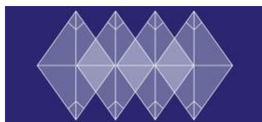
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REGULATORY IMPACT ANALYSIS OF CROSS-BORDER TAXATION: DOCTRINAL AND ECONOMIC PERSPECTIVES ON INDONESIAN ANTI-PROFIT SHIFTING MEASURES

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In the era of economic globalization, Base Erosion and Profit Shifting (BEPS) practices by multinational enterprises (MNEs) have become a significant challenge for developing countries, including Indonesia. This study aims to evaluate the legal effectiveness and economic impact of Indonesia's doctrinal approach in combating cross-border tax avoidance, particularly through profit shifting. The study examines the integration of anti-BEPS policies into Indonesia's domestic legal system, including the implementation of the substance over form principle, Controlled Foreign Corporation (CFC) rules, General Anti-Avoidance Rules (GAAR), and the adoption of the Global Anti-Base Erosion (GloBE) rules under BEPS 2.0 Pillar Two. The research employs a doctrinal and law and economics approach to assess the success of these regulatory measures. The findings indicate that while Indonesia has demonstrated a strong commitment to aligning its regulations with international standards, major challenges remain in enforcement, the complexity of international tax rules, and data limitations that hinder impact measurement. Economically, these measures have the potential to enhance tax revenues but may also affect investment competitiveness. Therefore, sustained efforts are required to strengthen the capacity of tax institutions, clarify administrative guidelines, and maintain a balance between tax compliance and investment climate. This study contributes to the international tax literature by offering a comprehensive evaluation of Indonesia's approach to addressing global tax avoidance.

A. INTRODUCTION

In an increasingly globalized economy, multinational enterprises (MNEs) often employ sophisticated tax planning strategies to minimize their tax liabilities. One such strategy is Base Erosion and Profit Shifting (BEPS), in which profits are shifted to jurisdictions with low or no taxation, thereby eroding the tax base of higher-tax jurisdictions. The Organisation for Economic Co-operation and Development (OECD) estimates that BEPS practices result in a global revenue loss of USD 100–240 billion

annually, representing approximately 4–10% of global corporate income tax revenues.[1]

As a developing country that heavily relies on corporate income tax, Indonesia is particularly vulnerable to the adverse impacts of BEPS.[2] n response, Indonesia has been actively engaged with the OECD/G20 Inclusive Framework on BEPS since 2013, implementing various measures to combat profit shifting and protect its tax base. Indonesia's commitment to the OECD/G20 BEPS project has led to significant reforms in its tax legislation. Key measures include the introduction of Controlled Foreign Corporation (CFC) rules, transfer pricing documentation requirements, and the formalization of the "substance-over-form" principle.[3] These reforms have aligned Indonesia's tax system with international standards and sought to curb aggressive tax planning by MNEs.

The implementation of Law No. 7 of 2021 on the Harmonization of Tax Regulations (UU HPP) and Government Regulation No. 55 of 2022 concerning adjustments in income tax provisions has further empowered the tax authorities to address hybrid mismatches and to adjust tax liabilities based on economic substance. Despite these efforts, significant challenges remain in enforcing these measures effectively and ensuring compliance among taxpayers. This study aims to evaluate the legal effectiveness and economic outcomes of Indonesia's doctrinal approach to combating BEPS. By analyzing the regulatory impact of anti-profit shifting measures, this study seeks to offer insights into the efficacy of Indonesia's legal framework in addressing cross-border tax avoidance.

Several previous studies have examined the difficulties in measuring the extent of profit shifting and the effectiveness of preventive actions in Indonesia. However, these analyses have often lacked comprehensiveness and have not fully addressed the complexities of international tax regulation that hinder policy outcome assessments.[4] For example, Tambunan (2020) provided a critical review of Indonesia's involvement in the OECD BEPS Inclusive Framework, particularly focusing on the challenges posed by the digital economy. This current study offers a novel perspective by delving deeper into the difficulties of establishing technical legal guidelines and enhancing the institutional capacity of tax authorities to effectively implement BEPS measures.[5] Its relevance lies in offering a foundational understanding of the legislative and organizational barriers Indonesia faces in aligning with international tax standards, thereby laying the groundwork for a more detailed analysis of the effectiveness of these measures.

