



INDONESIA TRANSFER PRICING

**Subdirectoratoe of International Taxation for
Dispute Prevention and Settlement,
Directorate of International Taxation, DGT**





AGENDA

- Transfer Pricing Rules
- TP Documentation
- Dispute Resolution

Indonesia adopts International Standard (BEPS Action Plan)

Action Plan 3

- **Strengthen CFC Rule - Mof reg. No. 93/PMK.03/2019**

Action Plan 4

- Strengthen Debt to Equity Ratio Rule (DER)
- MoF regulation No. 169/PMK.010/2015
- DGT Decree No. PER-25/PJ/2017 (DER implementing rule)

Action Plan 5

- Non Harmful Tax Practice (2016 OECD review)
- 139 countries/Jurisdictions of Exchange of Information/EOI network
- EOIR rating becomes Largely Compliant (2018 OECD review)

Action Plan 6 & 7

- DGR 25/2018
- Adopt the new Preamble, Limitation on Benefit, and Principal Purpose Test in negotiating Tax Treaty

Action Plan 8-10

- **New Transfer Pricing Rules in process**

Action Plan 13

- TP Documentation rule – MoF Reg. No. 213/PMK.03/2016
- *Country-by-Country Reporting* (CbCR) – DGT Decree 29/PJ/2017
- signed MCAA CbCR on 26 January 2017
- Signed BCAA CbCR with US on 14 June 2018
- Ready to exchange CBCR on June 2018

