3. Insurance
4. VITAS approval letter
5. Photograph size 4x6 (2 pcs)
6. Application letter by the employer

- After entering Indonesia with VITAS, the expatriate should make a report to City Police Office to get the Certificate of Report Sign (Surat Tanda Melapor).

- The expatriate should apply for KITAS from the local immigration office where he/she domicile in Indonesia within 7 days after entering Indonesia.

Q-30: What is the procedure to recruit a local worker?

Answer:

- According to the Article 35 of Act No. 13/2003 about Manpower, employer can recruit a local worker directly or through a worker placement service providers/agency.

- The employer shall provide protection covering welfare, safety and physical and mental health of the worker.
- The worker placement service agency shall provide protection as from the recruitment to the manpower placement.

Q-31: What is the status of working relations between employer and employee?

Answer:

- There are two kinds of working relations between employer and employee:
 1. a Working relation for unspecified period applied to permanent employee. The working agreement for unspecified period can require a probation period for 3 (three) months at the maximum and the wage received by the employee shall not below the minimum wages.
 2. Working relation for specified period. This working relation shall be based on the period of time (maximum three years) and the completion of a certain job. Working agreement for specified period cannot require a probation period. It can be applied for a period of 2 (two) years at the maximum and only extendible once for one year at the maximum.

Q-32: Is outsourcing allowed?

Answer:

- Yes it is allowed. The jobs that can be given to other company who provide outsource labor shall meet the following requirements:

1. Being executed separately from the main activities;
2. Being executed by direct or indirect order of job providers;
3. Being supporting activities of companies as whole; and
4. Not disturbing production process.

- Working protection and requirements for labors of the outsourcing companies shall be at least the same as working protection and requirements in companies giving the jobs or in accordance with the provisions of laws in force.

- According to the Minister of Manpower and Transmigration's Decree No. 19/2012, the outsourcing system is allowed only for five sectors, namely cleaning service, catering, security, supporting services in oil and gas industry, and transportation provider for employee.

Q-33: Is it allowed to establish a labor union in Indonesia?

Answer:

- Yes. According to the Article 102 of Act No. 13/2003 about Manpower, labor and labor unions shall function to execute jobs in accordance with their obligations, maintain orderliness for continuous production, channel their aspirations democratically, develop their skill and expertise as well as to take part in promoting companies and persuing welfare of their members and families.

- Every labor shall entitle to establish and become a member of labor unions. The labor union shall entitle to accumulate and manage funds as well as to hold accountability for the funds of organization.

Q-34: How's the role of government in case of dispute between the employer and labor union?

Answer:

- According to the Article 102 of Act No. 13/2003 about Manpower, the government shall function to stipulate policies, provide service, supervise and take action against any violation of provisions of laws in force. The government refers to the Ministry of Manpower and Transmigration at the national level, and Department of Manpower at Provincial level.

- Representative of Government is member of the tripartite cooperation institutions, together with entrepreneur organization and labor union. Tripartite cooperation institution provides recommendations, suggestions and opinions for the government and parties concerned in the formulation of policies and settlement of manpower issues.

- In the case of industrial relations dispute, employer and labor union should undertake negotiation at the first place. If negotiation fails, the dispute should be brought to tripartite cooperation institution.

- Further information about industrial relations dispute settlement can be referred to Act of the Republic of Indonesia No. 2/2004 concerning Industrial Relations Disputes Settlement.

Q-35: Is there any law in Indonesia that regulates labor strike?

- Yes, labor strike is regulated by the Minister of Labor and Transmigration's Decree No. 232 /2003. According to this regulation, Strike is defined as labors'/workers' action which is projected and carried out jointly and/or by worker/labor union to stop or slow down the works. Strike is part of human right of workers/labors that should be conducted legally, orderly and peacefully as the consequence of failed negotiation.

- Failed negotiation shall be negotiation that all parties could not reach an agreement in the dispute settlement because the employer is not willing to conduct negotiation or the worker/labor union or the workers/labor have requested in writing the employer 2 (twice) within the period of 14 (fourteen) working days or the negotiation is deadlocked stated by the parties in the minutes of negotiations.

- The strike shall be deemed illegal if it is conducted:

1. Not because of failed negotiations; and/or
2. Without notification to the employer and competent agencies in the field of manpower; and/or
3. With a notification of less than 7 (seven) days before the implementation of the strike; and/or
4. At a public company and/or a similar company whose activity may disturb human safety.

- An illegal strike as meant shall be classified as absent. The summon to work again for the strikers shall be conducted by the employer twice consecutively within the grace period 7 (seven) days in the form of appropriate and writing summons. The workers/labor who do not answer the summon shall be considered to have resigned.

