

Pajak penghasilan atas laba usaha bentuk usaha tetap dari transaksi E-Commerce: suatu tinjauan komparatif ketentuan Indonesia-Amerika

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Abstrak

The development of information technology has altered the way companies run their business. Internet has brought the world economy into new chapter which is popularly known as digital economics. International trade has shifted from conventional method to more rely on electronic commerce. Through the Internet media, business activities can be conducted from long distance and not requiring physical attendance which can reach all over the world.

This condition has brought about problems for taxation authorities with regard to taxation on income from e-commerce business activities. Whether the concept of current permanent establishment (BUT) can accommodate e-commerce transaction, whether the rule of force-of-attraction can still accommodate the taxation on e-commerce transaction, whether the principle of separate entity and arm's length is still relevant in determining the amount of the business profit from e-commerce transaction.

By studying the aspect of International taxation on the imposition of income tax on business profit issued by the Organization for Economic Cooperation and Development (OECD), and subsequently by analyzing Indonesian domestic provisions and conducting a comparative study on the US Internal Revenue Code, and also the provisions of the Agreement on Double Taxation Evasion between Indonesia and The USA, the conclusion can be drawn that the provisions of Law Number 7 Year 1983 on Income Tax as have been amended lastly by virtue of Law Number 17 Year 2000 have not fully accommodated the imposition of income tax on the business profit of e-commerce transaction.

The Concept of permanent establishment (BUT) has not accommodated of e-commerce transactions which in reality do not require any fixed place of business, physical location, employees or personnel to run business activities and agencies. The rule of force-of-attraction has not been able to earn any revenues from Indonesian source obtained by the web server operated outside Indonesia or in the country of the domicile of the head office. The principle of separate entity and arm's length should be adjusted to facilitate the calculation of the business profit obtained by each web server.

Based on the foregoing conclusion it is recommended that changes and adjustment be made to the provisions of international taxation in Law Number 7 Year 1983 on Income Tax as have been amended lastly by virtue of Law Number 17 Year 2000 on income tax from business profit so that it can accommodate imposition of tax on the business profit of e-commerce transaction.