

Perjanjian penghindaran pajak berganda komprehensif dan pencegahan penghindaran pajak atas penghasilan dengan negara tax haven: kajian atas P3B Indonesia-Hong Kong SAR = Comprehensive agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income with tax haven country: a research of Indonesia-Hong Kong tax treaty

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Abstrak

Tesis ini membahas mengenai latar belakang formulasi, potensi permasalahan yang mungkin terjadi dan ketentuan anti penghindaran pajak terkait berlaku efektifnya Perjanjian Penghindaran Pajak Berganda (P3B) Indonesia dan Hong Kong sejak 1 Januari 2013. Penelitian ini adalah penelitian kualitatif dengan desain deskriptif.

Hasil penelitian menyimpulkan bahwa formulasi P3B Indonesia - Hong Kong telah dilandasi dasar hukum yang legal namun belum dilandasi kajian akademis yang transparan dan efektif. Dengan tujuan utama transparansi dan pertukaran informasi perpajakan, maka partial/ limited tax agreement seperti tax information exchange agreement bisa menjadi alternatif comprehensive tax treaty dengan "tax haven" country. Terhambatnya pemanfaatan P3B ini, kurang efektifnya pertukaran informasi, residence abuse merupakan beberapa isu yang berpotensi menjadi masalah terkait implementasi P3B Indonesia ? Hong Kong ini.

Hasil penelitian ini menyarankan agar dalam membuat P3B, kajian akademis harus transparan dan melibatkan pihak-pihak kompeten seperti akademisi dan praktisi perpajakan, memberi penegasan atas permasalahan yang berpotensi timbul serta memperkuat domestic anti tax avoidance rules.

.....This research discussed about the background and formulation of Indonesia - Hong Kong Comprehensive Tax Treaty and the potential problems that may arise under that treaty. The research type is descriptive qualitative research design.

The result of this research concludes that the tax treaty has been based on valid legal basis but not based on transparent and effective academic study. With the ultimate goal of transparency and exchange of tax information, the partial/limited tax information exchange agreements such as tax agreement could be an alternative comprehensive tax treaty with a tax haven country. Inhibition of the tax treaty utilization, lack of effective exchange of information, residence abuse are some of the issues that could potentially be a problem related to the implementation.

This research suggest that in concluding tax treaty, academic study should be transparent and involve competent parties such as academics and tax practitioners, competent authority should provides confirmation of the potential problems that arise and to strengthen domestic anti-tax avoidance rules.