

## **ABSTRACT**

**JASMINE**

**00000024991**

### **ANALYSIS OF THE TAXATION LAW REGARDING TRANSFER PRICING AT INDONESIA**

(xvi+67 pages; 1 figure; 3 tables; 1 appendixes)

Transfer pricing is one of the most common practices to avoid tax. Transfer pricing has caused the government lost amounting to 100 trillion rupiah every year. Regulations regarding transfer pricing has been applied and updated in accordance with OECD Transfer Pricing Guideline, however there are no significant changes in the amount of transfer pricing cases. From various research results, it is debatable whether Indonesian tax regulations have clearly identified and handled this issue.

The purpose of this research is to reexamine the certainty of transfer pricing regulations in Indonesia for entrepreneurs as taxpayers and for the government. The research method is through case law approach where consistency between the application of law in cases and law as it is written by the books is tested. Afterwards, an analysis is done on the possible adoption of China's transfer pricing law to fix the problems found through case law approach. 100 case data from year 2016 to 2017 is collected from Supreme Court website and then analyzed.

Research results show that transfer pricing regulations in Indonesia is uncertain due to an overlap in existing regulations, such as several regulations mentioning the importance of hierarchy in transfer pricing methods while other regulations dismiss it. Several definitions in the regulations covers too broad of a scope, leading to different interpretations between taxpayers, Directorate General of Taxes, and the judge. Additionally, a partial adoption of China's transfer pricing law can be done, which is to adopt location-specific advantage to ease the conduct of comparability analysis.

**Kata Kunci:** Transfer Pricing, Certainty, Law

Referensi: 13 (2012-2019)

## **ABSTRAK**

**JASMINE**

**00000024991**

### **ANALYSIS OF THE TAXATION LAW REGARDING TRANSFER PRICING AT INDONESIA**

(xvi+67 pages; 1 figure; 3 tables; 1 appendixes)

*Transfer pricing* adalah salah satu praktik paling sering digunakan dalam menghindari pajak. Transfer pricing telah mengakibatkan kerugian negara sebesar 100 triliun rupiah setiap tahunnya. Peraturan mengenai transfer pricing terus diterapkan sesuai dengan OECD Transfer Pricing Guideline, namun tidak terdapat banyak perubahan dalam jumlah kasus transfer pricing. Dari berbagai hasil penelitian, diperdebatkan apabila undang-undang perpajakan Indonesia telah dengan jelas mendefinisikan dan menangani isu ini.

Tujuan dari penelitian ini adalah untuk memastikan kejelasan dari undang-undang transfer pricing di Indonesia untuk pengusaha sebagai wajib pajak dan untuk pemerintah. Metode penelitian ini adalah dengan pendekatan case law dimana diteliti konsistensi antara pengaplikasian hukum dengan hukum yang tertulis di undang-undang. Kemudian dilakukan analisis pengaplikasian hukum negara lain, yakni China, di Indonesia untuk mengatasi masalah yang timbul dari pendekatan case law. 100 kasus dari tahun 2016 hingga 2017 dikumpulkan dari website Mahkamah Agung dan kemudian dianalisa.

Dari hasil penelitian dapat dibuktikan bahwa undang-undang transfer pricing di Indonesia memiliki ketidakjelasan dikarenakan terjadinya tumpang tindih antara beberapa undang-undang, sebagai contoh beberapa undang-undang yang menitikberatkan kepentingan hierarki metode transfer pricing, sementara terdapat juga undang-undang yang tidak menghiraukan hierarki tersebut. Beberapa definisi di dalam undang-undang terlalu luas hingga menyebabkan perbedaan pemahaman antara wajib pajak, Direktorat Jenderal Pajak, dan hakim dalam kasus transfer pricing. Di sisi lain, dapat dilakukan pengaplikasian separuh dari undang-undang transfer pricing di China, yakni *location-specific advantage* yang dapat memudahkan pelaksanaan analisa kesebandingan.

**Kata Kunci:** Transfer Pricing, Certainty, Law

Referensi: 13 (2012-2019)