

Analisis kebijakan penentuan beneficial owner di Indonesia sebagai upaya pencegahan praktek treaty shopping studi komparasi dengan oecd model tax convention 2012 = Analysis of beneficial owner determination in Indonesia as an attempt to deterrence of treaty shopping practice comparation study with oecd model tax convention 2012

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Abstrak

ABSTRAK

Terminologi beneficial owner merupakan hal yang penting dalam menentukan apakah subjek pajak luar negeri dapat memperoleh penurunan tarif dari treaty. Melalui praktek treaty shopping Wajib Pajak berusaha merekayasa transaksi tersebut untuk memperoleh treaty benefit sehingga dapat meneruskan penghasilannya meelalui negara mitra P3B. Hal tersebut tentu saja dapat menggerus potensi dari penerimaan pajak negara sumber.

Untuk itu, maka otoritas perpajakan Indonesia membuat kebijakan antitreaty shopping sebagaimana diatur dalam Pasal 26 1a UU PPh tahun 2008. Selanjutnya petunjuk pelaksanaannya terdapat pada PER-61/PJ./2009 sebagaimana diubah terakhir dengan PER-24/PJ./2010 serta PER-62/PJ./2009 sebagaimana diubah terakhir dengan PER-25/PJ./2010.

Tujuan dari penelitian ini adalah untuk (1) Menjelaskan serta menganalisis relevansi kebijakan beneficial owner di Indonesia dengan kondisi setelah dipublikasikan revised proposal beneficial owner meaning oleh OECD (2) Mengetahui dan menganalisis upaya-upaya yang dilakukan otoritas pajak di Indonesia dalam mencegah adanya treaty shopping.

Penelitian ini adalah penelitian kualitatif dengan desain deskriptif. Dari penelitian ini, peneliti menyimpulkan bahwa (1) kebijakan penentuan beneficial owner masih relevan dengan ketentuan yang ada di OECD (2) Direktorat Jenderal Pajak telah berusaha untuk menerapkan kebijakan anti-treaty shopping dalam upaya menangkal penyalahgunaan P3B. Dalam penelitian ini, peneliti menyarankan agar (1) Untuk memberi kekuatan hokum agar kebijakan anti-treaty shopping diatur secara komprehensive dalam UU PPh atau masuk dalam ketentuan treaty, (2) melakukan pengawasan terhadap wajib pajak yang di indikasikan menggunakan skema treaty shopping, (3) meningkatkan kompetensi dari pegawai, serta (4) mengoptimalkan informasi yang diperoleh dari negara mitra P3B melalui EOI.

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ABSTRACT

The terminology of beneficial owner is an important matter in determining whether foreign tax owner could have a decreased tariff from a treaty. Through a treaty shopping practice, tax payer is trying to modify the transaction to have a treaty benefit in order to maintain their income through P3B partner country. It is surely will erode the potential of the state tax revenue sources.

Therefore, the authority of Indonesian taxation made a regulation on antitreaty shopping as stipulated in Article 26 1a UU PPh in 2008. Furthermore, the implementation guidelines is in PER-61/PJ./2009 as currently modified with PER-24/PJ./2010 and PER-62/PJ./2009 as currently modified with PER-25/PJ./2010.

The purpose of this study is to (1) Describe and analyze the regulation relevance between beneficial owner in Indonesia and the condition following the published of revised proposal beneficial owner meaning by OECD (2) Understand and analyze the attempts coming from the tax authorities in Indonesia to prevent treaty shopping.

This study is an qualitative analysis with a descriptive design. From the study, the author has concluded that (1) the regulation of beneficial owner determination is still in relevance with the provision stated in OECD (2) Directorate General of Tax has attempting to implement the anti-treaty shopping regulation in the effort to avoid the manipulation of P3B. The author suggested (1) to give a legal force, it is important that the anti-treaty shopping regulation is handled comprehensively in UU PPh or get involved in the treaty provision (2) monitor tax payer indicated to use treaty shopping scheme (3) improve the staff competence and (4) optimizing information gathered from the P3B partner country through EOI.