

# Membuka kerahasiaan Bank untuk kepentingan perpajakan dengan alasan pemberian akses langsung kepada aparat pajak Indonesia dan pemberlakuan foreign account tax compliance act di Indonesia = Opening the Bank secrecy for the taxation interest with a reason providing direct access for the Indonesian tax authorities and the enforcement of the foreign account tax compliance act in Indonesia

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## Abstrak

[<b>ABSTRAK</b><br>

Rahasia bank penting untuk diteliti lebih lanjut karena rahasia bank merupakan unsur terpenting dalam sektor perbankan di sisi lain pembatasan rahasia bank ternyata telah menjadi suatu kebutuhan dari perkembangan masyarakat saat ini Secara formal hukum yang berlaku yang mengatur rahasia bank adalah UU Nomor 7 Tahun 1992 sebagaimana diubah dengan UU No 10 Tahun 1998 tentang Perbankan yang mana pengaturan rahasia bank menganut teori bahwa rahasia bank bersifat nisbi yaitu bahwa bank diperbolehkan membuka rahasia nasabahnya jika ada suatu kepentingan kepentingan umum yang memaksa Salah satu pengecualian dari kerahasiaan bank di Indonesia adalah untuk kepentingan perpajakan namun hal tersebut saat ini dipermasalahkan oleh Direktorat Jenderal Pajak DJP karena dianggap telah menghalangi usaha maksimal aparat pajak dalam pemungutan pajak sebab rumusan membuka kerahasiaan bank untuk kepentingan perpajakan terbatas pada pemeriksaan penyidikan pidana dan penagihan pajak Itulah sebabnya DJP meminta untuk diberikan kewenangan akses langsung data nasabah perbankan direct access sebagai pembanding melalui Foreign Account Tax Compliance Act FATCA Internal Revenue Service memiliki akses langsung terhadap data nasabah bank Bahkan FATCA diberlakukan di Indonesia per Juli Tahun 2014 oleh Pemerintah Amerika Serikat Tujuan khusus dari penulisan tesis ini adalah untuk mengetahui apakah memberikan akses langsung bagi DJP untuk membuka kerahasiaan bank apakah dimungkinkan menurut hukum Indonesia dan apakah FATCA dapat diterapkan di Indonesia Hasil penulisan tesis dapat digunakan sebagai bahan masukan bagi pembentuk undang undang untuk melakukan perbaikan bagi peraturan perundang undangan yang sudah ada Tujuan umum dari penulisan tesis ini adalah untuk mengembangkan dan memperkaya kajian ilmu hukum perbankan.

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<b>ABSTRACT</b><br>

Bank secrecy important to further research because the bank secrecy is an important element in the banking sector, on the other hand restrictions of bank secrecy has become a necessity of development of today's society. Formally the applicable laws governing the bank secrecy is Law No. 7 of 1992 as Amendment by Law No. 10 of 1998 on Banking, which is setting bank secrecy subscribe to the theory that the Bank Secrecy is relative, that the bank is authorized to disclose their clients if there is an interest in the public interest that force to do so. One exception of bank secrecy in Indonesia is for tax purposes, but it is currently disputed by the Directorate General of Taxation (DGT) because they have been

blocking the maximum effort in the tax authorities of tax collection, because the formulation of opening of bank secrecy for tax purposes is limited to the examination, criminal investigation, and forced tax billing. That is why the DGT requested to be authorized direct access to the customer data bank (direct access), as a comparison with the Foreign Account Tax Compliance Act (FATCA) The Internal Revenue Service has direct access to the data bank customers. FATCA even applied in Indonesia as of July 2014 by the United States Government. The specific objective of this thesis is to determine whether providing direct access to the DGT to open bank secrecy is possible under Indonesian law and whether FATCA can be applied in Indonesia? Results thesis can be used as inputs to the legislators to make improvements to the legislation that already exists. The general objective of this thesis is to develop and enrich the study of the science of banking law., Bank secrecy important to further research because the bank secrecy is an important element in the banking sector, on the other hand restrictions of bank secrecy has become a necessity of development of today's society. Formally the applicable laws governing the bank secrecy is Law No. 7 of 1992 as Amendment by Law No. 10 of 1998 on Banking, which is setting bank secrecy subscribe to the theory that the Bank Secrecy is relative, that the bank is authorized to disclose their clients if there is an interest in the public interest that force to do so. One exception of bank secrecy in Indonesia is for tax purposes, but it is currently disputed by the Directorate General of Taxation (DGT) because they have been blocking the maximum effort in the tax authorities of tax collection, because the formulation of opening of bank secrecy for tax purposes is limited to the examination, criminal investigation, and forced tax billing. That is why the DGT requested to be authorized direct access to the customer data bank (direct access), as a comparison with the Foreign Account Tax Compliance Act (FATCA) The Internal Revenue Service has direct access to the data bank customers. FATCA even applied in Indonesia as of July 2014 by the United States Government. The specific objective of this thesis is to determine whether providing direct access to the DGT to open bank secrecy is possible under Indonesian law and whether FATCA can be applied in Indonesia? Results thesis can be used as inputs to the legislators to make improvements to the legislation that already exists. The general objective of this thesis is to develop and enrich the study of the science of banking law.]