

## The Needs of Money Laundering and Tax Evasion Crimes Prevention in the Asean Community

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### ABSTRACT

One of the visions and missions of the ASEAN Community is the effort in improving economic, trade and investment cooperation. However it is not uncommon for business doers to double also as a money launderer who intentionally invest the money they get from criminal activities and hiding the illicit money by disguising it into the financial or trading systems, or depositing the money in the banks in ASEAN member countries. Concealing and saving moneys in other countries to make it harder for the law enforcers to trace the origin of the money may be considered an international crime of money laundry. In view of the circumstances of the financial crimes, especially the money laundering and tax evasion, this issue needs to be discussed, addressed and taken into consideration by the ASEAN member countries in order to find solutions for the prevention and eradication of money laundering, corruption and tax evasion crimes among the ASEAN member countries to welcome the ASEAN Community 2025

## **INTRODUCTION**

ASEAN (The Association of South East Asia Nations), a regional organization that has 10 member countries, Indonesia, Malaysia, Singapore, Thailand, Philippines, Vietnam, Myanmar, Cambodia, Brunei, Laos, has set that one of its ASEAN Community visions and missions is the effort to escalate cooperation in economy, trading and investment. While boosting the cooperation in the fields of economy, trade and investment, sometimes they find their own citizen business doers to double also as a money launderer who intentionally invest the money they get from criminal activities and hiding the illicit money by disguising it into the financial or trading systems, or investing the money in the other ASEAN member countries. Concealing and depositing moneys in other countries to make it difficult for the law enforcers to trace the origin of the money may be considered an international crime of money laundry. Some cases of money laundering crimes have demonstrated that the moneys gained from corruption and tax evasion committed in Indonesia had been transacted in banks in countries such as Singapore, or the other neighboring countries adjacent to Indonesia. This indicates that the problems of money laundering and the illicit money traffics between countries are so rampant and it is still an important task for the ASEAN member countries to prevent and combat this cross-border crimes.

Moneys involved in the investment on assets and in the trading may have their sources come from legal activities and also illegal activities. Meaning that some business doers may have made investment or transactions on some assets using the money from their legitimate (legal) activities, in both the businessmen's own country of origin, and in other countries. However, it is not uncommon for business doers to also commit money-laundering crimes by intentionally investing their assets, the money they get from some money laundering crimes, either from corruption, or tax evasion in order to disguise and conceal the money they get from the crimes. The illicit moneys are intentionally laundered by means of investing the same in trading and investment businesses with the counterparts both from their country of origin and from the other countries (cross-border crime), and that the money may also be invested, and hidden in the ASEAN member countries such as Singapore.

Some other cases of money laundering have also demonstrated that these business-doers-turn-to criminals often make transactions, using the money from corruption (illicit money) in Indonesia, in and out of the other countries such as Singapore, or may also be in and out of the other non-ASEAN member countries, adjacent to Indonesia. In view of the complexity of these financial crimes, in particular the ones related to the money laundering and tax evasion, this needs to be discussed, addressed and taken into consideration by the ASEAN member countries in order to find solutions for the prevention of and combating the money laundering, corruption and tax evasion among ASEAN member countries within the framework of the member countries' readiness towards ASEAN Community 2025.

The International Consortium of Investigative Journalists (ICIJ), [icij.com](http://icij.com), an investigative institution of journalists in the United States of America (USA),

has released some papers on the investigation into more than 785,000 offshore companies from tax haven countries, such as Panama Papers, Offshore Leaks, Bahamas Leaks, and Paradise Papers. From these findings there are 11.5 million hidden documents related to the assets of around 140 politicians and rich people from various countries in the world connected to such offshore companies, and around 10 tax haven countries that are the most attractive and favorable countries for the investors from all over the world include some ASEAN member countries into which the Indonesian ones love to invest and hide their moneys. This shows that money laundering crime could possibly take place not only inter- and cross border of the ASEAN countries alone, but the culprits may also hide and disguise the moneys originated from the crime to the other tax haven countries. Illicit moneys stored in such other tax haven countries, may originate from legal activities, as well as from illegal activities such as money laundering, corruption and tax evasion.

