

**REGULATION OF THE MINISTER OF FINANCE OF THE REPUBLIC OF
INDONESIA**

NUMBER 172 YEAR 2023

ON

**THE IMPLEMENTATION OF THE ARM'S LENGTH PRINCIPLES IN
TRANSACTIONS INFLUENCED BY A SPECIAL RELATIONSHIP**

BY THE BLESSING OF ALMIGHTY GOD

MINISTER OF FINANCE OF THE REPUBLIC OF INDONESIA

- Considering:
- a. that to provide fairness, legal certainty, and convenience in exercising rights and fulfillment of the obligations in the field of taxation related to transactions influenced by a special relationship, it is necessary to amend the regulations concerning the implementation of the arm's length principle in transactions influenced by a special relationship;
 - b. that the regulations concerning the types of documents and/or additional information that shall be retained by taxpayer conducting transactions with a party that has a special relationship, and the administrative procedures as regulated in the Regulation of Minister of Finance Number 213/PMK.03/2016 on Types of Documents and/or Additional Information that shall be Retained by Taxpayer Conducting Transactions with a Party that Has a Special Relationship and the Administration Procedures, the procedures for the implementation of the mutual agreement procedure regulated in the Regulation of Ministry of Finance Number 49/PMK.03/2019 on Procedures for the Implementation of the Mutual Agreement Procedure, and the procedures for the establishment and implementation of advance pricing agreements as regulated in the Regulation of Minister of Finance Number 22/PMK.03/2020 on Procedures for the Implementation of the Advance Pricing Agreement, have not accommodated the requirements as referred to in subparagraph a, therefore shall be replaced.
 - c. that pursuant to the considerations as referred to in subparagraph a and subparagraph b and to implement Article 44E paragraph (2) subparagraph d of Law Number 6 of 1983 on General Provisions and Tax Procedures as amended several times, last amended by Law Number 7 of 2021 on the Harmonization of Tax Regulations, Article 2 of

Law Number 8 of 1983 on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods as amended several times, last amended by Law Number 7 of 2021 on the Harmonization of Tax Regulations, Article 11 paragraph (3) of Government Regulation Number 50 of 2022 on Procedures for Exercising Tax Rights and Fulfillment of Tax Obligations, and the provisions of Articles 37 and 47 of Government Regulation Number 55 of 2022 on Adjustments to the Regulation in the Field of Income Taxes, it is necessary to enact a Regulation of Ministry of Finance on the Implementation of the Arm's Length Principle to Transactions Influenced by a Special Relationship;

- Observing:
1. Article 17 paragraph (3) of the 1945 Constitution of the Republic of Indonesia;
 2. Law Number 6 of 1983 on General Provisions and Tax Procedures (State Gazette of the Republic of Indonesia of 1983 Number 49, Supplement to the State Gazette of the Republic of Indonesia Number 3262) as amended several times, last amended by Law Number 7 of 2021 on the Harmonization of Tax Regulations (State Gazette of the Republic of Indonesia of 2021 Number 246, Supplement to the State Gazette of the Republic of Indonesia Number 6736);
 3. Law Number 7 of 1983 on Income Tax (State Gazette of the Republic of Indonesia Year 1983 Number 50, Supplement to the State Gazette of the Republic of Indonesia Number 3263) as amended several times, last amended by Law Number 7 of 2021 on the Harmonization of Tax Regulations (State Gazette of the Republic of Indonesia Year 2021 Number 246, Supplement to the State Gazette of the Republic of Indonesia Number 6736);
 4. Law Number 8 of 1983 on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods (State Gazette of the Republic of Indonesia Year 1983 Number 51, Supplement to the State Gazette of the Republic of Indonesia Number 3264) as amended several times, last amended by Law Number 7 of 2021 on the Harmonization of Tax Regulations (State Gazette of the Republic of Indonesia Year 2021 Number 246, Supplement to the State Gazette of the Republic of Indonesia Number 6736);
 5. Law Number 17 of 2003 on State Finances (State Gazette of

the Republic of Indonesia Year 2003 Number 47, Supplement to the State Gazette of the Republic of Indonesia Number 4286);

6. Law Number 39 of 2008 on State Ministries (State Gazette of the Republic of Indonesia Year 2008 Number 166, Supplement to the State Gazette of the Republic of Indonesia Number 4916);
7. Regulation of the Government Number 50 of 2022 on Procedures for Implementing Tax Rights and Obligations (State Gazette of the Republic of Indonesia Year 2022 Number 226, Supplement to the State Gazette of the Republic of Indonesia Number 6834);
8. Regulation of the Government Number 55 Year 2022 on Adjustment of Regulations in the Field of Income Tax (State Gazette of the Republic of Indonesia Year 2022 Number 231, Supplement to the State Gazette of the Republic Year Indonesia Number 6836);
9. Regulation of the President Number 57 Year 2020 on the Ministry of Finance (State Gazette of the Republic of Indonesia Year 2020 Number 98);
10. Regulation of the Minister of Finance Number 118/PMK.01/2021 on the Organization and Work Procedures of the Ministry of Finance (State Bulletin of the Republic of Indonesia Year 2021 Number 1031) as amended several times, last amended by Regulation of the Minister of Finance Number 135 of 2023 on the Second Amendment to Regulation of the Minister of Finance Number 118/PMK.01/2021 on the Organization and Work Procedures of the Ministry of Finance (State Bulletin of the Republic of Indonesia Year 2023 Number 977);

HAS DECIDED:

To Enact: REGULATION OF THE MINISTER OF FINANCE OF THE
REPUBLIC OF INDONESIA ON THE IMPLEMENTATION OF THE
ARM'S LENGTH PRINCIPLES IN TRANSACTIONS INFLUENCED
BY A SPECIAL RELATIONSHIP

CHAPTER I GENERAL PROVISION

Article 1

In this Ministerial Regulation, the following terms are defined
as:

- (1) Law on Income Taxes refers to Law number 7 Year 1983 on Income Taxes, as amended several times, last amended with Law number 7 Year 2021 on the Harmonization of Tax Regulations.
- (2) Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods refers to Law Number 8 Year 1983 on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods as amended several times, last amended by Law Number 7 Year 2021 on the Harmonization of Tax Regulations.
- (3) Law on General Provisions and Tax Procedures refers to Law Number 6 Year 1983 on General Provisions and Tax Procedures as amended several times, last amended by Law Number 7 Year 2021 on the Harmonization of Tax Regulations.
- (4) Transfer Price means the price in transactions influenced by a special relationship.
- (5) Affiliated Party means a party or parties which have a special relationship with one another.
- (6) Affiliated Transaction means transactions conducted by a Taxpayer with Affiliated Party.
- (7) Transaction Influenced by a Special Relationship means transactions that include Affiliated Transaction and/or transaction conducted between parties that do not have a special relationship but Affiliated Party of one or both determine the counterparty and the transaction price.
- (8) Uncontrolled Transaction means transaction conducted by parties that do not have a special relationship and not influenced by a special relationship.
- (9) Transfer Pricing means the determination of price in a Transaction Influenced by a Special Relationship.

- (10) Arm's Length Principle means applicable principles in a sound business practice as conducted in Uncontrolled Transaction.
- (11) Audit means a series of activities to collect and process data, information, and/or evidence that carried out objectively and professionally based on audit standard to test the compliance with the tax obligations and/or for other purposes to the effect of implementing the provisions of laws and regulations in the field of taxation.
- (12) Transfer Pricing Documentation means a document maintained by taxpayer containing data and/or information supporting that Transaction Influenced by a Special Relationship complies with Arm's Length Principle.
- (13) Taxpayer means individuals or entities, including a taxpayer, a tax withholder, and tax collector that have rights and obligations in accordance with the provisions of laws and regulations in the field of taxation.
- (14) Business Group means a group of taxable subjects conducting business activities which consist of parties with a special relationship.
- (15) Tax Treaty means agreement between the Government of Indonesia and the government of Tax Treaty Partner to prevent double taxation and tax evasion.
- (16) Tax Treaty Partner means countries or jurisdictions which has entered into a formal Tax Treaty with the Government of Indonesia.
- (17) Tax Authority of the Tax Treaty Partner means tax authority of the Tax Treaty Partner country or jurisdiction authorised to implement Tax Treaty provisions.
- (18) Mutual Agreement Procedure (MAP) means an administrative procedure regulated in Tax Treaty to resolve the issues arising from the implementation of Tax Treaty.
- (19) Competent Authority means the officials of Indonesia, or the officials of Tax Treaty Partner authorised to implement Mutual Agreement Procedure as regulated in Tax Treaty.
- (20) Mutual Agreement means an outcome agreed upon in the implementation of Tax Treaty by Competent Authority of both Government of Indonesia and the Government of Tax Treaty Partner regarding the implementation of Mutual Agreement Procedure.
- (21) Mutual Agreement Decree means decision letter issued to follow up the agreement in the Mutual Agreement.
- (22) Indonesian National that submits the request for the implementation of Mutual Agreement Procedure, hereinafter referred to as Indonesian National, means an Indonesian National that based on the legal provisions

concerning nationality, is a tax resident of Tax Treaty Partner.

- (23) Applicant means resident Taxpayer or Indonesian National.
- (24) Advance Pricing Agreement (APA) means a written agreement between the Director General of Taxes and Taxpayer or Tax Authority of the Tax Treaty Partner involving Taxpayer, as referred to in Article 18 paragraph (3a) of Law on Income Taxes in order to agree on the criteria in Transfer Pricing and/or determine the advance arm's length price or arm's length profit.
- (25) Advance Pricing Agreement Document means a document that contains an agreement between the Director General of Taxes and resident Taxpayer concerning Transfer Pricing criteria and the determination of advance Transfer Pricing in accordance with the Arm's Length Principle during the Advance Pricing Agreement period and roll-back.
- (26) Unilateral Advance Pricing Agreement means Advance Pricing Agreement between the Director General of Taxes and resident Taxpayer.
- (27) Bilateral or Multilateral Advance Pricing Agreement means Advance Pricing Agreement between the Director General of Taxes and 1 (one) or more Competent Authority of Tax Treaty Partner based on the application of resident Taxpayer.
- (28) Advance Pricing Agreement Period means a taxable year covered under Advance Pricing Agreement based on the application of resident Taxpayer based on Mutual Agreement for a maximum of 5 (five) fiscal years since the taxable year where Advance Pricing Agreement application is submitted.
- (29) Roll-back means the implementation of the agreement in Advance Pricing Agreement for fiscal year(s) prior to Advance Pricing Agreement Period.
- (30) Taxpayer Portal means a tool for Taxpayer for exercising tax rights and fulfilling tax obligations electronically on the Directorate General of Taxes website.

CHAPTER II SPECIAL RELATIONSHIP

Article 2

- (1) A special relationship is the special relationship regulated under:
 - b. Law on Income Taxes; and
 - c. Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods
- (2) The special relationship as referred to in paragraph (1) is a condition of dependency or attachment between a party to another party due to:
 - a. ownership or equity participation;
 - b. control; or
 - c. family relationship by blood or marriage.
- (3) The condition of dependency or attachment between a party to another party as referred to in paragraph (2) is a condition where one or more parties:
 - a. control another party; or
 - b. are not independent.in conducting business or activities.
- (4) The special relationship arising from ownership or equity participation as referred to in paragraph (2) subparagraph a is deemed to exist if:
 - a. Taxpayer has direct or indirect equity participation of a minimum of 25% (twenty-five percent) in another Taxpayer; or
 - b. the relationship between Taxpayers with equity participation of a minimum of 25% (twenty-five percent) in two or more Taxpayer.
- (5) The special relationship due to control as referred to in paragraph (2) subparagraph b is deemed to exist if:
 - a. one party controls another party, or one party is controlled by another party, directly and/or indirectly;
 - b. two or more parties are under the control of the same parties, directly and/or indirectly;
 - c. one party controls another party, or one party is controlled by another party through management or use of technology;
 - d. the same individuals are directly and/or indirectly involved in or participate in the managerial or operational decision making for two or more parties;
 - e. parties that are commercially or financially recognised as or claimed to be part of the same Business Group;or

- f. one party claims to have a special relationship with another party.
- (6) The special relationship arising from family relationship by blood or marriage as referred to in paragraph (2) subparagraph c is deemed to exist if there is a family relationship either by blood or by marriage in one degree of direct lineage vertically and/or horizontally.

CHAPTER III

THE IMPLEMENTATION OF ARM'S LENGTH PRINCIPLE

Section One

Arm's Length Principle

Article 3

- (1) Taxpayer shall implement Arm's Length Principle in exercising rights and fulfilling obligations in the field of taxation related to Transactions Influenced by a Special Relationship.
- (2) Arm's Length Principle as referred to in paragraph (1) is implemented to determine the arm's length Transfer Price.
- (3) Arm's Length Principle as referred to in paragraph (2) is implemented by comparing the conditions and profit level indicator of Transaction Influenced by a Special Relationship with the condition and profit level indicator of comparable Uncontrolled Transaction.
- (4) Transfer Price as referred to in paragraph (2) fulfills Arm's Length Principle if value of profit level indicator equals to value of profit level indicator of comparable Uncontrolled Transaction.
- (5) The profit level indicator as referred to in paragraph (4) may be in the form of transaction price, gross profit, or net operating profit based on absolute or certain ratio value.

Section Two

The Implementation of Arm's Length Principle in Transaction Influenced by a Special Relationship

Paragraph 1

General Guidelines

Article 4

- (1) The Implementation of Arm's Length Principle as referred to in Article 3 paragraph (3) shall be conducted:
 - a. based on actual conditions;

- b. at the time of the determination of Transfer Pricing and/or the occurrence of Transaction Influenced by a Special Relationship; and
 - c. in accordance with the stages of the Implementation of Arm's Length Principle.
- (2) The Implementation of Arm's Length Principle as referred to in paragraph (1) shall be conducted in a segregated approach for each type of Transaction Influenced by a Special Relationship.
- (3) In the event that two or more types of Transaction Influenced by a Special Relationship that are interrelated and mutually affecting each other in determining Transfer Price, such that the segregated implementation of Arm's Length Principle as referred to in paragraph (2) is unable to be implemented reliably and accurately, Arm's Length Principle may be implemented by combining two or more of those types of Transaction Influenced by a Special Relationship.
- (4) The stages of the implementation of Arm's Length Principle as referred to in paragraph (1) subparagraph c including:
 - a. identifying Transaction Influenced by a Special Relationship and Affiliated Party;
 - b. conducting industry analysis related to business activity of Taxpayer, including identifying factors that affect business performance in that industry;
 - c. identifying commercial and/or financial relationships between Taxpayer and Affiliated Party by conducting analysis on transaction's conditions;
 - d. conducting comparability analysis;
 - e. determining the Transfer Pricing method; and
 - f. applying the Transfer Pricing method and determining the arm's length Transfer Price.
- (5) The implementation of Arm's Length Principle for certain Transaction Influenced by a Special Relationship shall be carried out with the preliminary stages and stages as referred to in paragraph (4).
- (6) Certain Transaction Influenced by a Special Relationship as referred to in paragraph (5) including:
 - a. Intra-group services;
 - b. transactions related to the use or the rights to use intangible assets;
 - c. financial transactions related to loans;
 - d. other financial transactions;
 - e. transfer of asset transactions;
 - f. business restructurings; and
 - g. cost contribution arrangements.

Paragraph 2
Identification of Transaction Influenced by a Special
Relationship and Affiliated Party

Article 5

Identification of Transaction Influenced by a Special Relationship and Affiliated Party as referred to in Article 4 paragraph (4) subparagraph a is activities to identify:

- a. Transaction Influenced by a Special Relationship conducted by Taxpayer.
- b. parties involved in Transaction Influenced by a Special Relationship as referred to in subparagraph a; and
- c. the forms of the special relationship as referred to in Article 2 paragraph (2).

Paragraph 3
Industry Analysis

- Article 6
- (1) Industry analysis as referred to in Article 4 paragraph (4) subparagraph b is an analysis to identify factors including:
 - a. type of products in the form of goods or services;
 - b. industry and market characteristics, such as market growth, market segmentation, market cycle, technology, market size, market prospects, supply chain, and value chain;
 - c. competitors and level of business competition;
 - d. level of efficiency and location-specific advantages of Taxpayer;
 - e. economic circumstances affecting business performance in the industry, such as inflation rates, economic growth, interest rates, and exchange rates;
 - f. regulations affecting and/or determining success in the industry; and
 - g. factors other than the factors as referred to in subparagraph a to subparagraph f that affect business performance in the industry.
 - (2) The results of the industry analysis as referred to in paragraph (1) are used to identify differences between the conditions of the tested Transaction Influenced by a Special Relationship and conditions of transactions of potential comparables when conducting comparability analysis as referred to in Article 4 paragraph (4) subparagraph d.

Paragraph 4
The Analysis of the Conditions of Transaction

Article 7

- (1) The conditions of transactions as referred to in Article 4 paragraph (4) subparagraph c are relevant economic characteristics, including:
 - a. contractual terms;
 - b. functions performed, assets used and risks assumed;
 - c. characteristics of products;
 - d. economic circumstances; and
 - e. business strategies pursued by parties involved in the transaction.
- (2) The contractual terms as referred to in paragraph (1) subparagraph a are terms implemented and/or applicable to parties involved in the transactions according to actual conditions, either written or unwritten.
- (3) The functions as referred to in paragraph (1) subparagraph b are activities and/or responsibilities of parties involved in the transactions in conducting business operation.
- (4) The assets as referred to in paragraph (1) subparagraph b are tangible assets, intangible assets, financial assets, and/or non-financial assets that influence value creation, including access and share of market in Indonesia.
- (5) The risks as referred to in paragraph (1) subparagraph b are the impact of the uncertainty condition in achieving business objectives assumed by parties involved in the transactions.
- (6) The characteristics of products as referred to in paragraph (1) subparagraph c are the specific characteristics of goods or services being transacted that significantly affect pricing in the open market.
- (7) The economic circumstances as referred to in paragraph (1) subparagraph d are the economic circumstances of:
 - a. parties involved in the transactions; and
 - b. market in which the parties transact.
- (8) The business strategies as referred to in paragraph (1) subparagraph e are strategies implemented by companies in conducting business in the open market.

