

A decorative background featuring a network diagram with nodes and connecting lines. The nodes are represented by circles of varying sizes and colors (blue, grey, and white), some with concentric circles. The lines are thin and grey, creating a web-like structure. The diagram is positioned in the top-left and bottom-right corners of the slide.

Tax Treaty Provision (Part I)



Hello!

We are :

Ahmad Deza Perdana
Dhiyana Riyani
Viva Nuralifiya G



Overview

- ◎ *Beneficial Owner*
- ◎ *Certificate of Domicile*
- ◎ *Limitation on Benefit Article*



A decorative network diagram in the top-left corner, featuring a complex web of interconnected nodes and lines. The nodes are represented by circles of varying sizes, some with concentric rings, and the lines are thin and grey. The diagram is partially cut off by the left edge of the slide.

1.

Beneficial Owner

Let's start with the first set of slides

A decorative network diagram in the bottom-right corner, similar to the one in the top-left. It shows a complex web of interconnected nodes and lines, with nodes represented by circles of varying sizes and lines as thin grey connections. The diagram is partially cut off by the right edge of the slide.



Beneficial owner adalah orang pribadi atau badan sebagai subjek pajak dalam negeri suatu negara yang merupakan pemilik sebenarnya dari penghasilan berupa bunga, dividend dan royalty yang bersumber dari negara sumber sehingga orang pribadi atau badan tersebut berhak untuk menikmati ketentuan P3B antara negara sumber dengan Negara tempat orang pribadi atau badan tersebut berdomisili.

Undang-undang Nomor 36 Tahun 2008

Dalam Undang-undang Nomor 36 Tahun 2008, istilah “Beneficial Owner” dimuat dalam Pasal 26 ayat (1a):

“Negara domisili dari Wajib Pajak luar negeri selain yang menjalankan usaha atau melakukan kegiatan usaha melalui bentuk usaha tetap di Indonesia sebagaimana dimaksud pada ayat (1) adalah negara tempat tinggal atau tempat kedudukan Wajib Pajak luar negeri yang sebenarnya menerima manfaat dari penghasilan tersebut (beneficial owner).”

Penyebab Penekanan Istilah *Beneficial Owner*

Masih adanya persepsi yang berbeda, yaitu seolah-olah Wajib Pajak luar negeri yang menunjukkan Surat Keterangan Domisili dari suatu negara yang mempunyai Persetujuan Penghindaran Pajak Berganda (P3B) yang paripurna dengan Indonesia, maka Wajib Pajak tersebut secara langsung dapat menikmati fasilitas penurunan tarif.

Hal-hal yang **bukan** merupakan pengertian dari beneficial owner walaupun secara formal memiliki Surat Keterangan Domisili, yaitu:

◎ **Special Purpose Vehicles (SPV)**, sebuah perusahaan dengan tujuan atau fokus yang terbatas.

◎ **Conduit Company**, suatu perusahaan yang memperoleh manfaat dari suatu P3B sehubungan dengan penghasilan yang timbul di negara lain, sementara manfaat ekonomis dari penghasilan tersebut dimiliki oleh orang-orang di negara lain yang tidak akan memperoleh hak pemanfaatan P3B apabila penghasilan tersebut diterima langsung.

◎ **Paper Box Company atau pass-through company**, suatu perusahaan yang tidak memiliki asset namun bersifat legal atau resmi yang memiliki sertifikasi

◎ Serta usaha yang sejenis lainnya

Dalam PER-62/PJ./2009 sebagaimana diubah dalam PER-25/PJ./2010 yang dimaksud dengan pemilik yang sebenarnya atas manfaat ekonomis (*beneficial owner*) adalah penerima penghasilan yang :

⊙ Bertindak tidak sebagai agen, *orang pribadi atau badan yang bertindak sebagai perantara dan melakukan tindakan untuk dan atas nama pihak lain.*

⊙ Bertindak tidak sebagai Nominee, *rang atau badan yang secara hokum memiliki (legal owner) suatu harta dan/atau penghasilan untuk kepentingan atau berdasarkan amanat pihak yang sebenarnya menjadi pemilik harta atau pihak yang sebenarnya menikmati manfaat atas penghasilan.*

⊙ Bukan Perusahaan Conduit

Beneficial Owner Menurut OECD


Dalam **paragraph 12 OECD** diberikan penegasan bahwa terminology beneficial owner tidak meliputi agen maupun nominee.

