Tax Treaty Abuse After CFC Rules In Indonesia (Literature Cases)

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***Abstract* -** Many countries compete to impose lower tax rates to obtain domestic investment to encourage the economy and domestic development. This creates opportunities for Multinational Companies to aggressively do tax planning to cause losses to the country where the business is located. To reduce Harmful Tax Competition, world organizations such as the OECD released the BEPS, which is a business challenge and seeks to harmonize global competition. Given each country's interest, the implementation of tax rate harmonization is impossible to implement. Therefore Controlled Foreign Company Rules is one of the favorite options in dealing with this problem. As has been done by the state European Union (EU) and the UK, Indonesia also strives to strengthen Specific Anti Avoidance Rules (SAAR) and reasonable state revenue by implementing Controlled Foreign Company Rules. Considering this, the next article will explain what Controlled Foreign Company Rules have been implementing in Indonesia, and how the impact after regulatory changes will be by discussing some examples of Indonesia cases.

Index Terms: Treaty Shopping, Tax Treaty Abuse, Controlled Foreign Company (CFC) Rules, Indonesia.

I. INTRODUCTION

The difference in tax rates adopted by countries in the world encourages Multinational Companies (MNCs) to conduct tax arbitrage in their tax planning to maximize corporate profits. For example, many Multinational Companies (MNCs) deliberately avoid their tax obligations by diverting corporate profits to other countries that apply lower tax rates or zero tax rates. Alternatively, by establishing an agreement with other countries to reduce the impact of double taxation.

The practice of Multinational companies (MNCs) like this is a severe challenge for every country and can cause losses for the country where the business is located. This is due to the erosion of state revenue from corporate tax revenues (potential loss of revenues for home countries) from countries with higher tax rates to lower tax rates.

Tax avoidance by multinational companies then rolled into the realm of politics and became a top priority in the tax agenda discussed at the G20. To prevent tax avoidance carried out through the Aggressive Tax Planning scheme and Tax competition scheme and aggressive tax competition conditions, countries that are a member of the G20 declared joint action with the Organisation for Economic Co-operation and Development (OECD) in 15 Action Plans on the issue of Base Erosion and Profit Shifting (BEPS).

15 The Action Plan, better known as the BEPS Action Plan, is based on three main principles:e coherence, substance, and transparency, and is expected to change international tax standards. Furthermore, implementing the action plan in the BEPS project will have implications for changes in domestic tax regulations and provisions on P3B in Indonesia.

According to the European Union (EU) banking view, to resolve MNCs' harmful practices with profit shifting, MNCs' problem of profit shifting does not need to be resolved by creating a new international tax system. However, it is sufficient to overcome them by strengthening regulations and supervision to regulate MNCs' operations. Currently, the EU has made regulations governing MNCs' operation. Each company registered in the EU will have one bank account and will subsequently be taxed based on the taxation provisions in force in the EU.

House of Lord di United of Kingdom (UK) has a different view in resolving MNCs practices that are detrimental to the country they occupied. The UK prefers a unilateral approach by strengthening its national tax regulations to regulate these harmful MNCs practices and maintain the current international tax system. The approach differs from that of the OECD with its BEPS project. The OECD believes that the current tax system is no longer suitable for the increasingly complex conditions and business environment, so modernization is needed. The OECD also chose a multilateral approach to resolve the BEPS issue by involving many countries in its implementation.

To develop anti-tax avoidance regulations that make the investment climate healthy and based on each country's interest, BEPS is the main OECD project which difficult to harmonize. Many countries choose Designing Effective Controlled Foreign Company

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Rules to reduce the Harmful Tax Competition rather than harmonizing tax rates globally. This explains that in strengthening the Specific Anti Avoidance Rules (SAAR) and obtaining a moderate state revenue, domestic tax policy is the most favorite choice.