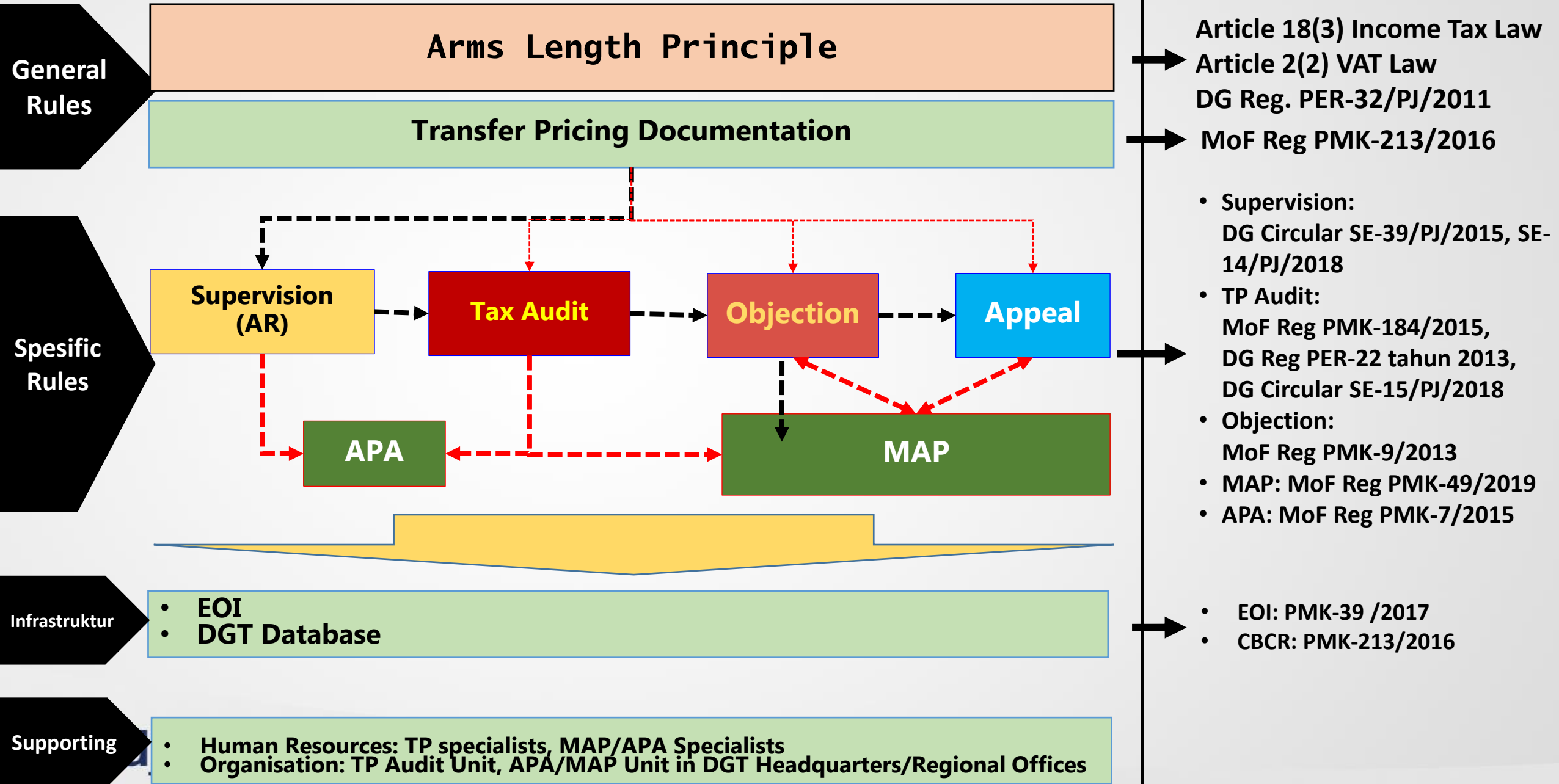
Action Plan 14

- Peer review (has met majority of minimum standard required)
- PMK-49/2019 – MAP regulation
- PMK-07 /2015 – APA regulation

Action Plan 15

- Signed Multilateral Instrument = 7 June 2017

TRANSFER PRICING IN INDONESIA



Arm's Length Principle (ALP)

Elucidation of Article 6(1a) ITL

- arm's length means in accordance with the sound business practice.

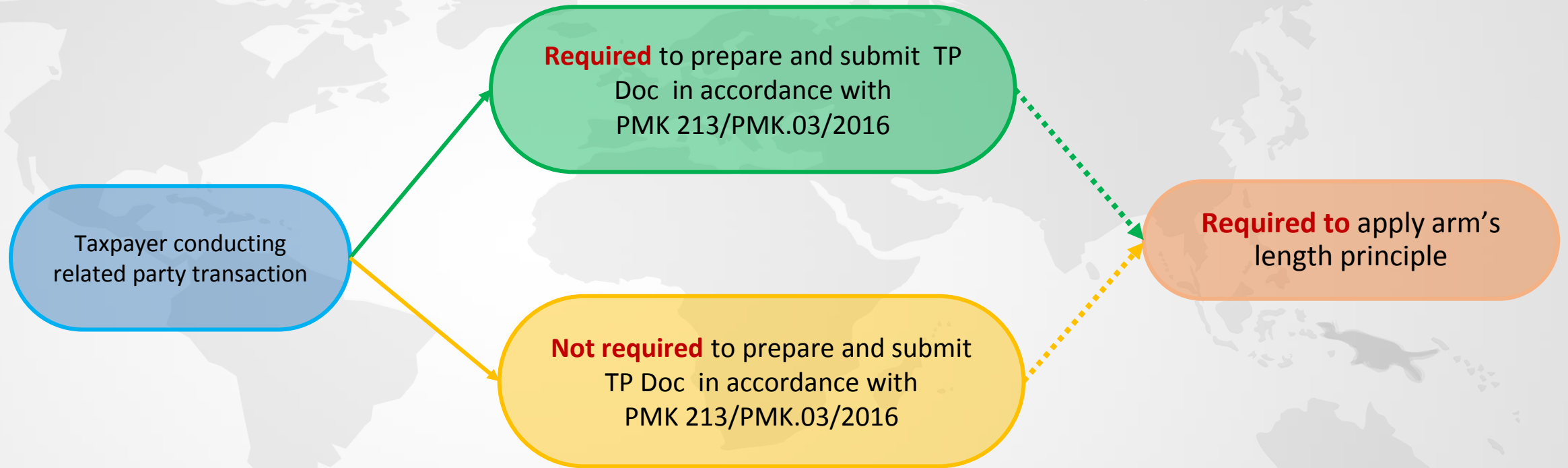
Elucidation of Article 18(1) ITL

- The term arm's length principle means the principle in carrying out healthy business activities among independent parties.

