

Analysis Tax Planning On Withholding Tax And Value Added Tax Related To Reimbursement Transaction

Gupto Andreantoro (BC201120033)
Deva Agung Mahendra (BC201120038)

Master of Administration, Tax Management
Institut STIAM I

DOI: 10.29322/IJSRP.11.05.2021.p11373
<http://dx.doi.org/10.29322/IJSRP.11.05.2021.p11373>

Abstract: Tax planning is an important thing to do so that the transaction withholding tax and value-added tax on reimbursement transactions are not subject to double taxation. With tax planning, taxpayers can streamline the tax payable so that the taxes paid are not too high but by applicable tax provisions. This study aims to analyse tax planning on withholding taxes and value-added tax on reimbursement transactions. Researchers use this type of qualitative explanative research in this study. To obtain the required data, researchers collected data using literature study, observation, and documentation. The results of this study state that a transaction can be categorized as a reimbursement transaction so that the income and costs of VAT/Income Tax can be recognized if the invoice made by a third party is addressed to the second party and then the second party makes a new bill to the first party. This study also concludes that there is a reimbursement transaction if it meets 4 cumulative criteria as there is an agreement governing reimbursement; proof of bill on behalf of the real burden bearer, proof of invoice submitted to the real burden bearer, and there is no mark up/down value or price.

Key Words: *Reimbursement, Withholding Tax, Value Added Tax.*

ABSTRACT

Tax planning is an important thing to do so that the transaction withholding tax and value added tax on reimbursement transactions is not subject to double taxation. With tax planning, taxpayers can streamline the tax payable so that the taxes paid are not too high but in accordance with applicable tax provisions. This study aims to analyze tax planning on withholding taxes and value added tax on reimbursement transactions. Researchers use this type of qualitative explanative research in this study. To obtain the required data, researchers collected data by means of literature study, observation and documentation. The results of this study state that a transaction can be categorized as a reimbursement transaction so that the income and costs of VAT / PPH can be recognized if the invoice made by a third party is addressed to the second party and then the second party makes a new bill to the first party. This study also concludes that there is a reimbursement transaction if it meets 4 cumulative criteria such as: there is an agreement governing reimbursement; proof of bill on behalf of the real burden bearer, proof of invoice submitted to the real burden bearer and there is no mark up / down value or price.

Keywords: *Reimbursement, Withholding Tax, Value Added Tax.*

I. PRELIMINARY

Background.

Taxes are the main state revenue that functions to run the economy of a country. Taxes are useful for planning state expenditures such as road construction and infrastructure improvement. In the end, each government revenue will later be distributed into expenditures in the form of routine and development expenditures. Development expenditures can be in the form of facilities and infrastructure needed for infrastructure as well as economic activities such as road construction, increased security, and other public facilities. This will support the growth of the economy and will subsequently become a source of income or government revenue again. Running a country, of course, requires funds (taxes) that come from personal and corporate taxpayers. The form of society's contribution to the state can be implemented in compliance with taxation. Taxation cannot be separated from the contribution of taxpayers in calculating, depositing, and reporting their taxes. Taxes are compelling and taxpayers who have paid taxes will not receive direct compensation. In Indonesia, there are several types of taxes including Income Tax (PPH), Value Added Tax (PPN), Sales Tax on Luxury Goods (PPnBM), Land and Building Tax (PBB), Local Tax, Stamp Duty (Prabandaru, 2019).

Every taxpayer will try to find a way to make the taxes paid as low or as small as possible. Taxpayers try to minimize the tax burden through the loophole of tax regulations. What is usually done is through tax planning, tax avoidance, to the most extreme, namely tax evasion. The efforts made by taxpayers in carrying out tax planning are not wrong if the tax planning has been regulated in tax law so that it does not violate the applicable tax provisions. However, if the tax planning is carried out "darkly" so that it violates the applicable tax provisions, then this can become a dispute which can later be processed to the tax court. (Darussalam, 2017). Tax Planning carried out by taxpayers must meet requirements, including having concrete evidence, by applicable tax regulations, and can be accepted in business. In carrying out tax planning, taxpayers can carry out several stages, including analyzing all information in circulation, making several possibilities that will occur in tax calculations, conducting evaluations, fixing weaknesses contained in the planning, and then updating the plan to minimize the occurrence error. There are several strategies in tax planning, such as tax saving, tax avoidance, delaying tax payments, and optimizing the allowed tax credit. (Aviantara, 2016).

