

**Peraturan Menteri Keuangan Nomor 240/PMK.03/2014 tentang Tata Cara Pelaksanaan  
Prosedur Persetujuan Bersama (*Mutual Agreement Procedure*) dalam Terjemahan  
Bahasa Inggris**

UNOFFICIAL TRANSLATION

**REGULATION OF MINISTER OF FINANCE  
OF REPUBLIC OF INDONESIA  
NUMBER 240/PMK.03/2014  
CONCERNING  
THE IMPLEMENTATION GUIDELINES OF MUTUAL AGREEMENT PROCEDURE**

BY THE GRACE OF GOD ALMIGHTY  
MINISTER OF FINANCE  
OF REPUBLIC OF INDONESIA,

Considers,

- a. that under the provisions of Article 32A of Law Number 7 of 1983 concerning Income Tax Law as amended several times and lastly by Law Number 36 of 2008, it is stipulated that Government is authorized to make an agreement with a Government of other countries in order to avoid double taxation and tax avoidance;
- b. that in accordance with Tax Treaty between Government of Indonesia and Government of Partner Country or Partner Jurisdiction, Mutual Agreement Procedure shall be regulated;
- c. that under consideration as referred to in letter a and letter b, and in order to implement provisions of Article 59 of Government Regulation Number 74 of 2011 concerning Taxation Rights and Obligations Fulfilment Procedure, Regulation of Minister of Finance concerning Mutual Agreement Procedure is deemed necessary.

Refers to:

1. Law Number 6 of 1983 concerning General Tax Provisions and Procedure (the State Gazette of Republic of Indonesia of 1983 Number 49, the Supplement to the State Gazette of Republic of Indonesia Number 3262) as amended several times and lastly by Law Number 16 of 2009 (the State Gazette of Republic of Indonesia of 2009 Number 62, , the Supplement to the State Gazette of Republic of Indonesia Number 4999);
2. Law Number 7 of 1983 concerning Income Tax (the State Gazette of Republic of Indonesia of 1983 Number 50, the Supplement to the State Gazette of Republic of Indonesia Number 3263) as amended several times and lastly by Law Number 36 of 2008 (the State Gazette of Republic of Indonesia of 2008 Number 133, the Supplement to the State Gazette of Republic of Indonesia Number 4893);
3. Government Regulation Number 74 of 2011 concerning Taxation Rights and Obligation Fulfilment Procedure (the State Gazette of Republic of Indonesia of 2011 Number 162, the Supplement to the State Gazette of Republic of Indonesia Number 5268);

DECIDES:

To issue:

REGULATION OF MINISTER OF FINANCE CONCERNING THE IMPLEMENTATION

## GUIDELINES OF MUTUAL AGREEMENT PROCEDURE

### CHAPTER I GENERAL PROVISIONS

#### Article 1

In this Regulation of the Minister, the following definitions shall apply:

1. Law is Law Number 6 Year 1983 regarding General Taxation Provisions and Procedures as several times amended lastly by Law Number 16 Year 2009 regarding Stipulation of Government Regulation In Lieu of Law Number 5 Year 2008 regarding the Fourth Amendment to Law Number 6 Year 1983 regarding General Taxation Provisions and Procedures to Become Law.
2. Partner Country or Partner Jurisdiction is country or jurisdiction which is bound to the Government of Indonesia in Double Taxation Avoidance Agreement.
3. Double Taxation Avoidance Agreement, hereinafter referred to as Tax Treaty, shall be agreement between the Government of Indonesia and the government of Partner Country or of Partner Jurisdiction to prevent any charge of double taxation and tax evasion.
4. Tax Authority of Partner Country or Tax Authority of Partner Jurisdiction, hereinafter referred to as Tax Authority of Partner Country or Partner Jurisdiction, shall be taxation authority of Partner Country or Partner Jurisdiction which is authorized to implement the provisions of Tax Treaty.
5. Mutual Agreement Procedure, hereinafter referred to as MAP, shall be administrative procedure which is stipulated in Tax Treaty to solve issues arising out in the application of Tax Treaty.
6. Mutual Agreement is a result already agreed upon in the application of Tax Treaty by the authorized official of the Government of Indonesia and of the government of Partner Country or of Partner Jurisdiction of Tax Treaty in connection with MAP already implemented.
7. Indonesian Citizen, hereinafter abbreviated as WNI, shall be Indonesian Citizen based on legal provisions in the field of citizenship.
8. Affiliation is a relation between Taxpayer and other parties as intended in Article 18 paragraph (4) of Income Tax Law of 1984 and the amendments thereto or Article 2 paragraph (2) of Value Added Tax Law of 1984 and the amendments thereto.
9. Transfer pricing is the determination of price in transactions between parties in Affiliation.
10. Corresponding Adjustment is an adjustment of taxable incomes of Taxpayer of a country or of a jurisdiction by tax authorities of the country or of the jurisdiction as a result of correction of Transfer Pricing by tax authorities of other country or jurisdiction (primary adjustment) so that the allocation of incomes in the two countries or jurisdictions is consistent, which is aimed at eliminating any charge of double taxation.
11. Request for Corresponding Adjustment by the Directorate General of Tax is a request for Corresponding Adjustment from the Directorate General of Tax to Tax Authority of Partner Country or Partner Jurisdiction.
12. Request for Corresponding Adjustment by Tax Authority of Partner Country or Partner Jurisdiction is a request for Corresponding Adjustment from Tax Authority of Partner Country or Partner Jurisdiction to the Directorate General of Tax.
13. Dual Residence is condition of tax subject which, at the same time, is deemed to become resident tax subject in two countries or jurisdictions based on legal provisions on taxation applicable in each country or jurisdiction concerned.
14. Advance Pricing Agreement, hereinafter referred to as APA, is a written agreement between:
  - a. Director General of Taxes and Taxpayer; or
  - b. Director General of Taxes and Tax Authority of Partner Country or Partner Jurisdiction which involves Taxpayer,as intended in Article 18 paragraph (3a) of Income Tax Law of 1984 and the amendments thereto to agree upon the criteria and/or determine arm's length price or arm's length

profit in advance.

