



ADVANCE PRICING ARRANGEMENT GUIDELINES

2012

The Guidelines, prepared by the Inland Revenue Board of Malaysia, Multinational Tax Department are to help explain procedural and administrative requirements of Section 138c of the Income Tax Act 1967 and the Income Tax (Advance Pricing Arrangement) Rules 2012.

INLAND REVENUE BOARD OF MALAYSIA
ADVANCE PRICING ARRANGEMENT GUIDELINES
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PART I

PRELIMINARY

1. Introduction

An Advance Pricing Arrangement (hereinafter referred to as APA) represents an arrangement between a taxpayer and the Director General of Inland Revenue (DGIR) or between Competent Authorities (CAs) that establishes the transfer pricing methodology/ies (TPM) to ascertain the prospective arm's length transfer prices of specified related party transactions between the taxpayer and its foreign affiliates over a specified period of time, under specified terms and conditions. There are three types of APA, namely Unilateral APA, Bilateral APA (BAPA) and Multilateral APA (MAPA). Unilateral APA is the arrangement between a taxpayer and the DGIR. BAPA and MAPA are arrangements concluded between Competent Authorities of two or more governments.

2. Purpose

The Advance Pricing Arrangement Guidelines (hereinafter referred to as the Guidelines) explains the manner in which a taxpayer may apply for an Advance Pricing Arrangement (APA) from the Director General of Inland Revenue (DGIR)/Competent Authority (CA), and the manner in which such an application will be processed and administered. For the purpose of the Guidelines, a permanent establishment (PE) will be treated as a (hypothetically) distinct and separate enterprise from its head office or other related branches.

3. Relevant provisions

Specific provisions have been introduced in the Income Tax Act 1967 (hereinafter referred to as the Act) to address the implementation of APA:

3.1 Section 138C allows a taxpayer who carries out a cross-border transaction with an associated person to apply for an APA. This section further provides for the use of prescribed forms when making the application i.e. Form APA 1 for Unilateral APA and Form APA 2 for Bilateral/Multilateral APA.

- 3.2 Section 132 of the Act is applicable for Bilateral / Multilateral APA, which involve Competent Authorities.
- 3.3 Paragraph 154(1)(eb) empowers the Minister of Finance to provide for the scope and procedure relating to the APA by way of the Income Tax (Advance Pricing Arrangement) Rules 2012 (to be referred as the APA Rules). The APA Rules, which come into effect from 1 January 2009 prescribes the scope and procedure with respect to APA.
- 3.4 Section 140A, Income Tax (Transfer Pricing) Rules 2012 and Inland Revenue Board of Malaysia (IRBM) Transfer Pricing Guidelines 2012 are to be referred in ascertaining the arm's length transfer price in respect of an APA.

4. Who can apply

In order to ensure efficient use of resources, an application for APA will only be considered for cases involving:

- (a) A taxpayer who is a company assessable and chargeable to tax under the Act. For the purpose of the Guidelines, apart from the aforementioned, taxpayer also refers to a permanent establishment;
- (b) Turnover value exceeding RM100 million; and
- (c) The value of the proposed covered transaction is
 - (i) for sales, if it exceeds 50% of turnover;
 - (ii) for purchases, if it exceeds 50% of total purchases; or
 - (iii) for other transactions, if the total value exceeds RM25 million.
- (d) All covered transactions must relate to income that is chargeable and not income which is exempted.
- (e) In cases involving financial assistance, the threshold under paragraph 3.1 (b) of the IRBM Transfer Pricing Guidelines 2012 shall apply.

5. Who can sign the agreement

5.1 Unilateral APA is signed between the taxpayer and DGIR.

5.2 BAPA/MAPA is signed between the Malaysian CA and CA(s) of another (or more) country(ies).

6. Competent authority

A Competent Authority is appointed by the Minister of Finance or his authorized representative. Presently, authorized CAs are as follows:

- (a) Head of Tax Analysis Division, Ministry Of Finance;
- (b) Director General of Inland Revenue (DGIR);
- (c) Deputy DGIR of Compliance;
- (d) Deputy DGIR of Policy; and
- (e) Director of the Department of International Taxation, IRBM.

PART II

ADVANCE PRICING ARRANGEMENT

7. Overview

As mentioned earlier in the Guidelines, an APA determines the appropriate TPM to be used in any future apportionment or allocation of income or deduction to ensure that the prices of specific cross-border transactions are at arm's length.

