

Analisis pemeriksaan pajak atas transaksi hubungan istimewa dan kaitannya terhadap penerimaan pajak penghasilan pada tim kerjasama Direktorat Jenderal Pajak-BPKP = Analysis into tax audit for related party transactions and their relations to income tax revenue at the joint team between the directorate general of taxation and the financial and developmental audit board

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Abstrak

The transaction price of goods, or service fees, are affected by a variety of factors such as types and quality of the goods concerned, competition, consumer demand and general economic condition. In general transaction prices constitute base prices added by the firm's margin. In the business world at a particular time transaction prices do not account for margins, with some perhaps even being found lower than the cost of goods production. However, tax authorities pay attention to related party transactions as their prices may be subject to manipulation. These prices will be set at arm's length if we compare them with those for independent parties. As a further result, the taxable income reported in tax returns of the taxpayers in question are less than what it should be. The main issue and question in the author's research are how to determine that a transaction has been conducted at arm's length and what connection can be found between the corrections made through audit and income tax revenue. The pricing set for transactions between related parties are called as transfer pricing. A related party transaction is deemed to occur when there is a link between the common and controlling shareholders, management of the parties involved, including their horizontal and vertical family relationships. One way to determine if there is an arm's length price is to compare the transfer pricing on related parties and those on unrelated parties. Some of the common approaches applied-are the comparable uncontrol price method, resale price method, cost plus method and comparable profit method.

The author surveyed the results of inspections conducted by the State Revenue Optimization Team (SROT) into related firm transactions.

From the survey, the author has found:

1. In practice it is difficult to arrive at an accurate comparative figure as the period of the audit above has been limited and data and information concerning similar firms to taxpayers are lacking. A new approach which has been employed by tax authorities in several countries for the purpose of reducing the occurrences of problems associated with the determination of transaction prices is called as the Advanced Pricing Arrangement. This method has been set out in Article 18(3a) of Law number 17 of 2000.
2. The corrections through audit into or the potential income tax revenue by SROT from the transactions conducted between taxpayers and their related parties amount to Rp 932,952,280,602. However, only Rp 51,821,609,658, or 5.55% of this amount was accepted by taxpayers. Hence, these taxpayers did want to pay a total of Rp 881,130,670,944, or 94.45%. The taxpayers then request of objection or appeals on the assessments made by the Director General of Taxation. However, the Director General of Taxation rejected

these request . In addition, the Tax Court rejected appeals which amounted to Rp 4,696,385,476.

The corrections above were conducted due to the fact that:

- There has been lack of audit guidelines concerning related party transactions.
- Taxpayers are unable to make clear explanations on how they arrived at transfer pricing. In addition, the factors which cause transfer pricing vary from those affecting market prices, or the transaction prices among unrelated parties.

The author recommends as follows:

- Taxpayers should make a pricing policy whereby transaction prices are described and broken down. In addition, they should explain the factors which cause their transfer pricing to differ from market prices, or the transaction prices among unrelated company.
- Tax authorities set a comparative figure or indicator, taken from taxpayers' data bases, as a reference for auditor for the purpose of assessing transaction fairness.
- Consideration should be made to re-evaluate the fines in the form of interest payments, and penalties which are regulated in Law number 16 of 2000. Different sanctions, in the form of, for example, higher percentage or without correspondence adjustments, should be charged on taxpayers who do provide information on their related party transactions.
- Issuance of the implementation guidelines for Article 18(3a) of Law number 17 of 2000 to both taxpayers and the Directorate General of Taxation regarding agreements about the determination of transaction prices.</i>