

# COMPARATIVE STUDY OF TAX INCENTIVES IN INDONESIA, MALAYSIA, AND THE UNITED STATES OF AMERICA TO SUPPORT RESEARCH AND DEVELOPMENT

Meilani<sup>1)</sup>, Jimmy<sup>2)</sup>

Universitas Pelita Harapan, Medan

<sup>1)</sup>e-mail: meilani.fe@lecturer.uph.edu

<sup>2)</sup>e-mail: jj6401@alumni.uph.edu

## ABSTRACT

Research found that implementing a tax treaty agreement can assist a country in increasing its economic growth, besides to prevent the imposition of double taxation as its main goal. Indonesia has already signed many tax treaty agreements with countries around the world, such as with Hong Kong and Netherlands that have been discussed most until today. The purpose of this research is to compare the different of beneficial owner application in tax treaty between Indonesia-Hong Kong and Indonesia-Netherlands on passive income such as dividends, interest, and royalties and to know the positive and negative impacts that can effect to Indonesia under having these tax treaty agreements. The research design and method used in this research is qualitative descriptive method along with literature research and using secondary data.

The Indonesia-Netherlands tax treaty is one of Indonesia's biggest tax leaks with 27 cases of disputes and resulting in big tax losses for Indonesia. Contrarily, no cases of disputes have been found related to the tax treaty agreement between Indonesia-Hong Kong up to now. Moreover, Indonesia and Hong Kong's tax treaty agreement are also significantly bringing more investor from Hong Kong to Indonesia rather than from the Netherlands. This research concludes that Indonesia should establish more tax treaty agreement especially with the country that has a lot of economic activities with the aim to prevent the imposition of double taxation and given an opportunity for Indonesia to enhance economic growth as well as also to increase the tax revenue.

**Keywords:** Tax Treaty, Double Taxation, Beneficial Owner, Economic Growth, Indonesia, Hong Kong, Netherlands

References: 37 (2013-2020)

## ABSTRAK

*Penelitian menemukan bahwa penerapan tax treaty dapat membantu suatu negara dalam meningkatkan pertumbuhan ekonominya, selain untuk mencegah pengenaan pajak berganda sebagai tujuan utamanya. Indonesia telah menandatangani banyak perjanjian pajak dengan negara-negara di seluruh dunia, seperti dengan Hong Kong dan Belanda yang paling banyak dibicarakan hingga saat ini. Tujuan dari penelitian ini adalah untuk membandingkan perbedaan penerapan beneficial owner dalam perjanjian pajak antara Indonesia-Hong Kong dan Indonesia-Belanda pada passive income seperti dividen, bunga, dan royalti dan untuk mengetahui dampak positif dan negatif yang timbul terhadap Indonesia dari perjanjian pajak tersebut. Desain penelitian dan metode yang digunakan dalam penelitian ini adalah metode kualitatif deskriptif dengan penelitian literatur dan menggunakan data sekunder.*

*Perjanjian pajak Indonesia-Belanda adalah salah satu kebocoran pajak terbesar di Indonesia dengan 27 kasus sengketa dan mengakibatkan kerugian pajak yang besar bagi Indonesia. Sebaliknya, tidak ada kasus kerugian yang ditemukan terkait dengan melibatkan perjanjian pajak Indonesia-Hong Kong sampai sekarang. Selain itu, perjanjian pajak Indonesia-Hong Kong juga secara signifikan membawa lebih banyak investor dari Hong Kong ke Indonesia daripada dari Belanda. Penelitian ini menyimpulkan bahwa Indonesia harus lebih banyak membuat tax treaty terutama dengan negara yang memiliki banyak kegiatan ekonomi dengan tujuan untuk mencegah pengenaan pajak berganda dan juga memberikan kesempatan bagi Indonesia untuk meningkatkan pertumbuhan ekonomi dan juga untuk meningkatkan penerimaan pajak.*

**Kata Kunci:** Tax Treaty, Double Taxation, Beneficial Owner, Economic Growth, Indonesia, Hong Kong, Netherlands

## I. INTRODUCTION

Tax has become one of the most critical elements for the progress of a nation in various fields that has been regulated by

a country to the entire communities (Noviani, Diatmika, & Yasa, 2017). Nowadays, people can see how the growth and increasing of economic activities in the

era of globalization due to the rapid development of technologies and openness between countries towards the entry of investment from foreign countries. Under this condition, it will believe to cause a lot of problems, especially in terms of taxation because those development activities of an international transaction might be crossed the boundaries of each or both state jurisdiction.

Cross-country economic activities will certainly involve at minimum two different countries in which each of it has had its own tax regulations, for example, both taxes on residents and non-residents in the country. The differences in those tax regulations based on its tax policy can lead to the occurrence of double taxation, which can cause a loss to people that involved in these activities (Castillo-Murciego & Lopez-Laborda, 2018). Therefore, it is necessary to make an exclusive agreement for these countries called as Tax Treaty/*Perjanjian Penghindaran Pajak Berganda* (P3B), so that all investment activities in related to tax can run smoothly without obstacles. Until 2019, Indonesia has had tax treaties with 67 countries in its taxation practices (DDTC, 2019). One of the benefits of a tax treaty is the imposition of lower tax rates than on domestic tax regulations of the country which has the right to tax.

According to the previous research, Yanti (2014), the result of the research is “Beneficial owner must be used appropriately so that there is no fraudulent that can be used by people who are not entitled to get benefits in related to dividends, interest, and royalties of the tax treaty and it can be used in every situation and condition.” In otherwise, based on Malvinas, Syahbdandir, and Syarifuddin (2018) stated that “In some cases, the tax treaty between Indonesia and Netherlands cannot be implemented so that the beneficial owner issues will be taxed based on Indonesia’s laws and provisions.” Therefore, in this research, there will be an analysis on what situations and conditions

that the tax treaty can be implemented related to the beneficial owner because there are no clear and obvious analysis based on the previous researches and to know the effect for having these tax treaty agreements for Indonesia.

Based on the Manager of Indonesian research organization, *Perkumpulan Prakarsa*, Cut Nurul Aidha, and Dutch Centre for Research on Multinational Organizations, SOMO, tax treaty agreement between Indonesia and Netherlands has turned into a popular way of treaty shopping practices which is most in demand by multinational companies. Up to 2019, there are 27 cases of disputes related to this tax treaty agreement, in which 25 cases were won by multinational companies. The main cause of the defeat is obscurity in legal concepts – for example in the application of beneficial ownership in the tax treaty regulations between Indonesia and Netherlands. Furthermore, the Indonesian government lost the potential for tax revenues of more than 386 billion rupiahs for these 27 cases. Moreover, tax treaty agreement between Indonesia-Hong Kong is called as “special” because of its taxation system is territorially based, tax rates are very low, and no VAT (Value Added Tax) collection (Akbar, 2019).

In addition, Yanti (2014) had researched about “*Analisis Mengenai Perbandingan Beneficial Owner di dalam Tax Treaty*” with the case study between Indonesia and Netherlands. Yanti used the first version of tax treaty regulations between Indonesia and Netherlands which had been agreed since January 29, 2002 on her research that was conducted in 2014. Fifteen years later, after the tax treaty regulations have been agreed, the Dutch and Indonesian governments finally have imposed a protocol amendment on decreasing the tax rates, especially in term on beneficial owner. The amendment of this tax agreement between Indonesia and Netherlands has entered into force on August 1, 2017 and effectively applied by the two countries on October 1, 2017

(DDTC, 2017). The writer will do a research again on the same issue because the writer wants to see the differences of the implementation and the effect of a tax treaty in term of the beneficial owner of Netherlands before and after amendment with Indonesia and Hong Kong. Because of the phenomenon and the revision of tax treaty regulations, the writer decides to do more in-depth analysis and choose the title “**Analysis of Beneficial Owner Comparison in Tax Treaty between Indonesia-Hong Kong and Indonesia-Netherlands.**”

## II. LITERATURE REVIEW

### 2.1 Tax

The explanation of tax according to Soemitro in the book of *Perpajakan Terapan Lanjutan* by Ernawati (2018),

*Pajak adalah iuran rakyat kepada kas Negara berdasarkan undang-undang (yang dapat dipaksakan) dengan tidak mendapat jasa timbal balik (kontraprestasi), yang langsung dapat ditunjukkan dan yang digunakan untuk membayar pengeluaran umum* (p.2).

The definition can be explained as tax is the contribution of the people to the state treasury based on the Law (which can be enforced) by not receiving reciprocal services (considerations), which can be directly shown and used to pay public expenses.

According to Feldmann in the book of *Perpajakan Terapan Lanjutan* by Ernawati (2018), “*Pajak adalah utang prestasi kepada pemerintah yang dapat dipaksakan berdasarkan norma umum, tanpa adanya kontraprestasi dan digunakan untuk menutupi pengeluaran pemerintah*” (p.2). It can be explained as tax is a debt of performance to the government that can be enforced based on general norms, without any considerations and used to cover government expenditures.

Based on the provision of Article 1(1) of Law Number 6 Year 1983 on General

Provisions and Tax Procedures as amended with Law Number 16 Year 2009, the definition of tax is:

*Pajak adalah kontribusi wajib kepada negara yang terutang oleh orang pribadi atau badan yang bersifat memaksa berdasarkan Undang-Undang, dengan tidak mendapatkan imbalan secara langsung dan digunakan untuk keperluan negara bagi sebesar-besarnya kemakmuran rakyat.*

The definition can be explained as tax is a compulsory contribution to the state owed by an individual or entity which is forced based on the Law, by not getting compensation directly and used for the state’s needs for the greatest prosperity of the people.

In general, tax has two main functions. According to Ernawati (2018) regarding the functions of tax:

*Ada dua fungsi utama pajak, yaitu:*

1. *Fungsi Budgetair (Sumber Keuangan Negara)*

*Artinya pajak merupakan salah satu sumber penerimaan pemerintah untuk membiayai pengeluaran baik rutin maupun pembangunan.*

2. *Fungsi Reguleend (Pengatur)*

*Pajak mempunyai fungsi pengatur, artinya pajak sebagai alat untuk mengatur atau melaksanakan kebijakan negara dalam bidang sosial dan ekonomi, serta sebagai alat untuk mencapai tujuan-tujuan tertentu yang letaknya diluar bidang keuangan* (p.4).

It can be explained as there are two main functions of tax, such as:

1. *Budgeting (Budgetair)*

*Function (Source of States Finance)*

Tax has a budgeting function, meaning that tax is one of the sources of fund for the government in defraying their expenditures both routine and national development expenditures.

2. *Organizing (Reguleend) Function*

Tax has an organizing function, meaning that tax is as a tool to organize or to actualize the state's policies in social and economy sectors, as well as a tool to achieve certain objectives that are located outside the financial field.

According to Ernawati (2018), there are several types of tax in Indonesia, such as:

1. Menurut golongannya:
  - a. Pajak Langsung  
*Yaitu pajak yang harus dipikul sendiri oleh Wajib Pajak dan tidak dapat dibebankan atau dilimpahkan pada orang lain.*  
*Contoh: Pajak Penghasilan (PPh).*
  - b. Pajak tidak Langsung  
*Yaitu pajak yang pada akhirnya dapat dibebankan atau dilimpahkan kepada orang lain.* *Contoh: Pajak Pertambahan Nilai (PPN).*
2. Menurut sifatnya:
  - a. Pajak Subjektif  
*Yaitu pajak yang berpangkal/berdasar pada subjeknya, dalam arti memperhatikan keadaan diri wajib pajak.*  
*Contoh: Pajak Penghasilan (PPh).*
  - b. Pajak Objektif  
*Yaitu pajak yang berpangkal pada objeknya, tanpa memperhatikan keadaan diri wajib pajak.*  
*Contoh: Pajak Pertambahan Nilai (PPN).*
3. Menurut Lembaga Pemungutnya:
  - a. Pajak Pusat  
*Yaitu pajak yang dipungut oleh pemerintah pusat dan digunakan untuk membiayai rumah tangga negara.*  
*Contoh: PPh, Bea Materai, PPN, dan PPnBM.*
  - b. Pajak Daerah

*Yaitu pajak yang dipungut oleh pemerintah daerah dan digunakan untuk membiayai rumah tangga daerah.* *Contoh: Pajak Hotel, Pajak Restoran, dan sebagainya (p.9).*

It can be explained as tax are divided into three types, such as follows:

1. Based on the Level of Tax:
  - a. Direct Tax  
Direct tax is a tax that must be paid by the taxpayer himself/herself and cannot be burdened to others.  
Example: Income Tax.
  - b. Indirect Tax  
Indirect tax is a tax that can be burned to others.  
Example: Value Added Tax (VAT).
2. Based on Nature of Tax:
  - a. Subjective Tax  
Subjective tax is a tax based on the condition of the taxpayer.  
Example: Income Tax.
  - b. Objective Tax  
Objective tax is a tax based on taxable object, without caring about the condition of the taxpayer.  
Example: Value Added Tax (VAT).
3. Based on the Collector of Tax:
  - a. Central Tax  
Central tax is a tax collected by the central government and is used for defraying central government expenditures (APBN). Example: Income Tax, Stamp Duty, VAT, and VAT on Sales Tax and Luxury Goods.
  - b. Region Tax  
Region Tax is a tax collected by related region government

(Pemda) and is used for defraying region government expenditures (APBD). Example: Hotel Tax, Restaurant Tax, etc.

