



Enforcement of the income tax statement law to foreign companies taxable abroad in Indonesia

Ayang Fristia Maulana¹, Khusaeni², Najwa Choerunnisa³, Hanum Febriana⁴, Virda Sofiatul Husna⁵

Program Studi Ilmu Hukum, Universitas Bina Bangsa, Indonesia. E-mail: universitas@binabangsa.ac.id

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ABSTRACT

This study discusses compliance with income tax (PPh) regulations for Indonesian tax collectors. In this study used library research and descriptive methods. Collecting taxes on the profits of foreign companies is one way the Indonesian government raises taxes. By increasing the number of foreign companies receiving funds from Indonesia through the General Administration to comply with the law as stipulated in the regulations of the Act No. 28 of 2007 on Taxation, as well as the Law No. 7 of 1983 on Income Tax. The tax authorities need to take further steps to ensure effective taxation of the profits of foreign companies in Indonesia. The aim of this effort is to ensure that receiving state taxes, especially taxes collected from foreign companies, is more effective.

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Corresponding Author:

Khusaeni,
Law Science Studies,
Bina Bangsa University,
Jl. Raya Serang - Jakarta, KM. 03 No. 1B, Panarancangan Serang 42124
Indonesia
Email: universitas@binabangsa.ac.id

1. Introduction

The topic of tax law enforcement against foreign companies in Indonesia is important for current research due to the increasing number of foreign companies operating in Indonesia. Governments need to ensure efficiency in collecting taxes from foreign companies to support the receipt of state taxes. In addition, an understanding of the compliance of foreign companies with taxes and the factors affecting such compliance is also an important focus in the international tax context. Thus, research on this topic can provide valuable insights in improving tax compliance, tax collection efficiency and fair tax practices in Indonesia.

Foreign corporate income tax in Indonesia is currently subject to a tax rate of 22% of taxable income. However, there is no direct information in the document giving the percentage of taxes that contribute to the income of an Indonesian country and its comparison with other countries.

The expected contribution of this research is in understanding the enforcement of income tax laws against foreign companies in Indonesia. The research is expected to provide insights into

tax compliance, tax audits and tax collection processes of foreign companies, as well as improve the effectiveness of tax collection and fair tax practices in Indonesia, and is also expected to contribute to improving foreign corporate tax consistency, tax collection efficiency, and support sustainable development in Indonesia.

The research aims to bridge gaps in understanding the enforcement of income tax laws against foreign companies in Indonesia, focusing on tax compliance, tax audits, and tax collection processes. The study also aims to analyze the effectiveness of tax enforcement measures and their impact on corporate income tax receipts.

The development of the country's infrastructure needs support. In the context of a developing country, it is vital that the country's primary source of income plays an important role in all development in various areas such as infrastructure, education, health and defence. Taxes are not only a source of income and expenditure of the state, but are also included in the State Revenue and Expenditure Budget (RNB), so for the first time taxes are used as a platform. National development is aimed at improving the well-being of the people through economic development that can be managed and implemented with attention to the needs of people. The stability of Indonesian development is seen from the growth of this economy, not apart from the contribution of infrastructure factors (Faradis, 2020).

Indonesia's economy has been deteriorating in recent years compared to previous years, causing the country's income to decline. On the other hand, government efforts to realize national interests through the tax system also include state resources. These efforts cover and refine the taxation of various foreign companies that have income in Indonesia. We must emphasize that foreign companies operating in this sector are different from direct capital raising (PMA). PMA is a small company established in Indonesia and therefore subject to local corporate tax. Therefore, the taxation rules applicable to Domestic Tax Requirements (DMAs) refer to capital raisings carried out by foreign companies in the country. A foreign company is a company that does not have a registered business entity or legal entity in Indonesia, but obtains income from activities carried out through a permanent business in Indonesia or without a permanent enterprise in Indonesia (Kurniawan, 2011).

The State is obliged in the field of taxation to contribute to the State's income in accordance with article 23A of UUD 1945; this article regulates that taxes and other payments made in the interest of the State are regulated by law. Tax collection is a public obligation for a citizen or the entire citizen and is a relationship between the government/country and the citizen (individual and legal entity) to fulfil the tax obligation to the state. In the face of the growing number of foreign companies operating in Indonesia, the government needs to make various efforts to collect Indonesian corporate tax receipts through the Directorate-General of Taxation, a tax enforcement agency. The aim of this effort is to see whether the government works effectively in terms of taxation, income derived from foreign corporate tax.

