

REGULATION OF THE MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA
NUMBER 39/PMK.03/2017
ON
PROCEDURES FOR EXCHANGE OF INFORMATION
UNDER INTERNATIONAL AGREEMENTS
BY THE BLESSINGS OF ALMIGHTY GOD

MINISTER OF FINANCE OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that in order to implement the provision of Article 59 of Government Regulation Number 74 of 2011 on Implementation of the Rights and Obligations Fulfilment Taxation, has set Regulation of the Minister of Finance Number 60/PMK.03/2014 on Procedures Exchange of Information as amended by Regulation of the Minister of Finance Number 125/PMK.010/2015 on Amendment to Regulation of Minister of Finance Number 60/PMK.03/2014 on Procedures for Exchange of Information;
 - b. that by taking into account the development of information exchange mechanisms and other types of data and information that are exchanged, and in order to implement the provisions of international agreements, both bilateral and multilateral conducted by the Government of the Republic of Indonesia with partner countries or partners jurisdictions, need to replace the Regulation of Minister of Finance Number

60/PMK.03/2014 on Procedures for Exchange of Information as amended by Regulation of Minister of Finance Number 125/PMK.010/2015 on Amendment to Regulation of the Minister of Finance Number 60/PMK.03/2014 on Procedures for Exchange of Information;

- c. that based on the considerations as referred to in section a and section b as well as to implement the provision of Article 59 of Government Regulation Number 74 of 2011 on Implementation of Right and Obligation Tax Compliance, it is necessary to establish Regulation of the Minister of Finance on Procedures for Exchange of Information under International Agreements.

Observing : Government Regulation Number 74 of 2011 on Procedures for Implementation of the Right and Fulfilment of Taxation Obligations (State Gazette of the Republic of Indonesia of 2011 Number 162, Supplement to the State Gazette of the Republic of Indonesia Number 5268);

HAS DECIDED:

To issue : REGULATION OF THE MINISTER OF FINANCE ON PROCEDURES FOR EXCHANGE OF INFORMATION UNDER INTERNATIONAL AGREEMENTS.

Article 1

In this Ministerial Regulation:

1. Law means Law Number 6 of 1983 on General Provisions and Procedures for Taxation as amended several times, last by Law Number 16 of 2009 on Enactment of Government Regulation in Lieu of Law Number 5 of 2008 on the Fourth Amendment to Law Number 6 of 1983 on General Provisions and Procedures for Taxation to become Law.
2. Partner Country or Partner Jurisdiction means a country or jurisdiction bound by the Government of Indonesia in the International Agreement.

3. International Agreements means bilateral or multilateral agreements, which among others stated that the Government of Indonesia has bound itself with Partner Country or Partner Jurisdiction which regulates the exchange of information on matters relating to taxation, includes:
 - a. Double Tax Avoidance Agreement (*Persetujuan Penghindaran Pajak Berganda*, P3B);
 - b. Tax Information Exchange Agreement;
 - c. Convention on Mutual Administrative Assistance in Tax Matters;
 - d. Multilateral or Bilateral Competent Authority Agreement;
 - e. Intergovernmental Agreement; or
 - f. other bilateral or multilateral agreements.
4. Information means a collection of data, numbers, letters, words, images, oral statement, and/or affidavits which can provide guidance and/or information about the income of the individual or entity that comes from work in the employment relationship, independent, business activities, capital, and/or other sources, as well as information about property/wealth including financial information held and/or stored by an individual or entity, either his or herself or any other person or entity, which may be in the form of recording (audio/visual/audio visual), documents, books, records or other forms, either in print or electronically.
5. Exchange of Information means the exchange of information relating to taxation under International Agreement or Exchange of Information (EOI) for the implementation of the International Agreement which aims to:
 - a. prevent tax evasion;
 - b. prevent tax evasion;
 - c. prevent misuse of P3B by unauthorized parties; and/or
 - d. get Information related to fulfilment of tax obligations of the taxpayers.