Tax planning can be done in every aspect of taxation such as value-added tax (VAT). VAT is a tax that will be collected by taxpayers at the time of the utilization of taxable services and delivery of taxable goods. VAT is also an indirect tax, in which case it can be defined that tax requires the role of taxable entrepreneurs in carrying it out. Simply put, VAT, namely individuals who consume, use, buy taxable services or taxable goods must pay value-added tax because these goods or services have an element of value-added tax in them. Taxable entrepreneurs collect value-added tax from taxable services or goods acquired and purchased for their business interests. Taxable goods or taxable services obtained and the tax paid at the time of the transaction or purchase is called input taxes. Meanwhile, output tax is a tax collected by a taxable entrepreneur when the taxable entrepreneur sells his product. These output and input taxes can later be used by taxable entrepreneurs in making VAT deposits and reporting. The value-added tax (VAT) planning strategy can be done by maximizing the creditable input tax so that the tax deposited will be smaller and may even allow for the overpayment. The next strategy is to import a pivot to importers who already have a TIN. The last is by making a complete tax invoice and reporting it on time. This was done to avoid administrative sanctions for not making complete invoices and reporting them on time (Daniati, 2020).

In value-added tax, there is what is called a reimbursement transaction. To carry out a reimbursement transaction requires three parties involved in it. These parties include the first party as the service recipient, the second party as the bailout party, and the third party as the vendor. In principle, if a third party makes a bill on the first party, the second party as the party in charge cannot be subject to VAT because all reimbursement costs in the bill do not constitute the meaning of reimbursement in the VAT Law. However, if the third party bills the second party, the second party is obliged to make a new bill on behalf of the first party so that all costs recorded in the bill can be categorized as the basis for imposition of VAT tax. So the VAT reimbursement is determined based on the bill of payments addressed directly to the first party or addressed to the second party which then the second party makes a bill to the first party (Irwanto, 2019).

A reimbursement transaction has an income tax element in it and the transaction may be subject to income tax if the invoice is issued by a third party to a second party. Reimbursement transactions are not subject to income tax if the invoice is issued by a third party directly to the first party. For example, if the invoice is issued from a third party to the first party, the second party may not record reimbursement as income and may not charge payments to the third party as an expense. If the invoice is issued by a third party to a second party, then if the second party reimburses to the first party and there is an Income Tax Art 23 for the transaction, the first party is obliged to withhold Income Tax Art 23 (Assuming that the first party and the second party are obliged corporate tax). So the recording of the second party can be recognized as an expense and income for the reimbursement transaction (Irwanto, 2019).

Many cases of audit of this reimbursement transaction occur because the tax authorities consider that there are two different transactions carried out by the three parties. So the tax authorities assume that the two transactions include: First-party transactions with second parties must make invoices, then second-party transactions with third parties must also make invoices. If we trace more deeply into transactions from the first, second and third parties, it turns out that these transactions are the same. So in this reimbursement transaction, mistakes often occur because the tax authorities assume that the transaction between the three parties is not a reimbursement transaction so that each party must make an invoice or invoice.

So, the background of the author in conducting this research is because there is a gap phenomenon. This phenomenon is because, in theory, the parties conducting the transaction have met the criteria for carrying out a reimbursement transaction. However, the fact is that in the field, the tax authorities insist that the reimbursement transaction carried out by the three parties is not a reimbursement transaction, so it must be corrected for Value Added Tax and Income Tax on transactions that have occurred between the three parties concerned. The reason for the tax authorities making corrections is because the tax authorities consider the transactions between the three parties are not the same transaction but two different transactions so that the transaction cannot be classified as a reimbursement. From this gap phenomenon, the authors examine more deeply the transactions of Value Added Tax and Reimbursement Income Tax to obtain definite facts and arguments regarding this reimbursement rule. So that this research can be a reference for parties who need information about reimbursement transactions.

II. RESEARCH QUESTION

1. How to Plan Tax on Withholding Tax and Value Added Tax on *Reimbursement* Transactions?

III. RESEARCH THEORY

Teori Perencanaan Pajak

According to Susan M. Lyons in Santoso and Rahayu (2013: 16) *"tax planning is an arrangement of a person's business and/or private affairs to minimize tax liability."* In line with the above opinion, Larry, Jack, & Susan in Rahayu (2007: 8) define tax planning as follows: *"tax planning is the systematic analysis of differing tax options aimed at the minimization of tax liability in current and future tax periods"*

Santoso and Rahayu (2013: 35) Good tax planning requires three things, namely: not violating/contradicting applicable provisions/regulations; in a business sense (reasonable), and supported by sufficient supporting evidence both from the point of view of financial-accounting records and other legal aspects. Thus, PT ABC requires tax planning as well as possible to reduce the risk due to audits that occur on requests for VAT refunds.

