

There are two different perceptions from the point of view of the government as well as the tax consultant, this differences of interpretation which will be examined more deeply in the data analysis.

3) How should international income flows be taxed?

Describe from the next point presented by Devereux in Rosdiana & Irianto, in the third point is how the international income flows be taxed. This is also a constraint of previous regulation (PMK 256 / PMK.03 / 2008) because it can not accommodate complex business schemes, when 10 years running the government also claimed to find a new business scheme that is using an intermediary company or build an intermediary company in a tax haven country. The scheme may violate the imposition that should be taxed in the income of the internasiol scale,

Researcher can see different point of view about taxation related to international income flows. The government found that the “missed” consideration from their oversight in the realm of CFC regulations for one of them is the business scheme whereas the tax consultant believes that not all profit shifting leads to 'abusive' actions, which can be examined more deeply in data analysis.

4) How should environmental taxes be designed?

Environmental taxes are key instruments for achieving sustainability in the economy, environmental taxes may also increase the prices of production inputs and thus induce the producers to adopt more environmentally friendly technologies (Kosonen, 2012). The last point described by Devereux in Rosdiana & Irianto is what tax rules should be designed and suitable in their environment. This can define CFC regulations that initially raise concerns that researchers will have an impact on the decline of domestic investors who want to invest their shares abroad.

The government looks has its own reasons with the issue of the latest regulation on CFCs, the government insists that this regulation does not limit the taxpayer's space in investing abroad. This is confirmed by the statement of informant 1 as follows.

From the description above a bit much to answer the last point of the translation given by Devereux. The government wants a regulation to be environmentally friendly and well received by its taxpayers. In terms of CFC regulation implementation, the researcher sees differences interpretation by both government and tax consultants (who represent taxpayers). The government also feels that there should be socialization related to the CFC's periphery and must issue supporting policies.

2. Analyze the impact of CFC regulations in Indonesia on start up companies or non exchange business entitites.

Base on the article written by Shmidt “Why start up companies stay private” was one of the major reasons a company stays private is that there are few requirements for reporting. For example, a private company is not subject to Securities and Exchange Commission (SEC) rules, which require annual reporting and third-party auditing (Shmidt, 2012). This reason was in line with the government's fear of taxpayers who create controlled foreign companies outside Indonesia and it's difficult to monitor by the government itself. This is the main factor why the previous rule of CFCs regulation (PMK 256/PMK.03/2008) is not working well. Here is the confirmation given by the informant 1:

The other consideration when looking from the perspective of tax consultants that taxpayers who invest in foreign non-exchange business entity should fill some new form that is still difficult to be filled correctly by the taxpayer. This is confirmed directly by informant 2:

From that reason makes the researcher will reconstruct more deeply to analyze the impacts that arise for start-up and foreign non-exchange business entities will later be elaborated more deeply on data analysis.

DISCUSSION

A. GAP between Theory and Reality

In line with the theory presented in Rosdiana & Irianto (2014: 85), the key issues in tax policy are :

1. What should the tax base be : income, expenditure, or a hybrid?
2. What should the tax rate schedule be?
3. How should international income flows be taxed?
4. How should environmental taxes be designed?

Describes the four points presented above by Devereux, researcher make a brief analysis of the conformity of CFC regulations in Indonesia with their nature of rules. The first point discuss about tax base. Tax base is defined as the total value of assets, properties or income in a certain area or jurisdiction. Tax Base as a reference in making CFC rules in Indonesia is "when taxes are imposed on the dividends" so the main focus in taxation on CFC rules is "dividends" from asset participation. After 10 years enacted, the previous regulation (PMK 256 / PMK.03 / 2008) is not settled because it does not regulate in detail for the dividends field (it makes the Taxpayer take advantage of long time deferral).

Therefore the government takes a firm nature by making new policies of the deemed dividend rule as an update in PMK 107 / PMK.03 / 2017. Informant 3 as the policy maker admitted that the government has difficulty in determining the tariff of deemed dividend because some of the countries which become the reference regarding CFC regulations made by Indonesia also do not specify of the benchmark. So the government adopted a common benchmark in the imposition of deemed dividend is "profit multiplied net income after tax" which was felt unfair and too big, it is described directly by the informant 2 as a tax consultant who handles the clientnya directly.

The second thing that concerns is about the tax rate, where the latest regulations (PMK 107 / PMK.03 / 2017) also not fully regulate. The regulations in PMK 107 /

PMK.03 / 2017 only provide information regarding layer-to-layer imposition of either direct or indirect ownership. Significant differences occurred in the update in the latest regulation (PMK 107 / PMK.03 / 2017) which included "indirect ownership" that had not been enacted in the previous regulation (PMK 256 / PMK.03 / 2008). The absence of tax rate limits in the layer-to-layer imposition is considered burdensome taxpayers who invest a little (not dominant) but it still needs to be subject to CFC regulations. The researcher is concerned the layer-per-layer imposition makes the taxpayer dishonest in their annual tax report and it is confirmed by Informant 2 that the taxpayer may or may have done with countries that do not contributed with exchange of information.