8. Benefits

Because APA addresses future transactions, a taxpayer stands to benefit from an APA as follows:

8.1 Provides certainty on the appropriate TPM to apply in pricing a covered transaction thus enhancing the predictability of tax treatment on international transactions;

- 8.2 Avoids and eliminates potential double taxation through bilateral or multilateral APA, ensuring that all profits are correctly allocated and taxed. A taxpayer is, thus, always encouraged to apply for a bilateral/multilateral APA;
- 8.3 Alleviates costly and time-consuming examination of transfer pricing issues in the event of an audit, and lessens the possibility of protracted and expensive litigation;
- 8.4 Places the taxpayer in a better position to predict costs and expenses, including tax liabilities; and
- 8.5 Reduces record keeping burden as the taxpayer will know in advance the required documentation to be kept to substantiate the agreed TPM.

9. Scope of agreement

The scope of an APA covers the following:

- (a) taxpayer and the foreign related parties;
- (b) cross-border transactions to be covered;
- (c) agreed TPM to be employed including arm's length outcomes from applying the said TPM;
- (d) duration of the APA;
- (e) critical assumptions; and
- (f) other agreed terms and conditions.

PART III

APPLICATION FOR AN ADVANCE PRICING ARRANGEMENT

10. The APA process

The whole process of applying for a Unilateral APA generally takes between six to twelve months to be concluded, whereas an application for BAPA or MAPA may take up between one to two years. A taxpayer who enters into an APA is subject to the following procedure:

- (a) Pre-filing meeting,
- (b) Submission of application using a prescribed form,
- (c) Processing of the APA
- (d) Signing of the APA,
- (e) Submission of APA annual compliance report.

A flowchart of the Unilateral APA process is depicted in Appendix A and for Bilateral/Multilateral APA in Appendix B.

11. Pre-filing meeting

11.1 Prior to an APA application, a taxpayer is required to make a written request to the Multinational Tax Department (MTD) of IRBM for a pre-filing meeting. This request must be made at least 12 months prior to the first day of the proposed covered period. However, taxpayers are highly encouraged to have a preliminary discussion with IRBM to prepare for the pre-filing meeting.

11.2 The purpose of a pre-filing meeting is to determine the suitability of an application for APA. Therefore, it may be carried out over several sessions in order for the IRBM to obtain sufficient information for deciding on whether the taxpayer can proceed with an APA application. Issues that are discussed include:

- (a) whether the APA will be unilateral or bilateral/multilateral;
- (b) nature and scope of the transactions to be covered;
- (c) the proposed TPM and the relevant critical assumptions;

- (d) a description of the proposed comparables and the expected range of results;
- (e) the period covered by the APA;
- (f) the documentary requirements;
- (g) the extent of information required;
- (h) the possible need for an independent expert;
- (i) the possible roll back;
- (j) the possible costs involved;
- (k) the taxpayer's obligations as a result of the APA; and
- (l) other relevant issues.

11.3 The written request for a pre-filing meeting must include the taxpayer's contemporaneous TP Documentation containing the following:

- (a) names, addresses and tax file references of taxpayer or all parties to the proposed APA (both in Malaysia and overseas);
- (b) proposed covered transaction;
- (c) period covered by the APA;
- (d) details of the taxpayer including ownership structure, organization chart and operational aspects of business;
- (e) general information concerning the taxpayer such as the nature of its business, its industry environment and worldwide organizational structure;
- (f) functional analysis of each entity, details and analysis of the proposed TPM together with its rationale;
- (g) information and analysis needed to produce the arm's length results for the related party transactions;
- (h) a description of the critical assumptions under which the proposed TPM and analysis will operate and the events that should be taken into account when considering the said assumption; and
- (i) any other necessary information including proof of similar application or notification by foreign entity for application of BAPA/MAPA.

11.4 The taxpayer shall be informed of the outcome of the pre-filing meetings within 14 days from the last pre-filing meeting for Unilateral APA, and 30 days for BAPA/MAPA. If it is decided that the case has merits for APA, the taxpayer may submit a formal application for APA as described under paragraph 15.

12. Critical assumption

The critical assumption as mentioned in 11.3 (h) is important especially in developing the proposed TPM. This is the assumption on the operational and economic conditions that will significantly affect the transactions under consideration. Critical assumption may relate to changes in governmental laws and regulations, business activities and market conditions that will have a material effect on the agreed transactions.