Tax collection system according to Ernawati (2018) can be divided into three parts, such as:

*Sistem pemungutan pajak dapat dibagi menjadi:*

1. *Official Assessment System*

*Adalah suatu sistem pemungutan yang memberi wewenang kepada pemerintah (fiskus) untuk menentukan besarnya pajak yang terutang oleh WP. Ciri-cirinya:*

- a. *Wewenang untuk menentukan besarnya pajak terutang berada pada fiskus.*
- b. *Wajib pajak bersifat pasif.*
- c. *Utang pajak timbul setelah dikeluarkan surat ketetapan pajak oleh fiskus.*

2. *Self-Assessment System*

*Adalah suatu sistem pemungutan pajak yang memberi wewenang kepada WP untuk menentukan sendiri besarnya pajak yang terutang. Ciri-cirinya:*

- a. *Wajib pajak menentukan sendiri besarnya pajak terutang.*
- b. *Wajib pajak aktif, mulai dari menghitung, menyetor, dan melaporkan sendiri pajak yang terutang.*
- c. *Fiskus tidak menentukan besarnya pajak terutang, tetapi bersifat mengawasi dan mengoreksi perhitungan yang disajikan oleh wajib pajak.*

3. *Semi Self-Assessment and With Holding System*

*Adalah sistem pemungutan pajak yang memberi wewenang kepada fiskus dan WP atau pihak ketiga untuk memotong atau memungut besarnya pajak yang terutang oleh wajib pajak (p.8).*

It can be explained as tax collection system is divided into:

1. **Official Assessment System**

It is a tax collection system which gives an authority to the tax collector for determining the amount of tax payable that a taxpayer must pay for. The characteristics:

- a. The authority to determine the amount of tax payable to the tax collector.
- b. Taxpayer is passive.
- c. Tax payable arises after a Tax Assessment Letter is issued by the tax collector.

2. **Self-Assessment System**

It is a tax collection system which gives a full authority to the taxpayer to determine the tax payable himself/herself. The characteristics:

- a. Taxpayer determines the amount of tax payable himself/herself.
- b. Taxpayer is active, starting from calculating, depositing, and self-reporting of the tax payable.
- c. Tax collector does not determine the amount of tax payable, but only supervise and correct the calculations which presented by taxpayer.

3. **Semi Self-Assessment System and Withholding System**

It is a tax collection system which gives an authority to tax collector and taxpayer or third party (neither tax collector nor taxpayer) for determining the amount of tax payable.

## 2.2 **Income Tax**

According to Ernawati (2018), *Pajak Penghasilan adalah suatu pungutan resmi yang ditujukan kepada masyarakat yang berpenghasilan atau atas*

*penghasilan yang diterima atau diperolehnya dalam tahun pajak untuk kepentingan negara dan masyarakat dalam hidup berbangsa dan bernegara sebagai suatu kewajiban yang harus dilaksanakan (p.58).*

The definition can be explained as Income Tax is an official levy that is intended for people who earn income or on income received or accrued in the taxable year for the benefits of the state and society in the life of the nation and state as an obligation that must be carried out.

Based on the Law of the Republic of Indonesia Number 36 Year 2008 concerning fourth amendment of Law Number 7 Year 1983 on Income Tax, Tax Subject consists of individual, undivided inheritance as a unit in lieu of the beneficiaries, entity, and permanent establishment.

Based on the Article 2 paragraph 3 of Law Number 36 Year 2008 on Income Tax, the term “resident taxpayer” means (Directorate General of Tax, 2013):

1. individual who resides in Indonesia, an individual who has been present in Indonesia for more than 183 (one hundred and eighty-three) days within any 12 (twelve) months period, or an individual who has been residing in Indonesia within a particular taxable year and intends to reside in Indonesia;
2. entity established or domiciled in Indonesia, except part of government bodies which fulfills these criteria as follows:
  - a. its establishment is pursuant to the laws;
  - b. financed by State Budget or Local Government Budget;
  - c. its revenues are included in State Budget or Local Government Budget; and
  - d. its bookkeeping is audited by the government auditor; and
3. any undivided inheritance as a unit in lieu of beneficiaries.

According to the Article 2 paragraph 4 of Law Number 36 Year 2008 on Income Tax, the term “non-resident taxpayer” means (Directorate General of Tax, 2013):

1. any individual who does not reside in Indonesia, has been present in Indonesia for not more than 183 (one hundred and eighty-three) days within any 12 (twelve) months period, and any entity which is not established and is not domiciled in Indonesia conducting business or carrying out activities through a permanent establishment in Indonesia; and
2. any individual who does not reside in Indonesia, has been present in Indonesia for not more than 183 (one hundred and eighty-three) days within any 12 (twelve) months period, and any entity which is established outside Indonesia and is not domiciled in Indonesia, which may receive or accrue income from Indonesia other than from conducting business or carrying out activities through permanent establishment.

Based on the Article 4 paragraph 1 of Law of the Republic of Indonesia Number 36 Year 2008 on Income Tax, Taxable Object is income, which is defined as any increase in economics capacity received by or accrued by a taxpayer from Indonesia as well as from offshore, which may be utilized for consumption or increasing the taxpayer’s wealth, in whatever name and form, including (Directorate General of Tax, 2013):

1. compensation or remuneration received or accrued in respect of employment or service tendered, including salary, wage, allowance, honorarium, commission, bonus, gratuity, pension, or other forms of remuneration, unless otherwise stipulated by this Law;
2. lottery prizes, or gifts in respect of employment or activities, and reward;
3. business profits;
4. gains from the sale or transfer of property;

5. refund of tax payments which already deducted as an expense and any additional payment of tax refund;
6. interest including premium, discounts, and compensation for loan repayment guarantees;
7. dividends, in whatever name and form, including dividends from an insurance company to its policyholders, and distribution of net income by a cooperative;
8. royalty or compensation from the use of right;
9. rents and other income from the use of property;
10. annuities;
11. gains from the discharge of indebtedness up to a certain amount stipulated by Government Regulation;
12. gains from foreign exchange;
13. gains from revaluation of assets;
14. insurance premium;
15. contribution received by or accrued by an association from its members who are taxpayers engaged in business or independent services;
16. an increase in net wealth from income which has not been taxed;
17. income from sharia business;
18. compensations as stipulated by Laws concerning General Provisions and Tax Procedures; and
19. surplus of Bank of Indonesia.

### 2.3 Income Tax Article 26

*PPh Pasal 26 adalah pajak penghasilan yang dikenakan atas penghasilan yang dibayarkan, disediakan untuk dibayarkan, atau telah jatuh tempo pembayarannya oleh badan pemerintah, subjek Pajak dalam negeri, penyelenggara kegiatan, bentuk usaha tetap, atau perwakilan perusahaan luar negeri lainnya kepada Wajib Pajak luar negeri selain bentuk usaha tetap di Indonesia* (Directorate General of Tax, 2013).

The definition can be explained as Income Tax Article 26 is income tax

imposed on income paid, provided to be paid, or the payments has been due by a government institution, resident taxpayer, a person who organizes activity, permanent establishment, or a representative of a non-resident company to foreign taxpayers other than in form of permanent establishment in Indonesia.

According to the Article 26 paragraph 1 of Law Number 36 Year 2008 on Income Tax,

*... dipotong 20% (dua puluh persen) dari jumlah bruto oleh pihak yang wajib membayarkan:*

- a. *dividen;*
- b. *bunga termasuk premium, diskonto, dan imbalan sehubungan dengan jaminan pengembalian utang;*
- c. *royalti, sewa, dan penghasilan lain sehubungan dengan penggunaan harta;*
- d. *imbalan sehubungan dengan jasa, pekerjaan, dan kegiatan;*
- e. *hadiah dan penghargaan;*
- f. *pensiun dan pembayaran berkala lainnya;*
- g. *premi swap dan transaksi lindung nilai lainnya; dan/atau*
- h. *keuntungan karena pembebasan utang.*

It can be explained that according to the definition of income tax based on Article 26, the income shall be subjected to withholding tax of 20% (twenty percent) of the gross income in terms of:

- a. dividends;
- b. interest including premium, discount, and compensation in related to loan repayment guarantees;
- c. royalties, rent, and other income in related to the use of the property;
- d. compensation in related to services, works, and activities;
- e. prize and awards;

- f. pension and other periodic payments;
- g. premium of swap and other hedging transactions; and/or gain from the discharge of indebtedness.

#### 2.4 Beneficial Owner

Based on the Article 26 paragraph 1(a) of the Law of the Republic of Indonesia Number 36 Year 2008 on Income Tax, stated that:

*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).*

It can be explained that the domicile country of the foreign taxpayer other than those who conducting business or performing business through a permanent establishment in Indonesia referred to in paragraph (1) is the country or where the foreign taxpayer resides actually receive benefits from that income (beneficial owner).

According to the *Surat Edaran* of Directorate General of Tax No. SE-04/PJ.34/2005,

*Beneficial owner adalah pemilik yang sebenarnya dari penghasilan berupa Dividen, Bunga dan atau Royalti baik Wajib Pajak Perorangan maupun Wajib Pajak Badan, yang berhak sepenuhnya untuk menikmati secara langsung manfaat penghasilan-penghasilan tersebut.*

The definition can be explained as beneficial owner is the actual owner of the income in the form of dividends, interest and or royalties for both individual and entity taxpayers, who have the full rights to directly enjoy the benefits of such income.

The concept of beneficial owner was first used in 1966 in the protocol for double tax avoidance agreements between UK and USA (Yanti, 2014).

#### 2.5 Tax Treaty

The government has the authority to enter into force with other countries' government in the context of double taxation and tax evasion. According to the Law of the Republic of Indonesia Number 7 Year 1983 on income tax as has been adjusted with the newest one, Law of the Republic of Indonesia Number 36 Year 2008 Article 32A, in the framework of increasing economic and trade relations with other countries, a special legal instrument (*lex-specialis*) which regulated the tax rights from each country is needed to provide legal certainty and avoid the imposition of double taxation as well as prevent tax evasion. The special legal instrument that applies in these situations is called as Tax treaty or Double Tax Agreement (DTA).

According to Pohan (2018) regarding to the definition of *Persetujuan Penghindaran Pajak Berganda* or tax treaty or DTA,

*Persetujuan penghindaran pajak berganda adalah perjanjian pajak antara dua negara bilateral yang mengatur mengenai pembagian hak pemajakan atas penghasilan yang diperoleh atau diterima oleh penduduk dari salah satu atau kedua negara pihak pada persetujuan (p.124).*

The definition can be explained as tax treaty is a tax agreement between two bilateral countries that regulates the distribution of taxation rights on income obtained or received by residents of one or both contracting states.

This agreement is very essential because of the tax burden borne by individuals or entities that have connection in these two countries will influence the investments and capital decisions of each



state. Thus, the essence of this tax treaty is only managing the distribution of taxation rights on several incomes among countries. In addition, tax treaty does not generate new types of taxes and does not regulate the tax rates.

Based on Prof. Mansury in the book of *Pedoman Lengkap Pajak Internasional: Konsep, Strategi, dan Penerapan* by Pohan (2018) regarding to the purposes of having tax treaty:

*Ada dua tujuan pokok dari Persetujuan Penghindaran Pajak Berganda (P3B).*

1. Tujuan utama pembuatan P3B atau Tax Treaty adalah mencegah terjadinya pajak berganda (double taxation) atas subjek pajak dalam negeri dari salah satu dari dua negara yang mengadakan tax treaty yang bersangkutan.
2. Mencegah terjadinya penyelundupan pajak (fiscal evasion) (p.126).

It can be explained that there are two main purposes of having tax treaty.

1. To prevent the occurrence of double taxation about domestic tax from one or both countries that hold in the agreement.
2. To prevent the occurrence of tax evasion.

In the OECD Model, the main objective of a tax treaty is to increase trade between countries that have signed the tax treaty by eliminating the double taxation internationally. Whereas in the UN Model, tax treaty has a broader purpose such as to increase foreign investments into developing countries and as an instrument for developing countries to enhance economic and social growth (Mukarromah, 2018).

According to Pires (1989) in the book of *Pedoman Lengkap Pajak Internasional: Konsep, Strategi, dan Penerapan* by Pohan (2018) related to other purposes of tax treaty:

- ... tujuan lain dari P3B, antara lain:*
1. melindungi wajib pajak,

2. mendorong atau menarik investasi (dengan berbagai keringanan pajak),
3. memudahkan ekspansi perusahaan negara maju,
4. membantu mengurangi dan menanggulangi penghindaran dan penyelundupan pajak, meningkatkan kerja sama aplikasi ketentuan domestik, perbaikan pertukaran informasi, dan pengalaman perpajakan,
5. mengharmonisasikan kriteria pemajakan,
6. mencegah diskriminasi,
7. menumbuhkan hubungan ekonomis dan sebagainya, dan
8. meningkatkan pencegahan penyalahgunaan perjanjian dan kerja sama dalam penetapan dan penagihan serta aktivitas administrasi pajak lainnya (p.127 – 128).

It can be explained that there are several purposes for having tax treaty, such as follows:

1. to protect taxpayers,
2. to encourage and attract investment (with various tax relief),
3. to facilitate the expansion of developed country companies,
4. to help reduce and overcome tax avoidance and tax evasion, to increase cooperation in the application of domestic provisions, to exchange information and experiences about taxation,
5. to harmonize the taxation criteria,
6. to prevent discrimination,
7. to foster economic relations, and
8. to improve prevention of misuse agreements and cooperation in stipulation and collection and other tax administration activities.

According to Pohan (2018), "*Model P3B adalah ketentuan-ketentuan mengenai Penghindaran Pajak Berganda yang telah distandardisasikan, yang digunakan*

*sebagai acuan oleh negara-negara di dalam melakukan perundingan”* (p. 86).

The definition can be explained as tax treaty model is a provision related to avoidance of double taxation that has been standardized, which is used as a reference by countries in negotiating an agreement.

