

Tinjauan aspek pajak penghasilan atas transaksi structured trade finance dalam perdagangan komoditi pada PT "X" = Review of income tax aspect of structured trade finance transaction in commodity trading (case study of PT "X")

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Abstrak

The background of the thesis is the highly development of various financial innovations and manipulations as well as the development of international trading, which will be beneficial for big companies or multinational companies. One of them is Structured Trade Finance (STF) transaction that uses LFC as a financing mechanism, which is conducted by big agribusiness companies. As long as the business transaction of STF produces income in Indonesia, of course it should be governed by the Indonesia income tax system. Innovation in this practical commodity business is an interesting phenomenon to determine the character of its tax. The characterization of income is an important matter that emerges in imposing the tax of STF transactions that use L/C as an instrument. It becomes an important matter because it is related to the tax treatment including determination of tax rate for the income resulted from the STF transactions. Other thing that is mattered is that the STF transactions that are conducted by Taxpayer are not transparent and not disclosed well, which indicates an avoidance effort of tax payment.

The research method of the thesis is qualitative methodology with analytical descriptive approach. The two data collection's methods that are used in this research are study literature and field data collection techniques. The technique of study literature in data collection was conducted by reading and understanding sciences books, magazines, papers, articles, international convention and the tax regulations. Meanwhile, the technique of field data collection was conducted by observing and direct communicating with the related research's objects.

Basically, the STF transaction is a structured finance transaction based on borrowing. The experts in STF transaction in commodity's sector are able to design structurally the financing mechanism of L/C, by doing so, group of companies which are spread in various countries will be able to take advantage in their internal cash flow to create benefit through financial arbitrage opportunities in the region. The concrete advantage for the Taxpayer for the STF transaction is in form of L/C prepayment discount, which is given by the bank as an issuer of the L/C that is positioned in this country. Based on the SHS concept of income, the benefit/income obtained by the Taxpayer in conducting STF transaction is an income that subjected to tax because there is a substance economic increase. The characteristics of income will highly determine whether the income will be subjected to taxes or not, and also will determine the tax treatment of those income and the tax rate that will be imposed.

The determination factor of income characteristic from the STF transaction can be based on the substance of the transactions related with the obtained income. Through this research, it is shown that the income obtained from the STF transaction by using L/C technique can not exactly be classified as a business income

as well as other income, although there are several criteria of business income and interest income are fulfilled by this transaction. The L/C prepayment discount can be classified as an interest income. The main reason is that based on the substance of income, the L/C prepayment discount could be the same as an interest. The difference is only about time of payment.

The planning of STF transaction that is conducted by PT ?X? can be classified as the tax evasion, the reasons are because the Taxpayer is considered as being not transparent and dishonest, and also morally disobedience of law. Due to the more sophisticated business method and technique, Taxpayers can avoid taxes payment, not only by using loopholes or taking advantages in the weaknesses of Tax Regulations but also the weaknesses in other regulations such as banking regulations.

In determine the characteristic of income of a business transaction, which is always developed in a various ways, it is better for the Taxpayers and the Tax Authority to analyze the nature of a transaction first, so it can be acknowledged the substance of the income that appropriate with the Tax Regulations. This research concluded that all regulations in a country have to greatly support each other. Improving access to bank information for tax purposes has to be considered by the regulations maker because it can reduce the probability of tax evasion which disservice our country.