Considering that the Controlled Foreign Company Rules are one of the BEPS Action Plan by the OECD, then this article will describe several examples of cases of tax abuse by Multinational Companies and how tax abuse after Controlled Foreign Company Rules in Indonesia are strengthened, with the article title "Tax Treaty Abuse after Base Erosion and Profit Shifting (BEPS) Action Controlled Foreign Company Rules in Indonesia (Literature Case)."

II. THEORETICAL BASIS

1. TREATY SHOPPING

The explanation on the tax authorities' official website states that Treaty Shopping is an attempt to abuse P3B (treaty abuse) because it uses articles in the double tax avoidance agreement that do not follow the tax treaty's aims and objectives.

However, the Director of International Taxation at the Directorate General of Taxes John Hutagaol ensures that the purpose of establishing a tax treaty or P3B is to prevent (double taxation) and combat (tax avoidance and evasion) evasion practices. According to him, the two objectives are a spirit tax treaty.

2. BASE EROSION AND PROFIT SHIFTING (BEPS) ACTION PLAN OR BEPS ACTION PLAN

Base Erosion and Profit Shifting (BEPS) is a term used by G-8, G-20, and OECD member countries to describe the business practices carried out by multinational companies (MNCs) to transfer their business profits through transfer pricing schemes to other countries. They were applying a low / zero tax rate (Wells and Lowell, 2013, page.3).

In general, the 15 Action Plans that have been published by the OECD discuss four main points, such as :

- Establish an international sense of corporate income tax (Action Plan 2, 3, 4, 5), such as neutralizing the impact of different tax rates, strengthening regulatory regulations on foreign companies, limiting reduced tax revenues, and fighting harmful tax practices effectively.
- Improve international tax standards by aligning taxation rights with economic substance (Action Plan 6, 7, 8, 9, 10), such as preventing the abuse of international tax treaties, avoiding falsification of Permanent Establishment (PE) status, improving regulations regarding transfer pricing of goods intangible, for risk and other high-risk areas.
- Ensure transparency while increasing certainty and predictability (Action Plan 11, 12, 13, 14).
- Establish a multilateral instrument to respond to BEPS issues and monitor the BEPS Action Plan (Action Plan 15).

The 15 Action Plan released by the OECD are as follows :

- Addressing the Tax Challenges of the Digital Economic, which is overcoming the digital economy tax's challenges.
- Neutralizing the Effects of Hybrid Mismatch Arrangements, Neutralizing the Effect of Incompatibility in applying tax rules.
- Strengthen controlled foreign companies, which is Strengthening supervision of foreign companies.
- Limit base erosion via interest deductions and other financial payments, limiting income erosion through interest deductions and payment of other financial transactions.
- Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance, which is fighting harmful tax practices more effectively by taking into account transparency and substance.
- Preventing the Granting of Treaty Benefits in Inappropriate Circumstances prevents the provision of treaty benefits in inappropriate circumstances.
- Prevent the artificial avoidance of permanent establishment status, preventing counterfeiting of the permanent establishment (PE) status.
- Guidance on Transfer Pricing Aspects of Intangibles, which is Guidance Intangible Aspects of Transfer Pricing.
- Assure that transfer pricing outcome is in line with value creation: risks and capital, which ensures that transfer pricing results align with the creation of value for risk and capital.
- Assure that transfer pricing outcome is in line with value creation: other high-risk transactions, which ensure that transfer pricing results align with value creation for other high-risk transactions.
- Establish methodologies to collect and analyze data on BEPS and the actions to address it, which is Developing methodologies to collect and analyze data about BEPS and actions/efforts to overcome them.
- Require taxpayers to disclose their aggressive tax planning arrangements, which require taxpayers to submit their aggressive tax planning.

- Guidance on Transfer Pricing Documentation and Country-by-Country Reporting, Guidelines on Transfer Pricing Documentation and Country Reporting by country.
- Make dispute resolution mechanisms more effective, which is making dispute resolution mechanisms more effective.
- Developing a Multilateral Instrument to Modify Bilateral Tax Treaties, which is Developing Multilateral Instruments to Modify Bilateral Tax Agreements.