13. Covered period

The APA Rules provide that the covered period is a minimum of three years and a maximum of five years. The APA may be renewed to a further period as agreed upon by parties to the APA, subject to the requirement of the covered period as stated in the APA Rules.

14. Opinion by an independent expert

Where a pre-filing meeting has determined that the opinion by an independent expert may be necessary for the application of APA, the taxpayer may engage the expert at his own cost and expense. However, the opinion of this independent expert shall not be binding on the taxpayer, the DGIR or the Competent Authority. The independent expert will be subject to the secrecy provisions of the Act.

15. Submission of application

15.1 An application for APA must be submitted using Form APA 1 for Unilateral APA or Form APA 2 for Bilateral/Multilateral APA, within two months after receipt of notification from IRBM pursuant to the pre-filing meeting.

- 15.2 The prescribed form can be downloaded from the IRBM website <http://www.hasil.gov.my> or obtained from the Advance Pricing Arrangement Division, Multinational Tax Department, IRBM.
- 15.3 A completed prescribed form must be signed by the applicant of the APA as specified by the Act.
- 15.4 All applications should be addressed to:

**Multinational Tax Department
Inland Revenue Board of Malaysia Headquarters
Advance Pricing Arrangement Division
Level 16, Menara Hasil
Persiaran Rimba Permai
Cyber 8, 63000 Cyberjaya,
Selangor.**

- 15.5 All documents for APA application submitted must be in English/Bahasa Malaysia. Where documents are in a language other than English/Bahasa Malaysia, a translated version in the English/Bahasa Malaysia language must be accompanied with the primary documents.

PART IV PROCESSING AN APA APPLICATION

- 16.** In processing an APA application, the DGIR may propose alternative methodologies, restrict or expand the scope of the proposed APA or decline the application.

17. Reviewing, analyzing and evaluating an application

- 17.1 In general, the process of reviewing an APA application involves analyzing and evaluating the application by conducting:
- (a) site visits, in order to gain a better understanding of the business and the related industry, to clarify issues and to gather more information; and

- (b) meetings with all parties involved to understand the facts and circumstances underlying the APA application as well as to agree on the choice of TPM.

17.2 Upon completion of the reviewing process, the taxpayer will be informed on the status of the application.

18. Completion of processing an application

18.1 The duration taken to formalize a position is dependent upon the cooperation of applicants, the complexity of the case and the completeness and quality of the information provided.

18.2 An APA can only be concluded once the terms and conditions have been confirmed and agreed upon by all parties involved.

19. Declining an application

19.1 In the course of reviewing an application, the DGIR may decline the application if it is found to be inappropriate under any of the following circumstances:

- (a) Failure to comply with the requirements under the Income Tax (Transfer Pricing) Rules 2012 and the IRBM Transfer Pricing Guidelines 2012 i.e. does not adhere to the arm's length principle in carrying out cross-border transactions;
- (b) The covered transaction is based on a hypothetical situation or not seriously contemplated, such as applying for an APA on a non-existent transaction;
- (c) Where it appears to be an inefficient use of resources to pursue an APA due to the limited nature and value of the proposed transaction, or the arm's length principle on the proposed transaction can reliably be applied without material doubt;

- (d) Where the matter on which the APA is sought is subject to an appeal under section 99 of the Act; or
- (e) Where the proposed covered transaction involves a tax avoidance scheme.

19.2 Should an application be declined, the taxpayer will be informed in writing of the reasons for the decline. The taxpayer is then allowed the opportunity to respond and make further representations within 30 days on which the subsequent decision of the DGIR is considered final.

20. Withdrawal of application

20.1 The taxpayer may withdraw the application at any time. However withdrawal from the process, especially at a late stage without good cause, is discouraged because of the inevitable waste of resources caused by such action.

20.2 Withdrawal of the application must be made in writing to the MTD.

PART V

APPLICATION FOR BILATERAL/MULTILATERAL ADVANCE PRICING ARRANGEMENT

21. Proposal for BAPA/MAPA

21.1 The IRBM encourages applications for BAPA whenever this is possible for cross-border transfer pricing issues. Such bilateral arrangement offer assurance that the method for dealing with the transfer pricing issues covered in the APA will be accepted by the tax administrations of both countries, thus avoiding potential double taxation.

