

Analisis pajak pertambahan nilai pada produk perbankan syariah: studi kasus pembiayaan Murabahah

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Abstrak

Murabahah financing in syariah banking with trading principle, make syariah bank different compared to conventional banks. The difference has caused different understanding for Tax officials, regarding the Value Added Tax. Financing service is a bank service type that is not subject to Value Added Tax, in contrast, is a bank perform sell-purchase activities, which is not a banking business, is an object of Value Added Tax, since in a trading activities, transfer of good exists from a seller to a buyer. Understanding of Tax officer on murabahah transaction is a trade, contrary to the understanding of syariah banking practitioners, who consider murabahah transaction as a financing activity.

Understanding of Tax officer regarding murabahah as a trade is based on the interpretation of Act No. 18 of 2000 regarding Value Added Tax, particularly in article 1 section 5 regarding the definition of service, article 1 section 12 regarding trading, article I section 15 regarding Taxable Entrepreneur (PKP) in the event of delivery of goods. This was confirmed by letter from the Director General of Tax No. S-10711PJ.5312003 dated 11 April 2003 and No. S-2431PJ.5312003 dated 3 October 2003.

Understanding of syariah banking practitioners on murabahah as a bank financing service is based on the interpretation of the Act number 7 of 1992. which have been amended by the Act No, 10 of 1998 regarding banking, particularly in article 1 section 13 regarding the definition of syariah principles, article 6 section m regarding bank business based on syariah principles. The understanding was confirmed by the Government Regulation number 144 of 2000 regarding Types of Goods and Services not subject to Value Added Tax, particularly article 5 section d regarding banking services, including types of services not subject to Value Added Tax, Article 8 section a regarding types of banking according to the provision of the Act no. 7 of 1992 as has been amended by the Act no. 10 of 1998. The understanding was confirmed by the Act No. 18 of 2000 regarding Value Added Tax, in article 4A verse 3 section 4 regarding banking services that are not subject to Value Added Tax.

Using method of comparison of prevailing laws, a legal analysis could be done. As a result of legal analysis, it is found that the Act of Value Added Tax and Banking contains inconsistency in regulating types of banking service. in their application by Tax officer, law may be superseded by a decision of the Directorate General of Tax, which has juridical power lower than the law.

In order to strengthen the legal analysis, a scientific analysis should be done using standard statistical method. In identifying murabahah transaction as a syariah bank financing service, AHP method is used, which is aimed to determine the priority weight as the most dominant financing. Priority determination was done on 15 experts, and 7 of them could give consistent answers. Based on the AHP analysis, it was

identified that murabahah transaction is a syariah bank financing transaction, with order of the most influencing condition criteria, as follows: need, quality of goods, benefit, purchase power, and periodic payment. Factors prioritized most in murabahah transaction in order are; profit margin, goods, price, and financing terms.

Overall result of the analysis categorizes murabahah transaction as a financing transaction by syariah bank, either in legal manner, which is based on laws, or scientifically using AHP statistic method. Thus, murabahah is not a-i object of Value Added Tax despite the use of trading principles. Trading principles in murabahah is not the same as trading, which contains delivery of goods as is usually done by.

Tax collection shall be made based on law, which shall act as guidance for Tax officer is performing their duties. Any provision made shall be based on law, it shall not contrary to prevailing laws. If necessary, amendment of law shall undergo phases already established.

Analysis with AHP method relies on experts' opinion in determining weight of each predetermined hierarchical element. Selection of experts shall be appropriate and conform to their disciplines. Irrelevant and inconsistent expert will produce bias information, which may cause bias analysis.