Paragraph 5
Comparability Analysis

Article 8

- (1) The comparability analysis as referred to in Article 4 paragraph (4) subparagraph d is conducted to determine the comparability between Uncontrolled Transaction and Transaction Influenced by a Special Relationship based on the conditions of transactions as referred to in Article 7 paragraph (1).
- (2) Uncontrolled Transaction is identical or comparable to a tested Transaction Influenced by a Special Relationship as referred to in Article 3 paragraph (3) insofar as:
 - a. conditions of Uncontrolled Transaction are identical or similar to the conditions of the tested Transaction Influenced by a Special Relationship;
 - b. conditions of Uncontrolled Transaction differ from the conditions of the tested Transaction Influenced by a Special Relationship, but these differences do not affect the pricing; or
 - c. conditions of Uncontrolled Transaction are different from the conditions of the tested Transaction Influenced by a Special Relationship and the differences in the conditions affect the pricing, but accurate adjustments may be performed adequately to Uncontrolled Transaction to eliminate any material effects of the differences in the conditions on the pricing.
- (3) The comparability analysis as referred to in paragraph (1) is conducted through the following stages:
 - a. understanding the characteristics of the tested Transaction Influenced by a Special Relationship based on the identification of commercial and/or financial relationships between Taxpayer and Affiliated Party as referred to in Article 4 paragraph (4) subparagraph c, and determining the business characteristics of each party that involved in the transactions;
 - b. identifying the existence of reliable Uncontrolled Transactions as potential comparables;
 - c. determining the profit level indicator of the tested party if the Transfer Pricing method used is transactional profit method;
 - d. identifying differences in conditions between the tested Transaction Influenced by a Special Relationship and potential comparables; and

- e. conducting accurate and appropriate adjustments to the potential comparables to eliminate any material effect of any differences in conditions as referred to in subparagraph d on the transaction profit level indicator; and
 - f. determining Uncontrolled Transaction as the selected comparables.
- (4) The party whose profit level indicators is tested as referred to in paragraph (3) subparagraph c, is the party in Transaction Influenced by a Special Relationship that has less complex functions, assets, and risks, considering:
 - a. the implementation of the Transfer Pricing method; and
 - b. data availability,that are most reliable and applicable.
- (5) The comparables as referred to in paragraph (3) subparagraph f may be in the form of internal comparables or external comparables.
- (6) The internal comparables, as referred to in paragraph (5), are transactions between independent parties and:
 - a. Taxpayer; or
 - b. Affiliated Party that is the counterparty in the transaction.
- (7) The external comparables, as referred to in paragraph (5), are transactions between independent parties other than internal comparables.
- (8) In the event that both internal and external comparables with the same level of comparability and reliability are available, the internal comparables are selected and used as the comparables.
- (9) In the event that more than one external comparables with the same level of comparability and reliability are available, the external comparables from the same state or jurisdiction as the tested party is selected and used as comparables.

Paragraph 6 Transfer Pricing Methods

Article 9

- (1) The Transfer Pricing methods in the stages of the implementation of the Arm's Length Principle as referred to in Article 4 paragraph (4) subparagraph e may be in the form of:
 - a. the comparable uncontrolled price method;
 - b. the resale price method;

- c. the cost-plus method; or
 - d. other methods, such as:
 - (1) the profit split method;
 - (2) the transactional net margin method;
 - (3) the comparable uncontrolled transaction method;
 - (4) methods in the tangible asset and/or intangible asset valuation; or
 - (5) methods in business valuation.
- (2) The methods as referred to in paragraph (1) are selected based on the accuracy and reliability of the methods, assessed from:
- a. the appropriateness of the Transfer Pricing method with the characteristics of Transaction Influenced by a Special Relationship being tested and the business characteristics of parties involved in the transactions;
 - b. the advantages and disadvantages of each applicable method;
 - c. the availability of Uncontrolled Transaction as reliable comparables;
 - d. the degree of comparability between Transaction Influenced by a Special Relationship and Uncontrolled Transaction as comparables; and
 - e. the accuracy of adjustments made if there are any differences in conditions between Transaction Influenced by a Special Relationship and the Uncontrolled Transaction as comparables.
- (3) The comparable uncontrolled price method as referred to in paragraph (1) subparagraph a is appropriate for the characteristics of Transaction Influenced by a Special Relationship as follows:
- a. commodity transactions; and
 - b. transactions involving goods or services with characteristics that are identical or similar to the characteristics of goods or services in Uncontrolled Transaction under comparable circumstances.
- (4) The resale price method as referred to in paragraph (1) subparagraph b is appropriate for the characteristics of Transaction Influenced by a Special Relationship and business characteristics of parties involved in the transactions, as follows:
- a. Transaction Influenced by a Special Relationship involve a distributor or reseller that resells goods or services to an independent party or Affiliate Party with prices that fulfill the Arm's Length Principle; and
 - b. the distributor or reseller as referred to in subparagraph a does not assume significant business

risks, does not have unique and valuable contributions to the Transaction Influenced by a Special Relationship, or does not provide significant added value to the goods or services transacted.

- (5) The cost-plus method as referred to in paragraph (1) subparagraph c is appropriate for the characteristics of Transaction Influenced by a Special Relationship and the business characteristics of parties involved in the transactions as follows:
 - a. Transaction Influenced by a Special Relationship are conducted by involving manufacturers or service providers that purchase raw material or other production factors from independent parties or Affiliated Party at the price that has fulfilled Arm's Length Principle; and
 - b. the manufacturers or service providers as referred to in subparagraph a do not assume significant business risks, do not have unique and valuable contributions to Transaction Influenced by a Special Relationship.
- (6) The profit split method as referred to in paragraph (1) subparagraph d number 1 is appropriate for the characteristics of Transaction Influenced by a Special Relationship and the business characteristics of parties involved in the transactions as follows:
 - a. Transaction Influenced by a Special Relationship is conducted by parties that have unique and valuable contributions to Transaction Influenced by a Special Relationship;
 - b. The business activities of parties involved in the transaction are highly integrated, such that contributions of each party involved in the transaction cannot be segregated; and
 - c. parties involved in the transaction share economically significant business risks or separately assume closely related risks.
- (7) The transactional net margin method as referred to in paragraph (1) subparagraph d number 2 may be selected insofar as comparables that are reliable and comparable at gross profit level are not available and is appropriate for the characteristics of Transaction Influenced by a Special Relationship and the business characteristics of the parties involved in the transactions as follows:
 - a. Transaction Influenced by a Special Relationship is conducted by one or more parties that do not have unique and valuable contributions to Transaction Influenced by a Special Relationship;

- b. the business activities of parties involved in the transactions are non-highly integrated; and
 - c. parties involved in the transactions do not share economically significant business risks or separately assume closely related risks.
- (8) The comparable uncontrolled transaction method as referred to in paragraph (1) subparagraph d number 3 is appropriate for the characteristics of Transaction Influenced by a Special Relationship that are commercially valued based on certain criteria, in the form of interest rates, discounts, fees commissions, and royalty percentages on sales or operating profit.
- (9) The tangible and intangible asset valuation method as referred to in paragraph (1) subparagraph d number 4 is appropriate for the characteristics of Transaction Influenced by a Special Relationship in the form of:
 - a. transfer of tangible assets and/or intangible assets transactions;
 - b. lease of tangible assets;
 - c. transactions related to the use or the rights to use intangible assets;
 - d. transfer of financial assets;
 - e. transfer of rights related to mining operations and/or other similar rights; and
 - f. transfer of rights related to plantation, forestry and/or other similar operations.
- (10) The business valuation method as referred to in paragraph (1) subparagraph d number 5 is appropriate for the characteristics of Transaction Influenced by a Special Relationship in the form of:
 - a. business restructuring transactions, including the transfer of functions, assets, and/or risks between Affiliated Party;
 - b. transfer of assets transactions other than cash to corporations, partnerships, or other entities in exchange for shares or equity participation (*inbreng*); and
 - c. transfer of assets transactions other than cash to shareholders, partners, or members of corporations, partnerships, or other entities.
- (11) Unique and valuable contributions as referred to in paragraph (6) subparagraph a are contributions that are:
 - a. more significant than contribution by independent parties under comparable conditions; and
 - b. the main source of actual or potential economic benefits in business activities.

- (12) In the event that the methods as referred to in paragraph (1) subparagraph a or paragraph (1) subparagraph d number 3 and other methods can be used and have equal reliability, then the method as referred to in paragraph (1) subparagraph a or paragraph (1) subparagraph d number 3 is preferred over other methods.
- (13) In the event that the methods as referred to in paragraph (1) subparagraph b, paragraph (1) subparagraph c, paragraph (1) subparagraph d number 1, and paragraph (1) subparagraph d number 2 can be used and have equal reliability, then the method as referred to in paragraph (1) subparagraph b or paragraph (1) subparagraph c is preferred over the methods as referred to in paragraph (1) subparagraph d number 1 and paragraph (1) subparagraph d number 2.

Paragraph 7

The Implementation of Transfer Pricing Methods and Determination of Arm's Length Transfer Price

Article 10

- (1) The comparable uncontrolled price method as referred to in Article 9 paragraph (1) subparagraph a is conducted by comparing prices between tested Transaction Influenced by a Special Relationship and Uncontrolled Transaction.
- (2) The resale price method as referred to in Article 9 paragraph (1) subparagraph b is conducted by deducting the arm's length gross profit for the distributor or reseller from the resale price.
- (3) The cost-plus method as referred to in Article 9 paragraph (1) subparagraph c is conducted by adding the arm's length gross profit for the manufacturer or service provider to the cost of goods sold or the cost of services provided.
- (4) The profit split method as referred to in Article 9 paragraph (1) subparagraph d number 1 is conducted by splitting the combined profit of the relevant transactions based on the functions, assets, risks, and/or contributions of the parties involved in Transaction Influenced by a Special Relationship.
- (5) The transactional net margin method as referred to in Article 9 paragraph (1) subparagraph d number 2 is conducted by comparing the level of net operating profit margin of the tested party with the net operating profit of comparables.

- (6) The comparable uncontrolled transaction method as referred to in Article 9 paragraph (1) subparagraph d number 3 is conducted by comparing the price or profit of a transaction on a certain basis between Transaction Influenced by a Special Relationship and Uncontrolled Transaction.
- (7) The tangible and intangible asset valuation method as referred to in Article 9 paragraph (1) subparagraph d number 4 is conducted in accordance with the provisions of laws and regulations concerning valuation procedures for taxation purposes.
- (8) The business valuation method as referred to in Article 9 paragraph (1) subparagraph d number 5 is conducted in accordance with the provisions of laws and regulations concerning valuation procedures for taxation purposes.

Article 11

- (1) The separation of combined profit as referred to in Article 10 paragraph (4) can be conducted at the level of gross profit or net operating profit.
- (2) The level of combined profit to be separated as referred to in paragraph (1) is determined by the level of integration of functions, the use of assets, and/or the sharing of economically significant business risks by the parties involved in Transaction Influenced by a Special Relationship.
- (3) The combined profit as referred to in paragraph (1) can be separated using:
 - a. contribution analysis; or
 - b. residual analysis.
- (4) The contribution analysis as referred to in paragraph (3) subparagraph a is conducted by splitting the combined profit as referred to in paragraph (2) based on splitting factors.
- (5) The residual analysis as referred to in paragraph (3) subparagraph b is conducted by splitting the combined profit as referred to in paragraph (1) into:
 - a. the profit derived from contributions of each party involved in transactions that reliable comparables can be obtained from Uncontrolled Transaction; and
 - b. residual of combined profit after deducting the profit as referred to in subparagraph a, that can be either positive or negative value.
- (6) The residual of combined profit as referred to in paragraph (5) subparagraph b is separated based on splitting factors.

- (7) The splitting factors as referred to in paragraph (4) and (6) may be in the form of:
 - a. percentage of profit separated by the parties in comparable Uncontrolled Transaction; or
 - b. relative value or percentage of the contributions by parties involved in Transaction Influenced by a Special Relationship, in the event that data as referred to in subparagraph a is unavailable.
- (8) The splitting factors as referred to in paragraph (7) shall meet the following criteria:
 - a. independent from Transaction Influenced by a Special Relationship;
 - b. verifiable; and
 - c. supported by comparables or internal data of parties involved in the transaction and/or other relevant data.

Article 12

- (1) The profit level indicator of Uncontrolled Transaction as referred to in Article 3 paragraph (4) may be in the form of:
 - a. arm's length point; or
 - b. arm's length range.
- (2) The profit level indicator of Uncontrolled Transaction as referred to in paragraph (1) is based on a single year comparables.
- (3) The profit level indicator of Uncontrolled Transaction as referred to in paragraph (1) may be based on multiple year comparables insofar as it increases comparability.
- (4) Single year or multiple year comparables as referred to in paragraph (2) and (3) are data that are available and closest to the time of the determination of Transfer Pricing and/or the occurrence of Transaction Influenced by a Special Relationship.
- (5) The arm's length point as referred to in paragraph (1) subparagraph a is a price indicator point formed from one or more comparables with identical price indicator value.
- (6) The arm's length range as referred to in paragraph (1) subparagraph b is a price indicator range formed from two or more comparables with different price indicator values, in the form of:
 - a. minimum value to maximum value (full range), in the event that it is formed from two comparables; or
 - b. first quartile to third quartile (interquartile range), in the event that it is formed from three or more comparables.
- (7) In the event that Transfer Price does not meet Arm's Length Principle as referred to in Article 3 paragraph (4),

the determination of Transfer Pricing is carried out as in Uncontrolled Transaction using:

- a. an arm's length point;
- b. the most appropriate point in the arm's length range according to the comparability; or
- c. the median in the arm's length range, in the event that the most appropriate point as referred to in subparagraph b cannot be determined.

Paragraph 8 Preliminary Stages

Article 13

- (1) Preliminary stages for the intra-group services transactions as referred to in Article 4 paragraph (6) subparagraph a including providing evidence that intra-group services:
 - a. have actually rendered by the service provider and obtained by the service recipient;
 - b. are required by the service recipient;
 - c. provide economic benefits to the service recipient;
 - d. are not an activity for the benefit of shareholders or other types of ownership that are not divided into shares (shareholder activity);
 - e. are not activities for benefits of a party solely because the party is part of Business Group (passive association);
 - f. are not a duplication of activities already performed by Taxpayer;
 - g. are not incidental benefit services; and
 - h. in the event of on-call services, are not intra-group services that may be immediately obtained from independent party without a prior on-call contract.
- (2) Costs related to intra-group services transactions that do not fulfill evidence requirements that the intra-group services are not an activity for benefit of shareholders or other types of ownership that are not divided into shares (shareholder activity) as referred to in paragraph (1) subparagraph d including:
 - a. administrative intra-group services costs relating to the parent entity, such as costs relating to the parent entity's shareholder meetings, the issuance of parent entity shares, the listing of parent entity shares on the stock exchange, and the management of the parent entity;

- b. intra-group services costs relating to the reporting obligations of the parent entity, including service costs for the preparation of financial statements, the preparation of audit reports, and the preparation of consolidated financial statements of the parent entity;
 - c. intra-group services costs relating to raising funds or capital used for acquisition of ownership by the parent entity;
 - d. intra-group services costs relating to compliance of the parent entity with the prevailing laws and regulations;
 - e. intra-group services costs relating to the protection of the capital ownership of parent entity in subsidiaries; and
 - f. intra-group services costs relating to the corporate governance of the Business Group as a whole.
- (3) Preliminary stages for transactions related to the use or the rights to use intangible assets as referred to in Article 4 paragraph (6) subparagraph b including proof of:
- a. existence of intangible assets;
 - b. types of intangible assets;
 - c. value of intangible assets;
 - d. party that legally own intangible assets;
 - e. party that economically own intangible assets;
 - f. the use or the rights to use intangible assets;
 - g. parties that contribute and perform activity of development, enhancement, maintenance, protection and exploitation (DEMPE) of the intangible assets; and
 - h. economic benefits obtained by the party using the intangible assets.
- (4) Preliminary stages for financial transactions related to loans as referred to in Article 4 paragraph (6) subparagraph c including the proof that the loans:
- a. are in accordance with their substance and actual conditions;
 - b. are required by the borrower;
 - c. are used to obtain, collect and maintain income in accordance with the provisions of laws and regulations in the field of income taxes;
 - d. fulfill the characteristics of loans, at a minimum in the form of:
 - (1) creditor recognising the loans both economically and legally;
 - (2) existence of loans maturity date;
 - (3) existence of the repayment obligation of the loan principal;

- (4) existence of payment according to a set schedule for both the principal and interests;
- (5) at the time the loans were obtained, the borrower had the abilities to:
 - a. obtain a loan from an independent creditor; and
 - b. repay the principal and interests as an independent debtor;
- (6) based on loan agreement made in accordance with prevailing laws and regulations;
- (7) existence of legal consequences if the borrower fails to repay the principal and/or interests; and
- (8) existence of the rights to claim by the lender as in independent creditors; and
- e. provide economic benefits to the borrower.
- (5) Preliminary stages for other financial transactions as referred to in Article 4 paragraph (6) subparagraph d including proof of:
 - a. conformity of other financial transactions with substance and actual conditions;
 - b. types of other financial transactions;
 - c. economic and legal recognition by the parties involved in other financial transactions;
 - d. motives, purposes, and economic rationale of other financial transactions; and
 - e. expected benefits from other financial transactions.
- (6) Preliminary stages for transfer of asset transactions as referred to in Article 4 paragraph (6) subparagraph e including proof of:
 - a. motives, purposes, and economic rationale of transfer of asset transactions;
 - b. transfer of assets being in accordance with the substance and actual conditions;
 - c. the expected benefits from the transfer of assets; and
 - d. the transfer of assets being the best option among other available options.
- (7) Preliminary stages for business restructuring as referred to in Article 4 paragraph (6) subparagraph f including proof of:
 - a. motives, purposes, and economic rationale of business restructuring;
 - b. business restructuring being in accordance with the substance and actual conditions;
 - c. expected benefits from business restructuring; and
 - d. business restructuring being the best option among other available options.

- (8) Preliminary stages for the cost contribution arrangements as referred to in Article 4 paragraph (6) subparagraph g including proof that the cost contribution arrangements:
 - a. as if made by independent parties;
 - b. are required by the parties that involved into the arrangements; and
 - c. provide economic benefits to the parties entering into the arrangements.
- (9) The preliminary stages including proof of the benefits as referred to in paragraph (1) subparagraph c, paragraph (3) subparagraph h, paragraph (4) subparagraph, paragraph (5) subparagraph e, paragraph (6) subparagraph c, paragraph (7) subparagraph c, paragraph (8) subparagraph c in the form of increased sales, reduced costs, protection of commercial positions, or fulfillment of other commercial activity needs including activities to obtain, collect, and maintain the income.

Article 14

In the event that Taxpayer fails to prove certain Transaction Influenced by a Special Relationship based on the preliminary stages as referred to in Article 13, Transaction Influenced by a Special Relationship do not meet Arm's Length Principle as referred to Article 3 paragraph (3).

