

CHAPTER FOUR

FINDING AND ANALYSIS

A. Legislation Pertaining to Tax Consultant in Indonesia

1. Prevailing legislation of Tax Consultant in Indonesia

a. Article 23A of The 1945 Constitution

“ other taxes and levies that are forced for state purposes are regulated by law “

b. Law Number 16 year 2009 about Decision of Government Lieu of

Law Number 5 year 2008 about The Fourth Amendment of Law Number 6 year 1983 about General Requirements and Tax Procedure

To strengthen the taxation principles, the government publish the Government Lieu of Law Number 5 year 2008, in order to implement the Article 37A (1) of Law Number 26 year 2007 about General Requirements and Tax Procedure. Many taxpayers exploit the facilitation of reduction and deletion the administrative sanction.

“...the Annual Tax Return before the year of 2007, may increase the amount of payable tax and shall be paid maximum a year after this regulation is published, reduction and deletion of administrative sanction may be possible upon the late repayment....”

This regulation is indirectly related to the tax consultancy, but it could affect the ethic of tax practice while providing a service to the client, and to obey the prevailing regulation.

c. Law Number 74 year 2011 about Implementation Procedures of Tax Compliance Rights and Duties

d. Minister of Finance Regulation No.22/PMK.03/2008 about Requirements and Implementations of Rights and Duties of Power of Attorney

Article 2(1)

“In order to carry out the tax rights and duties based on the prevail regulation, the taxpayer is allowed to appoint an attorney-in-fact”

Article 2(3)

“An attorney-in-fact as mentioned article 2(1) include the tax consultant”

Article 9

“An attorney-in-fact shall provide an assistance, elucidation, or any services related to the implementation of rights and duties of taxation obligation, based on the prevail regulation”

e. Minister of Finance Regulation No.111/PMK.03/2014 about Tax Consultant

The regulation is issued by the Minister of Finance (Muhamad Chatib Basri) on June 9, 2014. The validity of the newest regulation is six (6) months after the declaration, and the previous regulation²³ will be revoked and declared as invalid.

Under the regulation, it reveals 10 chapters, which contain:²⁴

1) General Requirements

The general requirement is to describe the term and understanding which are related with the discussion, such as the definition of Tax Consultant, Practice License, Tax Consultant Certification, Organizer or Tax Consultant Certification, etc.

2) Tax Consultant Requirements²⁵

1. Indonesia citizenship
2. Residing in Indonesia
3. Untied upon the government jobs/positions or State-Owned Enterprise/Regional-Owned Enterprise
4. Police Clearance Reporte (SKCK)

²³Minister of Finance Number 485/KMK.03/2003 about Indonesia Tax Consultant, and Minister of Finance Number 98/PMK.03/2005 about Amendment of Minister of Finance Regulation Number 485/KMK.03/2003 about Indonesia Tax Consultant

²⁴Minister of Finance Number 111/PMK.03/2014 about Tax Consultant

²⁵See Article 2 point (1) of Minister of Finance Regulation Number 111/PMK.03/2014 about Tax Consultant

5. Having a Tax ID Number (Nomor Pokok Wajib Pajak or NPWP)
6. Being a member of registered Tax Consultant Association under Direktorat Generale of Taxes
7. Having a Tax Consultant Practice License

The requirements above are for individuals who were dedicated Directorate General of Taxes official and resign before the retirement limitation, and also shall follow some requirements such as:²⁶

1. Respectfully dismissed as Civil Servants at own request
2. Has passed a period of 2 (two) years from the date the letter of decision to terminate with respect as Civil Servant

Retirement of Directorate General of Taxes Officer need additional requirements such as:²⁷

1. Has devoted at least 20 years (twenty) years at the Directorate General of Taxes
2. Never been sentenced to severe discipline penalty based on legislation while working in Directorate General of Taxes

²⁶See Article 2 point (2) of Minister of Finance Regulation Number 111/PMK.03/2014 about Tax Consultant

²⁷See Article 2 point (3) of Minister of Finance Regulation Number 111/PMK.03/2014 about Tax Consultant

3. End his tenure in the Directorate General of Taxes office by obtaining rights retired as a Civil Servant
4. Has passed a period of 2 (two) years from the date of the retirement decision letter

3) Tax Consultant's Practice License

A Tax Consultant shall deliver a written application to the Directorate General of Taxes to get the Practice License. The form of application is such follow²⁸:

²⁸See Article 3 point (3) of Minister of Finance Decision Number 111/PMK.03/2014 about Tax Consultant for the required data of application which shall be followed by the Tax Consultant

LAMPIRAN I
PERATURAN MENTERI KEUANGAN REPUBLIK INDONESIA
NOMOR : 111/PMK.03/2014
TENTANG : KONSULTAN PAJAK

FORMAT SURAT PERMOHONAN IZIN PRAKTIK KONSULTAN PAJAK :

Nomor : (1).....
Perihal : Permohonan Izin Praktik Konsultan Pajak

Yth. Direktur Jenderal Pajak
di Jakarta

Yang bertandatangan di bawah ini:

1. Nama : (2)
2. Tempat dan tanggal lahir : (3)
3. Kewarganegaraan : (4)
4. Nomor Kartu Tanda Penduduk : (5)
5. Nomor Pokok Wajib Pajak : (6)
6. Alamat rumah : (7)
7. Nomor telepon : (8)

Dengan ini mengajukan permohonan Izin Praktik untuk dapat melakukan pekerjaan sebagai Konsultan Pajak.

Untuk melengkapi permohonan di atas, bersama ini saya lampirkan:

1. daftar riwayat hidup pengalaman kerja dan riwayat pendidikan;
2. fotokopi Sertifikat Konsultan Pajak yang telah dilegalisasi oleh Panitia Penyelenggara Sertifikasi Konsultan Pajak;
3. Surat Keterangan Catatan Kepolisian (SKCK);
4. pas foto terakhir berwarna dan berlatar belakang putih ukuran 2x3 cm sebanyak 3 (tiga) lembar;
5. fotokopi Kartu Tanda Penduduk (KTP) ;
6. fotokopi kartu Nomor Pokok Wajib Pajak (NPWP);
7. surat pernyataan tidak terkait dengan pekerjaan atau jabatan pada Pemerintah/Negara dan/atau Badan Usaha Milik Negara/Daerah;
8. fotokopi surat keputusan keanggotaan Asosiasi Konsultan Pajak yang telah dilegalisasi oleh Ketua Umum Asosiasi Konsultan Pajak; dan
9. surat pernyataan komitmen untuk melaksanakan peraturan perundang-undangan perpajakan dengan sebaik-baiknya dan sebenar-benarnya .

.....(9).....,(10).....

Pemohon,
(11)

(.....(2))

LAMPIRAN V
PERATURAN MENTERI KEUANGAN REPUBLIK INDONESIA
NOMOR : 111/PMK.03/2014
TENTANG : KONSULTAN PAJAK

FORMAT SURAT PERMOHONAN IZIN PRAKTIK KONSULTAN PAJAK BAGI KONSULTAN PAJAK YANG PERNAH MENGABDIKAN DIRI SEBAGAI PEGAWAI DI DIREKTORAT JENDERAL PAJAK ATAU PENSIUNAN PEGAWAI DIREKTORAT JENDERAL PAJAK:

Nomor : (1).....
Perihal : Permohonan Izin Praktik Konsultan Pajak

Yth. Direktur Jenderal Pajak
di Jakarta

Yang bertandatangan di bawah ini :

1. Nama : (2)
2. Tempat dan tanggal lahir : (3)
3. Nomor Induk Pegawai : (4)
4. Pangkat dan golongan terakhir : (5)
5. Masa kerja : (6)
- (dari tahun..... s.d. tahun.....)
6. Jabatan terakhir : (7)
7. Nomor Kartu Tanda Penduduk : (8)
8. Nomor Pokok Wajib Pajak : (9)
9. Alamat rumah : (10).....
10. Nomor telepon : (11).....

dengan ini mengajukan permohonan penerbitan Izin Praktik Konsultan Pajak.

Untuk melengkapi permohonan di atas, bersama ini saya lampirkan :

1. daftar riwayat hidup/pengalaman kerja dan riwayat pendidikan;
2. fotokopi Sertifikat Konsultan Pajak yang telah dilegalisasi oleh Panitia Penyelenggara Sertifikasi Konsultan Pajak;
3. Surat Keterangan Catatan Kepolisian (SKCK);
4. pas foto terakhir berwarna dan berlatar belakang putih ukuran 2x3 cm sebanyak 3 (tiga) lembar;
5. fotokopi Kartu Tanda Penduduk (KTP) ;
6. fotokopi kartu Nomor Pokok Wajib Pajak (NPWP);
7. surat pernyataan tidak terkait dengan pekerjaan atau jabatan pada Pemerintah/Negara dan/atau Badan Usaha Milik Negara/Daerah ;
8. fotokopi surat keputusan keanggotaan Asosiasi Konsultan Pajak yang telah dilegalisasi oleh Ketua Umum Asosiasi Konsultan Pajak;
9. fotokopi surat keputusan pemberhentian dengan hormat sebagai Pegawai Negeri Sipil atas permintaan sendiri atau surat keputusan pensiun; dan
10. surat pernyataan komitmen untuk melaksanakan peraturan perundang-undangan di bidang perpajakan dengan sebaik-baiknya dan sebenar-benarnya.