There are some tax treaty models adopted by many countries in the world in formulating a tax treaty, such as:

#### 1. Organization for Economic Co-operation and Development (OECD) Model

The OECD Model is a tax treaty model for developed countries, such as Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, England, Japan, South Korea, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Slovakia, Spain, Sweden, Swiss, Turkey, and United States. This OECD Model emphasizes the principle of domicile in countries that provide services or invest capital because in general these countries are capital and service exporting nations. Periodically, the OECD Model is always being updated to suit the development of the world's economy (1963, 1977, 1992, 2003, and 2008) (Pohan, 2018).

#### 2. United Nations (UN) Model

Unlike the OECD Model, the UN Model is a tax treaty model specifically designed for the needs of developing countries, such as Indonesia. Generally, due to most of the countries that utilize this model are service and capital importing nations, the UN Model gives broader taxation rights to source countries for income arising from their territories. Usually, this is done by adding one more criterion, time test, which is to establish the existence of a permanent establishment in relation to the provision of services in the country. The UN Model has undergone adjustments only once until today, which occurred in 2001 and the content or material designed in the UN Model is not far different from the OECD Model (Pohan, 2018).

#### 3. United States (US) Model

The tax treaty agreement between the United States and the negotiating partner countries must be based on the US Model (1981). The US Treasury announced the release of the newly revised “U.S. Model Income Tax Convention” which serves as the fundamental (basic) document that will be used by the Treasury of United States in negotiating tax treaties agreement with other countries (Pohan, 2018).

#### 4. ASEAN Model

ASEAN Model is used for ASEAN member countries when negotiating tax treaties agreement with each other and when they negotiate tax treaties agreement with non-member countries. The ASEAN Model Tax Convention is in accordance with the edition of the OECD Model and this ASEAN Model also uses many of the characteristics in the UN Model. However, the ASEAN Model also has differences, for example tax sparing credit which is unlike from the OECD or even the UN Model (DFDL, 2015).

#### 5. Nordic Convention

Nordic Convention or called as the Nordic Treaty is a multilateral convention among the Nordic countries, such as Denmark, the Faroe Islands, Finland, Iceland, Norway, and Sweden for the avoidance of double taxation with respect to taxes on income and capital. Nordic Treaty is one of the few multilateral income tax treaties among worldwide and it has functioned well because these countries have similar tax systems and administrative culture (similar economic and political interests). The Nordic Convention Model is in accordance to OECD Model but has been adjusted to fulfill the needs of a multilateral agreement (Helminen, 2014).

#### 6. CARICOM Agreement

The double taxation agreement of the Caribbean Community (CARICOM) is a multilateral agreement among the Governments of the Member States of the Caribbean Community for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

profits or gains and capital gains and for the encouragement of regional trade and investment. The signatory consists of countries, which are Antigua, Belize, Dominica, Grenada, Guyana, Jamaica, St Kitts and Nevis, St Lucia, St Vincent, and Trinidad and Tobago (Bravo, 2016).

However, most of the tax treaties that have signed by all countries in the world is based on the model suggested by the OECD or UN Model.

The main difference between the OECD Model and the UN Model lies in the importance of the distribution of taxation rights. The OECD Model wishes that the taxation rights to be given as much as possible to the country of the domicile. On the other hand, the UN Model wants the rights of taxation to be given to the source country of the income (Mukarromah, 2018).

The matters discussed in a tax treaty with reference to “*Model Tax Convention on Income and on Capital*”, condensed version on 21 November 2017, OECD are consisting of seven chapters such as scope of the convention, definitions, taxation of income, taxation of capital, methods for elimination of double taxation, special provisions, and final provisions. In the first chapter, scope of the convention, it contains about persons and taxes covered. Chapter two about definitions cover the general definitions of important terms as well as the definition of resident and permanent establishment. Then, article about income from immovable property, business profits, international shipping, and air transport, associated enterprises, dividends, interest, royalties, capital gains, income from employment, directors’ fees, entertainers and sportspersons, pensions, government service, students, and other income are included in chapter three of the tax treaty agreement (Sasseville, 2017). Chapter four only covers regarding to the article about capital, while the methods for elimination of double taxation, such as exemption and credit methods are contained in the fifth chapter. The last two chapters are

concerning to special provisions for non-discrimination, mutual agreement procedure, exchange of information, assistance in the collection of taxes, members of diplomatic missions and consular posts, entitlement to benefits, and territorial extension and the final provisions chapter are explained the entry into force and termination article (Sasseville, 2017).

## 2.6 Tax Treaty on Dividends

According to Pohan (2018), “*Pengertian “dividen” dalam P3B Indonesia adalah pembagian laba kepada pemegang saham berdasarkan banyaknya saham yang dimiliki*” (p.521).

The definition can be explained as dividend is the distribution of profits to shareholders based on the number of shares held.

Based on the Article 4 paragraph 1(g) of Law of the Republic of Indonesia Number 36 Year 2008 concerning fourth amendment of Law Number 7 Year 1983 on Income Tax, dividend is the share of profit received by shareholders or insurance policyholders, or the distribution of net income of a cooperation received by its members. The term dividend shall include (Directorate General of Tax, 2013):

1. distribution of profit, directly or indirectly and under whatever name or form;
2. refund in a liquidation more than the paid-up capital;
3. bonus shares received without payment, including bonus shares derived from the capitalization of premiums on new shares;
4. distribution of profit in the form of shares;
5. record of additional capital without payment;
6. the sum exceeding the amount of paid-in capital received or accrued by shareholders on a buyback share by the company concerned;
7. whole or partial refund of paid-in capital, if in previous years profits have been made, except where the refund is

- caused by a legal reduction in the statutory capital;
8. payment related to rights of profit, including that received as redemption of the rights;
  9. a share of profit in connection with bond ownership;
  10. a share of profit received by policy holders;
  11. distribution of net income to members of a cooperative;
  12. company expenditures for the personal benefit of shareholders, which are charged as company expenses.

## 2.7 Tax Treaty on Interest

According to Pohan (2018), *Pengertian “bunga” dalam P3B Indonesia adalah penghasilan dari semua jenis tagihan piutang, baik yang dijamin dengan hipotek maupun tidak, dan baik yang mempunyai hak atas pembagian laba maupun tidak, dan khususnya, penghasilan dari sekuritas yang diterbitkan oleh pemerintah dan penghasilan dari surat-surat obligasi atau surat-surat utang, termasuk premi dan hadiah yang melekat pada sekuritas, obligasi, atau surat utang tersebut (p.533).*

The definition can be explained as interest in Indonesia’s tax treaty is income from all types of receivables, whether guaranteed by a mortgage or not, and whether those who have the right to share profits or not, and especially, income from securities issued by the government and income from bonds or letters debt securities, including premiums and prizes attached to securities or bonds.

Based on the Article 4 paragraph 1(f) of Law of the Republic of Indonesia Number 36 Year 2008 concerning fourth amendment of Law Number 7 Year 1983 on Income Tax, the term “interest” includes premiums, discounts, and compensation in connection with guarantees loan. A premium occurs if, for example, a bond is

sold above its par value while a discount occurs if a bond is purchased below the par value. The premium is income for the issuer of the bond while discount is income for the purchaser (Directorate General of Tax, 2013).

## 2.8 Tax Treaty on Royalties

According to Pohan (2018), *Istilah “royalti” dalam P3B Indonesia berarti pembayaran dalam bentuk apa pun yang diterima sebagai hak untuk penggunaan, atau hak untuk menggunakan, setiap hak cipta kesusasteraan, kesenian, atau karya ilmiah termasuk film sinematografi dan film atau kaset untuk radio atau televisi, paten, merek dagang, desain atau model, rencana, formula atau proses rahasia, atau untuk penggunaan, atau hak untuk menggunakan, industri, perdagangan atau ilmu pengetahuan, atau untuk informasi mengenai industri, pengalaman komersial atau ilmiah (p.538).*

The term can be explained as royalties in Indonesia tax treaty means payments in any form received as for use, or the right to use, any literary, artistic or scientific copyright including cinematographic films and films or tapes for radio or television, patents, trademarks, designs or model, plans, formulas or secret process, or for use, or the right to use, industry, trade or science, or for information about industry, commercial or scientific experience.

Based on the Article 4 paragraph 1(h) of Law of the Republic of Indonesia Number 36 Year 2008 concerning fourth amendment of Law Number 7 Year 1983 on Income Tax, royalties are an amount paid or owed in any way or calculation, whether periodically or not, in return for (Directorate General of Tax, 2013):

1. rights over intangible property, such as copyrights in the field of literature, art, or scientific masterpiece, patents,

- designs or model, plans, formulas or secret process, company trade secrets, or intellectual/industrial rights or other similar rights;
2. rights over tangible property, such as rights over industrial, commercial, and scientific equipment;
  3. transfer of knowledge of information in the field of scientific, technical, industrial, or commercial;
  4. additional aids or complement relating to the use or right to use rights referred to as paragraph 1, the use or right to use tools/equipment referred to paragraph 2, or transfer of knowledge or information referred to in paragraph 3, in the form of:
    - a. the acceptance of or the right to receive the recorded image or voice recording, or both, which is distributed to the public via satellite, cable, fiber optics, or similar technology;
    - b. the use or right to use the recorded image or voice recording, or both, for television or radio broadcast/emanated through satellites, cable, fiber optics, or similar technology;
    - c. the use or right to use some or all the radio spectrum communication;
  5. the use or right to use picture film (motion picture films), film or video tape for television broadcast, or the soundtrack to the radio broadcast; the release all or part of the rights associated with the use or provision of intellectual property/industrial or other right, as mentioned above.

## 2.9 Certificate of Domicile (COD)

According to Yanti (2014), *Surat Keterangan Domisili adalah surat keterangan yang diterbitkan oleh Competent Authority atau wakilnya yang sah dari suatu negara pihak pada persetujuan yang menyatakan bahwa wajib pajak yang bersangkutan adalah penduduk dari negara tersebut* (p.11).

The definition can be explained as Certificate of Domicile (COD) is a certificate issued by a Competent Authority or a legitimate representative of a state party on an agreement stating that the taxpayer concerned is a resident of that country.

## III. RESEARCH METHODOLOGY

### 3.1 Research Design

The research design used in this research is qualitative descriptive method because it supports with a wide and rich descriptions of such issues and deeper analysis into problems. Qualitative research is a type of research that compiles and operates the non-numerical data and that attempts to define meaning from data available that assist people to understand in the field of targeted issues (Crossman, 2019). The method in this research is related to exploratory research in the part of literature research. Literature research is a critical and in-depth analysis and evaluation of books, previous research, journals, etc. of the related topic.

### 3.2 Research Object

The objects in this research are regarding to the comparison of tax treaty between countries, which are Hong Kong and Netherlands that have cooperated with Indonesia in efforts to avoid double taxation.

Unit data used in this research are the taxation laws, books, previous research, and journals related to the tax treaty in term of beneficial owner. The taxation laws and provisions consist of taxation rules in Indonesia regarding the beneficial owner (Presidential Regulation No. 13 Year of 2018), Hong Kong and Netherlands' taxation regulations and provisions, tax treaty agreement between Indonesia-Hong Kong (Presidential Regulation No. 24 Year of 2012), and tax treaty agreement between Indonesia - Netherlands (Presidential Regulation No. 24 Year of 2017) on Article 10 (dividends), Article 11 (interest), and

Article 12 (royalties) according to OECD Model.

### **3.3 Data Collection Method**

To collect the relevant data and information related to tax treaty about beneficial owner, the writer uses secondary data in which can be obtained from online and offline sources. For the secondary data, the writer obtains the information through library research by reading, borrowing, and buying some books related to the title, which is about international taxation regarding to the tax treaty of beneficial owner in this research. The book referred to in this research are, such as books on taxes and tax laws, especially in term of income tax and international tax. In addition, government regulations which related to tax treaty, articles from trusted sources, and accredited journals related to tax treaty in aspect of beneficial owner will be useful in this research for having wider knowledge to make an in-depth analysis.

### **3.4 Data Analysis Method**

This research is conducted based on a case study in which the development of the main issue and fact collection operated by the writer without implementing a hypothesis. The writer utilizes a descriptive method to analyse the data and the steps are shown below, as follow:

1. Review and understand the Presidential Regulation of Indonesia No. 24 Year of 2012 and Presidential Regulation of Indonesia No. 24 Year of 2017 regarding to the tax treaty
2. Review the income to foreign taxpayers (Article 26 of Income Tax) by:
  - a. Analyse the object of the income
  - b. Analyse the status of foreign taxpayer to the Contracting States
  - c. Analyse the status of foreign taxpayer to COD
3. Analyse the implementation of tax treaty in terms of beneficial owner, such as dividends, interest, and royalties in each condition and country

4. Evaluate the differences of the implementation of tax treaty in terms of beneficial owner, such as dividends, interest, and royalties in Hong Kong and Netherlands
5. Evaluate the advantages and disadvantages that can obtain or cause to Indonesia under this tax treaty in related to beneficial owner
6. Give the conclusion and recommendation of the research

## **IV. RESEARCH RESULT AND DISCUSSION**

### **4.1 General View of Tax Treaty in Indonesia, Hong Kong, and Netherlands**

Every country has a sovereignty and an authority in collecting taxes on the income received in the country both to resident and non-resident taxpayers in accordance with taxation systems and regulations and the principle of tax collection in each country. There are several types of tax collection principles which are mainly adopted by a country, such as residency/domicile principle, source principle, citizenship principle, and territorial principle. In the residency/domicile principle, the taxpayer will be taxed in the country where the taxpayer is domiciled/resided. Generally, the country who is applying this system is imposing tax on the worldwide income principle which means that tax will be imposed in the domicile country of an individual on the income derived within the country or overseas. On the other hand, source principle is a system in which a person will be taxed based on where the source of income is derived from. The example of country that applies both domicile and source country is in Indonesia.

