

Analisis terhadap interpretasi pemerintah Indonesia atas dapat ditolaknya Permohonan Mutual Agreement Procedure Negara Mitra Perjanjian Penghindaran Pajak Berganda yang tidak memiliki ketentuan Corresponding Adjustment atas Sengketa Transfer Pricing = Analysis the interpretation of government of Indonesia on clause of can be rejected the application of Mutual Agreement Procedure from tac treaty countries which does not regulate in provision about the corresponding adjustment on cross border transfer pricing dispute

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Abstrak

Skripsi ini membahas mengenai latar belakang Pemerintah Indonesia mengeluarkan peraturan mengenai dapat ditolaknya suatu permohonan Mutual Agreement Procedure oleh Negara Mitra Tax Treaty yang tidak memiliki ketentuan corresponding adjustment atas sengketa cross border transfer pricing. Selain itu, skripsi ini juga membahas mengenai kesesuaian interpretasi yang dilakukan Direktur Jendral Pajak atas perlakuan permohonan Mutual Agreement Procedure Negara mitra Tax Treaty yang tidak memiliki ketentuan corresponding adjustment atas sengketa cross border transfer pricing dengan peran dan fungsi Mutual Agreement Procedure itu sendiri di dalam Tax Treaty. Penelitian ini menggunakan pendekatan kualitatif dengan teknik pengumpulan data melalui studi lapangan dan studi kepustakaan.

Hasil penelitian ini menunjukkan bahwa klausul dapat ditolaknya permohonan Mutual Agreement Procedure yang berkaitan dengan transfer pricing tidak sejalan dengan spirit dari Mutual Agreement Procedure dalam Tax Treaty itu sendiri yang seharusnya tetap menerima setiap permohonan Mutual Agreement Procedure apapun sengketaanya.

.....This thesis examines the background Government of Indonesia issue the regulation regarding the possibility of application Mutual Agreement Procedure can be rejected if the tax treaty of both contracting states does not regulate about the provision of corresponding adjustment on cross border transfer pricing dispute. Besides that, this thesis also examines the suitability of interpretation which done by General Director of Taxes Indonesia on treatment of application Mutual Agreement Procedure from tax treaty countries which do not have the provision of corresponding adjustment in their convention on cross border transfer pricing dispute with the role and function of Mutual Agreement Procedure in their Tax Treaty. This research uses the qualitative approach through field study and literature study for data collection.

The result of this thesis shows that the application of Mutual Agreement Procedure which can be rejected by Indonesia does not in line with the main spirit of provision of Mutual Agreement Procedure itself in Tax Treaty. Application of Mutual Agreement Procedure should accept on every dispute because Tax Treaty does not limit the case which can be resolve by Mutual Agreement Procedure.