21.2 For an application of BAPA, the provisions as stated in paragraphs 10 to 20 also apply. Where the DGIR / Malaysian CA agrees to pursue a BAPA/MAPA with the CA(s) of one or more treaty partners, the taxpayer will be notified.

22. Negotiations with DTA partner(s)

- 22.1 The Malaysian CA is responsible for liaising and negotiating directly with the CA(s) of the treaty partner(s) to discuss or clarify specific issues in respect of the APA under the Mutual Agreement Procedure (MAP) Article of the relevant Double Tax Agreement (DTA). Face-to-face meetings between the CAs may be necessary to resolve significant issues or to conclude the BAPA within the targeted timeframe.
- 22.2 For more information and enquiries about the MAP process for BAPA, please contact:

The Director
Department of International Taxation
Inland Revenue Board of Malaysia Headquarters
Menara Hasil, Level 12
Persiaran Rimba Permai
Cyber 8, 63000 Cyberjaya
Selangor, Malaysia

Contact number - 03-83138888
 Fax Number - 03-83137848/03-83137849
 E-mail Address - lhdn_int@hasil.gov.my

PART VI

LEGAL EFFECT OF ADVANCE PRICING ARRANGEMENT

23. Binding parties to the APA

An APA is binding on all parties related to the APA, subject to any qualification stated in the APA.

24. Term and conditions of the APA

The application of the agreed TPM to the subject matter of the APA will not be contested for the period covered by the APA so long as the taxpayer complies with the terms and conditions of the arrangement.

PART VII**ADMINISTERING ADVANCE PRICING ARRANGEMENT****25. Rollback**

A rollback application on years prior to the covered period will only be considered if it is demonstrated that the Transfer Pricing Methodology applied is appropriate, provided that the facts and circumstances surrounding those years are substantially the same as that of the covered period. Adjustments for rollback, where applicable, must be submitted for all years concerned upon conclusion of the APA.

26. Filing of APA Annual Compliance Report

26.1 For each year of assessment covered by the APA the taxpayer is required to file, in addition to its annual tax return, an APA Annual Compliance Report. This report must be submitted to the APA Division, MTD within 7 months from the close of accounting period which constitutes the basis year for a year of assessment for the company. This report will be reviewed to ensure that the terms and conditions of the APA are complied with.

26.2 The Annual Compliance Report should include:

- (a) a set of relevant audited financial statements for that year of assessment, of:
 - (i) the taxpayer, and
 - (ii) the foreign entity (for the case of BAPA/MAPA);
- (b) a detailed report and analysis by the taxpayer and, in the case of BAPA/MAPA, the foreign entity in their financial statements for that

year of assessment in respect of the covered transactions to account for any differences between the amount required to be reported by the respective parties;

- (c) a description of any material changes in financial or tax accounting methods or principles employed for that year of assessment in respect of the covered transactions that differ from the methods or principles stated in the APA. If in the taxpayer's opinion, there were no such material changes, an affirmative statement to that effect has to be furnished;
- (d) a description of any failure and the reasons for such failure to meet a critical assumption. If there has been no such failure, a statement to that effect, as well as a statement on the continuing relevance of the critical assumptions has to be furnished;
- (e) all relevant information and computations necessary to describe and support the application of the TPM for the covered transactions and the results which comply with the TPM for that year of assessment;
- (f) an analysis of any compensating adjustments or subsequent compensating adjustments required under the APA with the relevant tax computations; and
- (g) other items as may be appropriate to the particular circumstances of the taxpayer and the foreign entity (for the case of BAPA/MAPA).

26.3 Failure to comply with this annual compliance reporting requirement may lead to cancellation of the APA and the taxpayer is thus open to audit.

27. Annual Compliance Review

The APA compliance review by IRBM is to establish whether:

- (a) the terms and conditions stated in the APA have been properly complied with by the taxpayer ;

- (b) material representations in the APA, the related submissions, and the periodic APA reports remain valid and accurately describe the taxpayer's business operation;
- (c) the taxpayer has applied the agreed TPM consistently in accordance with the term and conditions of the APA;
- (d) supporting data and calculations used in applying the agreed TPM were correct in all material respects; and
- (e) critical assumptions underlying the APA remain valid and relevant.