If a country is applying citizenship principle, therefore the tax will be imposed based on the citizenship, so that every individual who is becoming the citizen of the country will be taxed in the country even the income is derived from other countries – for example United States (US).

For territorial principle, the tax will be imposed on the income derived in the territorial (region) of the related country and as the result, the income that will be taxed is only the income derived in the country and the income derived from overseas will not be taxed anymore. An example of this principle is the country that the writer discusses in this research – Hong Kong.

Double taxation happens because of the implementation of differences tax provisions or differences in the principle of tax collection by the two countries and it has given an additional economic burden on entrepreneurs. Double taxation has also become the stumble stone for the business expansion to overseas and it can cause global economy triggered by high costs and hamper the global mobility of economic resources if there was no attempt to alleviate the burden of double taxation. As the result, tax treaty is made with the aim of avoiding double taxation for the same type of income which can be detrimental to the taxpayer in one country. Traditionally, the things done to avoid this double taxation are by various methods, such as both unilaterally, bilaterally, and multilaterally.

Unilateral effort which used is to apply three types of tax avoidance methods – exemption method, credit method, and fictitious method. The explanation of each method are as follows:

1. Exemption Method

In this method, income derived from overseas and has been taxed in source country, will not be taxed anymore in domiciliary country and it requires a domicile country to voluntarily relinquish the right of taxation and recognize the exclusive taxation in the source countries.

2. Credit Method

In this method, income derived from overseas and has been taxed in source country, will be taxed again in domiciliary country, but the tax paid in overseas can be treated as a tax credit to be deducted in calculating the amount of

income tax payable at domiciliary country.

These two methods are the form of international double taxation elimination or relief applied by most countries.

Tax avoidance is not only done unilaterally but also avoidance is needed through bilateral because each country has different taxation principles between one and another country. In a bilateral approach means that both countries are providing tax relief based on agreement between the two countries which are the holders of taxation jurisdiction. Therefore, the agreement called tax treaty agreement or double taxation avoidance agreement or P3B/*Perjanjian Penghindaran Pajak Berganda* was formulated by the two countries that undergo cross-border transactions to avoid double taxation. Furthermore, for multilateral approach is involves more than two countries, for example, Regional (Scandinavian countries), the granting waivers of tax treaty agreement can be more harmonize concerning about tax provisions of each country because it is a collective agreement.

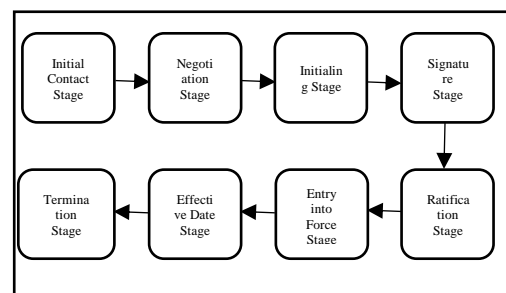


Figure 4.1 Tax Treaty Processes (Stages)

Source: Prepared by Writer (2020)

The stages that are usually carried out in the process of making tax treaty agreements and the process of terminating tax treaty agreements are as follows:

1. Initial Contact Stage

Tax treaty agreements are usually preceded by preliminary communication made by the governments of the two countries who wish to enter into an agreement, in this case usually carried out by the Minister of Finance through the Minister of Foreign Affairs.

## 2. Negotiation Stage

In this process, negotiations are usually carried out several times in which the place alternates between the two countries that entered into an agreement. The purpose of this stage is to discuss the substance and technical issues that will be agreed in an international agreement (discussion to formulate an agreement).

## 3. Initialing Stage

After the draft of tax treaty agreement has been approved by delegates from each country and must be asked for approval by the competent party which is usually done by the Minister of Finance.

## 4. Signature Stage

After tax treaty agreement has been received by each country and has been approved it, then it will be formally signed by a competent party in each country which is usually done by the Minister of Finance. The date of this signing shows "date of conclusion".

## 5. Ratification Stage

The ratification process is an important stage in the tax treaty agreement process. This stage was carried out based on the provisions of international tax law (Law No. 24 of Year 2000 in Article 11 paragraph 1 about International Agreement in Indonesia) in each of the countries that entered into the agreement.

## 6. Entry into Force Stage

Tax treaty agreement is said to be valid (entry into force) when the tax treaty agreement becomes a formal obligation which is binding on each country to implement it and is always stated explicitly in the agreement.

## 7. Effective Date Stage

Effective date is the time when the provisions in the tax treaty agreement apply effectively to be used by tax subjects and is always stated explicitly in the agreement.

## 8. Termination Stage

The provisions concerning the termination of tax treaty agreement

contained in article of the agreement are formal provisions in which one or two countries that involved in the agreement decide to stop or terminate the tax treaty agreement that is in force.

A tax treaty requires a Mutual Agreement Procedure (MAP) to be carried out by the Director General of Taxes (DGT) and the tax authorities of the state or tax treaty partner jurisdictions. The requests for the implementation of the MAP can be submitted by the taxpayer through Director General of Taxes (DGT), the tax authorities of the tax treaty partner countries or tax treaty partner jurisdictions within the deadline for implementing the MAP. MAP can be submitted if the tax subject has a dispute in the application of a provision that is not in accordance with the rules in the tax treaty agreement.

### 4.1.1 General View of Tax Treaty in Indonesia

Indonesia has concluded 67 *Perjanjian Penghindaran Pajak Berganda (P3B)* or tax treaty agreements up to 2020 in accordance with the data from Directorate General of Taxes to prevent double taxation in Indonesia. Below is the table shows the agreements made by Indonesia with treaty partners from time to time.

**Table 4.1 List of Countries that have Tax Treaty Agreements with Indonesia**

Year	Treaty Partners
1970-1980	Canada, England, Belgium, <b>Netherlands</b>
1981-1990	Saudi Arabia, Austria, Malaysia, Denmark, Philippines, Thailand, France, Norway, Germany, Finland, South Korea, Switzerland, Sweden, New-Zealand, United States of America, Hungary, India, Italy, Japan, Singapore, Pakistan, Syrian
1991-2000	United Arab Emirates, Czech Republic, Sri Lanka, Luxembourg, Poland, Tunisia, Australia, Bulgaria, Taiwan, Spain, Algeria, Jordan, Uzbekistan, Ukraine, Mongolia, Romania, Mauritius, Venezuela, Turkey, Kuwait, South Africa, Vietnam, Sudan, Russia, Seychelles, Slovakia, Brunei, Egypt
2005 (termination)	Mauritius
2001-now	Portugal, Suriname, Croatia, Mexico, North Korea, China, Morocco, Papua New Guinea, <b>Hong Kong</b> , Qatar, Iran, Bangladesh, Serbia
<b>Total</b>	<b>67 countries</b>

Source: Directorate General of Taxes, 2020

Prepared by Writer (2020)



Theoretically, the Indonesian state respects the existence of international law even though it is not stated directly in the 1945 Constitution of the Republic of Indonesia. The affirmation of international law is contained in Article 1 and Article 5 Paragraph (1) of Law Number 37 of Year 1999 concerning to foreign relations. The position between Indonesian tax treaty agreements with the Income Tax Law is *lex specialis derogat legi generalis* which means that the special regulations will be more majored than the common regulations. If there is no specific/special regulated related to an issue, then common regulation will be applied. Therefore, if there is a conflict between tax treaty agreement and domestic law situated in the same issue, the tax treaty agreement that will be valid in such case (tax treaty superseding domestic laws).

Before the making and signing the tax treaty agreement between both countries, in the Indonesia aspects, the President of Indonesia needs to consider several things, such as national interests, mutual benefits, mutual respect – respect both the national laws of each country and applicable international law. These are done because the *P3B/Persetujuan Penghindaran Pajak Berganda* is an agreement to definitely bind itself between countries so that each country that agrees to conduct international transactions must be complied with the provisions contained in the tax treaty agreement and be prepared to accept the consequences if it violates the rules in the agreement (Ningrum & Atikasari, 2016).

In Indonesia, the tax treaty approval process is not that complicated if compared to other countries, only by issuing a Presidential Decree then sufficiently notified to House of Representatives of Indonesia or *Dewan Perwakilan Rakyat* (DPR) *Republik Indonesia*. In general, when making a tax treaty agreement, both countries will follow some stages or processes as shown in Figure 4.1.

Basically, the double tax avoidance agreement is valid for indefinite period

until it is terminated by one of the countries bound to the double tax avoidance agreement. In its practice up to this year, there are approximately 70 tax treaty agreement partners working with Indonesia effectively – such as with Netherlands and Hong Kong (Kementerian Keuangan Republik Indonesia, 2020). Indonesia also had ever terminated the double tax avoidance agreement from being implemented – for example with Mauritius due to it causes a lot of cheating which have an impact in decreasing tax revenue for Indonesia on 1<sup>st</sup> January 2005.

#### 4.1.2 General View of Tax Treaty in Netherlands

The Netherlands has settled close to 100 important of double tax avoidance agreements or tax treaty agreements both with European Union (EU) and non-European Union (non-EU) countries. The intention of these tax treaties is to remove double taxation on income originated in the origin country for the foreign investor. Moreover, these tax treaty agreements made and signed by the Netherlands might give a better cooperation between these two countries and set up a pleasant and attractive commercial environment (Rothuizen, 2020).

Below is the table shows on which countries that the Netherlands has concluded tax treaty agreements to avoid double taxation.

**Table 4.2 List of Countries that Carried Out Tax Treaty with the Netherlands**

Albania	Argentina	Armenia	Aruba, St. Maarten en Curacao
Australia	Austria	Azerbaijan	Bahrain
Bangladesh	Barbados	Belarus	Belgium
Bermuda	BES Islands	Brazil	Bulgaria
Canada	China	Croatia	Curacao
Czech Republic	Denmark	Egypt	Estonia
Finland	France	Georgia	Germany
Greece	Hong Kong	Hungary	Iceland
India	<b>Indonesia</b>	Ireland	Israel
Italy	Japan	Kazakhstan	Korea
Kuwait	Kyrgyzstan	Latvia	Lithuania
Luxembourg	Macedonia	Malawi	Malaysia
Malta	Mexico	Moldova	Mongolia
Morocco	New-Zealand	Nigeria	Norway

Oman	Pakistan	Panama	Poland
Portugal	Qatar	Romania	Russian Federation
Saudi Arabia	Singapore	Slovakia	Slovenia
South Africa	South Korea	Spain	Sri Lanka
Surinam	Sweden	Switzerland	Taiwan
Tajikistan	Thailand	Tunisia	The Philippines
Turkey	Turkmenistan	Uganda	Ukraine
Uzbekistan	United Kingdom	Venezuela	United Arab Emirates
Vietnam	Zambia	Zimbabwe	United States of America

Source: Prepared by Writer (2020)

Furthermore, a tax treaty agreement is also an advantageous for branches and subsidiaries in the Netherlands because the protocol among the related these two states will ordinarily permit for a unique withholding tax on dividends, interest, and royalties.

#### 4.1.3 General View of Tax Treaty in Hong Kong

Hong Kong has a comprehensive connection of tax treaties with the objectives to avoid double taxation. Like Indonesia and Netherlands, Hong Kong's tax treaty connection look for to eliminate the barrier posed by double taxation to foreign investment by serving to structure operations at a lower tax rate.

Hong Kong has carried out 43 Double Taxation Agreements (DTA) or Comprehensive DTAs or tax treaty agreements with all countries around the world. Below are the table shows the rates of the beneficial owner in a Comprehensive DTAs between partner countries and Hong Kong on payments of dividends, interest, and royalties.

**Table 4.3 Tax Rates on Dividends, Interest, and Royalties in a Comprehensive DTAs between Partner Countries and Hong Kong**

Country / Region	Effective from	Dividends		Interest (%)	Royalties (%)
		Qualifying Companies (%)	Others (%)		
Austria	Year of Assessment 2012/2013	0	10	-	3
Belarus	Year of Assessment 2018/2019	5	-	5	3/5
Belgium	Year of Assessment 2004/2005	0/5	15	10	5
Brunei	Year of Assessment 2011/2012	-	-	5/10	5
Cambodia	Year of Assessment 2020/2021	10	-	10	10
Canada	Year of Assessment 2014/2015	5	15	10	10
Czech	Year of Assessment 2013/2014	5	-	-	10
Estonia	Year of Assessment 2020/2021	0	10	0/10	5
Finland	Year of Assessment 2019/2020	5	10	-	3

France	Year of Assessment 2012/2013	10	-	10	10
Guernsey	Year of Assessment 2014/2015	-	-	-	4
Hungary	Year of Assessment 2012/2013	5	10	5	5
India	Year of Assessment 2019/2020	5	-	10	10
Indonesia	Year of Assessment 2013/2014	5	10	10	5
Ireland	Year of Assessment 2012/2013	-	-	10	3
Italy	Year of Assessment 2016/2017	10	-	12.5	15
Japan	Year of Assessment 2012/2013	5	10	10	5
Jersey	Year of Assessment 2014/2015	-	-	-	4
Korea	Year of Assessment 2017/2018	10	15	10	10
Kuwait	Year of Assessment 2014/2015	5	-	5	5
Latvia	Year of Assessment 2018/2019	0	10	0/10	0/3
Liechtenstein	Year of Assessment 2012/2013	-	-	-	3
Luxembourg	Year of Assessment 2008/2009	0	10	-	3
Macao SAR	Pending	5	-	5	3
Mainland of China	Year of Assessment 2007/2008	5	10	7	5/7
Malaysia	Year of Assessment 2013/2014	5	10	10	8
Malta	Year of Assessment 2013/2014	-	-	-	3
Mexico	Year of Assessment 2014/2015	-	-	4.9/10	10
Netherlands	Year of Assessment 2012/2013	0	10	-	3
New Zealand	Year of Assessment 2012/2013	0/5	15	10	5
Pakistan	Year of Assessment 2018/2019	10	-	10	10
Portugal	Year of Assessment 2013/2014	5	10	10	5
Qatar	Year of Assessment 2014/2015	-	-	-	5
Romania	Income derived on or after 01.01.2017	3	5	3	3
Russia	Year of Assessment 2017/2018	0/5	10	-	3
Saudi Arabia	Year of Assessment 2019/2020	5	-	-	5/8
South Africa	Year of Assessment 2016/2017	5	10	10	5
Spain	Year of Assessment 2013/2014	0	10	5	5
Switzerland	Year of Assessment 2013/2014	0	10	-	3
Thailand	Year of Assessment 2006/2007	10	-	10/15	5/10/15
United Arab Emirate	Year of Assessment 2016/2017	5	-	5	5
United Kingdom	Year of Assessment 2011/2012	0/15	-	Domestic Rate	3
Vietnam	Year of Assessment 2010/2011	10	-	10	7/10

Source: Inland Revenue Department, 2019

Prepared by Writer (2020)

In addition, tax treaty agreement is also utilized by Hong Kong to strengthen its location as an economic hub of Southeast Asia and to help break down the tax barriers that can restrict investment and cross-border movement of transaction (Hawksford, n.d.).

