



Research Paper

Establishment of Holding Company as an Alternative for Tax Payments Efficiency

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ABSTRACT:

The purpose of this article is to analyse whether the establishment of holding company is one of the alternative that can make tax payment more efficient. The writing method used is literature study by data collection technique and conducting a review study of books, literatures, notes, and reports that related to solve the problem. The article should provide information to reader that can provide more options in tax management to improve the efficiency of tax payments for maximum profit, within tax regulations.

KEYWORDS: Tax Management, Tax Payment, Tax Efficiency

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I. INTRODUCTION

Tax is one of the main sources of state revenue so that in its regulation it is very closely monitored by the government. Taxes for companies are an unavoidable expense or expense but need to be regulated without violating the applicable tax laws. In facing global and digital competition, it is very important for companies to manage corporate strategies including tax management and tax planning.

In tax planning, companies must also choose the most profitable and efficient form of business in terms of taxation. That includes consideration about tax treaty as a part of international tax management. Selection of business in the form of holding company is widely practiced by multinational companies as an effort to increase tax payment efficiency. This is what prompted the author to discuss tax analysis related to holding companies as an effort to increase the efficiency of corporate tax payment.

II. LITERATURE REVIEW

A. Tax Management.

Tax Management according to Suandy (2011: 6) defines "Tax management is a way to fulfill tax obligations correctly but the amount of tax paid can be reduced as low as possible to obtain the expected profit and liquidity". It is an effort to legally save tax, but keep in mind that the legality of tax management depends on the instrument used. Legality can only be known with certainty after there is a court decision.

Tax Management has several functions proposed by Drs. Chairil Anwar Pohan, M.Sc., MBA (2013:13) as follows:

1. Tax Planning

Is a business that includes tax planning so that the taxes paid by the company are truly efficient. The main purpose of Tax Planning is to find various loopholes that can be reached from the corridors of tax regulations (loopholes), so that companies can pay taxes in a minimum amount.

2. Implementation of tax obligations (Tax Administration / Tax Compliance)

It includes efforts to fulfill tax administration obligations by calculating taxes correctly, in accordance with tax provisions, compliance in paying and reporting on time according to the payment deadlines and tax reporting that have been set.

3. Tax Audit

This includes strategies for handling tax audits, responding to tax audit results as well as strategies for filing objections or appeal letters.

4. Other Tax Matters

Is a problem that includes other functions related to taxation, such as communicating the provisions of the taxation system and procedures to other parties or parts of the company, such as issuing standard sales invoices

related to VAT, withholding tax withholding (PPH Ps. 23/26) relating to technical services, management services, construction services, and professional services as well as other withholding tax objects, also including training for staff related to taxation issues and so on.

Therefore, tax management according to Drs. Chairil Anwar Pohan, M.Sc., MBA (2013: 18) is a comprehensive efforts made by individual taxpayers and business entities through the process of planning, implementing and controlling their tax obligations and rights, so that matters relating to taxation of the individual, company, or organization can be managed properly, efficiently, and effective, so that it can provide maximum contribution to the company in terms of increasing profits or income.

Tax is a "cost" for the company, therefore, minimizing the tax burden is one of the functions of financial management and does not violate the rules that have been determined.

However, it should be noted that tax management does not include tax smuggling. In tax management there are also several objectives that can be achieved in the following ways :

- a. Understanding the provisions of tax regulations By studying laws, decrees and circulars, we can see profitable loopholes to make tax savings
- b. Keeping books that meet the Bookkeeping Requirements is very important in taxation because it provides information about the amount of tax payable

B. Tax Planning.

Tax planning is the first stage in tax savings, tax savings strategies are prepared at the time of planning.

Tax planning is actually a part of tax management. Tax planning activities generally try to avoid sanctions due to the application of taxes that violate tax laws and regulations in Indonesia, but tax planning is the application of company activities to applicable laws and regulations to reduce the company's tax burden.

According to Thomas Sumarsan (2012: 117), tax planning is a planning process carried out by individual taxpayers and business entities to analyze and take advantage of loopholes in the provisions of applicable tax regulations (loopholes) so that companies can pay taxes to a minimum during the current and future tax periods.