Furthermore, the study by Butarbutar (2020) investigates the legal strategies employed by Indonesia to counter BEPS activities by multinational enterprises operating in the digital economy. The study compares Indonesia's legal framework

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[1] Organisation for Economic Co-operation and Development (OECD), Base Erosion and Profit Shifting (BEPS). Available at https://www.oecd.org/en/topics/policy-issues/base-erosion-and-profit-shifting-beps.html.

[2] International Monetary Fund, Indonesia: Selected Issues. Available at https://www.elibrary.imf.org/view/journals/002/2017/048/article-A003-en.xml.

[3] Nazly P. Siregar, Indonesia Expands Its Anti-Tax-Avoidance Measures: A Development to be Aware of in Tax Planning and Compliance, 2023. Available at https://www.ahp.id/clientalert/AHPClientUpdate-27January2023.pdf.

[4] B. B. Kristiaji dan Denny Vissaro, Measuring BEPS and Its Countermesures in Indonesia: A Preliminary Research Guide, 2017. Avalibale at https://ddtc.co.id/uploads/pdf/Working-Paper-Measuring-BEPS-and-Its-Countermeasures-in-Indonesia-A-Preliminary-Research-Guide.pdf.

[5] Maria R. U. D. Tambunan. Adopting BEPS Inclusive Framework in Indonesia: Taxation Issues and Challenges in a Digital Era. BISNIS & BIROKRASI: Jurnal Ilmu Administrasi dan Organisasi, Vol. 27, No. 3, 2020.

with those of countries such as India, the United Kingdom, Australia, and Malaysia, offering a comparative perspective on international cooperation and legal effectiveness.[6] By analyzing both the formulation of legal norms and their practical implementation, the study contributes to a deeper understanding of the doctrinal approach adopted by Indonesia to address profit shifting, an issue at the heart of this study's novelty. In addition, Kristiaji and Vissaro (2017) examine the complexities of measuring BEPS activities and evaluating the effectiveness of countermeasures in Indonesia.[7] Their paper discusses data limitations and the need for more robust methodologies to assess the regulatory impact of BEPS measures.[8] This current study builds upon such insights by emphasizing the measurement challenges aligned with the economic analysis component of the research, highlighting the difficulties in evaluating the outcomes of anti-profit shifting initiatives. Collectively, these studies contribute to a nuanced understanding of Indonesia's efforts to combat base erosion and profit shifting from both doctrinal and economic perspectives. Therefore, the present study seeks to assess both the legal effectiveness and the economic outcomes of Indonesia's regulatory approach, which constitutes the core novelty of this research.

Although Indonesia has made significant progress in aligning its tax regulations with international BEPS standards, the practical effectiveness of these measures remains uncertain. Enforcement challenges, combined with the complex nature of cross-border tax avoidance strategies, raise questions about the actual impact of Indonesia's anti-BEPS initiatives. Consequently, this study seeks to address the following research question: To what extent is Indonesia's doctrinal anti-profit shifting approach legally effective and economically impactful in reducing BEPS activities? By analyzing the regulatory framework and its implementation, this study aims to evaluate the success of Indonesia's approach in safeguarding its tax base against erosion by multinational enterprises.