Article 1 Point 4 MoF PMK-213/2017

- Arm's Length Principle shall mean a principle which stipulates that if conditions in Related Party Transaction are same as or comparable with those of independent transaction, then the price or profits of the Related Party Transaction must be same as with or within the range of price or profits of the independent transaction being compared.

Obligation to Apply ALP



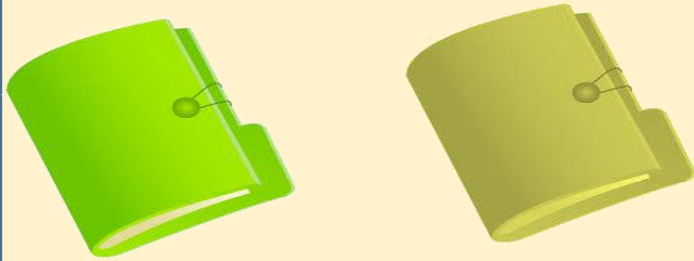
- TP Doc obligation is related to obligation to submit tax return and retain bookkeeping documentation
- Obligation to apply arm's length principles apply to all taxpayer that conducts related party transaction



Implementation of BEPS Action 13:

(PMK-213/PMK.03/2016 and PER-29/PJ/2017)

Master File & Local File



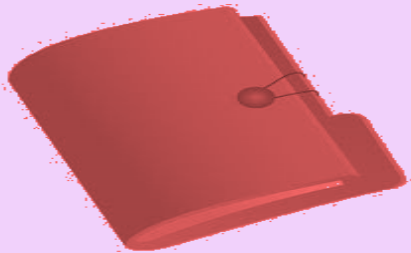
Scope

Indonesian taxpayer qualified to submit MF & LF according to criteria

Timeline

- ❑ Shall be available at the latest of 4 months after the end of fiscal year

CbCR (incl. working paper) and Notification



BEPS 13 Minimum Standard

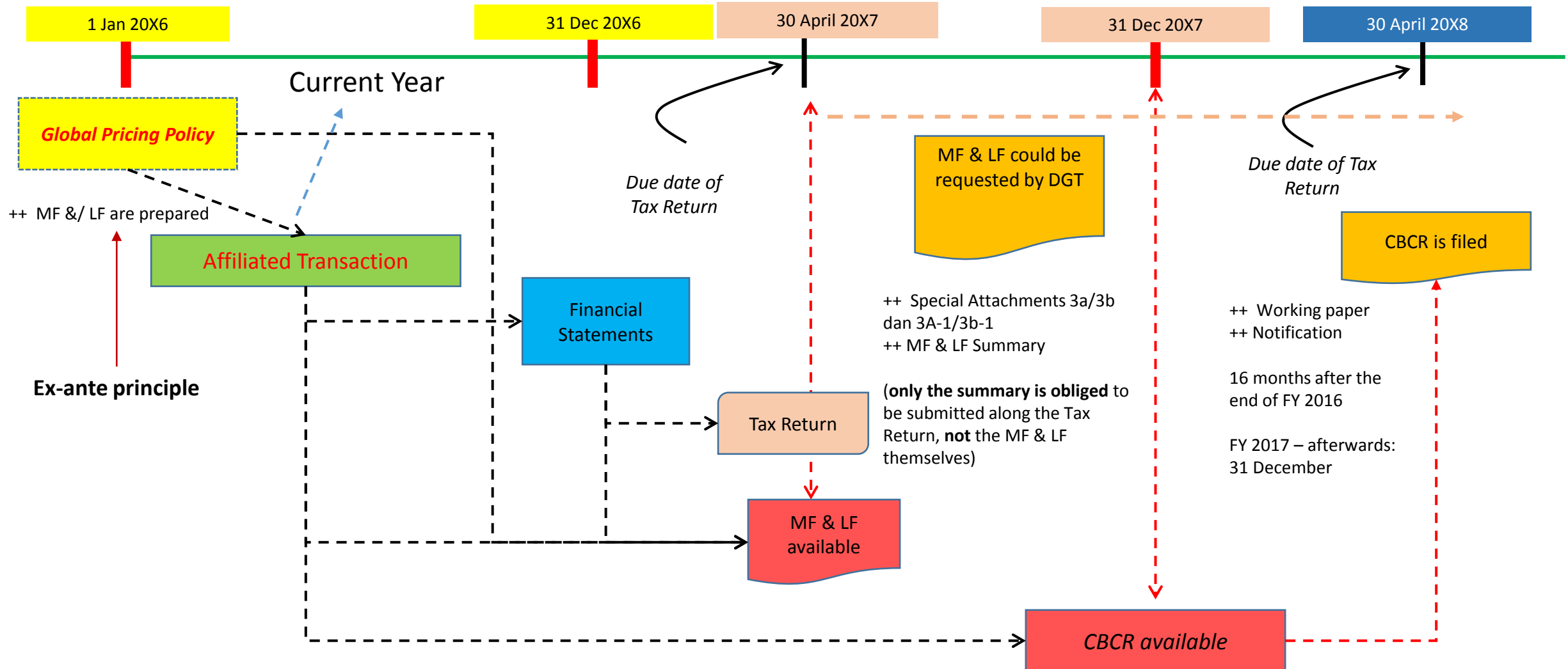
- Indonesian Ultimate Parent Entity qualified to submit CbCR according to criteria (*primary filing*);
- Indonesian Constituent Entity of a group qualified to submit CbCR according to criteria (*local filing*);
- Obligation to submit notification: Constituent Entity or taxpayer conducting affiliated transaction