6. Competent Authority or Authorized Officers, hereinafter referred to in the Competent Authority means an officer in Indonesia, in Partner Country, or in Partner Jurisdiction authorized to implement Exchange of Information as stipulated in the International Agreements.
7. Financial Services Institutions (*Lembaga Jasa Keuangan*), hereinafter referred to in FSI, means an institution that carries out activities in the sectors of banking, capital market, insurance, pension fund, financing institutions, and other financial services institutions in the appropriate legislation regulating the financial services authority which meets the criteria in International Agreement.
8. Foreign Entity means:
 - a. a legal entity established or domiciled in a Partner Country or Partner Jurisdiction;
 - b. a branch office or representative office of a legal entity established or domiciled in a Partner Country or Partner Jurisdiction;
 - c. legal entities established or domiciled in Indonesia or outside Indonesia that are not the Partner Country or Jurisdiction Partners, owned by individuals or legal entities that are tax payers or jurisdictions Partners Partner Country at least a certain percentage stated in the International Agreements; or
 - d. branches or representative offices of legal entities established or domiciled in Indonesia or outside Indonesia that are not the Partner Country or Jurisdiction Partners, which are owned by individuals or legal entities that are taxpayers Partner Country or Jurisdiction Partner of at least a certain percentage listed in.
9. Foreign Account Holder means:
 - a. for conventional bank is the individual account holder or a Foreign Entity that meets certain criteria as stipulated in the International Agreement, which has an account and/or using services in the

- conventional bank or conventional bank conducting business based on sharia principles;
- b. for securities companies and custodial institution is to individuals or Foreign Entity that meets certain criteria as stipulated in the International Agreement, which has a securities account at and/or using the services of securities companies and/or direct customer of custodial institution;
 - c. for the insurance company and sharia insurance company are policy holders or participants in the form of individual or foreign company that meets certain criteria as stipulated in the International Agreement; and/or
 - d. for FSI other than those as referred to in point a, point b, and point c, it is the account holder who meet the criteria in accordance with the International Agreement.

Article 2

- (1) Exchange of Information may be reciprocal and is done in the form of exchange between the Competent Authority in Indonesia and Competent Authority in the Partner Country or Partners Jurisdiction, which include:
 - a. Exchange of Information on request;
 - b. spontaneous Exchange of Information; and/or
 - c. automatic Exchange of Information.
- (2) In the framework of the implementation of Exchange of Information as referred to in section (1), Competent Authority may conduct:
 - a. competent authority meetings;
 - b. tax examinations abroad, and/or
 - c. simultaneous tax examinations.
- (3) Information exchanged between the Competent Authority is used as taxation database of the Directorate General of Taxes.

Article 3

- (1) Exchange of Information on request as referred to in Article 2 section (1) point a is done by the Competent Authority in Indonesia convey information request to the Competent Authority in the Partner Country or Jurisdiction Partner or vice versa.
- (2) Exchange of Information on request as referred to in section (1) may be carried out on taxpayers suspected:
 - a. doing transactions and/or activities of tax evasion;
 - b. doing transactions and/or activities of tax evasion;
 - c. using the structure and/or transaction scheme in such a way that resulted in obtaining the benefits of P3B; and/or
 - d. failing to meet the tax obligation.
- (3) Exchange of Information as referred to in section (2) is carried along to the taxpayer being:
 - a. made tax compliance monitoring activities, the development and analysis of information, data, reports and complaints, inspection, billing, preliminary evidence examination, investigation of criminal offenses in the area of taxation to tax obligations; or
 - b. in the process of tax investigation includes, deduction or cancellation in inaccurate notice of tax assessments, reduction or cancellation in inaccurate notice of tax collection, objections, appeals, review, the mutual agreement procedure, and/or advance pricing agreement.
- (4) Information on request as referred to in section (1) must meet the following criteria:
 - a. all attempts have been made to seek Information in the country or jurisdiction where the Competent Authority requested the Information, and the Information is not available;
 - b. not speculative and have a clear relationship with basic Information requests;
 - c. based on reasonable suspicion and conjecture;

- d. believed to be located in the Partner Country or Jurisdiction Partner, or in Indonesia;
 - e. does not result in the disclosure of trade secrets, business, industry, commerce or expertise; and
 - f. not related to state secrets, public policy, sovereignty, security of state, or national interests.
- (5) Information Request as referred to in section (1) is submitted in writing and signed by the Competent Authority.

