

The application policy of specific norm of net income calculation for foreign trade representative, the overview according to the law of income tax and tax treaties : case study on permanent establishment and foreigner tax office

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Abstrak

Foreign trade representative including certain tax payer that is difficult to determine the net income. The number of foreign trade representative that reports tax according to the norm of net income calculation is small comparing to the listed number.

The object of this thesis research is the measures should be taken so that the taxable income of foreign trade representative in Indonesia can be executed optimally through the same understanding by both the tax payers and tax apparatus.

The research method conducted is base on the qualitative research method with the type of research of analytical descriptive and the data collecting method is through interview with the interlocked parties; they are tax officer, tax consultant, and tax payers that have status of foreign trade representative. This research was also conducted on the interlocked documents, they are law of income tax, tax treaties, judicial decision, books - scientific papers, and data of tax auditing.

Tax is compulsory collection done by the government to the people in which contra interpretation of tax collection cannot be felt directly. In order to get support from people, thus collection should be based on the based on the base of tax collection according to the hope international tax society universally.

Every country applies their own approach in the regulation that become guidance to tax collection. The different approach will cause jurisdiction conflict when it has something to do with tax collection on companies that run activities in one or more jurisdictions. This jurisdiction conflict brings about the imposition of double tax in order to eliminate international double tax is naturally overcome by making the agreement of the avoidance of double tax.

In practice, there are always difficulties in calculating net income or tax on income for certain group of tax payers. In order to avoid the difficulties, deemed profit should be applied in the form of calculation norm to calculate the net income according to certain percentage from brut income instead of the true income. Foreign trade representative include certain tax payers whose net income is difficult to calculate.

The result of the research finds the existence of conflict between fiscal officer and the tax payers in accordance with the application of provision of specific calculation of net income for foreign trade representative. That conflict in connection with tax subject and tax tariff. Indonesia can impose only tax on income toward foreign trade representative that completely run other business out of the excepted activities

for taxable as the form of permanent establishment according to tax treaty. In practice, tax assessor always get difficulty to get the value of brut export to Indonesia done by foreign companies as the base of decision of tax income for foreign trade representative that meet the criteria of permanent establishment. If the value of brut export to Indonesia is not known from foreign trade representative that meet permanent establishment, actually other method can be used, that is cost plus method in order to decide net income.

The conflict that comes up because of being no uncertainty in connection with tax subject and tax tariff. In order to apply the norm on net income calculation, DGT should prove earlier that the foreign trade representative have really run activities out of activities that bring about those foreign trade representative do not meet the criteria of permanent establishment. Specific norm of net income calculation for foreign trade representative is only applied for foreign trade representative that meet the criteria of permanent establishment according to The Law of Income Tax and tax treaties

The write, propose suggestion in order to revise the ministerial decree of finance on specific norm of net income for foreign trade representative by emphasizing the definition of taxable income of foreign trade representative, that is the foreign trade representatives that meet the criteria permanent establishment and do not decide secluded tax tariff out of article 17 and article 26 section (4) The Law of Income Tax and tariff of branch profit tax according to tax treaty. The writer also suggests that the government conduct the research in order to specific norm on net income calculation according to cost plus method for foreign trade representatives that meet the criteria of permanent establishment in which it's only cost known that is passed in Indonesia.