Tax Planning according to Drs. Chairil Anwar Pohan, M.Sc., MBA (2013: 18) is the process of organizing the business of individual taxpayers and business entities in such a way by taking advantage of various possible gaps that can be taken by the company in the corridor of the provisions of tax regulations (loopholes), so that the company can pay taxes in a minimum amount.

In general, the objectives of tax planning to be achieved from tax management will be explained in more detail according to Drs. Chairil Anwar Pohan, M.Sc., MBA (2013:21) as follows:

- a. Minimizing the tax burden
Actions that must be taken in the context of tax planning are in the form of efforts to streamline the tax burden which is still within the scope of taxation and does not violate tax regulations.
- b. Maximize after-tax profit.
- c. Minimizing the occurrence of tax surprises in the event of a tax audit by the tax authorities
- d. Fulfill tax obligations correctly, efficiently, and effectively, in accordance with tax provisions, which include :
 1. Comply with all administrative provisions, so as to avoid the imposition of sanctions, both administrative and criminal sanctions, such as interest, increases, fines, and confinement, or imprisonment.
 2. Effectively implement all provisions of the tax law related to the implementation of marketing, purchasing, and financial functions, such as withholding and collecting taxes (Income Tax article 21, article 22, and article 23).

The benefits of tax planning according to Drs. Chairil Anwar Pohan, M.Sc., MBA (2013:20) are as follows:

- a. Savings in cash out, because the tax burden which is an element of the cost can be reduced
- b. Manage cash inflows and outflows (cash flow), because with careful tax planning it can be estimated cash needs for taxes, and determine the time of payment so that companies can prepare cash budgets more accurately.

Tax planning requirements according to Drs. Chairil Anwar Pohan, M.Sc., MBA (2013:21) are as follows:

- a. Does not violate tax provisions So the tax engineering that is designed and implemented is not a tax evasion
- b. In business sense (reasonable) The fairness of conducting business transactions must adhere to sound trading practices and use standard arm's length prices, or fair market prices, namely the price level between independent buyers and sellers, free to make transactions.
- c. Supported by adequate supporting evidence (for example: contracts, invoices, tax invoices, PO and DO). The formal and material truth of a company's financial transactions can be proven by the existence of a contract agreement with a third party or a purchase order (PO) from a customer, proof of delivery of goods/services (delivery order), invoices, tax invoices as proof of collection and bookkeeping (general ledger).

C. Holding Company

Definition of holding company is :

- a. According to Fuady (1999), The definition of a holding company is a company that has the aim of being able to own / own (control) shares in one or more other companies and / or also regulate (control) one or more other companies
- b. According to Winardi Understanding Holding Company is a company that controls another company.
- c. According to Bringham & Houston (2001:413), The definition of a holding company is a corporation that has a sufficient number of ordinary shares of another company so that it can control the company.
- d. According to Hadori Yunus (1990), The definition of a holding company is a company formed with the specific purpose of owning or owning shares and also controlling the operations of other companies

Holding Company characteristics :

Below are the characteristics of a holding company, including the following :

1. Have a parent company.
2. Having subsidiaries, are business entities under their control.
3. Hand over the management of the business that is owned to a separate management.
4. Purchased and also controlled most of the shares of several other business entities.
5. Controlling the entire course of business processes in each business entity that has been controlled by shares.
6. Wealth is obtained from the shares of each business entity under its control.

Benefits, Functions and Purpose of Holding Company

This holding company functions as a holding company that plays a role in planning, coordinating, consolidating, developing and controlling with the aim of optimizing the overall performance of the company, including its subsidiaries and affiliates.

Benefits and Non Benefits of Holding Company

The benefits of holding company contains are :

1. Easier to get capital

By merging the subsidiaries under a holding company, they become more trusted in the eyes of investors and creditors. In addition, holding companies and subsidiaries can help each other by providing debt guarantees in the form of corporate guarantees for other subsidiaries. Therefore, it is easier for the holding company and its subsidiaries in terms of capital.

2. More efficient supervision and control.

Since all subsidiaries are under the auspices of one holding company, it is easier for stakeholders to monitor the activities of each subsidiary. And thus, it is also easier for the holding company to control every decision making of the subsidiary.