Article 4

- (1) Spontaneous Exchange of Information as referred to in Article 2 section (1) point b is carried out by Competent Authority in Indonesia submits the Information directly to the Competent Authority in the Partner Country or Jurisdiction Partner or vice versa, without prior request.
- (2) Spontaneous Exchange of Information as referred to in section (1) carried on:
- a. Information related to transaction between or activity between Indonesian taxpayers and taxpayers from Partner Country or Partner Jurisdiction, received, acquired, or resulting from process:
 - 1. supervision of tax compliance;
 - 2. development and analysis of information, data, reports and complaints;
 - 3. examination;
 - 4. billing;
 - 5. examination of preliminary evidence;
 - 6. investigation of criminal offenses in the field of taxation;
 - 7. reduction or cancellation in inaccurate notice of tax assessment;
 - 8. reduction or cancellation inaccurate notice of tax collection;
 - 9. objections;
 - 10. appeal;
 - 11. judicial review; or

12. the mutual agreement procedure, or transfer price agreement, or
 - b. Information relating to the domestic tax regulations and their implementation.
- (3) Spontaneous exchanged Information as referred to in section (2) point a must meet the following criteria:
- a. an indication of a significant loss of tax potential in Indonesia and/or in a Partner Country or Partner Jurisdiction;
 - b. payments to taxpayers Partner Country or Partner Jurisdiction allegedly not reported in the Partner Country or Partner Jurisdiction payments to taxpayers Indonesia allegedly not reported in Indonesia;
 - c. reduction or exemption of tax in Indonesia received by the taxpayer of Partner Country or Partner Jurisdiction that can add to the tax obligation in the Partner Country or Partner Jurisdiction or vice versa;
 - d. business conducted between the Indonesian taxpayers of Partner Country or Partner Jurisdiction taxpayers conducted through one or more countries in a way that led to the tax paid in Indonesia, in the Partner Country or Partner Jurisdiction, or in the two countries to be reduced; and/or
 - e. suspicion that a reduction in tax payments caused by the transfer which is not actually on the profits in a business group.
- (4) The submission of Information as referred to in section (1) is submitted in writing and signed by the Competent Authority.

Article 5

- (1) Automatic Exchange of Information as referred to in Article 2 section (1) point c is done at a certain time, periodically, systematically, and continually on information on matters relating to taxation of the Competent Authority in Indonesia to the Competent

Authority in the Partner Country or Partner Jurisdiction or vice versa.

- (2) Automatic Exchange of Information is carried out on:
 - a. related topics withholding tax on income paid to the subject of Indonesian tax or withholding tax on income paid to the subject tax of the Partner Country or Partner Jurisdiction;
 - b. financial Information of Foreign Account Holder;
 - c. Information per country report; and/or
 - d. other taxation Information based on a mutual agreement between Indonesia and its Partner Country or Partner Jurisdiction.
- (3) The Information as referred to in section (2) point a, point b, and point c delivered by the Competent Authority in Indonesia to the Competent Authority in the Partners Country or Partners Jurisdiction is as listed in the Annex as an integral part of this Ministerial Regulation.
- (4) Implementation of Automatic Exchange of Information as referred to in section (2) point d is done in accordance with the International Agreement.

Article 6

- (1) In order to implement the Automatic Exchange of Information to Partners Country or Partners Jurisdiction over Financial Information of Foreign Account Holder as referred to in Article 5 section (2) point b, FSI is obligated to conduct the due diligence process and submit Financial Information of foreign Account Holder reports to the Directorate General of Taxation in accordance with the provisions regulated in regulation of Financial Services Authority on the submission of Financial Information of foreign Account Holder reports related to taxation to the Partner Country or Partner Jurisdiction.
- (2) In order to execute the Automatic Exchange of Information to Partner Country or Partner Jurisdiction as referred to in section (1), FSI is obligated to submit Financial Information of foreign Account Holder reports

as referred to in Article 5 section (2) point b directly to the Directorate General of Taxes or through the Financial Services Authority.