- In the case of workers/labor staging labor strike legally in raising demand for normative rights rally violated by entrepreneur, workers/labor shall entitle to obtain wage.

Q-36: What is the regulation of employment termination?

Answer:

- The discontinuation of working relations is regulated in Chapter XII Act No. 13 of 2003 on Manpower. Labor dismissal shall be termination of working relations because of a certain matter that discontinues rights and obligations between workers/labor and entrepreneur.

- Employer, labor, labor unions and the government, by all means, shall strive to avoid discontinuation of working relations. In the case of all efforts being made, but discontinuation of working relations being unavoidable, employer shall negotiate the plan for discontinuation of working relations with labor union or labor individually in the case of the said labor is not members of labor union.

- In the case of the negotiation as meant in the above paragraph totally fail to result in an agreement, employer only can discontinue working relations with labor after obtaining a stipulation from the authorized to settle industrial relations dispute.

- Application for stipulation of discontinuation of working relations shall be submitted in writing to the institution authorized to settle industrial relations dispute, accompanied by reasons as the basis of the discontinuation.

- The institution authorized to settle industrial relations dispute can accept the application for stipulation if it has been negotiated. The institution authorized to settle industrial relations dispute only can issue stipulation of the application for discontinuation of working relations if the plan for discontinuation of working relations has been negotiated by the negotiation failed to result in an agreement.

- Entrepreneurs shall be prohibited from discontinuing working relations with the following reasons:

1. Workers/labor fail to come because they are sick according to certificate of doctor as long as the period of absence does not exceed 12 (twelve) months continuously;
2. Workers/labor are unable to undertake their jobs because they have to fulfill obligations to the state in accordance with the provisions of laws;
3. Workers/labor who practice their religions;
4. Workers/labor who perform marriage;
5. Female workers/labor who are pregnant, give birth, suffer abortion;
6. Workers/labor who have blood relations by the same and/or married with the other workers/labor in companies, unless otherwise stipulated in working agreement, corporate rule or collective working agreement;

7. Workers/labor establish, become members and/or executive of workers/labor unions, workers/labor undertake activities or workers/labor unions outside the working hour or during the working hour on the basis of agreement of entrepreneurs or on the basis of the provisions stipulated in working agreement, corporate rule or collective working agreement;
8. h. Workers/labor report entrepreneurs to the authorized parties with regard to action of entrepreneurs to commit crime,
9. i. Because of the different faith, religion, political ideology, ethnic, race, group, sex, physical condition or marital status;
10. Workers/labor disabled permanently, sick because of working accident or disease related to working relations whose recovery period, according to letter of doctor, cannot be ascertained yet.

- Application for stipulation of discontinuation of working relations shall be unnecessary, in the case of:

1. Workers/labor being in the probation period, if it has been required in writing previously;
2. Workers/labor tendering their resignation, in writing on the basis of their intention without indication of pressure/intimidation from entrepreneurs, expiration of working relations in accordance with working agreement for a specified period for the first time;

3. Workers/labor enter the mandatory retirement age in accordance with the stipulation in working agreement, corporate rule, collective working agreement or laws in force; or
4. Workers/labor passed away.

- In the case of labor dismissal, entrepreneurs shall be obliged to pay appropriate severance payment and/or gratitude payment.

VII. TRADE

Q-37: I want to export my product to Indonesia. What should I do?

Answer:

- There are two ways to export product to Indonesia. First, is by appointing local company in Indonesia as your agent or distributor. Second is by establishing your own company as the importer company.

- In both ways, your product should be registered to the Ministry of Trade of the Republic of Indonesia before allowed to be distributed. If the products are related to food and drugs, it should be registered to the National Agency of Drug and Food Control (Badan Pengawas Obat dan Makanan / BPOM).

- If you choose the first way, it would be easier since the distributor company will fulfill all requirements to import your products, including registration of products to BPOM. However, if there is a dispute with them, there will be some complication since the product already registered under their company.

- For the second option, you could import the product by yourself, including the process to fulfill all requirements and obtain the license. However your company could not distribute the product by yourself. There should be a local distributor company.

Q-38: I was informed that importer company in Indonesia should have an import identification number or API. What is API?

Answer:

- Import Identification Number or Angka Pengenal Importir (API) constitutes an identification that importers must possess in order to import goods, which is used by the government as an instrument to regulate orderly importation for the purpose of implementing the foreign trade policy in the field of imports.

- Importation without API can only be done after obtaining approval from the Indonesian Minister of Trade and only for infrequent importation of self-consumed goods (not for trading purposes).