Mardiasmo, who serves as the Caretaker Officer of the Indonesian Director General of Tax (DGT) and supported by the President of Indonesia, in [www.pajak.go.id](http://www.pajak.go.id) states that there are around Rp. 3,000-4,000 trillion of Indonesian's moneys deposited in banks in Singapore, some of them belong to Indonesian individuals, if one should assume that Rp. 1,000 trillion of the moneys goes back to Indonesia, then the Indonesian tax revenue authority will get around IDR100 trillion, using the tax ratio of 10%. This evidences that the amount of Rp 100 trillion, is considered an income, the income tax without respect of which had never been paid and may be classified as a money-laundering with respect to the illicit money derived from tax evasion.

According to the data of the Indonesian Ministry of Finance, Indonesians residing in foreign countries have, in aggregate, Rp. 11,000 trillion spread in the banks in such foreign countries, this of course a fantastic amount viewed from the Indonesia's economic condition that is currently quite hard. So, it is evident that some Indonesians have their moneys hidden / deposited in banks in other countries. This information has also been corroborated by some other sources on the huge amount of the Indonesian's moneys in foreign countries, including, among others:

1. Data sources from McKinsey estimate that there are around US\$250 billion or around Rp. 3,250 trillion in assets of Indonesians abroad.
2. Data from Credit Suisse Global Wealth Report and Allianz Global Wealth Report (processed) show that the assets of Indonesians abroad are around Rp 11.125 trillion
3. Bank Indonesia estimates that the total assets of Indonesians abroad are around IDR 3,147 trillion (sources: Kar and Spanjers (2015), Tax Justice Network (2010) and Global Financial Integrity (GFI) (2015).
4. According to its primary data, the Ministry of Finance predicts that the total assets of Indonesians abroad must be at least IDR 11,000 trillion.

Thejakartapost.com, wrote that the Indonesian Minister of Finance, Bambang Brodjonegoro, estimated that there were around 84 Indonesians who had handsome accounts in Swiss banks. The total aggregate amount is approximately US\$ 195 billion or around Rp. 2,535 trillion (at the exchange rate

of Rp. 13,000 per US\$). Far above the state's expenditure in the 2016 specified in the country's revenue and expenditure budget of Rp 2,095.7 trillion. Based on data above, one should think, why Indonesians have to deposit and hide trillion-rupiahs of their assets in other countries, if the trillions-worth assets originate from legitimate (legal) activities, such as income from legal trading and investment, why do they save and hide the money in banks in other countries, is it for the purpose of tax evasion?. Or why do Indonesians have to save and hide their trillions-worth assets in the banks of other countries, the moneys are to be laundered? Or, are they generated from corruption crimes forcing them to be hidden intentionally abroad to make it harder for the law enforcers in tracking the origin of the assets and the crimes?

By considering the complexity of the issue and this thoughts, what steps the Indonesian government should take in relation to these money laundering, corruption and tax evasion crimes committed by the Indonesians, and what kind of cooperation the Indonesia government should establish to address the issues with the other ASEAN member countries within the framework of ASEAN Community, in order to prevent and eradicate the money laundering, corruption, and tax evasion crimes that take places cross-borders of the countries.

## **THEORETICAL REVIEW**

The theories the author employs in analyzing and discussing the issues in this Journal of Law related to the money laundering and tax evasion crimes in the ASEAN Community member countries are the theory of state law, the theory of compliance with tax laws, and the other legal principles relevant to the subject of this paper.

### **1. The Theory of State Law**

State law, or that is commonly known in Indonesia in Dutch language as *rechtstaat* (European continent) or also known as the rule of law (Anglo-Saxon) is principle that provides for the state to be based on laws (*rechtstaat*), not based on power alone (*machtsstaat*) and the state's administration based on the constitution (basic law), not based on absolutism (unlimited power).

This principle of *rechtstaat* originates from Immanuel Kant's thinking about the legal state in the narrow sense (formal) that passively put the function of *recht* (laws) to the *staat* (state) only as a tool for the protection of individual human rights and for the regulation of state power, serving only as the keeper of order and security of the country's people. Immanuel Kant defined the law state as a formal law state (the state is in static condition or formally only serves as what commonly called as the night watchman / *nachtwakerstaat*). In Indonesia, the principles of law state have been adopted in the following ways :

- 1.The principles of human rights assurance and protection.
- 2.The principles of independent and impartial justices, meaning that the position of the judiciary system must be independent, but still requires both internal and external supervisions. One of the external controls is carried out by the Commission of Ombudsmen (established by Indonesian President Decree No. 44 of 2000 concerning the Commission of Ombudsman, the external supervisory institution supervising the state agencies and providing legal protection to the

public, including when they are having litigation proceedings at courts from the filing of the cases until the determination thereof.

