

# Analisis penyelesaian sengketa pajak BUT ABC selaku kontraktor production sharing contract minyak dan gas bumi di Indonesia = Analysis of the tax dispute resolution in BUT ABC as oil and gas production sharing contract contractor in Indonesia

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## Abstrak

Laporan magang ini membahas tentang sengketa pajak Bentuk Usaha Tetap "BUT" ABC selaku kontraktor Production Sharing Contract "PSC", keterkaitannya dengan pemenuhan peraturan perpajakan mengenai proses penyelesaian sengketa pajak di Indonesia, serta asas *lex specialis* atas ketentuan perpajakan dalam PSC sebagaimana diatur dalam Pasal 33A Undang-Undang Nomor 36 Tahun 2008.

Berdasarkan pemeriksaan yang dilakukan terhadap BUT ABC, pemeriksa pajak menghitung biaya Home Office Overhead "HOO" dan *Secondee Reimbursement* "SR" sebagai objek PPh Pasal 26 dan PPN atas Pemanfaatan Jasa Kena Pajak dari Luar Daerah Pabean. Sedangkan mengacu pada PSC yang berlaku, kewajiban perpajakan BUT ABC hanyalah terbatas pada pajak penghasilan dan Branch Profit Tax sehingga PPN terutang sebagaimana disengketakan bukan merupakan kewajiban dan tanggungan BUT ABC. Selain itu, berdasarkan Surat Menteri Keuangan Nomor S-604/MK.017/1998, pajak atas HOO dan SR sebagai biaya yang timbul dari kantor pusat seharusnya ditanggung pemerintah. Namun, karena kekosongan hukum *rechtsvacuum*, maka terkait apakah pajak ditanggung atau tidak ditanggung pemerintah masih menjadi perselisihan.

.....This internship report aimed to analyze the tax dispute of Bentuk Usaha Tetap "BUT" ABC as Production Sharing Contract Contractor, its correlation with the compliance of tax regulations on tax dispute resolution process in Indonesia, and the *lex specialis* principle of the taxation provisions in PSC as stipulated in Article 33A of Indonesian Law Number 36 Year 2008. Based on the tax audit conducted on BUT ABC, tax inspector calculated the cost of Home Office Overhead "HOO" and *Secondee Reimbursement* "SR" as tax objects of Article 26 Income Tax and VAT on The Utilization of Taxable Services from Outside Custom Area. This corrections conflict the applicable PSC which implied that tax obligation of BUT ABC is limited to income tax and Branch Profit Tax, so that VAT due as disputed is not a liability and dependant of BUT ABC. In addition, based on the Letter of Minister of Finance Number S 604 MK.017 1998, tax imposed on HOO and SR costs incurred by the head office should be borne by the government. However, due to the legal vacuum, whether the tax is borne by the government or not is still a dispute.