

Peraturan Menteri Keuangan Nomor 7/PMK.03/2015 tentang Tata Cara Pembentukan dan Pelaksanaan Kesepakatan Harga Transfer (*Advance Pricing Agreement*) dalam Terjemahan Bahasa Inggris

UNOFFICIAL TRANSLATION

THE REGULATION OF MINISTER OF FINANCE
OF REPUBLIC OF INDONESIA
NUMBER: 7/PMK.03/2015

CONCERNING
THE PROCEDURES FOR ADVANCE PRICING AGREEMENT
FORMATION AND IMPLEMENTATION
BY THE GRACE OF GOD ALMIGHTY

MINISTER OF FINANCE OF REPUBLIC OF INDONESIA,

Considers:

- a. that under the provisions in Article 18 Paragraph (3a) Law Number 7 Year 1983 concerning Income Tax as amended several times and lastly by Law Number 36 Year 2008, it is regulated that Director General of Taxes is authorized to make an agreement with Taxpayers and cooperate with tax authority from other countries in order to determine transaction price between parties with special relationship which shall be applied for certain period and supervise the implementation and have renegotiation after that certain period is over;
- b. that the agreement between Director General of Taxes and Taxpayer as referred to in letter a is intended to provide a certainty and to avoid any error during transfer pricing determination between parties with special relationship;
- c. that under the considerations as referred to in letter a and b hereinabove and in order to implement the provisions in Article 59 Government Regulation Number 74 Year 2011 concerning Taxation Rights and Obligations Fulfilment Procedure, Regulation of Minister of Finance concerning Advance Pricing Agreement Procedure is deemed necessary.

Refers to:

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

Year 2011 Number 162, the Supplement of the State Gazette of the Republic of Indonesia Number 5268);

DECIDES:

to issue: REGULATION OF MINISTER OF FINANCE CONCERNING ADVANCE PRICING AGREEMENT PROCEDURE

CHAPTER I
GENERAL PROVISIONS

Article 1

The following terms shall be interpreted as indicated below when used in this Ministerial Regulation:

1. Law is Law Number 6 Year 1983 regarding General Taxation Provisions and Procedures as several times amended lastly by Law Number 16 Year 2009 regarding Stipulation of Government Regulation In Lieu of Law Number 5 Year 2008 regarding the Fourth Amendment to Law Number 6 Year 1983 regarding General Taxation Provisions and Procedures to Become Law.
2. Partner Country or Partner Jurisdiction is country or jurisdiction which is bound to the Government of Indonesia in Double Taxation Avoidance Agreement.
3. Double Taxation Avoidance Agreement, hereinafter referred to as Tax Treaty, shall be agreement between the Government of Indonesia and the government of Partner Country or of Partner Jurisdiction to prevent any charge of double taxation and tax evasion.
4. Tax Authority of Partner Country or Tax Authority of Partner Jurisdiction, hereinafter referred to as Tax Authority of Partner Country or Partner Jurisdiction, shall be taxation authority of Partner Country or Partner Jurisdiction which is authorized to implement the provisions of Tax Treaty.
5. Mutual Agreement Procedure, hereinafter referred to as MAP, shall be administrative procedure which is stipulated in Tax Treaty to solve issues arising out in the application of Tax Treaty.
6. Mutual Agreement is a result already agreed upon in the application of Tax Treaty by the authorized official of the Government of Indonesia and of the government of Partner Country or of Partner Jurisdiction of Tax Treaty in connection with MAP already implemented.
7. Advance Pricing Agreement, hereinafter referred to as APA, is a written agreement made by and between:
 - a. Director General of Taxes and Taxpayer; or
 - b. Director General of Taxes and Tax Authority of Treaty Partner Country or Treaty Partner Jurisdiction which involve Taxpayer,as referred to in Article 18 Paragraph (3a) Income Tax Law of 1984 and its amendments thereto in order to agree upon the criteria and/or determine arm's length price or arm's length profit in advance.
8. Affiliation is a relation between Taxpayer and other affiliated parties as intended in Article 18 paragraph (4) of Income Tax Law of 1984 and the amendments thereto or Article 2 paragraph (2) of Value Added Tax Law of 1984 and the amendments thereto.
9. Arm's Length Principle hereinafter referred to as Arm's Length Principle is a principle which states that if circumstances of the transaction between parties in Affiliation is similar or comparable with circumstances of transaction between comparable independent parties, price or profit made from the transaction between parties in

Affiliation shall be similar to or in the price range or profit range of transaction made by comparable independent parties.