## CHAPTER II SCOPE

### Article 2

1. MAP shall be entered into by the Director General of Taxes and Tax Authority of Partner Country or Partner Jurisdiction.
2. MAP entered into by the Director General of Taxes as intended in paragraph (1) shall be implemented by the Director of Tax Regulations II, who acts as authorized official or competent authority in Indonesia.
3. MAP as intended in paragraph (1) shall be implemented based on the provisions indicated in Tax Treaty which is applicable effectively before, as from, or after the coming into effect of this Regulation of the Minister.

### Article 3

1. Request for implementation of MAP can be filed by:
  - a. Taxpayer through Director General of Taxes;
  - b. Director General of Taxes; or
  - c. Tax Authority of Partner Country or Partner Jurisdiction,within the time limit of implementation of MAP as specified in the Tax Treaty.
2. Taxpayer which can file request for implementation of MAP as intended in paragraph (1) sub-paragraph a shall be Indonesian resident Taxpayer namely resident tax subject which receives or earns incomes and which is charged with tax based on Income Tax Law of 1984 and the amendments thereto.

### Article 4

1. The request for implementation of MAP as intended in Article 3 paragraph (1) shall be filed within the time limit as from the time of the first notification on action which gives rise to charge of tax not in accordance with Tax Treaty until the end of the said time limit in accordance with the provisions in Tax Treaty.
2. For the request for implementation of MAP filed by the Director General of Taxes as intended in Article 3 paragraph (1) sub-paragraph b or the request for implementation of MAP filed by Tax Authority of Partner Country or Partner Jurisdiction as intended in Article 3 paragraph (1) sub-paragraph c, the time of the first notification on action which gives rise to charge of tax which is not in accordance with Tax Treaty as intended in paragraph (1) shall be:
  - a. the date of Notice of Tax Assessment;
  - b. the date of withholding tax certificate; or
  - c. other moments the Director General of Taxes specifies.

### Article 5

1. The request for implementation of MAP by the parties as intended in Article 3 can be filed at the same time with application of Taxpayer to file:
  - a. tax objection as intended in Article 25 of the Law;
  - b. application for appeal as intended in Article 27 of the Law; or
  - c. deduction or cancellation of incorrect Notice of Tax Assessment as intended in Article 36 paragraph (1) sub-paragraph b of the Law.
2. Taxpayer as intended in paragraph (1) which can file at the same time with request for implementation of MAP by the parties as intended in Article 3 shall be:

- a. Indonesian resident Taxpayer which files request for implementation of MAP through the Director General of Taxes;
  - b. Indonesian resident Taxpayer or permanent establishment in Indonesia relating to request for implementation of MAP by the Director General of Taxes; or
  - c. Indonesian resident Taxpayer or permanent establishment in Indonesia relating to request for implementation of MAP by Tax Authority of Partner Country or Partner Jurisdiction.
3. Request for implementation of MAP cannot be filed in the event that hearing has been finalized by Tax Court on Notice of Tax Assessment whose request for implementation of MAP is filed.

#### Article 6

Filing of request for implementation of MAP and implementation of MAP:

- a. shall not postpone obligation to pay tax payable as indicated in Notice of Tax Assessment or in decree on objection based on the provisions of laws and regulations in the field of taxation; and
- b. shall not postpone the implementation of tax collection.

### CHAPTER III REQUESTS FOR IMPLEMENTATION OF MAP FILED BY INDONESIAN TAXPAYER THROUGH THE DIRECTOR GENERAL OF TAXES

#### Article 7

1. Indonesian resident Taxpayer which satisfy the provisions as intended in Article 3 paragraph (2) can file request for implementation of MAP to the Director of Tax Regulations II on:
  - a. actions of Tax Authority of Partner Country or Partner Jurisdiction which result in or which will result in charge of double taxation to Indonesian resident Taxpayer, as a result of practice of Transfer Pricing conducted with Taxpayer of Partner Country or of Partner Jurisdiction;
  - b. actions of Tax Authority of Partner Country or Partner Jurisdiction which result in or which will result in charge of tax not in accordance with the provisions of Tax Treaty, in connection with the existence or incomes of permanent establishment in Treaty Partner Country or in Treaty Partner Jurisdiction owned by Indonesian resident Taxpayer;
  - c. issues of Dual Residence; or
  - d. application of the provisions not in accordance with Tax Treaty in connection with incomes coming from Treaty Partner Country or from Treaty Partner Jurisdiction, including tax withholding or collection by Taxpayer of Partner Country or of Partner Jurisdiction.
2. Taxpayer which files request for implementation of MAP as intended in paragraph (1) must convey the following information:
  - a. name, Taxpayer Identification Number, address, and type of business of Indonesian resident Taxpayer which files request for implementation of MAP;
  - b. name and identity of resident Taxpayer of Partner Country or of Partner Jurisdiction related to Transfer Pricing transaction, among other things, identity number of Taxpayer and certificate of domicile;
  - c. name and identity of Taxpayer of Partner Country or of Partner Jurisdiction which performs tax withholding of incomes received or earned by Indonesian resident Taxpayer which files request for MAP, among other things, identity number of Taxpayer and certificate of domicile;
  - d. Fiscal Year and/or Tax Period in connection with request for implementation of MAP;

