

Analisis Putusan Pengadilan Pajak atas Sengketa Pembebanan dan Kewajaran Nilai Pembayaran Royalti (Studi Kasus pada PT. A dan PT. B) = Analysis on The Tax Court Decision on The Deductibility and Arm's Length Price of Royalty Payment (Case Study of PT. A and PT. B)

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Abstrak

Penelitian ini bertujuan untuk mengetahui pertimbangan yang mendasari perbedaan putusan Pengadilan Pajak PT A dan PT B atas sehubungan dengan identifikasi atas eksistensi dan kebenaran pembayaran royalti atas technology (know how) dan trademark serta kesesuaian putusan pengadilan tersebut dengan panduan arm's length principle dalam OECD Transfer Pricing Guidelines. Penelitian ini juga bertujuan untuk mengetahui apakah perusahaan distributor dapat membebankan biaya royalti atas technology (know how) dan trademark. Penelitian ini menggunakan pendekatan kualitatif dengan jenis penelitian deskriptif. Hasil dari penelitian menyimpulkan bahwa yang membedakan hasil putusan pengadilan atas sengketa PT A dan PT B terkait sengketa pembayaran royalti atas technology (know how dan trademark antara lain: (1) hasil dari identifikasi atas eksistensi dan kebenaran pembayaran melalui pengujian kesepakatan dalam kontrak legal, (2) pembuktian atas substansi dan manfaat ekonomi pemanfaatan intangible property, serta (3) pembuktian bahwa tidak terdapat pajak berganda yang dikenakan atas pembayaran kompensasi pemanfaatan intangible property tersebut. Prosedur penerapan arm's length principle juga telah dilakukan sesuai panduan OECD Transfer Pricing Guidelines untuk memutuskan sengketa transfer pr.

.....This study aims to understand the underlying considerations of the Tax Court decisions of PT A and PT B related to identification of existence and validity of royalty payments on the technology (know how) and trademark also the conformity of those decision with the arm's length principle in the OECD Transfer Pricing Guidelines. This study also purpose to determine whether the distributor company could treated the royalty payment on technology (know how) and trademark as deductible expenses. This research uses a qualitative approach with descriptive research type. The results of this study conclude that the difference on tax court decision of PT A and PT B related to royalty payment technology (know how) and trademarks is due to: (1) the results of identification on existence and validity of royalty payments through examination on legal agreements, (2) proof of the substance and economic benefits on utilization of intangible property, and (3) proof that there is no double taxation imposed on the payment of compensation for the utilization of intangible property. The implementation procedures for the arm's length principle also have been made in accordance with OECD Transfer Pricing Guidelines in order to resolve transfer pricing disputes.