10. Arm's Length Price or Arm's Length Profit is price or profit which comes from transaction made between independent parties in comparable circumstances or price or profit which is determined as in line with Arm's Length Principle.
11. Transfer pricing is the determination of price in transaction between parties in Affiliation.
12. Comparability Analysis is an analysis made by Taxpayer or Director General of Taxes on the circumstances of transaction between Taxpayer and affiliated parties in Affiliation to be compared with comparable circumstances of transaction made between independent parties, and an analysis to identify the differences in circumstances in those transactions.
13. APA Paper is a document containing an agreement between Director General of Taxes and Indonesian Taxpayer on transfer pricing matter and agreed criteria in transfer pricing for tax year in APA period.

CHAPTER II SCOPE

Article 2

- (1) APA application can be submitted by:
 - a. Indonesian Taxpayer and foreign Taxpayer who conducts business or performs activities in the form of permanent establishment in Indonesia; or
 - b. Domestic Taxpayer from Partner Country or Partner Jurisdiction.
- (2) Indonesian Taxpayer and foreign Taxpayer as referred to in paragraph (1) letter a may submit APA application provided they have operated or have business activities in Indonesia for at least 3 (three) years.
- (3) APA application submission as referred to in paragraph (1) letter b shall be filed through Tax Authority of Partner Country or Partner Jurisdiction.
- (4) APA application submission as referred to in paragraph (1) shall cover all or part of transaction made by Taxpayer with affiliated parties.

Article 3

- (1) APA shall be applied and bound to:
 - a. Director General of Taxes and Taxpayer; or
 - b. Director General of Taxes and Taxpayer and Tax Authority of Partner Country or Partner Jurisdiction, during the period of APA.
- (2) The matter which shall be agreed on and regulated in APA among others are:
 - a. parties in Affiliation;
 - b. transaction which is considered as part of APA scope;
 - c. transfer Pricing method;
 - d. comparables;
 - e. APA period;
 - f. critical assumptions; and
 - g. transfer pricing adjustment.

Article 4

APA implementation period as referred to in Article 3 paragraph (1) can be granted:

- a. for a maximum of 3 (three) tax years; or
- b. for a maximum of 4 (four) tax years for APA whose discussion is involving the Tax Authority of Partner Country or Partner Jurisdiction as referred to in Article 13 paragraph (2)

CHAPTER III
APA FORMATION
Article 5

- (1) The process during APA formation is:
 - a. submission of prelodgement request from Taxpayer to DGT;
 - b. prelodgement between Director General of Taxes and Taxpayer;
 - c. invitation from Director General of Taxes to Taxpayer to submit APA application based on the result from prelodgement.
 - d. APA proposal submission from Taxpayer to Director General of Taxes;
 - e. formation of APA assessment team by Director General of Taxes;
 - f. analysis and evaluation and APA submission assessment between APA assessment team and Taxpayer.
 - g. APA discussion through MAP in the event that APA is involving Tax Authority of Partner Country or Partner Jurisdiction;
 - h. formulation of APA paper; and
 - i. issuance of Director General of Taxes Decree which consists of APA Paper and its implementation.
- (2) In the event that APA application is filed by Taxpayer as referred to in Article 2 paragraph (1) letter b, the APA formation stage requirements as referred to in paragraph (1) shall still be met by Taxpayer as referred to in Article 2 paragraph (1) letter a that is related to APA application.

