

Kepastian hukum pembayaran pajak dalam praktik transfer pricing atas penggunaan know-how = The legal certainty of the payment of taxes in transfer pricing on know-how utilization

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Abstrak

Sejak tahun 2007 lalu, lebih dari 60 nilai perdagangan di beberapa negara berasal dari transaksi yang menggunakan praktik transfer pricing. Sayangnya transfer pricing kerap disalahgunakan sehingga mengakibatkan tidak optimalnya pendapatan negara. Skripsi ini menguji kepastian hukum transfer pricing ditinjau dari hukum pajak, khususnya mengenai praktik transfer pricing disebut sebagai tindakan yang melawan hukum dan kepastian hukum pembayaran pajak dalam menentukan kewajiban dan kelaziman usaha pada praktik transfer pricing atas penggunaan know-how. Penelitian ini berbentuk yuridis normatif yang menggunakan pendekatan kualitatif dengan desain deskriptif.

Hasil penelitian ini menyatakan bahwa transfer pricing tidak melawan hukum sepanjang transfer pricing yang diterapkan sesuai dengan prinsip kewajiban dan kelaziman usaha. Meskipun demikian, transfer pricing kerap menimbulkan permasalahan lain karena fiskus dan wajib pajak belum mempunyai kesepahaman mengenai pengertian know-how. Hal ini kerap mengakibatkan transfer pricing dianggap tidak memenuhi prinsip kewajiban dan kelaziman usaha karena objek atas pembayaran royalti diragukan keberadaannya.

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Since 2007, more than 60 of trade value in a country comes from the transaction that using transfer pricing mechanism. Unfortunately transfer pricing is often misused which results in less than optimal state revenue. This thesis examined the legal certainty of transfer pricing reviewed from tax regulation. There are two main issues in this study, those are how the transfer pricing actions can be categorized as unlawful acts and how the legal certainty of tax payments in the transfer pricing actions on the use of know how. This study is in the form of normative juridical that used qualitative approach with descriptive design.

The results of this study suggest that transfer pricing is not against the regulation as long as the transfer pricing is applied in accordance with arm 39 s length principle ALP. Nevertheless, transfer pricing often meets the problem because tax authorities and taxpayers have no understanding of know how. It often leads to the transfer pricing be considered not fulfill the arm 39 s length principle ALP because the object of royalty payments are doubt of its existence.