3. Cooperation between subsidiaries

Subsidiaries engaged in various different fields can cooperate with each other to assist the business activities of other subsidiaries. This collaboration can take the form of conducting joint training or borrowing and borrowing resources.

4. Independent risk

Each subsidiary under the holding company is its own legal entity which is separate from other subsidiaries. Thus, the risk is borne by each subsidiary. So that if one of the subsidiaries has to be responsible for a mistake or has to stop its business activities, this will not affect the other subsidiaries.

The disadvantages or non benefits of Holding Company consist of :

1. Double taxation

Every company is obliged to pay taxes to the State. In the case of a holding company, double taxation may occur. This is because the holding company receives dividends from the subsidiary. So there is a possibility that the holding company will be taxed on the dividend distribution depending on the tax regulation in the country.

2. Slower decision making

With a holding company, it means that decisions taken by the subsidiary must first obtain approval from the holding company as the parent company. If so, then the steps that must be taken to make a decision will be longer so that decision making becomes slower

3. Abuse of power

A holding company that interferes too much in the business activities of its subsidiary can abuse its power by interfering in several aspects in an improper manner. For example, conducting mergers and acquisitions between subsidiaries to avoid paying debts or dismissing members of the Board of Directors and/or Board of Commissioners who do not agree.

Holding Company Formation Process

Below is the Formation Process of the Holding Company, the full explanation is as follows :

1. Residue Process

In this residual process, a company of origin is broken up according to their respective business sectors. The company that is split up will later become an independent company, while for the remaining company (the residue) from the original company, it will be converted into a holding company and continue to hold shares in the fractional company.

2. Full Procedure

Preferably, this full procedure is carried out if there are not too many independents or splits of companies, but are still in the same ownership or related to each other scattered about each company and also without being concentrated in a holding company.

3. Programmed Procedure

In this process, the formation of this holding company is planned at the time of starting the business. Therefore, the first company established within the group is a holding company. Furthermore, each business that is run will be formed or also acquired by another company, provided that the holding company is a shareholder and will be together with other parties as business partners.

Therefore, the number of new companies that are subsidiaries will continue to grow in number, in accordance with the business development of the business group concerned.

Example of a holding company in Indonesia

Below are some examples of holding companies in Indonesia, including the following :

- PT. Pupuk Indonesia Holding Company
- PT. Semen Indonesia (Persero) Tbk.
- PT. Medco Energi Internasional Tbk.
- PT. Indonesia Aluminium (Inalum)
- PT. Bumi Resources Tbk.
- PT. Danareksa Tbk
- PT Hutama Karya Tbk
- PT Astra Internasional Tbk
- PT Krakatau Steel Tbk
- Japfa Group
- Salim Group
- Maspion Group

International Tax

There is a tax agreement between countries that has a Double Taxation Avoidance Agreement (P3B) and is carried out in accordance with the provisions of the Vienna Convention. This agreement causes the tax regulations applicable in a country not to apply to foreign residents or organizations, if a special bilateral agreement has been agreed between the two countries that have the agreement.

This international tax is regulated and agreed upon by countries entering into transactions with the aim of:

1. To improve the economy and trade of the two countries.
2. Eliminate obstacles in foreign investment investment due to the imposition of taxes that burden taxpayers from both countries

In general, there are two factors that affect a country's international tax provisions, including:

1. Personal Connecting Factor

The connecting factor that links the tax rights of a country based on the status of the tax subject of that country. For individual tax subjects, the provisions are based on the criteria for residence or existence.

2. Objective Connecting Factor

Linking a country's tax rights based on the existence of economic activities or tax objects connected to the territory of a country. Its application is regulated in international tax law

International Tax Law

Based on the agreement of countries in Western Europe or Anglo Saxon countries, the term international tax law itself is divided into:

1. National tax law governing foreign tax law (National External Tax Law)

National External Tax Law is a tax law that contains provisions regarding the imposition of taxes that have legal force beyond the country's borders because there are foreign elements, both regarding tax sources located abroad and tax subjects abroad.

2. Foreign Tax Law

All of the tax laws and regulations of countries around the world.

3. International Tax Law

International tax law is a tax rule that is based on law between countries and is well accepted by countries in the world to regulate taxation between countries that have interests.