Section Three

The Implementation of Arm's Length Principle in Transaction Influenced by a Special Relationship for Resident Taxpayer that Fulfill the Provisions as a Permanent Establishment

Article 15

- (1) In the event that resident Taxpayer conducting a Transaction Influenced by a Special Relationship fulfill the provisions as permanent establishments as regulated in provisions of laws and regulations concerning the determination of a permanent establishment, the resident Taxpayer shall also be designated as a permanent establishment.
- (2) The permanent establishments as referred to in paragraph (1) shall submit all data and/or information related to the transactions conducted by Affiliated Party overseas that are related to the business or activities of the permanent establishments.
- (3) Submission of all data and/or information related to transactions conducted by Affiliated Party overseas

- referred to in paragraph (2) shall be carried out in accordance with provisions of laws and regulations in the field of taxation.
- (4) The data and/or information as referred to in paragraph (2) shall be used in determining the value of transaction for the permanent establishments as referred to in paragraph (1).
 - (5) In the event that permanent establishments do not comply with the provisions as referred to in paragraph (2), the value of transaction is determined by implementing Arm's Length Principle.
 - (6) The fulfillment of tax rights and obligations previously carried out by the resident Taxpayer shall be considered in the fulfillment of tax rights and obligations of the permanent establishments as referred to in paragraph (1).
 - (7) The fulfillment of tax obligations by the permanent establishments as referred to in paragraph (1) shall be carried out in accordance with the provisions of laws and regulations in the field of taxation.

CHAPTER IV DOCUMENTATION OF THE IMPLEMENTATION OF THE ARM'S LENGTH PRINCIPLE

Article 16

- (1) Taxpayer as referred to in Article 3 paragraph (1) is required to maintain and retain documents containing data and/or information to support that the transactions conducted with affiliated parties conform to the Arm's Length Principle.
- (2) Documents containing data and/or information to support that transactions conducted with Affiliated Party have conformed with the Arm's Length Principle as referred to in paragraph (1) are in the form of Transfer Pricing Documentation that consists of:
 - a. master file;
 - b. local file; and
 - c. country-by-country report.
- (3) Taxpayer conducting Affiliated Transaction with:
 - a. the amount of gross turnover in the preceding fiscal year within one fiscal year exceeding IDR50,000,000,000.00 (fifty billion rupiah);
 - b. the amount of Affiliated Transaction in the preceding fiscal year within one fiscal year:
 - 1. exceeding IDR20,000,000,000.00 (twenty billion rupiah) for tangible goods transactions; or

2. exceeding IDR5,000,000,000.00 (five billion rupiah) for each provision of services, payment of interest, use of intangible goods or other Affiliated Transaction; or
 - c. Affiliated Party that located in country or jurisdiction with lower income tax rate than the income tax rate as referred to in the provisions of laws and regulations in the field of income taxes,
shall maintain and retain Transfer Pricing Documentation as referred to in paragraph (2) subparagraph a and subparagraph b as a part of the obligation to retain other documents as referred to in the provisions of laws and regulations in the field of taxation.
- (4) Resident Taxpayer that is the parent entity of a Business Group with a consolidated gross turnover of a minimum of IDR11,000,000,000,000.00 (eleven trillion rupiah) in the preceding fiscal year to the reported fiscal year shall maintain and retain Transfer Pricing Documentation as referred to in paragraph (2) subparagraph a, subparagraph b and subparagraph c as part of the obligation to retain other documents as referred to in the provisions of laws and regulations in the field of taxation.
- (5) In the event that a resident Taxpayer acting as a constituent entity and the parent entity of a Business Group is a non-resident tax subject, the resident Taxpayer shall submit the country-by-country report as referred to in paragraph (2) subparagraph c, insofar as the country or jurisdiction where the parent entity is domiciled:
 - a. does not obligate the filing of the country-by-country report;
 - b. does not have an agreement with the Government of Indonesia concerning the exchange of tax information; or
 - c. has an agreement with the Government of Indonesia concerning the exchange of tax information, but country-by-country report cannot be obtained by the Government of Indonesia from that country or jurisdiction.
- (6) The thresholds for gross turnover and the amount of Affiliated Transaction as referred to in paragraph (3) are annualised if the fiscal year in which the gross turnover is accrued and/or Affiliated Transaction are conducted within a period of less than 12 (twelve) months.
- (7) In the event that a Taxpayer has an Affiliated Transaction but not obligated to maintain and retain Transfer Pricing Documentation pursuant to the provisions as referred to

in paragraph (3), paragraph (4) or paragraph (5), the Taxpayer remains obligated to comply with the provisions as referred to in Article 3.

- (8) In the event that a Taxpayer has obtained permit from the Minister of Finance to maintain bookkeeping using a foreign language and a currency other than rupiah, the threshold of the value of money in rupiah referred to in paragraph (3) and paragraph (4) is equivalent to the value of the currency other than rupiah based on the exchange rate determined by the Minister of Finance for the calculation of taxes at the end of the fiscal year.
- (9) The gross turnover as referred to in paragraph (3), paragraph (4) and paragraph (6) is income received and/or accrued from business and from outside business after deducted by sales returns and deductions as well as cash discounts, before deducted by the costs to obtain, collect and maintain income.
- (10) Examples of the determination of Taxpayer that obligated to maintain and retain Transfer Pricing Documentation as referred to in paragraph (3), paragraph (4) and paragraph (6) are listed in Appendix letter A which constitutes an integral part of this Ministerial Regulation.

Article 17

- (1) Transfer Pricing Documentation as referred to in Article 16 paragraph (2) subparagraph a and subparagraph b, shall be maintained based on data and information available by the time Affiliated Transaction are conducted.
- (2) Transfer Pricing Documentation as referred to in Article 16 paragraph (2) subparagraph c shall be maintained based on data and information available until the end of the fiscal year.

Article 18

- (1) Transfer Pricing Documentation as referred to in Article 16 paragraph (2) subparagraph a and subparagraph b shall be available no later than 4 (four) months after the end of the fiscal year.
- (2) Transfer Pricing Documentation as referred to in Article 16 paragraph (2) subparagraph c shall be available no later than 12 (twelve) months after the end of the fiscal year.
- (3) Transfer Pricing Documentation as referred to in paragraph (1) shall be attached with a statement letter concerning the availability of Transfer Pricing

Documentation, signed by the party providing Transfer Pricing Documentation.

Article 19

- (1) Transfer Pricing Documentation as referred to in Article 16 paragraph (2) subparagraph a and subparagraph b shall be summarized.
- (2) The summary as referred to in paragraph (1) shall be filed as an attachment to the annual corporate income tax return for the fiscal year concerned.
- (3) Transfer Pricing Documentation as referred to in Article 16 paragraph (2) subparagraph c shall be filed as an attachment to the annual corporate income tax return for the following fiscal year.
- (4) The summary as referred to in paragraph (1) shall be maintained using the sample format listed in Appendix letter B which constitutes an integral part of this Ministerial Regulation.

Article 20

- (1) A resident Taxpayer that is the parent entity as referred to in Article 16 paragraph (4) is an entity that:
 - a. has a direct or indirect equity participation of one or more other members in the Business Group;
 - b. is obligated to maintain consolidated financial statements based on financial accounting standards that applicable in Indonesia and/or pursuant to binding provisions on stock exchange issuers in Indonesia; and
 - c. is not owned directly or indirectly by another constituent entity in the Business Group or owned directly or indirectly by another constituent entity, but the other constituent entity is not obligated to consolidate the financial statements of that parent entity.
- (2) Taxpayer as referred to in paragraph (1) are not allowed to appoint other constituent entities to replace them in fulfilling the obligation to file a country-by-country report, either in Indonesia or in other countries or jurisdictions.

Article 21

- (1) The constituent entity referred to in 16 paragraph (5) is:
 - a. any separate business entity that is a member of a multinational Business Group and included in the consolidated financial statements of the parent entity for financial reporting purposes;

- b. any business entity that is a member of a multinational Business Group not included in the consolidated financial statements solely due to considerations of business size or materiality; and/or
 - c. any permanent establishment of the business entity as referred to in subparagraph a or subparagraph b insofar as such a permanent establishment has separate financial statements for financial reporting purposes, implementation of provisions of laws and regulations, tax reporting, or company management control purposes.
- (2) In the event of a parent entity of a Business Group that is a non-resident tax subject has appointed another constituent entity overseas as a surrogate for the parent entity, the resident Taxpayer as referred to in Article 16 paragraph (5) are not obligated to file the country-by-country report insofar as they fulfil the following provisions:
 - a. the resident Taxpayer notifies of the other constituent entity appointed as the surrogate for the parent entity to the Director General of Taxes; and
 - b. the state or jurisdiction where the other constituent entity appointed as the surrogate for the parent entity is domiciled:
 - 1. obligates the filing of the country-by-country report; and
 - 2. has an agreement from qualifying competent authority as well as the country-by-country report that may be obtained by the Government of Indonesia from Tax Treaty Partner.
- (3) The constituent entity appointed as a surrogate for the parent entity as referred to in paragraph (2) is the only constituent entity appointed to replace the parent entity in filing the country-by-country report to the tax authorities in the country or jurisdiction where that appointed Business Group member is domiciled.
- (4) In the event that there are more than one resident Taxpayer that are constituent entities as referred to in Article 16 paragraph (5), the parent entity that is a non-resident tax subject may appoint one of the constituent entities that is the resident Taxpayer to file country-by-country report to the Directorate General of Taxes.

Article 22

- (1) The parent entity that is a non-resident tax subject as referred to in Article 16 paragraph (5) is an entity that:

- a. owns directly or indirectly one or more other members in a multinational Business Group;
 - b. has obligation to maintain consolidated financial statements based on financial accounting standards or provisions that enacted in the state or jurisdiction where the parent entity is domiciled;
 - c. is not owned directly or indirectly by another constituent entity in a multinational Business Group or is owned directly or indirectly by another constituent entity, but that other constituent entity is not obligated to consolidate the financial statements of that parent entity; and
 - d. has consolidated gross turnover in the preceding fiscal year to the reported fiscal year of a minimum of:
 - (1) equivalent to €750,000,000.00 (seven hundred and fifty million euro) based on the functional currency exchange rate of the parent entity if the state or jurisdiction where that parent entity is domiciled does not obligate the filing of the country-by-country report; or
 - (2) amounting to the consolidated gross turnover threshold constituting the basis for the determination of the obligation to file the country-by-country report as regulated in the state or jurisdiction where that parent entity is domiciled.
- (2) The state or jurisdiction where the parent entity is domiciled and does not have an agreement with the Government of Indonesia concerning the exchange of tax information as referred to in Article 16 paragraph (5) subparagraph b is the state or jurisdiction where the parent entity is domiciled has an international agreement regulating the exchange of tax information with the Government of Indonesia but does not have a qualifying competent authority agreement.
- (3) The condition where the country-by-country report cannot be obtained as referred to in Article 16 paragraph (5) subparagraph c is caused by the inability to obtain the country-by-country report through the automatic exchange of information due to:
- a. a delay in the automatic exchange of the country-by-country report due to matters other than those regulated in the qualifying competent authority agreement; or
 - b. recurring failure to exchange country-by-country report automatically with Tax Treaty Partner.

- (4) In the event of the condition as referred to in paragraph (3), Taxpayer as referred to in Article 16 paragraph (5) shall file the country-by-country report within a period of 3 (three) months after the announcement of the list of Tax Treaty Partner whose country-by-country report cannot be obtained.
- (5) In the event that country-by-country report is not filed within a period of 3 (three) months as referred to in paragraph (4), the Director General of Taxes through the competent authority in charge of information exchange is authorised to request Taxpayer as referred to in Article 16 paragraph (5) to file the country-by-country report.

Article 23

- (1) Resident Taxpayer that are members of a Business Group or those that have Affiliated Transaction included in the country-by-country report shall notify the Directorate General of Taxes through the Taxpayer Portal.
- (2) In the event that Taxpayer as referred to in paragraph (1) have obligation to file the country-by-country report as referred to in Article 16 paragraph (4) and paragraph (5), that Taxpayer shall file the country-by-country report simultaneously with the notification to the Directorate General of Taxes through the Taxpayer Portal.
- (3) The country-by-country report as referred to in paragraph (2) filed by taxpayer as referred to in Article 16 paragraph (4) is attached with the country-by-country report working paper.
- (4) The notification as referred to in paragraph (1) and the country-by-country report as referred to in paragraph (2) shall be filed to the Directorate General of Taxes for a period not longer than 12 (twelve) months after the end of the fiscal year.
- (5) For the submission of the notification as referred to in paragraph (1) and the filing of the country-by-country report as referred to in paragraph (2), a receipt shall be given.
- (6) The receipt of the filing of the country-by-country report as referred to in paragraph (5) may be used as a substitute for the country-by-country report, that shall be attached to the annual corporate income tax return as regulated under Article 19 paragraph (3).
- (7) In the event of errors in the filing of the country-by-country report, the Director General of Taxes shall notify Taxpayer concerning the errors in the filing of the country-by-country report.

- (8) For the notification as referred to in paragraph (7) or voluntarily, taxpayer may submit correction of the country-by-country report by filing the corrected country-by-country report.

Article 24

- (1) The notification as referred to in Article 23 paragraph (1) contains a statement concerning:
 - a. the identification of the resident Taxpayer that is the parent entity;
 - b. the identification of the resident Taxpayer that is not the parent entity; and
 - c. the statement of the obligation to file the country-by-country report.
- (2) The notification as referred to in paragraph (1) shall be maintained using the sample format listed in Appendix letter C which constitutes an integral part of this Ministerial Regulation.

Article 25

- (1) The country-by-report filed by:
 - a. Taxpayer as referred to in Article 16 paragraph (4) shall be maintained based on data and information available until the end of the fiscal year of the taxpayer; or
 - b. the Resident Taxpayer as referred to in Article 16 paragraph (5) shall be maintained based on data and information available up to the end of the fiscal year of the parent entity that is a non-resident tax subject.
- (2) The country-by-country report as referred to in paragraph (1) subparagraph a shall be maintained through the preparation of a country-by-country report working paper in softcopy with an extensible markup language (xml) extension.

Article 26

- (1) The Director General of Taxes exchanges country-by-country reports automatically with Tax Treaty Partner with a qualifying competent authority agreement.
- (2) The exchange of country-by-country reports as referred to in paragraph (1) is conducted by the competent authority in charge of information exchange.

Article 27

For the purpose of carrying out the obligation to file country-by-country reports as referred to in Article 16 paragraph (5), the

Director General of Taxes announces the list of Tax Treaty Partner that have:

- a. international agreements that regulate the exchange of tax information;
- b. qualifying competent authority agreement; and
- c. qualifying competent authority agreement but the country-by-country report cannot be obtained as referred to in Article 22 paragraph (3),

on the official website of the Directorate General of Taxes at the end of each year or whenever there is a change in the list of Tax Treaty Partner referred to in subparagraph a, subparagraph b and subparagraph c.

Article 28

Taxpayer that do not fulfill the obligations as referred to in Article 16, Article 17, Article 19 and Article 23 is subject to sanction in accordance with provisions of laws and regulations in the field of taxation.

Article 29

- (1) The master file as referred to in Article 16 paragraph (2) subparagraph a shall at least contains the following information on the Business Group:
 - a. ownership structure and chart as well as the country or jurisdiction of each member;
 - b. business conducted;
 - c. intangible assets owned;
 - d. financial activities and financing; and
 - e. the consolidated financial statements of the parent entity and tax information related to Affiliated Transaction.
- (2) Details and/or explanation of the information in the master file as referred to in paragraph (1) shall at least contain the information listed in Appendix letter D which constitutes an integral part of this Ministerial Regulation.

Article 30

- (1) The local file as referred to in Article 16 paragraph (2) subparagraph b shall at least contains the following information on Taxpayer:
 - a. identity and business conducted;
 - b. the information on Affiliated Transaction and Uncontrolled Transaction conducted;

- c. the implementation of the Arm's Length Principle in accordance with the provisions as referred to in Article 4 paragraph (1);
 - d. financial information; and
 - e. non-financial events/occurrences/facts that affect pricing or profit levels.
- (2) The details and/or explanation of the information in the local file as referred to in paragraph (1) shall at least contain the information listed in Appendix letter E which constitutes an integral part of this Ministerial Regulation.
 - (3) In the event that Taxpayer has more than one businesses with different business characteristics, the local file as referred to in paragraph (1) shall be presented in a segmented manner according to the characteristics of the businesses.

Article 31

- (1) The country-by-country report as referred to in Article 16 paragraph (2) subparagraph c shall at least contains the following information:
 - a. the allocation of income, taxes paid and business activities per state or jurisdiction of all members of the Business Group either domestically and overseas, that includes the names of the state or jurisdictions, gross profit, profit (loss) before tax, income tax that has been withheld, collected or self-paid, income tax payable, capital, accumulated retained earnings, number of permanent employees and tangible assets other than cash and cash equivalents; and
 - b. the list of Business Group members and main businesses per state or jurisdiction.
- (2) The country-by-country report containing the information as referred to in paragraph (1) subparagraph a shall be maintained using the sample format listed in Appendix letter F which constitutes an integral part of this Ministerial Regulation.
- (3) The country-by-country report containing the information as referred to in paragraph (1) subparagraph b shall be maintained using the sample format listed in Appendix letter G which constitutes an integral part of this Ministerial Regulation.
- (4) The information as referred to in paragraph (1) is only used for the purpose of risk assessment of tax avoidance.
- (5) Prior to preparing the country-by-country report as referred to in paragraph (1), Taxpayer shall prepare a country-by-country report working paper.

- (6) The country-by-country report working paper as referred to in paragraph (5) shall be maintained using the sample format listed in Appendix letter H which constitutes an integral part of this Ministerial Regulation.

Article 32

- (1) Transfer Pricing Documentation as referred to in Article 16 paragraph (2) subparagraph a and subparagraph b shall be maintained by Taxpayer in Indonesian language.
- (2) Taxpayer may maintain Transfer Pricing Documentation in foreign language after obtaining permit from the Minister of Finance to maintain bookkeeping in a foreign language and currency other than rupiah.
- (3) In the event that Taxpayer has obtained permit of the Minister of Finance as referred to in paragraph (2), Transfer Pricing Documentation shall be prepared in accordance with the foreign language that stated in the permit for the maintenance of bookkeeping and attached with the translation in Indonesian language.

Article 33

Transfer Pricing Documentation as referred to in Article 16 paragraph (2) subparagraph c is received and specifically managed by the Director General of Taxes.

Article 34

- (1) The Director General of Taxes is authorised to request Transfer Pricing Documentation as referred to in Article 16 paragraph (2) subparagraph a and subparagraph b.
- (2) Taxpayer shall file Transfer Pricing Documentation no later than 1 (one) month since the submission of request as referred to in paragraph (1) for the purpose of compliance monitoring and tax audit.
- (3) Taxpayer files Transfer Pricing Documentation in relation with the request as referred to in paragraph (1) within the period regulated under the provisions of laws and regulation in the field of taxation other than compliance monitoring and tax audit.

