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ENFORCEMENT OF TAX LAW IMPLIED IN TAX AMNESTY

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ABSTRACT

Tax amnesty program initiated by the Ministry of Finance through the Director General of Taxes brings huge benefits to the country's income in the tax sector. Hence, there was a tendency that tax amnesty could potentially provide benefits for taxpayers to commit corruption, money laundering, and other violations that could harm the country. The purpose of this research to find out how the authority of the tax authorities in tax law enforcement Indonesia after the enactment of tax amnesty and knowing the supervision after the enactment of tax amnesty. This study used the type of doctrinal research by providing a systematic explanation of the legal rules governing in this case the amnesty program. The approach used in this study was the statute approach and the conceptual approach. The authority of the tax authorities in conducting tax law enforcement after the implementation of the tax amnesty program is still valid for taxpayers who commit violations such as mistakes or errors in writing the tax return as well as providing false data in the tax return. All taxpayer's assets must be kept secret or protected by the tax authorities or the state in accordance with applicable laws and regulations. The existence of a tax amnesty program is not merely only a means of the government in increasing tax revenue, but also as a means to enforce the law in its implementation practices which are binding both in terms of the tax authorities and from the side of the taxpayer.

INTRODUCTION

There are many ways conducted by the Government to increase the Indonesian State Budget, one of them relies on the tax revenue sector (Ilyas Wirawan and Richard, 2013). The tax sector is used by the government to improve services to its citizens (Hernoko, Nugraheni and Huda, 2018). The strategy and method used by the Government to collect tax is extending and intensifying taxation as part of fiscal policy (Purwanto, Rizki and Hasna, 2018). Tax extensification is performed by exploring or expanding new tax objects. However, tax

intensification is an attempt to intensify tax imposition, both related to the tax subject and the object of the tax (Pudyatmoko, 2007).

One of the intensification and extensification steps undertaken by the Government in 2016 is tax amnesty policy. Tax amnesty is the abolition of taxes that should be owed, not subject to tax administration sanctions and criminal sanctions in the taxation field, by uncovering assets and paying ransom as stipulated in the law. This definition is contained in article 1 paragraph (1) of Law No. 11 of 2016 concerning Tax Amnesty. This pardon policy is based on consideration of the large budgetary needs in the interests of the National Revolution and the National Development Planning. Besides that, tax amnesty can play a major role in the collection and fulfilment of state taxes (Mehmet, 2015).

Based on the website of the Directorate General of Taxes, until October 28, 2016, the receipt of funds from the tax amnesty policy reached Rp 97.9 trillion. Indonesia managed to break the world record by collecting the most tax amnesty (Diela, 2016). Contrary to the benefits of tax amnesty, there are those who argue that tax amnesty is a safe facility for tax evaders because tax amnesty is considered to weaken tax law enforcement in Indonesia. According to a tax observer from the Centre for Indonesia Taxation Analysis (CITA), Yustinus Pratowo, tax amnesty has the potential to create tax breaks to further delay reporting and payment of taxes to the state (Yustinus Pratowo, 2019). This facility of forgiveness ignores the legal process. The implications for law enforcement are minimal. This is performed only pursuing state revenue alone.

Data and information provided in the tax amnesty program will not be used as a basis for investigations and / or claims. This step is strengthened by the Director General of Taxes Instructions Number Ins-07 / PJ / 2016 which guarantees the safety of the data of taxpayers who take part in the tax amnesty program. The instructions are addressed to the director of law enforcement and the heads of tax director general regional offices. The essence of the instruction is giving an order not to issue a letter requesting the issuance of a preliminary proof examination order, a preliminary proof examination order and / or a new investigation warrant from the Director General of Taxes until 31 March 2017. The above explanation makes the issue of weakening tax law enforcement after the enactment of tax amnesty is increasingly intense.

Regarding this tax amnesty policy, it should be coupled with the enforcement of tax law in Indonesia to realize transparency and accountability in the management of state finances. The Fiskus or the Directorate General of Taxes is given the authority by law to conduct tax law enforcement. The Law on General Provisions and Tax Procedures (UU KUP) stated that law enforcement can be executed in two ways, namely, administrative, criminal, and civil law (Ilyas Wirawan and Richard, 2013). According to the description above, it is necessary for conducting a study about the authority of the tax authorities in the enforcement of tax law in Indonesia after the enactment of tax amnesty and supervision after the enactment of tax amnesty.

METHOD

This study was a doctrinal research that provides a systematic explanation of the legal rules governing a particular legal category, analyses the relationship

between legal rules, explains difficult fields, and predicts future developments. This study used the statute approach and conceptual approach are used. The legislative approach was conducted by examining the research material, such as all laws and regulations relating to the enforcement of taxation laws in Indonesia and tax amnesty. The second approach used in this study was the conceptual approach. This can be conducted by looking at the views and doctrines that develop in the science of law. These views or doctrines can clarify and provide legal understandings, legal concepts, and legal principles that were relevant to the problem.

RESULTS AND DISCUSSION

The Authority of Fiscus in Law Enforcement of Taxation in Indonesia after the Enforcement of Tax Amnesty

Tax amnesty essentially does not undermine the spirit of tax law enforcement in Indonesia. This is due to the linkage of the tax amnesty policy to the taxation principle in Indonesia. Tax amnesty is implemented based on the principles of justice, principles of legal certainty, benefits and social interests (Article 2 of the Tax Amnesty Act). The tax principle adopted in this tax amnesty policy is proof that tax amnesty does not weaken tax law enforcement in Indonesia. Tax amnesty is predicted to be able to make a significant contribution to tax revenue in Indonesia thus the principles of social benefits and interests can be fulfilled (Bastagli, 2015). Forgiveness also provides legal certainty because with tax forgiveness arises order in the community.