The principles of law state relates closely to the democracy principles that put the people in a strategic position when dealing with the policies of adopted by the state, in particular when dealing with the state leadership elected directly by the people.

## 2. Theory of Compliance with the Tax Law

Taxpayers' compliance, being the willingness of the taxpayers to discharge their tax obligations in accordance with applicable regulations without necessarily requiring any audits, due diligence, warnings or threats as well as imposition of both legal and administrative sanctions. The required punctuality for filing the financial statements of Indonesian public companies has been regulated under the Decree of the Chairman of the Indonesian Capital Market Supervisory Agency (Bapepam) No. Kep-36 / PM / 2003 regarding the obligation to regularly submit the financial statements. The regulation providing for the submission of periodic financial statements is in accordance with the theory of compliance proposed by Tyler. The principle of generally accepted tax administration provides for that the goal to be achieved is voluntary compliance. Tax compliance as an indicator of the public's role in discharging the tax obligations is still very low, meaning that there are still many citizens who fail to demonstrate their compliance (non-compliance) in relation to the fulfillment of their obligations.

## METHODOLOGY

Researches on science of law recognizes 3 (three) types of research methods, the normative law research, normative-empirical law research (applied law research), and empirical legal research methods. The 3 methods may be described as follows:

1. Normative law research, this method studies normative law-related cases that involve products of legal behavior, such as reviewing the bills. The subject of the study is the law conceptualized as a norm or principle that applies in society and serves as references for everyone's behavior. Consequently normative law research focuses on list of the positive laws, principles, and legal doctrines, legal findings in in-concreto cases, legal systems, legal synchronization levels, legal comparison, and history of laws.
2. The applied law research method, studies normative-empirical legal cases which are products of legal behavior, for example reviewing the implementation of prevention of money laundering crime with respect to the money originated from criminal acts of tax evasion, in which the taxes that should be paid to the state coffers are not paid but hidden abroad in order to avoid the taxation.
3. Empirical legal research studies empirical cases related to community legal behavior. The subject of the study is the laws conceptualized as actual behavior, a social symptom that is unwritten law in nature, but experienced by everyone in their relationship when living in community.

From the 3 methods of legal researches above, to study and analyze this issue, the author chooses to use the normative-empirical legal research method.

Research using the applied law research studies normative-empirical legal cases that are products of legal behavior, reviewing and analyzing the currently applicable legal provisions (laws and regulations), such as Article 4 of the Indonesian Income Tax Law (IIT Law) providing for income as tax object, the Law No. 8 of 2010 regarding the Prevention and Eradication of Money Laundering (PEML Law), and the Law No. 31 of 1999 as amended by the Law No. 20 of 2001 regarding Corruption Eradication. Further, the authors empirically examines the implementation of these rules by interviewing some sources, as well as collects the date related to the issues, and makes a comparative study between Indonesia and the other member countries of ASEAN Community. And eventually the author presents an improvement idea to solve the problems in the subject of this paper.

Legal materials the author uses in discussing the subject matter of this Journal, are Primary Legal Materials, Secondary Legal Materials, and Tertiary Legal Materials.

**a. Primary Law Materials**

Primary law materials are legal materials that contain new and up-to-date scientific knowledge, or new definitions on known facts and ideas.

1. The 1945' Constitution of the Republic of Indonesia;
2. ASEAN Political-Security Community (APSC) Blue Print 2025
3. The Law No. 8 of 2010 regarding Prevention and Eradication of Money Laundering, State Gazette of the Republic of Indonesia No. 122 of 2010;
4. The Government Regulation in lieu of the Law No. 01 of 2017 (Perpu No. 01/2017) regarding Automatic Exchange Of Information / AEOI ;
5. The Law No. 16 of 2009 regarding General Provisions and Procedures for Taxation, the State Gazette of the Republic of Indonesia No. 62 of 2009, Supplement to the State Gazette of the Republic of Indonesia No. 4999;
6. The Law No. 31 of 1999 concerning Corruption Eradication, State Gazette of the Republic of Indonesia No. 140 of 1999, Supplement to the State Gazette of the Republic of Indonesia No. 3874, as amended by the Law No. 20 of 2001 regarding Eradication of Corruption Crime, State Gazette of the Republic of Indonesia No. 134 of 2001, Supplement to the State Gazette of the Republic of Indonesia No. 4150;
7. The Law No. 7 of 2006 regarding Ratification of the United Nations Convention Against Corruption (UNCAC) 2003, State Gazette of the Republic of Indonesia No. 32 of 2006, Supplement to the State Gazette of the Republic of Indonesia No. 4620;
8. The Law No. 30 of 2002 regarding the Corruption Eradication Commission, State Gazette of the Republic of Indonesia No. 134 of 2001, Supplement to the State Gazette of the Republic of Indonesia No. 4150;

