



THE IMPLEMENTATION OF LAW NO. 11 YEAR 2016 ON TAX AMNESTY FOR TAXPAYERS IN KUTAI KARTANEGARA AND WEST KUTAI REGIONS

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Abstract

Tax amnesties planned to be instruments to lift tax increases, it is the government policies that still debatable. However, it is not easy to implement a policy on tax amnesties, especially in the regions. Many obstacles occur, one of them is the calculation of assets and debts. Besides, there are many weaknesses of Law no 11 Year 2016 About Tax Amnesty. This study tried to figure out the implementation of tax amnesty in regional area, so that this research discussed the several problems. First problem is how the implementation of tax amnesty to the taxpayers in Kutai Kartanegara and West Kutai region? Second, how is the legal analysis of the tax amnesty to the taxpayers at the Pelayanan Pajak Pratama (Tax Office Primary (KPP)) based on Law no 11 Year 2016 About Tax Amnesty? This study also aims to firstly to describe the implementation of tax amnesty to the taxpayers at the Pratama Tax Office (KPP) Tenggarong which covers the area of Kutai Kartanegara and West Kutai. Second, to study and to analyze the implementation of tax amnesty to taxpayers at KPP Tenggarong based on Law no 11 Year 2016 About Tax Amnesty. The enactment of Law No. 11 of 2016 on Tax amnesty becomes the point where the government is considered to prioritize short-term tax advantages rather than to seek long-term tax benefits. Tax Amnesty assessed to cause injustice for taxpayers, both who have paid and committed tax crimes. Moreover, Law No. 11 year 2016 on Tax amnesty has been contradictory to Law No. 08 of 2010 on Criminal Acts of Laundry. This happens because the tax amnesty carries out the indemnification of the indebted taxes by paying ransom, giving a chance for the intelligence criminals to save money abroad. With a note, when the Minister of Finance gives a statement that this money is declared legal and entitled to repatriated tax amnesty without any legal process.

Keywords: Tax Amnesty, policies, assets and debts

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1. INTRODUCTION

Taxes have a very important role for the life of the state, especially in development process because taxes are a source of state income to finance all expenditures, including development expenditures. General Definition of Tax is the contribution of taxpayers to states that are forced by law which is used for the purposes of the state for the greatest prosperity of the people. The taxpayer is a person or entity. The government certainly needs a big enough budget to run the government daily needs and stabilize the country's economy. Departing from that statement, the government tends to optimize the sources of stable state government which comes from the community itself and from the reallocation of funds derived from the public savings of the taxation sector. The government recognizes that revenues from the oil and gas sector are less reliable because the oil and gas sector is a natural product that is increasingly diminishing and non-renewable. Therefore, the taxation sector should be optimized in such a way, so that it can sustain the national development in Indonesia. However, efforts to optimize state revenues from the tax sector to date have not been run in accordance with the expected target. This shows that tax collection is not an easy thing.

Various modes are conducted to resist and avoid taxes. Each sector has its own mode in accordance with the tax policy applicable to the sector. Even the efforts to avoid tax payment are done by cross country borders. Tax evasion is also done systematically under the guise of community empowerment system. Partnership has become a mode of tax evasion in the oil palm plantation sector. Research conducted by The Institute for Ecosoc Rights and NHCR states that partnership programs between communities and oil palm companies are usually the community providing land and investment companies, form the Village Community Garden (KMD). The concept is like benefiting farmers but just the opposite, only benefit the company. The benefits of the company are, firstly, the company can expand its plantations amidst the limited use of the HGU (Cultivation Right) which they have is no longer able to add. Second, the partnership helps the image and frees the company's obligation to build 20 percent of the community's garden, and community empowerment program. Third, the company does not have to make environmental impact analysis (AMDAL) documents. Fourth, the land acquisition is made at low cost from the partnership process. Fifth, companies can get around the tax. For example, there is one company owning HGU (Cultivation Right) 30,000 hectares, but the partnership program, it can expand its plantation to

70,000 hectares. The company pays only 30,000 hectares of HGU taxes to the state, while 40,000 hectares are underpaid in the form of a partnership scheme they pay the farmers' equivalent. It is clear that the state loses.