The rules for determining the difference in income tax provisions for foreign companies depend on the nature of the income generated and the existence of an international tax treaty between Indonesia and the country of origin of the foreign company. Commonly known as the Double Tax Avoidance Agreement (P3B), this agreement has a special place in Indonesian tax laws. The theory known as Lex. This specialist states that special law has greater power than general law in the context of interpretation of law.

Therefore, if there is a conflict between the provisions of the domestic laws of Indonesia and the P3B, then the regulations of the laws contained in the p3B will apply. However, it should be borne in mind that the purpose of signing a taxation agreement is to avoid double taxation on profits received or withdrawn from the same entity. P3B or what is known as the Tax Treaty was established with the aim of avoiding double taxation. Tax issues are the most important thing for international transactions because they have an impact that is directly related to profits which have the main goal expected by several entrepreneurs. Without a P3B, it is possible that double tax payments will incur quite large costs, thus having a negative impact on

the profits that will be received (Ahmadi, 2007). From the above description then the author will formulate a few things in the title "Enforcement of the Law of Income Tax Claim (PPH) to Foreign Companies for Foreign Taxpayers in Indonesia".

2. Method

Normative research methods in the context of income tax collection (pph) to foreign corporations which is an emphasizing approach to the legal framework governing such issues. This approach is based on the study of legal documents, such as laws, law enforcement and relevant literature. In this study, the normative method allows researchers to identify legal provisions relating to foreign corporate income tax collection for foreign taxpayers in Indonesia. In order to identify sources of data relevant to the topic of tax collection to foreign companies in Indonesia, researchers can refer to legal documents such as tax laws and regulations governing foreign corporate taxation. In addition, relevant literature on tax enforcement, international tax treaties, and tax collection theory can also provide valuable insights into the topic. Government reports and data from the Directorate-General of Taxation in Indonesia can also be important data sources to understand tax collection from foreign companies.

The data collected in this study will be analyzed through case studies on the application of tax laws to foreign companies in Indonesia, including factors affecting company compliance with taxes. The analysis will also involve an understanding of the tax regulations applicable to foreign firms, including differences in income tax conditions based on the nature of income generated and the existence of an international tax treaty between Indonesia and the country of origin of the foreign company. In addition, the analysis will include an evaluation of the effectiveness of the government in collecting tax revenues from foreign companies.

3. Analysis and Results

3.1. Tax collection theory

On what basis does the state have the right to be able to collect taxes?. There are several theories that explain the government's right to collect taxes from foreign countries among them.

3.2. Insurance Theory

The State has a sense of responsibility to be able to protect its civilians or citizens in all interests of their safety, security of their lives and property. Then from that, the payment of taxes is considered or equated with payment of premiums because it will get a guarantee of protection from the state (Idhom, 2022).

3.3. Law Enforcement Theory

Satjipto Rahardjo, says in his book 'Science' that ending the law is only the beginning of the long journey of controlling the lives of the people. This category must be followed and applied in everyday life of society. This is what is called law enforcement (Priyatno & Aridhayandi, 2018).

At least, there are eight laws that form the basis or basis of tax collection law in Indonesia, among others: a) Law No. 13 of 1985 on Material Customs, b) Law No. 12 of 1994 on Land and Building Tax, c) Law No. 16 of 2000 on the General Rules and Procedures of Taxation, d) Law No. 17 of 2000 on Income, e) Act No. 18 of 2000 on Value Added Tax on Goods and Services and Sales of Luxury Goods, f) Act No. 19 of 2000 on the Invoicing of Taxes by Enforcement, g) Law No. 20 of 2000 on Customs on Procurement of Rights on Land and Buildings, h) Law No. 14 of 2002 on Tax Courts.(OnlinePajak, 2018)

3.4. Compliance Theory

The theory of Planned Parenthood is based on the assumption that people are objective and constantly evaluate available information. One must carefully consider the consequences of his actions before deciding whether to commit a particular behavior. As Frey did in his

Simanjuntak dkk (2012: 101), one of the important factors in understanding tax compliance is by referring to the concept of social taxation that shows the role of an individual motivated by his behavior. This theory states that values are influenced by cultures that a person believes to play an important role in determining the individual's will (Simanjuntak, 2012).