#### 4.1.4 General View of Tax Treaty between Indonesia and Netherlands

Tax treaty agreement between Indonesia and Netherlands made and signed in Jakarta on 29 January 2002 and has entered into force (effective date) on 1 January 2004. Then, the tax treaty agreement between Indonesia and Netherlands was amended in 2014 after being in force for approximately 10 years since it took effect in Indonesia starting in 2004. The revision protocol was signed by the representative of both countries in Jakarta on 30 July 2015, which has become effective in Indonesia on 6 March 2017

since the issuance of Presidential Regulation Number 24 Year of 2017. In addition, the Presidential Regulation of Indonesia Number 24 Year of 2017 also provides the purpose why Indonesia and Netherlands need to implement the tax treaty revision. The main reason is that the tax treaty protocol amendment is to boost and strengthen cooperation in economy, trading, and investment between both countries.

Indonesia and Netherlands agree to make some changes or amendment to their tax treaty agreement to adjust the economic interests of these two countries. Generally, the process that carried out by both countries to amend this tax treaty agreement does not follow anymore the stages from beginning as when they were just about to make a tax treaty agreement as shown in the Figure 4.1 above. Both countries will skip several processes and the negotiation stage is become the main process needed to amend their tax treaty agreement, followed by initialling stage, signature stage, and the effective date stage.

There are many cases of treaty shopping practices that occur by utilizing tax treaty agreement conducted by Indonesia with partner countries, especially with Netherlands. Treaty shopping is a practice used by multinational companies to minimize taxes that must be paid by abusing and utilizing the provisions in the tax treaty for the sake of undue profits. In other words, treaty shopping is an effort by tax subjects who are not really entitled to obtain the facilities of tax treaty from a country, but these tax subjects form a channel company (Conduit Company) in a country that has a tax agreement to obtain the tax facilities listed in the country's tax treaty. From the 27 cases of disputes that have been found by Indonesian Research Organization, *Perkumpulan Prakarsa* and the Dutch Centre for Research on Multinational Organizations, SOMO, there are about 10 cases that utilizing this tax treaty agreement between Indonesia-

Netherlands for treaty shopping practices, for example PT. Ekamas Fortuna, PT. Indosat, Tbk, and Schlumberger Finance BV in 2013, PT. Wirakarya Sakti in 2015, and etc. All these cases regarding treaty shopping practices were won by the company due to the questionable application of legal concept in beneficial owner of Indonesia. These companies established a conduit companies, letterbox companies or pass-through entities to obtain the benefit of "reduced facilities" especially in the context of beneficial owner in the tax treaty agreement. In addition, actually these companies do not qualify for beneficial owners but it is not mentioned either in the tax treaty agreements or Presidential Regulation No. 13 Year of 2018 of Indonesia (Cut Nurul Aidha, 2019).

One of the examples mentioned above is the beneficial owner dispute between Indonesia-Netherlands of PT. Indosat, Tbk. PT. Indosat established Indosat Finance BV in the Netherlands as a Special Purpose Vehicle (SPV) which aims to raise funds for financing or investment development. PT. Indosat believes that Indosat Finance BV meets the criteria of a beneficial owner because it is a resident of the Netherlands and can receive "reduced rate" facilities in accordance with the provisions of Article 1 and 11 of tax treaty agreement between Indonesia-Netherlands, with the fact that the real purpose of this establishment is to obtain that beneficial owner from the agreement.

On the contrary, according to Indonesia, Indosat Finance BV is clearly not entitled to the benefits provided by Indonesia-Netherlands tax treaty agreement (beneficial owner), including the tariff reduction facility. The reason is because Indosat Finance BV is a pass-through company that does not enjoy and does not even has a full privilege over the interest income received from PT. Indosat. Moreover, Indosat Finance BV is only a conduit company that does not have the substance of economic activity and it is

only an arm of PT. Indosat to seek financing or just as an advocate. Therefore, the taxation system that PT. Indosat should want is that the deduction of income tax on the payment of interest according to the tax treaty agreement cannot be enforced, but must fully comply with Indonesian domestic provisions by using a rate of 20% of the gross compensation paid in accordance with Income Tax Law Article 26 (Malvinas, Syahbandir, & Syarifuddin, 2018).

#### 4.1.5 General View of Tax Treaty between Indonesia and Hong Kong

Tax treaty agreement between Indonesia and Hong Kong made and signed in Jakarta on 23 March 2010 and has entered into force (effective date) on 1 January 2013 in Indonesia and on 1 April 2013 in Hong Kong. The double tax avoidance agreement made by Indonesia with Hong Kong was become a topic that has been discussed for quite a long time by the Indonesian state before both countries has reached the agreement due to Indonesia want to avoid the misuse of the tax treaty agreement – for example treaty shopping practices. Initially, Indonesia was hesitant to sign this tax treaty agreement because having the P3B with the state of tax heaven had become one of the most disadvantage issues. The reason is it has become a great potential of using this tax treaty agreement as an instrument for tax evasion (Prishilia, 2015). However, besides the negative impacts that might cause to Indonesia under this tax treaty agreement, there are also have positive sides of this agreement that can benefit to Indonesia. For example, low corporate tax rates and no taxes on receiving dividends has made Hong Kong as a “business friendly country” and is predicted to increase efficiency for transactions between the two countries because it reduces entry barriers in the form of tax burdens. Therefore, this tax treaty agreement is expected to be able to increase the attractiveness of Indonesia as an investment place for Hong Kong investors.

Moreover, in the Indonesia-Hong Kong and Indonesia-Netherlands tax treaty regulate the treatment of passive income received by beneficial owner. In the case of a beneficial owner is a person, then the person’s domicile state is the country that the person resides. On the other hand, if the beneficial owner is in the form of entity, then the entity’s domicile state is the country where the owner is 50% or more shareholder. In its practices, the beneficial owner has a positive impact because it is made to avoid tax evasion, but it also has a negative impact due it can be used for treaty shopping practices. The following table shows an example of a beneficial owner for corporate taxpayers.

**Table 4.4 An Example of a Party who is becoming the Beneficial Owner of an Astra Indonesia Company**

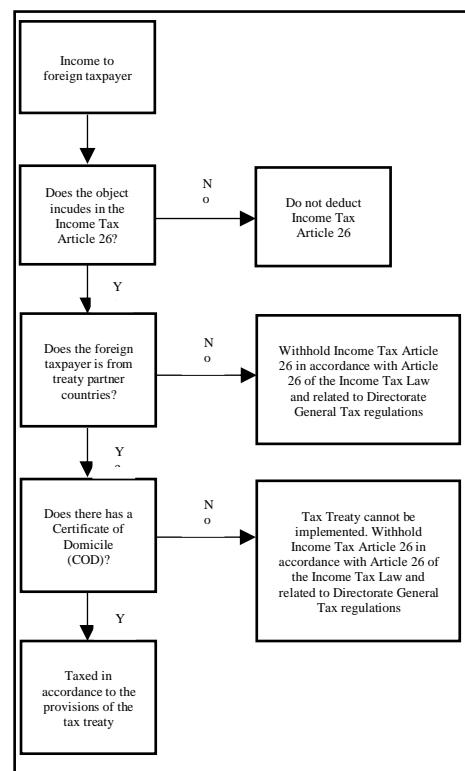
Country	Ownership
Australia	30%
Netherlands	55%
Thailand	15%

**The party who is the beneficial owner is Netherlands**

Source: Yanti, 2014

Prepared by Writer (2020)

Generally, below is the figure show on how the process of determination for the application of Income Tax Article 26 of the Republic of Indonesia or Tax Treaty is.



**Figure 4.2 Determination for the Application of Income Tax Article 26 or Tax Treaty**

Source: Prepared by Writer (2020)

## 4.2 Research Result and Discussion

**Table 4.5 Tax Rates of Foreign Taxpayer in Indonesia and Beneficial Owner Rates in Netherlands and Hong Kong**

Country	Indonesia	Hong Kong	Netherlands
Dividends	20%	10%	15%
Interest	20%	10%	5%
Royalties	20%	5%	10%

Source: Prepared by Writer (2020)

### 4.2.1 Dividends

Based on the Indonesia's taxation regulations, Income Tax Law Article 4 paragraph 2, dividend that is received or obtained by the domestic individual taxpayers is subject to Income Tax of 10% and final. Whereas, if the corporate taxpayers who have less than 25% of shares ownership receive or obtain a dividend, then the income in the form of dividend will be deducted by Income Tax.

Article 23 of 15% of gross income. While for the corporate taxpayers who have a share ownership more than or equal to 25%, they will be exempt from tax. Furthermore, if the recipient of income is a foreign taxpayer, then the income is deducted based on Income Tax Article 26 by 20%. However, in case that the recipient country has a double taxation avoidance agreement and able to provide a Certificate of Domicile (COD), then the rate charged is the tariff in accordance to the applicable tax treaty (Wahyudi, 2018).

The following tables show the imposition of dividend tax rates based on the taxation rules of each country and the tax rates agreed based on the tax treaty.

**Table 4.6 Dividends Tax Rates between Indonesia-Netherlands**

Recipients of Dividends	Indonesia	Netherlands	Tax Treaty
Individual Taxpayer	10% (final)	15%	15%
Corporate Taxpayer (< 25% of shares ownership)	15%	15%	15%

Corporate Taxpayer (≥ 25% of shares ownership)	-	15%	5%
Foreign Taxpayer	20%	15%	

Source: Prepared by Writer (2020)

**Table 4.7 Dividends Tax Rates between Indonesia-Hong Kong**

Recipients of Dividends	Indonesia	Hong Kong	Tax Treaty
Individual Taxpayer	10% (final)	-	10%
Corporate Taxpayer (< 25% of shares ownership)	15%	-	10%
Corporate Taxpayer (≥ 25% of shares ownership)	-	-	5%
Foreign Taxpayer	20%	0%	

Source: Prepared by Writer (2020)

Consider an illustration as follows:

PT Welfare in Indonesia pays dividends to Good Corporation, Wealthy Ltd., and Mr. Flourishing, who are the resident of Hong Kong. Ownership participations of each taxpayer in PT Welfare are as follows: Good Corp. 10%, Wealthy Ltd. 25%, and Mr. Flourishing 40% and the total amount of dividends paid by PT Welfare is 2 billion rupiah.

Indonesia as a source country will collect tax from these dividends based on Article 26 of Income Tax Law at rate of 20% to the three recipients of these dividends if there is no agreement is made through tax treaty. On the other hand, when both countries have a tax treaty agreement, the tax rate imposed will be much lower and even the reduction can reach 50% than before amount that the three recipients will pay. Under this tax treaty between Indonesia and Hong Kong, then the tax rate becomes 10% for Good Corporation and Mr. Flourishing and 5% for Wealthy Ltd. The following table shows the comparison of taxes imposed before and after having the tax treaty.

**Table 4.8 Illustration of the Imposition of Tax Dividends**

Taxpayer	Percentage of Ownership	Dividend Received	Tax Imposition	
			Without Tax Treaty	Tax Treaty
Mr. Flourishing	40%	Rp800,000,000	Rp160,000,000	Rp80,000,000
Good Corp.	10%	Rp200,000,000	Rp40,000,000	Rp20,000,000
Wealthy Ltd.	25%	Rp500,000,000	Rp100,000,000	Rp25,000,000

Source: Prepared by Writer (2020)

Based on the above calculation, tax treaty agreement between Indonesia-Hong Kong provides a large dividend tax reduction of up to 50% or more for Hong Kong investors and this also applies for tax treaty agreement between Indonesia-Netherlands. Moreover, the three taxpayers in the above case do not need to pay any more taxes on such income in their domicile country because dividend tax does not apply in Hong Kong. Conversely, if Indonesian residents who receive or obtain dividends from Hong Kong will also be taxed in accordance with the tax treaty rate even though domestic law in Hong Kong does not charge any dividend tax. This happens because Hong Kong also has the same rights as the source country, as same as Indonesia and the form of agreement that has agreed in the tax treaty agreement by the both countries hold the principle of justice where the rules and regulations made together will apply reciprocally (Prishilia, 2015).