- (3) In the event that FSI submits Financial Information of foreign Account Holder reports as referred to in Article 5 section (2) point b directly to the Directorate General of Taxes, the following provisions apply:
 - a. FSI is obligated to submit Financial Information of foreign Account Holder reports not longer than 60 (sixty) days before the deadline for reporting to the tax authority of Partner Country or Partner Jurisdiction under International Agreements; and
 - b. if deadline for submission of Financial Information of foreign Account Holder reports falls on a holiday, Reporting done on the next work day.
- (4) In the event that FSI submits Financial Information of foreign Account Holder reports as referred to in Article 5, section (2) point b to the Directorate General of Taxes through the Financial Services Authority, the following provisions apply to:
 - a. the submission of the Financial Information of foreign Account Holder reports of FSI to the Financial Services Authority is conducted in accordance with the reporting time limit regulated in Financial Services Authority on the submission of Information of foreign Account Holder related to taxation to the Partner Country or Partner Jurisdiction; and
 - b. the submission of the Financial Information of foreign Account Holder reports from the Financial Services Authority to the Directorate General of Taxes is based on an agreement between the Financial Services Authority and the Directorate General of Taxes.
- (5) Parties who violate the provisions as referred to in section (1), section (2), section (3) and section (4) are subject to sanctions in accordance with the provisions regulated in regulation of Financial Services Authority on submission

of the financial information of foreign Account Holder reports related to taxation to the Partner Country or Partner Jurisdiction.

- (6) The financial information of foreign Account Holder reporting deadline to the tax authority of Partners Jurisdiction or Partner Country in the implementation of automatic information exchange as referred to in section (2) is regulated by Regulation of Director General of Taxes.

Article 7

- (1) Competent authority meetings as referred to in Article 2 section (2) point a are held between the Competent Authority in Indonesia and the Competent Authority in the Partner Country or Partner Jurisdiction to discuss matters relating to the Exchange of Information.
- (2) The competent authority meetings as referred to in section (1) are conducted based on the proposal of Competent Authority in Indonesia or proposal of Competent Authority on the Partner Country or Partner Jurisdiction.

Article 8

- (1) Tax examinations abroad as referred to in Article 2 section (2) point b are conducted by Competent Authority in Indonesia carry out activities to gather information in the Partner Country or Partner Jurisdiction or vice versa by agreement of both parties.
- (2) Tax examinations abroad as referred to in section (1) conducted as a follow up of the Exchange of Information on request as referred to in Article 2 section (1) point a.
- (3) Tax examinations abroad as referred to in section (1) may be conducted in the event that there is a significant potential tax revenue and the fulfilment of the following conditions:
 - a. has done Information request from the Competent Authority in Indonesia to the Competent Authority in Partner Country or Partner Jurisdiction or vice versa,

but the information received less than adequate so that the necessary additional information; or

- b. Information requests are being made from the Competent Authority of Indonesia to Competent Authority in Partner Country or Partner Jurisdiction or vice versa, but the required acceleration of the acquisition of information.
- (4) Tax examinations abroad as referred to in section (1) conducted by the team as determined by the Director General of Taxes.
 - (5) Tax examinations abroad as referred to in section (1) conducted in Indonesia through the examination of other objectives by procedure as stipulated in the Regulation of Minister of Finance regarding tax inspection procedure.

Article 9

- (1) Simultaneous tax examinations as referred to in Article 2 section (2) point c is done through inspection activities carried out in Indonesia and in one or more Partner Countries or Partner Jurisdictions simultaneously and independently, based on the agreement of the Competent Authority for the purpose of obtaining and exchanging relevant Information.
- (2) Simultaneous tax examinations as referred to in section (1) meet the following criteria:
 - a. there is a link between the tax problems between Indonesian taxpayers with Partner Country or Partner Jurisdiction;
 - b. there are common interests between the Directorate General of Taxes with one or more tax authorities in the Partner Country or Partner Jurisdiction in taxation-related to issues as referred to in point a;
 - c. there is a presumption that transactions and/or activities carried out for tax evasion and/or tax evasion;
 - d. Competent Authority in Indonesia and one or more Competent Authority in the Partners Country or

Partners Jurisdiction found the Tax Information Exchange on taxation issues as referred to in point a conducted in writing is not adequate, effective, and efficient; and

- e. there is a significant potential for tax revenues.
- (3) Simultaneous tax examinations as referred to in section (1) conducted in Indonesia are conducted by the team as determined in Decision of the Director General of Taxes.