Article 35

Taxpayer that does not fulfill the obligation as referred to in Article 34 paragraph (2) is subject to sanctions in accordance with provisions of laws and regulations in the field of taxation.

CHAPTER V
ASSESSMENT OF COMPLIANCE IN THE IMPLEMENTATION
OF THE ARM'S LENGTH PRINCIPLE

Article 36

- (1) The Director General of Taxes has the authority to re-determine the amounts of income and/or deduction to calculate the amount of taxable income through the assessment of compliance in the implementation of the Arm's Length Principle.
- (2) The assessment of compliance in the implementation of the Arm's Length Principle as referred to in paragraph (1) includes the assessment of:
 - a. the fulfilment of provisions for the maintenance of Transfer Pricing Documentation as referred to in Article 19, Article 29, Article 30, Article 34 paragraph (2) and Article 34 paragraph (3); and
 - b. the implementation of the Arm's Length Principle as referred to in Article 3.
- (3) For Taxpayer that fulfill the provisions as referred to in paragraph (2) subparagraph a, the implementation of the Arm's Length Principle as referred to in paragraph (2) subparagraph b is assessed by tracing the correctness of Transfer Pricing Documentation compared to the actual conditions of Taxpayer.
- (4) For Taxpayer that does not fulfill the provisions as referred to in paragraph (2) subparagraph a, the implementation of the Arm's Length Principle as referred to in paragraph (2) subparagraph b is assessed by tracing the actual conditions of Taxpayer.
- (5) In the event that based on the assessment of the implementation of the Arm's Length Principle, as referred to in paragraph (1), it is found that:
 - a. Taxpayer does not implement the Arm's Length Principle as referred to in Article 3 paragraph (3);
 - b. the implementation of the Arm's Length Principle conducted by Taxpayer is not in accordance with the provisions as referred to in Article 4 paragraph (1);
 - c. Taxpayer is unable to prove certain Affiliated Transaction Influenced by a Special Relationship based on the preliminary stages as referred to in Article 14; or
 - d. the Transfer Price determined by Taxpayer do not fulfil the Arm's Length Principle as referred to in Article 3 paragraph (4), the Director General of Taxes re-determines the amount of income and/or deduction to

- calculate the amount of taxable income as referred to in paragraph (1).
- (6) Re-determination of the amounts of income and/or deduction as referred to in paragraph (5) shall be conducted by:
- a. determining Transfer Price according to the Arm's Length Principle as referred to in Article 3 to calculate the amount of taxable income; and
 - b. considering the stages of the implementation of the Arm's Length Principle by Taxpayer that have fulfilled the provisions as referred to in Article 3.

Article 37

- (1) In the event that:
- a. the Director General of Taxes re-determines the amount of income and/or deduction to calculate the amount of taxable income as referred to in Article 36 paragraph (5); or
 - b. Taxpayer carrying out provisions as referred to in Article 3 paragraph (1), a discrepancy is found between the value of Transactions Influenced by a Special Relationship that does not comply with the Arm's Length Principle and the value of Transactions Influenced by a Special Relationship that does not comply with the Arm's Length Principle, this discrepancy constitutes an indirect distribution of profits to Affiliated Party that is treated as dividends.
- (2) The indirect sharing of profits to Affiliated Party that is treated as dividends as referred to in paragraph (1) is subject to income taxes pursuant to the provision of laws and regulations in the field of taxation.
- (3) The indirect sharing of profits to Affiliated Party that treated as dividends as referred to in paragraph (1) is subject to income tax payable to income tax when:
- a. that income is paid;
 - b. the payment of that income is accrued; or
 - c. the maturity date for payment of that income, depends on whichever event occurs first.
- (4) The provisions as referred to in paragraph (1) do not apply if:
- a. there is an increase and/or refund of cash or cash equivalent in the amount of the discrepancy referred to in paragraph (1); and/or

- b. Taxpayer agrees with Transfer Pricing enacted by the Director General of Taxes as referred to in Article 36 paragraph (6).
- c. The increase and/or refund of cash or cash equivalents in the amount of the discrepancy as referred to in paragraph (4) subparagraph a shall be conducted before the issuance of the notice of tax assessment.

Article 38

- (1) The provisions as referred to in Article 37 paragraph (2) apply to:
 - a. transactions in the form of cross-border transactions and domestic transactions; and
 - b. all forms of the special relationship.
- (2) The imposition of income taxes on the indirect sharing of profits to Affiliated Party treated as dividends as referred to in Article 37 paragraph (2), may obtain Tax Treaty benefits pursuant to provisions of laws and regulation concerning the implementation of the Tax Treaty.

Article 39

- (1) The Director General of Taxes is authorised to adjust the selling or compensation price that influenced by a Special Relationship as a basis for calculating the liable value added tax.
- (2) The adjustments to the selling or compensation price influenced by a Special Relationship as referred to in paragraph (1) are calculated based on the arm's length price when taxable goods or taxable services are transferred if the selling or compensation price is lower than the fair market price.
- (3) The adjustment to selling or compensation price influenced by a Special Relationship as referred to in paragraph (1) may also be adjusted in the event of Transfer Pricing by the Director General of Taxes as referred to in Article 36 paragraph (6) which may be allocated to each transferred transaction of taxable goods and/or taxable services.
- (4) the adjustments to selling or compensation price influenced by a Special Relationship as referred to in paragraph (2) and paragraph (3) to taxable entrepreneur seller or service provider do not result in adjustments of input value added tax for the taxable entrepreneur buyer for value added tax purposes purchasing taxable goods or receiving taxable services.

- (5) The taxable entrepreneur as a buyer or recipient of taxable service as referred to in paragraph (4) remain able to credit the value added tax listed in the tax invoices issued by taxable entrepreneur delivering taxable goods and/or providing services taxable insofar as the provisions on input value added tax crediting pursuant to provisions of laws and regulations in the field of value added tax.

CHAPTER VI CORRESPONDING ADJUSTMENT

Article 40

- (1) In the event that:
 - a. Transfer Pricing as referred to in Article 36 paragraph (6) by Director General of Taxes through Audit; or
 - b. Transfer Pricing adjustment by Tax Authority of the Tax Treaty Partner on non-resident tax subjects, resulting in double taxation, resident Taxpayer that is counterparty may conduct a corresponding adjustment.
- (2) The corresponding adjustment as referred to in paragraph (1) is an adjustment to the Transfer Pricing matter(s) in the calculation of the taxable income of resident Taxpayer that is counterparty of:
 - a. resident Taxpayer subject to Transfer Pricing by Director General of Taxes as referred to in paragraph (1) subparagraph a; or
 - b. non-resident tax subjects subject to Transfer Pricing adjustment by Tax Authority of the Tax Treaty Partner.
- (3) The corresponding adjustment as referred to in paragraph (2) subparagraph a may be conducted in the event that resident Taxpayer subject to Transfer Pricing by Director General of Taxes as referred to in Article 36 paragraph (6):
 - a. approve Transfer Pricing by Director General of Taxes; and
 - b. do not file any legal remedies related to the tax assessment letter, on the Transfer Pricing matter(s) by Director General of Taxes related to Taxpayer referred to in paragraph (2) subparagraph a.
- (4) The corresponding adjustment as referred to in paragraph (3) is conducted through:
 - a. correction of the annual tax return by considering Transfer Pricing by Director General of Taxes, insofar the resident Taxpayer as referred to in paragraph (1) have not been subject to Audit and the requirements as referred to in paragraph (3) are fulfilled;

- b. issuance of the tax assessment letter by considering Transfer Pricing by Director General of Taxes, insofar the requirements as referred to in paragraph (3) are fulfilled; or
 - c. correction of the tax assessment letter by considering Transfer Pricing by Director General of Taxes, insofar the resident Taxpayer as referred to in paragraph (1) have been issued the tax assessment letter and do not file any legal remedies related to corresponding adjustment matter(s) and the provisions as referred to in paragraph (3) are fulfilled.
- (5) The correction of the annual tax return, the issuance of the tax assessment letter, and the correction of the tax assessment letter as referred to in paragraph (4) are conducted in accordance with provisions of laws and regulations in the field of general provisions and tax procedures.
- (6) The correction of the annual tax return as referred to in paragraph (4) subparagraph a is followed by written notification from Taxpayer to Director General of Taxes through the Tax Office where Taxpayer is registered concerning the information on Transfer Pricing as referred to in paragraph (1) subparagraph a.
- (7) The corresponding adjustment through the issuance of a tax assessment letter as referred to in paragraph (4) subparagraph b shall be conducted in the event that:
 - a. Taxpayer have fulfilled the requirement as referred to in paragraph (6); or
 - b. Taxpayer as referred to in paragraph (2) subparagraph a disclose incorrect filing of annual tax return according to the information on Transfer Pricing by Director General of Taxes.
- (8) The corresponding adjustment through the correction of the tax assessment letter as referred to in paragraph (4) subparagraph c is conducted *in officio* by Director General of Taxes.
- (9) The corresponding adjustment as referred to in paragraph (4) subparagraph c is preceded by written notification from resident Taxpayer that is counterparty to Director General of Taxes through the Tax Office where Taxpayer is registered concerning the information on Transfer Pricing as referred to in paragraph (1) subparagraph a.
- (10) The written notification as referred to in paragraph (6) and paragraph (9), as well as the disclosure of incorrect filling of tax return as referred to in paragraph (7), may be submitted:

- a. directly;
 - b. by post, a forwarder or courier service company with the proof of postage; or
 - c. electronically.
- (11) The written notification and the disclosure of incorrect filling of tax return as referred to in paragraph (10) subparagraph c shall be submitted electronically in the event of the system is available.
- (12) The procedure on the submission of the written notification and the disclosure of incorrect filling of tax return as referred to in paragraph (10) subparagraph c is carried out in accordance with the Ministerial Regulations concerning the Procedure for the Implementation of Rights and Compliance of Taxation and Issuance, Signing, and Delivery of Electronic Tax Assessment or Tax Provision.
- (13) The corresponding adjustment as referred to in paragraph (2) subparagraph b is conducted through the Mutual Agreement Procedure.

CHAPTER VII MUTUAL AGREEMENT PROCEDURE

Section One The Submission of Requests for Application of Mutual Agreement Procedure

Article 41

- (1) Director General of Taxes is authorised to conduct Mutual Agreement Procedure to prevent or resolve issues that arise in the implementation of Tax Treaty.
- (2) Director General of Taxes may delegate the authority as referred to in paragraph (1) in the form of delegation to officials of Directorate General of Taxes.
- (3) Mutual Agreement Procedure as referred to in paragraph (1) may be implemented based on the request from:
 - a. resident Taxpayer;
 - b. Indonesian National;
 - c. Director General of Taxes; or
 - d. Tax Authority of the Tax Treaty Partner through the Competent Authority of the Tax Treaty Partner in accordance with the provisions in Tax Treaty.
- (4) Resident Taxpayer as referred to in paragraph (3) subparagraph a may request the implementation of Mutual Agreement Procedure to Director General of Taxes as the Indonesian Competent Authority for purpose of the

corresponding adjustment as referred to in Article 40 paragraph (13).

- (5) In addition to the corresponding adjustment as referred to in paragraph (4), resident Taxpayer as referred to in paragraph (3) subparagraph a may also request the implementation of Mutual Agreement Procedure to Director General of Taxes in the event of any tax treatment by Tax Authority of Tax Treaty Partner that is not in accordance with the provisions of Tax Treaty.
- (6) The tax treatment of Tax Authority of Tax Treaty Partner that is not in accordance with the provisions of Tax Treaty as referred to in paragraph (5) consists of:
 - a. imposition of taxes by Tax Authority of Tax Treaty Partner leading to double taxation as the result of:
 - 1. Transfer Pricing adjustments;
 - 2. adjustments related to the existence and/or the profits of permanent establishments; and/or
 - 3. adjustments on other income tax object;
 - b. imposition of taxes including tax withholding or tax collection by Tax Treaty Partner that are not in accordance with the provisions of Tax Treaty;
 - c. determination of the status as a taxable resident by Tax Authority of Tax Treaty Partner;
 - d. discrimination of tax treatment by Tax Treaty Partner; and/or
 - e. interpretation of the provisions in Tax Treaty.
- (7) The request for the application of Mutual Agreement Procedure as referred to in paragraph (3) subparagraph b is submitted upon any form of discrimination by Tax Treaty Partner that is not in accordance with the provisions regarding non-discrimination as regulated in Tax Treaty.
- (8) The request for the application of Mutual Agreement Procedure by Director General of Taxes as referred to in paragraph (3) subparagraph c may be submitted in the event of:
 - a. following up the preliminary request for the implementation of Mutual Agreement Procedure by resident Taxpayer; and/or
 - b. following up the request for Bilateral or Multilateral Advance Pricing Agreement submitted by resident Taxpayer in accordance with the procedures for the implementation of Advance Pricing Agreement.
- (9) The preliminary request for the implementation of Mutual Agreement Procedure as referred to in paragraph (8) subparagraph a may be submitted in the event that

- according to resident Taxpayer, any tax treatments by Director General of Taxes that is not in accordance with the provisions of the Tax Treaty have been occurred.
- (10) The tax treatments by Director General of Taxes that is not in accordance with the provisions of Tax Treaty according to the resident Taxpayer as referred to in paragraph (9) consists of:
 - a. double taxation caused by Transfer Pricing as referred to in Article 36 paragraph (6); and/or
 - b. differences in the interpretation of the provisions of Tax Treaty.
 - (11) The request for the implementation of Mutual Agreement Procedure as referred to in paragraph (3) subparagraph a, subparagraph c and subparagraph d may be submitted simultaneously with the application of resident Taxpayer to submit:
 - a. request for lawsuits as regulated in Article 23 of the General Provisions and Tax Procedures;
 - b. request for objections as regulated in Article 25 of the General Provisions and Tax Procedures;
 - c. request for appeals as regulated in Article 27 of Law on General Provisions and Tax Procedures;
 - d. request for the reduction or cancellation of incorrect tax assessment letter as regulated in Article 36 paragraph (1) subparagraph b of the General Provisions and Tax Procedure; or
 - e. request for judicial review as regulated in Article 77 paragraph (3) of Law on the Tax Court.
 - (12) The request for the implementation of Mutual Agreement Procedure as referred to in paragraph (3) does not delay:
 - a. obligation to pay tax liability;
 - b. execution of tax collection; and
 - c. tax refund
 - d. in accordance with the provisions of laws and regulations in the field of taxation.

Article 42

- (1) The request for the implementation of Mutual Agreement Procedure submitted by Applicant shall fulfill the following requirements:
 - a. written in Indonesian language;
 - b. disclosing the discrepancy of the implementation of provisions of Tax Treaty according to Applicant;
 - c. filed within the period as regulated in Tax Treaty or not later than 3 (three) years, in the event that it is not regulated in Tax Treaty, started from:

1. date of the tax assessment letter;
 2. date of the proof of payment, withholding, or collection of the income taxes; or
 3. occurrence of tax treatment that is not in accordance with the provisions of Tax Treaty;
 - d. signed by Applicant or representative of Taxpayer as referred to in Article 32 paragraph (1) of Law on General Provisions and Tax Procedures; and
 - e. attached with:
 1. certificate of domicile or another document that show the identity of resident Taxpayer of Tax Treaty Partner related to the request for the implementation of Mutual Agreement Procedure, as referred to in Article 41 paragraph (6) subparagraph a and subparagraph b;
 2. list of information and/or evidence or statement by Applicant indicating that tax treatments by Tax Authority of Treaty Partner are not in accordance with the provision of Tax Treaty, as referred to in Article 41 paragraph (6) and Article 41 paragraph (7); and/or
 3. statement letters that express compliance of Applicant to provide any information and/or evidence or statements, as referred to in subparagraph 2 in complete and timely manner.
- (2) The preliminary request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (8) subparagraph a shall meet the following requirements:
- a. written in Indonesian language;
 - b. disclosing tax treatments by Director General of Taxes that are not in accordance with the provisions of Tax Treaty according to resident Taxpayer;
 - c. filed within the period as regulated in Tax Treaty or no later than 3 (three) years, if it is not regulated in the Tax Treaty, starting from the time of the tax treatment that are not in accordance with the provisions of Tax Treaty occurs;
 - d. signed by resident Taxpayer, or representative as referred to in Article 32 paragraph (1) of the Laws on General Provisions and Tax Procedures; and
 - e. attached with evidence that show the tax treatments by Director General of Taxes that are not in accordance with the provisions of Tax Treaty.
- (3) The request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (3)

subparagraph d is submitted within a regulated period in Tax Treaty.

- (4) The preliminary request for the implementation of Mutual Agreement Procedure as referred to in paragraph (1), the request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph d and the preliminary request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (8) subparagraph a are submitted to the Director General of Taxes through:
 - a. Tax Office where the resident Taxpayer is registered if the request for the application of Mutual Agreement Procedure as referred to in paragraph (1) is filed by resident Taxpayer; or
 - b. the Directorate of International Taxation, in the event that:
 1. the request for the implementation of Mutual Agreement Procedure as referred to in paragraph (1) is submitted by Indonesian National;
 2. the request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph d is submitted by the Competent Authority of Tax Treaty Partner; or
 3. the preliminary request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (8) subparagraph a is submitted by resident Taxpayer.
- (5) The request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph a, subparagraph b and subparagraph d as well as the preliminary request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (8) subparagraph a are submitted:
 - a. directly; or
 - b. by mail, freight forwarding company or courier service company with the proof of delivery.
- (6) The request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph b and subparagraph d as well as the preliminary request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (8) subparagraph a may also be submitted through electronic mail.
- (7) The request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph a may also be submitted electronically.

- (8) The request for the implementation of Mutual Agreement Procedure as referred to in paragraph (7) is conducted in the event that the system is available.
- (9) Procedures for the submission of the request for the implementation of Mutual Agreement Procedure as referred to in paragraph (7) is implemented in accordance with the Ministerial Regulations concerning the Procedure for the Implementation of Rights and Compliance of Taxation and Issuance, Signing, and Delivery of Electronic Tax Assessment or Tax Provision.
- (10) The request for the implementation of Mutual Agreement Procedure as referred to in paragraph (1) created using the sample format listed in:
 - a. Annex I.1., for Applicant that is a Resident Taxpayer; or
 - b. Annex I.2., for Applicant that is an Indonesian National, which constitutes an integral part of this Ministerial Regulation.
- (11) Statement letters as referred to in paragraph (1) subparagraph e number 3 are created using the sample format listed in Annex I.3. which constitutes an integral part of this Ministerial Regulation.