Reimbursement Theory

Based on the Financial Accounting Standard Guidelines (PSAK) 57 reimbursement is defined as a replacement, namely the amount recognized by the second party as an expense to settle the third party's provision of services or goods with the first party as the recipient. This provision is defined as an obligation whose timing and amount are uncertain. The accounting provisions emphasize cash flow between the two transacting parties, the first party as the recipient and the third party as the provider with the second party intermediary. From this definition, the recognition of revenues and expenses rests with the first and third parties.

Withholding Tax Theory

The withholding system is a tax collection system that authorizes third parties (not the tax authorities and not the taxpayer concerned) to determine the amount of tax owed by taxpayers (Mardiasmo, 2016). The withholding system is an extension of the tax authorities through a third party to collect taxes from taxpayers.

The withholding system mechanism is seen as more effective in tax collection due to the real-time economic transfer of income from the recipient of income to a third party (which will then be deposited with the government) right at the time of the transaction in question. This is following the basic principles of taxation, namely the convenience of payment for income recipients. Furthermore, he said that the withholding system mechanism is very helpful in a more optimal integration of the tax system.

The withholding system is considered to be a combination of the Self Assessment System and the Official Assessment System (OAS). The tax bases included in the WHT system withholding include deductions from salary or income (Income Tax Article 21, Income Tax Article 22, Income Tax Article 23, Income Tax Article 26), dividends, interest. This was further extended to professional services, leasing, and all other business income. On all bases withholding WHT, only tax on wages applies the pay as you earn (PAYE) principle. (Rosdiana & Irianto, 2014: 108).

Value Added Tax Theory

Mardiasmo (2016) states that Value Added Tax is one type of indirect tax, namely the value-added tax arising from the use of production factors in each company line in preparing, producing, distributing, and trading goods or providing services to consumers.

According to Rahayu (2007: 851), Value Added Tax (VAT) Tax refunds are a consequence of the application of the crediting method, namely if during a tax period, the input tax (PM) that is credited is greater than the Output Tax (PK) that must be collected.

IV. RESEARCH METHODE

The author uses a qualitative explanative method in this research method. The qualitative method is the activity of collecting information or data using observation or observation of the running of the agency and obtaining data from the agency's documents or records and finally describing it so that conclusions can be obtained regarding the classification analysis of special relationships based on Indonesian tax law and the Indonesian tax treaty with Japan. The purpose of the explanative method is to provide an explanation or information why something happened. The author obtains information or data through the data collection process with the following techniques:

1. Study of Literature
It is a technique of collecting information through written texts such as journals, books, ebooks, articles, government publications, and others.
2. Observation
It is a technique of collecting information by observing directly the object being researched accurately so that it can obtain information about a problem.
3. Documentation

Is a technique of collecting information by understanding in-depth company data with the case being studied.

V. DISCUSSION

Reimbursement Cost appears for the first time in bookkeeping as a form of compliance with International Accounting Standard 37.53 (Revised 2005) *Provisions, Contingent Liabilities and Contingent Assets* in the Financial Accounting Standard Guidelines (PSAK) 57 (Revised 2014). The word reimbursement in PSAK 57 is defined as reimbursement, the amount recognized by the second party as expenses to settle third party provisions for service or goods providers with the first party as the recipient. Provision is defined as an obligation whose time and the amount are uncertain.

Contrary to the word replacement in the taxation principle, the 'replacement' in the Value Added Tax Law is the basis for the imposition of taxes from VAT tax objects, namely in the form of delivery of taxable services (JKP), export of taxable services, or export of intangible taxable goods (BKP). The word 'replacement' also appears in the Income Tax Law (PPH) which relates to compensation pronouns. The word substitution can be seen, among others, in Article 4 Paragraph (1) letter a and Article 4 Paragraph (3) letter d of the Income Tax Law.

The word 'replacement' as a translation of 'reimbursement' in PSAK 57 (Revised 2014) and the tax provisions turns out to have significant differences. From a tax perspective, reimbursement is a fee for services provided by an entity due to the existence of two transaction parties. Meanwhile, the accounting provisions emphasize the existence of cash flow between the two transacting parties, the first party as the recipient and the third party as the provider, and the second party as the intermediary. From this definition, the recognition of revenues and expenses rests with the first and third parties.

The difference between these two points of view has been answered by the Directorate General of Taxes through the issuance of a letter from the Director-General of Taxes Number S-1047 / PJ.322 / 2004. This letter responds to inquiries from taxpayers (advance ruling) related to tax clarity on 'reimbursement'. In the following explanation, we describe the analysis of tax provisions on reimbursement transactions.

