



*cutting through complexity*

# Brunei Darussalam Tax Profile

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KPMG Asia Pacific Tax Centre

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# 1 Corporate Income Tax

## Corporate income tax

Income tax

## Tax rate

The tax rate for resident and non-resident companies is 18.5 percent.

## Residence

A company, whether incorporated locally or abroad, is considered to be resident in Brunei Darussalam for tax purposes if the control and management of its business are exercised in Brunei Darussalam. The control and management of a company are vested in its directors and a company is normally regarded as resident in Brunei Darussalam if, among other things, its directors' meetings are held in Brunei Darussalam.

A resident company is taxed on its worldwide income, whereas a non-resident company is taxed solely on income that has a source in Brunei Darussalam or on profits from business(es) in Brunei operated through a branch or permanent establishment.

## Compliance requirements

From the 2012 year of assessment, the assessment system is self assessment.

All filing is required to be done online under a system introduced by the Revenue Division of the Ministry of Finance known as The System for Tax Administration and Revenue Services (STARS). STARS was introduced in 2012.

Filing due date: 30 June of the year of assessment.

## International withholding tax rates

Dividends are not subject to withholding tax in Brunei Darussalam.

Royalties paid to a non-resident are subject to withholding tax at a rate of 10 percent. This may be reduced under a tax treaty.

Interest payments made to a non-resident are subject to withholding tax at a rate of 15 percent. This may be reduced under a tax treaty.

Other withholding tax rates on payments to non-residents include technical assistance and service fees (20 percent), management fees (20 percent), rent of movable property (10 percent) and director's remuneration (20 percent).



## **Holding rules**

Dividends accruing in, derived from, or received in Brunei Darussalam by a corporation are included in its taxable income, with the exception of dividends received from a corporation taxable in Brunei Darussalam. No tax is deducted at source on dividends paid by a Brunei Darussalam corporation (i.e. Brunei Darussalam does not impose any withholding tax on dividends).

There are currently no dividend stripping rules or participation exemption rules in Brunei Darussalam.

There is no capital gains tax in Brunei Darussalam. However, where it can be established by the tax authority that the gains form part of the normal trading activities of the business, the gains become taxable as revenue gains.

## **Tax losses**

Tax losses can be carried forward for six years and the loss offset is not restricted to the same trade.

Unabsorbed capital allowances can be carried forward indefinitely, but must be offset against income from the same trade. There is no requirement regarding continuity of ownership of the company.

Tax losses can be carried back one year.

## **Tax consolidation / group relief**

There are no provisions in the existing tax legislation for the filing of group tax returns or group relief.

## **Transfer of shares**

Stamp duty is required to be paid for share transfers in accordance with the Stamp Act. This is ad-valorem and is payable at 10 cents for every BND100 or part thereof when the name of the transferee is filled in prior to execution of the transfer; or 30 cents for every BND100 or part thereof when the name of the transferee is not filled in prior to execution of the transfer.

## **Transfer of assets**

Stamp duty is applicable for transfer of property. The rate of stamp duty varies depends on the nature of the asset.

## **CFC rules**

There is no CFC regime in Brunei Darussalam.

## **Transfer pricing**

Transactions involving related resident and non-resident entities must be conducted on an arm's length basis.

## **Thin capitalisation**

There is no thin capitalisation regime in Brunei Darussalam.



<b>General anti-avoidance</b>	<p>There is currently no legislation on general anti-avoidance in Brunei Darussalam.</p> <p>As there is no personal income tax in Brunei Darussalam, there are obvious advantages for directors, who are also shareholders, to receive generous salaries and benefits. However, the tax authority will attempt to disallow payments which it considers excessive, as being not wholly and exclusively incurred in producing income.</p>
<b>Anti-treaty shopping</b>	There is no legislation regarding anti-treaty shopping in Brunei Darussalam.
<b>Other specific anti-avoidance rules</b>	None.
<b>Rulings</b>	There are no formal or published rulings in Brunei Darussalam.
<b>Intellectual property incentives</b>	There are currently no intellectual property incentives available in Brunei Darussalam.
<b>R&amp;D incentives</b>	The Investment Incentive Order, 2001 has a provision for R&D activities to be classified as qualifying activities for pioneer service companies (see below). Under the Income Tax Act, approved R&D expenditure (subject to certain conditions), is allowed as a deduction in deriving chargeable income.
<b>Other incentives</b>	<p>Pioneer status is an incentive allowing tax holidays to be granted for between five and 20 years, dependant on certain criteria being met.</p> <p>Brunei tax law also provides the following tax incentives:</p> <ul style="list-style-type: none"> <li>▪ Pioneer industry tax exemption</li> <li>▪ Tax relief for capital expenditure in excess of BND 1 million</li> <li>▪ Withholding tax exemptions for interest on certain loans from non-residents</li> </ul>
<b>Hybrid instruments</b>	There is no legislation regarding hybrid instruments in Brunei Darussalam.
<b>Hybrid entities</b>	There is no legislation regarding hybrid entities in Brunei Darussalam.

### **Special tax regimes for specific industries or sectors**

Special legislation exists in respect of income from petroleum operations, which is taxable under the Income Tax (Petroleum) Act 1963. This legislation follows the general pattern of most Middle East oil-producing countries.