3. TAX TREATY OR THE DOUBLE TAX AVOIDATION AGREEMENT (P3B) INDONESIA WITH SINGAPORE

A tax treaty or Double Taxation Avoidance Agreement (P3B) is a taxation agreement between two countries regarding each country's tax rights, which is made to minimize double taxation avoidance efforts. In principle, a tax treaty is used to determine the allocation of taxation rights for a transaction between the source country (the country where the source of income originates) and the country of domicile (the country where the taxpayer is domiciled).

The parties that are regulated in the Tax Treaty between Indonesia and Singapore, according to Article 1, which is further clarified in Article 3, paragraph 1d, which is persons/companies which include individuals, companies, and any group of people and or companies to collect tax is treated as an entity. Then in Article 3 paragraph 1g of the Tax Treaty states that citizens can be any individual who has the nationality or citizenship of a State party to the agreement, or any legal entity, joint venture, partnership, and other entity whose status they obtain based on the Law which applies to one of Contracting State.

What is meant by other entities which they obtain status based on the applicable Law in one of the Contracting States is a Permanent Establishment (PE) in article 5 paragraph 2, the Indonesian Tax Treaty with Singapore is (a) a place of management, (b) a branch, (c) an office, (d) a factory, (e) a workshop, (f) a farm or plantation, (g) a mine, an oil well or gas, an excavation of natural resources, (h) a construction site, installation or assembly project which lasts for a period exceeding 183 days, or (i) the rendering of services including consulting services by an enterprise through an employee or other employees (other than an agent acting independently as referred to in paragraph 7) where the activities take place in a Contracting State for a period exceeding 90 days in twelve months.

The term Permanent Establishment in article 5, paragraph 2 above is not deemed to include (a) the use of facilities solely to store or display goods or merchandise belonging to the enterprise, (b) the maintenance of a stock of goods merchandise. Belonging to the enterprise solely for storage or display, (c) the maintenance of a stock of goods or merchandise. Belonging to the enterprise solely for processing by another enterprise, (d) the maintenance of a fixed place of business solely for the purchase of goods or merchandise or for gathering information for the enterprise, (e) the maintance of a fixed place of business solely for advertising, or for the supply of information, for scientific research or similar nature. Preparation or support for the company (Following Article 5 Paragraph 3 of the Indonesian Tax Treaty with Singapore).

Besides, an enterprise of a Contracting State is deemed to have a permanent establishment in the other Contracting State if the company carries our supervisory activities in that other State for period of more than six months in connection with a construction project. Installation projects or assembly projects carried out in the other country (Under Article 5 paragraph 4 in the Indonesia Tax Treaty with Singapore).

According to Article 5 paragraph 5 of the Indonesia and Singapore Tax Treaty, A person or entity acting in a Contracting State for or on behalf of a company which is domiciled in a Contracting State other than an agent acting independently as referred to in paragraph 6, shall be deemed to be a form of business. Remains in the first-mentioned Contracting State, if (a) has, and is customary in exercising in that first-mentioned State, the power to conclude contracts on behalf of the enterprise, unless the activity is restricted to the purchase of goods or merchandise for the enterprise; or (b) he usually administers in the first-mentioned State a stock of goods or merchandise belonging to the enterprise over which he regularly delivers goods or merchandise for or on behalf of the enterprise.

According to Article 5 paragraph 6 of the Indonesia and Singapore Tax Treaty, an insurance company of a Contracting State, except for re-insurance, is deemed to have a permanent establishment in the other Contracting State if the insurance company collects premiums in the territory of the other Contracting State or bear the risks that occur there through an employee or representative who is not an agent who acts independently as referred to in paragraph 7.

An enterprise of a State shall not be deemed to have a permanent establishment in the other Contracting State solely because it carries on its business through a broker, commissioner or any other agent who acts independently, so long as that person is acting in the framework of his business (by Article 5 paragraph 7 Tax Treaty Indonesia and Singapore). However, if the agent's activities are entirely or almost dedicated to the company's benefit, he will not be an independent agent as defined by this paragraph.