28. Adjustments

- 28.1 The terms of agreements in relation to adjustments are determined on a case by case basis.
- 28.2 A taxpayer shall make a compensating adjustment in their annual tax return if the result of the covered transaction is not in agreement with the APA.

Example 1

M Sdn Bhd, financial year ending 31 December, applied for a Unilateral APA on 15 October 2009 for the covered period beginning 1 January 2011 through 31 December 2013. M Sdn Bhd and IRBM reached an agreement for the APA with the agreed interquartile range for net margin at 7%-9%. The agreement states that if the net margin should fall below the lower quartile value, adjustment must be made to the median.

IRBM also agreed to M Sdn Bhd's request for a rollback of three years for the years of assessment 2007–2009, after having determined that the facts and circumstances are similar. It has also been agreed that adjustments shall be made to the median where the net margin for the prior years fall below the agreed range of 7%-9%. Rollback adjustments for the years of assessment 2007-2009 were done upon agreeing to conclude the said APA.

Subsequently, in the first covered period, M Sdn Bhd obtains a net margin of 6.85% which is lower than the lower quartile. M Sdn Bhd must make a compensating adjustment to reflect a net margin of 8% which is the agreed median figure.

28.3 In the case where a taxpayer fails to make the compensating adjustment, IRBM shall make the appropriate adjustment and a penalty under section 113(2) will be imposed on any upward compensating adjustment made.

29. Revision of APA

29.1 If an APA requires revision, the taxpayer should notify in writing to the DGIR within 30 days of becoming aware of the need for revision. The notice should set out the reasons for the proposed revision and include supporting documentation.

29.2 An APA may be revised due to:

- (a) Failure to meet critical assumptions due to external circumstances, for example:
 - (i) taxpayer's business activity has been changed from being a full-fledged distributor to a limited risk distributor ; or
 - (ii) drastic changes in the economic environment.
- (b) A change in the law or the arrangement under section 132 that affects the APA;
- (c) The APA of the participating foreign tax administration is not consistent or has been revised, cancelled or revoked.

29.3 The taxpayer and the DGIR need to agree on a revised Unilateral APA. Upon agreement by the taxpayer and the DGIR on the said revised APA, the taxpayer will be notified in writing of the effective date of that new agreement.

29.4 In the case of BAPA or MAPA, where the taxpayer and CA agree to revise the APA, the other relevant CA(s) will be notified of the revised APA for their consideration. The revised BAPA/MAPA is applicable only upon agreement of the CA(s).

30. Cancellation and revocation of APA

30.1 Cancellation of an APA by DGIR or CA

30.1.1 Cancellation of an APA may result from the following circumstances:

- (a) failure to comply with the terms and conditions of the APA by the taxpayer or any other person involved in the covered transaction;
- (b) error or mistake in the APA application, annual compliance reports or renewal submissions of the covered transactions by the parties to the APA;
- (c) failure to provide information, documentation and compliance report as required by the APA Rules;
- (d) failure to conclude a revised Unilateral APA, BAPA or MAPA; or
- (e) application by the taxpayer on reasonable grounds.

30.1.2 The relevant parties will be informed of the cancellation in writing specifying the following:

- (a) grounds for the cancellation; and
- (b) the effective date of the cancellation (which is from the beginning of the basis period for a year of assessment which relates to the circumstances as referred to under paragraph 30.1.1).

30.2 Revocation of APA

30.2.1 The DGIR or the CA may revoke an APA if it is established that the taxpayer makes any misrepresentation, fraud, omission or a

statement that is false or misleading in the APA application, reports, or renewal submissions.

30.2.2 The relevant parties will be informed of the revocation in writing specifying the following:

- (a) grounds for the revocation; and
- (b) the effective date of the revocation which is from the first day of the covered period.

31. Renewal of APA

31.1 A request for renewal of an APA should be as follows:

- (a) made not later than 6 months before the expiration of the existing APA; and
- (b) submission of the updated information and supporting documents as stated in paragraph 11.3.

31.2 The APA can be renewed under the terms and conditions similar to the previous APA if:

- (a) there has been no material changes in the facts and circumstances underlying the APA;
- (b) critical assumptions remain valid and relevant; and
- (c) the taxpayer has complied with the terms and conditions of the previous APA.

31.3 The DGIR or the CA shall inform the taxpayer in writing of his decision in respect of the request and the grounds thereof.

