

June 2023

# Indonesia ATD MHM Legal Insights

## Key Contacts



Abadi Abi Tisnadisastra

☎ +62-8111-83700 (Indonesia)

✉ abadi.t@mhm-global.com



Alfa Dewi Setiawati

☎ +62-8111-923 4002 (Indonesia)

✉ alfa.s@mhm-global.com



Yasmin Nariswari

☎ +62-8111-923 4010 (Indonesia)

✉ yasmina.n@mhm-global.com

## Indonesian Government Issues Regulation on Licensing and Investment Easements for Business Players in the New Capital City of Nusantara

### Introduction

The Indonesian Government has issued Government Regulation No. 12 of 2023 Granting Of Business Licensing, Ease Of Business, And Investment Facilities For Business Players In The Capital City Of Nusantara dated March 6, 2023 ("GR 12/2023"), which outlines the procedures of doing business as well as various investment facilities and incentives available to businesses operating within the Capital City of Nusantara (Ibu Kota Nusantara, "IKN") and certain regions of Kalimantan as part of the IKN economic superhub ("Partner Regions"). Such investment facilities and incentives include the easing of the business permit issuance process, tax holidays, tax allowances, import duty exemptions, and the possibility of purchasing land at lower prices.<sup>1</sup>

The affected sectors of business mentioned under GR 12/2023 include marine and fisheries, agriculture, environment and forestry, energy and mineral resources, nuclear power, industry, trade, public works and housing, transportation, health, medicines, and food, education and culture, tourism, religion, post, telecommunications, broadcasting and electronic systems and transactions, defense and security, manpower, finance, and other priority sectors, as determined by the IKN Authority.<sup>2</sup>

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<sup>1</sup>Article 3, GR 12/2023

<sup>2</sup>Article 12, GR 12/2023

## Exemptions to Foreign Ownership Restrictions and Requirements to Form Partnerships

Under GR 12/2023, a business license issued for the purpose of operating within IKN and its Partner Regions is exempted from the requirement to comply with the foreign ownership restriction. Instead, businesses operating within IKN and its Partner Regions are required to form partnerships with MSMEs and cooperatives in the form as determined by the laws and regulations.<sup>3</sup>

### Investment Incentives

GR 12/2023 also provides the possibility for business players to obtain investment incentives. These investment incentives are given in the form of fiscal and non-fiscal incentives, comprising facilities for Income Tax, VATs, customs, as well as special taxes applicable for Nusantara Capital, land procurement facilities, and other facilities for investment activities in Nusantara Capital.

Under GR 12/2023, the fiscal incentives, among others, provide the ability for businesses to enjoy certain income tax reduction facilities for a period between 10 to 15 years, depending on the investment value and other criteria. Businesses that invest in specific sectors, such as renewable energy, may be eligible for a longer period of this incentive.<sup>4</sup> Certain tax allowances are also introduced for businesses operating within IKN in the form of deductions in the calculation for the taxable income of a business. These allowances may be applicable against various costs, such as research and development expenses, training expenses, and labor costs.<sup>5</sup> Furthermore, businesses operating within IKN and/or Its Partner Regions may also be eligible for import duty exemptions for certain equipment and machinery used in their operations in IKN and/or its Partner Regions.<sup>6</sup>

### Other Facilities

Other facilities that are provided for business actors that engage in business activities within IKN and Partner Regions include, among others:

- a. Ease of holding land rights. Land located in IKNs are considered as state property or assets under the management of the IKN Authority. A business player may obtain an outright extended period for land rights, which are 80 years for Land Building Rights (Hak Guna Bangunan or "HGB"), 95 years for Land Commercialization Rights (Hak Guna Usaha or "HGU"), and 80 years for Land Use Rights (Hak Pakai). In addition, transfer of land rights located within IKNs are free of land transfer levies. However, any transfer or encumbrance of land rights located within IKNs would require approval from the IKN Authority;<sup>7</sup> and
- b. Extended period of permits for foreign workers (Tenaga Kerja Asing, "TKA") working for business players operating within the IKN. Utilization of foreign workers by business players conducting business in IKN, including those that are engaging in strategic project work for the government within the IKN, may be granted an approval of a Foreign Worker Utilization Plan (Rencana Penggunaan Tenaga Kerja Asing or "RPTKA") and stay permit for up to 10 years, a longer period than RPTKA's granted for businesses outside IKNs. Utilization of TKA is also exempted from the obligation to pay into compensation funds for the use of foreign workers for a certain period in accordance with a determination from the IKN Authority.<sup>8</sup>

<sup>3</sup>Article 5-6, GR 12/2023

<sup>4</sup>Article 28-41, GR 12/2023

<sup>5</sup>Article 42-44, GR 12/2023

<sup>6</sup>Article 61-66, GR 12/2023

<sup>7</sup>Article 16-21, GR 12/2023

<sup>8</sup>Article 22-23, GR 12/2023

### Licensing Procedures and Supervising Authority

GR 12/2023 also contains provisions that address aspects of supervision and evaluations. Any business actors that are intending to engage in business activities within the IKN and/or Partner Regions are first required to secure business licenses from the IKN Authority.<sup>9</sup>

Business actors conducting businesses in the IKN and its Partner Regions must fulfill the basic requirements of a business license, which include; (i) Conformity of Spatial Utilization Activity, specifically evidence of the conformity of business actors' business locations with the detailed spatial plan for the IKN; (ii) Environmental Approvals, which should refer to the Environmental Impact Analysis (AMDAL) for the IKN; and (iii) Building Approvals and Building Function Worthiness Certificates, which are issued free of charge for certain periods upon the fulfillment of number (i) and (ii).<sup>10</sup> After securing the required documentation, businesses should apply for the IKN business licenses through the OSS system, after which the IKN Authority will verify all submitted applications and required documentation as the basis for the issuance of business license approvals.<sup>11</sup>

### Conclusion

in the IKNs and its Partner Regions to become areas with developed infrastructure and support systems that can help businesses thrive, stimulate economic growth, and create job opportunities in the region. However, since this regulation provides the general framework of investment incentives for businesses in IKNs and its Partner Regions, further implementing regulations are also expected to be released in order to provide more details.

If you have any questions in relation to the issues raised in this briefing, please contact the authors in the left-hand column.

### Contact Us

Public Relations  
atdmhm\_jakarta\_info@mhm-global.com  
+62-21-302-00-222  
atdlaw.id  
www.mhmjapan.com

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<sup>9</sup>Article 8-11, GR 12/2023

<sup>10</sup>Article 28-41, GR 12/2023

<sup>11</sup>Article 42-44, GR 12/2023