Informant 1 as policymaker can clarify related to the imposition of the layer which is the main target of government is not the small shareholder in a company but the dominant shareholder who can make decision in General Meeting of Shareholders (AGM), the Government giving the opinion that if the domestic taxpayer investing their shares in foreign non-exclusive entities, they must have specific objectives and considerations that the government should review. Actually in this point only the difference of interpretation is the main obstacle seen by researcher.

Describe from the next point presented by Devereux in Rosdiana & Irianto is how the international income flows be taxed. This is also a constraint of the previous regulation (PMK 256 / PMK.03 / 2008) because it cannot accommodate complex business schemes, when ten years running the government also claimed to find a new business scheme that is using an intermediary company and so on. The reason was in line with the book written by Mury (2011: 6) on International Taxes, Mury describes that basically the international tax based on the domestic tax provisions applicable to taxpayers in the country that earn income from abroad and the taxpayer who earns an overseas income in Indonesia. In addition to domestic provisions, international taxes are also based on tax treaties and global tax practices (Gunadi, 1997).

Analyzing from the description above, in other words, international tax is the imposition of a taxation field with a globalized, wider, and more complex, and not only taxes a domestic taxpayer. In an International Tax there is also a State relationship with one other State in the case of tax treaty (tax treaty). The main reason for the removal of the blacklist country on the previous regulation (PMK 256 / PMK.03 / 2008) and the latest regulation (PMK 107 / PMK.03 / 2017) is that the regulation (regarding CFC) is in line with the Double Taxation Avoidance Regulations (P3B) conducted by Indonesia with other countries , this also makes CFC regulations do not violate the other rules. The latest regulation (107 / PMK.03 / 2017) is more solid and consistent because the companies with direct and indirect assets participation are ultimately subject to CFC regulations when it exceeds ownership above 50% or certain other qualifications. So there's no company that escaped the regulation as long as it is suspect and qualify for suspicion.

The last point described by Devereux in Rosdiana & Irianto is what tax rules should be designed and suitable in their environment. This can define CFC regulations that initially raise concerns that researcher will have an impact on the decline of domestic investors who want to invest their shares abroad. The concern of the researcher was justified by Informant 2 as a Tax Consultant, he argued that the taxpayer will take an action to change permanent resident or move his holding company outside Indonesia. But Informant 2 says that is not a simple thing and it takes very careful consideration from the business strategy side and the cost. Informant 1, as the representative of Directorate of International Taxation, hopes that the latest regulation on CFC will not become a bulwark for stakeholders who want to invest their capital abroad because the government's aim is to arrange those parties who want to avoid tax without intending to hampering domestic taxpayer investment activity.

The ambiguous of interpretation and understanding again becomes an obstacle in the reality that exist in the field. The explanation described by the government is in line with the tax planning theory in a book written by Pohan (2016: 8) where tax

planning is a set of strategies for managing accounting and corporate finance to minimize tax obligations in ways that do not violate the tax regulations (in legal way), because Indonesia itself still considers legal tax planning in accordance with the corridor of tax laws. From various informants, the researcher can give an analysis that the latest regulation (PMK 107 / PMK.03 / 2017) is a policy alternative from the previous regulation (PMK 256 / PMK.03 / 2008) and has been able to accommodate from the previous regulation. Evaluation which can be given since the first regulation time applied (already one year running) that should be increasing their socialization of the regulation so there is no difference in interpretation between taxpayers and the government. The application of deemed dividend that makes the taxpayer must report all dividends. It makes taxpayers hope that the crediting process will be as simple as possible. the response from the Tax Consultant regarding the legal hook of PMK 107 / PMK.03 / 2017 which can inhibit the implementation of the PMK in the community, the government is expected to improve the Act so on a later its policy derivation is not used as material test by the parties that do objection.

CONCLUSION

The latest data analysis is that researcher want to see the impact of the application of CFC regulations with start-up companies and non-exchange entities. Based on the statement given by the two informants, the researcher found a pattern of the consistency from the both informants. It described CFC regulations are deliberately designed to prevent profit shifting from equity participation schemes where the main focus is assets participation on non-exchange business entity (or those that do not floor on the state of Securities Exchange) this fact in line with the existing reality that start-up companies are dominant as a private companies. In the article written by Tax Mantra (2017) recently, incorporation of Private Companies in India has seen significant growth with introduction of Companies Act 2013 which has made incorporation comparatively easier.

Moreover, the concept of One Person Company (OPC) has also come for individuals who want to keep ownership of the entity with them. Generally Private Limited Company is managed by the shareholders themselves or they hire directors to run the company on their behalf. One of the advantages of private company in start-up business (ie the case in India) that its shareholder is the owner of the company so it has many dominant right in making decision in company. Another advantage is that under OPC even with one shareholder, the company can be combined. From this phenomenon researcher can understand why CFC regulations should be enforced in a country, because start-up company was established in a small business which is managed directly by owner and using crowdfunding.

CFC regulations may "burdensome" their domestic taxpayers who have other goals to invest there. from the statement given by informant 2 that the indication of the taxpayer to "postpone" the investment of capital due to the latest regulations from the CFC.

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