According to Article 5 paragraph 8 of Indonesia and Singapore Tax Treaty, if a company which is a resident of a Contracting State supervises or is supervised by a company which is a resident of the other Contracting State, or which operates its business in that other State (either through a permanent establishment or other means), will not automatically make one of these companies a permanent establishment from the others.

4. CFC RULES (CONTROLLED FOREIGN COMPANY RULES)

One of the source concerns caused by BEPS is the possibility of a diversion of income through foreign institutions formed to avoid tax obligations. For this reason, BEPS Action Plan Number 3, which is discussed strengthening the supervision of foreign companies (Controlled Foreign Companies Rules), is one of the solutions most efficient to apply to each country.

In Indonesia domestic regulations, there are several implementations to strengthen supervision of foreign companies (Controlled Foreign Companies Rules), including :

- Law Number 2 of 2017 concerning Construction Services.

  Article 32 of Law Number 2 of 2017 concerning Construction Services explains that the Foreign Construction Service business that will carry out Construction Service business in Indonesia's territory must establish representative offices and or Indonesia legal entities through capital cooperation with national Construction Services business entity.

  In accordance with Article 33 of Law Number 2 of 2017 concerning Construction Services, the representative office as referred to in Article 32 letter a must (a) be in the form of a business entity with qualifications that are equivalent to large qualifications, (b) have a representative license for a foreign Construction Services business entity, (c) forming operational cooperation with a national construction service business entity with large qualifications that have a business license in any construction service business activities in Indonesia, (d) employing more Indonesia workers than foreign workers, (e) placing Indonesian citizens as the highest management of representative offices, (f) prioritizes the use of domestic construction materials and technology, (g) has high, up to date, efficient, environmentally friendly technology, and pays attention to local wisdom, (h) implements technology transfer processes, and (i) carries out obligations other in accordance with the provisions of laws and regulations. The Minister grants representative license as referred to in paragraph (1) letter b following the legislation's provisions. (2) As referred to in paragraph (1) letter c, the joint operation is carried out on the principle of equal qualifications, equality of services, and joint responsibility.

  Following Article 34 of Law Number 2 of 2017 concerning Construction Services, the provisions regarding capital cooperation in Article 32 letter b are implemented under the provisions of Law and regulations. A Construction Service business entity established in the framework of capital cooperation referred to in Article 32 letter b must meet the major qualification requirements referred to in Article 20 paragraph (1) letter c. A Construction Service business entity formed in the framework of capital cooperations as referred to in paragraph (2) is required to have a Business Licenses. According to the provisions of status regulations, the Minister grants the business licenses as referred to in paragraph (3).

  Further provisions regarding the granting of representative licenses, procedures for cooperating operations, and the use of more Indonesia workers, as referred to in Article 33 paragraph (1) letter b, letter c, letter d, and granting of Business License as referred to in Article 34 paragraph (4) regulated in a Ministerial Regulation (Article 35 Law Number 2 0f 2017 concerning Construction Services).

- Law Number 2 of 2020 concerning the Application of Government Regulations in substitute of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for subscribing to the Corona Virus Disease 2019 (Covid-19) and/or in the Context of Facing Threats that Endanger the National Economy and/or Financial System Stability to become Law.

  Law Number 2 of 2020 regulates the tax treatment of trading activities through Electronic Systems (PMSE) in Article 6 paragraph 6, foreign traders, foreign service providers, and/or overseas Trade Through Electronic Systems (PMSE) providers that comply with the provisions. Significant economic presence can be treated as a permanent establishment and subject to income tax.

- Regulation of the Minister of Finance 48/PMK.03/2020 concerning Procedures for Appointment of Collectors, Collection and Deposit, and Value Added Tax Reporting on Utilization of Intangible Taxable Goods and/or Taxable Services from Outside the Customs Area in the Customs Area through Trade Through Electronic System.

  According to article 2, paragraph 2 in 48/PMK.03/2020, the VAT (PPN) referred to in paragraph (1) is collected, deposited, and reported by the minister's PMSE Business appointment.