Section Two
Processing of Request for the Implementation
of the Mutual Agreement Procedure

Article 43

- (1) Director General of Taxes conduct review to:
 - a. request for the implementation of the Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph a, subparagraph b and subparagraph d; and
 - b. preliminary request for the implementation of the Mutual Agreement Procedure as referred to in Article 41 paragraph (8) subparagraph a.
- (2) Review on the request for the implementation of the Mutual Agreement Procedure as referred to in paragraph (1) subparagraph a conducted on:
 - a. fulfillment of requirements of the request for the implementation of the Mutual Agreement Procedure based on the provisions as referred to in Article 42 paragraph (1) or paragraph (3); and
 - b. conformity of the matter(s) which submitted for the request for the implementation of the Mutual Agreement Procedure to tax treatment that are eligible

to be submitted as the request for the implementation of the Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph d, paragraph (6), or paragraph (7),

to determine whether the request for the implementation of the Mutual Agreement Procedure can be processed.

(3) Review for the preliminary request for the implementation of the Mutual Agreement Procedure as referred to in paragraph (1) subparagraph b conducted based on:

a. fulfilment of requirements for the submission of the preliminary request for the implementation of the Mutual Agreement Procedure as referred to in Article 42 paragraph (2); and

b. conformity of the matter(s) which submitted for the preliminary request for the implementation of the Mutual Agreement Procedure to tax treatments that are eligible to be submitted as the preliminary request for the implementation of the Mutual Agreement Procedure as referred to in Article 41 paragraph (9),

to determine whether the preliminary request is eligible to be followed up as the request for implementation of the Mutual Agreement Procedure by Director General of Taxes to the Competent Authority of the Tax Treaty Partner.

(4) Director General of Taxes processes the outcome of the review as referred to in paragraph (1) subparagraph a regarding the request for the implementation of the Mutual Agreement Procedure submitted by the Applicant, by issuing:

a. written notification to the Applicant stating that the request for the implementation of the Mutual Agreement Procedure can be processed and a written request for the implementation of the Mutual Agreement Procedure to the Competent Authority of the Tax Treaty Partner, in the event of the request for the implementation of the Mutual Agreement Procedure meets the requirements and conformity of the matter(s); or

b. rejection letter regarding the request for the implementation of the Mutual Agreement Procedure to the Applicant stating the ground of rejection, in the event of the request for the implementation of the Mutual Agreement Procedure does not meet the requirements and/or does not meet the conformity of the matter(s),

For a period not longer than 1 (one) month since the receipt of request for the implementation of the Mutual Agreement Procedure.

- (5) Director General of Taxes processes the outcome of the review as referred to in paragraph (1) subparagraph a regarding the request for the implementation of the Mutual Agreement Procedure submitted by the Competent Authority of the Tax Treaty Partner by issuing:
 - a. written notification to the Competent Authority of the Tax Treaty Partner and to Resident Taxpayer to which the request for the implementation of the Mutual Agreement Procedure is related, stating that the request for the implementation of the Mutual Agreement Procedure can be processed, in the event of the request for the implementation of the Mutual Agreement Procedure meets the requirements and conformity of the matters; or
 - b. a rejection letter regarding the request for the implementation of the Mutual Agreement Procedure to the Competent Authority of the Tax Treaty Partner stating the ground of rejection in the event of the request for the implementation of the Mutual Agreement Procedure does not meet the requirements and/or conformity of the matter(s),
for a period not longer than 1 (one) month since the date of receipt of request for the implementation of the Mutual Agreement Procedure.
- (6) Director General of Taxes processes the outcome of the review as referred to in paragraph (1) subparagraph b by issuing:
 - a. written notification to resident Taxpayer that the preliminary request for the implementation of the Mutual Agreement Procedure can be processed and a written preliminary request for the implementation of the Mutual Agreement Procedure to the Competent Authority of Treaty Partner in the event that the preliminary request for the implementation of the Mutual Agreement Procedure meets the requirements and conformity of the matter(s); or
 - b. a rejection letter regarding the preliminary request for the implementation of the Mutual Agreement Procedure to Resident Taxpayer stating the ground of rejection, in the event of the preliminary request for the implementation of the Mutual Agreement Procedure does not meet the requirements and/or the conformity of the matter(s), for a period not longer than 1 (one)

month since the date of receipt of preliminary request for the implementation of the Mutual Agreement Procedure.

- (7) In the event of the period as referred to in paragraph (4), paragraph (5) and paragraph (6) has exceeded and Director General of Taxes has not issued any written notification, the request for the implementation of the Mutual Agreement Procedure or the preliminary request for the implementation of the Mutual Agreement Procedure is deemed to be processed and Director General of Taxes issues a written notification letter for a period not longer than 1 (one) month since the period referred to in paragraph (4), paragraph (5) and paragraph (6) is exceeded.
- (8) In the event of the request for the implementation of the Mutual Agreement Procedure to the Competent Authority of the Tax Treaty Partner as referred to in paragraph (4) subparagraph a and paragraph (6) subparagraph a does not receive a written response from the Competent Authority of the Tax Treaty Partner for a period not longer than 8 (eight) months from the submission of the request for the implementation of the Mutual Agreement Procedure, Director General of Taxes issues a written notification to:
 - a. the Applicant or resident Taxpayer to which the request for the implementation of the Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph c and subparagraph d that the request for the implementation of the Mutual Agreement Procedure is not eligible to be processed; and
 - b. the Competent Authority of the Tax Treaty Partner stating that the request for the implementation of the Mutual Agreement Procedure is withdrawn.
- (9) Upon the rejected request for the implementation of the Mutual Agreement Procedure as referred to in paragraph (4) subparagraph b, rejected preliminary request for the implementation of the Mutual Agreement Procedure as referred to in paragraph (6) subparagraph b and rejected preliminary request for the implementation of the Mutual Agreement Procedure as referred to in paragraph (8) subparagraph a, the Applicant is able to re-submit the request for the implementation of the Mutual Agreement Procedure or Resident Taxpayer may re-submit the preliminary request of the implementation of the Mutual Agreement Procedure insofar as the time limit as referred

to in Article 42 paragraph (1) subparagraph c or Article 42 paragraph (2) subparagraph c has not been exceeded.

Article 44

- (1) In the event of the request for the implementation of the Mutual Agreement Procedure filed by the Applicant can be processed as referred to in Article 43 paragraph (4) subparagraph a, the Applicant shall submit information and/or evidence or statement listed, information and/or evidence or details held by the Applicant as referred to in Article 42 paragraph (1) subparagraph e number 2 to the Director General of Taxes through Directorate of International Taxation.
- (2) The submission of the information and/or evidence or statement referred to in paragraph (1) may be in the form of hardcopy and/or softcopy.
- (3) The applicant shall submit the information and/or evidence, or statement as referred to in paragraph (1), for a period not longer than 2 (two) months after:
 - a. the issuance date of the written notification stating that the request for the implementation of the Mutual Agreement Procedure is eligible to be processed as referred to in Article 43 paragraph (4) subparagraph a; or
 - b. the exceeding of 1 (one) month time limit, that the request for the application of the Mutual Agreement Procedure submitted by the Applicant is deemed to be processed as referred to in Article 43 paragraph (7).
- (4) The information and/or evidence or statement referred to in paragraph (1) may submitted:
 - a. directly;
 - b. by post, freight forwarding company or courier service company with proof of delivery; or
 - c. by electronic mail.

Article 45

- (1) In the implementation of the Mutual Agreement Procedure, Director General of Taxes conducts a negotiation with the Competent Authority of the Tax Treaty Partner.
- (2) The negotiation as referred to in paragraph (1) are correspondence activity, material review and meeting of the Competent Authorities to resolve issues arising in the implementation of Tax Treaty.
- (3) The negotiation as referred to in paragraph (1) is conducted for a period not longer than 24 (twenty-four) months, starting from:

- a. the receipt of the written request for the implementation of the Mutual Agreement Procedure from the Competent Authority of the Tax Treaty Partner as referred to in Article 41 paragraph (3) subparagraph d; or
 - b. the notification of the request for the implementation of the Mutual Agreement Procedure to the Competent Authority of the Tax Treaty Partner as referred to in Article 43 paragraph (4) subparagraph a and Article 43 paragraph (6) subparagraph a.
- (4) The negotiation period as referred to in paragraph (3) can be extended 1 (one) time for a period not longer than 24 (twenty-four) months for each request for the implementation of the Mutual Agreement Procedure.
- (5) The extension of the negotiation period as referred to in paragraph (4) can be extended before the negotiation period ends, in the event of an initial agreement produced that contained in the minutes of meeting or other documents concerning:
 - a. the existence of transactions, the selection of transaction analysis approaches, the selection of the tested parties, the selection of the Transfer Pricing method and the selection of price indicators for the request for the implementation of the Mutual Agreement Procedure related to Transfer Pricing or the Bilateral or Multilateral Advance Pricing Agreement; or
 - b. interpretation of the provisions of Tax Treaty, for the request for the implementation of the Mutual Agreement Procedure other than as referred to in subparagraph a.
- (6) The extension of the negotiation period as referred to in paragraph (4) shall be documented in the minutes of meeting or other documents within the period of 6 (six) months before the end of the negotiation period as referred to in paragraph (3).

Article 46

- (1) In order to material review as referred to in Article 45 paragraph (2), Director General of Taxes is authorised to:
 - a. request information and/or evidence or statement other than those as referred to in Article 42 paragraph (1) subparagraph e number 2 or Article 42 paragraph (2) subparagraph e to:
 - 1. the Applicant;
 - 2. resident Taxpayer to which the request for the implementation of Mutual Agreement Procedure is

related as referred to in Article 41 paragraph (3) subparagraph c and subparagraph d; and/or

3. other concerned parties;

- b. conduct discussions with the Applicant, resident Taxpayer to which the request for the implementation of Mutual Agreement Procedure is related as referred to in Article 41 paragraph (3) subparagraph c and subparagraph d and/or other related parties;
 - c. conduct site visits to the place of the business of the Applicant and/or resident Taxpayer related to the request of the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph c and subparagraph d;
 - d. exchange tax information regarding the Mutual Agreement Procedure to Tax Authority of the Tax Treaty Partner; and/or
 - e. conduct tax audit for other purposes and/or valuation regarding the Mutual Agreement Procedure to obtain information and/or evidence or statement necessary for the purpose of the completion of the Mutual Agreement Procedure.
- (2) The Applicant and resident Taxpayer related to the request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph c and subparagraph d must:
- a. provide the information and/or evidence or statement as referred to in paragraph (1) subparagraph a;
 - b. attend discussion as referred to in paragraph (1) subparagraph b; and
 - c. provide access for a visit to the business location as referred to in paragraph (1) subparagraph c.
- (3) The Competent Authority of the Tax Treaty Partner may request information and/or evidence or statement to the parties as referred to in paragraph (1) subparagraph a.
- (4) The information and/or evidence or statement by the Competent Authority of the Tax Treaty Partner as referred to in paragraph (3) is only executed through:
- a. the exchange of information procedure based on the request to the Director General of Taxes as regulated in the Tax Treaty or international agreement on the exchange of tax information; and/or
 - b. direct request during the meeting process of the Competent Authorities as referred to in Article 45 paragraph (2).

Article 47

- (1) The meeting of the Competent Authority as referred to in Article 45 paragraph (2) is conducted by:
 - a. direct meeting;
 - b. phone call;
 - c. video conference; and/or
 - d. other channels agreed by both Director General of Taxes and the Competent Authority of the Tax Treaty Partner.
- (2) The meeting of the Competent Authority as referred to in paragraph (1) shall be documented in the minutes of meeting of the negotiation or other equivalent documents.

Article 48

- (1) For negotiation purpose as referred to in Article 45 paragraph (1), Director General of Taxes prepares a negotiation position.
- (2) The negotiation position as referred to in paragraph (1) contains a written explanation of the opinion of the Indonesia Competent Authority regarding the matters raised in the request for the application of Mutual Agreement Procedure.
- (3) In the event of the negotiation as referred to in Article 45 paragraph (1) have not resulted in the Mutual Agreement until the appeal verdict or judicial review award is pronounced, Director General of Taxes:
 - a. continue the negotiation, in the event of the dispute matter(s) decided in the appeal verdict or judicial review award is not the same as the dispute matter(s) that requested for the implementation of Mutual Agreement Procedure;
 - b. applies the appeal verdict as the negotiation position or terminate the negotiations in the event of:
 1. the appeal verdict is not submitted for request for judicial review; and
 2. the disputed matter(s) in the appeal verdict is the same as the dispute matter(s) to which the request for the implementation of Mutual Agreement Procedure; or
 - c. use judicial review award as a negotiation position or terminate the negotiation, in the event of the dispute matter(s) in the judicial review award is the same as the dispute matter(s) that requested for the implementation of Mutual Agreement Procedure.

Article 49

- (1) The negotiation outcome as referred to in Article 45 paragraph (1) are documented in the Mutual Agreement that may contain agreement or disagreement over the material submitted for request for the application of Mutual Agreement Procedure.
- (2) Director General of Taxes issues a written notification regarding the negotiation outcome containing the agreement referred to in paragraph (1) to the Applicant or Resident Taxpayer to which the request for the application of Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph c and subparagraph d for a period no later than 14 (fourteen) calendar days after the date of the Mutual Agreement.
- (3) The written notification as referred to in paragraph (2) may be attached with:
 - a. a request to submit a statement letter declaring that no dispute resolution other than Mutual Agreement Procedure; or
 - b. a request to submit a statement of withdrawal or adjustment, attached by written approval from the Tax Court or Supreme Court regarding the withdrawal or adjustment of the dispute, in the event of the dispute matter(s) submitted for Mutual Agreement Procedure is also submitted as a request referred to in Article 41 paragraph (11).
- (4) The statement letter declaring that no dispute resolution other than Mutual Agreement Procedure as referred to in paragraph (3) subparagraph a shall be submitted by the Applicant or resident Taxpayer in which the request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph c and subparagraph d to Director General of Taxes for a period no later than 14 (fourteen) calendar days after the date of the written notification as referred to in paragraph (2).
- (5) The statement of withdrawal or adjustment attached by written approval from the Tax Court or Supreme Court regarding the withdrawal or adjustment of the dispute as referred to in paragraph (3) subparagraph b shall be submitted by the Applicant or Resident Taxpayer in which the request for the implementation of Mutual Agreement Procedure referred to in Article 41 paragraph (3) subparagraph c and subparagraph d to Director General of Taxes for a period no later than 8 (eight) months after the date of the written notification as referred to in paragraph (2).

- (6) Director General of Taxes provides a written notification to the Competent Authority of the Tax Treaty Partner that Mutual Agreement can or cannot be processed after the issuance of a written notification regarding the negotiation outcome containing the agreement as referred to in paragraph (2).
- (7) In the event of Director General of Taxes requests as referred to in paragraph (3), a written notification to the Competent Authority of the Tax Treaty Partner that the Mutual Agreement can be implemented as referred to in paragraph (6) is submitted after the Applicant or Resident Taxpayer related to the request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph c and subparagraph d meets the requirements as referred to in paragraph (4) or paragraph (5).
- (8) In the event of the Applicant or Resident Taxpayer as referred to in paragraph (7) does not meet requirements as referred to in paragraph (4) or paragraph (5), Director General of Tax Taxes provides a written notification to the Competent Authority of the Tax Treaty Partner that the Mutual Agreement is not eligible to be processed as referred to in paragraph (6).
- (9) In the event of the negotiation outcome contains a disagreement as referred to in paragraph (1), Director General of Taxes issues:
 - a. written notification of the negotiation outcome containing the disagreement to the Applicant or Resident Taxpayer related to the request for the implementation of Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph c and subparagraph d; and
 - b. written notification to the Competent Authority of the Tax Treaty Partner, for a period no later than 14 (fourteen) calendar days after the date of the Mutual Agreement.
- (10) The statement letter declaring that no dispute resolution other than the Mutual Agreement Procedure and the statement of withdrawal or adjustment as referred to in paragraph (3) is created using the sample format listed in:
 - a. Annex J.1., for the statement letter declaring that no dispute resolution outside the Mutual Agreement Procedure; or
 - b. Annex J.2., for statement of withdrawal or adjustment, which constitutes an integral part of this Ministerial Regulation.

Article 50

- (1) Director General of Taxes issues Mutual Agreement Procedure decree for a period not longer than 1 (one) month, since:
 - a. the receipt date of written notification from the Competent Authority of the Tax Treaty Partner, stating that the Mutual Agreement is eligible to be processed; and
 - b. the submission of written notification to the Competent Authority of the Tax Treaty Partner, stating that the Mutual Agreement is to be processed.
- (2) In the event of negotiation outcome containing an agreement as referred to in Article 49 paragraph (1) in accordance with the application for the Bilateral or Multilateral Advance Pricing Agreement, Director General of Taxes shall process the Mutual Agreement by issuing a decree on the implementation of the Advance Pricing Agreement according to the procedures for the implementation of the Advance Pricing Agreement.
- (3) Mutual Agreement Procedure decree as referred to in paragraph (1) is created using the sample format listed in:
 - a. Appendix letter J.3., for the Mutual Agreement in relation with double taxation; or
 - b. Appendix letter J.4., for the Mutual Agreement in relation with others than double taxation,which constitutes an integral part of this Ministerial Regulation.
- (4) Mutual Agreement Procedure decree as referred to in paragraph (1) is delivered to:
 - a. the Applicant;
 - b. resident Taxpayer to which the request for the implementation of the Mutual Agreement Procedure is related as referred to in Article 41 paragraph (3) subparagraph c and subparagraph d; and/or
 - c. the working unit under the Directorate General of Taxes that is authorised to process.

Article 51

- (1) Director General of Taxes may terminate the negotiation as referred to in Article 45 paragraph (1), in the event of:
 - d. the Applicant does not submit information and/or evidence or statement within the time limit as referred to in Article 44 paragraph (3);
 - b. the Competent Authority of the Tax Treaty Partner requests for information and/or evidence or statement

not in accordance with the provisions as referred to in Article 46 paragraph (4);

- c. the negotiation does not provide an agreement until the time limit as referred to in Article 45 paragraph (3) or paragraph (4);
 - d. the exceeding of statute of limitation for the assessment as regulated in Law on General Provision and Tax Procedures for fiscal year, fractions of a fiscal year or taxable periods covered in the request for the implementation of the Mutual Agreement Procedure and the negotiations have not provide an agreement;
 - e. resident Taxpayer participates in the tax amnesty program as referred to the provisions in the tax laws and regulations for fiscal years, fractions of a fiscal year or taxable periods covered in the request for the implementation of the Mutual Agreement Procedure;
 - f. an appeal verdict or judicial review award has been issued in the event of the decided dispute matter(s) are submitted in the Mutual Agreement Procedure;
 - g. the Competent Authority of the Tax Treaty Partner does not agree on the negotiation position of the Director General of Taxes as referred to in Article 48 paragraph (3) subparagraph b or subparagraph c; or
 - h. decision of lawsuit has been issued to withdraw the notice of tax assessment related to the Mutual Agreement Procedure.
- (2) The Director General of Taxes submits written notification regarding the termination of negotiations referred to in paragraph (1) to:
- a. the Applicant;
 - b. resident Taxpayer to which the request for the implementation of the Mutual Agreement Procedure as referred to in Article 41 paragraph (3) subparagraph c and subparagraph d is related; and/or
 - c. the Competent Authority of the Tax Treaty Partner.

