

Indonesia Dispute Resolution Profile

(Last updated: 1 September 2016)

General Information

- **Indonesia's tax treaties are available at:**

<http://ketentuan.pajak.go.id/index.php?r=treaty>

- **MAP request should be made to:**

*Director of International Taxation, Directorate General of Taxes
Jl. Jenderal Gatot Subroto 40-42 Jakarta 12190
Phone +62 21 5250208, Fax +62 21 5732064*

- **APA request should be made to:**

As above.

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
A. Preventing Disputes				
1.	Are agreements reached by your competent authority to resolve difficulties or doubts arising as to the interpretation or application of your tax treaties in relation to issues of a general nature which concern, or which may concern, a category of taxpayers published?	No	We do not published MAP agreement publicly, only the corresponding taxpayers could gather the information regarding the mutual agreement reached.	Guidance can be found in our domestic MAP/APA regulation, Ministry of Finance Regulation Number 240/PMK.03/2014 regarding MAP and Ministry of Finance Regulation Number 7/PMK.03/2015 regarding APA. Both regulations are available online at http://ketentuan.pajak.go.id/
2.	Are bilateral APA programmes implemented? If yes:	Yes	We have APA program since 2010 which is governed in Director General Regulation Number PER-69/PJ/2010 and recently superseded by Ministry of Finance Regulation Number 7/PMK.03/2015.	Guidance is available at http://ketentuan.pajak.go.id/
a.	<ul style="list-style-type: none"> Are roll-back of APAs provided for in the bilateral APA programmes? 	No	Taxpayer cannot submit an APA request that covers the period prior to the year when the application is submitted (i.e. if the APA request is submitted in 2015, the covered period may only covers fiscal year 2015 forward).	Guidance is available at http://ketentuan.pajak.go.id/
b.	<ul style="list-style-type: none"> Are there specific timeline for the filing of an APA request? 	Yes	The APA request could be filed no later than 6 months before the beginning of the fiscal year to be covered.	Guidance is available at http://ketentuan.pajak.go.id/
c.	<ul style="list-style-type: none"> Are rules, guidelines and procedures on how taxpayers can access and use bilateral APAs, including the specific 	Yes	Guidance on APA which are stipulated in the Ministry of Finance Regulation Number	Guidance is available at http://ketentuan.pajak.go.id/

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	information and documentation that should be submitted in a taxpayer's request for bilateral APA assistance, publicly available?		7/PMK.03/2015 is publicly available at DGT's website, pajak.go.id .	
d.	<ul style="list-style-type: none"> Are there any fees charged to taxpayers for a bilateral APA request? 	No	No fees charged to taxpayers for applying APA.	Guidance is available at http://ketentuan.pajak.go.id/
e.	<ul style="list-style-type: none"> Are statistics relating to bilateral APAs publicly available? 	See detailed explanation	Currently, there are no statistics published on MAP case resolution. However, statistics will be available in 2017.	-
3.	Is training provided to your officials involved in the auditing /examination of taxpayers to ensure that any assessments made by them are in accordance with the provisions of your tax treaties?	Yes	<p>We regularly provide training related to:</p> <ol style="list-style-type: none"> Compliance risk management on offshore compliance Transfer Pricing Tax Treaty related issues Other International Taxation issues <p>We also cooperate with other institution such as: OECD, and other countries to provide expert trainer in those aforementioned trainings.</p>	-

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4.	Is other information available on preventing tax treaty-related disputes?	No	We do not publish ruling letter issued to taxpayer who seek clarification on certain cases or interpretation of certain provision in the tax treaty.	-

Notes:

1. An APA is an “arrangement that determines, in advance of controlled transactions, an appropriate set of criteria (e.g. method, comparables and appropriate adjustments thereto, critical assumptions as to future events) for the determination of the transfer pricing for those transactions over a fixed period of time”. (see definition of APA in the *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations* (“Transfer Pricing Guidelines”)).
2. Situations may arise in which the issues resolved through an APA are relevant with respect to previous filed tax years not included within the original scope of the APA. The concept of “roll-back” is further elaborated in paragraph 4.136 of Section F (Advance pricing arrangement) of Chapter IV of the Transfer Pricing Guidelines and in paragraph 69 of Section D.4.2 (Possible retrospective application (“Roll back”)) of the Annex to Chapter IV (Guidelines for Conducting Advance Pricing Arrangements under the Mutual Agreement Procedure (“MAP APAs”)) of the Transfer Pricing Guidelines. Simply put, the “roll-back” of the APA is understood to mean that the outcome of the APA is applied to previous filed tax years not included within the original scope of the APA.

