Transfer Pricing And BEPS Overview In Taxation

Muljadi Djaja*, Sonny*
Business Administration Focus on Tax Management, Institut STIAMI, Bogor, Indonesia

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Abstract- Transfer pricing is basically aimed at measuring company performance, on the other hand it can also be used as a medium for manipulating taxes, resulting in state revenue which results in state stability, national problems and global challenges. However, in practice, companies manipulate transfer prices as an effort to minimize costs so that for multinational companies, transfer pricing is believed to be an effective strategy to win the competition in fighting over limited resources. Besides that, another problem in taxation is regarding BEPS. The existing taxation regulations have several weaknesses that create opportunities for the practice of BEPS. With the active involvement of developing countries, it is hoped that the implementation of the BEPS plan will become easier so that the way to overcome BEPS problems in the international world becomes more broad.

Index Terms- transfer pricing, BEPS, taxation, company performance

I. INTRODUCTION

Transfer pricing is synonymous with the manipulation of tax rates in a company which has been difficult to avoid until recently. National and multinational companies practice transfer pricing to minimize taxes that must be paid to the government. This is done in various ways, such as manipulating the price fixing of a good or service against the benefits obtained, exploiting the gaps contained in existing regulations, and cooperation with human resources in taxation so as to ignore tax ethics and consider it not included law violation [1]

Transfer pricing can be explained as price fixing aimed at intra-company which occurs in affiliated companies, where the pricing is determined in transactions between parties who have a special relationship [2]. Transfer pricing can also be explained as a product or service exchange transaction that occurs between two companies in a group of companies with a specific purpose [3]. The classic problem of transfer pricing in taxation is caused by companies that always try to minimize costs related to taxation, even if it is indicated that this is done deliberately as an effective strategy in winning business competition globally [4]. Whereas transfer pricing aims to evaluate and measure the performance of a company.

The central issue of transfer pricing is the issue of pricing. On the side of the tax authorities and tax authorities have a desire to ensure that companies that have a special relationship or do not use a fair price in every sale and purchase transaction. This is because when trade transactions do not use fair prices it can cause losses for a country, namely income from the tax sector [5]. Fair price itself has the meaning of the price or profit that occurs in transactions carried out by unrelated parties that meet the principles of business normality and fairness [6]. Some indications of a company carrying out transfer pricing inappropriately can be considered from the sales price, purchase price, allocation of administrative and general costs (overhead cost), interest charges on loans by shareholders (shareholder loans), commission payments, licenses, royalties, and rewards for services.

In terms of buying and selling, there is also the term Base Erosion and Profit Shifting (BEPS), which is a tax planning strategy that takes advantage of the gaps and weaknesses contained in domestic tax laws and regulations to "eliminate" profits or divert these profits to the state, others that have low tax rates or are even tax free. The end goal is that the company does not have to pay taxes or taxes that are paid very little value to the overall company income.

The issue of BEPS surfaced along with advances in technology and information, especially the flow of globalization and economic digitization, which changed the structure of global companies from one-country-based companies to international-based companies. The occurrence of BEPS is due to tax regulations in countries in the world that do not develop as fast and in line with advances in information technology and globalization. Transactions and business interactions across national borders simultaneously allow for the interaction of tax regulations between countries. Unfortunately, the unpreparedness of countries in anticipating cross-border business developments causes bias and loop holes in taxation regulations, resulting in the opportunity for BEPS being exploited by multinational companies (Multi-National Enterprises often abbreviated as MNEs) not to pay taxes or pay taxes but in very small amounts.

Companies implement the BEPS strategy by leveraging the various combinations of tax policies and regulatory systems in a country. In principle, the tax on companies is imposed at the domestic level of each country. The interaction of the taxation system between countries results in income being taxed by more than one jurisdiction, resulting in double taxation. Conversely, it can also result in income not being taxed at all. When faced with double taxation problems, companies urge bilateral and multilateral cooperation between countries to overcome these problems. But at the same time, if they encounter regulatory weaknesses in their favor, companies will exploit them so that the income earned is not taxed anywhere (untaxed).

This research discusses transfer pricing and also BEPS in the world of buying and selling and taxation. This study aims to increase readers' knowledge about the relationship between transfer pricing and BEPS.

II. RESEARCH METHODOLOGY

This study uses qualitative research, which is a research paradigm that emphasizes the understanding of problems in social life based on reality conditions or natural settings that are holistic, complex and detailed [7]. Meanwhile, the approach used is a case study, in this case the analysis and observation of the best possible transfer pricing manipulation cases that occur in the realm of global challenges and the role of behavioral accounting in order to obtain objective results and conclusions. The research data used is secondary, namely data that is not obtained from the main source, but through collecting and reviewing data from the sources obtained so that research becomes the second party to manage and critique the data obtained [8].

