Quest Journals
Journal of Research in Business and Management
Volume 9 ~ Issue 1 (2021) pp: 34-39
ISSN(Online):2347-3002
www.questjournals.org

Research Paper

Transfer Pricing, Tax Planning Engineering Multi Nasional Trading Company

Abdi Ibrahim [1] (BC 201120032)
Heisye Manderos [2] (BC 201120029)
[1] *Graduate in Institut STIAMI, Jakarta*
[2] *Graduate in Institut STIAMI, Jakarta*

ABSTRACT
"One of the strategies of tax planning is TAX Saving, namely the tax burden efficiency efforts through the selection of alternative tax imposition at a lower rate. This is done to make tax payment by not contradicting the tax laws and regulations. Researchers use qualitative methods with a phenomenological approach. The object of research on tax planning conducted by trading companies multinational. The result of the research is that transfer pricing between tax authorities and taxpayers, with regard to "arm's length price", is also developed in the provisions of tax laws and regulations, a model similar to the aforementioned "transfer pricing negotiation and transfer pricing arbitration" model. the introduction of the "transfer pricing agreement - advance pricing agreement (APA) model, but in practice not all taxpayers can use the APA program because the procedure is quite expensive and time consuming, so for small taxpayers this becomes difficult "
KEYWORDS*: Transfer Pricing, Tax Planning.*

Received 03 Jan, 2021; Revised: 14 Jan, 2021; Accepted 16 Jan, 2021 © The author(s) 2021.
Published with open access at www.questjournals.org

I. INTRODUCTION

Tax planning is a means that makes it possible to plan taxes to be paid so that there is no excess in paying taxes. Tax planning does not mean an effort to avoid taxes if it is clearly contrary to the applicable tax laws.

Tax management is an effort to fulfill the tax obligations of taxpayers on the right track, but it results in reduced tax burden so that profits and liquidity are as expected. (Lumbantoruan 1996) Strategies in streamlining tax burdens (tax savings) carried out by companies must be legal in nature so as to avoid tax sanctions in the future, Wijayanti (2002: 94)

Tax management can be defined as managing companies so that their tax obligations can be fulfilled by right and good, with the amount of tax that can be reduced as low as possible to get the expected profit without any element of violation which in the future may result in sanctions or fines.

Thus the objective of tax management is to make tax efficiency efforts to achieve rational profits and fulfill tax obligations correctly. Tax planning for a company is a very complex job, but on the other hand it contains vital aspects for international business. As is well known, taxes have an impact on investment decisions abroad, financial structure, determination of the cost of capital, foreign exchange management, working capital management and financial control.

International trade relations which are increasingly wide open and increasingly extensive at this time also lead to the increasing need for provisions of tax laws governing international transactions. Along with an increase in some tax rates in some countries, there is also an increase in the ways of tax evasion internationally*(international tax avoidance)*,among others, the presence of several regions of the world known as Paradise sojourn tax*(tax havens)*which hold funds moving internationally (*internationality mobile funds*).

In addition, because a multinational trading company has a decisive position in terms of what principles it will use which is of course beneficial to its group, it is possible for the Company to use prices that deviate from generally accepted prices.

The multinational trading company may use transfer pricing which is lower than the *arm's length price*, for the purpose of streamlining its tax burden or using a price higher than the arm's length price for certain purposes.

II. LITERATURE REVIEW

Tax Planning

Tax planning (*tax planning)* is the first step in tax management. At this stage, tax regulations are collected and researched in order to select the types of savings measures to be taken. Efforts that include tax planning so that taxes paid by companies are truly efficient Chairil Anwar Pohan (2014: 13). A capacity that is owned by a taxpayer (WP) to organize financial activities in order to obtain minimal tax expenses (expenses). Arles P. Ompusunggu (2011: 5). Tax planning is an effort made by taxpayers to minimize the tax burden that must be paid. According to Sophar (1999) in Chairil Anwar Pohan (2014: 24). There are six ways to minimize the tax burden that is commonly practiced, namely: 1. "*Tax Shifting*. 2. Capitalization (*Capitalization*). 3. Transformation (*Transformation*). 4. Tax Smuggling (*Tax Evasion*). 5.*Tax avoidance*. 6.*Tax Exemption*".

