

Pengaturan praktik transfer pricing di Indonesia = The regulation of transfer pricing practice in Indonesia

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Abstrak

[ABSTRAK

Tesis ini dibuat untuk mengetahui bagaimana praktik transfer pricing diatur di Indonesia dan untuk mengetahui apakah pengaturan transfer pricing di Indonesia sejalan dengan Undang-Undang Dasar Negara Republik Indonesia tahun 1945 karena melibatkan serangkaian Peraturan Direktur Jenderal. Metode penelitian adalah yuridis normatif. Pengolahan, analisa dan pengumpulan data dalam penelitian ini mempergunakan pendekatan yang bersifat kualitatif, dan hasil dari penelitian ini dituliskan secara deskriptif analisis. Berdasarkan analisis yang telah dilakukan, tesis ini menemukan bahwa praktik transfer pricing di Indonesia secara signifikan diatur oleh serangkaian Peraturan Direktur Jenderal Pajak, dimana menurut Pasal 8 Ayat (1) UU No. 12 Tahun 2011, Direktur Jenderal bukan merupakan lembaga yang berwenang membentuk peraturan perundang-undangan Padahal, Pasal 23A Undang-Undang Negara Republik Indonesia menyebutkan bahwa pajak dan pungutan lain yang bersifat memaksa untuk keperluan negara diatur dalam undang-undang. Dapat disimpulkan bahwa pengaturan transfer pricing tidak sejalan dengan pengaturan Pasal 23A UUD NRI 1945, dan oleh sebab itu tidak memiliki kekuatan hukum yang mengikat. Karena Peraturan Direktur Jenderal pajak tidak memiliki kekuatan hukum mengikat dalam mengatur substansi perpajakan, maka penelitian ini menyarankan ini untuk ditingkatkan levelnya menjadi Peraturan Pemerintah (PP). Hal ini untuk mencegah terjadinya ketidakpastian hukum lebih lanjut.

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ABSTRACT

This thesis is made to know how transfer pricing practice being regulated in Indonesia, and also to know whether the regulation of transfer pricing in indonesia is in harmony with Undang-Undang Dasar Negara Republik Indonesia 1945, since the regulation involved sets of Peraturan Direktur Jenderal. The research methods is normative. Analysis and gathering of data in this research used qualitative approach, and the results are written descriptive analytically. Based on the research, this thesis found that transfer pricing practice in Indonesia significantly being regulated by sets of Peraturan Direktur Jenderal Pajak, while according to Pasal 8 Ayat (1) UU No. 12 Tahun 2011, Direktur Jenderal is not considered authorized institution to make legislations. Meanwhile, Pasal 23A Undang-Undang Dasar Negara Republik Indonesia 1945 clearly stated that tax must be regulated by legislation. It is concluded that the regulation of transfer pricing in Indonesia is not in harmony with Undang-Undang Dasar Negara Republik Indonesia 1945, and therefore unconstitutional. Because of this reason, this thesis recommend that the level of significant regulation of transfer pricing practise should be enhanced from Peraturan Direktur Jenderal Pajak to Peraturan Pemerintah. This is to prevent further law uncertainty.;This thesis is made to know how transfer pricing practice being regulated in Indonesia, and also to know whether the regulation of transfer pricing in indonesia is in harmony with Undang-Undang Dasar Negara Republik Indonesia 1945, since the regulation involved sets of Peraturan Direktur Jenderal. The research methods is normative. Analysis and gathering of

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