

ABSTRACT

LEGAL CERTAINTY FOR FOREIGN INVESTMENT IN INDONESIA'S OIL AND GAS SECTOR: A REVIEW OF TAX IMPLEMENTATION ON THE TRANSFER OF PARTICIPATING INTEREST IN PRODUCTION SHARING CONTRACTS

The energy security and economic growth of Indonesia depend heavily on investments in the oil and gas sector, a cornerstone of the country's energy strategy. Participating Interest (PI) transfers within Production Sharing Contracts (PSCs) represent a critical component of this investment ecosystem. However, the regulatory landscape, particularly with the introduction of Government Regulation Number 93 Year 2021 concerning Income Tax Treatment on Participating Interest Transfers, poses significant challenges to legal certainty and investor confidence. This study examines the taxation of PI transfers, focusing on its alignment with principles of tax justice, international tax standards, and the sanctity of contracts. Employing a normative approach, this research analyzes Indonesian tax regulations and their interplay with international frameworks such as the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention. The findings underscore systemic issues, including the lack of clarity in determining tax subjects and objects, excessive reliance on deemed tax mechanisms, and an absence of thresholds for indirect transfers, which deviate from international norms. These shortcomings undermine the principles of equity, predictability, and fairness, jeopardizing Indonesia's investment climate. The study advocates for harmonizing domestic tax policies with global standards, preserving sanctity of contracts under PSCs, and introducing tax exemptions for certain transactions like corporate actions and publicly listed entities. These measures are essential for creating legal clarity, minimizing disputes, and making sure Indonesia stays an appealing choice for foreign investment, especially in its important oil and gas sector.

Key Words: *Participating Interest, Production Sharing Contract, legal certainty, income tax, investment in oil and gas, production sharing contracts, Government Regulation Number 93 Year 2021, sanctity of contracts, and indirect transfers*

Reference: *27 Books (1932 – 2022) and 11 Academic Journals (1651-2022)*