- e. actions already taken by Tax Authority of Partner Country or Partner Jurisdiction or by Taxpayer of Partner Country or of Partner Jurisdiction, which are deemed not in accordance with the provisions of Tax Treaty;
  - f. explanations on transaction already corrected by Tax Authority of Partner Country or Partner Jurisdiction, which cover substance of transaction, value of correction, and the basis for making correction; and
  - g. opinion of Indonesian resident Taxpayer on application of the provisions of Tax Treaty in connection with actions of Tax Authority of Partner Country or Partner Jurisdiction as intended in sub-paragraph f.
3. Filing of request for implementation of MAP as intended in paragraph (2) must meet the following provisions:
- a. filed written in Indonesian language;
  - b. signed by Indonesia resident Taxpayer or his legitimate representative as intended in the Law; and
  - c. in the event of being signed by proxy, it shall be attached by special power of attorney as intended in the Law

#### Article 8

1. The Director of Tax Regulations II shall examine filing of request for implementation of MAP, on the satisfaction of:
  - a. the provisions in respect of the time limit of implementation of MAP as intended in Article 3 paragraph (1) sub-paragraph a and Article 4 paragraph (1); and
  - b. the provisions of Article 7.
2. In the examination as intended in paragraph (1), the Director of Tax Regulations II can request for further explanations to Indonesian resident Taxpayer which files request for implementation of MAP, including requesting for supporting documents and other necessary information.

#### Article 9

1. In the event that based on examination result as intended in Article 8 request for implementation of MAP can be done, the Director of Tax Regulations II shall deliver:
  - a. Notification letter to Indonesian resident Taxpayer which files request for implementation of MAP, that request for implementation of MAP is complete and the said request will be delivered to Tax Authority of Partner Country or Partner Jurisdiction; and
  - b. request for implementation of MAP to Tax Authority of Partner Country or Partner Jurisdiction.
2. In the event that based on examination result as intended in Article 8 request for implementation of MAP cannot be implemented, the Director of Tax Regulations II shall deliver letter of rejection for request for implementation of MAP to Indonesian resident Taxpayer which files request for implementation of MAP, along with its reasons.

#### Article 10

1. With respect to the request for implementation of MAP as intended in Article 9 paragraph (1) which is received by Tax Authority of Partner Country or Partner Jurisdiction, the Director of Tax Regulations II shall deliver:
  - a. written notification to the Director General of Taxes that request for implementation of MAP has been received by Tax Authority of Partner Country or Partner Jurisdiction, and MAP will be performed; and
  - b. proposal on establishment of team for implementation of MAP to the Director General of Taxes.
2. In the event that the request for implementation of MAP as intended in Article 9 paragraph

- (1) is rejected by Tax Authority of Partner Country or Partner Jurisdiction, the Director of Tax Regulations II can ask for further explanations on reasons for the rejection.
3. In the event that the Director of Tax Regulations II can accept the reasons for rejection by Tax Authority of Partner Country or Partner Jurisdiction, the Director of Tax Regulations II shall deliver letter of rejection for the implementation of MAP to Indonesian resident Taxpayer which files request for implementation of MAP, along with its reasons.

#### Article 11

1. Indonesian resident Taxpayer which files request for implementation of MAP as intended in Article 7 paragraph (1) can revoke the said request for implementation of MAP by no later than before obtaining Mutual Agreement.
2. The revocation of request for implementation of MAP as intended in paragraph (1) shall be delivered to the Director of Tax Regulations II, and must satisfy the following provisions:
  - a. filed written in Indonesian language;
  - b. convey the reasons for revocation of request for implementation of MAP;
  - c. signed by Indonesian resident Taxpayer or his legitimate representative as intended in the Law; and
  - d. in the event of being signed by proxy, it shall be attached by special power of attorney as intended in the Law.

### CHAPTER IV REQUESTS FOR IMPLEMENTATION OF MAP BY DIRECTOR GENERAL OF TAXES

#### Article 12

1. The Director General of Taxes can file request for implementation of MAP on matters which are deemed necessary and at the initiative of the Director General of Taxes.
2. Matters which are deemed necessary and at the initiative of the Director General of Taxes as intended in paragraph (1) shall cover:
  - a. review on previously agreed Mutual Agreement because of indication on incorrect information or documents filed by Indonesian resident Taxpayer and/or by Tax Authority of Partner Country or Partner Jurisdiction, including the occurrence of new data or data which, initially were undisclosed in the implementation of MAP before;
  - b. delivery of Request for Corresponding Adjustment by the Directorate General of Tax;
  - c. follow up of application for APA of Taxpayer in Indonesia;
  - d. interpretation of a certain provision in the Tax Treaty which is necessary in the implementation of the related Tax Treaty; or
  - e. other matters necessary in the context of implementing the provisions of Tax Treaty.
3. Filing of request for implementation of MAP of matters which are deemed necessary and at the initiative of the Director General of Taxes as intended in paragraph (1) can also be done to follow up request for implementation of MAP of WNI becoming resident Taxpayer of Partner Country or of Partner Jurisdiction namely in the event that the said WNI is charged with tax in Treaty Partner Country or in Treaty Partner Jurisdiction which is heavier than that charged by Treaty Partner Country or by Treaty Partner Jurisdiction to its citizen in connection with non-discrimination case based on the provisions of Tax Treaty.
4. WNI who files request for implementation of MAP as intended in paragraph (3) shall convey information to the Director of Tax Regulations II at least as follows:
  - a. name, address, and business activity of WNI who files request for implementation of MAP;
  - b. actions or charge of tax already taken by Tax Authority of Partner Country or Partner Jurisdiction which are deemed heavier than actions or charge of tax conducted by the

- said Tax Authority of Partner Country or Partner Jurisdiction to its own citizen; and
- c. fiscal year and/or tax period in connection with request for implementation of MAP.
5. The request for implementation of MAP of WNI as intended in paragraph (4) must satisfy the following provisions:
- a. filed in writing in Indonesian language; and
  - b. signed by the WNI concerned, or in the event of being signed by proxy, it shall be attached by special power of attorney based on laws and regulations.