Tax compliance Value added is the obligatory tax action to fulfil the VAT in accordance with the provisions of the regulations of the national tax legislation. Compliance with tax obligations is one of the factors that nationals in Indonesia influence for increased tax income. According to Rustiagatansih, tax compliance is meant as a state of tax obligation can be known how way to be able to generate income tax liability. Compliance can reflect a positive behavior for a taxable person who understands the provisions of the regulations concerning taxation, filling in the annual SPT must be complete and correctly calculate the significant amount of tax as well as paying taxes on time, compliance with the tax liable can be positive for the association for compliance, the subordination of taxable persons, the more obedient and obedience to pay his taxes then the impact of a tax company will be greater (Riyadi et al., 2021).

Definition and Function of Tax

Taxation under Article 1 of the Act No.28 of 2007 on the general provisions and the system of taxation. Taxes are obligatory contributions to the State owed by persons or bodies of a compulsory nature under the law, which by not obtaining compensation directly and used for the needs of the State for the greatest in the prosperity of the people (Nuzulia, 1967). According to Adriani (Waluyo, 2011: 2), taxes are money donations officially collected by the state to individuals and legal entities who are obliged to pay taxes under the provisions of the regulations of the applicable laws. These contributions are not paid as special interest charged to the taxpayer. The main function of taxes is to support routine expenditure related to the execution of general work to carry out various governmental activities (Waluyo, 2011).

Based on several tax definitions above, There are basic characteristics, namely: a) Taxes are mandatory contributions paid by the people to the State, b) Taxes are collected based on statutory regulations, c) Taxes can be imposed without obtaining direct counter-performance individuals provided by the government, d) Taxes are used to finance general government expenditure in order to carry out government functions (Laksono, 2011).

3.5. Taxation Position in Indonesia

Tax law is the most important part of various insights of tax obligations, tax law is a regulation that imposes taxes from a foreign state that establishes a company as well as obtains to the income of the Indonesian state. The status of tax law in the State of Indonesia from the point of view of Public Law. *Lex Specialis Derogat Lex Generalis* takes precedence over the general rule, if it does not have a provision or is not regulated in the applicable law then the provision of the rule is general. For instance, if one person has submitted an objection, then the taxpayer who submits the objection must first pay the tax according to the initial agreement (Wahyuni, 2022). From the explanation above we can assure that taxes are financial contributions or contributions to the state planned under the law in order to promote state support for public employment.

Taxes have a very important role to play in supporting sustainable development as they are the primary source of government revenue to cover various expenditures. Rahayu explains many of the functions of taxation by referring to this concept (2017:31): a) Budget functions, b) Regular functions, c) Stability functions, d) Revenue redistribution functions

Therefore, we can conclude that the tax system should be implemented with the utmost care and care to ensure that a good rate of tax receipt does not burden the business world and can improve the balance of the economy. When taxes are collected through public participation in the taxation system, such taxes must be linked to government spending to develop a sustainable economy (Rahayu, 2017).

There are several types of taxes based on their nature, divided into 2 types, namely: a) Indirect taxes, tax that will be given when the taxpayer performs a certain action, so it cannot be collected periodically but only through certain actions that can cause the obligation to pay tax, b) Direct taxes, The tax that will be given when the taxpayer based on the tax assessment letter in the letter contains the amount of tax that must be paid. Taxes based on collecting agencies are regional taxes and state taxes (Finamore et al., 2021).

Foreign companies are considered foreign tax under the provisions of Article 2 of the Tax Act No. 36 of 2008. Similarly with foreign taxes, foreign companies or corporations that do business or have income in Indonesia are subject to the same tax liability as local taxes. According to the provisions of Act No. 36 of 2008, Income Tax Article 26 is the tax on income earned abroad taxable in Indonesia. Any business entity that distributes income (such as wages, interest, profits, interests, etc.) to foreign taxpayers is obliged to deduct Article 26 income tax for this activity.