  Further provisions regarding PMSE are regulated in Article 4 paragraph 1 PMK Number 48/PMK.03/2020, PMSE appointed as PMSE VAT (PPN) collector referred to in Article 2 paragraph (2) are PMSE Bussineman who have met certain criteria. Moreover, paragraph 2 explains certain criteria as intended in paragraph (1) include: a. The value of transactions with Goods Buyers and/or Service Recipient in Indonesia exceeds a certain amount within 12 (twelve) months; and/or b. the number of traffic or accesser exceeds a certain amount in 12 (twelve) months. Then the appointment of authority to collect VAT (PPN) PMSE by the Minister as referred to in Article 2 paragraph (2) is delegated to the Director-General of Taxes (following Article 4 paragraph 4 PMK 148/PMK.03/2020).

III. RESEARCH METHODOLOGY

In this study, researchers used qualitative research methods with a case study approach, namely research conducted with literature review according to the main research question regarding how the influence of CFC Rules on contemporary or current phenomena in the context of Tax Abuse (Robert, 2002: 1).

A case study is an empirical inquiry that investigates phenomena in real life when the boundaries between the phenomena in the context are not clearly visible and where multiple sources of evidence are used (Robert, 2002: 18).

In the book Moleong (2014: 4), Bogdan and Taylor say that qualitative research methods are research procedures that produce descriptive data in the form of words or verbally from people and observable behavior. This approach is directed at the setting and the individual holistically or intact. So that in this study, it is not allowed to isolate individuals or organizations into variables or hypotheses, but it is necessary to see them as part of a whole.

IV. RESEARCH RESULTS AND DISCUSSION

Because each country has its own tax sovereignty and different tax systems, we often find that the same income is taxed more than 1x (double taxation). To prevent double taxation, a Tax treaty (P3B) is formed, which basically seeks to allocate taxation rights between the two countries involved in the P3B. P3B is (reduced rate) withholding tax, for example, from 25% to 15% or lower than the prevailing domestic rate.

Initially, many developing countries, including Indonesia, competed to create a Tax Treaty network to signal that their country complied with international principles, were pro-business activities, and reduced cross border transaction barriers. With the Tax Treaty, it is hoped that it can attract investment and boost the domestic economy. Furthermore, since the 1980s, many developing countries began to implement a lot of P3B.

However, as the P3B took place, it was used in a tax avoidance scheme (treaty shopping). So it is very detrimental to the country where the business is located, which should have the potential to receive reasonable income. The possibility of diversion of income is often through a foreign institution established to escaped tax obligations. This happened because of the aggressive tax planning by multinational companies that took advantage of the loophole of the P3B (treaty shopping). For this reason, recently, many countries have the view that the need to renegotiate P3B. The OECD released a practice like this in Base Erosion and Profit Shifting (BEPS), a major OECD project and subject discussed in the last G20.

One source of concern caused by BEPS is the possibility of diversifying income through a foreign institution formed to avoid tax obligations. To combat treaty shopping like this, an efficient solution is to strengthen domestic tax policies for foreign companies. One of the Indonesia Government CFC Rules' implementations is Law number 2 of 2017 concerning Construction Services. The background of this Law is to overcome the tax dispute with BUT and guarantee state revenue.

Previously many foreign companies avoided paying taxes in Indonesia, deliberately taking advantage of the P3B policy itself. A concrete example is a foreign construction company. Aggressive tax planning is deliberately separating its work contract in Indonesia into a maximum of 6 (six) months or less than 183 (one hundred and eighty-three) days in 1 year. This foreign company is not obliged to form a representative office or an Indonesian legal entity.

Considering that the construction service sector is one of the strategic sectors supporting national development and ensuring state revenue, the quality of infrastructure is also the government's concern. To overcome this problem, Law Number 2 of 2017 concerning Construction Services was issued.