1. Analysis of Tax Provisions

1.1 Treatment of Value Added Tax on Reimbursement

Number 5 letter d Letter of the Director-General of Taxes No. S-917 / PJ.53 / 2003 dated 16 September 2003, stated that:

"If in the replacement as referred to in point c there is an amount that is billed by PT. ABC originating from a third party invoice whose documents are directly in the name of the customer or service recipient, the amount is not a reimbursement which becomes the Tax Base, because it is considered a reimbursement. "

Furthermore, the letter stated that:

"It is hereby reaffirmed that:

If there is an amount billed by the Service Entrepreneur originating from a third party bill whose documents are directly in the name of the service recipient, then that amount is not a reimbursement on which the tax is imposed, because it is considered a reimbursement. "

Based on several letters of confirmation of reimbursement in the VAT aspect, the following 4 cumulative criteria must be met:

1. There is an agreement governing reimbursement;
2. Proof of bill in the name of the real burden-bearer;
3. Proof of invoice submitted to the real burden-bearer; and
4. No mark-up / down value or price.

In this explanation:

- The First Party is the real recipient of the Service
- The Second Party is the party that bills the payment
- The Third Party is the Vendor

If a third party makes a direct bill on behalf of the first party, and the second party is only the distributor/intermediary/party that bills the payment, then all reimbursement costs in the bill are not included in the definition of Reimbursement in the Act above so that they are not subject to VAT.

However, if the third party bills on behalf of the second party, then the second party is required to make a new bill for the first party, so that all costs in the invoice are included in the cost requested or should be requested, this provision is included in the meaning of Reimbursement of VAT Law No. 42 of 2009, the costs in the invoice are included in the VAT tax base.

Thus, the VAT treatment on reimbursement is determined by the invoice, whether the invoice given by the third party is addressed directly to the first party or the second party.

1.2 Treatment of Income Tax on Reimbursement

Until now, the provisions regarding reimbursement from the Income Tax aspect have not been specifically regulated and there is no confirmation letter from the Directorate General of Taxes regarding reimbursement, especially regarding the treatment of invoicing from third parties. It is common practice that the invoice recorded by the first party is an invoice that is actually from the service provider, but in practice sometimes the second party appears as the party who bills the payment. The possibilities for invoice issuance are:

- If the invoice is issued by a third party directly to the first party, and the second party remuneration to the first party, the second party may not record it as income and may not charge payments to the third party as an expense.
- If the invoice is issued by a third party on behalf of the second party, at the time of reimbursement to the first party, if the payment to the second party is the category of withholding Income Tax Article 23, the first party is required to withhold Income Tax Article 23. And in the recording, the second party will recognize it as revenue and as an expense.

If the parties are Taxable Entrepreneurs and must be owed VAT, then actually the confirmation rules contained in the reimbursement in the VAT aspect are in line with the Income Tax aspects.

- If the invoice is issued by a third party directly to the first party, the third-party will record Output Tax and the first party will record Input Tax.
- If the invoice is issued by a third party to the second party, the third-party will record the Output Tax, the second party will record the Input Tax from the third party, and record the Output Tax to the first party, and the first party will record the Input Tax from the second party. (the second party will be VAT Nil)

1.3 Supreme Court Decision Number 1608/B/PK/PJK/2016

Whereas there is a Supreme Court Decision Number 1608/B/PK/PJK/2016 regarding similar cases (related to reimbursement) that according to the taxpayer, reimbursement to the Principle does not constitute the delivery of taxable goods / taxable services as long as:

1. **The amount reimbursed may not be marked up and the original evidence from the third party is submitted to the second party as the true bearer of the burden;**
2. **Evidence is made on behalf of the second party or is made on behalf of the first party qq the second party;**
3. **The work contract between the first party and the second party;**

Whereas based on the Letter of the Director-General of Taxes Number S-1074/PJ.322/2004 dated 11 November 2004 concerning the Explanation of the Definition of Reimbursement and Reimbursement, it is stated:

Number 3 letter a:

*"If there is **replacement** an amount billed by the **Service Entrepreneur** originating **from a third party bill whose documents are directly in the name of the service recipient**, then that amount does not constitute a reimbursement on which the tax is imposed, because it is **considered a reimbursement**";*

That the **Letter of the Director-General of Taxes Number S-568/PJ.53/2006 dated September 1, 2006**, concerning Application for Confirmation concerning the Letter of the Directorate General of Taxes Number 840/P3.53/2005 dated September 14, 2005 (hereinafter referred to as S-568/PJ.53/2006) which concluded that:

