

## ABSTRAK

Indonesia menjalin kerjasama dengan Amerika Serikat dalam implementasi FATCA (*Foreign Account Tax Compliance Act*). FATCA merupakan peraturan *unilateral* yang diciptakan oleh pemerintah AS, namun menjadi isu internasional karena dalam penerapannya akan berdampak terhadap berbagai institusi keuangan di dunia dimana terdapat warga negara AS memiliki investasi. Peraturan tersebut dibuat pada 18 Maret 2010 dan berlaku efektif pada 1 Juli 2014, sebagai langkah dalam upaya merespon kasus-kasus penghindaran pajak yang dilakukan oleh warga negara AS. FATCA mewajibkan institusi keuangan asing untuk melaporkan data-data dan transaksi keuangan nasabah asal AS kepada *Internal Revenue Service* (otoritas pajak AS). Jika menolak melakukan pelaporan tersebut, akan dikenakan sanksi berupa *withholding tax* 30% dari pendapatan yang bersumber dari AS. Indonesia merespon aturan tersebut dengan menjalin kerjasama berupa *Intergovernmental Agreement* dengan AS. Langkah tersebut diambil Indonesia setelah mempertimbangkan *internal setting* berupa: pentingnya menjaga komitmen kemitraan komprehensif dengan AS; menghindari sanksi *withholding tax* 30% yang mengancam sustainabilitas lembaga-lembaga keuangan Indonesia; dan peluang untuk melacak warga negara Indonesia yang melakukan praktik penghindaran pajak. Serta *external setting* berupa: dukungan negara-negara dalam forum G-20 dan OECD (*Organization for Economic Cooperation and Development*) terhadap FATCA, dan menggunakannya sebagai momentum untuk membangun transparansi dalam sektor perpajakan. Selain itu, negara-negara G-20 dan OECD juga menjadikan FATCA sebagai dasar dalam membuat aturan berskala global untuk bertukar informasi terkait pajak untuk dalam kerangka memerangi kasus penggelapan pajak. Adanya komitmen internasional tersebut, memaksa Indonesia mengambil langkah kooperatif karena tidak ingin mendapat resiko terisolasi dari lingkungan internasional, khususnya dalam hal perdagangan dan investasi. Selain itu, pertukaran informasi secara resiprokal juga dapat digunakan Indonesia untuk membangun kepatuhan pajak warga Indonesia.

Kata Kunci: FATCA, Pajak, Penghindaran Pajak, *Internal Revenue Service*, *withholding tax*, transparansi pajak, G-20, OECD.

## **ABSTRACT**

Indonesia has made cooperation with the United States in the implementation of FATCA (Foreign Account Tax Compliance Act). FATCA is a unilateral rules created by the US government, but it became an international issue because the implementation would have an impact to the financial institutions around the world where there is a US citizen has investments. The tax act created on March 18, 2010 and became effective on July 1, 2014, as a step in the effort to respond to cases of tax evasion committed by US citizens. FATCA requires the foreign financial institutions to report personal data and financial transactions of customers from the US to the Internal Revenue Service (US tax authorities). For those foreign financial institutions that refuse to do such reporting, will accept a withholding tax of 30% of revenue comes from the US. Indonesia responded to comply the rules by creating Intergovernmental Agreement with the United States. The move was taken after considering the internal settings: the importance of maintaining a commitment to a comprehensive partnership with the US; avoid the 30% withholding tax penalty that threaten the sustainability of financial institutions in Indonesia; and the opportunity to investigate the Indonesian citizens who use offshore banks to avoid tax. And also external setting considerations: the support of countries in the G-20 and the OECD (Organization for Economic Cooperation and Development) on FATCA, and use it as momentum to build transparency in the taxation sector. In addition, the G-20 and OECD also makes FATCA as a basis for making global rules to exchange tax-related information as an effort to campaign on the fight against tax evasion. That international commitments, forcing Indonesia to take steps cooperatively as a preventive action to avoid the risk of being isolated from the international environment, particularly in terms of trade and investment. In addition, the reciprocal exchange of information in tax matters can also be used to establish the Indonesian's tax compliance.

**Keywords:** FATCA, tax avoidance, Internal Revenue Service, Tax Transparency, offshore tax avoidance, automatic exchange of information, withholding tax, tax havens.