

Permasalahan hukum mengenai penerapan foreign account tax compliance act (FATCA) di Indonesia = Legal issues about implementation of foreign account tax compliance act fatca in Indonesia / Genniari Puteri

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Abstrak

ABSTRAK

Kesepakatan hubungan pemerintahan antara Indonesia dengan Amerika Serikat dalam menerapkan FATCA Foreign Account Tax Compliance Act yang merupakan peraturan unilateral yang diciptakan oleh pemerintah Amerika Serikat, dan telah menjadi isu internasional karena dalam penerapannya akan berdampak terhadap berbagai institusi keuangan di dunia dimana terdapat warga negara Amerika Serikat yang memiliki investasi di luar negara Amerika Serikat. Dalam tulisan ini dirumuskan permasalahan yaitu akibat hukum apa yang muncul sehubungan dengan penerapan FATCA, khususnya dikaji dari aspek yuridis yaitu kerahasiaan bank di Indonesia dan bagaimana implikasi yuridis penerapan FATCA di Indonesia. Pembahasan mencakup akibat hukum yang muncul sehubungan dengan penerapan FATCA khususnya di Indonesia. FATCA dibuat pada 18 Maret 2010 dan berlaku efektif pada 1 Juli 2014, sebagai langkah dalam upaya merespon kasus-kasus penghindaran pajak yang dilakukan oleh warga negara Amerika Serikat. FATCA mewajibkan institusi keuangan asing untuk melaporkan data-data dan transaksi keuangan nasabah asal AS kepada Internal Revenue Service otoritas pajak Amerika Serikat . Indonesia merespon aturan tersebut dengan menjalin kerjasama berupa Intergovernmental Agreement dengan Amerika Serikat. Langkah tersebut diambil Indonesia setelah mempertimbangkan internal setting berupa pentingnya menjaga komitmen kemitraan dengan Amerika Serikat; menghindarkan sanksi withholding tax 30 yang mengancam sustainabilitas lembaga keuangan Indonesia; dan peluang untuk melacak warga negara Indonesia yang melakukan praktik penghindaran pajak serupa atau yurisdiksi mitra secara resiprokal. Serta external setting berupa dukungan negara dalam forum G-20 dan OECD Organization for Economic Cooperation and Development terhadap FATCA, dan menggunakannya sebagai momentum untuk membangun transparansi dalam sektor perpajakan. Adanya komitmen internasional tersebut, memaksa Indonesia mengambil langkah kooperatif karena tidak ingin mendapat resiko terisolasi dari lingkungan internasional, khususnya dalam hal perdagangan dan investasi.

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ABSTRACT

A cooperation between Indonesia and United States in the implementation of FATCA Foreign Account Tax Compliance Act . FATCA is a unilateral rules created by the US government, but it became an international issue because the implementation would have an impact to the financial institutions around the world where there is a US citizen has investments. The FATCA framework is intended to reduce the degree of foreign underreporting, underpayment and non filing that gave rise to the offshore portion of the federal tax gap. It aims to achieve this by requiring foreign financial conduits to establish tiered reporting and payment systems that trace for the IRS US source cross border portfolio income remittances to individual offshore financial accounts directly or beneficially held by US persons. In this paper, the problem of legal issues that

arise in relation to the implementation FATCA , especially examined from the juridical aspect of bank secrecy in Indonesia and how the juridical implications of FATCA implementation in Indonesia. The discussion covers the legal issues that arise in connection with the application of FATCA especially in Indonesia. The tax act created on March 18, 2010 and became effective on July 1, 2014, as a step in the effort to respond to cases of tax evasion committed by US citizens. FATCA requires the foreign financial institutions to report personal data and financial transactions of customers from the US to the Internal Revenue Service US tax authorities . The move was taken after considering the internal settings the importance of maintaining a commitment to a comprehensive partnership with the US avoid the 30 withholding tax penalty that threaten the sustainability of financial institutions in Indonesia and the opportunity to investigate the Indonesian citizens who use offshore banks to avoid tax or reciprocal partner jurisdictions. As well as external setting considerations the support of countries in the G 20 and the OECD Organization for Economic Cooperation and Development on FATCA, and use it as momentum to build transparency in the taxation sector. That international commitments, forcing Indonesia to take steps cooperatively as a preventive action to avoid the risk of being isolated from the international environment, particularly in terms of trade and investment.