International taxes imposed in Indonesia are fully regulated in several national tax regulations, including:

a. The National Tax Regulations which regulate the Double Taxation Avoidance Agreement (Article 32 A of the Income Tax Law) regarding the government having the authority to enter into agreements with the governments of other countries in the context of avoiding double taxation and preventing tax evasion.

b. National Tax Regulations (Article 3 of the Income Tax Law) concerning: Excluding Tax Subjects.

c. National Tax Regulations (Article 2 of the Income Tax Law) concerning Foreign Tax Subjects and Permanent Establishments (BUT).

d. National Taxation Regulations (Article 18 of the Income Tax Law) concerning: Special Relations, Whenever there is an Impropriety in Taxation.

e. National Tax Regulations (Article 24 of the Income Tax Law) concerning: Foreign Tax Credits.

I. Research Method

A. Library Reserach Method

The definition of library research according M. Nazir in his book entitled 'Research Methods' stated that what is meant by: "Literature study is a data collection technique by conducting a review study of books, literatures, notes, and reports that have to do with the problem being solved."

Furthermore, according to Nazir (1998: 112), literature study is an important step where after a researcher determines the research topic, the next step is to conduct studies related to theories related to the research topic.

In the search for theory, the researcher will collect as much information as possible from the relevant literature. Library sources can be obtained from: books, journals, magazines, research results (theses and dissertations), and other appropriate sources (internet, newspapers, etc.). If we have obtained the relevant literature, then immediately to be compiled regularly for use in research. Therefore, literature study includes general processes such as: systematically identifying theories, finding literature, and analyzing documents that contain information related to the research topic. Literature study is an activity that cannot be separated from research

The theories that underlie the problem and the field to be researched can be found by conducting a literature study. In addition, a researcher can obtain information about similar or related studies. And the research that has been done before. By conducting a literature study, researchers can take advantage of all the information and thoughts that are relevant to their research. To conduct a literature study, the library is an appropriate place to obtain relevant materials and information to be collected, read and studied, recorded and utilized (Roth 1986).

A researcher should know or not feel foreign in the library environment because by knowing the situation of the library, researchers will easily find what is needed. To obtain the information, researchers need to know the sources of such information, such as catalog cards, general and specific references, manuals, manuals, research reports, theses, dissertations, journals, encyclopedias, and other special materials. Thus, researchers will obtain the right information and sources in a short time.

B. Data Type

Data are all empirical and documentary information obtained in the field as support for the construction of science scientifically and academically. Research data is "things know or assumed" which means that the data is something that is considered or known. Known means something that has happened as an empirical fact. The benefit of data is to obtain and know a description of a situation or problem, and to make decisions or solve problems, because problems that arise must have a cause. So, solving the problem is aimed at eliminating the factors that cause these problems. 3 The type of data used in this study is qualitative data, namely the type of data that describes several opinions, concepts or theories that describe or present problems related to what will be expressed.

C. Data Source

The type of data source consists of

1. Primary Data

That is a data source that presents data directly from the first hand, namely data that is used as a source of study.

2. Secondary Data

While secondary data, namely the source obtained, is made a change from the first source, namely data that is used as supporting literature. In this case, secondary data sources can be from books, magazines and tabloids or from the internet which are closely related to the problem being discussed in this paper as a support for primary data.

III. EVALUATION

Holding companies are commonly used by multinational companies to invest in many subsidiaries. Apart from being a business, tax avoidance can be done by choosing a holding company in the right location.

A tax treaty or Double Taxation Avoidance Agreement (P3B) can facilitate and encourage foreign investment in Indonesia by eliminating double taxation and dividing taxation rights for certain types of income between two countries. But the Tax Treaty also provides an opportunity for investors to use a holding company in a P3B partner country to invest in Indonesia and gain tax benefits. The biggest investors in Indonesia come from Singapore, the Netherlands to the British Virgin Islands. The country as an offshore financial center is usually the location of a holding company. Hong Kong will even become an attractive location for holding companies for Indonesia because the two countries' tax treaties have been ratified.

