

VOLUNTARY DISCLOSURE PROGRAM IN PERSPECTIVE OF THE LAW ON THE HARMONIZATION OF TAX REGULATIONS

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Abstract:

The promulgation of the Law on the Harmonization of Tax Regulations through Law Number 7 of 2021 has brought a new paradigm in regulations related to taxation in Indonesia. One of the new provisions in a quo provision is related to the material governing the Voluntary Disclosure Program. This article will try to explain the history of tax amnesty regulations in Indonesia and the concept of the Voluntary Disclosure Program as a new tax policy in Indonesia. This article is a conceptual article that uses a conceptual and analytical approach as support in analysis. The data used is based on secondary data. The results showed that the Policy regarding tax amnesty in Indonesia has been in effect since the New Order era until 2021. After the enactment of Law Number 7 of 2021, the tax amnesty program changed to the Voluntary Disclosure Program. This Voluntary Disclosure Program allows all taxpayers to disclose their assets that have not or are not disclosed. One of the objectives of this program is to increase the voluntary compliance of taxpayers organized based on the principles of simplicity, legal certainty, and practicality.

Keywords: Disclosure Program; Taxation; Voluntary Disclosure.

Abstrak:

Dengan diundangkannya Undang-Undang Harmonisasi Peraturan Perpajakan melalui Undang-Undang Nomor 7 Tahun 2021, telah membawa paradigma baru dalam pengaturan yang berkaitan dengan perpajakan di Indonesia. Ketentuan baru didalam ketentuan a quo salah satunya adalah terkait dengan materi yang mengatur tentang Program Pengungkapan Sukarela atau Voluntary Disclosure Program. Artikel ini akan mencoba menjelaskana mengenai bagaimana sejarah kebijakan pengaturan pengampunan pajak di Indonesia, serta bagaimana konsep Voluntary Disclosure Program sebagai kebijakan perpajakan baru di Indonesia. Artikel ini merupakan artikel konseptual yang menggunakan pendekatan konseptual dan pendekatan analisis sebagai penunjang dalam menganalisis, data yang digunakan berbasis pada data sekunder. Hasil penelitian menunjukkan bahwa, kebijakan mengenai pengampunan pajak di Indonesia telah berlaku sejak jaman orde baru, hingga tahun 2021 pasca ditetapkannya Undang-Undang Nomor 7 Tahun 2021, program pengampunan pajak berubah dengan program Voluntary Disclosure Program, Program Pengungkapan Sukarela ini memberikan kesempatan kepada seluruh wajib pajak mengungkapkan hartanya yang belum atau kurang diungkapkan. Salah satu tujuan dari program ini adalah peningkatan kepatuhan sukarela wajib pajak yang diselenggarakan berdasarkan asas kesederhanaan, kepastian hukum, serta kemanfaatan.

Kata Kunci: Disclosure Program; Perpajakan; Pengungkapan Sukarela.

A. Introduction

The Government of the Republic of Indonesia enacted the Law on the Harmonization of Tax Regulations through Law Number 7 of 2021 in 2021 (Khair et al., 2022). One of the materials regulated in this Law is the Voluntary Disclosure Program. This Voluntary Disclosure Program provides an opportunity for all taxpayers to disclose their assets that have not been disclosed or have not been disclosed. One of the goals of this program is to increase voluntary taxpayer compliance, which is organized based on simplicity, legal certainty, and benefits (Kurnianingsih, 2022).

Since the tax amnesty program launched in 2017-2018 has not been carried out optimally, this can be seen from the large number of taxpayers who declare all their assets in the program so that if the Directorate General of Taxes finds them, they will be subject to Final Income Tax (Government Regulation Number 36 of 2017) which is sure to have very high rates charged coupled with a penalty of 200% of unpaid or underpaid Income Tax according to the provisions of Article 18 paragraph (3) of Law Number 11 of 2016 concerning Tax Amnesty. For tax amnesty program participants, both individuals and corporations, who report all their assets in the Asset Declaration Letter (SPH), the assets found by the Directorate General of Taxes will be considered as income and subject to a Final Income Tax of 25% for corporate taxpayers, 30% for individual taxpayers, and 12.5% for certain taxpayers plus a sanction of 200% (Ningtyas & Aisyaturrahmi, 2022).

Certain taxpayers, as intended, who are only subject to the Final Income Tax of 12.5% are taxpayers who received gross income from business and/or independent work in the last tax year at a maximum of IDR 4,800,000,000,- (four billion eight hundred million rupiah), however, taxpayers who receive gross income other than from business and/or independent work in the last tax year at a maximum of IDR 632,000,000,- (six hundred thirty-two million rupiah) or taxpayers who receive gross income from business and/or independent work with certain conditions (Ardin et al., 2022).