Part One
Prelodgement
Article 6

- (1) Taxpayer as referred to in Article 2 paragraph (1) letter a shall submit written prelodgement request to Director General of Taxes by including transactions and tax year which shall be covered in APA.
- (2) Taxpayer who submits prelodgement request as referred to in paragraph (1) shall submit a written agreement to provide all required documents in APA application process and it shall be supplemented with supporting documents as follows:
 - a. explanation from Taxpayer regarding the reason(s) of APA application;
 - b. explanation regarding Taxpayer's activities and business;
 - c. explanation regarding Taxpayer's business plan;
 - d. business structure which covers group business structure, ownership structure and organization structure;
 - e. explanation regarding shareholders and explanation regarding transaction made by shareholders with the Taxpayer;
 - f. explanation regarding other parties in Affiliation with the Taxpayer and detailed explanation regarding transaction made by those affiliated parties with Taxpayer;
 - g. explanation regarding transaction with parties in Affiliation for the last 3 (three)

- tax years if there is any;
- h. explanation on transactions proposed to be discussed and covered in APA and the explanation regarding those transactions;
 - i. Transfer Pricing method and explanation proposed by Taxpayer and documentation made by Taxpayer regarding Comparability Analysis, functional analysis, selection and designation of comparable and selection of Transfer Pricing method;
 - j. explanation regarding situation or circumstances in Taxpayer's activity or business whose change may have material influence on Taxpayer's Transfer Pricing method;
 - k. explanation regarding accounting system, production process and decision making process;
 - l. explanation regarding competitors who have same or similar type of activity or business or product with Taxpayer, including explanation regarding competitor's characteristic and market share;
 - m. copy of Taxpayer's deed of establishment and its amendments or alike;
 - n. copy of Taxpayer's Income Tax Return and Annual Report for the last 3 (three) years; and
 - o. Other supporting documents which may be required.
- (3) Application as referred to in Paragraph (1) shall:
- a. Be based on real transaction and/or planned transaction based on management or directorial decision;
 - b. Be in line with the guidelines or laws and regulations which regulate Transfer Pricing; and
 - c. Be made without tax avoidance motives.
- (4) Prelodgement request as referred to in Paragraph (1) shall be filed not later than 6 (six) months before tax year covered in APA starts.

Article 7

- (1) In the event that APA proposal is submitted by domestic Taxpayer of Partner Country or Partner Jurisdiction as referred to in Article 2 paragraph (1) letter b through the Tax Authority of Partner Country or Partner Jurisdiction as referred to in Article 2 paragraph (3), Director General of Taxes shall send a notification to Taxpayer as referred to in Article 2 paragraph (1) letter a who is related to APA application.
- (2) In the event that Taxpayer as referred to in Article 2 paragraph (1) letter a related to the APA proposal agrees with such request submitted by domestic Taxpayer of Partner Country or Partner Jurisdiction as referred to in Paragraph (1), Taxpayer as referred to in Article 2 paragraph (1) letter a related to APA proposal shall submit prelodgement application in accordance with the provisions as referred to in Article 6
- (3) Director General of Taxes shall reject the APA proposal as referred to in Paragraph (1) in the event that Taxpayer as referred to in Article 2 paragraph (1) letter a related to APA proposal does not approve such request submitted by domestic Taxpayer of Partner Country or Partner Jurisdiction

Article 8

- (1) Director General of Taxes shall hold prelodgement with Taxpayer to:
 - a. discuss whether APA is necessary or not;

- b. discuss APA scope proposed by Taxpayer;
 - c. give Taxpayer the opportunity to explain proposed Transfer Pricing method;
 - d. discuss APA formation possibility which may include Tax Authority of Partner Country of Partner Jurisdiction;
 - e. discuss documentation and analysis made by Taxpayer;
 - f. discuss the length of time and tax year period which shall be covered in APA; and
 - g. discuss other matters which are relevant to APA formation and implementation.
- (2) Based on Taxpayer's request as referred to in Article 6 Paragraph (1), Director General of Taxes shall make evaluation and decide the prelodgement schedule with Taxpayer.
 - (3) Prelodgement as referred to in Paragraph (1) may be held for more than once.
 - (4) For prelodgement purposes, Director General of Taxes may visit Taxpayer's business premises in order to supplement the required data or information.

