

Analisis ketentuan anti treaty shopping dalam upaya pencegahan penyalahgunaan persetujuan penghindaran pajak berganda (P3B) di Indonesia = Analysis of anti treaty shopping provisions in preventive efforts of tax treaty abuse in Indonesia

Eny Susilowati, author

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Abstrak

Tesis ini membahas praktik treaty shopping yang dilakukan oleh WPDN Indonesia khususnya perusahaan publik yang terdaftar di Bursa Efek Indonesia (BEI) dan ketentuan Anti Treaty Shopping di Indonesia. Penelitian ini adalah penelitian kualitatif dengan desain deskriptif. Hasil penelitian menyimpulkan bahwa praktik treaty shopping oleh WPDN Indonesia khususnya perusahaan publik yang terdaftar di BEI dilakukan dengan cara pembentukan SPV financing dan banyak didirikan di Belanda. Ketentuan anti treaty shopping Indonesia memuat pendekatan penentuan beneficial owner sesuai OECD dan mengeluarkan SKD dalam bentuk Form-DGT. Dalam pelaksanaannya terdapat beberapa negara mitra P3B yang tidak meng-endorse form-DGT tersebut. Hasil penelitian ini menyarankan penentuan beneficial owner sebaiknya diatur dalam P3B dan memasukkan klausul pengujian berdasarkan OECD, mengefektifkan exchange of information dengan negara-negara mitra P3B dan memanfaatkan data yang diperoleh secara maksimal.

.....This research discussed about the practice of treaty shopping which done by WPDN Indonesia especially public companies listed on the Indonesia Stock Exchange (IDX) and Anti-treaty shopping provisions in Indonesia. The research type is descriptive qualitative research design. The result of this research concludes that the practice of treaty shopping by WPDN Indonesia especially public companies listed on the IDX done by the formation of SPV financing and more established in the Netherlands. Indonesia anti-treaty shopping provisions provide to the beneficial owner determination approach based on OECD and release Certificate of Domicile Form-DGT. In practice there are some tax treaty partners that do not to endorse the issuance form. This research suggest that the beneficial owner determination should be set out in tax treaty with treaty partner and enter the clause test based on OECD, streamline the exchange of information with tax treaty partner and using data obtained with the maximum.