In principle, it is hoped that the Voluntary Disclosure Program will also provide opportunities for individual taxpayers who have not disclosed all of their income as stated in the Annual Tax Return for the 2016 to 2020 tax years. This provision is a new regulation which, prior to the promulgation of the Law on Harmonization of Tax Regulations, individual taxpayers who have not reported income for the 2016 to 2020 tax years will be subject to the applicable rates plus administrative sanctions (Wardani & Wati, 2018).

The enactment of the Tax Harmonization Law has provided an opportunity provided by the Directorate General of Taxes in 2022 for the next six months, where the opportunity needs to be utilized by taxpayers as well as possible. With the program mentioned above, along with data from automatic data exchange (AEOI) and tax data from Agencies, Institutions, associations, and other parties (ILAP), it has confirmed that taxpayers who have not declared all their assets and income have been given a voluntary opportunity to fulfill their tax obligations correctly and honestly (Kurnianingsih, 2022).

B. Research Method

This research uses a normative juridical approach, namely by studying or analyzing secondary data in the form of primary, secondary, and tertiary legal materials by understanding the Law as a set of positive rules or norms in the legislative system that regulates human life so that this research is understood as library research, namely research on secondary data (Soerjono Soekanto & Sri Mamudji, 2003). According to the perspective of its nature, this study uses a descriptive analysis approach. Descriptive research aims to describe something in a specific area and certain circumstances (Ronny Hanintijo Soemitro, 2005). Analysis, the intention is associated with existing legal theories and laws and regulations relating to the object under study. Thus, the research results with a descriptive analysis perspective will try to provide a comprehensive, in-depth description of a situation or symptom being studied (Soerjono Soekanto, 2004).

C. Discussion

Before discussing the Voluntary Disclosure Program, it would be interesting to look at the history of the tax amnesty in Indonesia from time to time. Tax Amnesty is part of government policy in taxation (Waluyo, 2017). The Policy is intended to provide forgiveness or elimination of taxes that should be owed to taxpayers by not imposing administrative tax sanctions and criminal tax sanctions for taxpayers, with the terms or conditions that taxpayers are required to make a statement regarding the disclosure of assets owned, and pay ransom in a certain nominal amount as a form of responsibility by taxpayers in providing tax revenue to the state (Sayidah & Assagaf, 2019).

From a historical perspective, tax amnesty was first implemented in 1964 during Soekarno's leadership as President of the Republic of Indonesia. Based on the Policy of the Law in the era of President Soekarno's leadership, namely the Decree of the President of the Republic of Indonesia Number 5 of 1964 concerning Tax Amnesty Regulations. The implementation of the tax amnesty in 1964 aimed to return the funds for the revolution through the Presidential Decree of the Republic of Indonesia (Keppres) (Febrian & Ristiliana, 2019). However, at that time, the Policy applied regarding tax amnesty in Indonesia turned out to have an amount that could be said to be the same as Dwikora's Special Taxpayer Contribution (SWI), even though the receipt of funds from the tax amnesty could have been more significant than that of Dwikora's Special Taxpayer Contribution (SWI) (Sa'adah, 2018).

Furthermore, in 1984, during President Soeharto's leadership, a tax amnesty policy emerged as contained in Presidential Decree No. 26 of 1984 concerning Tax Amnesty. The Tax Amnesty in 1984 was expected to be a clean starting point regarding tax policy in Indonesia because, at that time, a series of new Tax Laws were being implemented. However, the implementation of the Policy in that year was classified as a failure because the tax system had not yet been developed.

Along with the times, the concept of tax amnesty was later changed to the provisions contained in Law Number 28 of 2007 concerning General Provisions and Tax Procedures. In this Law, the term tax amnesty is known as the Sunset Policy. This Policy allows the public to start their tax obligations properly (Ristiana & Wening, 2020). The Sunset Policy was carried out in 2008, and it was recorded that during this period, it was implemented successfully, adding a total of 5,653,128 Taxpayer Identification Numbers, an increase in Annual Tax Returns of 804,814 Tax Returns, and an increase in Income Tax receipts of IDR 7.46 Trillion (Kasim et al., 2018).

The basic concept of the Tax Law governing the Sunset Policy is self-

assessment. In a self-assessment system, taxpayers are entrusted with calculating, calculating, depositing, and reporting the amount of tax owed on their own, following the provisions of the tax laws and regulations. As a consequence of giving this trust, the Taxpayer must submit a Tax Return along with the attached information and/or documents that have been filled in correctly, thoroughly, and clearly. Sunset Policy provides an opportunity for taxpayers who already have an NPWP before 1 January 2008 to correct their annual income tax returns for the 2007 tax year or 2007 tax year and earlier to obtain facilities in the form of the elimination of administrative sanctions in the form of interest on late payment of taxes or interest on unpaid or underpaid taxes (Suryarini & Anwar, 2010).

