

Income tax implementation on franchise in supermarket sector: Case study on PT. "X"

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Abstrak

Franchise is a legal agreement on delegation of right or special right to market the product or service given by the owner of franchise (franchisor) to other party (franchisee) that arranged in a certain rule. Franchise is glow in Indonesia now, from time to time it keep increasing and being expected keep growing and dominating in domestic market significantly. Local franchise, which is expanding the most now, is supermarket sector because this sector provides daily needs. That expansion mentioned above have to be followed by tax implementation that can arrange variant transaction which relate to franchise until tax potential on it has explored optimum. Thus, if this has explored deeper especially one that connected to income tax on franchise, will give big contribution to country income. Therefore, the main questions in this thesis are: (i) How does the reality of economic on franchise transaction?, (ii) How does tax implementation on franchise in Indonesia nowadays?, (iii) How does PT "X" do the tax obligation on itself as franchisor and its franchisees? (iv) Are there any cases which is related to tax collection system to be improved?

Analysis descriptive research type has been done as a research method to support research and study process on that problem analysis, which is describe all information or data gotten from the research first, then all the data are analyzed by income tax law and the correlation with the tax system that fulfill tax principle. Data technical collection was done in the field by interview and From literature study documents, to study related law and other related documents. Interview was done to people who are related to franchise and taxation to get reference on their opinion regarding tax obligation in income tax section.

Franchise delegation most of the time is related to a certain payment. There are two kinds and types of franchise and the taxation are known generally which can be requested by franchisor to franchisee that is direct monetary compensation and indirect and non monetary compensation. Firstly there are 4 (four) principle of good taxation suggested by Adam Smith in his book *An Inquiry into the Nature and Causes of The Wealth Nation* to set the right taxation system on the right income tax on franchise. Beside that Mansury suggested for tax income expected suitable with fair principles then fulfillment of horizontal justice condition (5 conditions) and vertical justice (2 conditions) need to be held strongly.

Tax auditor who audits franchise obviously does not fully understand on franchise position which is separate Taxpayer so that franchisee income is different from franchisor income. Withholding tax implementation on franchise income have not fulfill equality principle, mainly realization on individual taxpayer, franchisee that most have status as individual taxpayer can not do withheld on payment of paid income on the royalty whereas franchisee that have status as corporate taxpayer have done the withholding the royalty. Other result study is found uncertainty law on determines franchise fee whether royalty category or as technical fee because PT_ "X" withheld with 15 % rate on the other hand the elements in franchise fee put into technical

fee category that its effective rate are 6 %. Other aspect appeared is withheld on franchise fee for the amount of 15 % happened on lack of knowledge of PT. "X" whereas for technical fee withholding rate effectively for the amount of 6% showed that the decision of net estimation income is 40 % for too small technical fee on a franchise.

At the end suggested tax auditor suppose to know the relation of franchisee with franchisor which is franchisee position is not subsidiary of franchisor. Next suggestion to reach equitable principle, withholding on Tax Income of chapter 23 object the most on income of royalty can not only be done to franchisee that has status as corporate taxpayer but also that individual taxpayer. The determination of type of fee on franchise fee need to be cleared then appear certain law because it emphasized the technical fee element not the royalty element. Review to the estimation of net income to technical fee that valid nowadays also needed so that the estimation percentage of net income different for all types of business.