**b. Secondary Legal Materials**

Secondary legal materials in this study are all legal materials that provide explanations on the primary legal materials. These include journals, reference books, scientific papers, results of scientific researches discussing the same issues and proposing solution to the legal cases under the study.

**c. Tertiary Legal Materials**

Tertiary legal materials are supporting legal materials that provide instructions and explanations for the primary legal materials and secondary legal materials, such as newspapers, legal dictionaries, and guidelines for writing scientific papers.

**RESULTS AND DISCUSSION**

**Normative Juridical Study: Article 4 Income Tax Law (IIT Law)**

In an effort to escalate cooperation in economy, trade and investment with the other ASEAN countries, Indonesians need to understand Article 4 of the Indonesian Income Tax Law (IIT Law), providing for that income is a tax object, that the yields from trading businesses and investments in other countries whether generated from legal activities or from illegal sources are classified as income and therefore a tax object.

Article 2 paragraph 1 of the Law No. 8 of 2010 regarding Money Laundering (ML Law), Article 2 paragraph (1) of the Law No.8 / 2010 regarding Money Laundering, provides for that there are 26 (twenty six) types of basic criminal acts (predicate crime) that may give a raise to money laundering crime, quoted as follows: "(1) The proceeds of a criminal offense are Properties obtained from the following criminal offenses:

- a. corruption;
- b. bribery;
- c. narcotics;
- d. psychotropic;
- e. labor smuggling;
- f. migrant smuggling;
- g. in banking industry;
- h. in capital markets;
- i. in insurance industry;
- j. customs;
- k. excise;
- l. human trafficking;
- m. illegal arms trade;
- n. terrorism;
- o. kidnapping;
- p. theft;
- q. embezzlement;
- r. fraud;
- s. forgery of money;
- t. gambling;
- u. prostitution;
- v. in taxation;
- w. in forestry industry;
- x. in environment;
- y. in marine and fishery industry; or

- z. the other criminal offenses threatened by four (4) years or more imprisonment, committed in the territory of the Republic of Indonesia or outside the territory of the Republic of Indonesia and such criminal offense is categorized as a crime under the Indonesian laws.

According to Article 4 of the Indonesian Income Tax Law (IIT Law), income as the tax object is defined as follows:

"Any additional economic capability received or gained by a taxpayer, both in Indonesia and outside Indonesia, that may be used for consumption or to add to the wealth of the taxpayer, in any nature and substance"

The definition implies that not only the yields generated from legal activities of businesses and investments that may be categorized as tax object, but assets generated from money laundering crimes using the money resulted from a corruption damaging the state finances are also tax objects, and paying income tax which respect of which is a must. Article 4 of the Indonesian Income Tax Law (IIT Law), the income that taxable as a tax object is a form of economic improvement gained by a taxpayer, both from within the country and from abroad in any form whatsoever, so that one can interpret that despite of the income is generated from money laundering crime, it is still a tax object and taxable, the income tax with respect of which must be paid. This refers to Article 4 of the IIT Law, the income as a tax object. If the income is a tax object, then all incomes, either generated from legal activities or from illegal activities, with respect of which no tax has been paid by means of hiding these assets in the other countries, either in the member countries of ASEAN Community, or in the other tax haven countries, then this may be categorized as a money laundering crime with respect to the money yielded from tax evasion.

