

Review Of Tax Laws On Transfer Pricing Transactions In Indonesia

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Abstract

Taxes are one of the main sources of revenue for the country, and along with the globalization of the economy, the practice of transactions between affiliated companies (transfer pricing) has become an increasingly relevant issue. Transfer pricing is concerned with determining the price of goods, services, or assets exchanged between companies that have an affiliate relationship. In Indonesia, the Directorate General of Taxes (DGT) pays great attention to the practice of transfer pricing, considering the potential for tax evasion through inappropriate pricing in transactions between companies. This study aims to examine the perspective of tax law related to transfer pricing transactions in Indonesia, focusing on applicable tax regulations, provisions related to transfer pricing, and law enforcement efforts carried out by the DGT. The study also discusses various challenges and problems that arise in the implementation of transfer pricing regulations in Indonesia, such as difficulties in determining fair prices and the possibility of abuse by multinational companies. It is hoped that the results of this study can provide an understanding of the effectiveness of existing tax policies in dealing with transfer pricing problems and provide recommendations to improve the level of tax compliance in Indonesia.

1. Introduction

In Indonesia, the practice of transfer pricing is indeed very widespread, with many companies using it to reduce the tax burden, especially related to income tax. This is a big concern because income tax is one of the country's largest sources of revenue. However, transfer pricing also has benefits, especially in improving the efficiency and overall performance of the company. Transfer pricing schemes are structured to distribute profits or losses to each unit or sub-unit in a decentralised structured company. The main purpose of this scheme is to support management in making strategic decisions, such as determining whether certain

goods or services should be produced internally or purchased from outside parties, based on the strategy that is most profitable for the company.

In the Indonesian tax system, the regulation of transactions between companies that have a special relationship (related parties) or better known as transfer pricing plays an important role in maintaining the fairness and effectiveness of tax collection (Sari, R. D. & Jaya, S. K. 2018 21(3),45-58.). Multinational companies often use transfer pricing transactions to move profits from countries with high tax rates to countries with lower tax rates, which can ultimately affect state revenues and harm the principle of tax fairness (Arifin, 2021, pp. 102-120). Kristanto, W. (2019) said Therefore, to reduce the potential for tax avoidance through this practice, the tax regulations that regulate transactions between companies need to be updated periodically.

In 2023, the Indonesian government issued Minister of Finance Regulation (PMK) Number 172/PMK.03/2023 as a replacement for PMK Number 213/PMK.03/2016 which regulates transfer pricing in Indonesia. This new regulation is expected to strengthen tax provisions related to transactions between related companies, in line with Indonesia's commitment to follow international standards, especially those set by the Organization for Economic Co-operation and Development (OECD) (Tarigan, I. 2020 34(2), 123-140). This update also reflects the Indonesian government's efforts to address global challenges related to tax avoidance and the standardization of international tax practices (OECD, 2023).

PMK Number 172 of 2023 contains more detailed guidelines regarding the mechanism for determining transaction prices between companies, more transparent information disclosure, and adjustments to the latest international regulations which aim to ensure that transfer pricing transactions are carried out in accordance with the principle of fairness (arm's length principle) (Djohan, 2020, pp. 95-112). With the issuance of this new PMK, Wahyudi A. K. (2017) said that there can be an increase in tax compliance and strengthening the Indonesian tax system, as well as reducing the potential for harmful tax avoidance practices.

Although there are clear regulations, the implementation of this policy in Indonesia still faces a number of challenges (Pratama, R. & Setiawan, A.. 2019 5(1), 77-92). The main problem that arises is related to the implementation of supervision of transfer pricing transactions that are complex and difficult to audit. Multinational corporations with fragmented global structures can easily manipulate transaction prices between their entities to minimize tax liabilities. In addition, there is no fully effective mechanism to address the problem of unreasonable transfer pricing and ensure that the transaction is in accordance with the prevailing market value (Denny, S. & Nasution, A. 2018).

This study aims to examine the legal aspects related to tax regulations on transfer pricing transactions in Indonesia, by highlighting the extent to which existing policies are effective and the challenges faced in their implementation. This research will also discuss the application of the principle of price fairness in transactions between affiliated companies, as

well as provide suggestions to improve the effectiveness of tax supervision and compliance to prevent tax evasion through transfer pricing in Indonesia. Thus, it is hoped that this research can make a positive contribution to the development of a more transparent and fair tax policy in Indonesia..