From this understanding, it can be seen that tax planning through tax avoidance is the only legal way that can be taken by taxpayers in order to streamline their tax payments. In the implementation itself, of course it really depends on the managers, to what extent these managers are constantly aware of the alternatives of tax savings on every action they will take (Mohammad Zain, 2003)

Tax planning at companies

Before explaining tax planning, it is necessary to explain. the meaning of a trading company, including: a business in the form of a trading company that will benefit from the activities carried out in that trading company. (John M. Echols) and a trading company that made a production and managing resources by becoming a material to make a product that will be distributed later on consumers who enjoy the results of that production. (Murti Sumarni)

Tax planning for a multinational trading company is a very complex job, but on the other hand it contains aspects that are vital to international trade. As is well known, taxes have an impact on investment decisions abroad, financial structure, determination of the cost of capital, foreign exchange management, working capital management and financial control.

In order to evaluate international trade policies and the effectiveness of international capital flows, it is less efficient if they only focus narrowly on tariffs, quotas and non-tax subsidies, because the tax factor plays a significant role in the evaluation of the said policy.

Tax policies sometimes play a major role in making decisions regarding investment and financing companies that will invest abroad. Although basically the tax systems around the world are almost similar to one another, in several ways there are differences regarding various dimensions.

An overseas multinational trading company sometimes has to set up several branches or representatives of its company in several countries that are subject to the provisions of national tax laws. In several countries, including the United States, Japan, and Indonesia, the definition of income, both domestic and foreign income (global tax system-world wide income), while Hong Kong does not impose taxes on company activities outside the country, which is referred to as *territorial tax system* (regional income).

Most of the transactions that occur between members of the multinational trading company group can be categorized into several transactions, such as sales of goods and services, licenses, patents and know-how, guarantor of debt and so on. The prices charged for these transactions need not be the same as the prices prevailing on the free market. Since the Company is in a position that determines what principles it will use which is certainly beneficial for the group, it is possible for the Company to use prices that deviate from the generally accepted prices.

The price deviation is a deviation from the price referred to as the "arm's length price" which is generally valid and approved by both parties carrying out transactions for the same goods and under the same conditions, if the company does not have any (*unrelated pafties)*.

The multinational trading company may use transfer pricing which is lower than the *arm's length price*, for the purpose of streamlining its tax burden or using a price higher than the *arm's length price* for certain purposes. However, whatever the reason, if there is an inter-group transaction that deviates from the *arm's length price*, whether the price is lower or higher, this is presumably an attempt to shift the company's profit from one group to another and this also means that the taxes payable in the two groups involved will change.

In terms of the interests of the Company, in order to organize transactions between units within its group, transfer pricing is a problem that must be considered, provided that the adjustment of the actual price to the free market price in order to determine reasonable taxable income does not need to pay attention to obligations. - obligations under existing treaties which the countries concerned must fulfill in order to meet the prices or certain purposes of the country concerned in order to minimize the amount of tax owed.

The problem most often discussed in the context of multinational trading company tax planning concerns the problem of taxing income with different tax jurisdictions. The solution to this problem is usually done through a Double Taxation Avoidance Agreement, which aims to prevent the imposition of double

taxation on company income by dividing the income and expenses allocated in the various tax jurisdictions. This double taxation can actually be avoided if: 1) the imposition of tax on income is only imposed on income in one country only. 2) the provisions of tax laws and regulations allow for a kind of tax credit which can be calculated with the tax payable.
Then however, this double taxation can be reduced through *tax credits*, *tax treaties*, *tax havens*, *tax exemptions* and (*the deferral principle)*.
What is meant by: *Tax credit*, allows taxpayers to reduce the amount of tax payable / paid abroad from the amount of tax payable based on the calculation of the provisions of domestic tax laws and regulations. This reduction is a direct reduction of the amount of tax payable, so that in certain cases it reduces double taxation.
a. *Tax treaty*, regulates between the countries concerned what kind of income is taxed and which is not taxed by the state authority where the income is received or earned.
b. *Tax haven*, is a country where the income tax rate is very low or there is no tax on income. In general, this tax haven country is used by companies to invest or transfer income whose tax is low or no tax is imposed on that income. Tax haven countries are also used by companies to shift income from countries with high tax rates to these countries, through transfer pricing.
c. *Tax exemption*, allows certain companies not to pay income tax on certain income as well.
d. *The defenal principle*, is a kind of tax postponement in such a way that the parent company will not be taxed on its foreign income until the parent company is actually received;
In essence, it is not only the problem of double taxation that must be considered in matters of international taxation for companies, but also that this tax will also have an impact on management decisions, where to invest, how to market the product, what form of business is suitable both commercial and fiscal , when and how tight the foreign exchange traffic or the return on after-tax profits, how and in what way the financing will be carried out, including the problem *transfer pricing*.
This will be even more evident in the following discussion which shows how selected transfer pricing for goods and services transferred across national borders has a sufficient impact on international tax debt. Likewise, companies use tax havens and tax treaties in the context of tax avoidance.

