Avoidance of Double Tax Agreement between Singapore and Indonesia

Summary of key changes in the agreement

	Current	With effect from 1 January 2022
Permanent Establishment (PE) Article	Threshold of 183 days for building site or construction, installation or assembly project to constitute a PE for main contractors.	Apart from the existing 183 days threshold for main contractors, there is now a threshold of three months for sub-contractors.
Associated Enterprises Article	Silent on corresponding adjustments	Provides for corresponding adjustments unless the adjustment in profits is due to judicial proceedings where one of the enterprises concerned is liable to a penalty because of fraud, gross negligence or wilful default.
Dividends Article	Branch profits tax of 15% (excluding production sharing contracts relating to oil and gas, and contract of works for other mining sectors) may be imposed on the after-tax profits of a PE	Additional tax that may be imposed on the after-tax profits of a PE (excluding production sharing contracts relating to oil and gas, and contract of works for other mining sectors) is now reduced to 10%.
Royalties Withholding Tax (WHT) Article	15% WHT on – • copyright of literary / artistic works or patent, trademark, design or model, plan, secret formula or process; and • the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.	10% WHT on - copyright of literary/artistic works or patent, trademark, design or model, plan, secret formula or process 8% WHT on - the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
Capital gains tax Article (New)	Silent	Taxing rights of capital gains are allocated as follows: • Gains from the alienation of shares in a company which is a resident of Indonesia and traded on the Indonesian Stock Exchange – **taxing rights lie with Indonesia** • Alienation of immovable property – **taxing rights lie with the country in which the property is situated** • Alienation of movable property belonging to a permanent establishment or fixed base – **taxing rights lie with the country in which the PE or fixed base is situated** • Gains arising from disposal of shares in a company deriving more than 50 per cent of its value directly or indirectly from immovable property (land-rich company) where the alienator owned at least 50 per cent of the total issued shares of the company whose shares are being alienated[1] - **taxing rights lie with the country in which the property is situated** • All other capital gains - taxing rights lie with the country of residence of the alienator.

[1] The above does not apply if the gains are derived from the alienation of shares deriving value from immovable property in which the company carries on its business as well as gains derived from the alienation of shares alienated or exchanged in the framework of a reorganisation of a company, a merger, a scission or a similar operation

	Current	With effect from 1 January 2022
Elimination of Double Taxation Article	Silent. Tax credit on underlying Indonesian taxes suffered on the profits of the Indonesian resident company for which the dividends are declared, currently only available under Section 50A of the Singapore Income Tax Act if the Singaporean company owns 25% or more of the share capital of the Indonesian company.	Singapore will grant tax credit on underlying Indonesian taxes suffered on profits of the Indonesian company out of which the dividends are declared if the Singaporean company owns not less than 10% of the share capital of the Indonesian company.
Exchange of Information (EOI) Article	EOI Article is limited in scope.	EOI Article is updated to align with the internationally agreed Standard of Exchange of Information for Tax Purposes for which Singapore and Indonesia have both endorsed.
Anti-abuse Article (New)	Silent	Treaty benefits will not be granted if one of the principal purposes of the arrangement was to obtain treaty benefits.
Limitation of Relief Article	If the resident state has domestic law that subject income to tax by reference to the amount which is received or remitted in the resident state, the amount of benefits granted under the treaty shall be limited to the amount remitted or received in the resident state.	Removed, but subject to over-arching Anti-abuse Article.

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