

The Role of Law in Taxation Policy as an Economic Control Tool: A Case Study of Tax Amnesty in Indonesia

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ABSTRACT

This study examines the role of law in Indonesia's tax amnesty policy as a means of economic control. Using normative legal research, the study analyzes secondary data from primary, secondary, and tertiary legal sources. The findings reveal that Indonesia's low tax ratio and widespread taxpayer non-compliance, including forgery, underreporting, and asset concealment, remain significant challenges for tax policy. These challenges stem from both suboptimal tax collection mechanisms and taxpayer resistance. Despite the controversy surrounding tax amnesty, the law plays a strategic role in providing legal certainty, encouraging honest reporting, and increasing state revenue, which is essential for national development.

INTRODUCTION

Taxation policies have long been recognized as critical components of fiscal policy, serving not only to generate revenue but also as essential tools for economic control. Taxation enables governments to regulate economic activities, manage national resources, and achieve economic objectives, such as promoting growth, enhancing stability, and ensuring equitable income distribution (Gilarso, 2004). In Indonesia, fiscal policy includes managing state finances through the allocation of revenue and expenditure, primarily with taxes acting as the government's main revenue source. However, the effectiveness of tax collection faces challenges like low compliance and widespread tax evasion. This research seeks to analyze the role of law in Indonesia's taxation policies, focusing on the implementation of tax amnesty as an economic control tool.

Tax policies are utilized by governments to influence the economy by regulating spending, investment, consumption, and production. In particular, tax revenue is a critical means by which a government funds public services and infrastructure projects, thus driving economic growth and stability (Frederic, 2008). Furthermore, through progressive and regressive tax systems, taxes can act as redistributive mechanisms to address inequality and ensure the equitable distribution of wealth. Therefore, taxation not only serves to finance government operations but also operates as an economic instrument to mitigate inflation, unemployment, and foster overall national development (Khasanah, 2020). Fiscal policy refers to the management of government revenue and expenditure to influence the economy. In Indonesia, this includes revenue generated from taxes, which form the backbone of government finances, enabling public spending on infrastructure, education, healthcare, and other development projects. The success of fiscal policy in achieving its objectives depends on the efficiency and fairness of tax collection. Although taxes serve as a significant revenue source, the country has historically struggled with tax collection due to a low tax ratio and compliance (Khasanah, 2020). This has forced the Indonesian government to explore other methods of improving revenue, such as strengthening state-owned enterprises (SOEs) and encouraging foreign investment. Nevertheless, taxation remains the most reliable source of state income. The legal framework surrounding taxation is vital for ensuring the consistency and predictability necessary for compliance. Legal certainty in tax policy is a critical factor influencing taxpayer behavior. When taxpayers trust that the law will be applied consistently and fairly, they are more likely to comply with tax regulations (Shcherbanyuk et al., 2023). In Indonesia, however, the complexity of tax laws, coupled with inconsistent enforcement, has contributed to a culture of tax evasion and avoidance. The introduction of tax amnesty policies, backed by specific laws such as Law No. 11 of 2016 and Law No. 7 of 2021, aims to address this issue by providing legal certainty and encouraging voluntary compliance.

Tax amnesty is a policy introduced by many countries, including Indonesia, as a way to improve compliance and boost government revenues by

allowing taxpayers to declare previously undeclared assets without facing penalties or legal consequences (Wijaya et al., 2020). In Indonesia, tax amnesty has been introduced several times, most notably through Law No. 11 of 2016 and Law No. 7 of 2021 on the Harmonization of Tax Regulations. These legal frameworks were designed to increase tax compliance and optimize revenue collection by incentivizing individuals and entities to voluntarily disclose their hidden wealth (Sundari et al., 2022). Tax amnesty allows the government to collect taxes that would otherwise remain hidden, thus increasing revenue in the short term. It also offers long-term economic benefits by improving the tax database and encouraging future compliance. By offering forgiveness for past non-compliance, tax amnesty provides an incentive for taxpayers to come forward and declare their hidden assets, thereby contributing to economic stability and growth. Additionally, it helps repatriate assets held abroad, further boosting the national economy (Alm & Soled, 2020). However, the success of tax amnesty as an economic control tool depends on how well it is enforced and whether it is seen as a one-time opportunity or part of an ongoing fiscal strategy (Sundari et al., 2022). Indonesia's tax amnesty policy has been implemented in phases, starting with Law No. 11 of 2016 and continuing with Law No. 7 of 2021. The Voluntary Disclosure Program (VDP), introduced as part of the Harmonization of Tax Regulations, extends the tax amnesty framework by offering lower tax rates to those willing to declare unreported assets. The government hopes this will increase taxpayer participation and improve compliance rates. Nevertheless, challenges persist, including resistance from taxpayers, the complexity of the tax system, and the perception that tax amnesty benefits only the wealthy, who can afford to hide their assets (Zarzani, 2024).