Table 1. Taxation Authorities before and after Tax Amnesty

No	Taxation Authorities	Before Tax Amnesty	After Tax Amnesty
1.	Directorate General of Taxes (DGT)	<p>Authorize in doing tax law enforcement in Indonesia is conducted by DGT.</p> <p>DGT authorized:</p> <ul style="list-style-type: none"> a) Carry out checks, b) Provide sanctions, c) Issue NPWP (Taxpayer Identification Number) or NPPKP (Taxable Entrepreneur Identification Number) on a post basis, d) Eliminate or reducing administrative sanctions, e) Issue forced letters and seizure orders, f) Issue tax bills and tax assessments. 	<p>DGT's authority can still be applied to those who do not participate and those who are exempt from tax amnesty. DGT's authority in enforcing tax law for those who follow this policy is removing sanctions. DGT may also impose sanctions on taxpayers who receive tax amnesty if they do not do regular reporting on the repatriation of their assets.</p>

2.	Examining and Investigator Tax Team	Authorize to conduct preliminary evidence investigation and investigation in the event of a criminal act in the tax sector. One of the authorities of the tax examiner is stopping investigations.	In the case of a taxpayer conducting an investigation but the file has not yet been declared to be complete, the taxpayer may still be able to participate in tax amnesty and obtain an investigation stop facility.
3.	KPK (Commission Corruption Eradication)	Assist the tax authorities in enforcing tax law related to corruption.	Corruption Eradication Commission can still perform enforcement related to corruption within DGT, but for taxpayer recipient data, the tax amnesty cannot be investigated whether, there are elements corruption or not.

Supervision after the Effective Tax Amnesty

Taxation also recognizes supervision (Pandiangan, 2013). The Directorate General of Taxes has the obligation to provide guidance or counselling, service, and supervision to taxpayers (DJP, 2016). Supervision is not only for registered taxpayers, but supervision can also be performed for new taxpayers. Supervision does not only apply to taxpayers but also applies to the Directorate General of Taxes and the tax authorities themselves (Sayidah and Assagaf, 2019). The existence of the Tax Supervisory Committee formed by the Minister of Finance is also one way of supervising the Directorate General of Taxes. Supervision of the tax authorities is applied with internal and external supervision (Wardiyanto, 2009; Ibrahim *et al.*, 2018). Internal supervision in taxation is conducted by the Inspectorate General of the Ministry of Finance. There is an internal compliance unit within the Directorate General of Tax that has the task of applying internal supervision both at the Head Office and the Tax Services Office (KPP) (Citro Atmoko, 2013; Munir, 2017).

Other forms of supervision other than internal supervision are external supervision. External supervision is performed by the Supreme Audit Board. Article 6 of Act No. 15 of 2006 concerning the Supreme Audit Board states that the BPK (Supreme Audit Institution) is tasked with examining the management and responsibilities of state finances executed out by the Central Government, Regional Governments, other State Institutions, Bank Indonesia, State Owned Enterprises, Public Service Agencies, Agencies Regionally Owned Enterprises, and other institutions or bodies that manage state finances. BPK's audits include financial audits, performance audits, and audits with specific objectives. BPK conducts supervision through financial audits, performance audits and audits for specific purposes (Article 6 paragraph (3) of the BPK Law).

Table 2. Differences in supervision of tax law enforcement in Indonesia before and after the enactment of tax amnesty.

No.	Taxation Authorities	Before Tax Amnesty	After Tax Amnesty
1.	Directorate General of Taxes	Authorize to do Examination of taxpayers.	For taxpayers who are undergoing an audit, may choose to join the tax amnesty / not. If not, the examination will continue, but if it agrees, the examination will be stopped. For taxpayers whose letter of audit approval has been issued but not yet examined, the taxpayer is entitled to get a proposal for canceling the inspection.
2.	Tax Supervisory Committee	Authorize the taxation authority and accept complaints or suggestions from taxpayers.	The supervisory committee's authority is still valid during tax amnesty.
3.	Inspectorate General	Authorize to do internal supervision at DGT.	During the tax amnesty, the Directorate General continues to implement internal supervision of the DGT to monitor the tax authorities acting in accordance with the law or not.
4.	Compliance Unit Internal	Authorize to do Internal monitoring against the tax authorities.	Fiskus as the executor of the tax amnesty remains under the supervision of the internal compliance unit so as not to violate the laws and regulations and the code of ethics.
5.	Examining Board Finance	Authorize to do external supervision.	Taxes and tax amnesty ransom will be deposited in the state treasury which will be managed by the Government. BPK has the authority to conduct such supervision as long as the tax amnesty applies.

The previous explanation shows that supervision can cover many things in taxation. Supervision has an important meaning and very beneficial for taxation. Taxpayers can obey to conduct their tax obligations and the tax authorities also do not act arbitrarily with supervision. Supervision that is applied in the taxation field can include supervision of taxpayers, supervision of the tax authorities in conducting their duties, and supervision of their institutions. Many things in taxation cannot be separated from the usual supervision.

CONCLUSION

The existence of a tax amnesty program is not merely also a means of the government in increasing tax revenue, but also as a means to enforce the law in

its implementation practices which are binding both in terms of the tax authorities and from the side of the taxpayer. This can be seen from the existence of laws governing the functions of supervision that must be performed by internal tax officials as the authorized parties to collect taxes both before and after tax amnesty.

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