Article 13

1. The Director of Tax Regulations II shall examine the fulfilment of:
  - a. the provisions in respect of the time limit of implementation of MAP as intended in Article 3 paragraph (1) sub-paragraph b and Article 4; and
  - b. the provisions of Article 12.
2. In the examination as intended in paragraph (1), the Director of Tax Regulations II can ask for further explanations, including asking for support documents and other necessary information to:
  - a. Taxpayer in Indonesia relating to request for implementation of MAP as intended in Article 12 paragraphs (1) and (2); or
  - b. WNI who files request for implementation of MAP as intended in Article 12 paragraph (3).

Article 14

1. In the event that based on examination result as intended in Article 13 request for implementation of MAP can be done, the Director of Tax Regulations II shall deliver:
  - a. written notification to the Director General of Taxes that request for implementation of MAP to Tax Authority of Partner Country or Partner Jurisdiction will be done;
  - b. notification letter to the related Taxpayer in Indonesia as intended in Article 12 paragraph (2) or to WNI as intended in Article 12 paragraph (3), that request for implementation of MAP is complete; and
  - c. request letter of implementation of MAP to Tax Authority of Partner Country or Partner Jurisdiction.
2. In the event that based on examination result as intended in Article 13 request for implementation of MAP cannot be done, the Director of Tax Regulations II shall deliver letter of rejection for the request for implementation of MAP to WNI or Taxpayer in Indonesia relating to request for implementation of MAP.

Article 15

1. With respect to the request for implementation of MAP as intended in Article 14 paragraph (1) which is received by Tax Authority of Partner Country or Partner Jurisdiction, the Director of Tax Regulations II shall convey:
  - a. written notification to the Director General of Taxes that MAP with Tax Authority of Partner Country or Partner Jurisdiction will be done;
  - b. notification letter to the related Taxpayer in Indonesia as intended in Article 12 paragraph (2) or to WNI as intended in Article 12 paragraph (3), that implementation of MAP with Tax Authority of Partner Country or Partner Jurisdiction shall be performed; and
  - c. proposal on the establishment of team for implementation of MAP to the Director General of Taxes.
2. In the event that the request for implementation of MAP as intended in Article 14 paragraph (1) is rejected by Tax Authority of Partner Country or Partner Jurisdiction, and the reasons for the said rejection cannot be accepted, the Director of Tax Regulations II can ask for further explanations on the rejection to request for implementation of MAP.
3. In the event that the Director of Tax Regulations II can accept the reasons for rejection by Tax Authority of Partner Country or Partner Jurisdiction, the Director of Tax Regulations II

shall deliver:

- a. written notification to the Director General of Taxes on rejection to request for implementation of MAP; and/or
- b. letter of rejection to implementation of MAP to the related Taxpayer in Indonesia as intended in Article 12 paragraph (2) or to WNI as intended in Article 12 paragraph (3).

#### Article 16

1. WNI who files request for implementation of MAP as intended in Article 12 paragraph (3) can revoke the request for implementation of MAP by no later than before obtaining Mutual Agreement.
2. The revocation of request for implementation of MAP as intended in paragraph (1) shall be delivered to the Director of Tax Regulations II, and must satisfy the following provisions:
  - a. filed in writing in Indonesian language;
  - b. convey the reasons for revocation of request for implementation of MAP;
  - c. signed by the WNI concerned or in the event of being signed by a proxy, it shall be attached by special power of attorney based on laws and regulations.

### CHAPTER IV REQUEST FOR THE IMPLEMENTATION OF THE MAP SUBMITTED BY COUNTRY PARTNER OR JURISDICTION PARTNER TAX AUTHORITY

#### Article 17

1. Tax Authority of Partner Country or Partner Jurisdiction can file request for implementation of MAP to the Director of Tax Regulations II on:
  - a. Notice of Tax Assessment which is issued to resident Taxpayer of Partner Country or of Partner Jurisdiction which conducts business or activities through permanent establishment in Indonesia, of which the tax stipulated in the said Notice of Tax Assessment is deemed not in accordance with the provisions of Tax Treaty, including as a result of Transfer Pricing adjustment which is deemed not in accordance with the provisions of Tax Treaty;
  - b. Notice of Tax Assessment which is issued to Indonesian resident Taxpayer in connection with transaction with resident Taxpayer of Partner Country or of Partner Jurisdiction, of which the tax stipulated in the said Notice of Tax Assessment is deemed not in accordance with the provisions of Tax Treaty, including as a result of Transfer Pricing adjustment which is deemed not in accordance with the provisions of Tax Treaty;
  - c. Corresponding Adjustment request by the Tax Authority of Partner Country or Partner Jurisdiction;
  - d. tax withhold or collected by Taxpayer in Indonesia in connection with incomes coming from Indonesia which is deemed not in accordance with the provisions of Tax Treaty;
  - e. interpretation of the provisions of Tax Treaty that could result to double taxation or tax avoidance;
  - f. issues of Dual Residence;
  - g. follow up of application for APA from resident Taxpayer of Partner Country or of Partner Jurisdiction; or
  - h. heavier taxing which is charged to citizen of Partner Country or of Partner Jurisdiction who are Indonesian resident Taxpayer than that which is charged to WNI in connection with non-discrimination case based on the provisions of Tax Treaty.
2. Filing of request for implementation of MAP as intended in paragraph (1) shall be signed by competent authority in Treaty Partner Country or in Treaty Partner Jurisdiction, and shall convey the following information:
  - a. name and identity of the related resident Taxpayer of Partner Country or of Partner Jurisdiction, on filing of request for implementation of MAP as intended in paragraph