Article 10

Any Information exchanged is information which must be kept confidential in accordance with the provisions of the Law and International Agreement.

Article 11

- (1) In order to implement the Exchange of Information with Partner Country or Partner Jurisdiction as referred to in Article 3, Article 8, and Article 9, the Director General of Taxes may request that exchanged information to taxpayers or any other party.
- (2) Taxpayers or any other party as referred to in section (1) are obligated to meet the demand of information.
- (3) In order to implement the Automatic Exchange of Information as referred to in Article 5 section (2) point b, taxpayers or any other party are obligated to provide information relating to taxation to the Director General of Taxes.
- (4) Taxpayer or any other party as referred to in section (1) and section (3) include:
 - a. individual, both Indonesian citizens and foreign nationals residing or domiciled in Indonesia;
 - b. bodies established or domiciled in Indonesia;
 - c. individual as referred to in point a or entity as referred to in point b which have or keep information on individuals or foreign entity;
 - d. permanent establishment;
 - e. account holder at FSI in Indonesia;

- f. FSI, public accountants, notaries, tax consultants, administrative offices, government agencies, institutions, and associations; and
 - g. other parties located in the territory of Indonesia.
- (5) In the event that taxpayers or any other party as referred to in section (4) do not comply with the provisions as referred to in section (2) and section (3), taxpayers or the other party are subject to sanctions in accordance with the provisions of the legislation.

Article 12

Provisions of the Competent Authority to implement exchange of information issued in Decision of the Minister of Finance.

Article 13

Further provisions necessary for the implementation of the Exchange of Information, competent authority meetings, tax examinations abroad, and simultaneous tax examinations, are regulated by Regulation of the Director General of Taxes.

Article 14

The implementation of Exchange of Information by Regulation of the Minister of Finance Number 60/PMK.03/2014 on Procedures for Exchange of Information, as amended by Regulation of the Minister of Finance Number 125/PMK.010/2015 on Amendment to Regulation of the Minister of Finance Number 60/PMK.03/2014 on Procedures for Exchange of Information were not completed until before the entry into force of this Regulation, undergoing further processing in accordance this Ministerial Regulation.

Article 15

At the time this regulation comes into force:

- a. Competent Authority to implement Exchange of Information, since the issuance of this Ministerial Regulation until before the issuance of Decision of the Minister of Finance on the Competent Authority, is in

accordance with the Regulation of the Minister of Finance Number 234/PMK.01/2015 on Organization and Work Procedure of the Ministry of Finance; and

- b. Regulation of the Minister of Finance Number 60/PMK.03/2014 on Procedures for Exchange of Information (State Bulletin of the Republic of Indonesia of 2014 Number 404) as amended by Regulation of the Minister of Finance Number 125/PMK.010/2015 on Amendment to Regulation of the Minister of Finance Number 60/PMK.03/2014 on Procedures for Exchange of Information (State Bulletin of the Republic of Indonesia of 2015 Number 1016), are repealed and declared ineffective.

Article 16

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

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

Concluded in Jakarta
on 3 March 2017

MINISTER OF FINANCE
OF THE REPUBLIC OF INDONESIA

signed

SRI MULYANI INDRAWATI

Enacted in Jakarta
on 6 March 2017

DIRECTOR GENERAL OF LEGISLATION
OF THE MINISTRY OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA,

signed

WIDODO EKATJAHJANA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2016 NUMBER 376

Jakarta, 23 October 2019

Has been translated as an Official Translation
on behalf of Minister of Law and Human Rights
of the Republic of Indonesia

DIRECTOR GENERAL OF LEGISLATION,

WIDODO EKATJAHJANA

ANNEX OF
REGULATION OF THE MINISTER OF FINANCE
OF THE REPUBLIC INDONESIA
NUMBER 39/PMK.03/2017
ON
PROCEDURES FOR EXCHANGE OF INFORMATION
UNDER INTERNATIONAL AGREEMENTS

