

Analisis Implementasi Kebijakan Kesepakatan Harga Transfer dalam Mencegah Sengketa Transfer Pricing di Indonesia = Analysis on the Implementation of Advance Pricing Agreement Regulation as Transfer Pricing Dispute Prevention in Indonesia

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Abstrak

Pada Maret 2020, Kementerian Keuangan mengeluarkan PMK-22/2020 yang mengatur tentang kesepakatan harga transfer seraya melaraskan peraturan APA Indonesia dengan Aksi BEPS 14 agar lebih memberikan kepastian hukum. Sebagai bentuk adopsi, PMK-22/2020 mengatur ketentuan baru seperti perluasan pengertian hubungan istimewa yang tidak diatur dalam Pasal 18 ayat 4 UU PPh. Oleh karena itu, penelitian ini menganalisis implementasi kebijakan kesepakatan harga transfer dan faktor-faktor penghambat proses implementasi kebijakan kesepakatan harga transfer sebagaimana diatur dalam PMK-22/2020 dalam mencegah sengketa *transfer pricing* di Indonesia. Hasil penelitian ini menunjukkan bahwa implementasi kebijakan penentuan harga transfer di Indonesia sebagaimana diatur dalam PMK-22/2020 belum sepenuhnya memenuhi indikator *content of policy*. Indikator yang belum dipenuhi adalah indikator kelompok sasaran, dalam hal ini kebijakan APA yang seharusnya berlaku bagi Wajib Pajak yang ingin mengajukan APA namun juga diberlakukan bagi seluruh Wajib Pajak yang melakukan transaksi afiliasi meskipun tidak mengajukan APA. Di sisi lain, implementasi kebijakan kesepakatan harga transfer telah memenuhi seluruh indikator dalam *context of policy* yang terdiri dari kekuasaan, kepentingan, dan strategi, karakteristik lembaga dan penguasa, daya tanggap dan kepatuhan. Selanjutnya, faktor-faktor yang menghambat implementasi PMK-22/2020 dilihat dari sisi otoritas pajak, yaitu kompleksitas kasus dan transaksi Wajib Pajak, karakteristik negara yang ingin mempertahankan kepentingan negara masing-masing, komunikasi yang tidak lancar dengan otoritas pajak negara mitra, dan kesulitan dalam mengumpulkan dokumen pendukung dan kurangnya transparansi dari Wajib Pajak. Sedangkan, faktor-faktor yang menghambat implementasi PMK-22/2020, dilihat dari sisi Wajib Pajak adalah keraguan Wajib Pajak terhadap otoritas pajak, interpretasi peraturan yang tidak jelas dan multitafsir, dan pengetahuan Wajib Pajak yang minim mengenai *transfer pricing*

.....In March 2020, the Ministry of Finance issued a PMK-22/2020 which stipulates the Advance Pricing Agreement whilst aligning the Indonesian advance pricing agreement regulation with BEPS Action 14 to provide more legal certainty. As a form of adoption, PMK-22/2020 stipulates new provisions such as extension of the definitions of special relationship which are not stipulated in Article 18 paragraph 4 of the Income Tax Law. Therefore, this study analyzed the implementation of the advance pricing agreement regulation and impediment factors of the implementation of the advance pricing agreement regulation as stipulated in PMK-22/2020 in preventing the transfer pricing disputes in Indonesia. The results of this study indicate that the implementation of the advance pricing agreement regulation in Indonesia as stipulated in PMK-22/2020 has not fully fulfilled the content of policy indicator. The indicator that has not been fulfilled is the target group indicator, in this case the advance pricing agreement regulation should have been applied limited to Taxpayers who want to apply for an advance pricing agreement, however it is also intended for all Taxpayers who conduct related party transactions even when the related party transactions are not in the

context of advance pricing agreement. On the other hand, the implementation of the advance pricing agreement regulation has fulfilled all indicators in the context of implementation consisting of power, interests, and strategies, characteristics of institutions and rulers, responsiveness and compliance. Furthermore, the factors which impeded the implementation of PMK-22/2020 are seen in terms of tax authorities, namely the complexity of cases and Taxpayers' transactions, the characteristics of countries who want to maintain their respective countries' interests, communication that is not smooth with other tax authorities, and difficulties in collecting supporting documents and lack of transparency of taxpayers. Meanwhile, the factors that impeded the implementation of PMK-22/2020, in terms of taxpayers are doubts about taxpayers on tax authorities, interpretation of unclear regulations and multi-interpretation, and minimum knowledge about transfer pricing of the Taxpayer.