Section Three
Withdrawal of Request for the Application
of the Mutual Agreement Procedure

Article 52

- (1) Upon the request for the implementation of the Mutual Agreement Procedure as referred to in Article 41 paragraph (3), a request for withdrawal may be submitted by:
 - a. Resident Taxpayer;
 - b. Indonesian National;
 - c. Director General of Taxes; or
 - d. Tax Authority of the Tax Treaty Partner through the Competent Authority of the Tax Treaty Partner in accordance with the Tax Treaty provisions.
- (2) Director General of Taxes may withdraw the request for the implementation of the Mutual Agreement Procedure referred to in paragraph (1) subparagraph c in order to:
 - a. follow up on the request for the withdrawal of the suggestion for the implementation of the Mutual Agreement Procedure by Resident Taxpayer; and/or
 - b. follow up on the withdrawal of the request for the Bilateral or Multilateral Advance Pricing Agreement submitted by Resident Taxpayer in accordance with the procedures for the implementation of the Advance Pricing Agreement.
- (3) Request for the withdrawal of request for the implementation of the Mutual Agreement Procedure as referred to in paragraph (1) subparagraph a, subparagraph b and subparagraph d, as well as the request for withdrawal of the suggestion for the implementation of the Mutual Agreement Procedure by Resident Taxpayer referred to in paragraph (2) subparagraph a is submitted to Director General of Taxes through the Director of International Taxation.
- (4) Request for the withdrawal of the request for the implementation of the Mutual Agreement Procedure as referred to in paragraph (1) subparagraph a and subparagraph b, as well as the request for the withdrawal on the preliminary request of the implementation of the Mutual Agreement Procedure by Resident Taxpayer referred to in paragraph (2) subparagraph a, shall meet the following requirements:
 - a. is written in Indonesian language;

- b. is submitted for time limit no later than 6 (six) months since the commencement of the negotiation as referred to in Article 45 paragraph (3);
 - c. declare the ground of the withdrawal;
 - d. is signed by the Applicant, Resident Taxpayer or Taxpayer's Representative as referred to in Article 32 paragraph (1) of Law on General Provisions and Tax Procedures
- (5) Upon the request for the withdrawal of the request for the implementation of the Mutual Agreement Procedure as referred to in paragraph (1) subparagraph a and subparagraph b, as well as the preliminary for the withdrawal on the preliminary request for the implementation of the Mutual Agreement Procedure by Resident Taxpayer as referred to in paragraph (2) subparagraph a, Director General of Taxes examines the compliance with the requirements as referred to in paragraph (4).
- (6) Based on the review of the request for the withdrawal of request for the implementation of the Mutual Agreement Procedure as referred to in paragraph (5), the Director General of Taxes issues written notification to:
 - a. the Applicant, stating that the request of the withdrawal is whether approved or not; and
 - b. the Competent Authority of the Tax Treaty Partner, stating that the request for the withdrawal of the implementation of the Mutual Agreement Procedure in the event of the request of the withdrawal is approved and submitted after the commencement of negotiation, for a period no later than 21 (twenty-one) calendar days since the request for the withdrawal is received by Director General of Taxes.
- (7) Based on the review of the request for the withdrawal of the suggestion for the request of the implementation of the Mutual Agreement Procedure by Resident Taxpayer as referred to in paragraph (5), Director General of Taxes issues written notification to:
 - a. Resident Taxpayer, stating whether the request for the withdrawal of the suggestion for the request of the implementation of the Mutual Agreement Procedure is accepted or not; and
 - b. the Competent Authority of the Tax Treaty Partner, stating that the request for implementation of the Mutual Agreement Procedure by the Director General of Taxes in the event of the withdrawal request on suggestion for the request of the implementation of the

Mutual Agreement Procedure is approved and submitted after the commencement of the negotiation, no later than 21 (twenty-one) calendar days since the withdrawal request on the suggestion request for the implementation of the Mutual Agreement Procedure is received by Director General of Taxes.

- (8) In the event of the time limit as referred to in paragraph (6) or paragraph (7) has been exceeded and Director General of Taxes has not issued written notification, the withdrawal request on the preliminary request for the implementation of the Mutual Agreement Procedure as referred to in paragraph (1) subparagraph a and subparagraph b, as well as the request for the withdrawal of the request for the implementation of the Mutual Agreement Procedure by Resident Taxpayer as referred to in paragraph (2) subparagraph a is deemed to be approved and Director General of Taxes issues the written notification no later than 14 (fourteen) calendar days since the time limit referred to in paragraph (6) or paragraph (7) has been exceeded.
- (9) The request for withdrawal on the request for the implementation of the Mutual Agreement Procedure as referred to in paragraph (1) subparagraph a and subparagraph b, as well as request for withdrawal on the preliminary request of the implementation of the Mutual Agreement Procedure as referred to in paragraph (2) subparagraph a may be submitted:
 - a. directly;
 - b. by post or freight forwarding company with proof of delivery; or
 - c. by electronic mail.
- (10) The request for withdrawal of the request for the implementation of the Mutual Agreement Procedure as referred to in paragraph (1) subparagraph a may also be submitted electronically.
- (11) The request for withdrawal as referred to in paragraph (10) may be submitted electronically in the event of the system is available.
- (12) Procedure for the submission of the request for withdrawal as referred to in paragraph (10) is carried out in accordance with the Ministerial Regulations on the Procedure for the Implementation of Rights and Compliance of Taxation and Issuance, Signing, and Delivery of Electronic Tax Assessment or Tax Provision.
- (13) The request for withdrawal on the request for the implementation of the Mutual Agreement Procedure as

referred to in paragraph (1) subparagraph a is created using the sample format listed in Appendix letter K.1. which constitutes an integral part of this Ministerial Regulation.

- (14) The withdrawal of request for the implementation of the Mutual Agreement Procedure as referred to in paragraph (1) subparagraph b is created using the sample format listed in Appendix letter K.2. which constitutes an integral part of this Ministerial Regulation.
- (15) The withdrawal of request for the implementation of the Mutual Agreement Procedure by Resident Taxpayer as referred to in paragraph (2) subparagraph a is created using the sample format listed in Appendix letter K.3. which constitutes an integral part of this Ministerial Regulation.
- (16) The submission of the withdrawal of request for the implementation of the Mutual Agreement Procedure as referred to in paragraph (1) subparagraph d, may be accepted insofar as the request is submitted before the Mutual Agreement is concluded.
- (17) Upon the request for the withdrawal of request for the implementation of the Mutual Agreement Procedure submitted by the Competent Authority of the Tax Treaty Partner as referred to in paragraph (1) subparagraph d, Director General of Taxes examines the conformity as referred to in paragraph (16) and issues written notification to:
 - a. the Competent Authority of the Tax Treaty Partner, stating that the request for withdrawal is whether approved or disapproved; and
 - b. Resident Taxpayer concerned to the request for the application of the Mutual Agreement Procedure by the Competent Authority of the Tax Treaty Partner, stating that negotiation is terminated, in the event of the request for withdrawal is approved.

Section Four

Implementation of the Mutual Agreement

Article 53

- (1) The Mutual Agreement Procedure decree as referred to in Article 50 paragraph (1) shall serve as the basis for tax refunds or tax collection in accordance with Article 27C paragraph (6) of Law on General Provisions and Tax Procedures.

- (2) In the event of the Mutual Agreement Procedure decree is concluded before notice of tax assessment letter is issued, Resident Taxpayer to which the request for the implementation of the Mutual Agreement Procedure is related, shall recalculate the amount of tax payable based on the Mutual Agreement Procedure decree by the tax return correction or disclosure of incorrect filling of Tax Return, within the time limit as regulated in the provisions in the tax laws and regulations.
- (3) In the event of Resident Taxpayer to which the application of the Mutual Agreement Procedure is related, does not:
 - a. tax return correction; or
 - b. disclosure of incorrect filling of Tax Return,
 - c. within a period of 3 (three) months since the issuance of the Mutual Agreement Procedure decree or by considering the statute of limitation for the assessment, as regulated by Law on General Provisions and Tax Procedures, Director General of Taxes issues a notice of tax assessment, by considering the Mutual Agreement Procedure decree.
- (4) In the event of the Mutual Agreement Procedure decree is concluded after the issuance of the notice of tax assessment and upon the notice of tax assessment:
 - a. is not filed an objection as referred to in Article 41 paragraph (11) subparagraph b;
 - b. is not filed for a reduction or cancellation of tax assessment letter as referred to in Article 41 paragraph (11) subparagraph d;
 - c. is filed for an objection or request for a reduction or cancellation of tax assessment letter, but it is not considered;
 - d. is filed for an objection or request for a reduction or cancellation of tax assessment letter, but it is withdrawn; or
 - e. is filed for an objection, but it has been adjusted based on the matters agreed in the Mutual Agreement, Director General of Taxes issues a The Mutual Agreement Procedure decree by recalculating the amount of tax payable in the notice of tax assessment.
- (5) In the event of the Mutual Agreement Procedure decree is concluded after Directorate General of Taxes has issued a tax assessment reduction cancellation of tax assessment letter, Director General of Taxes issues the Mutual Agreement Procedure decree by recalculating the amount of tax payable in the tax assessment reduction decision letter or the tax assessment cancellation decision letter.

- (6) In the event of the Mutual Agreement Procedure decree is issued after a lawsuit decision with cancellation ruling is issued for:
- a. the tax assessment reduction decision letter;
 - b. the tax assessment cancellation decision letter; or
 - c. the objection decision letter, where its issuance does not follow the procedures or methods as regulated in the provisions of legislation on taxation.
- Director General of Taxes issues the Mutual Agreement Procedure decree by recalculating the amount of tax payable in the notice of tax assessment.
- (7) In the event of the Mutual Agreement Procedure decree is issued after the objection decision letter is issued, but against the objection decision letter:
- a. no appeal is filed;
 - b. an appeal is filed but is withdrawn and the Tax Court has given a written approval upon such withdrawal;
 - c. an appeal is filed but has been adjusted based on the matters agreed in the Mutual Agreement and the Tax Court has given a written approval of the adjustments; or
 - d. an appeal is filed but a Tax Court issues a decision that the appeal is inadmissible,
- Director General of Taxes issues the Mutual Agreement Procedure decree by recalculating the amount of tax payable in the objection decision letter.
- (8) In the event of there are other dispute matter(s) not covered in the Mutual Agreement Procedure decree but are related to the dispute matter(s) covered by the Mutual Agreement Procedure decree, Director General of Taxes issues the objection decision letter or the reduction or cancellation of tax assessment letter with regard to the result of the Mutual Agreement Procedure decree.
- (9) In the event of the Mutual Agreement Procedure decree is issued when Taxpayer files an appeal for dispute matter(s) not covered in the Mutual Agreement Procedure decree, Director General of Taxes issues the Mutual Agreement Procedure decree by recalculating the amount of tax payable in the objection decision letter.
- (10) In the event of the Mutual Agreement Procedure decree is issued after the Appeal Verdict or Judicial Review Award covering dispute matter(s) other than those covered in the Mutual Agreement Procedure decree has been issued, Director General of Taxes issues the Mutual Agreement Procedure decree by recalculating the amount of tax

payable in the application letter of Appeal Verdict or Judicial Review Award.

- (11) In the event of the event that the Mutual Agreement Procedure decree:
- a. is issued before the notice of tax assessment; and
 - b. is resulted in the overpayment and/or over withholding of income tax payable withheld and/or collected,
- Resident Taxpayer of the Tax Treaty Partner may submit a request for refund on tax payment that has been made but should not have been payable, in accordance with the provisions of laws and regulations in the field of taxation

Article 54

In the event of the Mutual Agreement Procedure decree as referred to in Article 50 paragraph (1) is issued to the taxpayer after the issuance of the objection decision, appeal verdict and/or judicial review award, the basis for the imposition of administrative sanction in the notice of tax collection as referred to in legislation on taxation governing the procedures for the issuance of notice of tax assessment and notice of tax collection, also consider the amount of tax in the Mutual Agreement Procedure decree.

CHAPTER VII

Advance Pricing Agreement

Section One

Procedures on the Submission of the Advance Pricing Agreement Request

Article 55

- (1) Director General of Taxes is authorised to make the Advance Pricing Agreement with the Taxpayer or the Competent Authority of the Tax Treaty Partner to determine the Transfer Pricing that meets the Arm's Length Principle as referred to in Article 3 paragraph (2), over a specific period regarding the Request for the Advance Pricing Agreement submitted by the Resident Taxpayer.
- (2) Director General of Taxes may delegate the authority as referred to in paragraph (1) to officials within the Directorate General of Taxes.
- (3) Resident Taxpayer as referred to in paragraph (1) may submit the Request for the Advance Pricing Agreement concerning Affiliated Transaction based on:

- a. taxpayer's initiative, in the form of Unilateral, Bilateral or Multilateral Advance Pricing Agreement request; or
 - b. written notification from the Director General of Taxes in relation to the Bilateral or Multilateral Advance Pricing Agreement that is requested by a non-resident tax subject to the Competent Authority of the Tax Treaty Partner.
- (4) Advance Pricing Agreement as referred to in paragraph (1) may cover all or several of Affiliated Transactions during the Advance Pricing Agreement Period and Roll-back in the event of the Taxpayer requests as a roll-back in its Advance Pricing Agreement request.
- (5) Affiliated transaction as referred to in paragraph (3) may take form of the Affiliated Transaction(s) between the taxpayer and other Tax Resident(s) of Indonesia and/or non-resident tax subjects;
- (6) A roll-back as referred to in paragraph (4) shall be applicable insofar as for the tax year:
 - a. facts and circumstances of Affiliated Transaction(s) are immaterially different to the facts and circumstances of the Affiliated Transaction(s) concluded in the Advance Pricing Agreement;
 - b. the statute of limitation as regulated in the Law has not exceeded for the taxable year in question;
 - c. a Corporate Income Tax Assessment Letter has not been issued; and
 - d. Preliminary investigation, tax crime investigation, tax crime prosecution, tax crime proceeding are not being conducted or not serving sentences for tax crimes.
- (7) Advance Pricing Agreement as referred to in paragraph (1) is an agreement on:
 - a. criteria on Transfer Pricing; and
 - b. advance Transfer Pricing,for the Advance Pricing Agreement Period and Roll-back in the event of the taxpayer request a Roll-back in the Advance Pricing Agreement.
- (8) Criteria as referred to paragraph (7) subparagraph a at a minimum, shall contain:
 - a. the identity of Affiliated Party covered in the Advance Pricing Agreement;
 - b. the Affiliated Transaction(s) covered in the Advance Pricing Agreement;
 - c. the Transfer Pricing method;
 - d. the application of Transfer Pricing method;
 - e. critical assumption used in Transfer Pricing.

- (9) Critical assumption(s) as referred to in paragraph (8) subparagraph e at a minimum, shall contain:
 - a. written and unwritten contractual agreement related to the Affiliated Transaction(s);
 - b. functions performed by each transacting parties, assets used, and risks assumed to each party;
 - c. characterization of each transaction and of each party conducting the Affiliated Transaction(s)
 - d. the economic condition(s) affecting the Transfer Pricing.
- (10) The advance Transfer Pricing as referred to in paragraph (7) subparagraph b is implemented on the Arm's Length Principle in accordance with the conditions that have occurred and are anticipated to occur during the Advance Pricing Agreement Period.

Article 56

- (1) Resident Taxpayer as referred to in Article 55 paragraph (3) may submit Request for the Advance Pricing Agreement insofar as:
 - a. It has fulfilled obligation to file the Annual Corporate Income Tax Return as regulated in the provisions of laws and regulations in the field of taxation for 3 (three) consecutive fiscal years prior to the fiscal year of the submission of the request for the Advance Pricing Agreement;
 - b. It has been imposed and has fulfilled the obligation to prepare and retain the Transfer Pricing Documentation in the form of Master File and Local File as referred to in Article 16 paragraph (2) subparagraph a and b for 3 (three) consecutive fiscal years prior to the fiscal year of the submission of the Advance Pricing Agreement request;
 - c. It is not being the object of preliminary investigation, tax crime investigation, tax crime prosecution, tax crime proceeding or is not serving sentences for tax crimes;
 - d. The proposed Affiliated transaction(s) covered in the Request for the Advance Pricing Agreement as referred to in Article 55 paragraph (3) is the reported Affiliated Transaction(s) by Resident Taxpayer in the Annual Corporate Income Tax Returns as referred to in subparagraph a; and
 - e. The proposed Transfer Pricing in the Request for the Advance Pricing Agreement is made on Arm's Length Principle and does not affect the operating profit lesser than the reported operating income in the Annual

Corporate Income Tax Return as referred to in subparagraph a.

- (2) Resident Taxpayer that submits the Advance Pricing Agreement as referred to in paragraph (1) shall submit the request to Director General of Taxes through its Registered Tax Office.
- (3) The submission of the Request for the Advance Pricing Agreement referred to paragraph (1), at a minimum, shall fulfill the following requirements:
 - a. is written in Indonesian language by filling out the Request for the Advance Pricing Agreement form using the format in accordance with the example attached in Annex L which constitutes an integral part of this Ministerial Regulation.;
 - b. is signed by the representatives whose names are on:
 1. notarial deed of establishment; and
 2. notarial deed of amendment, in the event of amendment of the articles of the association.
 - c. is submitted:
 1. within the period of 12 (twelve) months to 6 (six) months prior to the commencement period of the Advance Pricing Agreement, in accordance to the request as referred to in Article 55 paragraph (3) subparagraph a; or
 2. Prior to the commencement of the Advance Pricing Agreement Period, in accordance to the request as referred to in Article paragraph (3) subparagraph b.
 - d. is attached with:
 1. written statement letter on the fulfillment of the requirements of the Advance Pricing Agreement; and
 2. written statement letter on the conformity of the matter(s) submitted for the Advance Pricing Agreement.
- (4) The provisions concerning the proposed Transfer Pricing for the request for the Advance Pricing Agreement not resulting for lesser operating profit of the Taxpayer as referred to in paragraph (1) subparagraph e is fulfilled insofar as the lowest profit level in the projected financial statements during the Advance Pricing Agreement period is greater or equal to the lowest profit level in the Annual Corporate Income Tax Return for 3 (three) consecutive fiscal years prior to the fiscal year of the Advance Pricing Agreement.
- (5) The profit level as referred to in paragraph (4) is the ratio between profit before tax or net commercial income and

gross turnover or the ratio between profit before tax or net commercial income and total costs.