The petroleum tax rate is a fixed rate of 55 percent.

Insurance companies (other than life companies), are taxed on a different basis, under the Income Tax Act.

### **Related Business Factors**

#### *Forms of legal entities typically used for conducting business*

A locally incorporated Private Limited Company (referred to as a Sendirian Berhad) or a Brunei registered branch of a company incorporated outside Brunei are the legal entities typically used for conducting business in Brunei Darussalam.

#### *Capital requirements for establishing a legal entity*

There is no minimum authorised share capital for a private limited company; however, a company must have a minimum of two shareholders. Generally the minimum paid up share capital is BND 2.

#### *Other local requirements for establishing a legal entity*

For a locally incorporated private limited company, there are to be at least 2 directors of which 50 percent must be resident in Brunei. Foreign directors under a work permit will only be considered as resident once a Certificate of Residency has been obtained. For certain Government projects or sectors or for bidding for contracts, local shareholding is required.

#### *Foreign exchange control rules*

There are no foreign exchange control rules, although exchanges and movements of currency are monitored.



# 2 Income Tax Treaties for the Avoidance of Double Taxation

<b>In Force</b>	Bahrain	Japan	Malaysia	Singapore
	China	Kuwait	Oman	United Kingdom
	Hong Kong	Laos	Pakistan	Vietnam
	Indonesia			

**Negotiated, not yet in force at time of publication** A treaty with The Republic of Tajikistan, The State of Qatar and the United Arab Emirates have been signed but at the time of writing are not yet in force.

Source: *Revenue Division, Ministry of Finance, Brunei Darussalam*



## 3 Indirect Tax

### Indirect tax

There is currently no VAT or equivalent consumption based tax in Brunei Darussalam.

### Further information

For information relating to indirect taxes operating in various jurisdictions in Asia Pacific, refer to [KPMG's 2015 Asia Pacific Indirect Tax Guide](#)



## 4 Personal Taxation

### Income tax

There is no personal tax on individuals in Brunei Darussalam (residents and non-residents).

### Social security

There are no social security taxes in Brunei Darussalam. However, all citizens and permanent residents of Brunei Darussalam must contribute 5 percent of their salary to a State managed provident fund (Tabung Amanah Perkerja (TAP)). The employer will have to also contribute the same amount for its employees to the provident fund.

In addition to the above, all citizens and permanent residents of Brunei Darussalam must also contribute 3.5 percent of their salary to a Supplemental Contributory Pension Scheme (SCP). The employer will have to also contribute the same amount for its employees to the Scheme. However, both the employer's and employee's monthly contributions are capped up to a salary of BND 2,800 per month.

### Further information

For more information regarding the personal tax regimes relevant to various countries around the world, see [KPMG's Thinking Beyond Borders](#)



## 5 Other Taxes

### **Customs duty**

Import duties vary depending on the nature of the goods. In general, basic foodstuffs and goods for industrial use are exempt from import duties. Motor vehicles are subject to import duty depending on the vehicle's capacity.

Brunei has no export duty.

### **Excise duty**

The Excise Act covers retail sale of liquor, cigarettes and manufactured tobacco. Importers of cigarettes and manufactured tobacco will have to pay more than 200 percent duty for these items. However, as Brunei Darussalam prohibits the sale of any form of alcohol, there are no excise duties on alcohol.

### **Stamp duty**

Stamp duties are levied on a variety of documents. Certain types of documents attract an ad valorem duty, whereas with other documents, the duty varies with the nature of the documents.

### **Property taxes**

Properties under commercial use are subject to property tax based on the estimated value of the property. The rate is decided by the local municipal board.

### **Estate duty**

With effect from 1 January 2013, estate duties have been abolished.



## 6 Free Trade Agreements

### In force

ASEAN Free Trade Agreements

Brunei-Japan Economic Partnership Agreement (BJEPA)

ASEAN-Japan Comprehensive Economic Partnership (AJCEP)

ASEAN-China Free Trade Area (ACFTA)

ASEAN-Korea Free Trade Area (AKFTA)

ASEAN-India Free Trade Area (AIFTA)

ASEAN-Australia-New Zealand Free Trade Area (AANZFTA)

Trans-Pacific Strategic Economic Partnership Agreement (TPSEP/P4)

Source: *Ministry of Foreign Affairs and Trade, Brunei Darussalam*



# 7 Tax Authority

## Tax authorities

Collector of Income Tax, Ministry of Finance

[Link to Ministry of Finance](#)

## Tax audit activity

The tax authority can audit every company annually. It is the current practice of the Collector of Income Tax to request information and clarification without commencing a formal audit process. It is often the case that such enquiries can be resolved or addressed without the need for a formal audit process. KPMG in Brunei Darussalam is not aware of any company being subject to a formal tax audit.

## Appeals

All appeals can be made to the Collector of Income Tax. If no agreement can be reached, further appeals can be made at the High Courts of Brunei Darussalam.

## Tax governance

The Collector of Income Tax expects all companies to pay their share of tax from their business operations in Brunei Darussalam as good corporate citizens.



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