- (1) sub-paragraphs a up to g;
  - b. name and identity of citizen of Partner Country or of Partner Jurisdiction who are Indonesian resident Taxpayer, on filing of request for implementation of MAP as intended in paragraph (1) sub-paragraph h;
  - c. name and/or Taxpayer Identification Number in Indonesia relating to request for implementation of MAP;
  - d. Fiscal Year and/or tax period in connection with request for implementation of MAP; and
  - e. actions already taken by Indonesian resident Taxpayer or by the Directorate General of Tax which are deemed not in accordance with the provisions of Tax Treaty, or explanations on interpretation of the Directorate General of Tax of the provisions in Tax Treaty that could result to double taxation or tax avoidance.
3. (3) In the event that Tax Authority of Partner Country or Partner Jurisdiction file request for implementation of MAP as intended in paragraph (1) sub-paragraph c, the Director of Tax Regulations II shall convey notification to the related Taxpayer in Indonesia on the request for implementation of MAP on Corresponding Adjustment request by Tax Authority of Partner Country or Partner Jurisdiction.
  4. In the event that Tax Authority of Partner Country or Partner Jurisdiction file request for implementation of MAP as intended in paragraph (1) sub-paragraph g, the Director of Tax Regulations II shall convey notification to the related Taxpayer in Indonesia on the request for implementation of MAP as follow up of application for APA of resident Taxpayer of Partner Country or of Partner Jurisdiction.

#### Article 18

1. The Director of Tax Regulations II shall examine filing of request for implementation of MAP, on the fulfilment of:
  - a. the provisions in respect of the time limit of implementation of MAP as intended in Article 3 paragraph (1) sub-paragraph c and Article 4; and
  - b. the provisions of Article 17.
2. In the examination as intended in paragraph (1), the Director of Tax Regulations II can request for further explanations to:
  - a. Tax Authority of Partner Country or Partner Jurisdiction which file request for implementation of MAP;
  - b. Indonesian resident Taxpayer or permanent establishment in Indonesia relating to request for implementation of MAP, including asking for supporting documents and other necessary information.
3. In the event that request for implementation of MAP relates to Transfer Pricing transaction, the Director of Tax Regulations II shall perform examination in Tax Treaty whether or not there are provisions which specifically stipulate Corresponding Adjustment, as considerations whether request for implementation of MAP can be accepted or not.
4. The filing of request for implementation of MAP as intended in Article 17 paragraph (1) sub-paragraph c which satisfy the provisions as intended in paragraph (1), can be accepted insofar as the related Taxpayer in Indonesia files request for implementation of MAP on the same issues to the Director of Tax Regulations II.
5. The filing of request for implementation of MAP as intended in Article 17 paragraph (1) sub-paragraph g which satisfy the provisions as intended in paragraph (1), can be accepted in the event that the related Taxpayer in Indonesia also files request for implementation of APA on the same issues to the Director General of Taxes.

#### Article 19

1. In the event that based on examination result as intended in Article 18 the request for implementation of MAP can be accepted, the Director of Tax Regulations II shall convey written approval for implementation of MAP to Tax Authority of Partner Country or Partner

Jurisdiction.

2. In the event that based on examination result as intended in Article 18 the request for implementation of MAP cannot be accepted, the Director of Tax Regulations II shall convey written rejection to the implementation of MAP along with its reasons to Tax Authority of Partner Country or Partner Jurisdiction.

#### Article 20

1. In the event that the request for implementation of MAP is accepted as intended in Article 19 paragraph (1), the Director of Tax Regulations II shall convey:
  - a. notification in writing to the Director General of Taxes that MAP with Tax Authority of Partner Country or Partner Jurisdiction will be done; and
  - b. proposal on the establishment of team for implementation of MAP to the Director General of Taxes.
2. In the event that the request for implementation of MAP is accepted as intended in Article 19 paragraph (1), the Director General of Taxes can perform audit for Fiscal Year and/or Tax Period which is being processed in MAP.
3. In the event that the request for implementation of MAP as intended in paragraph (1) relates to Indonesian resident Taxpayer or permanent establishment in Indonesia, the Director of Tax Regulations II shall deliver written notification on the implementation of MAP to the said Indonesian resident Taxpayer or permanent establishment in Indonesia.
4. Notification as intended in paragraph (3) shall cover information on:
  - a. the date of the receipt of request for implementation of MAP;
  - b. name and identity of the related resident Taxpayer of Partner Country or of Partner Jurisdiction as intended in Article 17 paragraph (2) sub-paragraph a; and
  - c. Fiscal Year and/or Tax Period to be discussed in the implementation of MAP.

#### Article 21

1. Tax Authority of Partner Country or Partner Jurisdiction can revoke request for implementation of MAP by no later than before obtaining Mutual Agreement.
2. The revocation of request for implementation of MAP as intended in paragraph (1) shall be delivered to the Director of Tax Regulations II, and shall be signed by the competent authority of Partner Country or of Partner Jurisdiction.