Moreover, for some cases – two companies act as a parent and subsidiary company with one company domiciled in Indonesia and the other in treaty partner country, the dividends will be taxed according to either follow the tax treaty agreement or normal Indonesia provisions and regulations. The recipients of dividends have a choice to choose one of these two applicable regulations. Therefore, if the taxpayers do not want to follow the general dividend tax rate as stated in the tax treaty agreement, then the taxpayer also can use

the related country tax rate (in this case Indonesia) in accordance to follow the Article 24 of Income Tax Law of Indonesia. Furthermore, because in this analysis between the tax treaty agreement Indonesia-Netherlands and Indonesia-Hong Kong have agreed the rate for dividends, the recipients of dividends normally will follow the rate in the tax treaty agreement rather than general taxation law in Indonesia due to lower rate.

#### 4.2.2 Interest

Based on Indonesia's taxation regulations, Indonesia imposes a tax of 15% in accordance with Article 23 of Income Tax Law for resident taxpayers and 20% according to Article 26 of Income Tax Law for non-resident taxpayers (foreign taxpayers) on interest income. On the other hand, in Hong Kong's taxation systems, interest income accruing to a person (including a business entity) carrying on a trade, profession or business in Hong Kong and derived from any deposit placed in Hong Kong with a financial institution is exempt from profits tax, unless the deposit secures a borrowing the interest expense on which is deductible. This exemption does not, however, apply to interest accruing to a financial institution (PricewaterhouseCoopers Limited, 2019).

Tax treaty between Indonesia-Netherlands and Indonesia-Hong Kong regulates that interest arising in an approval country (source country) and paid to residents of the others approval countries (domicile country) may be taxed in both the domicile and source country. The country of domicile may impose a tax according to the tax regulations in force in the country. Different from the domicile country, if the source country that imposes a tax, then the tax imposed must not exceed 10% of the gross amount of income for Hong Kong and 5% for Netherlands.

In accordance with the tax treaty agreement between Indonesia-Hong Kong, interest arising from the source country and received by the government of the domicile

country is exempt from tax. The government intended for the country of Hong Kong are the Government of the Hong Kong Special Administrative Region, Hong Kong Monetary Authority, and a statutory body, institution or financial establishment appointed by the Government of Hong Kong and exclusively agreed upon the competent authorities. Whereas for Indonesia, including the Government of the Republic of Indonesia, Central Bank of Indonesia (*Bank Indonesia (BI)*), Centre for Government Investment (*Pusat Investasi Pemerintah*), Indonesia Eximbank (*Lembaga Pembiayaan Ekspor Indonesia*), and a statutory body, institution or financial establishment appointed by the Government of the Republic of Indonesia and exclusively agreed upon the competent authorities (DDTC, 2013).

The following tables show the imposition of an interest tax rates based on each country's taxation rules and the tax rates agreed in accordance with the tax treaty agreement.

**Table 4.9 Interest Tax Rates between Indonesia-Netherlands**

Recipients of Interest	Indonesia	Netherlands	Tax Treaty
Non-resident Taxpayer	20%	-	5%
Resident Taxpayer	15%	-	

Source: Prepared by Writer (2020)

**Table 4.10 Interest Tax Rates between Indonesia-Hong Kong**

Recipients of Interest	Indonesia	Hong Kong	Tax Treaty
Non-resident Taxpayer	20%	-	10%
Resident Taxpayer	15%	-	

Source: Prepared by Writer (2020)

Consider an illustration as follows: Ferris Wheel Ltd. is a capital company that is domiciled in the Netherlands. PT Orange who is domiciled in Indonesia is given a loan from Ferris Wheel Ltd. with an interest of Rp.300,000,000, -. per year at a time. According to Indonesian domestic law, if there is no tax treaty agreement between Indonesia and Netherlands, the interest will be subject to Article 26 of Income Tax Law amounting to Rp.60,000,000, - or 20% of

the gross amount of the interest. However, there is a tax treaty agreement among both countries and Ferris Wheel Ltd. is a Dutch resident, then it is entitled to enjoy the benefits which is subject to income tax at a rate of 5% (the latest tax treaty regulations between Indonesia-Netherlands after being amended in 2017 from a rate of 10%) of the gross amount of interest. The following table shows the comparison of taxes imposed on interest revenue before and after having the tax treaty.

**Table 4.11 Illustration of the Imposition of Tax Interest**

Amount of Interest	Tax Imposition	
	Without Tax Treaty	Tax Treaty
Rp.300,000,000	20%: Rp.60,000,000	5%: Rp.15,000,000

Source: Prepared by Writer (2020)

### 4.2.3 Royalties

The royalty tax includes one of the elements contained in Article 23 of Income Tax Law of Indonesia. Based on PMK No. 141/PMK.03/2015, the tax rate of Article 23 of Income Tax Law is charged based on the Tax Based or the gross amount of royalties paid at 15% and is not a final tax. Whereas the rate charged if royalties are received by foreign taxpayers is 20% in accordance with the provisions in Article 26 of Income Tax Law of Indonesia. Royalties that referred to this Article are types on royalties on taxpayers, both individual and business entity tax subjects, including those imposed on Permanent Establishment (*Bentuk Usaha Tetap/BUT*) (Rafinska, 2020).

In the Hong Kong taxation systems, the royalty income received by its residents will be added to the net income in the current tax year and multiplied by the tax rate of profits tax. A basis of this taxation is for a person who carries on a trade, profession or business in Hong Kong is chargeable to profits tax on the profits from the trade, profession or business (excluding profits that are capital in nature) that arise in or are derived from Hong Kong (PricewaterhouseCoopers Limited, 2019).

The following table shows the tariff of the profits tax in Hong Kong for period 2019-2020.

**Table 4.12 Rates of Profits Tax in Hong Kong 2019/20**

Conditions	Rates of Tax
Companies:	
1. First \$2,000,000	8.25%
2. On the remainder	16.5%
Unincorporated businesses	
1. First \$2,000,000	7.5%
2. On the remainder	15%

Source: PricewaterhouseCoopers, 2019

On the other hand, if royalties paid to non-residents of Hong Kong for the use of, or the right to use, most types of intellectual property in Hong Kong will be taxed on the basis of tax of 30% of the gross amount of the royalties paid, resulting in an effective tax rate of 4.95% for a corporation and 4.5% for non-corporation. Furthermore, if royalties are received by an affiliated non-resident and the intellectual property was possessed by a person bearing a business, 100% of the royalty is deemed to be taxable, so that the effective rate is 16.5% for a corporation and 15% for non-corporation (Deloitte, 2019).

**Table 4.13 Royalties Tax Rates for Non-Resident in Hong Kong**

Condition	Tariff	Tariff
Royalties are paid to individuals	4.5%	15%
Royalties are paid to business entities	4.95%	16.5%

Source: Prepared by Writer (2020)

Unlike the taxation systems in Hong Kong, the Netherlands does not levy withholding tax on royalties because royalties are considered or counted as the business expenses. However, the Dutch government released the Tax Plan for 2020 on 17 September 2019, which contains a few critical changes to Netherlands tax laws – for example, a planned to introduce a withholding tax on interest and royalties in 2021 to minimize tax avoidance. Under these proposed rules, interest and royalties' payments to an associated company will impose subject to 21.7% withholding tax if the company is located in an identified low-taxed jurisdiction or same as to the main

corporate income tax rate (Baker McKenzie, 2019).

**Table 4.14 Royalties Tax Rates between Indonesia-Netherlands**

Recipients of Royalties	Indonesia	Netherlands	Tax Treaty
Non-resident Taxpayer	20%	-	10% (the maximum rate that can be charged)
Resident Taxpayer	15%	-	

Source: Prepared by Writer (2020)

**Table 4.15 Royalties Tax Rates between Indonesia-Hong Kong**

Recipients of Royalties	Indonesia	Hong Kong	Tax Treaty
Non-resident Taxpayer	20%	30% x 16.5% or 15% x gross amount of the royalties paid	5% (the maximum rate that can be charged)
Resident Taxpayer	15%	16.5% or 15% x net income	

Source: Prepared by Writer (2020)

Consider an illustration as follows: Royal Corporation is a filmmaking company founded in Hong Kong and PT. Cinemdanesia plays film created by Royal Corporation in Indonesia. In accordance with the agreement between both companies, PT. Cinemdanesia is obliged to make a royalty payment to the Royal Corporation which is domiciled in Hong Kong for Rp.250,000,000, -. Based on Indonesian domestic law, if there is no tax treaty agreement between Indonesia and Hong Kong, then the royalty is subject to Income Tax Law Article 26 for amount Rp.50,000,000, - or 20% of the gross amount of the royalties.

However, Indonesia and Hong Kong having a tax treaty agreement, therefore Royal Corporation is entitled to enjoy the benefits of this agreement (beneficial owner), which is charged at a rate of 5% of the gross amount of the royalties. The following table shows the



comparison of taxes imposed on royalty revenue before and after having the tax treaty agreement.

**Table 4.16 Illustration of the Imposition of Tax Royalties**

Amount of Royalties	Tax Imposition	
	Without Tax Treaty	Tax Treaty
Rp.250,000,000	20%: Rp.50,000,000	5%: Rp.12,500,000

Source: Prepared by Writer (2020)

Contrary to the above rules, regulations, and provisions, there is one exception to the application of limited taxing rights to source country for the income of resident taxpayer from domicile country. This situation can be happened as a result if there is an effective relationship between the royalties that the taxpayer obtains and the existence of permanent establishment (*Bentuk Usaha Tetap/BUT*) or permanent place in the source country or related business activities. If this condition happens, the source country has authority of full taxing rights (exclusive taxing rights) on royalties obtained from its country. Therefore, these royalties must be treated as permanent establishment's operating income or permanent place in the source country. In addition, this principle of taxation is often referred to as effective connected income taxation.

To understand the condition more detail, consider an illustration as follows: Royal Corporation is a filmmaking company founded in Hong Kong and PT. Cinemdanesia plays film created by Royal Corporation in Indonesia. In accordance with the agreement between both companies, PT. Cinemdanesia is obliged to make a royalty payment to the Royal Corporation which is domiciled in Hong Kong for Rp.250,000,000, -. Like an illustration above, but in this case, there is an additional information regarding to Royal Corporation. In this illustration, Royal Corporation also established a permanent establishment (*Bentuk Usaha Tetap/BUT*) in the form of a software development in Indonesia. Because of the royalties income received by the Royal

Corporation has an effective relationship with the Royal Corporation's permanent establishment in the form of software development office in Indonesia, so the income in the form of royalties must be treated as a part of the profits of the permanent establishment. In other words, the income is considered as operating income and Indonesia can tax the income based on the taxation rules and provisions in Indonesia.

Thus, PT. Cinemdanesia must withhold this tax in accordance with Article 23 of Income Tax Law of Indonesia at a rate of 15%. The reason is because the taxation treatment for permanent establishment is the same as the taxation treatment for domestic entity (corporate) taxpayer. The income tax that is deducted by PT. Cinemdanesia can be reduced as a tax credit in calculating the annual income tax of the Royal Corporation's permanent establishment.

In addition to the royalties' rules and regulations received by the taxpayer discussed above, there is also a provision if the amount of the royalties paid by the taxpayer exceeds the fair value in the tax treaty agreement between Indonesia-Hong Kong and Indonesia-Netherlands. This can happen due to having a special relationship between the payer of the royalty and the rights owner who have a beneficial owner from this royalty or between these two parties and another person/entity. Therefore, tax calculations under this condition is that the provisions of the tax treaty agreement between both countries are only applied to a reasonable amount of royalties while the amount that exceeds the fairness will be calculated in accordance with the domestic laws and provisions of each country.

Consider an illustration as follows: Royal Corporation is a filmmaking company founded in Hong Kong and PT. Cinemdanesia plays film created by Royal Corporation in Indonesia. In accordance with the agreement between both companies, PT. Cinemdanesia is obliged to

make a royalty payment to the Royal Corporation which is domiciled in Hong Kong for Rp.250,000,000, -. At the same time, Royal Corporation also gives playing films rights to its subsidiary, PT. Royal Child which also domiciled in Indonesia with an obligation to pay royalties of Rp.600,000,000, -. Then, the amount of payment from PT. Royal Child to Royal Corporation with the provisions following the tax treaty agreement rates is shown in the following table.

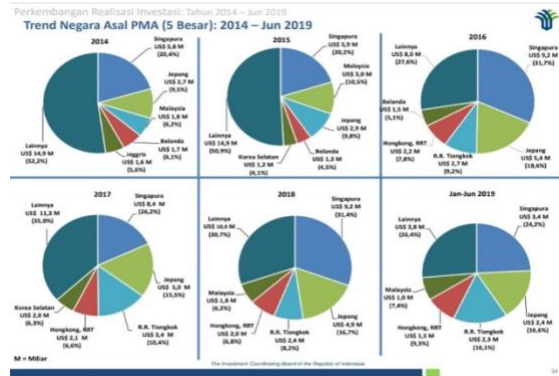
**Table 4.17 Calculation of Royalties (exceeds the fair value)**

Amount of Royalties	Condition	The Payment of Tax
Rp.600,000,000	Rp.250,000,000 (fair value)	5%: Rp.12,500,000
	Rp.350,000,000 (exceeds)	20%: Rp.70,000,000

Source: Prepared by Writer (2020)

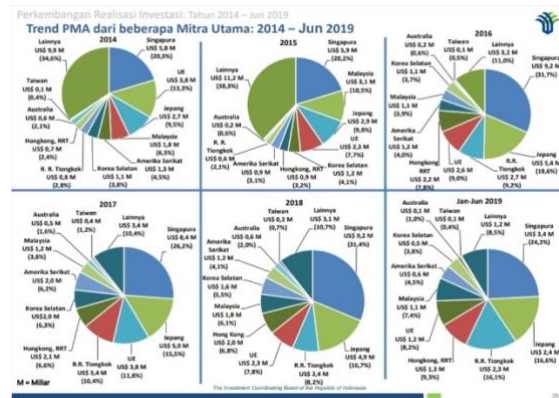
#### 4.2.4 The Effect of Indonesia-Netherlands and Indonesia-Hong Kong Tax Treaty on Foreign Investment in Indonesia

A lot of countries in Asia and Europe regions carry out investment activities in Indonesia, such as Hong Kong and Netherlands. Based on the statistical data on the development of investment realization of foreign investment collected by *Badan Koordinasi Penanaman Modal* (BKPM) up to June 2019, Hong Kong ranks at the fourth position for the Asian region outside the ASEAN (Associated South East Asian and Nations) countries after Singapore at the first followed by Japan and China respectively at the second and third position (shown in figure below). While for the Netherlands, it ranks in the first position and becomes Indonesia's largest investment partner in the European region. Data from *Badan Koordinasi Penanaman Modal* (BKPM) said that the Dutch is on the fifth position below, one strip below the Hong Kong with a value of US\$ 0.4 billion or 5.3% of the total foreign investment in Indonesia (Lumanauw, 2019).