#### **Analysis of ASEAN Political Security Community (APSC) Blue Print 2025**

The 3 pillars of cooperation among the ASEAN member countries (ASEAN Community) are cooperation in economy, cooperation in socio-culture, and cooperation in politics and security. Cooperation in politics and security regulate among others, the issues related to money laundering, money generated from a corruption case among ASEAN member countries. The ASEAN Political-Security Community (APSC), should indoctrinate the anti-corruption integrity and culture, by applying the following rules and policies:

- I. Fully implemented Memorandum of Understanding (MoU) on Cooperation for Preventing and Combating Corruption signed on 15 December 2004;
- II. Promote ASEAN cooperation to prevent and combat corruption, among others, by releasing the Treaty on Mutual Legal Assistance in Criminal Matters 2004 (MLAT);
- III. Promote ASEAN cooperation in implementing the United Nations Convention against Corruption;
- IV. Strengthening the implementation of domestic laws and regulations against corruption and anti-corruption practices in both the public and private sectors within ASEAN, including through capacity building programs;

- V. Intensify cooperation, in the framework of applicable national and international law for combat corruption, in the area of asset recovery and in denying safe haven to those found guilty of corruption;
- VI. vi. Encourage the strengthening of the South East Asia Party Against Corruption network to enhance regional cooperation on anti-corruption and national level through relevant bodies or agencies;
- VII. vii. Promote the sharing of experiences, best practices and exchange of views on ethics, values and culture of integrity to strengthen anti-corruption activities, including through the ASEAN Integrity Dialogue; and
- VIII. viii. Enhancement and encouragement of cooperation among financial intelligence / authorized units of ASEAN Member States in the areas of collection, analysis and dissemination of information regarding potential money laundering.

Among of their policies, the ASEAN Political Security Community ( APSC ) has executed a Memorandum of Understanding (MoU) related to the cooperation among ASEAN member countries in preventing and combat the corruption, and encouraging the ASEAN Community member countries to jointly prevent and combat the corruption crimes, by establishing laws and regulations of corruption prevention in respective ASEAN member countries, and encouraging the ASEAN Community member countries to support the combat against corruption. In connection with the money laundering crime related to the money generated from a corruption case, the ASEAN Political Security Community (APSC) encourages cooperation among the Financial Intelligence Unit (FIU) of the ASEAN member countries in preventing corruption that potentially may give a rise to money laundering crimes. However, in regard to the ASEAN Political Security Community (APSC) policies in the prevention and combat of corruption and money laundering, the author suggests some strategic steps to be taken in preventing money laundering, corruption, and tax evasion crimes. The author suggests that in addition to the collaboration among the financial intelligence units (FIU) of the ASEAN Community member countries on prevention of corruption, the cooperation of such anti-corruption institutions must be improved among the ASEAN Community member countries, starting from, among others, escalating the cooperation between the Indonesian Corruption Eradication Commission (KPK), and the anti-corruption institutions of the other ASEAN countries, such as Singapore. It is also necessary to establish cooperation in the financial information exchange to boost transparency among the financial institutions of the ASEAN countries, the automatic exchange of information (AEOI) for tax purposes. Hence, the tax authority such as the Director General of Tax (DGT), can immediately verify the amounts of tax paid by a citizen and the amount of his/her income. Despite of the fact that many Indonesians invest their money abroad, whether money from legal activities, or illegal activities, the authority will be able to detect any inappropriate amount of income and the amount of tax paid using the valid and integrated system established among the ASEAN Community financial institutions.

### Analysis of the Law State Theory

In theory, the state law or or that is commonly known in Indonesia in Dutch language as *rechtstaat* (European continent) or also known as the rule of law (Anglo-Saxon) is principle that provides for the state to be based on laws (*rechtstaat*), not based on power alone (*machtsstaat*) and the state's administration based on the constitution (basic law), not based on absolutism (unlimited power). In connection with the prevention and eradication of money laundering and corruption crimes among ASEAN Community countries, one should refer to the Law No. 08 of 2010 regarding the Prevention and Eradication of Money Laundering, as well as Corruption Eradication Law and the Income Tax Law.

### Empirical Juridical Study: Implementation of Prevention and Eradication of Money Laundering, Corruption, and Tax Evasion Crimes by each ASEAN Community Member Country

The level of illicit money derived from corruption in the ASEAN Community countries is still relatively high as indicated by the corruption perception index (CPI) issued by the Transparency International. The author only analyzed and compared the corruption perception index (CPI) of the ten (10) ASEAN member countries, ranked among the other 180 countries of the world (Score 0 indicates the most corrupt country in the world, while Score 100 indicate the most corruption-free country in the world).