In its development, the implementation of the Sunset Policy, taxpayers are given the trust to disclose all income, including assets and liabilities in the Annual Income Tax Return of Corporate Taxpayers or Individual Taxpayers that have been submitted or corrected by taxpayers in connection with the implementation of the Sunset Policy cannot be used as a basis for conducting audits (Alfiyah & Latifah, 2017).

Furthermore, the second Sunset Policy volume or called the Reinventing Policy, was implemented in 2015 to perfect the first sunset policy volume where there are differences between the two policies, these differences include among others: (Yuli Chomsatu Samrotun, Suhendro, 2018)

- (1) The basis for the authority to eliminate administrative sanctions is to use the authority of the Director General of Taxes contained in Article 36 paragraph (1) letter a of the Law on General Provisions and Tax Procedures;
- (2) The administration of the elimination of administrative sanctions in the sunset policy volume I is carried out with the Tax Service Office not issuing STPs, while in the end, the STPs for administrative sanctions will still be issued and will be abolished after the Tax Service Office receives an application for abolition from the Taxpayer;
- (3) In sunset policy volume I, delivery or correction of SPT (Tax Return) relies on voluntary taxpayers. In sunset policy volume II, apart from being voluntary, some are mandatory.

The last tax amnesty that has been carried out in Indonesia is the Tax Amnesty Law which is a time-limited opportunity for certain groups of taxpayers to pay a certain amount within a specific time in the form of forgiveness of tax liabilities (including interest and penalties) relating to the previous tax period or a certain period without fear of criminal punishment. The objectives of drafting the Tax Amnesty Law include accelerating economic growth and restructuring through the transfer of assets, which among other things, will have an impact on increasing domestic liquidity, improving the rupiah exchange rate, lowering interest rates, and increasing investment; encouraging tax reform towards a more equitable tax system as well as expansion of a more accurate, comprehensive and integrated tax database; and increase tax revenues used for development financing.

The most expected advantage of the implemented tax amnesty program is that it will be able to encourage the inflow of funds from abroad, which in the long term can be used as a stimulus for investment which in turn is useful for stimulating the national economy. Disclosure of assets and repatriation of assets that enter Indonesian territory for investment is undoubtedly a particular stimulus for the country's economy.

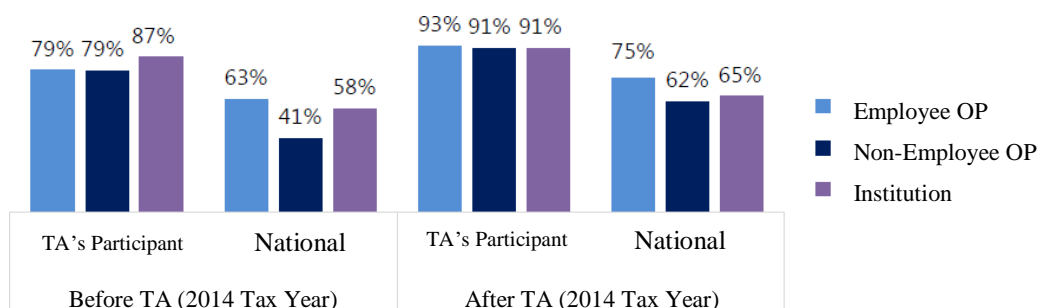
Tax amnesty includes amnesty for tax obligations up to the end of the last tax year that has not been or has not been fully settled by the Taxpayer. This tax obligation consists of PPh and PPN (Value Added Tax (VAT)) or PPnBM (Sales Tax on Luxurious Goods) obligations, which is meant by the latest Tax Year, the Fiscal Year ending 1 January 2015 to 31 December 2015. For taxpayers who participate in the Tax Amnesty and have obtained a Certificate, the tax that should have been owed is not subject to administrative sanctions and criminal sanctions in the field of taxation on income tax, VAT, and/or STLG obligations for the tax period, part of the tax year, tax year until the end of the last tax year (Tarawiru, 2018).

Taxpayers who have received Certificates obtain Tax Amnesty facilities in the form of:

- (1) Elimination of tax payable for which tax assessments have not been issued, are not subject to tax administration sanctions, and are not subject to criminal sanctions in the field of taxation, for tax obligations in the tax period, parts of the Tax Year, and Tax Year, up to the Last Tax Year;
- (2) Elimination of tax administration sanctions in the form of interest, or fines, for tax obligations in the tax period, part of the tax year, and the tax year up to the last tax year;
- (3) Tax audits, initial evidence examinations, and tax crime investigations are not carried out for tax obligations in the tax period, parts of the tax year, and tax year up to the last tax year; and
- (4) Termination of tax audits, initial evidence examinations, and criminal investigations in the field of taxation if a taxpayer is undergoing a tax audit, preliminary evidence examinations, and criminal investigations in the taxation sector for tax obligations up to the end of the last Tax Year which was previously suspended as intended relating to PPh obligations, and PPN or PPnBM.