### CHAPTER IV IMPLEMENTATION OF MAP

#### Article 22

1. The Director General of Taxes shall establish a team for implementation of MAP team by taking into account the proposal as intended in Article 10 paragraph (1) sub-paragraph b, Article 15 paragraph (1) sub-paragraph c, or Article 20 paragraph (1) sub-paragraph b.
2. Implementation of MAP Team as intended in paragraph (1) shall be in charge of:
  - a. examining matters filed in request for implementation of MAP;
  - b. holding discussion with Indonesian resident Taxpayer which files request for implementation of MAP on issues that will be or that is being discussed in the implementation of MAP, in the event of request for implementation of MAP as intended in Article 3 paragraph (1) sub-paragraph a;
  - c. holding discussion with WNI or Taxpayer in Indonesia relating to request for implementation of MAP on issues that will be or that is being discussed in the implementation of MAP, in the event of request for implementation of MAP as intended in Article 3 paragraph (1) sub-paragraph b;
  - d. holding discussion with Indonesian resident Taxpayer or permanent establishment in Indonesia relating to request for implementation of MAP on issues that will be or that is being discussed in the implementation of MAP, in the event of request for implementation of MAP as intended in Article 3 paragraph (1) sub-paragraph c;

- e. performing observation to location of business activity of Taxpayer as intended in sub-paragraphs b, c, or d, if necessary;
- f. holding discussion with the related unit within the Directorate General of Tax;
- g. requesting for supporting documents and other necessary information from WNI or Taxpayer in Indonesia relating to request for implementation of MAP;
- h. examining tax provisions and international business practice in respect of issues that will be or that is being discussed in the implementation of MAP;
- i. requesting for exchange of information in the context of taxation to Tax Authority of Partner Country or Partner Jurisdiction, if necessary;
- j. requesting for proposal from the related unit within the Directorate General of Tax, if necessary;
- k. requesting for documents and necessary information from other related parties, if necessary;
- l. preparing recommendation on position paper;
- m. examining whether or not it is necessary to perform confirmation to Taxpayer in Indonesia on draft Mutual Agreement, in the event that request for implementation of MAP on the matter which is deemed necessary and at the initiative of the Director General of Taxes as intended in Article 12 paragraph (2), or at interpretation of the provisions in Tax Treaty can give rise to charge of double taxation or tax avoidance as intended in Article 17 paragraph (1) sub-paragraph e;
- n. preparing likely secondary adjustment as a result of Mutual Agreement in connection with issues of Transfer Pricing, if necessary; and
- o. making documentation of activities performed.

#### Article 23

1. Position paper as intended in Article 22 sub-article 1 shall constitute position of negotiation of the Directorate General of Tax in MAP.
2. Team for implementation of MAP shall deliver recommendation on position paper to the Director of Tax Regulations II.
3. With respect to recommendation on position paper as intended in paragraph (2) already approved, the Director of Tax Regulations II shall convey it to the Director General of Taxes.

#### Article 24

1. The Director General of Taxes shall discuss position paper as intended in Article 23 paragraph (2) together with quality assurance team.
2. Quality assurance team as intended in paragraph (1) is established by the Director General of Taxes in the context of stipulating position paper.
3. In the implementation of MAP, by taking into account the opinion of Tax Authority of Partner Country or Partner Jurisdiction and the actual condition, update of position paper can be made to implement the provisions of Tax Treaty.
4. The Director of Tax Regulations II shall deliver proposal on update of position paper as intended in paragraph (3) to the Director General of Taxes.
5. The Director General of Taxes shall discuss update on adjustment of position paper as intended in paragraph (4) together with quality assurance team.

#### Article 25

1. The implementation of MAP shall be performed by the Director of Tax Regulations II by consultancy with Tax Authority of Partner Country or Partner Jurisdiction.
2. Consultancy as intended in paragraph (1) shall be in the form of:
  - a. direct meeting;
  - b. electronic communication; and/or

- c. correspondence.
- 3. Consultancy in the form of direct meeting as intended in paragraph (2) sub-paragraph a shall be done by negotiator delegation of the Directorate General of Tax which is led by the Director of Tax Regulations II who acts as authorized official or competent authority in Indonesia.
- 4. Negotiator delegation as intended in paragraph (3) shall be established by the Director General of Taxes by taking into account proposal of the Director of Tax Regulations II.
- 5. Consultancy as intended in paragraphs (1) and (2) shall be performed by no later than 3 (three) years as from the moment of the first time consultancy.
- 6. In the event that consultancy in the context of implementation of MAP does not yet generate Mutual Agreement within the period as intended in paragraph (5), the period of consultancy can be extended based on agreement between the Director of Tax Regulations II and Tax Authority of Partner Country or Partner Jurisdiction.
- 7. The moment of the first time consultancy as intended in paragraph (5) shall be:
  - a. the date of letter from Tax Authority of Partner Country or Partner Jurisdiction that declares that request for implementation of MAP can be accepted, for the request for implementation of MAP as intended in Article 3 paragraph (1) sub-paragraphs a and b;
  - b. the date of letter from the Director of Tax Regulations II which declares that request for implementation of MAP can be accepted, for the request for implementation of MAP as intended in Article 3 paragraph (1) sub-paragraph c; or
  - c. the date of the first direct meeting as intended in paragraph (2) sub-paragraph a between the Director of Tax Regulations II and authorized official of Tax Authority of Partner Country or Partner Jurisdiction, in the event that statement of acceptability of request for implementation of MAP is done without any correspondence as intended in sub-paragraph a or b.