.....(12).....,(13).....

Pemohon

(14)

(.....(2).....)

- 4) Tax Consultant Certificate
- 5) Organizing Committee for Tax Consultant Certification
- 6) Tax Consultant Association
- 7) Rights and Duties of Tax Consultant

Tax consultant has a right to provide a taxation consultancy service based on the classification.³⁰

Duties of Tax Consultant:

- a. Provide consultancy service to the taxpayer
 - b. Obey the code of ethics
 - c. Follow the professional sustainable development
 - d. Submit the tax consultant annual report
 - e. Submit in written every changes of the name and address of the offices
- 8) Warning, Freezing and Practice License Revocation
 - 9) Transitional Provisions
 - 10) Closing

2. Organization of Indonesia Tax Consultant

In Indonesia, there are two kinds of tax consultant organization, which are IKPI (Ikatan Konsultan Pajak Indonesia) or ITCA (Indonesia

²⁹ Form application for Ex- Officer and Retirement of Directorate General of Taxation. See Article 3 point (4) for the required data of application

³⁰Article 8 of Minister of Finance Regulation Number 111/PMK.03/2014 about Tax Consultant

Tax Consultant Association) and AKP2I (Asosiasi Konsultan Pajak Publik Indonesia). Those profession organizations are gathered into a national organization under the Directorate General of Taxes, called Tax Consultant Association. So far, there are only 2 (two) tax consultant association which is registered under the Directorate General of Taxes. But regarding the research, the writer is analyzing the ITCA Organization. The organization determines the code of ethics, professional standard, the board of supervision, Memorandum of Association and Articles of Association.

ITCA (Indonesia Tax Consultant Association)

The administrators of ITCA spread in 12 of regional administrators and 38 branch administrators around the state.

a. History and brief understanding

Tax Consultant profession in Indonesia has an organization, which is called Organisasi Konsultan Pajak (Tax Consultant Organization). The organization was established on August 27, 1965, by J. Sopaheluwakan, Drs. A. Rahmat Abdisa, Erwin Halim, A.J.L. Loing. Drs. Hidayat Saleh was appointed as the Honorary Chairman. Since then, about the year of the '70s, a tax consultant is started. The first congress held on October 31, 1975. Additionally, on November 21, 1987, in Bandung the name of the institution was

changed into Ikatan Konsultan Pajak Indonesia or abbreviate as IKPI. So far there are 10 congress been held from 1975 to 2014. IKPI is an independent, and social organization.³¹ But they are joined into an association which is legally registered under Directorate General of Taxes.³² There are some requirements for the tax consultant association to be registered in the Directorate General of Taxes:³³

1. In the form of a legal entity in accordance with the legislation
2. Has the Memorandum of Association and Articles of Association
3. Has a board of management which has been approved by the member meetings
4. Has a sustainable professional development program
5. Has a code of ethics and professional standards for Tax Consultant
6. Has an Honorary Board which functions to supervise, examine and resolve allegations violation of the code of ethics and

³¹Unknown. Tentang Kami Ikatan Konsultan Pajak Indonesia (IKPI). May 22, 2019. <http://ikpi.or.id/content/tentang-kami>. (08.00 p.m).

³²Under Article 18 of Minister of Finance Regulation Number 111/PMK.03/2014 about Tax Consultant stated that, "Tax Consultant is assembled in Tax Consultant Association which is registered under the Directorate General of Taxes"

³³ See Article 19 of Minister of Finance Regulation Number 111/PMK.03/2014 about Tax Consultant

professional standards of the Tax Consultant by association members

b. Purpose

The purposes of the organization are:³⁴

1. Maintain the dignity and improve the quality of the tax consultant profession upon the service to the state
2. Escort and strive the implementation of tax regulation fairly with legal certainty
3. Raise and strengthen the brotherhood among the member to create unity and prosperity

c. Activity

1. Provide services which are consist of :³⁵

a) Tax compliance

Taking care of counting by checking the assets or run business of the client; give the suggestion to the client in which amount of tax bill they shall pay, and reporting it to them. Based on the self-assessment system concept, the taxpayer is the one who pays the bill by themselves, through the bank account.

³⁴ See Article 8 of ITCA Memorandum of Association

³⁵ Surtan Siahaan. Konsultan Pajak: Pengertian, Layanan, dan Manfaatnya. May 24, 2019. <https://www.online-pajak.com/konsultan-pajak-pengertian-layanan-dan-manfaatnya>. (08.15 p.m.)

b) Tax planning

Tax planning to optimize or enhance the client's advantage. According to Thuronyi and Vanistandel research in 1996, it is a much wider understanding of legal and economic services, including auditing, accounting, financial, legal and management services. It is important to recognize many different kinds of professionals, because of the tax problems as a natural extension of their non-tax activities. In addition, the arise of tax problems not only from the company's accounts and records, but also from legal obligations flowing from company law, securities, regulation, bankruptcy law, and so on.³⁶

c) Inspection report

Service to evaluate the tax burden correlation data which could endanger the client's company. Evaluating the data which cause the tax bill to become high.

³⁶Jane Frecknall-Hughes and Erich Kirchler. "Towards a General Theory of Tax Practise". *Social & Legal Studies*. Vol 24 Issue 2 (2015). P.11.

d) Companion upon examination

During the tax examination, the tax consultant has a duty to accompany the client in order to support or complete the data.

e) Consult

Offer the consultation service about taxation problems.

f) Tax restitution

Help the client to prepare the data, delivering the restitution (refund of tax overpayment), examination until the last process of restitution.

g) Tax settlement

Provide the consultation service toward objection, appeal, cassation.

Some of the advantages of hiring tax consultants are:³⁷

- a) More efficient, less mistakes on tax administration
- b) Accompanied by the tax consultant during the tax examination
- c) Able to solve the problem effectively, and even faster
- d) The company could be easier to run the business
- e) The company could have a tax planning

³⁷ Ibid

2. Tax Consultant Certification Evaluation

ITCA has an authority to organize the Tax Consultant Certification Examination in collaboration with, based on the Minister of Finance Decision Number 485/KMK.03/2003 on October 30, 2003, within the coordination or collaboration with Taxation Education and Training Center, Minister of Finance's Financial Education and Training Agency (Pusat Pendidikan dan Pelatihan Perpajakan Badan Pendidikan dan Pelatihan Keuangan Departemen Keuangan RI (BPPK)). ITCA also create an independent agency called Organizer of Tax Consultant Certification Examination (Badan Penyelenggara Ujian Sertifikasi Konsultan Pajak (BP-USKP)). The examination is held 3 (three) times a year on May, August, and November.

The Organizer of Tax Consultant Certification Examination (BP-USKP) needs to be coordinate or harmonize their role towards National Professional Certification Body (Badan Nasional Sertifikasi Profesi or BNSP), based on the Government Regulation Number 23 year 2004. Thus the BP-USKP or Organizer of Tax Consultant Certification Examination is an independent body which offers a taxation certification for public service based on the legal legitimation.

3. International Role

Being a member of Asia Oceania Tax Consultants Association (AOTCA) since 2001.

d. Membership

Member of ITCA is the tax consultant who is professionally providing a service to the taxpayer based on the prevailing regulation of taxation. The certified tax consultant and the retired officer of Directorate General of Taxes can be registered as the member of ITCA. A certification on tax consultant can be obtained through the Tax Consultant Certification Examination or Ujian Sertifikasi Konsultan Pajak (USKP) which is held minimum twice a year.³⁸ The various of ITCA member is consist of:³⁹

- 1) Permanent member, every Tax Consultant who has acquired a practice license from Directorate General of Taxes.
- 2) Limited member, everyone who had a certificate from Badan Penyelenggara Ujian Sertifikasi Konsultan Pajak (BPUSKP) or Certificate of Merit which equal to Brevet that given by Directorate General of Taxes but have no practice license yet.

³⁸ Katalog PPL IKPI. 2010. Pengurus Pusat IKPI. P. 5.

³⁹ See Article 12 of ITCA Articles of Association

- 3) Honorary member, everyone who is appointed by the central executive board. The reason for an appointment is because of the honor of the member toward the organization.

There are some procedures to be followed to become a member:⁴⁰

- 1) Permanent member

To become a permanent member there are requirements and procedures which shall be followed.

- a. Requirements

- i. Indonesia citizenship
- ii. Follow Pancasila and Loyal to the 1945 Constitution
- iii. Domicile in Indonesia
- iv. Untied upon the government jobs/positions or State-Owned Enterprise/Regional-Owned Enterprise
- v. Has a Tax Consultant Certificate or Brevet Equivalent Award Certificate
- vi. Has a Tax ID Number (Nomor Pokok Wajib Pajak or NPWP)
- vii. Has a Tax Consultant Practice License

⁴⁰ See Article 3-5 of ITCA Articles of Association

b. Procedures

i. Propose a written application to the central administrator through the regional administrator, supported by needed documents

ii. The regional administrator will deliver the application based on the recommendation to the central administrator after the permanent member candidate paid the levy.

c. The permanent member appointment shall be based on the Central Administrator Decision Letter.