INFORMATION RELATED TO AUTOMATIC EXCHANGE OF INFORMATION

1. Information related to withholding tax on income taxes paid to the subject of the Partner Country or Partner Jurisdiction, in the form of:
 - a. taxpayers identity or other person subject to withholding tax in the form of:
 - 1) name;
 - 2) taxpayer identification number for tax purposes abroad;
 - 3) date of birth or date of establishment; and
 - 4) overseas address;
 - b. domestic taxpayers identity as a taxes collector, such as:
 - 1) name;
 - 2) Taxpayer Identification Number; and
 - 3) address;
 - c. earnings by name and in whatever form, which is paid, provided for paid, or overdue payments by government agencies, subject to tax in the country, the event organizer, the permanent establishment, or a representative of an overseas company to foreign taxpayers besides as a permanent establishment in Indonesia, including:
 - 1) dividend;
 - 2) interest including premium, discount, and remuneration in connection with debt repayment guarantee;
 - 3) royalties, rent, and other income in connection with the use of property;
 - 4) remuneration in respect of services, works and activities;
 - 5) remuneration and rewards;
 - 6) pensions and other periodic payments;
 - 7) premium swaps and other hedging activities;
 - 8) profits due to debt relief;

- 9) income from the sale or transfer of property in Indonesia except as regulated in Article 4 section (2) of the Income Tax Law;
 - 10) income from the sale or transfer of shares as referred to in Article 18 section (3c) of the Income Tax Law; and/or
 - 11) taxable income after tax of a permanent establishment in Indonesia, except where the income is reinvested in Indonesia;
- d. amount of gross income, total net income, and amount of withholding tax on income;
 - e. tax period and/or taxable year of income;
 - f. tax withholding rates;
 - g. date of withholding tax;
 - h. date of deposit of tax;
 - i. type of currency;
 - j. number of tax deductions; and/or
 - k. other information.
2. Foreign Account Holder's financial information, such as:
- a. foreign Account Holder's identity, namely to:
 1. Individual Foreign Account Holder, such as:
 - a) name;
 - b) address at home and/or abroad;
 - c) taxpayers identity number and/or other identification number for tax purposes abroad; and
 - d) place and date of birth;
 2. Entities Foreign Account Holder, such as:
 - a) name;
 - b) address at home and/or abroad;
 - c) taxpayers identity number and/or other identification number for tax purposes abroad; and
 - d) identity of the party that has control of a foreign company (controlling person) in the form of name, address domestic and/or foreign, taxpayer identification number and/or other identification number for tax purposes abroad as well as the place and date of birth;
 - b. FSI identity where foreign Account Holder is registered, such as:
 1. name; and
 2. Taxpayer Identification Number and/or other identification number;

- c. account numbers or other numbers with similar functions;
 - d. the final balance or value (including the value of a contract of insurance or annuity contracts, the cash value or surrender value) at the end of the calendar year or financial year, or a final balance or the final value just before the close, in which case the accounts are closed in a calendar year or the year of reporting;
 - e. related securities account:
 - 1. gross amount of interest, dividend and/or other income generated by the assets in the accounts that are paid or credited to the account during the calendar year or financial year; and/or
 - 2. the gross amount derived from the sale or resale (redemption) of securities paid or credited to the account during the calendar year or years in which FSI its reporting act as custodian, broker, nominee, or agent for foreign Account Holder;
 - f. related to deposit accounts in the form of the gross amount of interest paid or credited to the account during the calendar year or financial year;
 - g. to account than point e and point f is the gross amount paid or credited to the account holder associated with the accounts during the calendar year or the financial year in which FSI act as an obligor or debtor, including the aggregate amount of any redemption payments to the owner of the account during the calendar year or years reporting; and
 - h. any other information as regulated in the International Agreement.
3. Country-by -country report, in the form of:
- a. allocation of income, taxes paid, and business activity by country or jurisdiction of all members of business group both domestically or abroad; and
 - b. a list of business group members and principal business activities by country or jurisdiction.

MINISTER OF FINANCE
OF THE REPUBLIC INDONESIA,

signed

SRI MULYANI INDRAWATI