#### Article 26

- 1. The Director of Tax Regulations II can terminate the implementation of MAP in the event that:
  - a. Indonesian resident Taxpayer or permanent establishment in Indonesia whose Notice of Tax Assessment is issued by the Directorate General of Tax, relating to request for implementation of MAP, does not submit all documents or information requested by team for implementation of MAP;
  - b. WNI relating to request for implementation of MAP does not submit all documents or information requested by team for implementation of MAP;
  - c. there is condition unlikely to obtain documents or information necessary at the time of consultancy in the context of implementation of MAP;
  - d. there is a strong indication and based on considerations of the Director General of Taxes that consultancy in the context of implementation of MAP will not generate Mutual Agreement;
  - e. Indonesian resident Taxpayer as intended in Article 11, WNI as intended in Article 16, or Tax Authority of Partner Country or Partner Jurisdiction as intended in Article 21, revoke the request for implementation of MAP;
  - f. draft Mutual Agreement is not approved by:
    - 1) Indonesian resident Taxpayer who files request for implementation of MAP as intended in Article 3 paragraph (1) sub-paragraph a;
    - 2) WNI who are resident Taxpayer of Partner Country or of Partner Jurisdiction in connection with issues of discrimination based on the provisions of Tax Treaty as intended in Article 3 paragraph (1) sub-paragraph b; or
    - 3) Indonesian resident Taxpayer or permanent establishment in Indonesia relating to implementation of MAP as intended in Article 3 paragraph (1) sub-paragraph b or c.
  - g. Mutual Agreement is not yet generated until Decision on Appeal is uttered, if the implementation of MAP is conducted in parallel with the appeal process.
- 2. The Director of Tax Regulations II shall deliver written notification on termination of

implementation of MAP as intended in paragraph (1) to:

- a. The Director General of Taxes; and
- b. Indonesian resident Taxpayer, permanent establishment in Indonesia or the related WNI.

## CHAPTER VII MUTUAL AGREEMENT

### Article 27

1. The Director of Tax Regulations II shall be authorized to finalise Mutual Agreement based on position paper.
2. Before the Director of Tax Regulations II finalised Mutual Agreement, the Director of Tax Regulations II and Tax Authority of Partner Country or Partner Jurisdiction shall prepare Mutual Agreement draft.
3. In the event that request for implementation of MAP in connection with:
  - a. Indonesian resident Taxpayer which files request for implementation of MAP as intended in Article 3 paragraph (1) sub-paragraph a;
  - b. WNI who are resident Taxpayer of Partner Country or of Partner Jurisdiction in connection with issues of discrimination based on the provisions of Tax Treaty as intended in Article 3 paragraph (1) sub-paragraph b; or
  - c. Indonesian resident Taxpayer or permanent establishment in Indonesia relating to implementation of MAP as intended in Article 3 paragraph (1) sub-paragraph b or c,The Director of Tax Regulations II must in advance request for confirmation to Indonesian resident Taxpayer, WNI who are resident Taxpayer of Partner Country or of Partner Jurisdiction, or to the related Indonesian resident Taxpayer or permanent establishment in Indonesia, on acceptance or non-acceptance of the Mutual Agreement draft as intended in paragraph (2).
4. Indonesian resident Taxpayer as intended in paragraph (3) sub-paragraph a, WNI as intended in paragraph (3) sub-paragraph b, or Indonesian resident Taxpayer or permanent establishment in Indonesia as intended in paragraph (3) sub-paragraph c, shall convey confirmation in writing on acceptance or non-acceptance of the Mutual Agreement draft to the Director of Tax Regulations II.
5. The Director of Tax Regulations II shall made Mutual Agreement with the competent authority of Tax Authority of Partner Country or Partner Jurisdiction after obtaining confirmation on acceptance of the Mutual Agreement draft as intended in paragraph (4).
6. In the event that based on examination result of team for implementation of MAP as intended in Article 22 paragraph (2) sub-paragraph m, it is unnecessary to request for confirmation to Taxpayer in Indonesia on the Mutual Agreement draft, the Director of Tax Regulations II can agree Mutual Agreement with the competent authority of Tax Authority of Partner Country or Partner Jurisdiction.

### Article 28

1. The Director General of Taxes shall issue the Director General of Taxes Decree concerning Mutual Agreement as intended in Article 27 as well as follow up of the Mutual Agreement.
2. The Director of Tax Regulations II shall convey the Director General of Taxes Decree as intended in paragraph (1) to:
  - a. unit within the Directorate General of Tax relating to implementation of MAP;
  - b. Indonesian resident Taxpayer which files request for implementation of MAP, in the event of request for implementation of MAP as intended in Article 3 paragraph (1) sub-paragraph a;
  - c. WNI who are resident Taxpayer of Partner Country or of Partner Jurisdiction in connection with discrimination issues based on the provisions of Tax Treaty, in the event of request for implementation of MAP as intended in Article 3 paragraph (1) sub-paragraph b; and/or

- d. Indonesian resident Taxpayer or permanent establishment in Indonesia relating to implementation of MAP, in the event of request for implementation of MAP as intended in Article 3 paragraph (1) sub-paragraph b or c.

#### Article 29

1. In the event that implementation of MAP generates Mutual Agreement after the issuance of Notice of Tax Assessment but:
  - a. objection is not filed;
  - b. objection is filed but it is revoked, and letter of approval for revocation is issued;
  - c. objection is filed but it does not meet the requirements that is not taken into account;
  - d. application for deduction or cancellation of incorrect Notice of Tax Assessment is not filed; or
  - e. application for deduction or cancellation of incorrect Notice of Tax Assessment is filed but it does not satisfy the provisions,

The Director General of Taxes shall make correction of Notice of Tax Assessment ex-officio in accordance with the provisions as intended in Article 16 of the Law.

