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ABSTRACT

Kukuh Yogieiswantoro (090233038Y), Analytical Aspect of Income Tax on Foreign Exchange Trading in Indonesia: A Comparative Study With the US Income Tax Law, xii, 60 pages, 4 diagram, 3 attachment, 23 books, 7 journal, 1 tax law, 2 website.

The currency or foreign exchange (FX) market is the largest financial market in the world, with trading volumes surpassing $1,9 trillion a day. Although primarily dominated by a worldwide network of interbank traders, a new era of internet-base communication technologies has recently allowed individual investors to gain direct access to this popular and profitable market. Trading in the foreign exchange market is an alternative tool for investment other than investing in stock market.

The tax issues on gain from foreign exchange trading tend to be disorienting since there are no tax circular that regulates the implementation of foreign exchange trading in Indonesia. Since the absence of specific income tax law on gain from forex trading, this research attempts to explain the nature of foreign exchange trading itself, then it will describe the difference between the US Income tax treatment and the Indonesian income tax treatment on gain on forex trading followed by the conclusion to propose the right alternative tax treatment to be implemented in Indonesia. This research uses qualitative approach with descriptive technique. Library study, field study and benchmarking are chosen to gather the information. The field study is executed by interviewing tax officers, brokers, and academic scholar. While as the benchmarking is being executed by comparing with tax rule in the United State of America to propose the right tax treatment to be implemented in Indonesia.

Forex trading is traded in the Over the Counter Market where there are no centralized exchanges. The nature of forex trading is to speculate in buying or selling foreign currency contract in the spot market. According to the Indonesian income tax regulation article 4(1) leter l stated that gain on foreign exchange are treated as an taxable object whilst loss on foreign exchange principally could be recognized as deductible expense. Since the absence of specific regulation relating to the tax treatment on forex trading therefore the general rule may apply, the general rule stated forex trading falls under business income category and that all

increase in economic capability originating from Indonesia as well as from offshore shall be accumulated and taxed according to article 17 tax rate.

Differ from the Indonesia tax law, the US tax law on profit from the fluctuation in foreign exchange rates are treated differently from foreign exchange trading. The fluctuation in foreign exchange rate as as part of their normal course of business fall under IRC Section 988. Gains and losses from foreign exchange (such as buying and selling of foreign goods) are treated as interest income or expense and get taxed accordingly. Since forex traders are also exposed to daily exchange rate fluctuations, their trading activity falls under the provisions of Section 988. These daily fluctuations can be considered part of a currency trader's assets in the normal course of his business; the IRS gives the trader the option of rejecting (opting out) of Section 988 and electing that the gains be taxed under the favorable 60/40 split of IRC Section 1256. Under IRC Section 1256, forex traders can have a significant advantage over stock traders. Forex traders are allowed to split their capital gains using a 60% / 40% split. This means that 60% of the capital gains are taxed at the lower, long-term capital gains rate (currently 15%) and the remaining 40% at the ordinary or short-term capital gains rate, which depends on the tax bracket the trader falls under (as high as 35%). This results in an average rate of 23%, which is 12% less than the regular (short-term) rate.

From the comparative study between the US tax laws on foreign exchange trading, this research propose an alternative tax policy on forex trading in Indonesia. One of the alternative is only net gain are calculated and tax. The second alternative to be implemented in the form of withholding final tax payment from every realize transaction.