

Analisis putusan banding pengadilan pajak : kasus thin capitalization dengan skema back to back loan dan kasus treaty shopping mengenai penentuan status beneficial owner = The analysis of tax court appeal decisions thin capitalization with back to back loan scheme case and treaty shopping regarding determination of beneficial owner status case

Ari Tri Haryanto, author

Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=20413312&lokasi=lokal>

---

Abstrak

Penelitian ini bertujuan untuk menganalisis sengketa penghindaran pajak melalui thin capitalization dengan skema back to back loan, penyelesaian kasus tersebut di pengadilan pajak, serta menganalisis ketentuan thin capitalization rule di Indonesia dalam menangkal thin capitalization dengan skema back to back loan. Selain itu, penelitian ini juga bertujuan untuk menggambarkan sengketa penentuan status beneficial owner, penyelesaian kasus tersebut di pengadilan pajak, serta menganalisis regulasi perpajakan Indonesia dalam menangani sengketa penentuan status beneficial owner. Penelitian ini menggunakan delapan belas putusan banding Pengadilan Pajak tahun 2011-2014 yang terkait dengan thin capitalization dengan skema back to back loan dan beneficial owner sebagai objek penelitian. Hasil penelitian menunjukkan bahwa ketiadaan thin capitalization rule di Indonesia membuat majelis hakim menggunakan diskresi dalam memutuskan sengketa mengenai thin capitalization dengan skema back to back loan. Selain itu diketahui bahwa untuk menentukan status beneficial owner, majelis hakim menggunakan prinsip substance over form dan pendekatan ekonomis dengan lebih banyak memberikan beban pembuktian kepada terbanding.

*The purposes of the research are to analyze tax avoidance through thin capitalization with back to back loan disputes and the settlement of the disputes in tax court, and to analyze thin capitalization rule in Indonesia in combatting thin capitalization with back to back loan. The research also aims to describe the disputes of determination of beneficial owner and the settlement of the disputes in tax court, and to analyze tax regulation in Indonesia regarding determination of beneficial owner. The research used 18 tax court appeal decisions in 2011-2014 that are related to thin capitalization with back to back loan and beneficial owner as the research objects. The results of the research show that the absence of thin capitalization rule in Indonesia has made the judges used discretion in deciding the disputes. In addition, in order to determine beneficial owner, the judges used substance over form principle and economic approach and gave more burden of proof to tax authority.*