

Analisis penerapan ketentuan beneficial owner pada objek pajak berupa capital gains atas pengalihan saham suatu kajian untuk mengantisipasi penghindaran pajak internasional = Analysis of application of beneficial owner provision on taxable income in the form of capital gains from alienation of shares a study to anticipate international tax avoidance

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Abstrak

Penelitian ini membahas tentang potensi penyalahgunaan tax treaty dengan memanfaatkan ketiadaan ketentuan beneficial owner pada capital gains atas pengalihan saham dan pertimbangan tax treaty Indonesia hanya menerapkan ketentuan beneficial owner pada bunga, dividen, dan royalti. Penelitian ini menggunakan pendekatan kualitatif deskriptif. Hasil penelitian ini menunjukkan ketiadaan ketentuan beneficial owner pada capital gains atas pengalihan saham dapat menimbulkan treaty abuse melalui treaty shopping dan tax treaty Indonesia tidak menerapkan ketentuan beneficial owner pada capital gains karena beberapa alasan, yaitu: sulit diidentifikasi bagi negara berkembang, meningkatkan daya tarik investor, dan beneficial owner tidak secara spesifik tertulis ditujukan untuk menangkal treaty shopping.

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This research discusses potential occurrence of treaty abuse by utilizing the absence of beneficial owner on capital gains from alienation of shares and consideration of why Indonesian tax treaty does not apply beneficial owner provision in the context of capital gains from alienation of shares. The approach used is qualitative descriptive method. As results, the absence of the beneficial owner provision on capital gains from alienation of shares may lead to treaty abuse through treaty shopping and Indonesian tax treaty does not applying the beneficial owner provision on capital gains for several reasons, i.e. beneficial owner of capital gains from alienation of shares is difficult to identify for developing countries, to increase the attractiveness of investors, and beneficial owner is not specifically intended to overcome treaty shopping.