Secara spesifik disebutkan bahwa fasilitas pengurangan tarif di negara sumber tidak dapat diberikan apabila dalam transaksi pembayaran penghasilan dividend, bunga, royalty tersebut terdapat pihak perantara seperti agen dan nominee, kecuali beneficial owner tersebut merupakan penduduk (resident) dari negara lain dalam perjanjian.



Beneficial Owner Menurut OECD

Commentary dari OECD menjelaskan istilah beneficial owner tidak boleh diartikan secara sempit, tetapi harus diartikan dalam konteks tujuan dari tax treaty yaitu mencegah terjadinya pengenaan pajak berganda.



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2.

Certificate of Domicile

A decorative network diagram in the bottom-right corner, similar to the one in the top-left. It shows a cluster of interconnected nodes and lines, with some nodes having concentric circles. The diagram is also partially cut off by the right edge of the frame.

Certificate of Domicile

Surat Keterangan Domisili:

- ◎ Sebuah pernyataan yang dikeluarkan oleh sebuah negara yang menyebutkan bahwa orang/badan yang tertulis dalam pernyataan tersebut adalah benar penduduk dari Negara tersebut
- ◎ Digunakan untuk memastikan bahwa subjek pajak yang mengajukan sertifikat/surat keterangan tersebut adalah penduduk dari negara Tax Treaty Partner, sehingga Subjek Pajak yang dimaksud berhak untuk menerima keringanan yang telah ditentukan dalam Tax Treaty antar kedua negara.

Certificate of Domicile di Indonesia

- ◎ Diatur pertama kali pada tahun 1985 dengan Surat Direktur Jenderal Pajak Nomor S-111/PJ.64/1985 tanggal 27 Mei 1985
- ◎ Peraturan terbaru adalah Peraturan Direktur Jenderal Pajak Nomor Per-10/PJ/2017 tanggal 19 Juni 2017 yang menggantikan semua peraturan terdahulu'
- ◎ Terbagi menjadi dua:
 - ❑ Form DGT-1 untuk selain institusi perbankan
 - ❑ Form DGT-2 untuk institusi perbankan

Certificate of Domicile di Indonesia

Persyaratan (Pasal 6 Per 10/2017)

- ⦿ Harus mengisi form DGT-1/DGT-2 (DGT: Directorate General of Taxes)
- ⦿ Disahkan oleh pejabat yang berwenang di negara asal sesuai dengan kelaziman
- ⦿ Pengesahan oleh pejabat dapat digantikan dengan Certificate of Residence dari negara asal, tetapi tetap mengisi form DGT-1/DGT-2

Certificate of Domicile berdasarkan OECD

- ◎ Merupakan bagian dari Common Reporting Standard
- ◎ Setiap institut finansial negara bebas menggunakan formulir milik sendiri, tetapi secara minimum harus mengumpulkan data yang ditentukan di CRS sesuai dengan peraturan lokal

Perbandinfan Certificate of Domicile berdasarkan OECD dan DJP

Individual tax residency self-certification FORM *-(please complete parts 1-3 in BLOCK CAPITALS)*

Part 1 – Identification of Individual Account Holder

A. Name of Account Holder:

Family Name or Surname(s): *

Title:

First or Given Name: *

Middle Name(s):

B. Current Residence Address:

Line 1 (e.g. House/Apt/Suite Name, Number, Street, if any):*

Line 2 (e.g. Town/City/Province/County/State):*

Country:*

Postal Code/ZIP Code (if any):*

C. Mailing Address: (please only complete if different to the address shown in Section B)

Line 1 (e.g. House/Apt/Suite Name, Number, Street)

Line 2 (e.g. Town/City/Province/County/State)