Furthermore, these data are collected and documented based on their relationship to research studies obtained from online literature from the internet. Thus, the analysis technique uses data reduction in the form of collecting, summarizing, selecting the main things related to the research topic, display data, presenting data in accordance with certain forms relevant to research and describing briefly the relationship of each category, and verification or withdrawal. conclusions, both provisional conclusions and final conclusions after obtaining strong evidence that supports the final conclusion.

III. RESULTS AND DISCUSSION

3.1 Transfer pricing in taxation

Transfer pricing is defined as a price related to the delivery of goods or service fees, so that it includes business activities related to transactions, taxation, accountability for profits or fees based on the principle of fair market prices [9].

This definition indicates that there is a special bond between one company and another, so that pricing is prone to occur in the relationship between these companies. This is what makes business actors unconstitutional or immoral actions to avoid unwanted things, such as tax avoidance. This special relationship is able to encourage companies to set unreasonable prices, either by increasing or decreasing in order to manipulate taxes through transfer pricing. This is done in addition to getting the maximum profit, as well as aborting taxpayers because they feel they are under pressure from the government for applying political costs through paying taxes [10]. These two things are the focus of the companies' work in minimizing taxes so that transfer pricing manipulation is an alternative that must be done.

The practice of transfer pricing manipulation is caused by other factors inherent in the company. Transfer pricing is due to the imposition of taxes by the government. Based on several factors, the decision to carry out transfer pricing, government supervision and information needs really need to be implemented optimally, so that it can provide benefits in efforts to manage and develop the country to meet global challenges, because taxes are one of the largest state revenues. The important role of the government and related government agencies in the level of tax supervision and regulation affects transfer pricing practices positively and negatively, because companies have their own objectives, while the government has a general goal in regulating a company so that it can benefit it and the environment equally and fairly.

Some of these factors are common and cause transfer pricing, even transfer pricing manipulation in the context of aborting taxpayers from the stipulated tax claims. However, in international trade, transfer pricing refers to provisions in the type of market structure, estimates of maximum profit, and economic conditions and regulations set in a country. Based on this provision, the emergence of transfer pricing manipulation is not only a problem within the company, but there is a need for a price system and tax regulation to be established through government policies and law enforcement that are fair and equitable. The effects of globalization and conglomeration can be controlled properly so that the objectives of transfer pricing in performance appraisal and tax management can run properly.

One of the regulatory concepts in pricing and tax determination is contained in the pricing policy using historical cost, not standard cost. The existence of a standard cost is able to move a company in a reasonable and unreasonable management accounting to set a price and taxes, so it is necessary to apply behavioral accounting to measure its level of objection, because the range to bridge costs on the grounds of efficiency and price manipulation is not appropriate in the field facts As for the need to set price standards using historical costs, even though it seems to ignore efficiency, the pricing is based on cost data sources that have been determined in the company over time so that it is not competitive on the basis of efficiency.

Exchange rates can also affect transfer pricing practice. Multinational companies have transactions between countries in a large number. The company's cash flows denominated in several currencies relative to the dollar value will differ over time. These different exchange rates will affect the company's overall profits. Therefore, changes in exchange rates can be utilized by multinational companies to increase their profitability through transfer pricing activities. Profitability is very important for investors and is used as an indicator of assessment in making investment decisions in companies. Based on the research results, when the exchange rate at the company is high, it will encourage the company to make transfer pricing decisions by manipulating prices which aim to reduce profits so that tax payments are reduced. Conversely, when the exchange rate at the company is low, the company tends not to make transfer pricing decisions because with a low exchange rate the company no longer needs to reduce profits. However, the exchange rate does not affect the company's transfer pricing decision.

Based on the research of the UNTC UN team chaired by Silvain Plasschaert as stated again by Gunadi (1999) in Sutedi (2013) [11], it is stated that there are several motivations behind the company in carrying out transfer pricing, including: (1) reduction of tax objects, especially income tax; (2) easing the effect of foreign ownership restrictions; (3) decrease the effect of rupiah depreciation; (3) strengthening demands for price increases or protection against import competitors; (4) maintaining a low profile attitude regardless of the level of business profits; (5) securing the company from claims for employee benefits or welfare and environmental concerns; (6) minimizing the consequences of restrictions and business risks abroad. Meanwhile, according to Anthony and Govindarajan (2004) in Sutedi (2013) suggest that there are three special problems faced by multinational corporations, namely: (1) cultural differences; (2) transfer pricing; (3) the exchange rate. This research only examines tax motivation, tunneling and exchange rate in transfer pricing decision making. This is because this is a special problem commonly faced by multinational companies due to differences in regulations, economy, social, politics and culture that apply to each country.