2) Limited member

To become a limited member, these are the requirements and procedure which shall be followed.

a. Requirements

i. Indonesia citizenship

ii. Follow Pancasila and Loyal to the 1945 Constitution

iii. Domicile in Indonesia

iv. Untied upon the government jobs/positions or State-Owned Enterprise/Regional-Owned Enterprise

v. Has a Tax Consultant Certificate or Brevet Equivalent Award Certificate or Certificate of Indonesia Taxation Profession Certification Institution (Lembaga Sertifikasi Profesi Perpajakan or LSP2I)

vi. Has a Tax ID Number (Nomor Pokok Wajib Pajak or NPWP)

b. Procedures

i. Propose a written application to the central administrator through the regional administrator, supported by needed documents

ii. The regional administrator will deliver the application based on the recommendation to the central administrator after the permanent member candidate paid the levy.

iii. Apply to the central administrator office if the regional administrator office is not available

iv. The central administrator will give a decision and recommendation within 2 (two) months maximum, after the written application.

c. Appointment of Limited Member will be based on the Central Administrator Decision Letter.

3) Honor member

The requirements and procedures of honor member are such below.

a. Requirements

i. Indonesia citizenship

ii. Follow Pancasila and Loyal to the 1945 Constitution

- iii. Domicile in Indonesia
- iv. Has a Tax ID Number (Nomor Pokok Wajib Pajak or NPWP)
- b. Procedures to be an Honor Member shall be based on the Central Administrator Letter and recommendation of the Central Administrator Meeting.
- c. Honor Member appointment is based on the Central Administrator Decision Letter.
- e. Code of Ethics and Professional Standard

One of the ITCA mission is to be a world-class Tax Consultant. To achieve the mission, Research and Development Department and ITCA Professional Standard are responsible to enhance and set up a professional standard and tax consultant code of ethics for the ITCA member. Tax Consultant Code of Ethics is divided into 3 parts, which are the basic principles of professional ethics and conceptual implementation of its principles; illustration of conceptual implementation; prohibition, supervision, procedures of implementing sanctions, sanction toward Code of Ethics violation. The Code of Ethics covers the basic principles, moral

behavior, and professional ethics which shall be conducted of every ITCA member.⁴¹

The Code of Ethics is also regulated by ITCA as follows:⁴²

1. Maintain the honor and noble of Tax Consultant profession
2. Tax Consultant shall follow and obey the code of ethics of the association
3. Supervision upon code of ethics of Tax Consultant run by the supervisor
4. Supervisor examine and adjudicate the violation of the code of ethics association based on the supervisory procedures
5. The supervisory decision does not eliminate criminal liability if violations of the Association Code of Ethics contain criminal elements
6. Changes to the Association Code of Ethics are conducted at Extraordinary Congress / Congress
7. Supervisors make efforts to uphold the Association Code of Ethics
8. The procedure for implementing the Code of Ethics is regulated separately in the Code of Ethics Association.

ITCA regulates the professional standard such as follows:⁴³

⁴¹Tax Consultant Profession Code of Ethics. P. 59.

⁴²See Article 19 of ITCA Memorandum of Association

1. In order to maintain the minimum standard of Tax Consultant, the professional standard is set by Congress/Extraordinary Congress and part of the technical standard which shall be followed by every member.
2. Tax Consultant shall follow and obey the Professional Standard Association
3. The supervisor will control the Professional Standard.
4. A supervisor will examine and adjudicate the Standard Profession Association violation based on Supervisory procedural.
5. Criminal liability will not be put aside toward Professional Standard violation.
6. The amendment of the Professional Standard Association will be held through Congress/Extraordinary Congress.
7. Supervisor attempt to uphold the Professional Standard Association.
8. Technical procedures of Professional Standard is regulated under Professional Standard Association.

⁴³See Article 20 of ITCA Memorandum of Association

B. Similarities and Differences of Tax Consultant of Indonesia, Australia, and The United States

1. Terms

Terms which is used to label the profession in Indonesia, Australia, and the United States are different. The different terms have no effect on the profession, but it differs the classification of the profession in each country.

a. Indonesia

The terms which are used for the profession is Tax Consultant. Meanwhile, there is the specification for A (provide the expertise to give service for individual taxpayer in order to comply the rights and duties, except the resident of Contracting State avoidance of double taxation agreement) , B (provide the expertise to serve the individual and entity taxpayer in order to comply the rights and duties except foreign investment taxpayers, resident of Contracting State avoidance of double taxation agreement), and C (provide the expertise to serve the individual and entity taxpayer in order to comply the rights and duties of tax obligation) which are determined the scope of work of each within enhancing the quality of education. There is no other profession which is described or discuss under the prevailing regulation.

b. Australia

The tax consultant practitioner is divided as Tax Agents, BAS Agent, and Tax (financial) Agent. However, apart from general understanding under the prevailing regulation, it is known as Tax Advisor in the worldwide.

c. The United States

The Tax Consultant practitioner is separate into Attorney, Certified Public Accountant, Enrolled Agent, Enrolled Retirement Plan Agent, Registered Tax Return Preparer. But, the Enrolled Agent, Enrolled Retirement Plan Agent, and Registered Tax Return Preparer has several requirements.

d. Similarities

Based on the classification above, Australia and The United States have some separation of the practitioner as Tax Consultant. They are partially regulated to separate the practitioner based on the scope of work. Those practitioners who work to handle the consultation and restitution or return payment are different.

e. Differences

Indonesia Tax Consultant covers all the scope of work, whether to consult, prepare, return payment, and dispute settlement. It has no classification toward the practitioner, but under the regulation, it discusses the level of the profession

through kinds of the certificate which gained by the Tax Consultant.

Country	Classification
	TERMS USED
Indonesia	Practitioner: Tax Consultant (A, B, C)
Australia	Practitioner: Tax Agents, BAS Agents, Tax (financial) agent
The United States	Practitioner: Attorney, Certified Public Accountant, Enrolled Agent, Enrolled Retirement Agent, Tax Return Preparer
Similarities	Australia & the United States have specification terms which is used for the profession
Differences	Indonesia only has specification of profession based on the level on certification license

Table 1

2. Regulation

The issues to be dealt with in any regulation of the tax profession depend on the type of regulation to be introduced: full regulation, partial regulation, or no regulation at all. However, even in the third case, there shall be a need for some rules, to govern cases where the taxpayer is assisted in filing the tax return or is represented by someone else before the tax administration.⁴⁴

⁴⁴Victor Thurinyi and Frand Vanistendael. "Regulations of Tax Professionals". *Tax Law Design and Drafting*. Volume 1, International Monetary Fund, Chapter 5 (1996). P. 17.

Tax Consultant regulation has an important function to help strike an appropriate balance between loyalty to the system and loyalty to the client and also has the goal of protecting clients from unscrupulous or incompetent Tax Consultant. Besides, the regulation might be a danger when it might serve instead to protect the economic interest of those permitted to act as Tax Consultant or strangle the freedom of profession by creating undue bureaucratic control. In addition, regulation is not the only reason which is involved regarding the tax compliance in a country. There are some reasons such as public financial, law enforcement, organization structure, cultural influence or the combination of all.⁴⁵

There are some basic policies consideration in regulating Tax Consultant or Tax Advisor:⁴⁶

1) Balance of supply and demand

An analysis of the demand side should be made of which type of professionals will be required by which type of taxpayer. The demand for tax consultant will depend, among other things, such as the development of the economy, and the legal system and the requirements imposed on taxpayers (e.g., how many taxpayers are

⁴⁵ Ajat Sudrajat and Arles Parulian Ompusunggu. "Pemanfaatan Teknologi Informasi, Sosialisasi Pajak, Pengetahuan Perpajakan, dan Kepatuhan Pajak". *Jurnal Riset Akuntansi dan Perpajakan JRAP* Vol. 2. 193 – 202. ISSN 2339 – 1545 (2015). P. 2.

⁴⁶ Ibid.

required to file returns). Meanwhile in the supply side, is the availability of proper training also determines the demand of a tax consultant. To keep the balance between the supply and demand of tax consultant, it is a necessity to decide to whether to regulate or not to regulate; how to regulate the profession and what is the qualification for the profession; and whether the profession should be granted a monopoly on some or all aspects of tax practice.

2) Maintenance of quality standards

Developing the quality standard or tax consultant through the organization is important for the professional standard. In order to enhance the quality of standard, it requires times and tradition for the private organization. Mostly, the professional standard in the developed country relies on the private organization. Meanwhile, in developing countries tend to be determined professional requirements by law, rather than relying on the private organization.

3) Conflicting loyalties of Tax Advisor or Tax Consultant

There will be a conflict of interest between the loyalty to the tax administration, client and other. Tax official helps the taxpayer to file tax returns and another service to the public. In some cases, many tax official flight from tax administration to private tax practice, after they have professional training in tax administration.

