

**TAX COURT ANALYSIS NUMBER : PUT -49247/PP/M.XV/15/2013 ON DISPUTE
TRANSFER PRICING MULTINATIONAL ENTERPRISES
(case study: PT.X in Jakarta)**

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ABSTRACT

Transfer pricing is a price transaction happened between companies with related party. Transfer pricing abuses in Indonesia are made to relocate taxable profits to the country with relatively low tax rate (tax haven). Transfer pricing abuses may result in a substantial revenue loss to the government. Directorate General Tax has the power to adjust transfer price (i.e income and expense which are not determined at arm's length) and recharacterize debt as equity written in the Art 18 (3) 1984 Income Tax Act (The Law Number of 1983 concerning Income Tax which was recently amended by Law Number 17 of 2000, the ITA).

The Unfairness could happen because arm's length price does not exist as stipulated in circular letter SE-04/PJ.7/1993. CUP (comparable uncontrolled Price), Cost Plus, Resale Method is used to test fairness in domestic regulations . International method brought by OECD Guidelines on transfer pricing and multinational enterprises there are 5 (five) transfer pricing method : (1) Comparable uncontrollable method, (2) Resale price method; (3) Cost plus method; (4) Profit split method; and (5) Transactional net margin method.

This research uses qualitative approach with descriptive method through literature study. This Research is conducted to obtain different point of view in transfer price transaction especially in deciding arm's length price. The Mutual agreement procedure (MAP) under tax treaty between Indonesia and foreign countries stipulate the undertaking to prevent international double taxation. Therefore, transfer pricing problems can be solve by MAP.

Keywords : Related Party, Transfer Pricing, Arm's Length Price, Transfer Pricing Method, Mutual Agreement Procedure(MAP)

**ANALISIS PUTUSAN PENGADILAN PAJAK NOMOR:
49247/PP/M.XV/15/2013 ATAS SENGKETA *TRANSFER PRICING*
PADA *MULTINATIONAL ENTERPRISES***

(Studi Kasus PT X di Jakarta

ABSTRAK

Transfer pricing adalah suatu transaksi harga yang terjadi antara perusahaan yang mempunyai hubungan istimewa . Hal ini dapat mengakibatkan terjadinya pengalihan penghasilan atau dasar pengenaan pajak dari satu Wajib Pajak di suatu negara yang tarif pajaknya tinggi ke Wajib Pajak lainnya di negara yang tarif pajaknya rendah , yang dapat direkayasa untuk menekan keseluruhan jumlah pajak terutang atas Wajib Pajak yang mempunyai hubungan istimewa tersebut. Menurut pasal 18 ayat (3) Undang-undang Pajak Penghasilan, Direktur Jenderal Pajak dapat melakukan koreksi besarnya penghasilan dan pengurangan penghasilan bruto atas transaksi transfer pricing tersebut apabila terdapat ketidak wajarannya harga pada transaksi *transfer pricing* tersebut.

Ketidakwajaran tersebut dapat terjadi karena kekurangwajaran harga sebagaimana tersebut di SE-04/PJ.7/1993. Metode *transfer pricing* yang digunakan untuk menguji kewajaran pada peraturan domestik adalah metode CUP (*Comparable Uncontrolled Price*), *Resale Price Method* (RPM), *Cost Plus Method* (CPM). Metode internasional melalui Pedoman OECD atas transfer pricing perusahaan multinasional ada lima metode transfer pricing ,yaitu: (1) CUP (*Comparable Uncontrolled Price*), (2) *Resale Price Method* (RPM), (3) *Cost Plus Method* (CPM), (4) *Profit Split Method*(PSM), dan (5) *Transactional Net Margin Method* (TNMM).

Penelitian ini menggunakan pendekatan kualitatif dengan metode deskriptif melalui studi literatur dan studi kasus. Peneliti berbeda pendapat tentang transaksi *transfer pricing* khususnya dalam penentuan harga wajar. Prosedur Kesepakatan Bersama sesuai *Tax Treaty* antara Indonesia dengan negara-negara asing didorong dilakukakan untuk mencegah pajak berganda internasional. Maka masalah *transfer pricing* diselesaikan melalui Prosedur Kesepakatan Bersama.

Kata Kunci: *hubungan istimewa, transfer pricing,method transfer pricing,Prosedue Kesepakatan Bersama.*