



Implementation Instruction on Review of Certificate of Domicile (COD) of Non-Resident Taxpayer in Tax Audit, Tax Objection, and Reduction or Cancellation of Tax Assessment Letter

On 31 May 2021, the Directorate General of Tax issued Circular Letter No. SE-35/PJ/2021 regarding Implementation Instruction on Review of COD of Non-Resident Taxpayer in Tax Audit, Tax Objection, and Reduction or Cancellation of Tax Assessment Letter. The regulation was issued to address the lack of clear procedural guideline in the review of COD during a Tax Dispute process and to provide legal certainty to the disputing parties.

A. Formal Requirement of COD

- Formal Requirement of COD are as follows:
 1. using COD format;
 2. filled in correctly, completely and clearly;
 3. signed or equivalent marking by Non-Resident Taxpayer in accordance with common practices in the tax treaty counterparty country or jurisdiction;
 4. certified by being signed or given equivalent marking by the Competent Authority in accordance with common practices in the tax treaty counterparty country or jurisdiction. The certification can be done in the form of electronic signature as long that is the common practice in the tax treaty counterparty country or jurisdiction;
 5. used for period specified in the COD of Non-Resident Taxpayer;
 6. contains statement of Non-Resident Taxpayer that there is no abuse of tax treaty; and
 7. contains statement that the Non-Resident Taxpayer is the beneficial owner as required in the tax treaty

- In the case of COD of Non-Resident Taxpayer was received by tax auditor during tax audit process or by tax objection reviewer in the tax objection process or in the process of reduction or cancellation of tax assessment letter, the documents can still be taken into consideration to implement provisions as stipulated in the tax treaty upon fulfilling the formal requirements as listed above.

- In the case of COD of Non-Resident Taxpayer did not specify the validity period, the Non-Resident Taxpayer through the tax withholder can complete the COD of Non-Resident Taxpayer that has been submitted with additional explanation from Competent Authority of tax treaty counterparty country or counterparty jurisdiction regarding the validity period of the COD. In case there is no additional explanation, the COD of Non-Resident Taxpayer is considered not meeting the formal requirement.



B. Material Requirement of COD

- Formal Requirement of COD are as follows:
 1. there is no abuse of tax treaty; and
 2. fulfill the requirement of beneficial owner as required in tax treaty
- Review of material requirement of COD is done after the formal requirement was fulfilled.



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