- (6) In the event of the request for the Advance Pricing Agreement submitted by the Taxpayer(s) which is negatively impacted by national disaster declared by the Central Government, the profit level in the projected financial statement as referred to in paragraph (4) is the adjusted profit level under normal circumstances.
- (7) Projected financial statements referred to paragraph (6) is made using the format in accordance with the example attached in Annex M which constitutes an integral part of this Ministerial Regulation.
- (8) The request for the advance pricing agreement as referred to in paragraph (3) is submitted:
 - a. directly; or
 - b. electronically.
- (9) The submission of the electronic request for the Advance Pricing Agreement as referred to in paragraph (8) subparagraph b is carried out insofar the system is already available.
- (10) The procedures on the electronic request of the Request for the Advance Pricing Agreement as referred to in the Ministerial Regulations on the Procedure for the Implementation of Rights and Compliance of Taxation and Issuance, Signing, and Delivery of Electronic Tax Assessment or Tax Provision.
- (11) Director General of Taxes issues a written receipt of request for the Advance Pricing Agreement as referred to in paragraph (2).
- (12) The issuing date of the receipt as referred to in paragraph (11) is the receipt date of the request for the Advance Pricing Agreement.

Article 57

- (1) Upon the request for the Advance Pricing Agreement as referred to in Article 56 paragraph (2), Director General of Taxes assesses for its:
 - a. completeness of the fulfillment of the requirements of the request for the Advance Pricing Agreement based on the provisions as referred to in Article 56 paragraph (3); and
 - b. conformity of the eligibility of the Taxpayer that submits the request for the Advance Pricing Agreement as referred to in Article 56 paragraph (1).
- (2) Director General of Taxes processes the assessment as referred to in paragraph (1) by issuing a written

notification regarding the request for the Advance Pricing Agreement stating whether or not the request can be processed to:

- a. the Taxpayer; and/or
- b. The Competent Authority of the Tax Treaty Partner, in the event of Bilateral or Multilateral Advance Pricing Agreement request

within a period of no longer than 1 (one) month since the receipt date of the request for the Advance Pricing Agreement as referred to in Article 56 paragraph (12).

- (3) In the event that the period as referred to in paragraph (2) has exceeded and Director General of Taxes has not issued any written notification, the request for the Advance Pricing Agreement is deemed to be processed and Director General of Taxes issues a written notification for a period not longer than 1 (one) month since the period as referred to in paragraph (2) is exceeded.
- (4) In the event that the Competent Authority of Tax Treaty Partner does not issue a written response regarding to the Bilateral or Multilateral request for the Advance Pricing Agreement within a period of not later than 8 (eight) months from the issuing date of written notification as referred to in paragraph (2), Director General of Taxes issues a written notification for the termination of the request for the Advance Pricing Agreement to:
 - a. the Taxpayer that submits the Advance Pricing Agreement request; and
 - b. the Competent Authority of the Tax Treaty Partner.
- (5) In the event of the request for the Advance Pricing Agreement is not processed as referred to in paragraph (2) and is terminated as referred to in paragraph (4), the Taxpayer may resubmit the request for the Advance Pricing Agreement insofar as fulfill the requirements as referred to in Article 56 paragraph (1) and (3).

Article 58

- (1) Upon the request for the Advance Pricing Agreement that is processed as referred to in Article 57 paragraph (2) or is deemed to be processed as referred to in Article 57 paragraph (3), the Taxpayer is required to fulfill the requirements of the request directly to Director General of Taxes through Director of International Taxation in forms of hardcopy file and/or digitalized file.
- (2) The completeness of the fulfillment of the request for the Advance Pricing Agreement as referred to in paragraph (1) is submitted within a period of not longer than 2 (two)

months since the issuing date of written notification stating that the request meets the requirements as referred to in Article 57 paragraph (2) and (3).

- (3) The fulfillment of the request for the Advance Pricing Agreement as referred to in paragraph (1) at a minimum, in the forms of:
 - a. audited financial statement issued by public accountant for 3 (three) consecutive years prior to the fiscal year of the Advance Pricing Agreement request;
 - b. Transfer Pricing Documentation for 3 (three) consecutive years prior to the fiscal year of the request for the Advance Pricing Agreement;
 - c. Documents explaining the detailed information on the Arm's Length Principle implementation for each proposed Affiliated Transaction to be covered in the request for the Advance Pricing Agreement that written in Indonesian language.
- (4) The detailed information as referred to in paragraph 3 subparagraph c at a minimum, shall contain information as attached in Annex N which constitutes an integral part of this Ministerial Regulation.
- (5) Director General of Taxes issues a written notification of the completeness of the fulfillment of the requirements of the request for the Advance Pricing Agreement as referred to in paragraph (1).
- (6) The issuing date of written notification of the completeness of the fulfillment of the requirements of the request for the Advance Pricing Agreement as referred to in paragraph (5) is the receipt date of the written notification of the completeness of the fulfillment of the requirements of the request for the Advance Pricing Agreement.
- (7) In the event that the requirements of the request for the Advance Pricing Agreement as referred to in paragraph (3) is not fulfilled by the Taxpayer within the time limit as referred to in paragraph (2), Director General of Taxes issues a written notification of termination of the process of the Advance Pricing Agreement to:
 - a. the Taxpayer; and
 - b. The Competent Authority of the Tax Treaty Partner, in the event of Bilateral or Multilateral Advance Pricing Agreement request.
- (8) In the event of the request for the Advance Pricing Agreement is terminated as referred to in paragraph (7), Taxpayer may resubmit the request insofar fulfil the requirement as referred to in Article 56 paragraph (1) and (3).

Section Two
Procedures on Resolving the Advance Pricing Agreement
Request

Paragraph 1
Material Review on the Advance Pricing Agreement Request

Article 59

- (1) Upon the request for the Advance Pricing Agreement that meets the requirements as referred to in Article 58 paragraph (3), Director General of Taxes conducts material review.
- (2) In the event of material review as referred to in paragraph (1), Director General of Taxes is authorised to:
 - a. carry out a review with the Taxpayer regarding the request for the Advance Pricing Agreement;
 - b. visit the business place of the Taxpayer and/or any Affiliated Party;
 - c. conduct an interview to the Board of Directors of the Taxpayer and/or any its relevant staffs;
 - d. make an inquiry of additional data and/or information in the forms of documents or statements from the Taxpayer;
 - e. make an inquiry of data and/or information in the forms of documents or statements from the Affiliated Party or any relevant parties concerned;
 - f. request for the exchange of information in tax matters;
 - g. request for data and/or information from Financial Services Entities, any relevant financial services entities, and/or other entities; and/or
 - h. conduct an appraisal activity.
- (3) In the event of material review is necessarily to be done as referred to in paragraph (1), Director General of Taxes may conduct Tax Audit for other means in accordance with the provisions of laws and regulations in the field of taxation.
- (4) The Tax Audit for other means as referred to in paragraph (3) is done insofar as the Taxpayer:
 - a. has never been audited in relation to Transfer Pricing for the proposed Affiliated Transaction to be covered in the Advance Pricing Agreement as referred to in Article 55 paragraph (3) up to 3 (three) fiscal years prior to the fiscal year of the submission of request for the Advance Pricing Agreement; and/or

- b. submits a Roll-Back in the request for the Advance Pricing Agreement.
- (5) The material review as referred to in paragraph (1) is done by implementing the Arm's Length Principle.
- (6) In the event of material review as referred to in paragraph (1), the Taxpayer as referred to in Article 55 paragraph (3) is required to:
 - a. attend in the review as referred to in paragraph (2) subparagraph a;
 - b. give permission for business activity visit as referred to in Paragraph (2) subparagraph b;
 - c. give permission to Director General of Taxes to conduct an interview with the Board of Directors and/or any relevant staffs as referred to in paragraph (2) subparagraph c; and
 - d. provide additional data and/or information in the form of documents or statements as referred to in paragraph (2) subparagraph d.
- (7) The Taxpayer's documents that used for the material review process as referred to in paragraph (1) cannot be used by Director General of Taxes as an input for conducting Tax Audit, Preliminary Tax Investigation, or Tax Crime investigation.

Paragraph 2

Advance Pricing Agreement Negotiation

Article 60

- (1) Director General of Taxes conducts Advance Pricing Agreement negotiation with:
 - a. the Taxpayer, regarding to Unilateral Advance Pricing Agreement; or
 - b. the Competent Authority of the Tax Treaty Partner, regarding to Bilateral or Multilateral Advance Pricing Agreement.
- (2) Unilateral Advance Pricing Agreement negotiation as referred to in paragraph (1) is required to:
 - a. be commenced not more than 6 (six) months since the completeness of the requirements fulfillment of the Request for the advance pricing agreement within the time limit as referred to in Article 58 paragraph (2); and
 - b. be completed not later than 12 (twelve) months since the commencement of the Advance Pricing Agreement negotiation as referred to in subparagraph a.

- (3) Bilateral dan Multilateral Advance Pricing Agreement as referred to in paragraph (1) subparagraph b is done within the time limit in accordance with the Mutual Agreement Procedure provisions as referred to in Article 45 paragraph (3) and (4).
- (4) In the event of Advance Pricing Agreement negotiation as referred to in paragraph (1), the Taxpayer is being the object of preliminary tax investigation, tax crime investigation, tax crime prosecution, tax crime proceeding or serving sentences for tax crimes, Director General of Taxes terminates the Advance Pricing Agreement process and issues a written notification of withdrawal of the process to:
 - a. the Taxpayer; and
 - b. the Competent Authority of the Treaty Partner, regarding Bilateral or Multilateral Advance Pricing Agreement.

Article 61

- (1) The negotiation outcome of the Advance Pricing Agreement as referred to in Article 60 paragraph (1) may take forms of agreement or non-agreement regarding the Transfer Pricing criteria and Advance Pricing as referred to in Article 55 paragraph (7).
- (2) In the event of Advance Pricing Agreement negotiation as referred in Article 60 paragraph (1), Director General of Taxes may dissent to the Advance Pricing Agreement regarding:
 - a. Affiliated Transaction is not based on economic motive;
 - b. the economic substance of Affiliated Transactions differs from the formality;
 - c. Affiliated Transaction is made to minimize the tax burden;
 - d. the provisions of information and/or evidence or statements by the Taxpayer is not based on the actual conduct;
 - e. the inquiry of information and/or evidence or statements as referred to in Article 59 paragraph (2) is not received by Director General of Taxes within the time limit of 21 (twenty-one) days since the written inquiry date; and/or
 - f. the fiscal year of Advance Pricing Agreement period or Roll-back has been covered in the notice of corporate income tax assessment.

- (3) The negotiation outcome of Advance Pricing Agreement deemed to be dissented as referred to in paragraph (1) insofar as:
 - a. the Advance Pricing Agreement negotiation has not reached the conclusion within the time limit of Advance Pricing negotiation as referred to in Article 60 paragraph (2) or (3); or
 - b. Director General of Taxes receives a written notification from the Competent Authority of the Tax Treaty Partner stating that the Advance Pricing Agreement cannot be processed.
- (4) In the event of the Advance Pricing Agreement reaching a non-agreement as referred to in paragraph (1), Director General of Taxes terminates the Advance Pricing Agreement process and issues a written notification to the Taxpayer.
- (5) The negotiation outcome of the Advance Pricing Agreement as referred to in paragraph (1) is prepared in the form of:
 - a. Unilateral Advance Pricing Agreement Document, regarding Unilateral Advance Pricing Agreement; or
 - b. Mutual Agreement decision letter in accordance with Mutual Agreement Procedure, regarding Bilateral or Multilateral Advance Pricing Agreement.
- (6) The Unilateral Advance Pricing Agreement Document as referred to in paragraph (5) subparagraph a is prepared using the format in accordance with the example attached in Annex O which constitutes an integral part of this Ministerial Regulation.
- (7) Unilateral Advance Pricing Agreement Document as referred to in paragraph (5) subparagraph a, Director General of Taxes issues decree on the implementation of the Advance Pricing Agreement within the period of no longer than 1 (one) month since the Advance Pricing Agreement Decision Letter is signed.
- (8) As per the Mutual Agreement as referred to in paragraph (5) subparagraph b, Director General of Taxes issues a decree on the implementation of the Advance Pricing Agreement within a period of no longer than 1(one) month since:
 - a. The receipt date of written notification from the Competent Authority of the Tax Treaty Partner stating that the Mutual Agreement to be implemented; and
 - b. The issuance of written notification to the Competent Authority of the Tax Treaty Partner stating than the Mutual Agreement to be implemented;

- (9) The Decree on the implementation of the Advance Pricing Agreement as referred to in paragraph (7) and (8) is prepared using the format in accordance with the example attached in Annex P and Q which constitutes an integral part of this Ministerial Regulation.
- (10) The Decree on the implementation of the Advance Pricing Agreement as referred to in paragraph (7) and (8) is delivered to:
 - a. the Taxpayer that submit the request for Advanced Pricing Agreement; and
 - b. Work Unit within Directorate General of Taxes that is authorised to process.

Article 62

- (1) In the event of:
 - a. The Bilateral or Multilateral Advance Pricing Agreement negotiation reaches non-agreement as referred to in Article 61 paragraph (1); or
 - b. The Bilateral or Multilateral Advance Pricing Agreement process is withdrawn in the cause of the Competent Authority of Treaty Partner does not issues a written response as referred to in Article 57 paragraph (4);The Taxpayer may submit Unilateral Advance Pricing Agreement in accordance with the provision of Article 56 paragraph (3) subparagraph a and b to Director General of Taxes through the Taxpayer's Registered Tax Office for a period not longer than 14 (fourteen) days since the written notification date as referred to in Article 61 paragraph (4) or Article 57 paragraph (4).
- (2) For the Unilateral Request for the advance pricing agreement as referred to in paragraph (1), Director General of Taxes is authorised to conduct negotiation with the Taxpayer within the period not longer than:
 - a. 6 (six) months since the request is received, in the event of the request was made in the cause of Bilateral or Multilateral Advance Pricing Agreement reached non-agreement as referred to in paragraph (1) subparagraph a, or
 - b. 12 (twelve) months since the request was received, in the event of the request was made in the cause of Bilateral or Multilateral Advance Pricing Agreement was withdrawn as referred to in paragraph (1) subparagraph b.
- (3) In the event of the time limit as referred to in paragraph (2) exceeds and no agreement is concluded, the negotiation outcome of the Unilateral Advance Pricing Agreement is

deemed to be non-agreement as referred to in Article 61 paragraph (1).

Section Three
Procedures on Withdrawal of the Advance Pricing Agreement
Request

Article 63

- (1) The request for the advance pricing agreement as referred to in Article 55 paragraph (3) shall be withdrawn by The Taxpayer.
- (2) The withdrawal of the Request for the advance pricing agreement as referred to in paragraph (1) is required to complete the following requirements:
 - a. is written in Indonesian language by stating the ground of withdrawal;
 - b. is submitted before the conclusion is reached; and
 - c. is signed by the Taxpayer or their representatives whose names are on the Notarial Deed of Establishment or the Notarial Deed of Amendment, in the event of amendment of the Articles of the Association.
- (3) The withdrawal of request for the advance pricing agreement as referred to in paragraph (1) is submitted by the Taxpayer to Directorate General of Taxes through Director of International Taxation.
- (4) The withdrawal of Request for the advance pricing agreement as referred to in paragraph (3) is made using the format in accordance with the example attached in Annex L which constitutes an integral part of this Ministerial Regulation.
- (5) The withdrawal of Request for the advance pricing agreement made by the Taxpayer as referred to in paragraph (1) is submitted:
 - a. directly; or
 - b. electronically
- (6) Electronic submission for the withdrawal of the Request for the advance pricing agreement as referred to in paragraph (5) subparagraph b is done insofar as the information technology system is made available to be used.
- (7) The procedures on the electronic request of the withdrawal of the Request for the advance pricing agreement as referred to in paragraph (5) subparagraph b is done as referred to in the Ministerial Regulations on the Procedure for the Implementation of Rights and Compliance of

Taxation and Issuance, Signing, and Delivery of Electronic Tax Assessment or Tax Provision.

- (8) Director General of Taxes issues a written receipt of the withdrawal of the Request for the advance pricing agreement as referred to in paragraph (3).

Article 64

- (1) For the withdrawal of the request for the advance pricing agreement is made as referred to in Article 63 paragraph (1), Director General of Taxes conducts a formal review for its completeness of the fulfillment of the requirements of the withdrawal of the Request for the advance pricing agreement as referred to in Article 63 paragraph (2).
- (2) Director General of Taxes processes the review as referred to in paragraph (1) by issuing a written notification regarding the withdrawal of the Request for the advance pricing agreement stating whether or not the request can be processed to:
 - a. the Taxpayer; and/or
 - b. to the Competent Authority of Treaty Partner, in the event of Bilateral or Multilateral Advance Pricing Agreement requestwithin a period of no longer than 14 (fourteen) days since the receipt date of the withdrawal of the Request for the advance pricing agreement as referred to in Article 63 paragraph (8).
- (3) In the event that the period as referred to in paragraph (2) is exceeded, and Director General of Taxes has not issued any written notification, the withdrawal of Request for the advance pricing agreement is deemed to be fulfilled and Director General of Taxes issues a written notification in a period not longer than 14 (fourteen) days since the time limit as referred to in paragraph (2) exceeds.
- (4) In the event of the formal review on the completeness as referred to in paragraph (1), the withdrawal of the Request for the advance pricing agreement does not meet the requirements, the withdrawal application is terminated and the Advance Pricing Agreements request is proceed.
- (5) In the event of the withdrawal of the Advance Pricing Agreements request as referred to in Article 63 paragraph (1) is made after the Advance Pricing Agreement negotiation is commenced, the Taxpayer may not resubmit another request for the advance pricing agreement for covered fiscal year in the withdrawal of the Advance Pricing Agreement request.