B. ANALYSIS AND DISCUSSION

1. Doctrinal Analysis of the Legal Framework and Its Effectiveness in Indonesia

Indonesia has demonstrated a strong commitment to the OECD/G20 BEPS Project by integrating several of its action plans into domestic legislation. One of the key developments is the formal adoption of the substance-over-form principle, which further empowers tax authorities to recharacterize transactions that lack economic substance, thereby deterring artificial profit-shifting structures.[9]

In December 2024, Indonesia enacted Minister of Finance Regulation No. 136 of 2024 on the Imposition of a Global Minimum Tax Based on International Agreement to implement the Global Anti-Base Erosion (GloBE) Rules under BEPS 2.0 Pillar Two. This regulation introduces several mechanisms, including the Domestic Minimum Top-up Tax (DMTT), the Income Inclusion Rule (IIR), and the Undertaxed Payment Rule (UTPR), which will apply to fiscal years beginning on or

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[6] Russel Butarbutar, Legal Formulation to Overcome Base-Erosion and Profit-Shifting Practices of Digital-Economy Multinational Enterprises in Indonesia, Padjajaran Jurnal Ilmu Hukum, Vol. 9, No. 3, 2022.
[7] B. B. Kristiaji dan Denny Vissaro, *Ibid.*
[8] *Ibid.*
[9] Nazly P. Siregar, *Ibid.*

after January 1, 2025.[10] These measures are designed to ensure that multinational enterprises (MNEs) pay a minimum level of tax, thereby reducing the incentive to shift profits to low-tax jurisdictions.

The implementation of the GloBE rules under Pillar Two aims to establish a global minimum tax rate of 15% for multinational enterprises (MNEs). This initiative is designed to reduce the incentive to shift profits to jurisdictions with low or zero tax rates. However, the effectiveness of this rule largely depends on consistent implementation across jurisdictions. If other countries do not adopt the same standards, MNEs may still find loopholes to shift profits. Therefore, strong international coordination and effective enforcement mechanisms are essential to the success of the GloBE rules.

The Domestic Minimum Top-up Tax (DMTT) or, when it meets certain standards, the Qualified Domestic Minimum Top-up Tax (QDMTT) is a domestic minimum tax applied by a jurisdiction to local entities of MNEs that fall within the scope of these rules.[11] The purpose of QDMTT is to ensure that income taxed at low rates within the jurisdiction is topped up to meet the 15% minimum effective tax rate. By applying QDMTT, the source country may claim taxing rights over the income, thereby reducing the risk that additional tax will be imposed by a foreign jurisdiction through mechanisms such as the Income Inclusion Rule (IIR) or the Undertaxed Payment Rule (UTPR The IIR is the primary rule under the Pillar Two framework, requiring the Ultimate Parent Entity (UPE) of an MNE group to pay top-up tax on income earned by subsidiaries that are taxed below the 15% minimum threshold.[12] If the jurisdiction of the UPE does not implement the IIR, the obligation shifts to the next intermediate parent entity within the ownership chain that is located in a jurisdiction applying the IIR.[13] The UTPR serves as a backstop rule in cases where the IIR cannot be fully applied. It allows jurisdictions where other MNE group entities are located to impose top-up tax on income that is subject to tax below the minimum threshold and has not been adequately addressed under the IIR. UTPR may be implemented through denial of deductions or other equivalent adjustments, thereby increasing the tax liability of the entity in that jurisdiction.[14]

With respect to QDMTT, IIR, and UTPR, these three rules are applied in a sequential order to ensure that MNE income is subject to an effective minimum tax rate of 15%. The QDMTT is applied first, granting primary taxing rights to the jurisdiction where the income is generated. If QDMTT is not applied, the IIR allows the jurisdiction of the Ultimate Parent Entity (UPE) to impose the top-up tax. If

[10] EY. (2025). Indonesia's Ministry of Finance issues regulation to implement BEPS 2.0 Pillar Two. Available at https://www.ey.com/en_gl/technical/tax-alerts/2025-0342-indonesias-ministry-of-finance-issues-regulation-to-implement-beps-20-pillar-two.

[11] Joachim Englisch, Pillar 2: QDMTT or Safe Harbour Domestic Minimum Top-Up Tax (SHDMTT)? November 2, 2023. Available at https://kluwertaxblog.com/2023/11/02/pillar-2-qdmtt-or-safe-harbour-domestic-minimum-top-up-tax-shdmtt/.