2. In the event that implementation of MAP generates Mutual Agreement and Taxpayer files objection but Decree on Objection is not yet issued, the Director General of Taxes shall calculate the Mutual Agreement in Decree on Objection.
3. In the event that implementation of MAP generates Mutual Agreement after the Director General of Taxes issues Decree on Objection but appeal is not filed or Taxpayer files appeal but it is revoked, the Director General of Taxes shall make correction of Decree on Objection ex-officio in accordance with the provisions as intended in Article 16 of the Law.
4. In the event that implementation of MAP generates Mutual Agreement which resulted in a decrease on the tax to be paid and Taxpayer files application for correction or application for deduction or cancellation of Notice of Tax Assessment but decree for the said application is not yet issued, the Director General of Taxes shall calculate the said Mutual Agreement in the decree for application for correction or deduction or cancellation of Notice of Tax Assessment.
5. In the event that implementation of MAP generates Mutual Agreement which resulted in an increase on the tax to be paid and Taxpayer files application for correction of Notice of Tax Assessment but decree for the said application is not yet issued, the Director General of Taxes shall take the said Mutual Agreement into account in the Decree for the application of correction of Notice of Tax Assessment.
6. In the event that implementation of MAP generates Mutual Agreement which resulted in an increase on the tax to be paid and Taxpayer files application for deduction or cancellation of Notice of Tax Assessment but the Decree for the said application is not yet issued, the Director General of Taxes shall reject the said application and shall make correction of Notice of Tax Assessment ex-officio in accordance with the provisions as intended in Article 16 of the Law by calculating Mutual Agreement.
7. In the event that implementation of MAP generates Mutual Agreement which makes which resulted in a decrease on the tax to be paid after the Director General of Taxes issues decree for deduction or cancellation of incorrect tax assessment, the Director General of Taxes shall make correction of the Decree ex-officio in accordance with the provisions as intended in Article 16 of the Law by calculating Mutual Agreement.
8. In the event that implementation of MAP generates Mutual Agreement which resulted in an increase on the tax to be paid after the Director General of Taxes issues decree for deduction or cancellation of incorrect tax assessment, the Director General of Taxes shall:
  - a. make correction of Decree on Deduction or Decree on Cancellation of Tax Assessment ex-officio; and
  - b. make correction of Notice of Tax Assessment ex-officio by calculating the content of mutual agreement.
9. In the event that Mutual Agreement relates to withholding or collection of Income Tax in Indonesia, follow up can be done based on the procedure or guidelines for refund of tax

that should not be payable, in accordance with the provisions applicable for Fiscal Year which is the same as Fiscal Year of Mutual Agreement.

#### Article 30

In the event that implementation of MAP does not generate any Mutual Agreement, then Notice of Tax Assessment, Decree on Objection, Decree on Deduction of Tax Assessment, Decree on Cancellation of Tax Assessment, or Decree on Correction shall be applicable.

### CHAPTER VIII DOCUMENTATION OF PROCESS OF MAP AND CONFIDENTIALITY

#### Article 31

The Director of Tax Regulations II shall make documentation of:

- a. report on examination at request for implementation of MAP;
- b. report on examination of team for implementation of MAP on preparation of proposal on position paper and change thereof;
- c. report on discussion together with the Director General of Taxes and team for quality assurance in determining position paper and change thereof which is delivered to the Director of Tax Regulations II;
- d. position paper and change thereof;
- e. correspondence, including electronic correspondence;
- f. result of digital or electronic inputting; and
- g. related other documents.

#### Article 32

Documents used as from filing of request for implementation of MAP until completion or discontinuance of process of implementation of MAP shall be treated confidentially in accordance with legal provisions.

### CHAPTER IX MISCELLANEOUS PROVISIONS

#### Article 33

Further provisions on the procedure for implementation of establishment of team for implementation of MAP, team for quality assurance, delegation of negotiator of the Directorate General of Tax, and stipulation of position paper, shall be stipulated in a Regulation of the Director General of Taxes.

### CHAPTER X TRANSITIONAL PROVISIONS

#### Article 34

With the coming into effect of this Regulation of the Minister, request for implementation of MAP already:

- a. received by the Director General of Taxes; or
- b. filed by the Director General of Taxes to Tax Authority of Partner Country or Partner Jurisdiction,

before the coming into effect of this Regulation of the Minister, and Mutual Agreement is not yet obtained, shall undergo further processing based on this Regulation of the Minister.

CHAPTER XI  
CLOSING PROVISIONS

Article 35

This Regulation of the Minister shall come into effect on the date of its promulgation.  
For public cognizance, hereby ordering the promulgation of this Regulation of the Minister by placing it in the Official Gazette of the Republic of Indonesia.

Stipulated in Jakarta  
on December 22, 2014  
THE MINISTER OF FINANCE OF  
THE REPUBLIC OF INDONESIA,

Signed

BAMBANG P.S. BRODJONEGORO

Promulgated in Jakarta  
On December 22, 2014  
THE MINISTER OF LAW AND HUMAN RIGHTS OF  
THE REPUBLIC OF INDONESIA,

Signed

YASONNA H. LAOLY

OFFICIAL GAZETTE OF THE REPUBLIC OF INDONESIA  
YEAR 2014 NUMBER 1952

Issued as a true copy