

Analisis dan interpretasi pasal 7 ayat 1 P3B Indonesia- Tiongkok (studi kasus but "electric" = Analysis of interpretation on article 7 para (1) tax treaty between Indonesia and Tiongkok / I Ketut Gede Sucipta Pendit

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## Abstrak

### **<b>ABSTRAK</b><br>**

Tesis ini membahas tentang analisis atas interpretasi pasal 7 ayat 1 P3B Indonesia-Tiongkok. Untuk mengilustrasikan analisis digunakan studi kasus BUT ldquo;Electric rdquo; dalam lingkup Engineering Procurement Construction contract. Pokok permasalahan penelitian adalah tidak adanya penegasan tentang pemahaman frasa directly or indirectly dan frasa not undertaken or have no relation dalam OECD dan UN Model. Penelitian dilakukan dengan pendekatan kualitatif dan analisis deskriptif. Hasil penelitian adalah bahwa frasa directly or indirectly merupakan perluasan atribusi, dan frasa not undertaken or have no relation merupakan pembatasan/syarat dari perluasan tersebut. Penerapan pada studi kasus BUT ldquo;Electric rdquo;, penghasilan kontrak EPC yang dapat diatribusikan kepada BUT ldquo;Electric rdquo; hanya dari aktivitas Construction. Hasil analisis diharapkan dapat menjadi dasar penerbitan Surat Edaran Direktur Jenderal Pajak untuk menghindari sengketa pajak dikemudian hari. Untuk menjamin dan mengamankan penerimaan negara maka perlu bersinergi dengan Kementerian Teknis untuk membuat peraturan yang memperbesar porsi aktivitas EPC di Indonesia.

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### **<b>ABSTRACT</b><br>**

The thesis analyzes the interpretation on article 7 paragraph 1 Tax Treaty between Indonesia and Tiongkok. In order to obtain the comprehensive view, the case of EPC contract ldquo Electric rdquo Permanent Establishment is used as an example on this study. The problem is the absence of affirmation, interpretation, of article 7 paragraph 1 terminology ldquo directly or indirectly rdquo and ldquo not undertaken or have no relation rdquo on Indonesia China Tax Treaty. The terminology has not adopted terminology and definition at OECD UN Treaties Model. This research is conducted with qualitative approach and descriptive analysis. The conclusions of the research show that terminology ldquo directly or indirectly rdquo is an extention of attribution, and the terminology ldquo not undertaken or have no relation rdquo is a restriction of the extention. The application of the interpretation on EPC Contract for ldquo Electric rdquo PE elaborates that profit attributable to ldquo Electric rdquo PE are profit from Construction activity only. In order to avoid disputes in the future Directorate General of Taxation as Tax Authority needs to provide guidance of interpretation of the terminology in the form of circular of the DGT. DGT needs to Minister of Public Works to stipulate a regulation about the proportion of activites of the EPC contract should be performed in Indonesia.