- ❑ FY 2016: at the latest of 16 months after the end of fiscal year
- ❑ FY 2017 and afterwards : at the latest of 12 months after the end of fiscal year



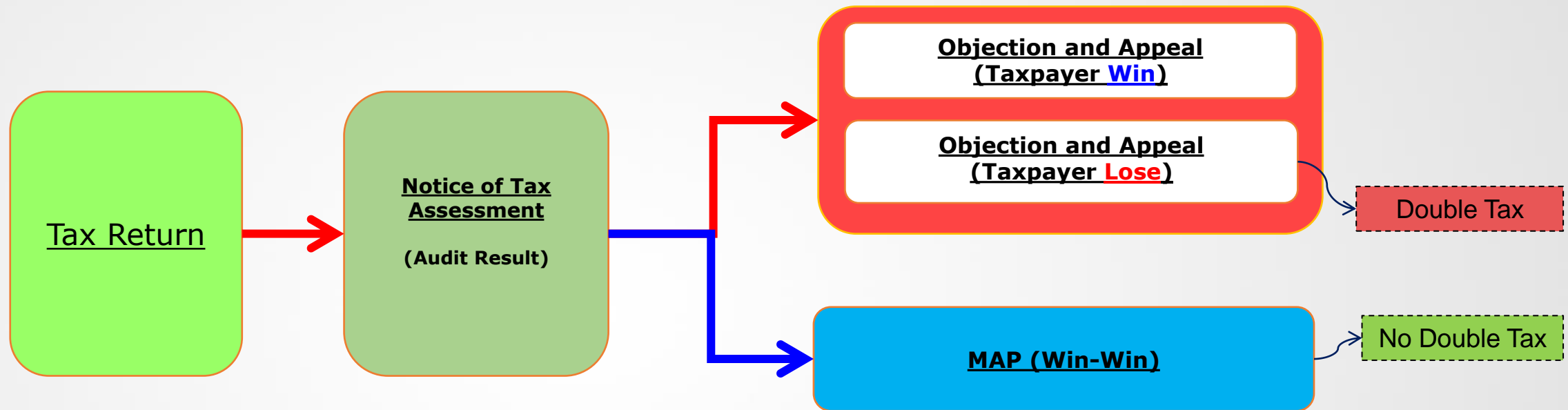
Illustrated Timeline of TP Doc

(PMK-213/PMK.03/2016 and PER-29/PJ/2017)



Mutual Agreement Procedure/ MAP

(PMK-49/PMK.03/2019)



✓ **MAP Process is Simple**

Taxpayer just needs to submit MAP request to Directorate General of Taxes (DGT) and DGT will subsequently consult with the Competent Authority of treaty partner. For this purpose, transparency and cooperation from taxpayer is necessary. Maximum time for consultation process is 2 years (in accordance with international standard).