Article 9

- (1) Prelodgement as referred to in Article 8 shall be used for the further consideration of APA.
- (2) Prelodgement as referred to in Paragraph (1) shall not bind Director General of Taxes or Taxpayer to form APA.

Part Two

Invitation for APA Submission

Article 10

- (1) In the event that, based on the result of prelodgement as referred to in Article 8, Director General of Taxes decides that prelodgement can be followed up to APA discussion stage, Director General of Taxes shall send invitation letter to Taxpayer to apply for APA
- (2) Invitation letter as referred to in Paragraph (1) shall be sent not later than 1 (one) month before Tax Year covered in APA shall start.
- (3) In the event that, based on the result of prelodgement as referred to in Article 8, Director General of Taxes decides that prelodgement cannot be followed up to APA discussion stage, Director General of Taxes shall send a notification letter to the Taxpayer which states that the Taxpayer cannot apply for APA.
- (4) Rejection notification letter as referred to in Paragraph (3) shall be sent not later than 1 (one) month before Tax Year is started which is the year when Taxpayer submits APA prelodgement request.

Part Three

APA Request

Article 11

- (1) Based on the invitation as referred to in Article 10 Paragraph (1), Taxpayer may submit APA request to Director General of Taxes through Director of Tax Regulation II by supplementing the proposal with the following information:
 - a. Taxpayer's name, Tax ID Number and address;
 - b. Supporting identity of affiliated party; and
 - c. Transaction scope and Tax Year covered in APA.
- (2) Request as referred to in Paragraph (1) shall meet following provisions:

- a. it shall be submitted in written in Bahasa Indonesia;
 - b. it shall be signed by Taxpayer or his/her legal representative as referred to in Law; and
 - c. in the event that it is signed by his/her representative, it shall be supplemented with special power of attorney as referred to in Law.
- (3) Proposal as referred to in Paragraph (1) shall be supplemented with following supporting documents:
- a. detailed explanation about the prelodgement results held previously between Director General of Taxes and Taxpayer;
 - b. detailed explanation about proposed Transfer Pricing method from Taxpayer, including documentation which has been made by Taxpayer;
 - c. detailed explanation about circumstances which may influence Transfer Pricing method;
 - d. detailed explanation and documentation which shall show that the implementation of Transfer Pricing method proposed by Taxpayer has met Arm's Length Principle; and
 - e. detailed explanation about critical assumptions analysis; and
 - f. other required supporting documents.
- (4) APA request as referred to in paragraph (1) and supporting documents as referred to in Paragraph (3) shall be received by Director of Tax Regulation II not later than the end of Tax Year before Tax Year covered in APA.
- (5) In the event that APA request and supporting documents submission due date as referred to in paragraph (4) has been exceeded not more than 1 (one) year, tax year covered in APA shall be reduced by 1 (one) tax year.
- (6) In the event that the submission of APA request and supporting documents has exceeded the submission due date as referred to in paragraph (5), APA application cannot be followed up to APA discussion stage.

Part Four
APA Discussion
Article 12

- (1) Based on APA request, Director General of Taxes shall form APA assessment team.
- (2) APA assessment team as referred to in paragraph (1) shall consist of civil servants in Directorate General of Taxes and/or experts who are appointed by Director General of Taxes.
- (3) APA assessment team as referred to in Paragraph (1) shall:
 - a. analyze and evaluate APA application including economic analysis for tax year covered in APA;
 - b. submit the request for audit for other purposes to analyze and evaluate the APA request, if necessary.
 - c. request Taxpayer to furnish other required data or information and visit the business premises of Taxpayer's and/or parties in Affiliation if necessary;
 - d. request for necessary information from other relevant parties if necessary;
 - e. conduct APA discussion with Taxpayer;
 - f. conduct discussion with related units in Directorate General of Taxes;
 - g. prepare recommendation proposal for APA position paper of the Directorate General of Taxes; and