**Figure 4.3 Development of Investment Realization from the Top 5 Countries (2014- June 2019)**

Source: Badan Koordinasi Penanaman Modal (BKPM) – RI, 2019

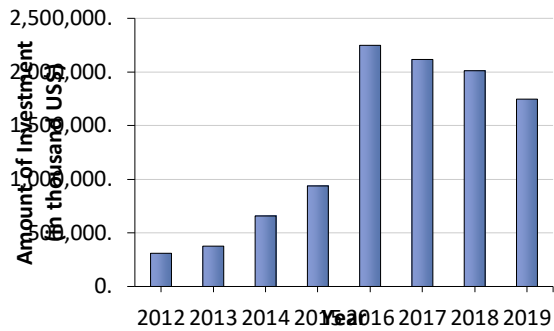


**Figure 4.4 Development of Investment Realization from Several Treaty Partner (2014-June 2019)**

Source: Badan Koordinasi Penanaman Modal (BKPM) – RI, 2019

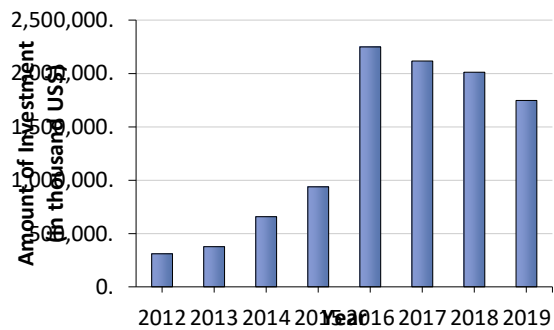
Tax treaty agreement between Indonesia and Hong Kong made and signed in Jakarta on 23 March 2010 and has entered into force (effective date) on 1 January 2013. Since the signing of tax treaty agreement between Indonesia and Hong Kong, an investment from Hong Kong in Indonesia has increased on that year. Moreover, projects carried out by Hong Kong in Indonesia continue to increase year by year and this condition is certainly giving a very positive impact on the Indonesian economy. The following figures showing the number of investments originating from Hong Kong from 2012 to 2019 for which data were obtained from

Badan Koordinasi Penanaman Modal (BKPM).



**Figure 4.5 Amount of Investment from Hong Kong in Indonesia 2012-2019**

Source: Badan Koordinasi Penanaman Modal (BKPM) – RI, 2019



**Figure 4.6 Number of Projects from Hong Kong in Indonesia 2012-2019**

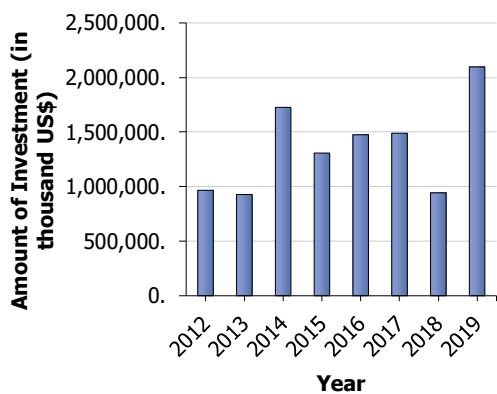
Source: Badan Koordinasi Penanaman Modal (BKPM) – RI, 2019

From the figures above, it can be concluded that the application of this tax treaty agreement between Indonesia and Hong Kong is one of the form of cooperation between both countries in the economic and investment sectors that can be utilized to enhance economic growth in Indonesia. Since the enactment of the tax treaty agreement between Indonesia and Hong Kong in 2013, investment from Hong Kong in Indonesia has risen to 376 thousand US\$ from 309 thousand US\$ in 2012. As a result, the number of projects from Hong Kong in Indonesia in 2013 has also increased 128 from 105 in 2012.

In addition, the number of investment flow projects from Hong Kong to Indonesia continues to increase from year to year. The biggest increase in

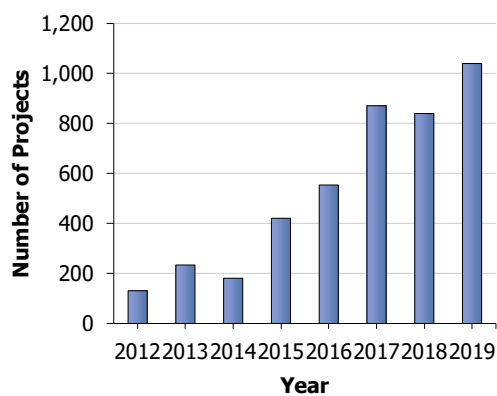
investment occurred in 2016 where the amount of investments increased by around 140% from the previous year. On the other hand, the largest project improvements occurred in 2013, where in that year was the beginning of the implementation of the tax treaty agreement between Indonesia and Hong Kong with an increase has almost touched of 120%. Thus, looking at the statistics data from BKPM regarding the amount of investment and the number of projects from Hong Kong to Indonesia, the economic relations and investment between these two countries are predicted to continue to increase and develop in the following years.

The close and expanding economic, investment, and trade relations between Indonesia and Hong Kong can be seen with the frequent that Indonesian president receiving honorary visits from the Chief Executive of the Hong Kong Special Administrative Region. The last visit from Carrie Lam Cheng Yuet-ngor, the Chief Executive of the Hong Kong Special Administrative Region in the middle of 2018 discussed several efforts to increase cooperation in the economic field, especially in improving infrastructure projects, trades, and investments between Indonesia and Hong Kong. To ensure that economic and investment relations between these two countries continue to increase in the future, several attempts were also made by the Indonesian government. Indonesia built a pavilion in Hong Kong which is expected to be used to permanently display all the Indonesia's economic potentials such as Indonesian export goods, investment consultations, and so on. Moreover, tax treaty agreement between Indonesia and Hong Kong is not only being profitable in the economic field, but also will strengthen the integrity of the Indonesian taxation system by facilitating the exchange of taxpayer information, including banking information.



**Figure 4.7 Amount of Investment from Netherlands in Indonesia 2012-2019**

Source: Badan Koordinasi Penanaman Modal (BKPM) – RI, 2019



**Figure 4.8 Number of Projects from Netherlands in Indonesia 2012-2019**

Source: Badan Koordinasi Penanaman Modal (BKPM) – RI, 2019

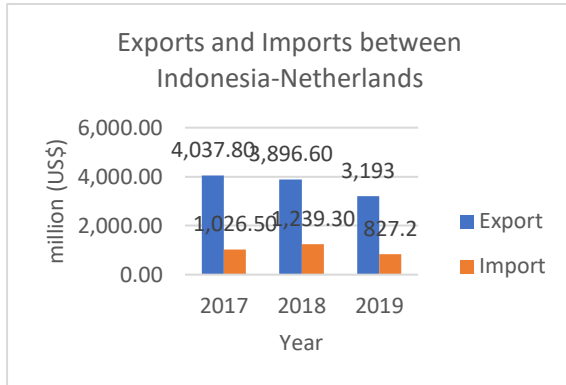
Tax treaty agreement between Indonesia and Netherlands made and signed in Jakarta on 29 January 2002 and has entered into force (effective date) on 1 January 2004. After going into effect internationally in 2004, there was an increase in the amount of investment from the Netherlands to Indonesia in the next few years but the increase that occurred was not as significant as from Hong Kong in 2013. Entering 2012 to 2016, the value of investments made by the Dutch in Indonesia tends to be constant and not even developing (decreasing) in some periods. Therefore, both countries finally have

imposed a protocol amendment in term on beneficial owner by reducing the tax rates on dividends, interest, and royalties in 2017.

On 1 August 2017, Indonesia and Netherlands have officially enacted the amended of this tax treaty agreement. In 2018, there has been no significant increase in the amount of investment made by the Netherlands in Indonesia due to the changes or amendment in this tax treaty agreement between Indonesia and Netherlands. The current investment value and number of projects respectively in 2018 in Indonesia from Netherlands was 943,123.2 thousand US\$ and 840. The biggest impact on investment value and number of projects from the Netherlands to Indonesia due to the change in tax treaty agreement can be seen in the following year, 2019. The investment value increased by almost 130% (one and a half times) from the previous year's investment and reached the value to 2,096,531.9 thousand US\$. Moreover, just as the number of investments increased, the number of projects carried out in the Netherlands to Indonesia also rose from 840 to 1040 according to the data from *Badan Koordinasi Penanaman Modal (BKPM) Republik Indonesia (RI)*. From the data and discussion above, it can be seen that the application of tax treaty agreement that Indonesia have can encourage and attract investment in a country with various tax reduction so that economic growth in a country will increase and develop as stated by Pires.

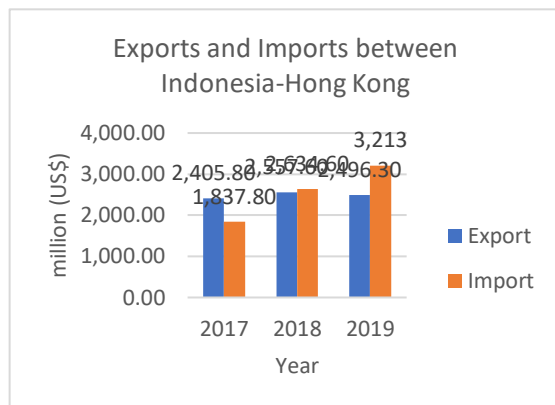
Furthermore, in the figure and discussion above, the number of projects that the Hong Kong and Netherlands undertake in Indonesia continue to increase each year in general. However, the amount of investment made by the Netherlands and Hong Kong may not necessarily increase in accordance with the size of the projects carried out by these two countries in Indonesia. Based on the analysis, the most probable main reason is because of the tax avoidance efforts made by the taxpayers themselves. As stated above, many

irresponsible parties deliberately avoid tax by utilizing the tax treaty agreement or *Persetujuan Penghindaran Pajak Berganda* (P3B) that has been agreed by both countries.



**Figure 4.9 Trade of Balance between Indonesia and Netherlands**

Source: Badan Pusat Statistik (BPS)  
Prepared by Writer (2020)



**Figure 4.10 Trade of Balance between Indonesia and Hong Kong**

Source: Badan Pusat Statistik (BPS)  
Prepared by Writer (2020)

Based on the data obtained from *Badan Pusat Statistik* (BPS) Indonesia, Indonesia still tends to import more than export. In 2019, the value of imports made by Indonesia reached 170,727.4 million US\$ while the export value was only at 167,497.0 million US\$. This situation also applies to trade of balance with Hong Kong (see Figure 4.10) but not to Netherlands (see Figure 4.9). Generally, this condition will make the amount of taxes levied by the Indonesian government from international transactions will decrease due to the

implementation of relatively low tariffs in the tax treaty agreement. Moreover, this low tariff implementation is not a reason for a country not to conduct a tax treaty agreement with another country due to it will indeed harm the total state revenue in Indonesia. On the contrary, this low tariff application will make many investors from treaty partners interested to invest in Indonesia. Furthermore, this issue will cause tax revenue to the Indonesian government has the potential to increase in the future.

According to the discussion above, it can be concluded that the tax treaty agreements between Indonesia-Netherlands and Indonesia-Hong Kong has a great potential to increase the state revenues of Indonesia. Revenues from the investment sector is continuing to develop from year to year looking at the figure relating to the amount of investment and the number or projects from Netherlands and Hong Kong and it will automatically develop the economic growth in Indonesia. From the Figure 4.5 above, the amount of investment made by Hong Kong in Indonesia has decreased in recent years. One of the main causes is due to the months of demonstration carried out by the resident of Hong Kong at the end of 2019. This investment's condition will be predicted to improve again in 2020, however, with the current situation of pandemic (COVID-19), the target to encourage investment by the government of Indonesia from Hong Kong, Netherlands, and some countries to Indonesia could have disappeared or vanished.

Beside to the benefits or advantages that can be found, every regulation that is implemented must also have shortcomings, for example *Perjanjian Penghindaran Pajak Berganda* (P3B) or tax treaty agreement. The implementation of tax treaty between Indonesia and partner countries does not always run smoothly without problems. As already discussed by Amanda Prishilia (2015), the tax treaty agreements between Indonesia-Netherlands

and Indonesia-Hong Kong has several disadvantages that need to be renegotiated by these countries, especially regarding to the tariffs or rates. Tax treaty agreement is also considered by the Indonesian government as a tool to increase Indonesia's revenues from taxes. If the tariff agreed in the tax treaty agreement is too low, this situation will cause losses due to the elimination of taxation rights in Indonesia.