Previously in the Tax Treaty Indonesia with Singapore, Article 5 paragraph 4 reads, "a company of a Contracting Sate is deemed to have a permanent establishment in the other Contracting State, among other this, if the company carries out supervisory activities in that other State for a particular purpose a period of more than 6 months in connection with a construction project, installation project or assembly project carried out in that other State". Since there is already a regulation of Law Number 2 of 2017 for Construction Services, Bentuk Usaha Tetap (BUT) or Permanent Establishment (PE) regulated in the Tax Treaty can be ignored if the construction company is located in Indonesia. This because domestic regulations in Indonesia stipulate that all foreign construction companies are required to establish a representative office or an Indonesia legal entity, which is a Bentuk Usaha Tetap (BUT), following the provisions in article 32 of Law number 2 of 2017 Construction Services without clarifying that this Foreign Construction Company has met the requirements of its legal status and time test in Indonesia.

This is one of Indonesia's efforts to fight aggressive tax planning from construction companies that do not benefit state revenues and government efforts to improve the domestic construction sector's quality. Because in Article 33 of the Construction Service Law, it is explained that a foreign construction service business entity or a foreign individual construction service business entity that will carry out a construction service business in the territory of Indonesia is required to establish a representative office or Indonesia legal entity through capital cooperation. With the national Construction Service business entity.

Moreover, it is clarified in article 33 that the representative office as referred to in Article 32 is obliged to form a joint operation with a highly qualified national Construction Service Business entity that has a Business License in any Construction Service business activity in Indonesia, employing more Indonesia workers than foreign workers, placing Indonesian citizens as the top leaders of the representative office, prioritizing the use of domestic construction materials and technology, having high up to date, efficient, environmentally friendly technology, paying attention to local wisdom, and implementing the technology transfer process.

Another example of the implementation of CFC Rules in Indonesia is Law Number 2 of 2020 concerning State Financial Policy and Financial System Stability to subscribe to the Corona Virus Disease 2019 (Covid-19) and/or in the Context of Facing Threats that Endanger the National Economy and/or Stability The Financial System Becomes a Law especially Article 6 which regulates the tax treatment of Trading activities through Electronic System (PMSE).

The digital economy is a process generated by information & communication technology and is still growing. The digital economy currently raises broader tax issues for policymakers regarding the relationship between MNE, data, company characteristics, and VAT collection (PPN) on intangible goods and data usage.

Given that the existing Tax treaty still applies the taxation provisions for a Bentuk Usaha Tetap (BUT) or Permanent Establishment (PE) with a physical presence and Article 4 paragraph 1d and 1e of Law Number 8 of 1983 concerning VAT, which states that VAT is imposed on the utilization of Intangible Taxable Goods from outside the Customs Area within the Customs Area and utilization of Taxable Services from outside the Customs Area within the Customs Area, the use of Trading Through Electronic System (PMSE) in Indonesia is obliged to pay itself to the State treasury. However, in practice, due to the low tax compliance and lack of data at the Directorate General of Taxes (DJP), the realization of state revenue cannot be controlled as expected. The Indonesia Minister of Finance also revealed that the issuance of Law Number 2 of 2020 is an effort to overcome the losses from non-compliance by appointing PMSE as VAT collector.

CFC Rules through Article 6 paragraph 6 of Law Number 2 of 2020 regulate the taxation of Trading activities through Electronic Systems (PMSE), which is foreign traders, foreign service providers, and/or overseas Trade Through Electronic System (PMSE) meeting the provisions of significant economic presence can be treated as a permanent establishment and subject to income tax. This regulation positively impacts state revenues and reduces opportunities for Electronic Trading (PMSE) activities to avoid tax obligations, especially Pajak Pertambahan Nilai (PPN) in Indonesia.