Taxes have a significant positive effect on transfer pricing decisions. This is because the increasing tax burden encourages companies to reduce the tax burden by making transfer pricing decisions, namely transferring tax obligations to companies that have special relationships in other countries with lower tax rates. Tax, tunneling and exchange rate simultaneously affect the company's transfer pricing decision. This shows that taxes, tunneling and exchange rates are important factors that are taken into consideration by management in making transfer pricing decisions. Transfer pricing is a price fixing mechanism for transactions for the supply of goods or the delivery of services by parties with a special relationship. However, in practice, companies manipulate transfer prices as an effort to minimize costs so that for multinational companies, transfer pricing is believed to be an effective strategy to win the competition in fighting over limited resources.

3.2 Base erosion and profit shifting (BEPS) in tax overview

Basically, the principle of taxation on cross-border activities is determined based on the domestic taxation law, double tax treaties, and other international taxation cooperation agreement instruments, such as those applied by the European Union. The international community has also sought to minimize trade distortions and barriers to sustainable economic growth, while at the same time asserting their sovereign right to establish their own tax regulations. However, there are gaps and frictions between different countries' tax systems that were not taken into account in designing the existing standards. There are countries that apply their tax rates normally, on the other hand, it turns out that there are also countries that apply very low tax rules and don't even apply taxes at all. In a situation like this, global economic activity requires countries to work together and coordinate in overcoming tax problems in order to be able to protect their tax sovereignty while creating situations and conditions that companies must pay their taxes fairly.

Addressing the BEPS problem requires the right approach and strategy, which can be used by countries to establish a fair, effective and efficient tax system. Since BEPS strategies often rely on the interaction of tax systems in different countries, this approach must address the gaps and frictions that arise from these differences between systems. Several model approaches, such as the OECD Transfer Pricing Guidelines and the OECD Model Tax Convention, will produce quite effective changes. Other approaches can be taken by the state through domestic regulations, bilateral agreements, or multilateral cooperation instruments.

Over time, the existing tax regulations have many weaknesses that create opportunities for the practice of BEPS. BEPS occurs when the interaction of different tax rules between countries results in double taxation or low or even no taxation. Under these conditions, companies try to avoid taxes by diverting profits to countries with low or no tax rates. In other words, there is concern among the international community that if left unchecked, there will be a situation where multinational companies will never pay taxes worldwide.

The challenge for international tax regulatory policies is also the spread of the digital economy. The digital economy is characterized by reliance on intangible assets, massive use of data (especially personal data), and difficulty in determining the jurisdiction in which value creation of goods or services occurs. This raises fundamental questions about how companies in the digital economy add value to goods and services and make profits. An effective and internationally coordinated approach is needed in order to prevent the practice of BEPS in a sustainable manner.

The implementation of the BEPS action plan will result in significant changes in international tax regulations since 1920, such as:

1. International tax regulations will be developed to address the gap in the taxation system between different countries, but still respect the sovereignty of each country to draft its own taxation rules;
2. The current tax treaty and transfer pricing regulations will be reviewed to correct existing deficiencies and to align them with substance and value creation;
3. A more transparent climate will be created through reporting by multinational companies (MNEs) to governments on the allocation of their corporate profits worldwide.

The launch of the BEPS Action Plan is a step forward in the history of international tax cooperation. In its implementation, a consensus-based framework is needed to ensure that the action plan can run effectively and efficiently, taking into account the perspectives of developing countries, business and the international community at large.

The involvement of developing countries in overcoming the issue of BEPS is very necessary considering that developing countries also face BEPS problems, although with different degrees of problems depending on the laws and regulations of the country concerned. The United Nations (UN) has played an active role in the implementation of the BEPS action plan and will provide critical inputs, especially in relation to BEPS problems faced by developing countries. The Task Force on Tax and Development (TFTD) and the OECD Global Relations Program will serve as a medium to discuss BEPS issues in developing countries. With the active involvement of developing countries, it is hoped that the implementation of the BEPS plan will become easier so that the way to overcome BEPS problems in the international world becomes more broad.

IV. CONCLUSION

Multinational companies have an interest in optimizing the profits obtained from the operations of multinational companies both as a group and as an entity. To that end, every multinational company makes various efforts to minimize costs and maximize profits through several efficiency measures, including efficiency in tax burdens. Basically, multinational companies can carry out tax planning, namely how entities continue to pay taxes according to the provisions but as a group they are still able to optimize their profits. Transfer pricing appears due to the increasingly global operations of multinational companies. In practice, companies manipulate transfer prices as an effort to minimize costs so that for multinational companies transfer pricing is believed to be an effective strategy to win the competition in competing for limited resources.

BEPS is not a simple problem. The complexity of the problem is not only because it involves the friction of tax regulations in the jurisdictions of different countries, but also because of the tug of interest between the state and the business itself. Therefore, to be able to solve the BEPS problem, a country cannot solve it unilaterally, but it is absolutely necessary to have the cooperation and involvement of all global stakeholders. International cooperation in overcoming BEPS should be carried out by considering and respecting the sovereignty of the country so as to create a fair international tax agreement and at the same time maintaining the investment climate, the performance of MNEs companies and the economic growth of developing countries.

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