The process of collecting taxes, especially in the field of natural resources is not an easy matter, especially in the mining sector. There are many factors that make it difficult for tax collection, for instance, permits that are not clearly located, licensed holders are not clear because sometimes it is different between location permits and exploration permits, different legal subjects, the licensing organizer will be different if the permit is subcontracted to a different company, not to mention the NPWP (Tax ID Numbers) is empty. This is a tax avoidance mode in the tax sector. Tax is one of the instruments used by the state to collect development funds, therefore in the tax there is also a nature that compels the citizens to implement the provisions of taxation. The nature of forcing inherent in taxes is actually nothing new. History records when in the kingdom era, the possessions of livestock, crops or other possessions owned by someone who did not pay taxes or tributes would be taken/confiscated for the benefit of the state or kingdom.

The state has policies and various legal instruments to maximize tax collection. The tax law includes the applicable public law *Lex Specialis derogat Lex Generalis*, which means special rules take precedence over general rules or if any provision has not or is not governed by special rules, then the provisions of the general rules shall apply. The existence of the nature of forcing the law in the tax is not haphazardly done. Of course, it must be based on laws, so as not to be used arbitrarily by certain parties, especially by those who are authorized to levy taxes. Government in carrying out the tax function should be able to accommodate taxation policies related to the improvement of economic and social development. It is not easy to adjust the legislation with the development of society, especially pay attention to justice among the community.

The actions of those who have not reported their property at home and abroad and have not been taxed in Indonesia also contribute to the low tax ratio. In addition, the low tax ratio is also caused by low taxpayer compliance and limited capacity of tax authorities, especially in overseeing economic activity in the informal sector (underground economy) and preventing the capital flight to foreign countries. This indicates that there is still a potential for Indonesia's unexplored taxation that can be realized to finance economic activities and support government programs to support the implementation of state functions. Improving tax

sector revenue can only be done when the government has different efforts in order to maximize tax revenues. With the endless polemic colored the government finally established Law No. 11 year 2016 on Tax Amendment.

Various countries that have implemented tax amnesty policies generally depart from efforts to improve long-term adherence. It is done by granting amnesty to those who have not been or not obey to pay tax. It is not surprising, if many people argue that tax amnesty harms the principle of justice. The government is accused of taking sides with taxpayers and hurting obedient taxpayers. Many things to be achieved in this tax amnesty program, not just increase tax revenue, more than

that. The government wants to hold reform and enforcement in the field of tax law as Article 2 paragraph (2) Law No 11 Year 2016 About Tax Amnesty.

However, the tax amnesty does not find a smooth way to achieve the above objectives. The articles contained in the law provide a relaxation from the legal aspect so that many argue that the tax amnesty program leaves behind the aspect of justice, especially justice between the general public and a group of people who have an undisclosed wealth. From the economic side, the tax amnesty program provides an increase in state revenues. The following are taxes on the Tax Amnesty Program:

Table 1:Source: Directorate General of Taxation KEMENKEU RI

Period	Declaration of property	Repatriation	Ransom	Payment in arrears
I (1 July-30 September 2016)	Rp.4500 Trillion	Rp.137 Trillion		
II (1 Oktober-31 December 2016)	Rp.4153 Trillion	Rp.141 Trillion	Rp.103 Trillion	Rp.739 Billion
III (1 Januari-31 March 2017)	Not yet Reported	Not yet Reported	Not yet Reported	Not yet Reported

However, the achievements mentioned above still leaves many legal problems, especially on the aspect of law enforcement. The focus of this research is the study of facilities in the tax amnesty program. Various facilities are provided by the government ranging from the amount of tax amnesty, to the elimination of sanctions both administrative sanctions and even termination of criminal process that can be said to abort a criminal case. The aforementioned article is a tremendous legal treatment of a legal act that is the obligation of the taxpayer who declares his wealth or assets or property to the government in this at the directorate general of the ministry of finance of the Republic of Indonesia.

The unfairness of the taxpayer who has been investing the wealth gained from Indonesia abroad or large entrepreneurs with various modes of evasion and even tax resistance for many years so that the state is lost. Various polemics emerged on the issuance of tax amnesty law even to the law filed a judicial review to the Constitutional Court. Focus on legal facilities in the tax amnesty program mentioned above, one of which is talking about the tax criminal aspects. Crime in the field of finance or economic crimes is unusually severe. With various modes the criminals are sheltering behind weak laws. This study tried to examine the legal implications that occur both on tax authorities and taxpayers related with legal facilities provided in

tax amnesty programs. In the science of legislation, there is a principle of excluding the law. It needs separate discussion when there is article in the law no 11 year 2016 about tax amnesty that can remove a criminal offense. It is important to review when the taxpayer in a position can be categorized as an economic crime or even taxation crime.