- h. make documentation regarding activities related to APA.
- (4) APA discussion with Taxpayer shall cover:
 - a. scope of transaction and Tax Year covered in APA;
 - b. comparability analysis, selection and designation of comparable;
 - c. appropriate Transfer Pricing method selection;
 - d. circumstances and factors which may influence critical assumptions in determining Transfer Pricing method; and
 - e. explanation whether there exist double taxation.
- (5) APA discussion as referred to in paragraph (4) shall meet the analysis and evaluation standard which includes general standard for analysis and evaluation, practice standard for analysis and reporting, and reporting standard for analysis and evaluation result.

Article 13

- (1) In the event that, based on APA discussion as referred to in Article 12 paragraph (4), double taxation may occur, Directorate General of Taxes can:
 - a. submit MAP request to Tax Authority of Partner Country or Partner Jurisdiction;
 - b. accept APA request submitted by domestic Taxpayer of Partner Country or Partner Jurisdiction through Tax Authority of Partner Country or Partner Jurisdiction
- (2) In the event of the involvement of Tax Authority of Partner Country or Partner Jurisdiction during APA discussion, APA discussion shall be carried out in accordance with MAP provisions.

Article 14

- (1) Based on the result of analysis and evaluation on APA request, APA assessment team shall submit APA recommendation to Director General of Taxes.
- (2) Director General of Taxes shall discuss APA recommendation from APA assessment team as referred to in paragraph (1) with quality assurance team.
- (3) Quality assurance team as referred to in paragraph (2) is a team established by Director General of Taxes for discussing APA recommendation as referred to in paragraph (1).
- (4) Pursuant to discussion result of APA recommendation between Director General of Taxes and quality assurance team, Director General of Taxes shall decide to approve or reject the APA recommendation.
- (5) In the event of the involvement of Tax Authority of Partner Country or Partner Jurisdiction during APA discussion, discussion result between Director General of Taxes and quality assurance team as referred to in paragraph (4) shall be used as negotiation position of Directorate General of Taxes in implementing MAP.

Article 15

- (1) APA discussion shall be held not later than 1 (one) year since APA request is accepted.
- (2) In the event that APA discussion as referred to in paragraph (1) requires extension of time considering that there is a request for audit for other purposes for the analysis and evaluation of APA request, the extension concerned can be implemented not

later than 1 (one) year since the end of APA discussion period as referred to in paragraph (1).

- (3) In the event of Tax Authority of Partner Country or Partner Jurisdiction involvement, APA discussion period shall be carried out in accordance with MAP provisions.

Article 16

- (1) APA discussion may result in an agreement between Director General of Taxes and Taxpayer or the agreement cannot be concluded between Director General of Taxes and Taxpayer.
- (2) In the event of the involvement of Tax Authority of Partner Country or Partner Jurisdiction during APA discussion, APA discussion result shall be elaborated in Mutual Agreement.
- (3) In the event that APA discussion as referred to in Paragraph (1) cannot be concluded, APA application is considered null and void.
- (4) In the event that APA which is involving Tax Authority of Partner Country or Partner Jurisdiction cannot result in Mutual Agreement, following is the follow-up for APA discussion:
 - a. APA discussion only between Director General of Taxes and Taxpayer as referred to in Article 2 paragraph (1) letter a; or
 - b. APA discussion termination.