Table 1. Corruption Perception Index (CPI) of 10 (ten) ASEAN Member Countries

No.	Country	Corruption Perception Index Score (GPA) (scale 0-100)	Rank (among 180 assessed countries in the world)
1.	INDONESIA	38	89
2.	MALAYSIA	47	61
3.	SINGAPORE	85	3
4.	THAILAND	36	99
5.	PHILIPPINES	36	99
6.	VIETNAMESE	33	117
7.	MYANMAR	29	132
8.	CAMBODIA	20	161
9.	DARUSSALAM BRUNAI	63	31
10.	LAOS	29	132

Source: Transparency International, [www.transparency.org/cpi](http://www.transparency.org/cpi)

The table above demonstrates, the Indonesia's corruption perceptions index (CPI) of 38, ranked 89 out of 180 assessed countries of the world, Malaysia's corruption perception index (CPI) scores 47, ranked 61 out of 180 assessed countries of the world, Singapore's corruption perception index (CPI) is 85, ranked 3rd of 180 out of assessed countries of the world, Thailand's corruption perception index (CPI) is 36, ranking 99th out of 180 assessed countries of the world, Philippine scores a corruption perception index (CPI) of 36, ranked 99th out of 180 assessed countries of the world, Vietnam's corruption perception index

(CPI) is 33, ranked 117th out of 180 assessed countries of the world, Myanmar's corruption perception index (CPI) is 29, ranking 132nd out of 180 assessed countries of the world, Cambodia's corruption perception index (CPI) is 20, ranking 161st out of 180 assessed countries of the world, Brunei Darrusalam's corruption perception index (CPI) is 63, ranked 31st out of 180 assessed countries of the world, Laos' corruption perception index (CPI) is 29, ranked 132nd out of 180 assessed countries of the world. Out of the 10 (ten) countries under such comparison, the country with the highest rate of corruption is Cambodia, with a corruption perception index (CPI) of 20 (in the scale between 0-100), and the country with the lowest rate of corruption is Singapore, with a corruption perception index (CPI) of 85 (in the scale between 0-100). The level of illicit money generated from corruption in 10 (ten) ASEAN countries has been still relatively high, this indicates also the high rate of money laundering crime with respect to the money derived from corruption crimes, proofing a strong correlation between the rates of money laundering and corruption crimes.

#### **Illicit Financial Analysis, Corruption in Indonesia**

No Money Laundering No Predicate Crime, this term is commonly known in the money laundering law (PEML Law), in Dutch language the term money laundering is called *het witwassen van geld*, Article 2 paragraph (1) of the Money Laundering Law provides that there are 26 types of the basic criminal offenses (predicate crimes) that may give a rise to the money laundering itself. High rate of the predicate crime in a country will consequently have high rate of money laundering and significantly, the rate of financial illicit will be high too. The three, predicate crime, money laundering, and illicit money, form a circle that link one to another.

According to Indonesia's Corruption Watch (ICW), the potential financial losses the Indonesia suffers annually, due to corruption, are increasing, fetching a figure of Rp. 6.5 trillion and Rp. 211 billion of briberies in 2017, amid the increased number of corruption cases handled, the corruption rate in Indonesia is still relatively high, and even indicates an increase, is it because corruption has become a culture of Indonesia? Making the corruption rate in Indonesia relatively high and harder to combat. According to the data of the Indonesian Corruption Watch (ICW), the author found that so many verdicts on corruption cases have punished the convicts of the cases only mild to moderate sentences, hence the author is of opinion that this issue is one of the main causes that make corruption in Indonesia still rampant. Another cause has been the non-strict law enforcement system, for example, the charges made by the Public Prosecutor (JPU) usually end with lenient decision by the Judge which in turn will fail to give a deterrent effect to the perpetrators of corruption and the other money laundering cases.

Consequently it is necessary to escalate the cooperation among the ASEAN Community member countries and ASEAN Political Security Community (APSC) in order to prevent and combat money laundering, corruption, due to the high rate of illicit money in Indonesia and the other ASEAN Community member countries.