[12] Lee Hadnum, Income Inclusion Rule: UPEs, POPEs and Intermediate Parent Entities. Available at https://oecdpillars.com/pillar-tab/ascertain-the-parent-entity-liable-for-top-up-tax-under-the-income-inclusion-rule.

[13] OECD, Qualified Status under the Global Minimum Tax – Questions and Answers, 2025. Available at https://www.oecd.org/content/dam/oecd/en/topics/policy-sub-issues/global-minimum-tax/qualified-status-under-the-global-minimum-tax-questions-and-answers.pdf.

[14] Lee Hadnum, *Ibid.*

neither QDMTT nor IIR is applied, the UTPR enables other jurisdictions where MNE group entities operate to impose the top-up tax. The coordinated application of these three rules under Pillar Two is designed to reduce the incentive for MNEs to shift profits to low-tax jurisdictions and to ensure that income is taxed fairly where economic value is created.

In addition to these provisions, there are rules on interest limitation and General Anti-Avoidance Rules (GAAR). Indonesia's approach to limiting interest deductions has evolved from traditional thin capitalization rules to the consideration of a fixed-ratio rule based on a percentage of EBITDA, as recommended by the OECD. A comparative study with Malaysia, which has successfully implemented the fixed-ratio rule, suggests that Indonesia could enhance its legal framework by adopting similar measures to minimize excessive interest deductions and profit shifting.[15] Furthermore, the GAAR, as part of the formalization of the substance-over-form principle into Indonesia's tax legislation, functions as a general anti-avoidance provision. It empowers tax authorities to disregard transactions that lack economic substance.[16] This initiative aligns with OECD BEPS Action Plan 2 and strengthens Indonesia's legal stance against complex tax avoidance schemes.

Despite these advances, challenges persist in enforcing anti-BEPS regulations. The complexity of international tax arrangements and the need for detailed administrative guidance make consistent application difficult. Moreover, the broad interpretation of principles such as substance-over-form necessitates clear procedural rules to prevent potential abuse of power by tax officials.[17]

2. Economic Impact of Anti-Profit Shifting Measures

The implementation of BEPS measures has the potential to increase Indonesia's tax revenues by curbing profit-shifting activities. Given that global BEPS practices are estimated to cause revenue losses of USD 100–240 billion annually, addressing such practices could bring significant benefits to developing countries like Indonesia.[18] The introduction of the GloBE rules is expected to generate additional tax income by imposing a global minimum tax rate, thereby reducing the appeal of low-tax jurisdictions for profit shifting.

While anti-BEPS measures aim to protect the tax base, they may also impact the investment climate.[19] For example, Indonesia's tax incentive schemes—such as tax holidays and tax allowances—could be adversely affected by the implementation of the global minimum tax, potentially reducing their effectiveness in attracting foreign investment.[20] Although tax incentives are not the sole consideration for investors, with other factors such as political stability, infrastructure, and labor quality playing important roles, the imposition of a global minimum tax may undermine the attractiveness of Indonesia's incentive schemes. If MNEs are still

[15] Havidz Ibrahim dan Dahlia Sari, Implementing OECD BEPS Action Plan 4 in Indonesia, a comparative study with Malaysia, Jurnal Manajemen Bisnis, Akuntansi dan Keuangan (JAMBAK), Vol. 2, No.2, 2023, pp. 129-146.
[16] Nazly P. Siregar, *Ibid.*
[17] *Ibid.*
[18] B. B. Kristiaji dan Denny Vissaro, *Ibid.*
[19] Maria R. U. D. Tambunan, *Ibid.*
[20] Ichwan Sukardi, Indonesia's vital breakthrough with the BEPS two-pillar solution, 2023. Available at https://www.internationaltaxreview.com/article/2b6p9yrs66oxxwfnehla8/sponsored/indonesias-vital-breakthrough-with-the-beps-two-pillar-solution.

required to pay top-up taxes in their home jurisdictions to meet the global minimum rate, these incentives may become less effective, thus diminishing Indonesia's competitiveness in attracting foreign direct investment. Therefore, striking a balance between revenue mobilization and maintaining an attractive investment environment remains a crucial policy consideration. Additionally, the implementation of complex international tax rules increases administrative burdens on both tax authorities and taxpayers. Ensuring compliance with the new regulations requires significant resources, including capacity development and system enhancements.