Country:

Postal Code/ZIP Code:

D. Date of Birth* (dd/mm/yyyy)

E. Place of Birth

Town or City of Birth *

Country of Birth*



MINISTRY OF FINANCE OF THE REPUBLIC OF INDONESIA
DIRECTORATE GENERAL OF TAXES

Lampiran II
Peraturan Direktur Jenderal Pajak
Nomor: PER-01/PJ/2009
Tanggal: 5 November 2009

CERTIFICATE OF DOMICILE OF NON RESIDENT FOR INDONESIA TAX WITHHOLDING (FORM – DGT 1)

Guidance:

This form is to be completed by a person (which includes a body of person, corporate or non corporate):

- who is a resident of a country which has concluded a Double Taxation Convention (DTC) with Indonesia; and
- who claims relief from Indonesia Income Tax in respect of the following income earned in Indonesia (dividend, interest, royalties, income from rendering services, and other income) subject to withholding tax in Indonesia.

Do not use this form for:

- a banking institution; or
- a person who claims relief from Indonesia Income Tax in respect of income arises from the transfer of bonds or stocks which traded or registered in Indonesia stock exchange and earned the income or settled the transaction through a Custodian in Indonesia, other than interest and dividend.

All particulars in the form are to be properly furnished, and the form shall be signed as completed. This form must be certified by the Competent Authority or his authorized representative or authorized tax office in the country where the income recipient is a taxpayer resident before submitted to Indonesia withholding agent.

NAME OF THE COUNTRY OF INCOME RECIPIENT : (1)

| Part I INCOME RECIPIENT: | INDONESIA WITHHOLDING AGENT: |
|--------------------------|------------------------------|
| Tax ID Number : (2) | Tax ID Number : (5) |
| Name : (3) | Name : (6) |
| Address : (4) | Address : (7) |

Part II: DECLARATION BY THE INCOME RECIPIENT:

I, (full name) (8) hereby declare that I have examined the information provided in this form and to the best of my knowledge and belief it is true, correct, and complete. I further declare that ☐ I am ☐ this company is not an Indonesia resident taxpayer. (Please check the box accordingly)

Signature of the income recipient or individual authorized to sign for the income recipient: (9) Date (mm/dd/yyyy): (10) Capacity in which acting: (11) Contact Number: (12)

Part III CERTIFICATION BY COMPETENT AUTHORITY OR AUTHORIZED TAX OFFICE OF THE COUNTRY OF RESIDENCE:

For the purpose of tax relief, it is hereby confirmed that the taxpayer mentioned in Part I is a resident in (13) (name of the state) within the meaning of the Double Taxation Convention in accordance with Double Taxation Convention concluded between Indonesia and (14) (name of the state of residence):

Name and Signature of the Competent Authority or his authorized representative or authorized tax office: (15) Date (mm/dd/yyyy): (16) Office address: (17)

This form is available and may be downloaded at this website: <http://www.pajak.go.id>

This certificate is valid for 12 (twelve) months commencing from the date of completion.

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3.


Limitation on Benefit Article

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Sumber Referensi

© Doly, Taripar. 2014. *Sekilas Tentang Beneficial Owner*. <http://www.nusahati.com/2014/01/sekilas-tentang-beneficial-owner/>






This is a slide title

- ◎ Here you have a list of items
- ◎ And some text
- ◎ But remember not to overload your slides with content

You audience will listen to you or read the content, but won't do both.






You can also split your content

White

Is the color of milk and fresh snow, the color produced by the combination of all the colors of the visible spectrum.

Black

Is the color of coal, ebony, and of outer space. It is the darkest color, the result of the absence of or complete absorption of light.





In two or three columns

Yellow


Is the color of gold, butter and ripe lemons. In the spectrum of visible light, yellow is found between green and orange.

Blue

Is the colour of the clear sky and the deep sea. It is located between violet and green on the optical spectrum.

Red

Is the color of blood, and because of this it has historically been associated with sacrifice, danger and courage.



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Thanks!

Any questions?

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