Article 65

- (1) In the event of:
 - a. The withdrawal as referred to Article 64 paragraph (5) is made on the Bilateral or Multilateral Advance Pricing Agreement; and
 - b. The withdrawal as referred to in subparagraph a meets the requirements as referred to in Article 63 paragraph (2),The Taxpayer may submit Unilateral Advance Pricing Agreement in accordance with the provision of Article 56 paragraph (3) subparagraph a and b to Director General of Taxes through the Taxpayer's Registered Tax Office for a period not longer than 14 (fourteen) days since the written notification date as referred to in Article 64 paragraph (2) or (3).
- (2) For the Unilateral Request for the advance pricing agreement as referred to in paragraph (1), Director General of Taxes is conducts negotiation with the Taxpayer within the period not longer than:
 - a. 6 (six) months, in the event of the negotiation of the Bilateral or Multilateral Advance Pricing Agreement has been commenced, or
 - b. 12 (twelve) months in the event of the negotiation of the Bilateral or Multilateral Advance Pricing Agreement has not been commenced,Since the receipt date of the Unilateral Advance Pricing Agreement as referred to in paragraph (1).
- (3) The Unilateral Request for the advance pricing agreement as referred to in paragraph (1) is prepared using the format in accordance with the example attached in Annex P and Q as integral parts of this Ministerial Regulation.
- (4) In the event of the time limit as referred to in paragraph (2) exceeds and no agreement is concluded, the negotiation outcome of the Unilateral Advance Pricing Agreement is deemed to be non-agreement as referred to in Article 61 paragraph (1).
- (5) A written notification submitted by the Competent Authority of the Tax Treaty Partner regarding the withdrawal of the Bilateral or Multilateral Advance Pricing Agreement is deemed to be a written notification stating that the negotiation of the Advance Pricing Agreement cannot be proceed as referred to in Article 61 paragraph (3) subparagraph b.

Section Four
Procedures on Implementation of Advance Pricing Agreement

Article 66

- (1) The Taxpayer is required to apply Advance Pricing Agreement carried out on the decree on the implementation of the Advance Pricing Agreement as referred to in Article 61 paragraph (7) or (8) in accordance with the provision of the tax legislation.
- (2) The conclusion on the Advance Pricing Agreement as referred to in paragraph (1) is required to be implemented to the Taxpayer's Transfer Pricing Policy and the application is required to be prepared on the Transfer Pricing Documentation for the fiscal year covered of the Advance Pricing Agreement.
- (3) In the event of the Advance Pricing Agreement and/or Roll-back period:
 - a. has been issued a notice of Corporate Income Tax assessment;
 - b. Director General of Taxes has not conducted tax audit; and
 - c. Corporate Income Tax that is yet to be paid is found based on the agreement on the Advance Pricing Agreement,

The Taxpayer is required to submit a Correction of the Corporate Income Tax Return based on the Advance Pricing Agreement carried out in the decree on the implementation of the Advance Pricing Agreement in a period not longer than 1 (one) month since the issuance date of the Mutual Agreement of the Advance Pricing Agreement.
- (4) In the event of the Advance Pricing Agreement and/or Roll-back period, the Annual Corporate Income Tax Return as referred to in paragraph (3) subparagraph a has been being audited, Director General of Taxes issues a Notice of Tax Assessment by computing the Advance Pricing Agreement based on the decree on the implementation of the Advance Pricing Agreement.
- (5) In the event of the fiscal year covered in the Advance Pricing Agreement period has been issued a Notice of Tax Assessment, Director General of Taxes, in officio, made a correction on the Notice of Tax Assessment in accordance with the provisions of the Law on General Provision and Tax Procedures by computing the Advance Pricing

Agreement carried out in the decree on the implementation of the Advance Pricing Agreement

(6) In the event of Administrative Fine is charged in the cause of:

- a. correction of Annual Corporate Income Tax Return as referred to in paragraph (3);
- b. issuance of Notice of Tax Assessment as referred to in paragraph (4); or
- c. Correction of Notice of Tax Assessment as referred to in Paragraph (5),

Director General of Taxes writes off the administrative fines in accordance with the provision of the Law of General Procedures and Tax Procedures.

Article 67

- (1) The agreement on the Advance Pricing Agreement as referred to in Article 66 paragraph (2) does not hold off Director General of Taxes to conduct Tax Assessment, Preliminary Tax Investigation, or Tax Crime investigation in accordance with the provisions of Tax Law Regulations.
- (2) In the event of the Taxpayer implements the agreement of the Advance Pricing Agreement and is being the object of Tax Assessment, Preliminary Tax Investigation, or Tax Crime investigation in accordance with the provisions of Tax Law Regulations as referred to in paragraph (1), Director General of Taxes cannot make any correction on the Transfer Pricing of the transaction covered in the Advance Pricing Agreement.
- (3) The provisions as referred to in paragraph (2) is not in force insofar as the Taxpayer:
 - a. file Annual Corporate Income Tax Return not in accordance with the Advance Pricing Agreement;
 - b. does not file Correction of Annual Corporate Income Tax Return within time limit as referred to in Article 66 paragraph (3);
 - c. file Correction of Annual Corporate Income Tax Return in which the Transfer Pricing is not accordance with the agreement in the Advance Pricing Agreement;
 - d. does not file Annual Corporate Income Tax Return for the fiscal years covered in the Advance Pricing Agreement period.

Section Five
Procedures on the Evaluation of Advance Pricing Agreement

Paragraph 1
The Director General of Taxes' Authorisation in the Evaluation
of the Advance Pricing Agreement

Article 68

- (1) Director General of Taxes is authorised to conduct an assessment on the implementation of the Taxpayer's Advance Pricing Agreement.
- (2) The assessment on the implementation of the Advance Pricing Agreement as referred to in paragraph (1) is made through the evaluation of:
 - a. the compliance of the implementation of the agreement in the Advance Pricing Agreement; and
 - b. the conformity of the criteria of the Transfer Pricing based on the agreement in the Advance Pricing Agreement.
- (3) In the event of evaluation as referred to in paragraph (2), Director General of Taxes is authorised to:
 - a. conduct a review with the Taxpayer regarding the compliance implementation on the Advance Pricing Agreement;
 - b. inquire the Taxpayer to provide relevant information and/or statements needed;
 - c. visit the place of business of the Taxpayer and/or Affiliated Party;
 - d. conduct an interview of the managements of the Taxpayer and/or any of its relevant staffs;
 - e. make an inquiry of data and/or information in the form of documents or statements from the Affiliated Party or any relevant parties concerned.
- (4) In the event of the evaluation as referred to in paragraph (2), the Taxpayer is required to:
 - a. attend in the review as referred to in paragraph (3) subparagraph a;
 - b. provide relevant information and/or statements as referred to in paragraph (3) subparagraph b;
 - c. give permission for business activity visit as referred to in paragraph (3) subparagraph c;
 - d. give permission to the Director General of Taxes to conduct an interview with the Board of Directors and/or any relevant staffs as referred to in paragraph (3) subparagraph d.

- (5) In the event of the evaluation results of compliance of the implementation on the Advance Pricing Agreements as referred to in paragraph (2) subparagraph a concluding that the Taxpayer does not implement the Transfer Pricing carried out in the decree on the implementation of the Advance Pricing Agreement, Director General of Taxes proceeds in accordance with the provisions of Tax Law Regulations.
- (6) The follow-up procedures as referred to in paragraph (5) are done by implementing the Advance Pricing Agreement carried out in the decree on the implementation of the Advance Pricing Agreement.
- (7) Based on the evaluation result as referred to in paragraph (2) subparagraph b, Director General of Taxes is authorised to:
 - a. Advance Pricing Agreement review, insofar as material change is found on the facts and circumstance of the Affiliated Transactions covered in the Advance Pricing Agreement with agreed critical assumptions in the Agreement; or
 - b. cancellation of the Advance Pricing Agreement carried out in the decree on the implementation of the Advance Pricing Agreement, prior to the Advance Pricing Agreement period exceeds.

Paragraph 2

Advance Pricing Agreement Case Review

Article 69

- (1) Advance Pricing Agreement Case Review is conducted based on:
 - a. evaluation result on the agreement of Advance Pricing as referred to in Article 68 paragraph (7); or
 - b. Advance Pricing Agreement Case Review request submitted by the Taxpayer.
- (2) Based on the evaluation result on the agreement of Advance Pricing Agreement as referred to in paragraph (1), Director General of Taxes issues a written notification to the Taxpayer.
- (3) The written notification to the Taxpayer as referred to in paragraph (2) stating:
 - a. materiality changes on facts and circumstances of Affiliated Transactions covered in the Advance Pricing Agreement and of agreed critical assumptions on the Advance Pricing Agreement; and

- b. the negotiation process of Advance Pricing Agreement in the event of Advance Pricing Agreement Case Review.
- (4) The written notification as referred to in paragraph (2) is submitted prior to the fiscal year of the Advance Pricing Agreement Case Review.
- (5) The Advance Pricing Agreement Case Review request as referred to in paragraph (1) subparagraph b is required to be submitted to Director of International Tax *qualitate qua* Director General of Taxes by using Advance Pricing Agreement Case Review form.
- (6) The Advance Pricing Agreement Case Review request form as referred to in paragraph (5) using the format in accordance with the example attached in Annex S which constitutes an integral part of this Ministerial Regulation.
- (7) Submission of the Advance Pricing Agreement Case Review request as referred to in paragraph (5) is done:
 - a. directly; or
 - b. electronically
- (8) The electronic submission of the Advance Pricing Agreement Case Review request as referred to in paragraph (7) subparagraph b is done insofar as the information technology system is made available to be used.
- (9) The procedures on the submission of the Advance Pricing Agreement Case Review request as referred to in paragraph (7) subparagraph b is done as referred to in the Ministerial Regulations on the Procedure for the Implementation of Rights and Compliance of Taxation and Issuance, Signing, and Delivery of Electronic Tax Assessment of Tax Provision.
- (10) Director General of Taxes issues a receipt of the Advance Pricing Agreement Case Review request as referred to in paragraph (7).
- (11) The issuing date of the receipt as referred to in paragraph (1) is the receipt date of the Advance Pricing Agreement Case Review.
- (12) The provisions concerning the assessment, the submission, the fulfillment of requirements of the request, the material review, and the negotiation of the Request for the advance pricing agreement as referred to in Article 57 up to Article 60 is applied on *mutatis mutandis* on the Advance Pricing Agreement Case Review request as referred to in paragraph (5).
- (13) The negotiation outcome of review of the Advance Pricing Agreement is presented in the form of the amendment of Unilateral Advance Pricing Agreement Document or the amendment of Mutual Agreement.

- (14) Upon the amendment of the Unilateral Advance Pricing Agreement Document or of the amendment of the Mutual Agreement as referred to in paragraph (13), Director General of Taxes issues a notice of the amendment of the Advance Pricing Agreement by stating the fiscal year covered in the Period of the Advance Pricing Agreement Case Review.
- (15) The Decree letter on the amendment of the Advance Pricing Agreement as referred to in paragraph (14) is prepared using the format in accordance with the example attached in Annex T and U which constitutes an integral part of this Ministerial Regulation.

Paragraph 3
Cancellation of Advance Pricing Agreement

Article 70

- (1) In the event of the evaluation as referred to in Article 68 paragraph (7) resulting an indications of Taxpayers that:
 - a. provides information and/or evidence or statements that are false or not based on factual circumstances; and/or
 - b. does not provide information and/or evidence or information which:
 - 1. known or deemed to be known by the Taxpayer; and
 - 2. may influence the agreement on the Advance Pricing,

Director General of Taxes issues a written notification to the Taxpayer to clarify such discrepancy of information and/or evidences or statements that sent within the Advance Pricing Agreement process.
- (2) The Taxpayers is required to send written feedback to Director of International Taxation *qualitate qua* Director General of Taxes on the written notification as referred to in paragraph (1) for a period not longer than 21 (twenty-one) days subsequent to the issuance date of the written notification.
- (3) Director General of Taxes conduct assessment on the Taxpayer's written feedback submitted within the period as referred to in paragraph (2).
- (4) Director General of Taxes cancels the Advance Pricing Agreement covered in the decree on the implementation of the Advance Pricing Agreement as referred to in Article 61 paragraph (7) or (8) in the event of the Taxpayer:

- a. conforms the matters as referred to in paragraph (1), based on the assessment conducted as referred to in paragraph (3); or
 - b. does not send written feedback or send written feedback that exceeding the time limit as referred to in paragraph (2).
- (5) In the event of cancellation of the Advance Pricing Agreement as referred to in paragraph (4), Director General of Taxes issues:
 - a. Decree letter on cancellation of Advance Pricing Agreement to the Taxpayer using the format in accordance with the example attached in Annex V which constitutes an integral part of this Ministerial Regulation; and
 - b. Notice of cancellation of Advance Pricing Agreement to the Competent Authority of the Tax Treaty Partner, in the event of Bilateral or Multilateral Advance Pricing Agreement.
- (6) Director General of Taxes issues the Decree Letter of Cancellation of Advance Pricing Agreement as referred to in paragraph (5) subparagraph a to the Taxpayer within the period not longer than 21 (twenty-one) days subsequent to:
 - a. the receipt date of the Taxpayer's written clarification, in the event of cancellation of the agreement in the Advance Pricing based on the assessment conducted as referred to in paragraph (3); or
 - b. the time limit as referred to in paragraph (2) exceeds.
- (7) In the event of Director General of Taxes cancels the Advance Pricing Agreement as referred to in paragraph (4):
 - a. The Taxpayer cannot resubmit the request for the Advance Pricing Agreement for the fiscal year of the Advance Pricing Agreement and/or Roll-back covered in the cancellation of the Advance Pricing Agreement; and
 - b. Director General of Taxes conducts Tax Audit, Preliminary Tax Investigation, or Tax Crime investigation in accordance with the provisions of Tax Law Regulations.

Section Six
Procedures on the Renewal of the Advance Pricing Agreement

Article 71

- (1) The Taxpayer may submit Advance Pricing Agreement renewal request to Registered Tax Office *qualitate qua* Director General of Taxes.
- (2) The request for the renewal of the Advance Pricing Agreement as referred to in paragraph (1) shall be submitted within a period ranging from 12 (twelve) months to 6 (six) months prior to the commencement of the Advance Pricing Agreement period subject to the renewal.
- (3) The form of Advance Pricing Agreement renewal request as referred to in paragraph (1) is made using the format in accordance with the example attached in Annex W which constitutes an integral part of this Ministerial Regulation.
- (4) Submission of the Advance Pricing Agreement renewal request as referred to in paragraph (1) is done:
 - a. directly; or
 - b. electronically.
- (5) The electronic submission of the Advance Pricing Agreement renewal request as referred to in paragraph (4) subparagraph b is done insofar as the information technology system is made available to be used.
- (6) The procedures on the submission of the Advance Pricing Agreement renewal request as referred to in paragraph (4) subparagraph b is done as referred to in the Ministerial Regulations on the Procedure for the implementation of Rights and Compliance of Taxation and Issuance, Signing, and Delivery of Electronic Tax Assessment or Tax Provision.
- (7) Director General of Taxes issues a written receipt of the Advance Pricing Agreement renewal request as referred to in paragraph (1).
- (8) The issuance date of the written receipt as referred to in paragraph (7) is the receipt date of the Advance Pricing Agreement renewal request.
- (9) For the Advance Pricing Agreement renewal request as referred to in paragraph (1), the Taxpayer is required to fulfill the requirements as referred to in Article 58 paragraph (1) and (2).
- (10) The provision on fulfilment of requirements on request, material review, and negotiation of Request for the advance pricing agreement as referred to in Article 58 up to Article

- 60 is applied on *mutatis mutandis* on the Advance Pricing Agreement renewal request as referred to in paragraph (1).
- (11) The Advance Pricing Agreement renewal request as referred to in paragraph (1) only applies for each request on each Advance Pricing Agreement period.

CHAPTER IX SUBMISSION OF THE DOCUMENTS AND DECREE

Article 72

- (1) The submission of documents and decree of letter in the event of completion of Mutual Agreement Procedure and Advance Pricing Agreement can be done:
- a. directly;
 - b. through post, expedition service, or courier with delivery receipt; or
 - c. electronically.
- (2) The submission of documents and decree of letter as referred to in paragraph (1) subparagraph c is done insofar as the information technology system is made available to be used.
- (3) The procedures for the submission of documents and decree letter as referred to in paragraph (1) subparagraph c is done as referred to in the Ministerial Regulations on the Procedure for the Implementation of Rights and Compliance of Taxation and Issuance, Signing, and Delivery of Electronic Tax Assessment or Tax Provision.

CHAPTER X TRANSITIONAL PROVISIONS

Article 73

At the time this Ministerial Regulation comes into force:

- (1) For the Mutual Agreement Procedure request which had been accepted by Directorate General of Taxes in accordance with the Ministry of Finance Regulation Number 49/PMK.03/2019 on Implementation Guidelines of Mutual Agreement Procedure (State Bulletin of the Republic of Indonesia Year 2019 Number 468) and the decision letter of Director General of Taxes on Mutual Agreement has not been issued, processed in accordance with this Ministerial Regulation;
- (2) For the request for the advance pricing agreement which had been accepted by Directorate General of Taxes in accordance with the Ministry of Finance Regulation

Number 22/PMK.03/2020 on Implementation Guidelines of Advance Pricing Agreement (State Bulletin of the Republic of Indonesia Year 2020 Number 262) and the decree on the implementation of the Advance Pricing Agreement, the decree letter on the amendment to the Advance Pricing Agreement, and the decree letter on the cancellation of the Advance Pricing Agreement has not been issued, processed in accordance with this Ministerial Regulation;

- (3) For the obligation in maintaining, retaining, and filing the Transfer Pricing Documentation for the fiscal year of 2024 and onwards shall be exercised in accordance with this Ministerial Regulation.

CHAPTER XI CLOSING PROVISION

Article 74

At the time this Ministerial Regulation comes into force, the provision of:

- (1) Minister of Finance Regulation Number 213/PMK.03/2016 on Additional Documents and/or Information Compulsarily Retained by Taxpayers Conducting Affiliated Party Transactions and Its Administration Procedures (State Bulletin of The Republic Indonesia of 2016 Number 2120);
- (2) Minister of Finance Regulation Number 49/PMK.03/2019 on Implementation Guidelines on Mutual Agreement Procedure (State Bulletin of The Republic of Indonesia of 2019 Number 468);
- (3) Minister of Finance Regulation Number 22/PMK.03/2020 on Formation and Implementation Guidelines on Advance Pricing Agreement (State Bulletin of The Republic Indonesia of 2020 Number 262)

is repealed and declared ineffective.

Article 75

This Ministerial Regulation comes into force on the date of its promulgation.

In order that every person shall know hereof, it is ordered to promulgate this Ministerial Regulation by its placement in the State Bulletin of the Republic of Indonesia.

Issued in Jakarta
on 29 December 2023

MINISTER OF FINANCE OF THE REPUBLIC OF INDONESIA,
Signed,
SRI MULYANI INDRAWATI

Promulgated in Jakarta
On 29 December 2023,
DIRECTOR GENERAL
OF LEGISLATION
OF THE MINISTRY OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA

Signed

ASEP N. MULYANA