Moreover, the lack of comprehensive data and the complexity of MNE structures hinder the ability to fully assess the economic impact of anti-BEPS measures.[21] MNEs also face an increased compliance burden, such as the preparation of transfer pricing documentation and Country-by-Country (CbC) reporting. These requirements can raise operational costs and influence business decisions. There is a need for innovative implementation of the GloBE rules under Pillar Two, which are expected to influence MNE behavior by discouraging profit-shifting activities. Nonetheless, the effectiveness of these measures depends on their comprehensive implementation and enforcement across jurisdictions.

This underscores that Indonesia's doctrinal approach to combating profit shifting reflects a proactive alignment with international tax standards. The legal framework provides a solid foundation for addressing BEPS activities. However, accurately measuring the extent of BEPS and the effectiveness of countermeasures remains a significant challenge due to data limitations and the evolving nature of tax avoidance strategies. Ongoing efforts are needed to enhance data collection and analysis to support effective policy decisions. Therefore, the practical effectiveness of these measures depends on the presence of robust enforcement mechanisms, clear administrative guidance, and the institutional capacity to manage the economic implications. Continuous evaluation and adaptation are crucial to ensure that anti-BEPS strategies effectively protect Indonesia's tax base without deterring legitimate business activities.

C. CONCLUSION

This doctrinal study concludes that Indonesia has undertaken significant reforms in its national tax system as part of its engagement in the OECD/G20 BEPS Project. These reforms include the strengthening of the substance-over-form principle, the introduction of Controlled Foreign Corporation (CFC) rules, the implementation of General Anti-Avoidance Rules (GAAR), and the adoption of the more recent GloBE framework under BEPS 2.0 Pillar Two. Doctrinally, these measures establish a robust legal framework for addressing cross-jurisdictional tax avoidance strategies. However, the practical effectiveness of these measures has yet to be fully realized due to challenges in enforcement, regulatory interpretation uncertainties, data limitations, and administrative capacity constraints. From an economic perspective, while anti-BEPS measures have the potential to increase tax revenue, they may also negatively

[21] Cihat Oner, An Analysis of Controlled Foreign Company Rules, the OECD's Pillar Two and Developing Countries, Bulletin FOR International Taxation, January 2024. Available at https://www.ibfd.org/sites/default/files/2024-05/oecd_international-an-analysis-of-controlled-foreign-company-rules-the-oecds-pillar-two-and-developing-countries-ibfd_0.pdf.

affect the investment climate if not accompanied by adaptive incentive policies and legal certainty. Therefore, the success of Indonesia's approach to tackling BEPS depends on:

1. Consistent law enforcement through clear technical and procedural guidelines;
2. Institutional capacity building of the Directorate General of Taxes;
3. Ongoing, data-driven policy evaluation of effectiveness; and
4. Effective communication and transparency strategies with taxpayers and international stakeholders.

This study recommends that Indonesia continue to strengthen its legal and institutional tax infrastructure, and develop more accurate impact measurement methodologies, to safeguard the sustainability of its tax base in the face of the complexities of the global tax system. This approach is essential to ensure that anti-BEPS strategies not only represent formal compliance, but also deliver substantive outcomes in protecting the tax base and supporting sustainable national economic development.

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issues/global-minimum-tax/qualified-status-under-the-global-minimum-tax-questions-and-answers.pdf.
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