Transfer Pricing as a strategic Tax Planning

Transfer pricing is a classic issue in international transactions. From the government side, transfer pricing can result in a reduction or loss of potential revenue from a country, particularly from taxes, because companies tend to shift their tax obligations from countries that have high tax rates (*high tax countries*) to countries that apply tariffs. low tax (*low tax countries*). Ironically, this problem cannot be solved unilaterally by each country but must be done together (*multilateral cooperation*).

On the other hand, from the business side, companies tend to try to minimize costs (*cost efficiency*), including *corporate income tax (PPh)*. For global scale companies (for example multinational corporations), transfer pricing is an effective strategy to win over the competition for limited resources.

Types and Methods of Transfer Pricing

Transfer pricing in decentralized multinational trading companies is generally measured by using the value of the product at the time of delivery of goods or services from the profit center to other responsiveness centers in the corporate environment. On the other hand, transfer pricing can be compared with the market price if a transaction occurs between the company and other third parties that have no special relationship.

In multinational trading companies that use profit centers, transfer pricing will always occur, which is generally divided into "market-based prices" and "cost-based prices". Market-based transfer pricing is relatively objective when compared to the results of the negotiation skills of the sellers or buyers at the sales responsibility center and the buyer responsibility center.

Most of the company managers expect that the profit responsibility center should be able to use a price that is close to known transfer pricing. as an "arm's' length price" with the assumption that the center of responsibility is an independent business.

In some situations, where there is no reliable market-based transfer pricing that will be used as the basis for determining transfer pricing, cost-based transfer pricing is will used. If possible, cost-based transfer pricing should be a standard fee. But if the actual price is used, the purchasing responsibility center will have less incentive to control efficiency, because any price increases that occur will automatically be added by the responsibility center to the transfer pricing. For this, managers will usually carry out a specification of calculating costs and how much the amount of profit margin that will be added to the transfer pricing, with the aim of reducing the opportunity for argumentation. The trick is, that managers should be very careful and consider all factors determining the calculation of costs and profits. For example, in the case of short-term per-unit costs, transfer pricing should be differentiated from long-term per-unit cost transfers.

It can also be questioned whether all cost elements are normally included in the calculation of the

selling price or the full cost that must be included in determining internal transfer pricing, as well as disputes or price mismatches accompanied by "emotions" of buyers that can occur under these conditions. a market that corners sellers to reduce their profit margins to a price lower than the price originally set in the transfer pricing calculation specification. For example, the determination of transfer pricing is strongly influenced by the domestic laws of a country, especially if the seller's responsibility center and the buyer's responsibility center are located in different countries (for example, a component of GM cars headquartered in the United States is produced by an assembly company in Europe).

Usually, domestic laws are intended to prevent a shift in profits (profits shifting) from a high-tax country to a low-tax country by manipulating transfer pricing. Both market-based transfer pricing and cost-based transfer pricing have the potential to not reach a price agreement between parties, so it is not uncommon for transfer pricing to be negotiated between buyers and sellers outside the reference price or based on the application of a predetermined cost formula. Also due to the seller's desire to apply the company's normal transfer pricing policy. For example, a sales accountability center might sell below the normal market price instead of losing the company at all, so long. purchasing accountability center excels in making purchases.

Transfer Pricing as a purchasing strategy with low prices at certain times. In such circumstances, the parties will negotiate. If the accountability centers do not have full authority in determining transfer pricing or between the parties there is no equal bargaining power, for example one party has full authority to determine transfer pricing while the other party does not have full authority to determine transfer pricing, then the result will not provide adequate negotiation transfer pricing. If there is a condition, where the prospective sales liability center that does not have free resources - worry can not invest anywhere; or prospective purchasing responsibility center that cannot refuse the work assigned to it, then in such circumstances an arbitration mechanism is needed to solve the disputed transfer pricing problem.

