

Analisis perbandingan dampak implementasi automatic exchange of information perpajakan terhadap rahasia bank di Indonesia, Swiss, dan Singapura = Comparative analysis of the impact in implementation of automatic exchange of information for tax matters towards bank confidential provisions in Indonesia, Switzerland, and Singapore / Alvionita Mirwanthy

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Abstrak

Automatic Exchange of Information (AEOI) yang diusul oleh negara-negara yang tergabung dalam G20 dan OECD ditujukan untuk mengatasi bentuk penghindaran maupun penggelapan pajak pada negara yang terkenal akan tax haven. Penelitian ini membahas dua rumusan permasalahan, yaitu pengaturan kebijakan terkait prinsip rahasia bank di Indonesia, Swiss dan Singapura dan dampak pengaturan Automatic Exchange of Information perpajakan terhadap prinsip rahasia bank yang diatur di Indonesia, Swiss, dan Singapura. Metode penelitian yang digunakan, yaitu penelitian yuridis-normatif dengan melakukan kajian terhadap penerapan teori-teori dan norma-norma hukum terhadap implementasinya.

Hasil penelitian menunjukkan bahwa pengaturan prinsip rahasia bank di Indonesia diatur dalam Undang-Undang Nomor 7 Tahun 1992 sebagaimana diubah oleh Undang-Undang Nomor 10 Tahun 1998 tentang Perbankan dan Undang-Undang Nomor 21 Tahun 2008 tentang Perbankan Syariah. Di Swiss, pengaturan prinsip rahasia bank diatur Federal Law on Banks and Saving Banks 1934 dan beberapa yurisprudensi. Di Singapura, pengaturan prinsip rahasia bank diatur dalam Banking Act Chapter 19 (Revised Edition 2008). Adapun dampak dari kebijakan AEOI terhadap rahasia bank di Indonesia, Swiss, dan Singapura mengakibatkan adanya perubahan karakteristik rahasia bank, wewenang otoritas pajak dalam pembukaan rahasia bank dan jangkauan keberlakuan nasabah selaku subjek yang dituju.

Peneliti menyarankan perlu dilakukan perubahan ketentuan mengenai karakteristik subjek pelapor entitas yang wajib dilaporkan sebagaimana diatur dalam Pasal 19 ayat (2a) PMK No. 19/PMK.03/2018 agar pengaturan subjek pelapor yang dituju ditentukan secara tegas, sehingga tidak dikenakan kepada subjek pelapor yang merupakan nasabah domestik yang tidak memiliki domisili selain di negara Indonesia.

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Automatic Exchange of Information (AEOI) proposed by countries incorporated in the G20 and OECD aimed at overcoming forms of avoidance and tax evasion in countries that are known for tax havens. As for countries that are AEOI participating countries, including Indonesia, Switzerland and Singapore. This study discusses two formulation of the problem, namely policy arrangements related to the principles of bank confidential in Indonesia, Switzerland and Singapore and the impact of the regulation of Automatic Exchange of Information taxation on the secret principles of regulated banks in Indonesia, Switzerland and Singapore. The research method used is juridical-normative research by conducting a study of the application of theories and legal norms to their implementation.

The results of the study indicate that the regulation of the principle of bank confidential in Indonesia is regulated in Law Number 7 of 1992 amended by Law Number 10 of 1998 concerning Banking and Law Number 21 of 2008 concerning Islamic Banking. In Switzerland, the regulation of the principle of bank

confidential is regulated in Federal Law on Banks and Savings Banks 1934 and several jurisprudences. In Singapore, regulation of the principle of bank secrecy is regulated in Banking Act Chapter 19 (Revised Edition 2008). The impact of the AEOI policy on bank secrets in Indonesia, Switzerland, and Singapore has resulted in changes in the banks secret characteristics, the authority of the tax authority in opening bank secrets and the range of customer validity as the intended subject.

The researcher suggests that changes in provisions regarding the characteristics of the reporting subject must be carried out which must be reported as stipulated in Article 19 paragraph (2a) PMK No. 19/PMK.03/2018 so that the intended subject matter of the reporting subject is determined so that it is not imposed on the reporting subject who is a domestic customer who does not have a domicile other than in the country of Indonesia.