32. Fresh application

A taxpayer may apply for a new APA, subject to procedures as described in paragraphs 10-20, in the event that the taxpayer does not qualify for renewal of the expiring APA due to the following conditions:

- (a) the covered transaction has changed;
- (b) there are material and anticipated changes in the fact and circumstances of the covered transaction; or
- (c) a different transfer pricing methodology is proposed.

PART VIII

USE, DISCLOSURE AND PROTECTION OF INFORMATION OF THE ADVANCE PRICING ARRANGEMENTS

33. Confidentiality and disclosure of information

- (i) All information obtained by the Director General of Inland Revenue or the Competent Authority in respect of the APA process is subject to the confidentiality provisions of the Act and the article on Exchange of Information of the arrangement made under section 132 of the Act.
- (ii) A tax compliance audit or an investigation may still be conducted on the taxpayer for transactions that are not covered under the APA. In the event that the APA is cancelled or revoked, a full audit may be conducted.

PART IX

OTHER ISSUES

34. Power to request further information

The Director General or the Competent Authority may at any time request, in writing, from the taxpayer to furnish further information and documents which are relevant to the application submitted within the stipulated time. IRBM may discontinue an APA process where taxpayers demonstrate consistent lack of cooperation in providing complete and reliable information that are requested.

35. Record keeping requirements

The taxpayer must retain all books and records relied upon in concluding the APA and all supporting documents in the preparing of the Annual Compliance Report.

36. Disbursements

The taxpayer shall bear any overseas travelling and accommodation expenses incurred by the Malaysian government in relation to BAPA/MAPA.

37. Penalties

- 37.1 As long as an APA remains in effect and the taxpayer complies with the terms and conditions of the APA, no penalty under the Income Tax Act, 1967 will be imposed with respect to the covered transactions in the covered period.
- 37.2 However, where as a result of the application for an APA there is a need to revise rollback years of assessment; such adjustments may be subject to penalty provisions under the Act.

38. Further information

For more information, please direct your enquiries to:

Multinational Tax Department
Inland Revenue Board of Malaysia Headquarters
Advance Pricing Arrangement Division
Level 16, Menara Hasil
Persiaran Rimba Permai
Cyber 8, 63000 Cyberjaya
Selangor

Contact Number	-	03-83138888
Fax Number	-	03- 83137819
E-mail address	-	lhdn_jcm@hasil.gov.my

GLOSSARY

Advance Pricing Arrangement (APA)

An arrangement made to determine in advance the appropriate set of criteria to ascertain the arm's length transfer prices of a cross-border transaction.

Bilateral Advance Pricing Arrangement (BAPA)

An APA entered into by two Competent Authorities pursuant to the article on Mutual Agreement Procedure provided for in the arrangement made under section 132 of the Act.

Covered period

The basis period of the taxpayer for all prospective years of assessment covered under an APA.

Covered transaction

The cross border transaction covered in an APA.

Critical assumption

Any assumed objective criterion that would significantly affect the terms of an APA if the underlying conditions changed, whether or not the change is within the person's control which may include any fact or condition about the taxpayer, a third party, or an industry, such as new business strategy or mode of conducting operations, or the cessation or transfer of a business segment or entity, or circumstances that would materially affect the suitability of the transfer pricing methodology or its application.

Independent Expert

Any person with specialised skills, or knowledge, relevant to an APA.

Multilateral Advance Pricing Arrangement (MAPA)

An APA entered into by more than two Competent Authorities pursuant to the article on Mutual Agreement Procedure provided for in the arrangement made under section 132 of the Act.

Person

A company, a body of person, a corporation sole.

Permanent establishment

Subject to the meaning assigned to it in the arrangement made under section 132 of the Act, a fixed place of business of a particular person through which the business of the person is wholly or partly carried on or a fixed place of business of another person, through which the particular person makes supplies, in which case the permanent establishment shall be treated as a distinct and separate enterprise from its head office and related branches.

Price

May also refer to interest rates in a financial assistance.

Rollback

The application of the terms and conditions of an APA to prior years of assessment.

Tax Treaty

An agreement signed by the Government of Malaysia and Treaty Partner Country for the avoidance of double taxation and the prevention of fiscal evasion.

Transaction

Shall be construed as a transaction between -

- a. taxpayers one of whom has control over the other;
- b. individuals who are relatives of each other; or
- c. taxpayers both of whom are controlled by some other person;

Transfer Pricing Methodology (TPM)

Methodologies as provided in the Income Tax (Transfer Pricing) Rules 2012.