Transfer Pricing in the provisions of the Taxation Law

In the business world which is characterized by different income tax rates from one country to another, companies whose operations cover several countries often use income tax as one of the elements that can optimize the profits they earn, by maximizing their income in a country with a low tax rate and minimizing their income in a country with a high tax rate.

On the other hand, some countries that see that the act of minimizing the tax burden by companies operating within an international scope will likely interfere with their tax revenues, are currently trying to include in their income tax laws the provisions that regulate with regard to the intended transfer pricing, including the problem transfer profits from the company's branch to its parent company.

Another problem that arises from transfer pricing is when the transfer pricing decision made by management is based solely on tax considerations (*tax purpose*).

In a tax perspective, transfer pricing is defined as: " the price charged by a company for goods, services or intangible properties for subsidiary or other related company. Since the prices are not negotiated in a free, open market they may deviate from prices agreed upon by non-related trading partners in comparable transactions under circumstances.. (John Hutagaol, Journal of Taxation August 2002).

The transfer pricing strategy which aims to carry out tax avoidance will greatly harm countries that are high tax countries because these countries lose the potential tax revenue they should have. The problem of transfer pricing will be even worse if it is intended to carry out tax evasion which is already classified as a tax crime.

In article 18 paragraph 3 of Law no. 7 of 1983 concerning Income Tax as amended several times, most recently by Law No. 17 of 2000, explained: "The Director General of Taxes has the authority to re-determine the amount of income and deduction and determine debt as capital to calculate the amount of Taxable Income for Taxpayers who have a special relationship with other Taxpayers in accordance with the reasonableness and customary business that is not affected by related relationship using the price comparison method between independent parties, the resale price method, the cost-plus method, or other methods. "

Furthermore, the provisions of Article 10 paragraph (2) Government Regulation Number 74 of 2011 concerning Procedures for Implementing Tax Rights and Fulfillment of Tax Obligations stipulate that in the event that the Taxpayer conducts transactions with parties who have a special relationship with the Taxpayer, the obligation to keep other documents includes documents and / or additional information to support that the transactions made with parties that have a lease relationship are in accordance with the fairness and normality of business;

Transfer pricing agreement (Advance Pricing Agreement VAPA) is an agreement between the Taxpayer and the Director General of Taxes regarding the fair selling price of the products they produce to parties who have a special relationship (related partners) with him. The purpose of holding APA is to reduce the incidence of misuse of transfer pricing by companies. The agreement between the Taxpayer and the Director General of Taxes may include several things, including the selling price of the products produced, the amount

of royalties and others, depending on the agreement.

The advantages of APA apart from providing legal certainty and ease of calculating taxes, Fiskus does not need to make corrections to the selling price and profit of products sold by taxpayers to companies in the same group. APA can be unilateral in nature, which is an agreement between the Director General of Taxes and Taxpayers or bilateral, namely an agreement between the Director General of Taxes and the taxation authorities of other countries concerning Taxpayers who are in their jurisdiction.

Prior to the statement of the problem of transfer pricing using the "transfer pricing-advance pricing agreement" as referred to in Article 18 paragraph (3a) above, the Director General of Taxes issued Circular Letter NO.SE-04 / PJ.7 / 1993 dated 9 March 1993 which is considered still relevant to the transfer pricing issue (except for the advance pricing agreement) which basically contains the following matters: Transactions between taxpayers who have a special relationship are universally known as transfer pricing.

III. RESEARCH METHOD

The research used qualitative methods with a phenomenological approach. For the process, researchers carry out data collection, data preparation, and data analysis, consisting of:

1. The first step is to collect company data
2. Determine the company's tax policy and planning
3. Perform data analysis
4. The last stage in this study is to draw conclusions based on the results mapping.

