

ABSTRAK

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“Perberdayaan *Mutual Agreement Procedure* Dalam Rangka Penyelesaian Sengketa Pajak Berganda Internasional Yang Efektif di Indonesia”

(xviii, 454 halaman, 32 gambar, 36 tabel)

Perpajakan Indonesia dihadapkan pada tantangan yang sangat berat. Globalisasi, di satu sisi, berhasil meningkatkan investasi asing dan perdagangan internasional. Di sisi lain, globalisasi mengakibatkan terjadinya penggerusan basis pajak secara masif yang nilainya mencapai Rp 350 Triliun per tahun. Indonesia bersama 140 negara anggota *Base Erosion and Profit Shifting Inclusive Framework* telah merumuskan kebijakan anti-penghindaran pajak dan melakukan penegakan hukum pajak secara agresif. Dampaknya, sengketa pajak berganda internasional meningkat pesat. Penelitian awal menunjukkan kepastian hukum dan pemanfaatan *Mutual Agreement Procedure* (MAP) sebagai mekanisme penyelesaian sengketa pajak berganda internasional di Indonesia sangat rendah. Kondisi ini menyebabkan peringkat kemudahan berusaha Indonesia turun dan terhambatnya iklim investasi.

Penelitian ini merupakan penelitian yuridis normatif dengan menggunakan pendekatan sejarah, perbandingan hukum, dan peraturan perundang-undangan. Hasil penelitian menunjukkan hukum MAP tumbuh dan berkembang di Indonesia. Meskipun sempat terjadi kekosongan dan inkonsistensi hukum selama periode 1980-2011, kebijakan MAP saat ini berkembang mengikuti *international best practices*. Ironisnya, statistik menunjukkan kebijakan MAP di Indonesia gagal mendorong pemberdayaan MAP sebagai mekanisme penyelesaian sengketa pajak berganda internasional yang utama. Kurangnya sosialisasi, jangka waktu penyelesaian sengketa yang lama, dan rendahnya keberhasilan MAP dalam mencegah pajak berganda menyebabkan Wajib Pajak kurang tertarik mengikuti program MAP.

Upaya pemberdayaan MAP harus dilakukan secara komprehensif dan bertahap. Dalam jangka pendek, pemerintah perlu menggalakkan sosialisasi MAP untuk meningkatkan kesadaran Wajib Pajak akan manfaat MAP. Dalam jangka menengah, penelitian ini merekomendasikan diadopsinya kebijakan dimana pengajuan MAP dapat menanggukuhkan pengajuan atau penyelesaian upaya hukum domestik serta diadopsinya kebijakan penagihan pajak yang setara antara MAP dan upaya hukum domestik. Untuk meningkatkan efektivitas pelaksanaan MAP, penelitian ini merekomendasikan diadopsinya *voluntary arbitration* dan mediasi. Terakhir, pemerintah perlu meningkatkan kualitas sumber daya manusia dan memperkuat sinergi antara Direktorat Jenderal Pajak dan Badan Kebijakan Fiskal dalam rangka penanganan MAP yang lebih efektif di Indonesia.

Kata Kunci: MAP, Pajak Internasional, *Base Erosion and Profit Shifting*.

Referensi: 76 buku + 138 non-buku

ABSTRACT

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“Mutual Agreement Procedure Empowerment for Effective International Double Taxation Dispute Resolution in Indonesia”

(xviii, 454 pages, 32 pictures, 36 tables)

Indonesian taxation is facing formidable challenges. Globalization, on the one hand, has successfully increased foreign direct investments and international trade. Globalization, on the other hand, has caused massive tax base erosion reaching IDR 350 trillion annually. Indonesia and 140 Base Erosion and Profit Shifting Inclusive Framework member countries have formulated anti-tax avoidance policies and conducted more aggressive tax law enforcement. As a result, international double-taxation disputes have increased significantly. Preliminary research indicated that legal certainty and taxpayer participation in the MAP program in Indonesia was relatively low. Legal uncertainty may cause Indonesia's ease of doing business rating to decline and ultimately hamper the investment climate.

It is normative legal research using historical, comparative, and legislative approaches. The study shows that MAP laws are developing in Indonesia. Although there were legal vacancies and inconsistencies from 1980 to 2011, currently MAP laws are developing following international best practices. Despite its impressive development, statistics indicated that MAP laws had failed to encourage optimum taxpayers' participation in the MAP program. Several factors, such as lack of socialization, lengthy dispute resolution, and low success rate of MAP in preventing double taxation issues, had caused taxpayers to be reluctant to participate in the MAP program.

Indonesia needs to carry out the MAP empowerment program comprehensively and gradually. In the short term, the government needs to enhance the MAP socialization program to increase taxpayers' awareness of MAP's benefits. In the medium term, this study recommends the refinement of MAP policies whereby the submission of MAP application will suspend the application or settlement of domestic legal remedies and will suspend tax collection accordingly. This study also recommends the adoption of voluntary arbitration and mediation to improve the quality of MAP consultation. Finally, an effective MAP program requires efforts by the government to improve the quality of MAP analysts and to strengthen the synergy between the Directorate General of Taxes and the Fiscal Policy Agency as the international tax Competent Authorities appointed by the Minister of Finance.

Keywords: MAP, International Taxation, Base Erosion and Profit Shifting.

References: 76 books + 138 non-books