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B. Availability and Access to MAP				
5.	Are transfer pricing cases covered within the scope of MAP?	Yes	Transfer pricing is covered in our MAP program as stipulated in our MAP regulation.	Guidance is available at http://ketentuan.pajak.go.id/
6.	Are issues relating to the application of treaty anti-abuse provision covered within the scope of MAP?	Yes	The MAP covers all disputes related to the application of the tax treaty include the anti-abuse provision.	Guidance is available at http://ketentuan.pajak.go.id/
7.	Are issues relating to the application of domestic anti-abuse provision covered within the scope of MAP?	Yes	The MAP covers disputes related to the application of domestic anti-abuse provision as long as it is covered by tax treaties.	Guidance is available at http://ketentuan.pajak.go.id/
8.	Are issues where there is already an audit settlement between the tax authority and the taxpayer covered within the scope of MAP?	See detailed explanation	All disputes resulted from audit adjustment made by auditor written in the audit notice or tax assessment are covered within the scope of MAP.	Guidance is available at http://ketentuan.pajak.go.id/
9.	Are double taxation cases resulting from bona fide taxpayer initiated foreign adjustments covered within the scope of MAP?	Yes	The MAP covers adjustment requested by other Competent Authority.	Guidance is available at http://ketentuan.pajak.go.id/
10.	Are there any other treaty related issues not covered under s/n 5 to 9 which are not within the scope of MAP?	No	All treaty application issues and treaty disputes are covered in the MAP.	-
11.	Are taxpayers allowed to request MAP assistance in cases where the taxpayer has sought to resolve the issue under dispute via the judicial and administrative remedies	Yes	The tax payer could request MAP although it has filed objection and appeal. However, the MAP discussion would be stopped if the decision has been made by the tax court.	Guidance can be found in Government Regulation Number 74 of 2011 which is available at http://ketentuan.pajak.go.id/

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	provided by the domestic law of your jurisdiction?			
12.	Are taxpayers allowed to request for MAP assistance in cases where the issue under dispute has already been decided via the judicial and administrative remedies provided by the domestic law of your jurisdiction?	See detailed explanation	If the dispute is brought to tax court, and the decision has been made by the judge, the taxpayer could no longer file MAP request. However, if the taxpayer has filed an administrative remedies (objection) and the decision has been issued, the taxpayer could still file MAP.	-
13.	Are rules, guidelines and procedures on how taxpayers can access and use MAP, including the specific information and documentation that should be submitted in a taxpayer's request for MAP assistance, publicly available?	Yes	Guidance on MAP which are stipulated in the Ministry of Finance Regulation Number 240/PMK.03/2014 is publicly available at DGT's website, pajak.go.id.	Guidance is available at http://ketentuan.pajak.go.id/
14.	Are there specific timeline for the filing of a MAP request?	Yes	The timeline for filling a MAP request is in accordance with the MAP provision in Indonesian tax treaties.	Guidance is available at http://ketentuan.pajak.go.id/
15.	Are guidance on multilateral MAPs publicly available?	See detailed explanation	We don't have multilateral MAP programme.	-
16.	Are tax collection procedures suspended during the period a MAP case is pending?	No	MAP request does not postpone any action to collect tax payable.	Guidance can be found in Indonesian General Tax Procedures Law which is available at http://ketentuan.pajak.go.id/
17.	Are there any fees charged to taxpayers for a MAP request?	No	Taxpayer could file a MAP request for free even if they revoke the application or if they do not	Guidance is available at http://ketentuan.pajak.go.id/

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
			agree with the agreement reached by both CAs.	
18.	Is there any other information available on availability and access to MAP?	Yes	Guidance on MAP which are stipulated in the Ministry of Finance Regulation Number 240/PMK.03/2014 is publicly available at DGT's website, pajak.go.id.	Guidance is available at http://ketentuan.pajak.go.id/