### **Improving Tax Compliance of Indonesian Taxpayer**

In the efforts of realizing the visions and missions of the ASEAN Community, in escalating the cooperation in economy, trade and investment among ASEAN countries, the Indonesian government must not only escalate the cooperation in economic, social and cultural, and political and security sectors but needs also to escalate the cooperation among the ASEAN Community member countries in the areas that may encourage the tax compliance of Indonesian taxpayers. So many Indonesians save and invest their money in banks in the other ASEAN countries, such as Singapore, while their businesses are operating mainly in Indonesia, and gain the profits from Indonesia, but they save the yields of their Indonesian businesses in banks in the other countries, may be for a purpose of evading the tax. Also so many Indonesians who may have moneys from money laundering and corruption crimes save and hide their moneys in other countries, in order to make it harder for the law enforcers to trace their crimes. According to Article 4 of the Indonesian Income Tax Law (IIT Law) any incomes derived from legal business activities, and from a crime are categorized as income, income tax with respect to which must be paid. In order to improve tax compliance of the Indonesian taxpayers, it is necessary to establish cooperation in connection with the transparency of financial information of the Indonesian who save their moneys in banks in ASEAN countries, such as banks in Singapore. ASEAN countries must join hand-in-hand in the automatic exchange of information (AEOI) for tax purposes of Indonesia and also the other ASEAN member countries. Without such cooperation on the financial information exchange system among the financial institutions of the ASEAN member countries, it may be difficult to improve the tax compliance of taxpayers of the ASEAN Community member countries. The purpose of the tax compliance of the taxpayers is to create the voluntary values of compliance with tax obligations on the side of the taxpayers.

### **III. Ius Constituendum: Idea for Prevention of Money Laundering and Tax Evasion in ASEAN Community.**

The establishment of cooperation among the ASEAN member countries in the prevention and eradication of money laundering and corruption under the ASEAN Political Security Community, shows the determination of the ASEAN countries in preventing and combating the crimes of corruption and money laundering. Encouraging the cooperation among the financial intelligence units (FIU) of the ASEAN member countries demonstrates the readiness of such ASEAN countries in the efforts of preventing and combating money laundering and corruption crimes. However, in connection with the prevention and eradication of corruption and money laundering, in addition to escalate the cooperation among the financial intelligence units (FIU) of the ASEAN member countries, it is also necessary to escalate the cooperation among anti-corruption institutions of the ASEAN Community member countries. The anti-corruption institutions of the ASEAN Community member countries, should be granted power to access information, data and records related to moneys derived from the corruption and money laundering that are saved in banks in ASEAN countries, without necessarily disturbing the anti-corruption institutions of the

host ASEAN countries in investigating the money laundering crime committed by its own citizens.

While in relation to the tax evasion with respect to the money that may be derived from a corruption case, hiding the money in banks in other countries, the income tax with respect of which has not been paid, may constitute a tax-related crime, the tax evasion of the income from corruption. In order to trace this tax evasion, it is necessary to collaborate with the financial institutions of the other ASEAN Community country members. For the taxation purpose, the ASEAN countries must implement the automatic exchange of information (AEOI) for tax purposes, enabling the financial institutions of the ASEAN Community member countries to detect financial transactions of their citizens as well as their moneys saved in banks in ASEAN Community member countries. The tax authorities of the ASEAN countries should be given power to access the information on their respective citizens' financial transactions in banks in the other ASEAN countries, in order to verify the validity of the tax information and data of the citizens of their respective countries.

## **CONCLUSIONS AND RECOMMENDATIONS**

### **Conclusion**

The Indonesian government needs to take a step in connection with the needs of prevention and combat of money laundering and corruption in the ASEAN Community countries, by escalating the cooperation among the financial intelligence units (FIU) of the ASEAN countries for the prevention of money laundering. And it is necessary to escalate the cooperation between the Indonesian anti-corruption institution and similar anti-corruption institutions from other ASEAN Community member countries. ASEAN countries must establish an Automatic Exchange of Information (AEOI) system, in relation with the financial information transparency for the tax purposes the citizens of the countries and to prevent tax evasion.

### **Recommendation**

The author proposes an idea on the tax system implemented by the Director General of Tax to use the Big Data digital system in taxation, in order to prevent any tax-related crimes such as to prevent tax evasion by taxpayers. The Big Data digital information system will make it easier for the tax authorities to detect the accuracy of data and information between the amount of income and the amount of tax a taxpayer has paid.

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