Treaty Partner Country

A country with which Malaysia has signed a tax treaty.

Unilateral Advance Pricing Arrangement

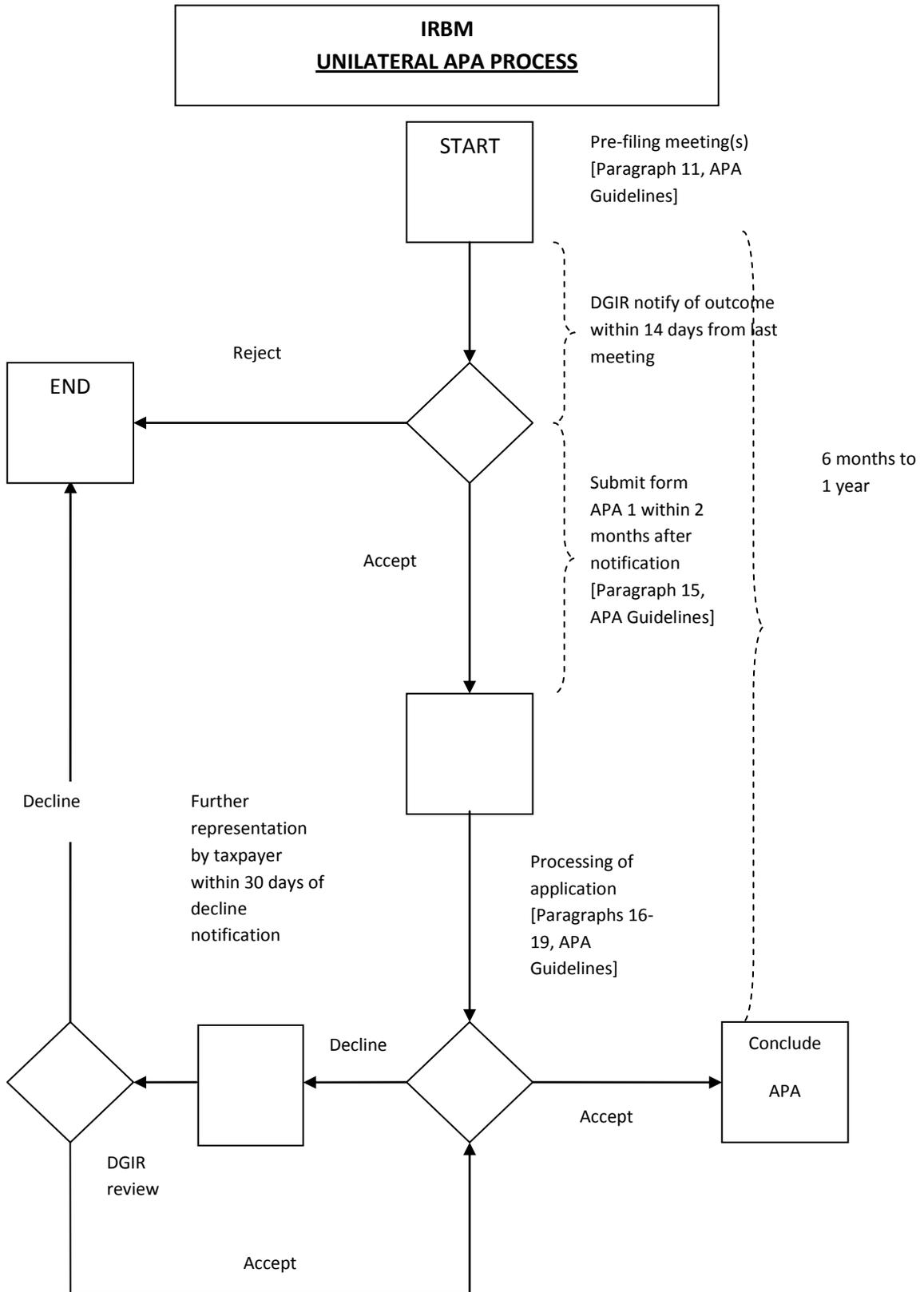
An agreement between the Director General and the taxpayer under section 138C of the Act.

LEMBAGA HASIL DALAM NEGERI MALAYSIA

20 Julai 2012

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APPENDIX A



APPENDIX B