Part Five

APA Paper

Article 17

- (1) APA discussion which may result in an agreement between Director General of Taxes and Taxpayer as referred to in Article 16 paragraph (1) shall be followed up by formulation of APA paper.
- (2) APA paper shall be signed by Director General of Taxes and Taxpayer.
- (3) APA paper should at least include:
 - a. company's name, ID Tax Number, address, and the identity of parties in Affiliation with Taxpayer related to APA;
 - b. the scope of covered transaction;
 - c. covered tax year;
 - d. general provisions which used under APA;
 - e. agreed Transfer Pricing method;
 - f. factors which influence critical assumption in implementing Transfer Pricing method;
 - g. Arm's Length Price or Arm's Length Profit, or Arm's Length Price range or Arm's Length Profit range for each type of goods/service or covered transaction;
 - h. obligation which has to be met during APA implementation and reporting obligation;
 - i. legal consequence;
 - j. confidentiality;
 - k. review and cancellation;
 - l. settlement mechanism for issues which may occur during implementation;
 - m. conditions which may lead Director General of Taxes to review or cancel APA; and
 - n. other supporting information as referred to in letter a until m.

Article 18

Director General of Taxes shall issue a decree which includes APA Paper and the implementation of APA Paper.

CHAPTER IV
IMPLEMENTATION, EVALUATION
AND APA RENEWAL
Part One
APA Implementation
Article 19

- (1) APA shall be implemented since the Tax Year when APA paper is agreed.
- (2) In the event of Tax Authority of Partner Country of Partner Jurisdiction involvement, APA shall be implemented in accordance with the result of Mutual Agreement.

Part Two
APA Evaluation
Article 20

- (1) Taxpayer shall submit annual compliance report to Director General of Taxes not later than 4 (four) months after the end of tax year.
- (2) In the event that APA Paper formulated pursuant to Mutual Agreement agrees on the scope of tax year before the signing of APA Paper, the submission of annual compliance report which covers tax year prior to APA Paper signing shall be submitted not later than 4 (four) months after the month of APA Paper signing.
- (3) Annual compliance report as referred to in paragraph (1) shall consist of APA implementation consistency with Taxpayer's activity or business and shall be submitted to Director General of Taxes including all tax years covered in APA and shall consist of:
 - a. detailed explanation on Taxpayer compliance in implementing Transfer Pricing method on transactions covered in APA;
 - b. detailed explanation on the accuracy and consistency of the implementation of Transfer Pricing method;
 - c. detailed explanation on the accuracy of factors which may influence critical assumptions on the implementation of Transfer Pricing method;
 - d. other information which supports explanation as referred to in letter a, letter b and letter c.
- (4) Factors which may influence critical assumptions as referred to in paragraph (3) letter c include, but not limited to:
 - a. amendment to provisions in tax laws and their implementing regulations;
 - b. the change of import rate and duty;
 - c. the amendment to laws and regulations in related industries;
 - d. an unexpected or uncontrollable event (force majeure);
 - e. new competitor which may significantly influence market price structure;
 - f. government regulation which may influence Taxpayer's activities;
 - g. significant changes of economic condition which may influence sales volume, production units or market shares;
 - h. the changes of Taxpayer's business activities such as company restructuring; or

- i. significant changes of foreign exchange.
- (5) In the event that there are factors which may influence critical assumption as referred to in paragraph (4), Taxpayer shall submit a notification to Director General of Taxes.
- (6) Taxpayer may submit request for APA review or APA cancellation application in the event of factors as referred to in paragraph (4) not later than 30 (thirty) days since those factors occur.

Article 21

- (1) Director General of Taxes shall make evaluation on annual compliance report as referred to in Article 20.
- (2) Director General of Taxes may review or cancel APA in the event that:
 - a. Taxpayer does not comply with APA;
 - b. Taxpayer submitted inaccurate data/information;
 - c. Taxpayer does not file annual compliance report in accordance with the provisions in Article 20 Paragraph (1) and Paragraph (2);
 - d. Taxpayer does not give notification as referred to in Article 20 Paragraph (3);
 - e. there exist some changes in factors influencing critical assumption as referred to in Article 20 Paragraph (4);
 - f. Taxpayer submits a request for APA review or APA cancellation as referred to in Article 20 Paragraph (6);
 - g. there exist evidence that APA contains error; or
 - h. Taxpayer involved in tax crime.
- (3) In the event of Director General of Taxes reviewing or cancelling the APA Paper as referred to in Paragraph (2), Director General of Taxes shall sent notice of review or cancellation to Taxpayer as referred to in Article 2 paragraph (1) letter a or to Tax Authority of Partner Country or Partner Jurisdiction.
- (4) In the event of Director General of Taxes and Taxpayer conduct APA Paper review, result of the review shall be elaborated in APA Paper revision and shall be signed by Director General of Taxes and Taxpayer.
- (5) In the event that Director General of Taxes decides to review APA Paper as referred to in paragraph (4), Director General of Taxes shall issue a decree on the revision of APA issuance decree and APA Paper implementation.
- (6) In the event that Director General of Taxes decides to cancel APA, Director General of Taxes shall issue a decree on the revocation of APA Paper issuance decree and APA paper implementation.