4) Relationship between Tax Consulting and the legal and accounting professions

Controls shall be placed for who is entitled to practice law or accountancy. This form, usually work in conjunction with measures that provide for the establishment and recognition of independent, self-governing professional bodies that are responsible, admission practice of the profession, continuing education and other conditions for continuing qualification, and the disciplining of members of the profession with respect to breaches of their responsibilities. To enforce professional monopolies and restrict the practice, legislation imposing criminal sanctions is often used.

Any advice about tax law can be characterized as legal advice. Legal, accounting, and tax service are closely connected in this field. Thus, the understanding tends to get blur or unclear once many professions provide service in taxation (whether it is about the tax system or more complex about its correlation with tax law and its application). This ambiguity will be worse when the regulation in the country is not firm enough about its limitation of professional rules. In addition, monopoly of practice might be

committed in the scope of practice of law or practice of tax consultant or tax advisor, when those professions aren't connected to the profession rules.

5) Admission of Legal Person to the profession

The conceptual model underlying the profession to which the advisor belongs will determine the development of rules which allow or disallow the tax consultant to operate through different business forms. In the traditional concept, the person's quality practice will determine the professional practice. Nowadays, professional practice is determined through the working procedures of an organization.

6) Regulation of international tax consulting services

A country which seeks a monopoly of tax practice, a problem of applying the regulations for tax consulting services that cross the border will arise.

7) Provision of tax services by employees

8) Privileged communications and work product

There are some approaches to regulation:⁴⁷

1) Full regulation

This regulation is applied in German, where the Tax Consultancy Law comprehensively regulates the provision of tax advice. Those who are generally competent to give tax advice are licensed tax advisor, lawyer, accountants, auditors. Who is licensed as a lawyer and an accountant need to obtain a special license for tax practice, and not a general to give advice without a license. To become a licensed tax advisor they need to follow a program of courses and take an examination. In the model of full regulation, the following items should be taken care of:

- a. The question of whether tax consultants should have a monopoly, and the sanctions for violating the monopoly.
- b. When the regulation does not provide a monopoly, it should determine the nature of the advantage of title protection, which titles (e.g., tax advisor, tax consultant, tax lawyer, or tax accountant) are protected, the sanctions for violating this protection of title, and the obligation always to use the title in professional tax practice.

⁴⁷Ajat Sudrajat and Arles Parulian Ompusunggu. "Pemanfaatan Teknologi Informasi, Sosialisasi Pajak, Pengetahuan Perpajakan, dan Kepatuhan Pajak". Jurnal Riset Akuntansi dan Perpajakan JRAP. II (2015). P. 15.

- c. Apart from the advantages of monopoly or title protection, the law should also list any other advantages to be provided, such as facilities in representing taxpayers before the tax administration, in communicating documents and notifications to the tax administration or obtaining delays for filing or payment, and waiver of penalties.
- d. Regardless of whether there is a monopoly or only title protection, the regulation should set out which activities are protected under the law: advice, preparation of tax returns, representation before the tax administration, litigation in courts, and services ancillary to these activities.
- e. Regardless of the scope and the nature of the regulation of the profession (monopoly or title protection), exceptions should be made for other professions that are closely connected with tax advice, such as lawyers, accountants, auditors, notaries, real estate agents, and patent advisors for the tax aspects of their field of activities.
- f. The regulation should also specify the educational standards required for admission to the profession. Two things should be regulated: the level of education (university, vocational) and its content (accounting, basic principles of public and private law, major taxes, and the rules of professional ethics).

Depending on the level of educational requirements, practical experience also required.

- g. Any full regulation of the profession should also contain organizational rules on the creation of an order or an institute, with a seat, a board, a general meeting, membership dues, a list of licensed members, and bylaws.
- h. The supervision of the profession should also be regulated. The choice is between supervision by the tax administration, by a self-governing body (as for the legal and medical professions), or by a body with representatives of the general public (consumer protection agencies) and the tax administration. The way in which the profession is supervised also determines the nature of disciplinary measures and procedures, which should also be spelled out in the professional regulation, as well as rules on the relationship between disciplinary law and ordinary civil law (professional liability) and criminal law.
- i. The regulation should stipulate whether legal persons can be admitted as full members of the profession.⁵⁴ It should also indicate whether tax advisors can exercise their profession in company form. If legal persons are admitted to practice, secondary questions arise such as the control on the board of directors and the general meeting of shareholders by physical

persons licensed to practice, the way legal persons participate in the life of the professional organization (voting rights in the general meeting of the profession, representation in the executive board, membership dues), and the way ethical rules are enforced against legal persons.

- j. Cooperation with other regulated and unregulated professions is also a problem to be dealt with. Conditions for cooperation on an individual basis or within the framework of a legal person should be spelled out, including the question of whether a person can become a member of more than one profession, as well as rules with respect to activities compatible with the exercise of the profession.
- k. The regulation should also deal with tax advice practiced by employees in the service of their employer and tax advice for third parties. This is a specific problem because employees do not have the same guarantees of independence as independent licensed tax advisors.
- l. Full regulations could contain rules on ethical standards with regard to advertising, conflict of interest (particularly when tax advisors collaborate with other professions in the framework of a legal person), and limitations on financial interests in potential clients.

- m. Rules on professional privilege should be set down when such professional privilege is granted to the tax profession.
- n. Rules on professional liability vis-à-vis customers and rules with respect to the obligation to carry professional insurance should also be spelled out.
- o. Some regulations contain a full schedule of fees.
- p. Last but not least, the regulation should contain transitional measures. These are very important because they will determine the balance between supply and demand during the early stages when the professional regulation is taking effect. The balance between the flexibility of transitional regulations and the strictness of the final regime should be watched very closely. Too often tax practitioners succumb to the temptation of keeping the door wide open during the transitional regime, setting almost no meaningful standards for admission and slamming it shut after the transitional period so that the established professionals are sitting pretty, while young and capable candidates are kept away by insurmountable entry barriers.

2) Partial regulation

This scope of regulation is applied by the United States. Anyone even with no professional training or qualification is allowed to give tax advice or to prepare the return for someone else. The state strictly regulates data information of tax return preparers to have a great certainty. Another country which also refers to this approach in Australia. Australia allows its lawyers and tax agents to prepare for remuneration, so the accountant shall be registered as a tax agent in order to carry such work.

What differs this type of approach with the full regulation approach is the disciplinary rules applicable to each profession (lawyers, accounting) that will govern their practice. There is no specific regulation or limitation which govern the tax advisory practice. Thus, the parameter of tax practice is based on the disciplinary rules of the profession.

3) Model of no regulation

The provision of tax advice and return preparation is generally unrestricted as to the profession. Some countries, allow representation by non-lawyers in administrative proceedings. This model is adopted by Belgium, Italy, Portugal, Spain, the United Kingdom.

The comparative study of each country below highlights the comparison of the eligibility or requirement standard to become a tax consultant; application to become a tax consultant or the administrative requirements; and scope of work.

a. Indonesia

Under the discussion of prevailing regulation in Indonesia above, it emphasizes the content of regulation which is set. The Minister of Finance Regulation Number 111/PMK.03/2014 regulate the general understanding or very typical discussion. It does concern more upon the requirements, certification of Tax Consultant, association, sanction, and legality of certification. Meanwhile, a services field od scope of work, code of ethics, professional standard, board of supervision, liabilities are regulated under the memorandum and articles of association. These study shall be conducted properly in order to have a firm and clear regulation for the profession. Based on the approaches above, Indonesia regulation adopts the transition between the partial regulation and no regulation model.

To become a tax consultant shall follow the examination to get a certificate which is provided or held by The Organizer of the Tax Consultant Examination or Badan Penyelenggara Ujian Sertifikasi

Konsultan Pajak (BPUSKP). After gaining the certification, the applicant shall apply the practice license to the Directorate General of Taxes within maximum 2 years after the certification. The Directorate General of Taxes shall give the decision within 30 days since the application, beyond a certain time (30 days), the application is agreed. Further, the practice license is valid for 2 years after the issuance of practice permit. The procedures of practice license are regulated under the Directorate General of Taxes No. KEP-167/PJ./2004 about Licensing, Code of Conduct, Coaching, Supervision of Indonesia Tax Consultant.

Tax consultant scope of work are:⁴⁸

1. Filling out the annual notice
2. Managing period/annual tax report
3. Accompanying the tax examination
4. Providing advice regarding the taxation problems
5. Tax planning

b. Australia

The taxation system in Australia is self-assessment since 1986. The special agency related to the taxation in Australia is the government's revenue collection agency which is called as ATO

⁴⁸ Budi Ferianto. Ruang Lingkup Kerja . May 24, 2019.
<http://www.konsultanpajakterpercaya.com/ruang-lingkup-kerja/> (09.00 p.m.)