Further provisions regarding PMSE are then regulated in Article 4, paragraph 1 PMK Number 48/PMK.03/2020, Businessman PMSE appointed as PPN PMSE Collectors referred to in Article 2 paragraph (2) are Businessman PMSE who have met certain criteria. Furthermore, paragraph (1) include a. The value of transactions with Goods Buyers and/or Service Recipients in Indonesia exceeds a certain amount within 12 (twelve) months; and/or b. The number of traffic or accessers exceeds a certain amount in 12 (twelve) months. Then the appointment of authority to collect VAT PMSE by the Minister as referred to in Article 2 paragraph (2) is delegated to the Director-General of Taxes (following Article 4 paragraph 4 PMK 148/PMK.03/2020).

V. CONCLUSIONS AND SUGGESTIONS

For CFC Rules applied to Foreign Construction Companies by Indonesia through domestic regulations, which is Law Number 2 of 2017 concerning Construction Services, it is sufficient to strengthen the Specific Anti Avoidance Rules (SAAR) against the practice of Aggressive Tax Planning by Foreign Construction Companies which deliberately avoid imposition tax in Indonesia with the fulfillment of the clarification as Permanent Establishment. According to provisions in Article 32 of Law number 2 of 2017 Construction Services, all foreign construction must establish a representative office or an Indonesian legal entity, Bentuk Usaha Tetap (BUT) or permanent Establishment (PE).

Moreover, considering that the current Tax Treaty still refers to taxation on the presence if physical presence, the through Article 6 paragraph of Law Number 2 of 2020, which is a businessman of PMSE and foreign service providers can now be treated as a permanent establishment and subject to Income Tax with significant economic presence in Indonesia. However, because the Minister regulates VAT Collector's appointment following Article 2, paragraph 2 48/PMK.03/2020, the government must be more active in negotiating and indicating the status of VAT (PPN) to PSME players and foreign service providers in Indonesia.

Overall, CFC Rules are still considered unable to deal with BEPS implemented through multinational companies effectively, given that the practice of tax avoidance and BEPS is very complex and varied. However, with Indonesia's strengthening of CFC Rules, it is hoped to reduce state revenues reasonable and acceptable according to the source principle. Considering that domestic regulation changes are more effective than waiting for Tax treaty changes that require a longer period of time, CFC Rules are fundamental in combating BEPS Practices.

For this reason, regulators are expected to be smarter and more through observing BEPS in business activities by foreign companies that have the potential to harm state revenues, by continuing to issue CFC Rules, which are also Indonesia commitment as a member of the G20 in fighting against BEPS Practices.

VI. REFERENCES

Bogdan, Taylor, et al., 1992. Introduction to Qualitative Research Methods, Translation by Arief Rurchan. National Business: Surabaya.

https://ddtc.co.id/uploads/pdf/Working-Paper-Rencana-Aksi-Base-Erosion-Profit-Shifting-dan-Dampaknya-terhadap-Peraturan-Pajak-di-Indonesia.pdf https://www.kemenkeu.go.id/sites/default/files/beps%20dalam%20kerangka%20kerja%20sama%20g20%20dan%20implementasinya%20kepada%20indonesia.pdf

https://www.oecd.org/tax/beps/beps-actions/

https://www.pajak.go.id/id/artikel/cfc-rules-revisi-regulasi-cegah-distorsi

Law Number 2 of 2017 concerning Construction Services.

Law Number 2 of 2020 concerning the Application of Government Regulations in place of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Subscribing to the 2019 Corona Virus Disease Pandemic (Covid-19) and/or in the Context of Facing Threats that Endanger the National Economy and/or Financial System Stability to Become Law.

Law Number 42 of 2009 concerning the Third Amendment to Law Number 8 of 1983 concerning Value Added Tax in Goods and Services and Sales Tax on Luxury Goods.

Minister of Finance Regulation 48/PMK.03/2020 concerning Procedures for Appointment of Collectors, Collection and Deposit, and Value Added Tax Reporting on Utilization of Intangible Taxable Goods and/or Taxable Services from Outside the Customs Area in the Customs Area through Trade Through Electronics Systems.

Robert, Mathis. 2002. Human Resource Management. Salemba four: Jakarta.

Wells, B, and Lowell, C, 2013, Tax base erosion: the reformation of section 482'S arm length standard, The University of Houston Law Center, America.