2. Research Method

The method used in this study uses the normative juridical method and the descriptive analytical method. The following is an explanation of the two methods in accordance with the guidelines for writing scientific papers:

The normative juridical method focuses on the study of laws and regulations and legal documents relevant to the research topic. In the context of this study, this method is used to analyze various regulations that regulate transfer pricing in Indonesia, such as Minister of Finance Regulation (PMK) Number 213/PMK.03/2016 concerning Transfer Pricing, as well as Law No. 36 of 2008 concerning Income Tax. This method will also examine the arm's length principle adopted by Indonesia as well as relevant international regulations such as the OECD (Organization for Economic Cooperation and Development) guidelines in transfer pricing. This method is used to provide an understanding of the legal and regulatory basis that governs transfer pricing practices and how these regulations are applied in Indonesia.

Descriptive analytical methods are used to analyze and describe the implementation of tax policies related to transfer pricing in Indonesia, as well as the challenges faced in its implementation. This research will describe and analyze the problems that arise in the supervision and enforcement of transfer pricing regulations, as well as the effectiveness of existing regulations in preventing tax avoidance. Using descriptive analytical methods, this study will identify the gap between existing regulatory theories and their application practices in the field, as well as provide recommendations to improve related tax policies.

These two methods, normative juridical and descriptive analytical, are used to provide a comprehensive overview of the legal regulations governing transfer pricing and the challenges faced in their implementation. Through this method, the research will analyze the effectiveness of existing policies, as well as provide recommendations to improve a fairer and more transparent tax system in Indonesia. This is in line with the guidelines for writing scientific papers at the Open University which emphasizes the importance of legal analysis based on the study of relevant regulations and the evaluation of the implementation of existing policies

3. Results and Discussion

The implementation of transfer pricing regulations in Indonesia has been clearly regulated in accordance with PMK No. 172/2023, transfer pricing transactions refer to transactions made between two or more parties that have an affiliate relationship, such as between companies that are members of one business group. In this case, the Directorate General of Taxes (DGT) uses the arm's length principle to ensure that the price charged in the transaction is the price that should be set by independent parties (Directorate General of

Taxes, 2023).

PMK No. 172/PMK.03/2023 regulates in more detail and clearly the reporting obligations and documentation requirements that need to be fulfilled by taxpayers involved in transfer pricing transactions. This regulation replaces PMK No. 213/PMK.03/2016 which previously did not accommodate the developments and challenges of globalization as well as more complex tax practices. One of the significant changes is the emphasis on the arm's length principle in transactions between connected companies, namely the price used in the transaction must be in accordance with the applicable price between unconnected parties in the same market conditions (OECD, 2023).

PMK No. 172/2023 provides guidelines on five methods that can be used to determine a fair transfer price. The methods are:

- a. Comparable Uncontrolled Price (CUP) Method: Comparing the price of transactions between affiliates with the applicable price in transactions made with unaffiliated parties.
- b. Cost Plus Method: Calculates the transfer price based on the cost of production and adds a reasonable profit margin.
- c. Resale Price Method: Uses the resale price of goods purchased by affiliated companies and is reduced by the cost incurred for the sale of the item.
- d. Profit Split Method: Calculates the profit share generated from transactions between affiliates based on each party's contribution to the transaction.
- e. Transactional Net Margin Method (TNMM): Measures the net profit margin generated from transactions and compares it with the net profit margin of other unaffiliated companies.

This regulation provides more detailed reporting obligations, by requiring companies to prepare and submit Local Files, Master Files, and Country-by-Country Reporting (CbCR) in accordance with international standards set by the OECD. This aims to ensure that transactions between companies are carried out at a reasonable price and avoid tax evasion that can be detrimental to the state.

Although PMK No. 172/PMK.03/2023 has provided clear guidelines regarding the obligation to document transfer pricing, the biggest challenge in its implementation is the capacity of human resources and the use of technology by the DGT. The examination of transfer pricing documents consisting of various large and complex files requires adequate technical expertise from the DGT. Therefore, the DGT must improve its technical capabilities and use more sophisticated information technology to analyze the data submitted by the company (DGT, 2023).

The DGT is also currently developing a big data and artificial intelligence (AI) system to simplify the audit process and detect irregularities in transfer pricing reports submitted by companies. It also aims to speed up the verification process and ensure that the transfer pricing practices carried out by the company are in accordance with applicable regulations.

However, another challenge faced is the limited resources of small and medium-sized

companies that may not have the system or capacity to compile complex transfer pricing documentation in accordance with the new provisions. It is important for the government to assist and provide education to small and medium enterprises (SMEs) so that they are able to comply with this new regulation.

Stricter regulations regarding transfer pricing documentation and reporting are expected to improve corporate tax compliance in Indonesia. Companies that previously may have been less transparent in reporting their transfer pricing transactions now have to prepare more detailed reports that comply with the arm's length principle. This will reduce the potential for manipulation of transfer prices, which has been a problem in the Indonesian tax system (OECD, 2023).