(Australia Taxation Office), to manage the tax and super system of Australia taxation. Under the ATO, Tax professionals are included to help the state tax revenue system, which is differentiated into the Tax Agents and BAS Agents (available in online services also), and Tax (financial) Advisers. Conducting the professionals upon the tax revenue, it has some specific acts, such as:

I. Tax Agent Services Legislation

a) Tax Agent Services Act 2009

This regulation is provided to the public in accordance with appropriate standards of professional and ethical conduct.⁴⁹

In addition, the act is also to establish the Tax Practitioners Board, to provide for the registration of tax agents and BAS agents, and for related purposes.⁵⁰

b) Tax Agent Services Regulation 2009

This regulation includes qualifications & experience requirements for registration of Tax Agents, BAS Agents, Tax (financial) Advisers; Application fees payable & requirements to become a recognized Tax Agents, BAS Agents, Tax (financial) Adviser

⁴⁹ Tax Agent Services Act 2009. P. 12.

⁵⁰ Tax Agent Services Act 2009. P. 8.

- c) Tax Agent Services (Transnational Provisions and Consequential Amendments) Act 2009

It includes the transnational & consequential matters arising from the enactment of the Tax Agent Services Act 2009

- d) Tax Laws Amendment (2013 Measures No.3) Act 2013

It contains to create a regulatory framework for tax (financial) advice; transnational provision for the regulation

II. Legislative Instruments:

- b) Tax Agent Services (Specified BAS Service) Instrument 2016

III. Other Relevant Legislation

Often refers to include:

- a) Taxation Administration Act 1953 (TAA)
- b) Corporations Act 2001
- c) Freedom of Information Act 1982
- d) Criminal Code Act of 1995
- e) Privacy Act

Exposing the partial regulation approach, the country is separates the regulation for the tax agent services and requirements of a tax agent. Under the Tax Agent Services Act 2009, concern to

ensure that tax agent services are provided to the public in accordance with appropriate standards of professional and ethical conduct.⁵¹It covers the discussion about the requirements to comply with the services given by the agent. Thus, it talks over such follows:

1) Introduction (section 1 to 1-15)

This part informs about the overview of the act, general guide to each part, and the explanation the use of defined terms.

2) The registration (section 10 to 20-5)

This part defines the eligibility of registration, and how to apply for the registration (apply the registration, notification, and renewing of registration).

To provide tax agent services for a fee or to engage in another conduct with providing such services, shall be registered as a tax agent, and apply to the Tax Practitioners Board within the period of at least 3 years.

Eligibility for registration as registered tax agent, BAS agent, or tax (financial) advisor:⁵²

⁵¹ See Section 2-5 of Tax Agent Services Act 2009

⁵² See Section 20-5 of Tax Agent Services Act 2009

Individuals

- a. An individual, aged 18 years or more, is eligible for registration as a registered tax agent, BAS agent or tax (financial) adviser if the Board is satisfied that:
 - i. the individual is a fit and proper person; and
 - ii. the individual meets the requirements prescribed by the regulations (including, but not limited to, requirements relating to qualifications and experience) in respect of registration as a registered tax agent, BAS agent or tax (financial) adviser; and
 - iii. the individual maintains, or will be able to maintain, professional indemnity insurance that meets the Board's requirements; and
 - iv. in the case of a renewal of registration—the individual has completed continuing professional education that meets the Board's requirements.

Partnership

- a. A partnership is eligible for registration as a registered tax agent, BAS agent or tax (financial) adviser if the Board is satisfied that:
 - i. each partner who is an individual is:

- a) aged 18 years or more; and
- b) a fit and proper person; and
- ii. if a company is a partner:
 - a) each director of the company is a fit and proper person; and
 - b) the company is not under external administration; and
 - c) the company has not been convicted of a serious taxation offense or an offense involving fraud or dishonesty during the previous 5 years; and
- iii. the partnership has:
 - a) in the case of registration as a registered tax agent—a sufficient number of individuals, being registered tax agents, to provide tax agent services to a competent standard, and to carry out supervisory arrangements; or
 - b) in the case of registration as a registered BAS agent—a sufficient number of individuals, being registered tax agents or BAS agents, to provide BAS services to a competent standard, and to carry out supervisory arrangements; or

- c) in the case of registration as a registered tax (financial) adviser—taking into account the requirements of paragraphs 912A(1)(d) to (f) of the *Corporations Act 2001*, a sufficient number of individuals, being registered tax agents or registered tax (financial) advisers, to provide tax (financial) advice services to a competent standard, and to carry out supervisory arrangements; and
- iv. the partnership maintains or will be able to maintain, professional indemnity insurance that meets the Board's requirements.

Companies

- a. A company is eligible for registration as a registered tax agent, BAS agent or tax (financial) adviser if the Board is satisfied that:
 - i. each director of the company is a fit and proper person; and
 - ii. the company is not under external administration; and
 - iii. the company has not been convicted of a serious taxation offense or an offense involving fraud or dishonesty during the previous 5 years
 - iv. the company has:

- a) in the case of registration as a registered tax agent—a sufficient number of individuals, being registered tax agents, to provide tax agent services to a competent standard and to carry out supervisory arrangements
- b) in the case of registration as a registered BAS agent—a sufficient number of individuals, being registered tax agents or BAS agents, to provide BAS services to a competent standard, and to carry out supervisory arrangements
- c) in the case of registration as a *registered tax (financial) adviser—taking into account the requirements of paragraphs 912A(1)(d) to (f) of the *Corporations Act 2001*, a sufficient number of individuals, being registered tax agents or registered tax (financial) advisers, to provide *tax (financial) advice services to a competent standard, and to carry out supervisory arrangements
- v. the company maintains or will be able to maintain, professional indemnity insurance that meets the Board’s requirements

Scope of work of tax agent services:

1. Tax Agent Services

Some understanding of the services which are provided⁵³:

“ Meaning of *tax agent service*

(1) A *tax agent service* is any service:

(a) That relates to:

i. ascertaining liabilities, obligations or entitlements of an entity that arise, or could arise, under a “taxation law; or

ii. advising an entity about liabilities, obligations or entitlements of the entity or another entity that arise, or could arise, under a taxation law; or

iii. representing an entity in their dealings with the Commissioner; and

(b) That is provided in circumstances where the entity can reasonably be expected to rely on the service for either or both of the following purposes:

1. to satisfy liabilities, obligations or entitlements of an entity that arise, or could arise, under a taxation law;

⁵³ Tax Agent Services Act 2009 Section 90-5

2. to claim entitlements that arise, or could arise,
under a taxation law.

..... “

2. BAS Agents⁵⁴
 - a. Ascertaining or advising about the liabilities, obligations or entitlements of a client under a BAS provision
 - b. Representing a client in their dealings with the Commissioner of Taxation in relation to a BAS provision
 - c. Where it is reasonable to expect a client will rely on the service to satisfy liabilities or to claim entitlements under a BAS provision
3. Tax (financial) Advisers⁵⁵
 - a. Provided by a financial services licensee or a representative of financial services licensee in the course of giving advice of a kind usually given by financial services licensee or a representative of financial services licensee
 - b. Provide services related to ascertaining liabilities, obligations or entitlements of an entity that arise, or could arise, under a taxation law

⁵⁴Unknown. BAS Services. June 12, 2019. <https://www.tpb.gov.au/bas-services> (11.00 p.m.)

⁵⁵Unknown. Tax (financial) Services. June 12, 2019. <https://www.tpb.gov.au/tax-financial-advice-services> (11.00 p.m.)

c. Provide service for the purpose of satisfying liabilities or obligations and claim entitlements that arise or could arise under the taxation

3) Code of professional conduct (section 30 to 30-35)

Regulate what code of professional conduct, liability for administrative sanctions and to be aware of circumstances change.

Honesty and integrity

(1) You must act honestly and with integrity.

(2) You must comply with the *taxation laws in the conduct of your personal affairs.

(3) If:

(a) you receive money or other property from or on behalf of a client;

(b) you hold the money or other property on trust; you must account to your client for the money or other property.

Independence

(4) You must act lawfully in the best interests of your client.

(5) You must have in place adequate arrangements for the management of conflicts of interest that could arise in relation to the activities that you undertake in the capacity

of a *registered tax agent, BAS agent or tax (financial) adviser

Confidentiality

- (6) Unless you have a legal duty to do so, you must not disclose any information relating to a client's affairs to a third party without your client's permission.

Competence

- (7) You must ensure that a *tax agent service that you provide, or that is provided on your behalf, is provided competently.
- (8) You must maintain the knowledge and skills relevant to the *tax agent services that you provide.
- (9) You must take reasonable care in ascertaining a client's state of affairs, to the extent that ascertaining the state of those affairs is relevant to a statement you are making or a thing you are doing on behalf of the client.
- (10) You must take reasonable care to ensure that *taxation laws are applied correctly to the circumstances in relation to which you are providing advice to a client.

Other responsibilities

- (11) You must not knowingly obstruct the proper administration of the taxation laws.

(12) You must advise your client of the client's rights and obligations under the taxation laws that are materially related to the tax agent services you provide.

(13) You must maintain professional indemnity insurance that meets the Board's requirements.

(14) You must respond to requests and directions from the Board in a timely, responsible and reasonable manner.

