

Analisis perlakuan perpajakan atas penerapan base erosion and profit shifting (BEPS) action plan 1 tentang digital economy di Indonesia : studi kasus Facebook Singapore PTE. Ltd) = Tax analysis on implementing base erosion and profit shifting (BEPS) action plan 1 in respect of digital economy in indonesia : case study Facebook Singapore PTE. Ltd

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Abstrak

Penelitian ini membahas mengenai penerbitan Surat Edaran Menteri Komunikasi dan Informatika No. 3 Tahun 2016 yang mewajibkan penyedia layanan OTT asing, termasuk Facebook Singapore, Pte. Ltd. untuk mendirikan BUT di Indonesia. Penelitian ini merupakan penelitian kualitatif-deksriptif dengan pendekatan studi kasus. Berdasarkan hasil penelitian ini dapat disimpulkan bahwa Surat Edaran Menteri Komunikasi dan Informatika No. 3 Tahun 2016 tidak dapat diterapkan di Indonesia karena bertentangan dengan Tax Treaty Indonesia- Singapura berdasarkan teori Tax Treaty Override dan Tax Avoidance, meskipun berdasarkan benefit theory of taxation Indonesia seharusnya dapat mengenakan pajak atas penghasilan Facebook Singapore, Pte. Ltd. yang bersumber dari Indonesia. Selain itu, alternatif kebijakan yang ditawarkan dalam BEPS Action Plan 1 berupa significant economic presence, withholding tax, dan equalization levy masih belum memungkinkan untuk diterapkan di Indonesia tanpa merevisi ketentuan dalam Tax Treaty Indonesia- Singapura.

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This study discusses the issuance of Circular Letter of Minister of Communication and Information No. 3 year 2016 which requiring foreign OTT service providers, including Facebook Singapore, Pte. Ltd. to establish BUT in Indonesia. This research is a qualitative descriptive research with case study approach. Based on the results of this study can be concluded that the Circular Letter of Minister of Communication and Information No. 3 year 2016 cannot be applied in Indonesia because it is contradictory to Tax Treaty Indonesia Singapore based on Tax Treaty Override and Tax Avoidance theory, although based on benefit theory of taxation Indonesia should be able to impose tax on income of Facebook Singapore, Pte. Ltd. sourced from Indonesia. In addition, the policy alternatives offered in BEPS Action Plan 1 in the form of significant economic presence, withholding tax, and equalization levy are still not possible to be applied in Indonesia without revising the terms of the Tax Treaty Indonesia Singapore.