- API consist of the following types:

1. API for General Importer (Importir Umum, API-U), which should be obtained by a trading company;
2. API for Producer Importer (Importir Produsen, API-P), which should be obtained by an industrial company importing raw materials and capital goods for its own use;
3. API for Limited Importer (Importir Terbatas, API-T), which should be obtained by a foreign or domestic investment company; and

4. API for Special Importer (Importir Khusus, API-K), which should be obtained by a Production Sharing Contract (PSC) company and also companies that import certain commodities such as rice, electronic products, sugar, corn, soybeans, toys, footwear and textiles.

- API can be obtained from the Ministry of Trade, except for API-T, which should be obtained from the BKPM. The API is valid for five years and can be extended. It is applicable to the entire Indonesian customs area.

Q-39: Is it allowed to export or import any kind of products and commodities to and from Indonesia?

Answer:

- Of course there are some restrictions and limitations to export and import some specified products and commodities. You may check the list on the website of Indonesia National Single Window (INSW) as follows:

<http://eservice.insw.go.id/>

Q-40: What about the export and import tariff of products and commodities in Indonesia?

Answer:

- You also may check directly to the website of Indonesia National Single Window (INSW) as follows

<http://eservice.insw.go.id/>

Q-41: What is the procedure to register the food product to BPOM?

Answer:

- All imported processed food products should be certified by BPOM.

- General requirements for BPOM approval on imported product are follows:

1. Business license from BKPM.
2. Letter of appointment as importer from the company of origin (show the original document).
3. Health Certificate or Certificate of Free Sale from the authorities of the country of origin (show the original document) or legalised copy.
4. Product sample (3 units) in the original packaging.
5. Sample of product label that will be used in Indonesia.

- Imported food product that has passed laboratory testing and gained the approval from the BPOM, will have the inscription of BPOM RI on the packaging, followed by “ML” (stands for Merek Luar), meaning the product is produced abroad. This code will be followed by a 12 - digit licensing number.

- Further information about this matter could be checked directly to the

VIII. TRANSPORTATION

Q-42: What kind of public transportations that connect cities in Indonesia and Malaysia?

Answer:

- In general, public transportation that connects cities in Indonesia and Malaysia are airplane and ship. Besides, there is land transportation connecting cities in Kalimantan, Indonesia and cities in Sabah and Serawak, Malaysia.

- Some of the airlines providing direct flight between cities in Indonesia and Malaysia are Air Asia, Firefly, Garuda Indonesia, KLM, Lion Air, Malaysia Airlines, and Malindo Airlines. From Kuala Lumpur itself, there are 15 cities served by the said airlines. You may check the routes and schedules on their websites.

- The sea transportation routes from Malaysia to Indonesia are as follows:

1. Port Klang: Dumai, Tanjung Balai Asahan
2. From Johor Bahru: Tanjung Balai Karimun, Batam and Pangkal Pinang
3. From Melaka: Dumai and Bengkalis
4. From Perak: Tanjung Balai Asahan

Q-43: How is the transportation system in Indonesia?

Answer:

- In Indonesia, all transport modes play vital role and complement each other. For the inter cities connection in an island, road transport is predominant. The length of national main road in 2012 is 38.750km, 8,08 percent of the total 477.094,47km of the all road. While the length of railroad in Java and Sumatera islands is 4.825km. Both primarily dedicated to transport bulk commodities and long-distance passenger traffic.

- Sea transport is extremely important for inter islands people mobility as well as economic integration, since it plays role for the domestic and foreign trade. Sea transport system in Indonesia is quite well developed, with each of the major islands having at least one significant port city. There are four main seaports in Indonesia, namely Tanjung Priok Port in Jakarta, Tanjung Perak Port in Surabaya, Belawan Port in Medan and Makassar Port in Makassar. In total there are 1.552 ports in Indonesia. The volume of cargo activities in all ports in Indonesia is 11.076,865 TEU.

- The function of air transport is significant, where all major cities can be reached by passenger plane and connecting the islands throughout the archipelago, particularly where land or water transport is deficient or non-existent. There are 105 cities connected by airplane in Indonesia.

Jakarta's Soekarno–Hatta International Airport serves as the country's main air transportation hub. Total passenger for domestic routes in Indonesia is 71,4 million in 2012.

Q-44: Is it allowed to undertake export and import activities through all seaport and airport in Indonesia?

Answer:

- In general, export and import activities are allowed to be done at all official custom area in the international seaport, airport and other location in Indonesia. However there are some restrictions for some specified products. For example for the importation of horticulture products allowed only through four port, namely Tanjung Perak Seaport in Surabaya, Makassar Seaport, Belawan Seaport in Medan, and Soekarno-Hatta Airport in Tangerang.

Q-45: What are the services offered at the main Indonesia port?