- 4) Termination of registration (section 40 to 40-25)
- 5) Civil penalties (section 50 to 50-45)
- 6) The tax practitioners board (section 60 to 60-140)
- 7) Miscellaneous (section 70 to 70-55)
- 8) Interpretation (section 80 to 90-15)

Administrative requirements:⁵⁶

- a) Apply to the board on what type of registration, the Board shall grant on what type of registration or reject it
- b) Tax Practitioners Board will give the decision within 6 months, if there is no decision within a certain time, the application is rejected
- c) The practicing license will be valid for 3 years since the validation

⁵⁶See Section 20-25 of Tax Agent Services Act 2009

c. The United States

The Treasury Department Circular No. 230 about Regulations Governing Practice before the Internal Revenue Service or popularly understand as Circular 230, divided into five subchapters inside.

Eligibility ⁵⁷of tax practitioner:

a) Enrolled agents:

1. Are eighteen years old or more who demonstrates special competence in tax matters by written examination
2. Have a tax identification number
3. Do not engage in any conduct that would justify the suspension or disbarment of any practitioner

d) Enrolled retirement plan agent

1. Are eighteen years old or older who demonstrates special competence in qualified retirement plan matters by written examination

⁵⁷ See Section 10.4 of Circular 230

2. Have a tax identification number
 3. Do not engage in any conduct that would justify the suspension or disbarment of any practitioner
- e) Registered tax return preparer
1. Are eighteen years old or more as registered tax return preparer by the written examination
 2. Have a tax identification number
 3. Do not engage in any conduct that would justify the suspension or disbarment of any practitioner

Administrative requirements of the application:⁵⁸

- a) Must apply as required by forms or procedures established and published by the Internal Revenue Service, including proper execution of required forms under oath or affirmation. The address on the application will be the address under which a successful applicant is enrolled or registered and is the address to which all correspondence concerning enrollment or registration will be sent
- b) A reasonable nonrefundable fee could be charged for each application to become an enrolled agent, enrolled retirement plan agent, or registered tax return preparer⁵⁹

⁵⁸ See Section 10.5 of Circular 230

- c) IRS requires additional information which indicating the statement application are true or untrue that would qualify them to become an agent
- d) IRS conduct a Federal tax compliance check and suitability check if the applicant doesn't pass the tax compliance and suitability check then will not be issued an enrollment or registration card or certificate pursuant and reapply after the initial denial if the applicant becomes current with respect to the applicant's tax liability
- e) The Applicant will be informed in writing as to the reason for any denial of an application, file a written protest of the denial as prescribed by IRS within 30 days after receipt the notice of denial of the application.

Scope of work:

- a) Fulfillment of rights and obligations of taxpayers in accordance with regulatory provisions, but not limited to preparing documents; filling in the document; correspondence and communication with the IRS

⁵⁹ Fee for registration application is describe comprehensively under Section 300.1 point (b) of Title 26 of Internal Revenue Part 300 about User Fee
“The fee for entering into an installment agreement is \$43”.

- b) Written advice related to the formation of legal entities, transactions, planning, and agreements, or the planning or agreements which potential upon tax avoidance and evasion
- c) Representing the client during the meetings and hearings
- d. Similarities
 - a. Each country above required the certification or provided by the written examination toward the profession.
 - b. Both Australia and the United States, the validation of the practice is valid within 3 years.
 - c. Both Indonesia and the United States, a tax identification number is needed as the requirement of a tax consultant.
 - d. The scope of work in each country more or less having the same proportion in each specification of the profession.
- e. Differences
 - a. Regarding the practice license, only Indonesia which is valid for 2 years since the issuance of practice permits.

COUNTRY

CLASSIFICATION

	REGULATION: ELIGIBILITY TO BE THE PRACTITIONER
Indonesia	1. Indonesia citizenship 2. Residing in Indonesia

	<ol style="list-style-type: none"> 3. Untied upon the government jobs/positions or State-Owned Enterprise/Regional-Owned Enterprise 4. Police Clearance Reporte (SKCK) 5. Having a Tax ID Number (Nomor Pokok Wajib Pajak or NPWP)* 6. Being a member of registered Tax Consultant Association under Directorate General of Taxes 7. Having a Tax Consultant Practice License <p><i>*Tax ID needs the Identification Card, for who are 18 years old / more</i></p>
<p>Australia</p>	<ol style="list-style-type: none"> 1. Individual <ol style="list-style-type: none"> a. 18 years old / more, fit and proper person; meet the requirements prescribed by the regulation; able to meets the Board’s requirement 2. Partnership <ol style="list-style-type: none"> a. Each partner is an individual of 18 years old or more; fit and proper person b. Each of director of company is fit and proper person; company not under external administration and not convicted of a serious taxation offence or offence involving fraud or dishonesty during the previous 5 years

	<p>c. The partnership able to maintain professional indemnity insurance that meets the Board's requirements</p> <p>3. Company</p> <p>a. Each of director of company is fit and proper person; company not under external administration and not convicted of a serious taxation offence or offence involving fraud or dishonesty during the previous 5 years</p> <p>b. The company able to maintain professional indemnity insurance that meets the Board's requirements</p> <p><i>*fit & proper person = good frame, integrity, character; individual had status of undischarged bankrupt during the previous 5 years; individual served imprisonment during the previous 5 years.</i></p>
<p>The United States</p>	<p>1. 18 years old or more with written examination administered</p> <p>2. Having tax identification number</p> <p>3. Not engaged in any conduct that would justify the disbarment / suspension of any practitioner</p>
<p>Similarities</p>	<p>Those countries are requiring the practitioner in 18 years old / more with written examination administered, and good</p>

	character or integrity.
Differences	Australia does not need the tax identification number as the requirement of the profession.

Table 2

COUNTRY	CLASSIFICATION
	REGULATION: PRACTITIONER'S SCOPE OF WORK
Indonesia	<ol style="list-style-type: none"> 1. Filling out the annual notice 2. Managing period/annual tax report 3. Accompanying the tax examination 4. Providing advice regarding the taxation problems 5. Tax planning
Australia	<ol style="list-style-type: none"> 1. Tax Agents <ol style="list-style-type: none"> a. Ascertaining liabilities, obligations or entitlements of an entity that arise, or could arise, under a taxation law b. Representing an entity in their dealings with the Commissioner 2. BAS Agents <ol style="list-style-type: none"> a. Ascertaining or advising about the liabilities, obligations or entitlements of a client under a BAS services provision (GST law, wine equalisation tax

	<p>law, luxury car tax law, fuel tax law, fringe benefits tax law (only for tax collection), pay as you go (PAYG) withholding, and PAYG instalments)</p> <p>b. Representing an entity and their dealings with the Commissioner and BAS provision</p> <p>3. Tax (financial) agents</p> <p>a. Provided by a financial services licensee or a representative of financial services licensee in the course of giving advice of a kind usually given by financial services licensee or a representative of financial services licensee</p> <p>b. Provide services related to ascertaining liabilities, obligations or entitlements of an entity that arise, or could arise, under a taxation law</p> <p>c. Provide service for the purpose of satisfying liabilities or obligations and claim entitlements that arise or could arise under the taxation</p>
<p>The United States</p>	<p>1. Fulfillment of rights and obligations, such as preparing documents; filling in the documents; correspondence and communication to IRS.</p> <p>2. Provide written advice related to formation of legal</p>

	<p>entities, all that deals with the agreements or under the transaction.</p> <p>3. Representing the client during the meeting and hearing.</p>
Similarities	<p>1. Both Australia and the United States, the role of the practitioner is serving more than a tax advisor, but also the taxation and transaction or business advisor.</p>
Differences	<p>Only in the United States, where the practitioner is allowed to represent or become the delegate during the meeting and hearing.</p>

Table 3

COUNTRY

CLASSIFICATION

	REGULATION: ADMINISTRATIVE REQUIREMENTS
Indonesia	<ol style="list-style-type: none"> 1. Follow the written examination to get a certificate license of tax consultant 2. Become the member of an association, then apply the practice license (max 2 years after certification). DGT will deliver the decision within 30 days (more than 30 days and no reply, assumed as agreed) 3. Validation of the license is 2 years after issuance of application
Australia	<ol style="list-style-type: none"> 1. Apply to the board on what type of registration, the

	<p>Board shall grant on what type of registration or reject it</p> <ol style="list-style-type: none"> 2. Tax Practitioners Board will give the decision within 6 months, more than a certain time, the application is rejected. And applicant able to file a written denial or protest 3. The practice license will be valid for 3 years
The United States	<ol style="list-style-type: none"> 1. Application is addressed on the concerning of enrollment 2. Nonrefundable fee is charged, for new application is USD 43, and for renewal is USD 28 3. IRS will require additional information to qualify the applicant and conduct a federal tax compliance check and suitability 4. Within 30 days, the decision will be given by IRS, and able to file the written protest upon a denial
Similarities	Both Australia and the United States, allow the applicant to deliver the protest upon the denial of the application.
Differences	No denial protest in Indonesia, and the application is automatically agreed by the DGT.

Table 4

3. Organization

a. Australia

Most practitioners in Australia, are individuals who collaborated in their association or in an alliance because the profession is developed through the respect of their quality based on the code of professional conduct under the prevailing regulation.

b. United States

There are several organizations and association of the profession.