The Fourth Amendment to the Taxation Act No. 7 of 1983 regulates that taxes are divided into two categories, namely domestic taxes and foreign taxes as listed in Article 2, paragraph (2) Paragraph (4) of the Tax Act: a) Non-Indonesian, i.e. a person who is in Indonesia for less than 183 days (one hundred eighty-three) in a period of 12 (twelve) months, and is carried out by a company not established and established in Indonesia. conducting a business or carrying out activities through a fixed form of business in Indonesia; More-more. b) The non-resident in Indonesia, i.e. those who are in Indonesia less than 183 (one hundred eighty-three) days in 12 (twelve) months. and companies that do not have a legal entity and are established in Indonesia that can generate or receive income in Indonesia without undertaking business or operating through a fixed form of business in Indonesia.(Indonesia, 2008)

As a company that carries out economic activities in Indonesia, a foreign company or company that operates or generates income in this region must comply with the same taxation provisions as a domestic company. Therefore, foreign companies are also responsible for good tax administration, including payment and appropriate tax filing. Corporate tax (PPh) is one of the tax obligations that foreign companies must meet. The importance of taxes in ensuring the sustainable development of a country cannot be ignored.

However, according to information received from the Directorate-General of Taxation of the Ministry of Finance, about 2,000 multinational companies operating in Indonesia do not meet the obligation to pay income tax (PPh) to the public under Articles 25 and 29. suffer losses. These foreign companies use three main strategies to avoid tax liability in Indonesia. Tax Director-General Ken Dwijugiasteady announced at a press conference that 2,000 of them are foreign capital farming companies (PMAs) under the control of the Special Authority (Kanwil) Tax. Ken said in Jakarta, Monday, March 28th 2016: "The inability to pay taxes is the failure to pay corporate taxes under Articles 25 and 29 due to permanent damage. But these companies are still operational." The Central Tax Authority must undertake further investigations to verify the accuracy of the claims. Ken that about 2,000 international companies have ignored their corporate tax obligations under Articles 25 and 29. But Ken also acknowledged that his overseas company had fulfilled other tax obligations. The PMA company is the company etc. He added, he comes from different sectors. Ken insisted that the foreign company had been doing tax evasion for ten years. This practice of tax evasion is carried out using a price transfer strategy where the profits or profits that will be taxed in Indonesia are sent to another country.

As a foreign taxpayer or foreign company that earns income in Indonesia also has an obligation to pay its taxes. Therefore, foreign companies are also obliged to manage good tax administration, pay and report their tax revenues. There are several types of foreign corporate tax which are compulsory in nature: a) Income tax (Pph) Type of income tax and obligations of foreign companies in them: PPH Annual, PPH Article 26. As a foreign company is currently subject to an annual income tax of 22% of taxable income according to the provisions of the HPP Act. Foreign firms can easily post their SPTs through the e-SPT website click-tax and there is

already a date provision to report their tax returns no later than April 30th for the tax year in accordance with the provisions already in force by law. b) Value Added Tax (Ppn), In addition to income tax, the taxable person of a foreign company is also charged VAT on the purchase or delivery of goods or services are also taxable. Currently the VAT rate reaches 11% and the government plans to raise the tax rate in the coming year in accordance with the regulations of the HPP invitation. As a taxable subject who performs transactions of goods or services must first manage the VAT tax since making the Tax Invoice, then the value added tax income is deposited (Fitriya, 2023a).

Tax evasion can be caused by a variety of things, such as fraudulent activities, gaps in tax laws, the ability of tax authorities to combat tax evasion activities, the integrity of the fiscal authorities not to engage in illegal activities, limited resources in the management of warehouses, and public awareness and compliance with the law. tax obligations. All of these factors have the potential to have a significant impact on the legal, regulatory, and cultural aspects of the implementation of the tax system. It demonstrates the role of good governance in the tax sector as a preventive measure in solving the problem.

Therefore, the role of the state in taking action to prevent tax evasion becomes crucial. The concept of good governance is a tool that will facilitate the achievement of national goals thus enhancing the role of government and citizens' participation in public administration activities. Principles of good governance are expected to accelerate the implementation of government programmes at the government level, which include planning and implementing appropriate, efficient and effective policies in solving problems, solving public problems and reducing risks. Errors and delays in the delivery of government services. Good governance does not just mean the way governments perform their public functions, but it also means building a framework together with governments to the goals the state wants or needs through the involvement of the private sector and the public (Wahyuni, 2022).