The impact of the tax amnesty in the 2016-2017 period is the ratio of compliance and payment of Annual Income Tax for taxpayers who take advantage of Tax Amnesty is higher when compared to taxpayers who do not take advantage of Tax Amnesty (Pravasanti, 2018).

Figure 1
Taxpayer compliance level



The most recent policy regarding tax amnesty in Indonesia is the Voluntary Disclosure Program, which is a program that aims to increase voluntary taxpayer compliance and is implemented based on the principles of simplicity, legal certainty,

and benefit (Irawan & Raras, 2021). This program is in the form of providing opportunities for taxpayers to voluntarily report or disclose tax obligations that have not been fulfilled through (1) Income tax payments based on the disclosure of assets that are not or have not been fully reported by participants of the tax amnesty program; and (2) payment of income tax based on the disclosure of assets that have not been reported in the Annual Individual Income Tax Return for the 2020 Fiscal Year. This program will be implemented for six months, from January 2022 to June 2022. Two existing policies in this Voluntary Disclosure Program can be described as follows:

Figure 2
Voluntary Disclosure Program Policy

Information	Policy I	Policy II
Subject	WP OP and TA participating institutions	WP OP
Asset Base	Assets as of 31 December 2015 that have not been disclosed when participating in the TA	Assets acquired for 2016-2020 that have not been reported in the 2020 Annual Tax Return
Final Income Tax Rate	<ul style="list-style-type: none"> • 11% for foreign declaration • 8% for repatriated foreign assets and domestic assets • 6% for repatriated foreign assets and domestic assets, which are invested in SBN/downstream/renewable energy 	<ul style="list-style-type: none"> • 18% for foreign declaration • 14% for repatriated foreign assets and domestic assets • 12% for repatriated foreign assets and domestic assets, which are invested in SBN/downstream/renewable energy

As an illustration of Policy I, Mrs. RU participated in the Tax Amnesty program in 2016. However, at the time of the Tax Amnesty, there was still a house in the country that was not disclosed with a value as of 31 December 2015 amounting to IDR 2 billion. To avoid the imposition of sanctions under the Tax Amnesty Law, Mrs. RU took part in the Voluntary Disclosure Program. Mrs. RU intends to declare these domestic assets without investing in SBN/downstream/renewable energy, so Mrs. RU pays Final Income Tax at an 8% rate of IDR 160 million (8% x IDR 2 billion).

As an illustration of Policy II, Mr. EL has 2 (two) houses, and an account in Indonesia obtained from 2016 to 2020. Two houses have been reported in the 2020 Annual Tax Return worth IDR 3 billion, but one account worth IDR 1 billion has not been included in the 2020 Annual Tax Return. Mr. EL will participate in the Voluntary Disclosure Program and intends to invest his money in SBN, so Mr. EL pays Final Income Tax at a 12% rate of IDR 120 million (12% x IDR 1 billion).

The Final Income Tax rate is made non-uniform with particular tariff layers considering the urgency of the program's existence so that it is fair and right on target. Corporate and individual taxpayers who have previously taken advantage of the tax amnesty program obtain facilities in the form of lower rates than individual taxpayers who have not taken advantage of the tax amnesty at all. The asset base used as the final income tax object is also differentiated for those who have participated in the tax amnesty, limited to assets that have not been disclosed at the time of participating in the tax amnesty. In addition, rates for repatriated foreign and domestic assets invested in SBN/downstream/renewable energy are subject to lower rates than those not. Of course,

the great hope is that the lowest tariff imposed by this Law will increase the investment scheme allocated from the asset base declared in disclosure by voluntary taxpayers to support the Indonesian economy.

D. Closing

Sunset policies, tax amnesty, and voluntary disclosure programs are various forms of policies that aim to increase taxpayer compliance which was initially made with coercive regulations and will eventually issue taxpayer voluntarism. This program can also be regarded as a national reconciliation to eliminate mistakes made by taxpayers who were disobedient and committed many tax evasions. Taxpayers who initially hide and do not want to show their actual income will slowly begin to reveal their authenticity. With this kind of tax amnesty program, the tax base will be better, and in the end, state revenue from the taxation sector will be achieved to support the State Revenue and Expenditure Budget. Indonesia's economic growth is also expected to improve and multiply sustainably so that it is highly competitive internationally.

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