Those IRS partners of organization and association are:⁶⁰

2) American Academy of Attorney – CPAs (AAA-CPA)

The only organization comprised of individuals who are dually-qualified as Attorney and Certified Public Accountants.

3) American Institute of Certified Public Accountants (AICPA)

World's largest member association representing the accounting profession.

4) National Association of Enrolled Agents (NAEA)

Professional Society representing Enrolled Agents (EAs), American tax experts. EAs earn the licenses from the Department of Treasury by passing a three-part exam administered by IRS and must complete annual continuing

⁶⁰Unknown. IRS Pro Association Partners. June 16, 2019. <https://www.irs.gov/tax-professionals/irs-tax-pro-association-partners> (09.00 p.m.)

education. NAEA members must fulfill continuing education requirements that exceed the IRS minimum, and adhere to a stringent code of ethics

5) National Association of Tax Professionals (NATP)

A largest non-profit organization with members in all 50 states, focusing specifically on federal tax preparation.

6) National Conference of CPA Practitioners (NCCPAP)

A professional organization that advocates on issues that are of importance to CPA in Public Practice and their clients throughout the United States

7) National Society of Accountants (NSA)

Represent independent practitioners who provide accounting, tax, auditing, financial and estate planning who provide services to 19 million individuals and business.

8) National Society of Tax Professionals (NSTP)

Committed to assisting the members to attain the greatest expertise, proficiency, and competency in all areas of tax compliance and tax prepare members to be qualified to effectively provide professional tax preparation services for the clients.

COUNTRY	CLASSIFICATION
	ORGANIZATION
Indonesia	<ol style="list-style-type: none"> 1. ITCA 2. AKP2I
Australia	<p>Most of practitioners are collaborated in their association or in an alliance because the profession is developed through the respect of their quality based on the code of professional conduct under the prevailing regulation</p>
The United States	<ol style="list-style-type: none"> 1. American Academy of Attorney – CPAs (AAA-CPA) 2. American Institute of Certified Public Accountants (AICPA) 3. National Association of Enrolled Agents (NAEA) 4. National Association of Tax Professionals (NATP) 5. National Conference of CPA Practitioners (NCCPAP) 6. National Society of Accountants (NSA)

	7. National Society of Tax Professionals (NSTP)
Similarities	Both Indonesia and the United States, there are several organization which is registered under the taxation service office.
Differences	Australia respect all individual to be associated or allied in based on their concern, as long as the individual is a registered agent under the Tax Practitioners Board.

Table 5

4. Implication / Practice

Tax Consultant or Tax Advisors also act as a public informant who provides input upon the formulation of legislation and regulations. In addition, they also serve an important public interest, while the state has an interest in fostering and protecting this role. The primary loyalty of Tax Consultant is the client, while the tax authority is prior to the state. Besides, the practitioner role as the agent of the government. It depends on which country emphasize the profession.

Factors which are influence the tax consultant conduct:

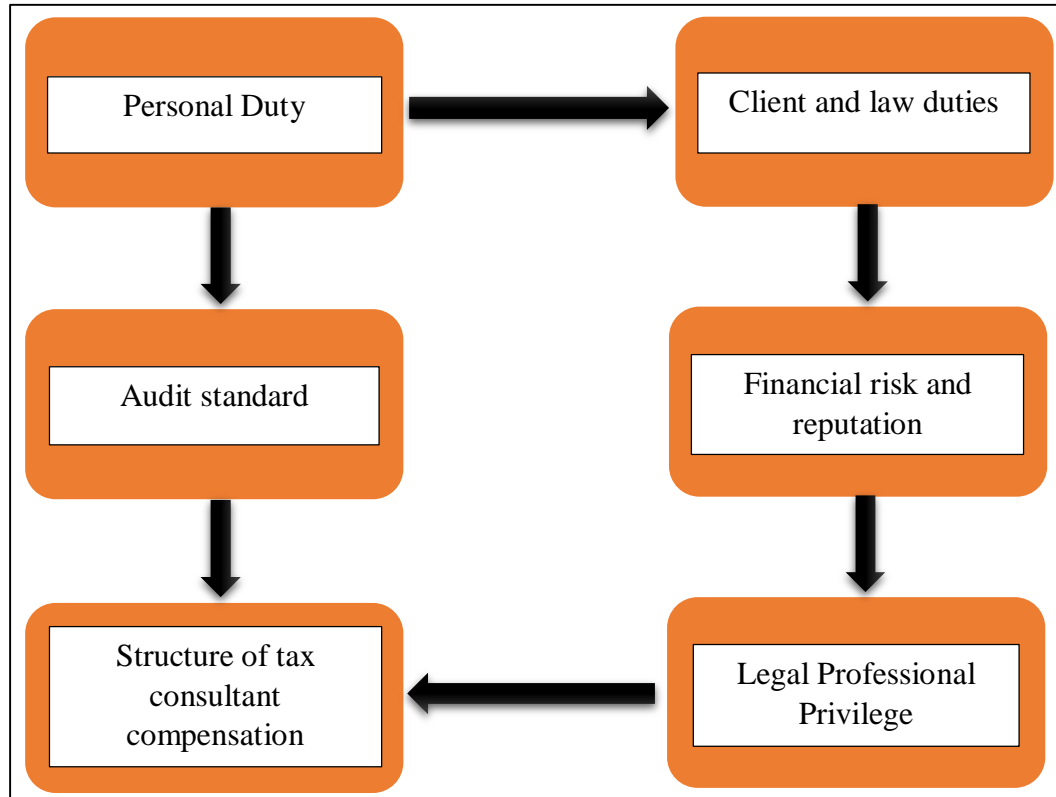


Figure 1

Source: OECD, *Study into the Role of Tax Intermediaries*, (Paris: OECD Publishing, 2008), 14-15.

a. Indonesia

Based on the Hadi Sugianto research, tax consultant has an ideal role to educate and run the tax compliance. This profession is a reflection of the bridge to connect the two border areas, which is the Directorate General of Taxes and the taxpayer. This assumption is making sense while the lack of taxpayer's trust against tax offices

and low-level education of taxpayers, and also the new regime of the tax collection system.⁶¹ In addition, the profession could stimulate the cost which shall be taken out by taxpayers. Their role could be both encourage and discourage tax compliance. Thus, the ideal standard of the profession is needed to limit the scope of work within the proper and ideal regulation.

The tax consultant profession provides the tax imposition consultancy upon tax compliance to the client. They have to be independent to give the service and shall follow the prevailing regulations. This profession offers services for consulting, educating, accompanying to solve and prove the tax settlement, as the best they can offer. The most important this about affording the consulting service to get the client well educated about tax collective.

The status of tax consultant in independent, or untied as the employee of both the state and the taxpayer. They assist and provide the services based on the fee, and responsible to the taxpayer. Besides giving some advice to be in line with the management and principle of taxation the client, they shall optimize the tax compliance upon the prevailing regulation. The

⁶¹Hadi Sugianto. "Peran Konsultan Pajak Sebagai Partner Direktorat Jenderal Pajak Dalam Sistem Pemungutan Pajak di Indonesia". P. 2

basic motive of this profession is a fee-oriented, thus in every advancement, activities, planning, case settlement against the alteration of the taxation policy is run or done to optimize the fee income.⁶² Besides, there is also an argument which stated that the tax consultant plays a dual agency. Which are the agent of the government and the agent of the client. The practitioner shall be able to border ethical decision in its practice, able to relate among client's demand, ethical conduct, and pertaining regulations.

The state provides the reformation in both the system and the service for a better taxation regime. After the system is changed in 1983, the Tax Inspection Office also changed into Pratama Tax Services Office in 1989, and the role of AR (*Account Representative*) is inserted within 2 various of roles, which are:⁶³

1) AR who run a supervision role

Some of the AR roles to supervise the taxpayer are:⁶⁴

- a. Supervise the compliance of taxpayer obligations
- b. Compile the profile or information data of the taxpayer
- c. Analyze the performance of the taxpayer

⁶² Defiandry Taslim. 2007. Tax Specialist Sebagai Suatu Profesi?. June 17, 2019. <https://www.ortax.org/ortax/?mod=issue&page=show&id=9&list=&q=&hlm=8> (10.00 p.m.)

⁶³See Article 2 on Minister of Finance Regulation Number 79/PMK.01/2015 about Account Representative in Tax Services Office

⁶⁴Article 4 of Minister of Finance Regulation Number 79/PMK.01/2015 about Account Representative in Tax Services Office

d. Reconcile the taxpayer data to aware them

2) AR who run services and consultancy role

Some of the services and consultancy role which shall be provided by AR are:⁶⁵

a. Run the application settlement of the taxpayer

b. Run the application settlement of tax assessment letter

c. Do the consultancy upon the taxpayers

d. Run the application settlement of land and building tax deduction

AR has an important role to increase the tax revenue through tax compliance. They are expected to communicate and persuade the taxpayer well. Meanwhile, in fact, that the AR also communicate with the tax consultant, and the tax consultant also shall collect the data and information of the taxpayer (tax payments). In the field study, the taxpayer who runs a corporation tends to consult with the tax consultant to ease them, meanwhile, the individual tends to choose to visit and asking the taxation office to help them find out the best solution or to educate themselves. Hiring the tax consultant will cost much for the individuals, and save their money.