The object of this research is the tax amnesty policy in Indonesia, specifically analyzing its role as an economic control tool under the country's legal framework. Since its introduction, tax amnesty in Indonesia has undergone several iterations, with the most recent being the Voluntary Disclosure Program (VDP) outlined in Law No. 7 of 2021. This policy continues to be a focal point of Indonesia's strategy to enhance taxpayer compliance and expand its tax base, with the ultimate goal of fostering a stable and equitable economic environment (Larasdiputra & Saputra, 2021).

Despite its potential benefits, the implementation of tax amnesty in Indonesia has been met with several challenges. These include a low tax-to-GDP ratio, tax evasion, and reluctance from taxpayers to fully disclose their assets. In Indonesia, tax compliance remains relatively low compared to other countries, reflecting the widespread culture of non-compliance and mistrust in the tax system (Alm & Soled, 2020). Furthermore, the issue of tax avoidance and evasion through the manipulation of financial reports and the concealment of assets continues to undermine the government's efforts to expand its revenue base (Shahryar, 2021).

Existing studies on tax amnesty policies have largely focused on their economic impact and the increase in tax revenue post-implementation. However, the gap lies in understanding the legal dimension of these policies

and their efficacy as long-term economic control tools. While the increase in immediate revenue collection is well-documented, there is limited exploration of how tax amnesty fosters legal compliance and stabilizes the economy over time. Additionally, research into the consistency of legal frameworks and the role of law in ensuring that tax amnesty policies do not merely act as short-term fiscal measures but support sustainable economic growth remains underdeveloped (Larasdiputra & Saputra, 2021; Sundari et al., 2022).

This research aims to investigate the role of legal frameworks in Indonesia's tax amnesty policy and its function as a tool for economic control. It will analyze how laws shape the formulation and implementation of tax amnesty, assess the effectiveness of the policy in fostering long-term taxpayer compliance and economic stability, and identify the challenges faced by Indonesia in utilizing tax amnesty to enhance state revenue and promote economic growth. The study seeks to provide a comprehensive understanding of the legal and economic dynamics of tax amnesty in the country.

LITERATURE REVIEW

A review of existing literature shows that tax amnesty policies are widely implemented as fiscal tools by governments to improve tax compliance and enhance revenue collection. Research has shown that such policies allow governments to encourage taxpayers to declare previously hidden assets without facing legal consequences, thus providing an immediate boost to state revenue (Wijaya et al., 2020). However, while tax amnesty can increase short-term revenue, its effectiveness as a long-term economic control tool remains debated, with studies suggesting the need for robust legal frameworks to ensure lasting compliance and prevent the recurrence of evasion (Alm & Soled, 2020). In Indonesia, laws such as Law No. 11 of 2016 and Law No. 7 of 2021 offer structured programs to encourage asset disclosure and enhance tax collection, yet issues such as the complexity of the tax system and taxpayer mistrust continue to challenge its effectiveness (Sundari et al., 2022). Although prior research focuses on the immediate financial gains of tax amnesty, there is limited exploration of its role in fostering sustainable compliance and contributing to a stable economic environment in Indonesia. This study, therefore, aims to examine the intersection of legal frameworks and tax amnesty efficacy, assessing its impact on taxpayer behavior and revenue stability in Indonesia.

METHODOLOGY

The methodology used in this research is normative legal research, as outlined by Indriati & Nugroho (2022) and Negara (2023). This research adopts a statutory approach and a case approach. The statutory approach involves a comprehensive examination of laws and regulations related to tax amnesty, while the case approach analyzes empirical data from tax amnesty case studies in Indonesia. The research relies on secondary data, which includes primary legal materials, secondary legal materials, and tertiary legal materials. These

sources are systematically analyzed based on existing legal principles to draw conclusions about the role of law in tax amnesty.