IV. RESEARCH RESULTS

Based on the research conducted, the results of the research can be interpreted as follows:

1. Granting authority to a country to verify transactions between parties with special relationships, such as between the parent company and its subsidiary companies, as long as does not show an arm's length price according to the market or in other words, verification will not be carried out, if the transaction has been based on a fair price.
2. A transaction between two parties that are related to a special relationship, and the transaction does not use an *arm's length price*, one of the Contracting countries may make adjustments which should also be followed by the other country party. If the adjustment problem was not followed by other party countries (correlative adjustment). then there will be economic double taxation (double taxation of the same income by different people / countries) If, for example, there is a tax treaty between Country A and country B, it must be remembered that the adjustments made by country A in the form of an increase in tax-base are not automatic country B must follow, but will only make adjustments if it shows profits based on arm's length.
3. Tax credit mechanism of the P3B model. In this case B can credit the amount of tax paid by A, as a result of adjustments made in country A.
4. The multinational trading company point of view, transfer pricing is a tool to mobilize profits for the benefit of its own company, while on the other hand the tax authorities always want so that transactions that occur between unit companies in one group are carried out at arm's middle price in accordance with the principles adopted by the OECD. The basis for consideration in choosing this method is because this principle places companies from one group in the same condition as independent companies, thereby eliminating both favorable and adverse factors.

V. CONCLUSION

The policy in determining transfer pricing is important because it is related to the performance appraisal of each subsidiary. The determination of high transfer pricing will result in profits for the seller's subsidiary, in turn, will be a cost for the buyer's subsidiary. But in the end the actual profit will appear in the company's overall profit. The important thing that must remain a concern in transfer pricing is the company's ability to enter into external competition so that the transfer pricing determination must be carefully calculated.

The effect of transfer pricing must also be seen from the side of the tax law so that the determination of transfer pricing does not increase the tax burden which should not have occurred or should still be possible to be minimized. By multinational companies, transfer pricing is carried out with the aim of obtaining tax savings globally by relocating their global income to low tax countries and shifting costs in larger amounts to big tax counts. Transfer pricing implementation tends to be done for tax avoidance. However, if transfer pricing is categorized as tax evasion, the multinational company is considered to have committed a tax crime and will be subject to tax penalties in accordance with the applicable provisions. In the framework of conformity of transfer pricing between tax authorities and taxpayers, with regard to "arm's length price", a model similar to the model of "transfer pricing negotiation and transfer pricing arbitration" is also developed in the provisions of tax laws and regulations. with the introduction of the "transfer pricing agreement - advance pricing agreement (APA)"

model as seen in article 18 of Law no. 7 of 1983 concerning Income Tax as amended several times, most recently by Law No. 17 of 2000.

However, in practice, not all taxpayers can use the APA program because the procedure is quite expensive and time consuming, making this difficult for small taxpayers. Therefore the APA procedure usually only helps in cases of transfer pricing which is of considerable value.

REFERENCES

[1]. Arles, P. Ompusunggu. 2011. *Legal Ways to Watch Taxes*. Jakarta: Puspa Swara.
[2]. Dr. Gunadi, Msc., Ak. International Tax. Publishing Institute, Faculty of Economics, University of Indonesia. 1998.
[3]. Dr. Mohammad Zain, Ak. Perpaiakan Management. First Edition. Jakarta: Salemba Empat Publisher, 2003.
[4]. Eleventh edition. New Jersey: Prentice Hal International Editions, 2003. fqbal, Zafar M. International Accountinq: A Global
[5]. Persoective. Second Edition. United Stated of America: South Western Thomson Learning, 2002.
[6]. Horngren, Charles T; Foster, George; and Datar, Srikant. Cost Accountinq: A Manaqerial Emphasis.
[7]. John Hutagaol, SE., MAcc., Mec. . First Edition. Jakarta: PT Kharisma, 2003.
[8]. Government Regulation 2011: Procedures for the Implementation of Tax Rights and Obligations: Salemba Empat, 2000
[9]. Pohan, Chairil Anwar. 2014. *A comprehensive discussion of the introduction of taxation theory and tax law concepts.* Jakarta: Mitra Wacana Media.
[10]. Surahmat, Rahmanto. The Agreement to Avoid Paiak Berqanda: An Introduction. Second printing. Jakarta: PT Gramedia Pustaka Utama, 2001.
[11]. Tax Law 2000: Income Tax, Jakarta: Salemba Empat, 2000.
[12]. Zain, M. 2003. *Tax Management*. Jakarta: Four Salemba.