⁶⁵ Article 3 of Minister of Finance Regulation Number 79/PMK.01/2015 about Account Representative in Tax Services Office

Unlike the tax consultant, the AR services aren't committed to assist and prepare for the fulfillment of tax obligation. They do help in educating the taxpayers. More or less, a tax consultant is another solution for the big company which trying to handle and settle all the tax collection.

So far, taxpayer awareness is encouraged by years, and so does the company, based on the field study. The previous problems issues were about an eager of taxpayers upon tax evasion by both individual or companies. Lately, they are educated better and more aware of the importance of tax compliance. Besides, the entity or company aware that running the tax evasion or minimize the tax payments is a risky activity and even danger for their business in the long-term period. The role of AR and tax consultant cannot be separated in terms of tax awareness.

The activity, advancement including the regulation, quality, and practice of tax consultant are synchronized between the organization and the Bureau of Organization and Management of Minister of Finance.

b. Australia

Sakurai and Braithwaite describe, that the tax compliance level of the high-income taxpayer will be affected by the role of a tax consultant. Their research describes that there are 3 types of tax

consultant in Australia, they are *Creative Consultant*, *Honest Consultant*, and *Cautious Consultant*. The *Creative Consultant*, is the aggressive tax planner for the needed client, having wide networking and able to solve tax obligation problems of the taxpayer. The *Honest Consultant* is the obedient consultant against the prevailing taxation regulations. Performing the less risk and commit fairly while working for the client. The *Cautious Consultant*, those who are trying to minimize the payable tax for the client, they are about trying to find the grey area (the gap of each regulation). From those 3 types of consultant, the *Honest Consultant* tends to be desired by Australian taxpayers, they can motivate the obedient towards taxation regulations. In fact, concerning to complete the tax obligation taxpayer will face upon 2 choices while hiring the tax consultant, obey or disobey (any prompts to fulfill the tax obligation) the prevailing regulations.⁶⁶ In practice, the tax lawyer has a privilege of the profession in terms of the scope of work as the tax practitioner. But it doesn't interfere with the other profession because based on the professional conduct it is already stated.

⁶⁶Under the research of Sakurai and Braithwaite (2001) in Australia within the title "*Taxpayers' Perceptions Of The Ideal Tax Adviser: Playing Safe or Saving Dollars?*"

c. The United States

The practice of this profession is regulated under the Treasury Department Circular NO. 230 about Regulations Governing Practice before the Internal Revenue Service. A practitioner shall meet the qualification to practice as the registered enrolled agent, enroll retirement plan agent, and tax return preparer. So that they must exercise due to diligence⁶⁷(preparing or assisting in the preparation of approving, filing tax returns, and other paper relating to Internal Revenue Service; determining the correctness of oral or written representation by practitioner to the Department of the Treasury and to clients with reference to any administered by the Internal Revenue Service) and reliance of other person (rely the work of another person with reasonable care in engaging, supervising, training, evaluating the person, taking the proper relationship between the practitioner and the person).

The limited scope of work for the practitioner is clear, and do not a monopoly to the other profession. In Regards to any Internal Revenue Service matter, a practitioner shall not use or participate in the use of any form of public communication or private solicitation which contain a false, fraudulent, or coercive

⁶⁷See Section 10.22 of Treasury Department Circular No. 230 about Regulations Governing Practice before the Internal Revenue Service

statement. In addition, they could not utilize the term “certified” or imply an employer/employee relationship with the IRS to describe their professional designation. Otherwise, the acceptable description for enrolled agents is “enrolled to represent taxpayers before the IRS” and “admitted to practice before the IRS”.

By the time of imposing the fee cost to the client, they shall publish the fee information⁶⁸(fixed fees for specific particular routine services; hourly rates; a range of fees for particular services; fee charged for an initial consultation). They shall charge no more than the published rates. The fee information can be communicated to any method. In the case of radio and television broadcasting, the practitioner must retain a recording of the actual transmission. While the direct mail, and e-commerce communications, the practitioner must retain a copy of actual communication, along with a list or other description of persons to whom the communication was mailed or otherwise distributed.

⁶⁸See Section 10.30 (b) of Treasury Department Circular No. 230 about Regulations Governing Practice before the Internal Revenue Service

Tax advisor shall provide the highest quality or the best practices in providing advice and preparing or assisting in the preparation of a submission of IRS. Those best practices are:⁶⁹

- 1) Clear communication with the client, so that tax advisor could determine the client's expected purpose, have a clear understanding with the client regarding the form and scope of advice or assistance to be rendered.
- 2) Determining the relevant facts, and relating with the applicable law, so that arrive a conclusion supported by the law and the facts.
- 3) Advising the client regarding the reached conclusion.
- 4) Acting fairly with integrity in the practice

Further, competence also needs to be sought while practicing. The competence requires knowledge, skill, preparation necessity for the matter of practitioner. Engaged in various methods, such as consulting with experts in the relevant area or studying the relevant law will meet the competency standard.

⁶⁹See Section 10.33 of Treasury Department Circular No. 230 about Regulations Governing Practice before the Internal Revenue Service

d. Similarities

The practice from each country are urged to have good communication with the taxpayer in order to provide a better service and based on the professional conduct

e. Differences

The practice could be different in wider areas, influenced by the regulation in each country, cultural environment, educational backgrounds, and professional standard of the profession.

Country	Classification		
Indonesia	<table border="1"><thead><tr><th data-bbox="703 961 1385 1035">IMPLICATION/APPLICATION</th></tr></thead><tbody><tr><td data-bbox="703 1041 1385 1837">Role of tax consultant profession run by Account Representative (AR) and tax consultant. Basic motive of profession is fee-oriented (services are run to optimize the income). Loyal to the client but also need to follow the prevailing regulation, or in the other words is a dual agent (agent of client and agent of the government). Both AR and tax consultant work together in order to synchronized the client's data. AR has 2 role specification of work,</td></tr></tbody></table>	IMPLICATION/APPLICATION	Role of tax consultant profession run by Account Representative (AR) and tax consultant. Basic motive of profession is fee-oriented (services are run to optimize the income). Loyal to the client but also need to follow the prevailing regulation, or in the other words is a dual agent (agent of client and agent of the government). Both AR and tax consultant work together in order to synchronized the client's data. AR has 2 role specification of work,
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	<ol style="list-style-type: none"> 1. <i>The supervision Role</i> <ol style="list-style-type: none"> a. Supervise the compliance of taxpayer obligations b. Compile the profile or information data of the taxpayer c. Analyze the performance of the taxpayer c. Reconcile the taxpayer data to aware them 2. <i>The services and consultancy Role</i> <ol style="list-style-type: none"> a. Run the application settlement of the taxpayer b. Run the application settlement of tax assessment letter c. Do the consultancy upon the taxpayer d. Run the application settlement of land and building tax deduction
Australia	<p>The practitioner as the agent of the government, but independent to develop the practical and ethical skills conduct. Provide the service based on the specified classification of work and shall be a registered agent under the Tax Practitioners Board</p>

	<p>as authorized or recognized agent. In practice, there are 3 kinds of consultant, <i>Creative Consultant</i> (aggressive tax planner for who needed, wide networking and able to solve tax obligation problem), <i>Honest Consultant</i> (obedient tax consultant, less risk and committed fairly to the client), and <i>Cautious Consultant</i> (trying to minimize the payable tax for the client, they are about trying to find the grey area (the gap of each regulation)). And most of client tends to choose the Honest Consultant for the sake of obedient and fair working.</p>
<p>The United States</p>	<p>Could be classified as the agent of the government, helping the tax collection, shall be a registered agents and shall follow the prevailing regulation, include the practices to serve or provide the service to the client. The fee charged for the clients shall be published, and prohibit to charged more than the amount of published fee, in order to ease the State supervise the services which provides to the clients. Agents are follow to advertise themselves</p>

in many media (radio, television broadcasting, direct mail, or e-commerce communication), by given an actual transmission, information, or communication. In regards to any Internal Revenue Service matter, a practitioner shall not use or participate in the use of any form of public communication or private solicitation which contain a false, fraudulent, or coercive statement. In addition, they could not utilize the term “certified” or imply an employer/employee relationship with the IRS to describe their professional designation. Otherwise, the acceptable description for enrolled agents is “enrolled to represent taxpayers before the IRS” and “admitted to practice before the IRS”.

Best practices according to IRS:

1. Clear communication with the client, so that tax advisor could determine the client’s expected purpose, have a clear understanding with the client regarding the form and scope of advice or assistance to be rendered.

	<ol style="list-style-type: none"> 2. Determining the relevant facts, and relating with the applicable law, so that arrive a conclusion supported by the law and the facts. 3. Advising the client regarding the reached conclusion. 4. Acting fairly with integrity in the practice
Similarities	Both Australia and the United States, the role of the profession can be classified as the agent of the government within the respect of an independency of practical skills and professional ethics conduct.
Differences	Indonesia's tax consultant role could still be classified as the dual agent, agent of the government and the agent of client, because of their loyalty tendencies.

Table 6