RESULT AND DISCUSSION

Low Tax Ratio and Non-Compliance in Tax Reporting

The issue of a low tax ratio and widespread non-compliance in Indonesia remains a critical challenge for the government, particularly in tax collection. The low number of taxpayers submitting their Annual Tax Return (SPT) demonstrates that efforts to collect taxes effectively are still facing numerous obstacles (Khasanah, 2020). Among these obstacles is a significant level of taxpayer resistance, including intentional falsification of financial reports, underreporting or failure to report economic activities, and concealment of assets both domestically and abroad (Mardiasmo, 2016). This non-compliance, particularly involving the hiding of capital or movement of assets to foreign countries (Muttaqin, 2013), results in substantial fiscal losses for the state, impeding national development and creating a sense of injustice among compliant taxpayers.

The underlying causes of this non-compliance are essentially violations of established tax laws. The Indonesian government's struggle lies in finding an effective solution to address these problems while balancing between enforcing punitive measures and offering leniency through programs like tax amnesty. The government's dilemma is whether to punish non-compliant taxpayers, which would involve significant costs without necessarily increasing tax revenue, or to grant amnesty, which could appear unjust to compliant taxpayers who adhere to legal obligations (Khasanah, 2020).

Given the high risks associated with both punishment and amnesty, the Indonesian government has historically favored the latter approach, introducing tax amnesty programs to encourage non-compliant taxpayers to regularize their financial status. By offering amnesty, the government aims to incentivize individuals and businesses that have not yet registered with the tax authority to do so, and to encourage those who have failed to report their economic activities or hidden assets to declare them under more favorable conditions. Additionally, the tax amnesty seeks to attract capital stored overseas back into the country through favorable tax arrangements. The expected outcome of these responses is increased state revenue from the tax sector and an enhanced tax database for future use (Khasanah, 2020).

Historical Perspective on Tax Amnesty in Indonesia

Tax amnesty is not a new concept in Indonesia. In fact, the government has implemented this policy multiple times since the country's independence. According to Khasanah (2020), the first tax amnesty policy was introduced by President Soekarno in 1964, followed by a second amnesty under President Soeharto in 1984. Subsequent policies were introduced in 2007, 2009, 2015, and most notably in 2016 with the passage of Law No. 11/2016 on Tax Amnesty. The most recent iteration, under the Voluntary Disclosure Program (PPS) introduced by Law No. 7/2021 on Harmonization of Tax Regulations, is seen as a continuation of previous tax amnesty efforts.

This periodic issuance of tax amnesty policies reflects both the persistence of tax compliance issues in Indonesia and the government's reliance on amnesty as a tool to address these problems. From a policy-making perspective, this series of amnesties can be categorized as incremental policy changes, where each new policy builds upon the previous one to address short-term needs while also aiming for long-term development goals (Rajagopalan & Rasheed, 1995). Although the government often emphasizes that tax amnesty is not solely a short-term revenue-raising measure, but also a strategy for strengthening the national tax base, the frequent use of amnesty has sparked debate about its effectiveness and fairness (Khasanah, 2020).

Legal and Theoretical Frameworks of Tax Amnesty

From a theoretical perspective, Indonesia's tax amnesty policy can be understood as a form of public law that must be aligned with the principles of social justice, as proposed by John Rawls (Follesdal, 2014). Governments, in formulating public policies, should balance the principles of justice, expediency, and legal certainty (Alexy, 2021; Said & Nurhayati, 2021). Justice is particularly essential in tax amnesty, ensuring that the policy does not unfairly benefit non-compliant taxpayers at the expense of those who have fulfilled their legal obligations. Drawing from Radbruch's theory, justice should promote fairness and social equity in legal policy (Tan, 2021; Zajadło, 2023).

The principle of expediency highlights the practical benefits of tax amnesty, such as increasing state revenues and improving the efficiency of the tax system (Read, 2020). Legal certainty is equally critical, ensuring the clear and consistent application of laws to encourage voluntary compliance. In the case of tax amnesty, legal certainty provides assurance that taxpayers who voluntarily disclose undeclared assets will not face legal sanctions, fostering a predictable legal environment (Lifante-Vidal, 2020; Rahayu et al., 2020). By balancing these three principles, tax amnesty can function as an effective tool for economic control.