Answer:

- Ship Services

The port provides through ship operational services, from the time ship enter the port until their departure such as :

1. Anchorage Service
2. Pilotage Service
3. Towage and Mooring Service
4. Berthing Service

5. Fresh Water Service
6. Telephone Service

- Cargo Services

The Cargo Services cover cargo loading and unloading services at the ships till delivery of the cargoes to the owner. The provided services are :

1. Cargo Handling
2. Wharf Service
3. Stacking Service

- Other Services

Other services cover services that support port activities :

1. Port Equipment Rental Service
2. Fresh Water and Public Telephone
3. Electricity Services
4. And other services depend on the port facilities

Q-46: Where can I obtain details of Indonesian port's tariffs?

Answer:

- More information on Indonesia port's tariff can be viewed at their websites.

The average tariff of port service in Indonesia :

1. Anchorage Service USD 0.092 - 127 per GT
2. Pilotage Service USD 179 per vessel
3. Towage Service USD 163.13 – 2.286 per vessel per hour

4. Berthing Service USD 0.019 – 0.152 per GT/Etmal
5. Fresh Water Service USD 7.00 – 11.61 per Ton/M3
6. Cargo Service IDR 20.000 – 360.000 per hour

Q-47: Is it allowed for foreign shipping company to operate in Indonesia?

Answer:

- Based on cabotage principal, it is not allowed for foreign shipping company to operate in Indonesia

IX. AGENCIES RELATED WITH INVESTMENT

Q-48: Where can I find information about government agencies and other institution related with the investment in Indonesia?

- Please find attached the list as follows:

a. Investment Coordinating Board
(Badan Koordinasi Penanaman Modal / BKPM)
Jalan Jend. Gatot Subroto No. 44
Jakarta 12190 , Tel/fax. +62-21-525 5261
Website: www.bkpm.go.id

b. Ministry of Trade
Jalan M. I. Ridwan Rais No. 5
Jakarta Pusat 10110
Tel. +62-021-385 8171
E-mail: contact.us@kemendag.go.id
Website: www.kemendag.go.id

c. Ministry of Industry
Jalan Jend. Gatot Subroto Kav. 52-53
Jakarta Selatan 12950
Tel. +62-21-525 6548/522 9592
E-mail: pusdatin@kemenperin.go.id
Website: www.kemenperin.go.id

d. Ministry of Manpower & Transmigration

Jalan Jend. Gatot Subroto Kav. 51

Jakarta 12950

Tel. +62-21-522 9285, Fax. +62-21-797 4488

Email: redaksi_balitfo@depnakertrans.go.id

Website: www.depnakertrans.go.id

e. Ministry of Justice & Human Right

Jalan HR. Rasuna Said Kav 6-7, Kuningan

Jakarta Selatan 12940

Tel. +62-21-525 3004

Fax.+62-21-526 3082

<http://www.kemenkumham.go.id>

f. Ministry of Environment Republic of Indonesia

Jalan D.I. Panjaitan Kav. 24, Kebon Nanas

Jakarta Timur 13410

Tel. +62 – 21 – 858 0067 - 68 (hunting)

Fax.+62 – 21 - 851 7184

Email: edukom@menlh.go.id

Website: www.menlh.go.id

g. Ministry of Agriculture

Jalan Harsono RM. No. 3, Ragunan, Jakarta 12550

Tel. +62 – 21 - 780 4056

Fax.+62 – 21 - 780 4237

Email: webmaster@deptan.go.id

Website: www.deptan.go.id

h. Directorate General of Taxes, Ministry of Finance
Jalan Jenderal Gatot Subroto 40-42
Jakarta 12190
Tel. +62 – 21 – 5251609/5225129
Fax.+62 – 21 - 5734749
Website: www.pajak.go.id

i. Directorate General of Customs & Excise, Ministry of Finance
Jl. Jenderal A. Yani (By Pass) Jakarta Timur
Tel. +62 – 21 – 489 0308 Ext. 821 / 822
Email: humaskpdjbc@customs.go.id
Website: www.customs.go.id

j. Directorate General of Immigration,
Ministry of Justice & Human Rights
Jl. Rasuna Said Kav 8-9, Kuningan, Jakarta Selatan
Tel. +62 – 21 – 522 4658
Email: humas@imigrasi.go.id
Website: www.imigrasi.go.id

k. The Indonesian Investment Promotion Centre (IIPC)-
Singapore
8 Temasek Boulevard
Suntec Tower Three, #33-03, Singapore 038988
Tel.: 65 63344410; Fax.: 65 63344891;
E-mail: iipc-singapore@bkpm.go.id

I. Indonesia Notary Association
(Ikatan Notaris Indonesia/INI)
ITC Roxy Mas Complex Block E-1 No. 32
Jalan KH. Hasyim Ashari No. 125
Tel. +62 – 21 - 6386 1919 / 6385 1329
Fax.+62 – 21 – 6386 1233