Holding companies in P3B partner countries can be used to own company shares in Indonesia. According to the tax treaty, the income tax on the sale of shares in the form of capital gains on the transfer of shares may not be payable in Indonesia and payable in the P3B partner country. However, several P3B partner countries, which are the location of holding companies, do not impose capital gains income tax from the sale of shares (double non-taxation). This can be done by multinational companies with several layers of holding companies

This issue is in the spotlight in India over the Vodafone case. Shareholders by using a holding company in Mauritius are trying to benefit from the tax treaty which leads to double non-taxation. Under the tax treaty of India and Mauritius, the taxation rights on capital gains from the sale of shares are in Mauritius, while Mauritius does not impose capital gains tax.

India's tax authorities are seeking to tax the capital gains. The Vodafone case led to a tax dispute which was won by the taxpayer, but made the Government of India aware of the problem of double non-taxation. They strengthen regulations related to tax evasion. An additional advantage of the holding company is the participation exemption in the P3B partner country. As a result, dividends received by the holding company are only imposed in Indonesia according to the tax treaty.

Holding companies in multinational companies can also function as shared service centers that provide management services, treasury or other supporting services. Based on the tax treaty, under certain conditions, Indonesia does not have the right to tax the service income. In fact, the P3B partner country that is the location of the holding company can provide tax exemption on income from these services. This means that income from these services is not taxed anywhere.

Indonesia has regulations to address tax avoidance as in Article 18 of the Income Tax Law. The government issued the Regulation of the Director General of Taxes No. 61 and 62/2009 to tighten tax treaty benefits. However, it does not regulate detailed requirements, such as taxable income in the P3B partner country at a rate of 0%, number of employees and outsourcing of holding companies.

Some countries include anti-avoidance rule clauses in tax treaties to prevent abuse. This can be applied by Indonesia, especially in the renegotiation of the Tax Treaty.

Although the government includes provisions for tax havens in the SPV as a holding company to acquire company shares in Indonesia, until now there is no clear definition of a tax haven. Unlike Singapore, Hong Kong or the Netherlands, holding companies in Indonesia are still subject to tax on the transfer of shares.

Holding Company domiciled in Indonesia has several advantages over income tax and value added tax, which consist of:

- a. income from dividends can be exempted from income tax in accordance with article 4 paragraph 3f of the Income Tax Law.
- b. income from the sale of shares may be payable final income tax in accordance with article 4 paragraph 2 of the Income Tax Law if the company is a public company.
- c. income from services may be payable income tax levied by the payer and also value added tax levied by the delivering party.

Based on data from the Investment Coordinating Board at 2018 . there are several tax treaties applicable in other countries that are much more profitable than Indonesia, as follows:

	Singapore	Hongkong	Netherlands
Dividen	15 % /10 %	10 % / 5 %	10 %
Interest	10 %	10 %	10 % /0 %
Sale of Shares	Taxable	Taxable	Non taxable

From the data in the table above, it can be seen that the Indonesia-Netherlands tax treaty is the most profitable, but the treatment of the tax treaty will continue to be reviewed by the government.

Please note that there is an additional advantage of holding companies in other countries, namely the participation exemption in the P3B partner country, so that dividends received by the holding company are only imposed in Indonesia according to the tax treaty and are no longer imposed in the P3B partner country, the location of the holding company.

In addition, the holding company can also function as a shared service center that provides intra-group services such as management services, treasury services and other supporting services, where the services are in accordance with the applicable tax treaty and are not taxed. This is given by the government to motivate foreign companies to invest in Indonesia, thereby avoiding double taxation and strengthening the competitiveness of companies

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Based on the discussion that has been done above, it can be concluded several things, namely:

1. Companies must implement tax strategies in the form of tax management and tax planning.
2. In investing, multinational companies must consider the tax regulations in that country.
3. The formation of a company in the form of a holding company is very beneficial because it strengthens capital, business competitiveness and increases the efficiency of tax payments if applied in countries that have tax treaties.

B. Suggestions

There are several suggestions that can be given by the author as follows:

1. In carrying out business expansion, the company must consider the right form of business associated with the tax treaty.
2. Companies must also keep updating information related to tax treaties so they don't make wrong investments.
3. Comparison of tax treaties in several countries that benefit the holding company can strengthen the company's capital and avoid double taxation.

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