In Indonesia, the law plays a critical role in ensuring the success of tax amnesty programs by providing legal certainty to taxpayers. By offering protection from both administrative and criminal penalties, the tax amnesty law encourages those who have previously violated tax regulations to come forward without fear of legal repercussions. This legal certainty is essential, as it creates an environment of trust between taxpayers and the government, making it more likely that individuals will take advantage of the amnesty program.

However, the principle of justice, as outlined in legal theory, requires that tax laws be applied equally and fairly to all taxpayers. Critics argue that tax amnesty policies, while offering a pragmatic solution to increase revenue, may create a sense of unfairness among compliant taxpayers who have consistently fulfilled their tax obligations. These taxpayers may feel that the government is rewarding non-compliance by allowing tax offenders to regularize their status with minimal penalties (Khasanah, 2020).

Success and Challenges of Tax Amnesty in Indonesia

The implementation of tax amnesty in Indonesia has yielded significant results in terms of increasing taxpayer participation and generating revenue. For example, the 2016 tax amnesty program resulted in the declaration of assets worth more than 4,800 trillion rupiah, with a portion of these assets repatriated from abroad, leading to a boost in domestic investment and macroeconomic stability. Despite these successes, challenges remain. One of the main criticisms of tax amnesty is that it can be perceived as a “pardon for the guilty,” undermining the principle of justice by allowing tax evaders to escape with relatively minor penalties. This perception can create a sense of injustice among law-abiding taxpayers and potentially erode trust in the tax system.

Additionally, there are concerns about the sustainability of the compliance gains achieved through tax amnesty. While the program may lead to short-term increases in revenue, maintaining high levels of compliance in the long term is more challenging. After the tax amnesty program ends, there is no guarantee that the previously non-compliant taxpayers will continue to meet their tax obligations without the threat of penalties. The challenge for the government, therefore, is to ensure that the tax amnesty policy is followed by measures that promote lasting compliance and contribute to a more equitable and efficient tax system.

From the perspective of fairness, tax amnesty has been the subject of intense debate. Some argue that the policy benefits non-compliant taxpayers at the expense of those who have consistently adhered to their tax obligations. For example, the percentage of the ransom to be paid by taxpayers under the tax amnesty program is relatively small (as outlined in Article 4 of Law No. 11/2016 on Tax Amnesty), raising concerns that the policy does not adequately punish past non-compliance. Moreover, the removal of criminal sanctions, as stated in Article 1 of the law, suggests that the amnesty may be overly lenient. Critics argue that the policy should require higher payments from non-compliant taxpayers in order to increase state revenue and ensure that the principles of justice and equality are upheld.

For tax amnesty to be an effective tool for long-term fiscal sustainability, it is crucial that the policy be coupled with broader tax reforms aimed at improving compliance and strengthening the tax system. The government must ensure transparency in reporting the outcomes of tax amnesty programs, particularly in terms of the revenue generated and the number of taxpayers who have regularized their status. Furthermore, tax amnesty should not be viewed as a permanent solution but rather as a temporary measure to address specific issues within the tax system.

CONCLUSION AND RECOMMENDATION

The research concludes that Indonesia's low tax ratio and widespread non-compliance among taxpayers, including falsification of reports, underreporting of assets, and hiding wealth abroad, continue to present significant challenges to the effectiveness of tax policy. These issues not only result in fiscal losses but also hinder national development and create a sense of

injustice among compliant taxpayers. While the tax amnesty policy remains controversial, the role of law in this context is vital as it provides legal certainty and a framework for honest reporting, allowing the government to increase revenue crucial for development. For future tax policies to be more effective and equitable, it is essential for them to be continually reformed and aligned with long-term goals of improving taxpayer compliance and promoting social justice.

ADVANCED RESEARCH

Based on these findings, further research could explore the impact of specific legal reforms on taxpayer compliance and the perception of fairness in Indonesia's tax system. Future studies might examine how simplifying tax laws, improving transparency, and enhancing enforcement measures can foster a culture of voluntary compliance and reduce tax evasion. Additionally, it would be valuable to investigate the psychological and socio-economic factors influencing taxpayer behavior in response to tax amnesty policies, assessing whether these policies effectively encourage compliance or unintentionally benefit wealthier individuals who can more readily manipulate financial reporting. Such research could provide insights into designing tax policies that not only increase revenue but also promote a more just and equitable tax system, enhancing overall public trust in Indonesia's fiscal policy framework.

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