Part Three APA Renewal Article 22

- (1) APA renewal can be made on the last tax year covered in APA.
- (2) APA renewal application as referred to in paragraph (1) shall receive similar treatment to APA request and shall be in line with APA formation stage as referred to in Article 5.
- (3) In order to implement APA renewal, Director General of Taxes shall consider agreements in the previous APA which will be renewed.

CHAPTER V
DOCUMENTATION

Article 23

- (1) Director General of Taxes shall document all stages of APA formation implementation, including:
 - a. APA analysis and evaluation result;
 - b. APA discussion report;
 - c. Agreed minutes and records of discussion during APA formation;
 - d. Correspondence, including e-mails; and
 - e. Digital media or electronic recording.
- (2) Documents or information from Taxpayer during APA formation is confidential and cannot be disclosed to other party as referred to in Article 34 of Law.
- (3) In the event that APA formation cannot reach an agreement between Director General of Taxes and Taxpayer or Director General of Taxes cancels the APA, Taxpayer's documents used during APA formation process shall be returned to the Taxpayer.
- (4) Document as referred to in Paragraph (2) cannot be used by Director General of Taxes as the basis to perform an audit, preliminary evidence examination or tax crime investigation.

CHAPTER VI
MISCELLANEOUS PROVISION

Article 24

- (1) APA does not prevent Director General of Taxes in conducting audit, preliminary evidence examination or tax investigation in accordance with governing tax laws and regulations.
- (2) In the event of APA involving Tax Authority of Partner Country of Partner Jurisdiction leads to Tax Assessment Letter or Objection Decree revision, governing tax laws and regulations shall be applied.
- (3) Exempted from provisions as referred to in Article 23 paragraph (4), required document requested and/or obtained by Director General of Taxes during audit, preliminary evidence examination or tax crime investigation shall comply with governing tax laws and regulations.

Article 25

- (1) In the event that it is necessary during APA formation process, Director General of Taxes may involve experts from outside Directorate General of Taxes.
- (2) With approval from Director General of Taxes, Taxpayer may bring forward an expert(s) during APA formation process

CHAPTER VII
TRANSITIONAL PROVISIONS

Article 26

With the enactment of this Ministerial Regulation, the further processing of APA request already received by Director General of Taxes before the coming into effect of this Ministerial Regulation and whose APA Paper has not been issued shall comply with this Ministerial Regulation.

CHAPTER VII
CLOSING PROVISIONS

Article 27

Further provisions regarding discussion team and quality assurance team formation, and APA formation stage, and APA implementation, evaluation and renewal shall be regulated under Regulation of Director General of Taxes.

Article 28

This Regulation of Minister of Finance shall come into effect after 90 (ninety) days after the date of promulgation.

For public cognizance, hereby ordering the promulgation of this Ministerial Regulation by placing it in Official Gazette of the Republic of Indonesia.

Stipulated in Jakarta

On 12 January 2015

MINISTER OF FINANCE OF THE REPUBLIC OF INDONESIA,

signed

BAMBANG P.S. BRODJONEGORO

Promulgated in Jakarta

On 12 January 2015

MINISTER OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA,

signed

YASONNA H. LAOLY

STATE REPORT OF THE REPUBLIC OF INDONESIA YEAR 2015 NUMBER 39

Issued as a true copy.