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C. Resolution of MAP Cases				
19.	Are there any model timeframes for the steps taken by your competent authority from the receipt of a MAP case to the resolution of the case provided to taxpayers?	No	Indonesia doesn't follow particular model timeframe in completing MAP, however our domestic regulation regarding MAP gives an initial timeframe of 3 years. The timeframe can be extended indefinitely (art. 25 para. 5 MoF Regulation no. 240/2014).	MAP regulations are publicly available at http://ketentuan.pajak.go.id/
20.	Are statistics relating to the time taken to resolve MAP cases publicly available?	See detailed explanation	Currently, there are no statistics published on MAP case resolution. However, statistics will be available in 2017.	-
21.	Is interest or penalties resulting from adjustments made pursuant to a MAP agreement waived or dealt with as part of the MAP procedure?	See detailed explanation	Any interest or penalties in most cases will directly correspond to the amount of tax adjustment, therefore any amendment to the amount of tax adjustment (e.g. by MAP Agreement) will be followed by a corresponding adjustment to its respective interest or penalties.	Please refer to Indonesia to Law on General Provisions and Tax Procedures available online at http://ketentuan.pajak.go.id/
22.	Are the roles and responsibility of the MAP office publicly available, for example, is the mission statement of the MAP office available in the <i>annual</i> report of the organisation?	Yes	Roles and responsibilities of the MAP office are published in the annual report of DGT publicly available on DGT's website both in Bahasa and in English. Prior to 2016, MAP cases are handled by the Directorate of Tax Regulation II. Starting 2016, a new International Tax Directorate is established and take over the role and responsibility.	http://www.pajak.go.id/content/laporan-tahunan-djp
23.	Is MAP arbitration a mechanism currently available for the resolution of tax treaty	See detailed explanation	MAP arbitration is available only in DTA Indonesia-Mexico.	http://ketentuan.pajak.go.id/index.php?r=treaty

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
	related disputes in any of your tax treaties? If not:			
a.	<ul style="list-style-type: none"> Are there any legal limitations in your domestic law (for example in your constitution) to include MAP arbitration in your tax treaties? 	-	-	-
b.	<ul style="list-style-type: none"> Does your treaty policy allow you to include MAP arbitration in your tax treaties? 	-	-	-
24.	Is the explanation of the relationship between the MAP and domestic law administrative and judicial remedies publicly available? If yes:	Yes	The relationship is clearly stated in the regulations which are publicly available to access.	MAP regulations are publicly available at http://ketentuan.pajak.go.id/
a.	<ul style="list-style-type: none"> Does the guidance specifically address whether the competent authority considers that it is legally bound to follow a domestic court decision in the MAP or will not deviate from a domestic court decision as a matter of administrative policy or practice? 	No	As a civil law country, tax court decision does not give precedent for subsequent cases, however based on individual judge consideration it might be influential based on the doctrine of jurisprudence.	-
25.	Are taxpayers allowed to request for multi-year resolution through the MAP of recurring issues with respect to filed tax years?	Yes	There are no limitation in the domestic MAP regulation on the scope the MAP request, therefore multiyear resolution are possible.	MAP regulations are publicly available at http://ketentuan.pajak.go.id/

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
26.	Do all your jurisdiction's tax treaties contain a provision which would oblige your jurisdiction to make corresponding adjustments or to grant access to the MAP with respect to the economic double taxation that may otherwise result from a primary transfer pricing adjustment (i.e. is paragraph 2 of Article 9 of the OECD Model Tax Convention or the UN Model Double Taxation Convention included in all of your jurisdiction's tax treaties)?	No	There are several treaties concluded that doesn't include article 9 paragraph 2.	http://ketentuan.pajak.go.id/index.php?r=treaty
27.	Is there any other information available on resolution of MAP cases?	No	-	-

s/n		Response	Detailed explanation	Where publicly available information and guidance can be found
D. Implementation of MAP Agreements				
28.	Where the agreement reached by your competent authority through the MAP process leads to additional tax to be paid by your taxpayer, is there publicly available information on the timeframe the taxpayer could expect its tax position to be amended to reflect the agreement reached by the competent authority and/or for the additional tax to be paid?	No	Our domestic MAP regulation describes the steps and procedure performed after a MAP agreement has been reached. However, there is no specific timeframe on how long will the procedure must be completed.	MAP regulations are publicly available at http://ketentuan.pajak.go.id/
29.	Where the agreement reached by your competent authority through the MAP process leads to a refund of the tax due or paid by your taxpayer, are there publicly available information on the timeframe the taxpayer could expect its tax position to be amended to reflect the agreement reached by the competent authority and/or for a refund of the tax paid?	No	Refer to answer for question number 28 above.	-
30.	Are all mutual agreements reached through MAP implemented notwithstanding any time limits in your domestic law?	See detailed explanation	Mutual agreements are generally implemented through domestic procedure by amending its respective tax assessment letter.	Please refer to Indonesia to Law on General Provisions and Tax Procedures available online at http://ketentuan.pajak.go.id/
31.	Is there any other information available on the implementation of MAP agreements?	No	-	-