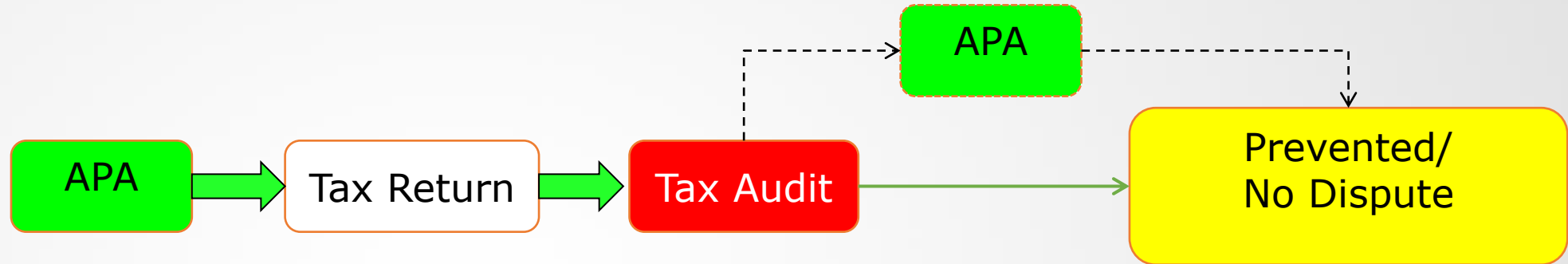
✓ **Win-Win Settlement**

Avoiding the incidence of *Double Taxation* and put forth the resolution of tax dispute in win-win manner.

✓ **Legal Certainty**

MAP results will be performed in good faith by both countries related to the MAP.

Advance Pricing Agreement/APA (PMK-7/PMK.03/2015)



- ✓ **APA Process is Simple**

Taxpayer just needs to submit APA request to Directorate General of Taxes (DGT) and DGT will subsequently consult with the Competent Authority of treaty partner. For this purpose, transparency and cooperation from taxpayer is necessary.

Maximum time for consultation process is 2 years (in accordance with international standard).

- ✓ **Win-Win Settlement**

Preventing Double Taxation as well as preventing future transfer pricing dispute.

- ✓ **Legal Certainty**

The results of Bilateral APA will be performed in good faith by both countries related to the APA and will apply for 4 years onward. Taxpayer will not be subject to transfer pricing adjustment insofar as it complies to the Bilateral APA results.

INDONESIA APA STATISTICS as 30 June 2019

Year	Beg Balance	Initiated	Finished	End Balance
up to 2015	0	14	0	14
2016	14	25	3	36
2017	36	2	3	35
2018	35	13	14	34
2019	34	7	8	33
Total	0	61	28	33

Completion rate: 46% of APA Cases

INDONESIA MAP STATISTICS as 30 June 2019

Year	Beg Balance	Initiated	Finished	End Balance
up to 2015	0	72	1	71
2016	71	19	35	55
2017	55	18	21	52
2018	52	26	19	59
2019	59	2	9	52
Total	0	137	86	52

Completion rate: 63% of MAP Cases



OECD MAP STATISTICS ASIA-PACIFIC COUNTRIES 2016-2017

Reporting Jurisdictions	Beg Balance	Initiated	Finished	End Balance	Completion Rate
Philippines	0	0	0	0	0.00%
Malaysia	0	7	0	7	0.00%
Japan	103	68	54	117	31.58%
Singapore	18	25	15	28	34.88%
Korea	144	67	80	131	37.91%
China	160	76	105	131	44.49%
Australia	32	49	37	44	45.68%
Indonesia	71	37	56	52	51.85%
Thailand	0	18	12	6	66.67%
New Zealand	8	27	25	10	71.43%

Source: internal database, <http://www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics-2017-per-jurisdiction-all.htm>,
<http://www.oecd.org/tax/dispute/mutual-agreement-procedure-statistics-2016-per-jurisdiction-all.htm>.

APA/MAP Statistics With Switzerland

- ✓ Indonesia currently has 3 bilateral APA cases and 1 MAP case with Switzerland in the inventory

No. of cases	Type	Progress
1	BAPA	New submission
2	BAPA	Last CA Meeting: March 2019. Ongoing communication and exchange of position. Possible next CA meeting in the end of 2019
1	MAP	



THANK YOU

Ministry of Finance of the Republic of Indonesia
Directorate General of Taxes

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