

**Cuplikan Peraturan Pemerintah nomor 74 tahun 2011 tentang Tata Cara Pemenuhan Hak dan Pelaksanaan Kewajiban Perpajakan dalam Terjemahan Bahasa Inggris**

UNOFFICIAL TRANSLATION

(EXCERPT)

REGULATION OF THE GOVERNMENT  
OF THE REPUBLIC OF INDONESIA  
NUMBER 74 YEAR 2011

CONCERNING

TAXATION RIGHTS AND OBLIGATIONS  
FULFILMENT PROCEDURE

BY THE GRACE OF GOD ALMIGHTY

PRESIDENT OF THE REPUBLIC OF INDONESIA

CHAPTER I  
GENERAL PROVISIONS

Article 1

The following terms shall be interpreted as indicated below when used in this Government 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. Taxpayer is any individual or entity, including tax payer, income tax withholding agent, and value added tax withholding agent, which holds taxation rights and obligations in accordance with the provisions in tax laws.
3. Review is a series of activities carried out to evaluate the completeness of the Tax Return and its attachments, including the writing and calculation accuracy.
4. Verification is a series of activities to examine the fulfilment of subjective and objective taxation obligations, as well as the calculation and the payment of taxes, based on the request from Taxpayer or on the taxation data and information possessed or obtained by Director General of Taxes, for the purpose of issuing notice of tax assessment, issuing or removing Tax Identification Number, and/or confirming or revoking the confirmation of Taxable Entrepreneur.
5. Verification Closing Conference is a discussion between Taxpayer and Verification officer regarding Verification results which are set forth in the Minutes of Verification Closing Conference signed by both parties, and containing the adjustment whether agreed or disagreed.
6. Audit is a series of activities to find, collect, and process data and or other information in order to assess tax compliance and other objectives necessary for complying with the provisions of the tax laws.

7. Audit Closing Conference is a discussion between Taxpayer and tax auditor concerning Audit findings which are set forth in the Minutes of Audit Closing Conference signed by both parties, and containing the adjustment whether agreed or disagreed.
8. Preliminary Evidence Investigation is an audit conducted for the purpose of obtaining preliminary evidence regarding the allegation of criminal offence in the field of taxation.
9. Tax Crime Investigation is a series of activities conducted by Tax Investigator to find and collect evidence in order to uncover a criminal offence in the field of taxation and to find the suspects.
10. 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.
11. 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.
12. 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.
13. 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.

CHAPTER IX  
IMPLEMENTATION OF DOUBLE TAXATION AVOIDANCE AGREEMENT

Article 55

The Government of the Republic of Indonesia is bound by Tax Treaty with the government of partner country or partner jurisdiction.

Article 56

- (1) Director General of Taxes may exchange information related to taxation issues with the tax authority of partner country or partner jurisdiction in accordance with prevailing Tax Treaty.
- (2) Director General of Taxes may request Taxpayer or other party for information related to taxation issues to be exchanged as referred to in paragraph (1).
- (3) Taxpayer or other party as referred to in paragraph (2) is obliged to fulfil the request for information related to taxation issues.
- (4) In case Taxpayer or other party does not fulfil the obligation as referred to in paragraph (3), Taxpayer or other party shall be imposed with penalty in accordance with Law.

Article 57

- (1) Implementation of MAP is conducted by Director General of Taxes and the tax authority of partner country or partner jurisdiction.
- (2) Request for implementation of MAP can be filed by:
  - a. Taxpayer through the Director General of Taxes;
  - b. The Director General of Taxes; or

- c. tax authorities of treaty partner country or partner jurisdiction, within the time limit of implementation of MAP as specified in the Tax Treaty.
- (3) The request for implementation of MAP by the parties as intended in paragraph (2) can be filed at the same time with application of Taxpayer to file:
  - a. tax objection as intended in Article 25 of the Law;
  - b. application for appeal as intended in Article 27 of the Law; or
  - c. deduction or cancellation of incorrect Notice of Tax Assessment as intended in Article 36 paragraph (1) sub-paragraph b of the Law.
- (4) Director General of Taxes is authorized to examine the request for implementation of MAP as referred to in paragraph (2) letter a and letter c to determine whether MAP can or cannot be implemented.
- (5) In the event that implementation of MAP generates Mutual Agreement after the issuance of Notice of Tax Assessment but objection is not filed or application for deduction or cancellation of incorrect Notice of Tax Assessment is not filed, The Director General of Taxes shall make correction of Notice of Tax Assessment ex-officio in accordance with the provisions as intended in Article 16 of the Law.
- (6) In the event that implementation of MAP generates Mutual Agreement after the Director General of Taxes issues Decree on Objection but appeal is not filed or Taxpayer files appeal but it is revoked, the Director General of Taxes shall make correction of Decree on Objection ex-officio in accordance with the provisions as intended in Article 16 of the Law.
- (7) If the implementation of MAP is conducted at the same time with appeal process and, in the event the hearing of Decree on Appeal has been finalized, the MAP has not yet generated Mutual Agreement, Director General of Taxes terminates the MAP.
- (8) In the event that implementation of MAP does not generate any Mutual Agreement, then Notice of Tax Assessment, Decree on Objection, Decree on Appeal, and Decree on Judicial Review shall be applicable.

#### Article 58

- (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) Director General of Taxes shall not make adjustment on the matters already agreed in the APA during audit.
- (3) In the event that APA formation cannot reach an agreement between parties as referred to in paragraph (1), Taxpayer's documents used during APA formation process shall be returned to the Taxpayer.
- (4) Document as referred to in Paragraph (3) cannot be used by Director General of Taxes as the basis to perform an Audit, Preliminary Evidence Examination or Tax Crime Investigation.

#### Article 59

Further provisions regarding the procedures of the exchange of information, MAP, and APA as referred to in Article 56, Article 57, and Article 58 shall be stipulated or based on the Minister of Finance Regulation.

#### ELUCIDATION

##### Article 55

Sufficiently clear.

##### Article 56

Sufficiently clear.

Article 57

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

By “at the same time” does not mean that such requests must be submitted on the same date. For example, Taxpayer submits MAP request on 10 January 2011. Meanwhile, on 14 January 2011 (deadline for the submission of objection) Taxpayer files objection on the notice of tax assessment which is also subject to MAP request. Inasmuch as the filing date of MAP and objection are different, but under the stipulation of this Paragraph both submissions are considered to be filed at the same time.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Paragraph (6)

Sufficiently clear.

Paragraph (7)

Sufficiently clear.

Paragraph (8)

Sufficiently clear.

Article 58

Sufficiently clear.

Article 59

Sufficiently clear.