In order to detect tax evasion, governments must implement the general basis of good governance (AUPB) as set out in the Tax Administration Act. This demonstrates the role of government institutions in good Governance through the implementation of AUPB in the field of taxation to avoid taxation (Effendy, T. S; Toly, 2013): Fundamentals of legal certainty, Fundamentals of Legal Validity, Principles of Usefulness, Foundations of speed, The foundation does not blame the authority, Foundations of openness, Fundamentals of the general interest, Good Service Base.

In the book of Rochmat Soemitro entitled "Internal Justice "Tax Law in Indonesia" As in the judgment of the General Administration, tax administration in the law of jurisdiction can also be given a broad understanding, among others: Provision of justice, fair justice not all jurisdictions do this complete law of administrative cases, e.g. because there is no real debate, or judicial authority (resmi). Is one of the parties, Fair justice is probably divided into: a) Only administrative approval, b) Jurisdiction quasi birth year, c) Second administrative decision, d) The power of the law.

The elements of justice are: a) Clearly there is a conflict between the RP and the officers, b) Born in the year, Conflict Resolution Body Part of the Management Office, c) There is an administrative responsibility to issue the certificate; item. resolution of this conflict but can be considered again. (Sari, 2018). Justice fair Power permitted: for settlement of tax disputes Tax jurisdiction at all times the decision through administrative action is not accepted by the WP. This force of law can be compared to this: "The Power of Justice" As mentioned earlier,, through tax jurisdictions. The controversial clause before the court is that the tax administration is clean. There is a document from the tax authority which is final (at the administrative level).

Foreign companies entered Indonesia through two ways: a) Companies that can earn income by running various things that have already been done such as business activities through business, b) Foreign companies originating in Indonesia conduct their business with various

benefits by opening branches divided regionally. There are several procedures for the establishment of a PMA in Indonesia through the following stages: a) Prepare the capital of the enterprise, b) Prepare for the foundation of the PMA, c) Prepare a location for establishing a company, d) Prepare requirements documents to be submitted 5. Apply for principle permits (In.Corp, 2024).

Foreign companies pay taxes to run their projects in Indonesia by opening a branch or business representative office. For example, a Chinese-owned company won a tender for the use of PLTU in Cilacap established to operate during the development of China's PLTU. A foreign company that earns income in Indonesia is not a company that does business or that opens a branch through an income business in Indonesia a company which does not need to open a branch (Rafsanjani & Ardiansyah, 2021).

The use of foreign labour in Indonesia is carried out for the following purposes: The provision of value or a benefit to be better for foreign workers is a technological object and can create significant competition for local workers. The control of foreign workers in Indonesia to the parties that use foreign workers that the language they do is a foreign language and can be affirmed that it is legal. The Invitation Act regulating employment in Indonesia concerning the use of foreign companies that must obtain a permit from the Indonesian Ministry. Generally, such companies must be subject to taxes already specified in the governmental bodies of the laws in force as foreign taxpayers.

3.6. Implementing digital taxation for multinationals in Indonesia

In the civil law system, a company is generally obliged to pay corporate tax if it is considered legitimate. Taxation is the financing carried out by the state on behalf of the law for an interest of government financing which is already in force and does not receive the return directly. The concept is seen through the rules of the general article in the Law No. 16 of 2009.

Taxation is a legal nature that must exist in individuals or government bodies. The tax levied by a foreign state to set up a company in Indonesia is expected to pay its taxes without any compensation whatsoever. This regulation may also be amended to apply a principle that may benefit a taxable person from a physical or a place of residence to an economic fact being seen. Article 7 (1) Government Regulation No. 80 Year 2019 may be referred to foreigners who have already undertaken PMSE and supply mainly to consumers of the country of Indonesia. Business transactions related to BKP are running normally, the transaction used is charged 10% of DPP (Ujang Badru Jaman & Endah Pertiwi, 2023).

3.7. Sanctions for Foreign Companies When Not Paying Taxes in Indonesia

The tax notice is not delivered in time, if the tax notice has been given in writing and has not been delivered within the time specified in the letter, then the tax officer is entitled to issue an administrative sanction of 50% of the tax not or less at the time of payment in the same year as the Pph, as well as a 100% increase for VAT reduction and tax claims (Article 13 para. (3) of the Tax Act). Tax payments or tax deductions will be in the Tax Notification Letter (SPT). When done after a fixed time limit. Then an administrative penalty of 2% monthly interest will be imposed. Foreign companies may be fined for failing to pay their taxes, as stipulated in Article 14 of the UNCITRAL Act, the Directorate-General of Taxation may give notice to the offender.