Furthermore, the beneficial owner contained in the tax treaty agreement is still often utilized as a tool for taxpayers to carry out treaty shopping practices. The issue of beneficial owner are also become a huge problem for Indonesia and often cause a loss when there is a case of dispute because the concept of beneficial owner in the Presidential Regulation No. 13 Year of 2018 does not explicitly regulate the tax sector (it is about money laundering and terrorism financing). Therefore, the Indonesian government needs to reaffirm the application of the beneficial owner so that it can function properly in practice and does not misused by irresponsible parties or parties who are not actually has the right to receive these benefits.

**Table 4.18 Table of Comparison in Tax Treaty between Indonesia-Netherlands and Indonesia-Hong Kong**

Criteria	Indonesia-Netherlands	Indonesia-Hong Kong
<b>Background of implementing tax treaty agreement for Indonesia</b>	to avoid double taxation to prevent tax evasion	to improve cooperation in the economic field with Hong Kong to strengthen the integrity of Indonesia's taxation system with exchange of taxpayer information, including bank information facility
<b>Rates in related to beneficial owner</b>	dividends: • 5% ( $\geq$ 25% of shares ownership)	dividends: • 5% ( $\geq$ 25% of shares ownership)

	<ul style="list-style-type: none"> <li>• 10% (enjoy the benefits of pension funds and other income which are generally exempt from tax)</li> <li>• 15% (for other cases)</li> </ul> interest: 5% royalties: 10%	<ul style="list-style-type: none"> <li>• 10% (&lt; 25% of shares ownership, and other cases)</li> </ul> interest: 10% royalties: 5%
<b>Amendment of tax treaty agreement</b>	signature of protocol revision: 30 July 2015 effective date: 6 March 2017 the purpose is to increase cooperation in the economic field, trade, and investment between both countries	-
<b>The impact after the tax treaty is implemented (positive impact)</b>	The amount of investment made by the Netherlands to Indonesia is not very influential after the first tax treaty agreement was implemented in 2002. However, after both countries amended the tax treaty agreement in 2015 (effective in 2017), the amount of investment has begun to increase significantly in the last 2-3 years	The amount of investment made by Hong Kong to Indonesia has increased sharply every year start from 2012, despite a decline in recent years due to a long demonstration that took place in Hong Kong
<b>Negative impact</b>	From the period 2010	Until now, no tax avoidance

	until 2019, there was 27 cases of disputed that utilized this tax treaty agreement and it was used as the most desirable way for tax avoidance	cases have been disclosed involving tax treaty between these two countries
--	------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------

Source: Prepared by Writer (2020)

## V. CONCLUSION

This research intends to learn and understand the differences in implementation of tax treaty between Indonesia-Hong Kong (Asia) and Indonesia-Netherlands (Europe) in related to beneficial owner in accordance to OECD Model and to know the advantages and disadvantages toward Indonesia under these applicable tax treaty agreements. According to the discussion and the result of data analysis, the conclusion of this research are as follows:

1. The Netherlands and Hong Kong are examples of many countries in Asia and Europe that have made tax treaty agreement with Indonesia, especially in matter relating to beneficial owner, such as dividends (Article 10), interest (Article 11), and royalties (Article 12). The beneficial owner must be able to be used appropriately by the parties who are entitled to obtain such benefits so that the fraud does not occur by those parties who are not responsible for the benefit related to dividends, interest, and royalties. Tax treaty is still often used by many irresponsible parties as a tool to avoid tax through treaty shopping practices scheme, which can cause big losses to Indonesia due to unclear legal concept, such as beneficial owner.
2. In the condition of a beneficial owner in relating to dividends, interest, and royalties in the tax treaty agreement between Indonesia-Hong Kong and Indonesia-Netherlands, the taxation

right is owned by both the domicile and source country. Moreover, in the regulations of the tax treaty agreement between these countries, taxes that is paid in the source country will be credited to become a tax deduction in the domicile country.

3. The rate differences imposed and approved in the tax treaty agreement between Indonesia-Hong Kong and Indonesia-Netherlands, especially in matter relating to the beneficial owner which includes dividends, interest, and royalties is an agreement of both countries to adjust the economic interests of the country in the agreement. For example, the tax treaty agreement between Indonesian and the Dutch has been amended several years ago by reducing the rates in the beneficial owner with the aim of increasing economic growth in each country. Rate issues related to beneficial owner is also needed to put a huge attention because investment in the form of dividends, interest, and royalties are subject to high taxes and will cause a big doubt from treaty partners as well as the investment growth will become slow if the rates are unattractive. In addition, changes to domestic taxation law must be followed by adjustments to the existing tax treaty agreements.
4. The main benefit obtained by Indonesia, Hong Kong, the Netherlands for the approval and implementation of the tax treaty agreement is to facilitate and to provide convenience for each country regarding to taxation rights, so that the double taxation can be prevented or minimized. For Indonesia, besides tax treaty agreement is used for avoiding double taxation that can harm several parties, it is also made by Indonesian government as a tool to increase the amount of investment from treaty partner countries to Indonesia. Therefore, the economic growth in Indonesia will continue to develop in the future.

## REFERENCES

- Akbar, C. (2019, December 5). *Potensi Hilang Penerimaan Pajak Capai 390,5 M Akibat Beleid Ini*. Retrieved from [bisnis.tempo.co: https://www.google.com/amp/s/bisnis.tempo.co/amp/1280342/potensial-hilang-penerimaan-pajak-capai-3905-m-akibat-beleid-ini](https://www.google.com/amp/s/bisnis.tempo.co/amp/1280342/potensial-hilang-penerimaan-pajak-capai-3905-m-akibat-beleid-ini)
- Badan Pusat Statistik Indonesia. (2018). *Foreign Trade Statistical Bulletin Imports December 2018*. Jakarta: BPS-Statistics Indonesia.
- Badan Pusat Statistik Indonesia. (2019). *Foreign Trade Statistical Bulletin Imports December 2019*. Jakarta: BPS-Statistics Indonesia.
- Badan Pusat Statistik Indonesia. (November 2019, November). *Foreign Trade Statistical Bulletin Imports November 2019*. Jakarta: BPS-Statistics Indonesia.
- Baker McKenzie. (2019, September 18). *The Netherlands Tax Plan 2020*. Retrieved from Baker McKenzie: [https://www.google.com/url?sa=t&source=web&rct=j&url=https://www.bakermckenzie.com/en/insight/publications/2019/09/the-netherlands-tax-plan-2020&ved=2ahUKEwjR5bnavbDoAhXLR30KHZ2zDJsQFjATegQlChAB&usg-AOvVaw3tfV2rYhQz7iToAa\\_AoNaa](https://www.google.com/url?sa=t&source=web&rct=j&url=https://www.bakermckenzie.com/en/insight/publications/2019/09/the-netherlands-tax-plan-2020&ved=2ahUKEwjR5bnavbDoAhXLR30KHZ2zDJsQFjATegQlChAB&usg-AOvVaw3tfV2rYhQz7iToAa_AoNaa)
- Bravo, N. (2016). The Multilateral Tax Instrument and Its Relationship with Tax Treaties. *World Tax Journal*, 279-304.
- Castillo-Murciego, A., & Lopez-Laborda, J. (2018, February 21). The effect of Double Taxation Treaties and Territorial Tax Systems on Foreign Direct Investment: evidence for Spain. *Economics*.
- Crossman, A. (2019, June 30). *An Overview of Qualitative Research Methods*. Retrieved from ThoughtCo.: <https://www.thoughtco.com/qualitative-research-methods-3026555>
- Cut Nurul Aidha, A. M. (2019). *How the Indonesia-Netherlands tax treaty enables tax avoidance: An analysis of the treaty and Indonesian court decisions on corporate tax disputes*. Amsterdam and Jakarta Selatan: SOMO and Perkumpulan Prakarsa.
- DDTC. (2013). *Perjanjian Penghindaran Pajak Berganda*. Retrieved from DDTC: <https://engine.ddtc.co.id/p3b/read/hongkong>
- DDTC. (2017, July 7). *Begini Poin Penting Revisi P3B Indonesia-Belanda*. Retrieved from DDTC Indonesia: <https://news.ddtc.co.id/begini-poin-penting-revisi-p3b-indonesia-belanda-10437>
- DDTC. (2019, July 16). *Perjanjian Penghindaran Pajak Berganda*. Retrieved from DDTC Tax Engine: <https://engine.ddtc.co.id/p3b>
- Deloitte. (2019, July). *International Tax Hong Kong Highlights 2019*. Retrieved from Deloitte: <https://www2.deloitte.com>
- DFDL. (2015). Salient Features of the ASEAN Model Tax Treaty. 355-375.
- Directorate General of Tax. (2013). *PPh Pajak Penghasilan*. Jakarta Selatan.
- Direktorat Jendral Pajak. (2020). *Tax Treaty*. Retrieved from [pajak.go.id: https://www.pajak.go.id/id/tax-treaty](https://www.pajak.go.id/id/tax-treaty)
- Ernawati, W. D. (2018). *Perpajakan Terapan Lanjutan*. Malang : Polinema Press.
- Flouren, S. (n.d.). *Beneficial Owner di dalam Tax Treaty (Studi Kasus Tax Treaty Indonesia-Belanda)*. Jakarta Barat.



- Hawksford. (n.d.). *Hong Kong Double Tax Treaties*. Retrieved from GuideMeHongKong: <https://www.guidemehongkong.com/business-guides/supporting-a-business/hong-kong-double-tax-treaties-guide>
- Helminen, M. (2014). *The Nordic Multilateral Tax Treaty as a Model for a Multilateral EU Tax Treaty*.
- Inland Revenue Department. (2019, December 30). *Tax Rates for Dividends, Interest, Royalties and Technical Fees*. Retrieved from Inland Revenue Department: [https://www.ird.gov.hk/eng/tax/dta\\_rates.htm](https://www.ird.gov.hk/eng/tax/dta_rates.htm)
- Kementerian Keuangan Republik Indonesia. (2020, February 3). *Ini Penjelasan Singkat Persetujuan Penghindaran Pajak Berganda (P3B) atau Tax Treaty*. Retrieved from kemenkeu: <https://www.kemenkeu.go.id/publikasi/berita/ini-penjelasan-singkat-persetujuan-penghindaran-pajak-berganda-p3b-atau-tax-treaty/>
- Lumanauw, N. (2019, October 7). *Jokowi: Belanda Mitra Strategis Investasi di Eropa*. Retrieved from Berita Satu: <https://www.beritasatu.com/ekonomi/578687/ekonomi/578687-jokowi-belanda-mitra-strategis-investasi-di-eropa>
- Malvinas, F., Syahbandir, M., & Syarifuddin. (2018, August). Analisis Tentang Beneficial Owner Dalam Persetujuan Penghindaran Pajak Berganda Indonesia-Belanda Dalam Sengketa Banding PT. INDOSAT, Tbk di Pengadilan Pajak. *Syiah Kuala Law Journal*, 2, 276-286.
- Mukarromah, A. (2018, October 25). *Apa Perbedaan P3B OECD Model & UN Model?* Retrieved from DDTC Indonesia: <https://news.ddtc.co.id/apa-perbedaan-p3b-oecd-model--un-model-13992>
- Ningrum, N. M., & Atikasari, N. (2016, February). Analisis Hukum P3B dengan Hukum Domestik Terkait Perpajakan di Indonesia. Depok, Indonesia. Retrieved from academia.edu.
- Noviani, L. P., Diatmika, I. P., & Yasa, N. P. (2017). Pengaruh Tax Avoidance Terhadap Nilai Perusahaan Dengan Transparansi Informasi Sebagai Variabel Pemoderasi. *e-Journal SI Ak Universitas Pendidikan Ganesha*, 8.
- Pohan, C. A. (2018). *Pedoman Lengkap Pajak Internasional: Konsep, Strategi, dan Penerapan*. Jakarta: PT Gramedia Pustaka Utama.
- PricewaterhouseCoopers Limited. (2019). *2019/20 Hong Kong Tax Facts and Figures*. Queen's Road Central: Pricewaterhouse Coopers Limited.
- Prishilia, A. (2015). Perjanjian Tax Treaty antara Indonesia dan Hongkong. 43-70.
- Rafinska, K. (2020, January 13). *Pajak Royalti di Indonesia: Kenali Lebih Jauh Penerapannya!* Retrieved from online-pajak: <https://www.online-pajak.com/pajak-royalti-di-indonesia-kenali-lebih-jauh-penerapannya>
- Rothuizen, R. P. (2020, April 1). *Netherlands Double Tax Treaties*. Retrieved from LawyersNetherlands.com: <https://www.lawyersnetherlands.com/holland-double-taxation-avoidance-agreements>
- Sasseville, J. (2017). *Model Tax Convention on Income and on Capital: Condensed Version*. OECD Publishing.
- Selezen, P. (2017, October). Purposes of double taxation treaties and interpretation of beneficial owner concept in Ukraine. *Juridical Tribune*, 7, 26-36.
- Steenkamp, L.-A. (2013, September). Beneficial Ownership Provisions In Tax Treaties Between Developed And Developing Countries: The Canada/South Africa Example. *International Business & Economics Research Journal*, 12, 1107-1118.
- Wahyudi, K. J. (2018, June 8). *Pajak atas Dividen di Indonesia*. Retrieved from smconsult: <https://smconsult.co.id/id/dividen-dan-pajak-2/>

Yanti, S. (2014). Analisis Mengenai Perbandingan Beneficial Owner Di Dalam Tax Treaty.  
*Universitas Bina Nusantara*, 1-12.