- 1) The use of services is subject to Value Added Tax based on the imposition of Taxes at the value requested or should be requested by the service provider;
- 2) **Reimbursement of costs incurred is not a part of the Tax Imposition Basis, as long as the customs documents (invoice, tax invoice, and others) are issued by the Service Provider directly on behalf of the Service Recipient;**
- 3) In the case of using a re-invoicing system, namely Customs documents are issued/reproduced to collect payment of fees that have been made to the Service Recipient, the Tax Base for the utilization of the service is the amount of the requested or should be requested replacement value including freight forwarder fees and profit margins";

Whereas from an accounting point of view, the terms of a payment to be declared reimbursement are as follows:

- a. **In billing (invoice) there is a third party invoice whose documents are directly in the name of the service recipient;**
- b. **The amount billed is not marked up;**
- c. **The original evidence from the third party is submitted to the second party as the real burden-bearer;**
- d. **There is a work contract between the first party and the third party;**

Considering, whereas, against the reasons for the reconsideration, the Supreme Court believes:

1. Whereas based on the facts in court proceedings, the invoice which is received by the Appellant for reimbursement is **a reimbursement payment due to the large amount charged by the Appellant which originates from the large number of costs incurred in providing services to third parties** (CORE-IRM PTE., Ltd.);
2. Whereas based on the evidence of billing the Appellant Petitioner to Drilltech **is proven not to have reproduced new documents to collect payment of fees that have been made** to CORE-IRM PTE., Ltd., Singapore in the form of travel costs (plane tickets, hotels, and airport taxis, Crew Equipment Costs), therefore it cannot be said that the Appellate Petitioners are using a re invoicing system;

Whereas the reimbursement of the reimbursement does not fulfill the elements of the basic understanding of taxation as referred to in the provisions of Article 1 paragraph (17) of the VAT Law;

VI. CONCLUSION

To examine whether the transaction made by the third party is a reimbursement transaction, the tax authorities must see whether the transaction has met 4 cumulative criteria, such as there is an agreement governing reimbursement; proof of bill in the name of the real burden bearer, proof of bill submitted to the real burden bearer and there is no mark up / down value or price. If the 4 criteria have been met, the transaction can be categorized as a reimbursement transaction. In addition, the company must also enter into contracts for reimbursement transactions for the three parties so that these transactions can be recognized. The second thing that needs to be considered to determine whether expenses and income recorded by the second party are entitled to be recognized or not, namely by looking at the invoice records from the third party. If the third-party records the invoice to the second party first and then the second party makes a new invoice to the first party, the income and expenses can be recognized by the second party. Therefore in this gap phenomenon, the tax authorities must examine in-depth the invoices made by third parties along with the 4 cumulative criteria that serve as a reference in determining whether the transaction is classified as reimbursement or not.

BIBLIOGRAPHY

- Aviantara, A. (2016). *Tax & Accounting Advisory*. From Tax & Accounting Advisory: <http://www.konsultanpajak-aaa.com/tax-planning-highlight/>
- Daniati, N. (2020, September 03). *pajak.io*. From pajak.io: <https://blog.pajak.io/beberapa-strategi-tax-planning-ppn/#:~:text=Tax%20Planning%20PPN%20yaitu%20perencanaan,diperbolehkan%20menurut%20Undang%20Undang%20Perpajakan.>
- Darussalam. (2017, April 02). *Kelas Pajak*. From Kelas Pajak: https://news.ddtc.co.id/perencanaan-pajak-ini-beda-tax-planning-tax-avoidance-dan-tax-evasion-9750?page_y=2067
- Irwanto, B. (2019, July 13). *Reimbursement (Aspek PPh dan PPN Reimbursement)*. From Reimbursement (Aspek PPh dan PPN Reimbursement): <https://www.thinktax.id/tax-flash/reimbursement-aspek-pph-dan-ppn-reimbursement>
- Mardiasmo. (2016). *Perpajakan Edisi Revisi Tahun 2016*. Yogyakarta: Penerbit Andi.
- Prabandaru, A. (2019, February 19). *klikpajak*. From klikpajak: <https://klikpajak.id/blog/berita-pajak/mengenal-materi-perpajakan-ciri-ciri-jenis-dan-fungsi-pajak/>
- Rahayu, Ning. 2007. "Kebijakan Baru Direktorat Jenderal Pajak Dalam Pengajuan Restitusi PPN dan Perencanaan Pajak Untuk Menghadapinya." *Jurnal Bisnis & Birokrasi*, Vol XV, No. 01: 849-861
- Santoso, Iman dan Ning Rahayu. 2013. *Coorate Tax Management*, Jakarta: Observation & Research of Taxation