Annual income tax that is not paid in the results of the research then indicates to the tax that has been acquired a deficit of payment of its tax then the amount of tax deduction paid in notice plus the administrative fine of interest of 2% per month for a period of 24 months is counted from the date of tax debt. Once the payment limit is set. Then as soon as the tax is paid easily make an ID through e-billing tax i.o (Tax.i.o, 2020).

Understanding of the problem of taxation of foreign companies that are located in Indonesia Foreign companies are the most important part of the taxation system in Indonesia, taxation is

very important then there are 4 (four) things of the legislation that regulate the tax of foreign corporations by earning income in Indonesia namely: Act No. 7 of 1983, Act No. 36 of 2008, Law No. 42 of 2009, Law No. 23 of 2018.

Corporate tax or tax agency tax is a tax payable in accordance with the provisions of the regulations of the applicable laws. Corporate tax is paid through organizational bodies formed individually, organizations or enterprises belonging to the region that have business activities in Indonesia. Taxes imposed on foreign companies to support the domestic economy (Tax Indo, 2018).

The impact of Tax Avoidance Practices for Companies that avoid paying taxpayers can have a fatal impact on taxpayers, moreover it will have a lasting impact on ongoing companies. So it can affect the development of the business that has been carried out, if you want to expand and require external funding, so that investors can assess the company, there may be a risk of facing legal problems (Fitriya, 2023b).

If one of the foreign companies as a taxpayer fails to pay its tax, then in accordance with the provisions of the tax laws the company will be imposed a fine in the form of fines, interests, and increases already regulated under the VAT Act. Pursuant to Article 37A of the CPA Act (2007), the sanctions in the form of interest are not granted the facility of elimination of the administrative sanskrit interest which will be granted in the case of its tax obligation. The sanctions removal facility is also known as the Sunset Policy, which remains in force until the end of 2008 until 31 March 2009 (Dr.Bustamar Aysha, S.H., 2017).

4. Conclusion

The implementation of regulations on the establishment of income tax applied to foreign companies in Indonesia as foreign taxes is an important thing in order to make a contribution of state income to the development of the country. This article emphasizes the importance of clear, fair and consistent regulations in tax laws to prevent tax evasion by foreign companies. The research contributed to an understanding of the enforcement of income tax laws against foreign companies in Indonesia, with a focus on tax compliance, tax audits, and tax collection processes. Implications of the research included improving tax adherence among foreign companies, improving the efficiency of tax collection, and ensuring fair taxation practices in Indonesia.

This research contributes to an understanding of the enforcement of income tax laws against foreign companies taxed in Indonesia. The study emphasizes the importance of tax compliance and the role of tax authorities in ensuring effective tax collection from foreign companies. In addition, the study also explores various tax theories and functions of tax in Indonesia. Compliance with tax obligations is crucial to boosting tax revenues and supporting sustainable development. Foreign companies operating in Indonesia are subject to the same tax obligations as local companies. The limitations of this research include focusing on the enforcement of income tax laws against foreign companies in Indonesia without providing direct comparisons to foreign corporate taxation practices in other countries. Future research may involve a comparative study of the compliance of foreign company taxation in Indonesia with other countries to gain a broader insight into international taxation practice. Further research can also deepen an understanding of the effectiveness of international tax treaties in regulating foreign corporation tax obligations in Indonesia.

In the context of law enforcement, principles such as sustainable security, effective use of force, transparency, openness, public interest and good service need to be taken seriously. "The law enforcement system must be consistent, fair and not give a gap in the treatment of taxpayers. Therefore, governments must ensure that policies and actions are based on accurate and complete information.

Preventive measures such as enhancing the capacity of tax authorities, strengthening tax regulations, improving information on improvements and encouraging public participation in

monitoring bank compliance are critical. Furthermore, the principles of good government and good governance must always be adhered to in order to prevent tax evasion and to guarantee the effectiveness of the tax system for the well-being of the people.

Some foreign companies that are in Indonesia avoiding paying taxes by establishing a foreign representative office is the first step of a multinational company to undertake various branch construction in other regions because there are several factors that trigger it one of which is a cost component that is quite expensive so many products are highly competitive.

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