On the other hand, more detailed reporting obligations can also present challenges for companies, especially for small and medium-sized companies that may not be ready to meet these obligations. Therefore, it is important for the government to provide clear training and guidance for companies so that they can meet their existing obligations without overburdening their business operations.

Technology is a very important aspect in the supervision of transfer pricing transactions in Indonesia. The use of big data-based systems and special software to check transfer pricing reports will greatly help the DGT in identifying irregularities in transactions reported by companies. This technology also allows the DGT to be faster and more accurate in analyzing reports received from taxpayers (DGT, 2023).

In addition, with a more structured reporting system such as Master File, Local File, and Country-by-Country Reporting (CbCR), the DGT can more easily monitor and verify data comprehensively, which will speed up the audit and tax audit process.

PMK No. 172/2023 is an important step in efforts to improve tax compliance in Indonesia, especially related to transfer pricing transactions between affiliated companies. By introducing a variety of transfer pricing methods and more detailed documentation obligations, the regulation is designed to ensure that transactions between affiliates are conducted at prices that reflect the principles of fairness and feasibility, in order to prevent tax avoidance practices that could be detrimental to the state. Therefore, for companies involved in transfer pricing transactions, understanding and implementing the provisions in PMK No. 172/2023 is very important to avoid sanctions and tax problems in the future

4. Conclusion

Based on an analysis of PMK No. 172 of 2023 concerning the Determination of Transfer Pricing in Transactions Between Affiliated Companies, it can be concluded that this regulation aims to increase transparency and tax compliance in transfer pricing transactions between affiliated companies. PMK No. 172/2023 prioritizes the principle of fairness and feasibility (arm's length principle) in determining transfer prices to prevent tax avoidance practices that are detrimental to the state. Indonesia

PMKN No. 172/PMK.03/2023 is an important update in transfer pricing regulation in

Indonesia, which aims to align Indonesia's tax policy with international standards set by the OECD. The regulation introduces more detailed and transparent documentation obligations, including Local File, Master File, and Country-by-Country Reporting (CbCR), which serve as a tool to ensure compliance with arm's length pricing principles in connected intercompany transactions.

The application of the arm's length principle in transfer pricing transactions is a very important step to prevent tax avoidance and price manipulation practices that can harm the country. Through these stricter arrangements, the Indonesian government aims to optimize tax revenues and increase transparency in the reporting of transactions between connected companies.

The DGT has a very important role in the supervision and examination of transfer pricing transactions carried out by multinational companies. The application of technology such as big data and AI-based systems is expected to increase effectiveness and efficiency in identifying inappropriate transfer pricing practices. However, the major challenge faced by the DGT is the limitation of human resources and adequate technological infrastructure.

Although this regulation provides significant progress in the aspect of tax regulation, there are still several challenges that must be faced, such as the readiness of companies, especially Small and Medium Enterprises (SMEs), in compiling and submitting transfer pricing documentation in accordance with existing regulations.

SUGGESTION

Based on the research conducted, the researcher submitted the following suggestions:

Increasing Socialization and Education for Taxpayers, Most taxpayers involved in transfer pricing transactions, especially multinational companies, may still not fully understand the details and implications of PMK No. 172/2023. Therefore, the DGT needs to strengthen socialization and education programs related to this regulation to taxpayers, so that they can better comply with the provisions and compile appropriate transfer pricing documentation.

Increasing DGT Resources: To ensure the effectiveness of supervision, the DGT must strengthen the capacity of human resources (HR) in the field of transfer pricing. This can be done through special training, the development of expertise in the field of transfer pricing analysis, and the application of information technology to detect and analyze abnormal transfer pricing transactions.

Improvement of Technology Infrastructure and Tax Reporting System, Improvement of electronic tax reporting system that can facilitate data collection and analysis of transfer pricing transactions between companies will greatly support the implementation of this PMK. With the right technology, the DGT can monitor transactions between affiliates more efficiently and in a timely manner.

Collaboration with International Tax Authorities, Given the global nature of transfer pricing transactions, collaboration between the DGT and international tax authorities (such as the

OECD) is essential to identify potential tax evasion through unreasonable transfer pricing. Indonesia must continue to update its tax policy to remain in line with international best practices in terms of transfer pricing supervision.

Periodic Evaluation of the Implementation of PMK No. 172/2023, The Government, in this case the DGT, needs to conduct periodic evaluations of the implementation of PMK No. 172/2023 to assess the effectiveness of this regulation in increasing tax compliance and reducing tax avoidance. Based on the results of the evaluation, there needs to be adjustments or improvements to existing policies to ensure conformity with global market developments and Indonesia's fiscal needs.

With these measures, it is hoped that the supervision of transfer pricing transactions in Indonesia can be more effective, and the problem of tax avoidance that is detrimental to the country's economy can be minimized.

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