It is unfair when a taxpayer is in the process of investigating a taxation case by immediately being forgiven and terminated his investigation simply because he declares his possessions to the government without any verification process of the origin of the property. Departing from the above matter, the authors lifted the Implementation of Law No. 11 year 2016 on Tax Amnesty for Taxpayers in Kutai Kartanegara and West Kutai Regencies as the title of this research. This research discusses the following issues: How to apply tax amnesty to taxpayers in Kutai Kartanegara and West Kutai regency. And What is the legal analysis of tax amnesty on taxpayers at the Tax Office Primary (KPP) based on Law no 11 Year 2016 About Tax Amnesty.

2. RESEARCH METHODS

This research is a normative juridical research, with analytical descriptive research specification. Descriptive research is a research that is exposure in order to describe as fully as possible about a

situation that applies to a particular place or location, or existing symptoms or specific events that occur in a particular community or location in the context of research. Furthermore, in this research, Statute Approach was used either *regeling* or *beschikking* (determination). Besides, this research also used problem approach, it is the process of solving the problem through the stages that have been determined so as to achieve the research objectives. The empirical juridical approach is a way of procedure used to solve the problem of research by researching secondary data first then continued by conducting research on primary data in the field. The author chose the tax office (KPP) pratamaTenggarong as the location of research. This was because KPP PratamaTenggarong serves two districts of KutaiKartanegara and West Kutai districts. According to the authors this became interesting and efficient because in one study site the author can simultaneously research with two regions. To complete this research, the researcher needed some research materials consisting of Primary Legal Material that is in the form of all regulation related to tax amnesty, Secondary Law Material which sourced from papers, books, documents related to tax amnesty and research result and writing related to tax amnesty. To obtain the data, the data collection technique was done through library research and interviews by conducting tracking of legislation, scientific books and documents related to the object under study so that secondary data was obtained.

3. RESULTS AND DISCUSSION

Implementation of Tax Amendment for Taxpayers in KutaiKartanegara and West Kutai Regions.

This research focused on two areas of KutaiKartanegara and West Kutai regency of East Kalimantan province. This research took two

sample areas because technically reside in work area of Tax Office (KPP) PratamaTenggarong consisting of Extension Service and Taxation Consultation (KP2KP), Sendawar and Tax OfficePratamaTenggarong. After the information was described then the authors analyzed the findings based on existing legal rules. This study found many things related to the implementation of tax amnesty. Office of Extension Service and Tax Consultation (KP2KP) Sendawar is Tax Information Office under Tax OfficePratamaTenggarong residing in Samarinda. The Office of Extension Service and Tax Consultation (KP2KP) Sendawar is under the Tax Service Office (KPP) PratamaTenggarong. KP2KP Sendawaris very needed by society of West Kutai in executing Taxation Obligation because the distance between KPP PratamaTenggarong with SendawarWest Kutai is far.

KutaiKartanegara (Kukar) Regency does make a big contribution to tax revenue in KPP Tenggarong. According to the informant, this is because many companies operating in the Kukar region as many as 1364 companies, so this becomes a promising potential for tax revenue in KPP Tenggarong. Even though the conomic condition is weak and resulted in unfulfilled amount of tax revenue from KPP PratamaTenggarong, the most tax contributor is still dominated by mining, plantation, and forestry. So in accordance with the guidelines that have become the legal basis for the implementation of tax amnesty, KPP PratamaTenggarong held a Tax Amnesty Program ranging from socialization to tax collection. Directorate General of Taxes (DJP) East and North Kalimantan Area (Kaltimra) managed to collect the ransom of tax amnesty program or tax amnesty through the figure of Rp 1.6 trillion with the taxpayer Samarinda recorded the largest paying tax amnesty ransom that reached Rp 664 billion. is the data obtained by the author on KPP PratamaTenggarong:

Table 2. Tax Amnesty Data KPP PratamaTenggarong

Source: KPP PratamaTenggarong

No	Working Area	Registered tax payer		Tax payer who follow tax amnesty		Number of Ransom	
		Entity	Personal	Entity	Personal	Entity	Personal
1.	K. West	2749	22.172	153	162	3.334.663	7.83.367.378
2.	KK	11.379	116.330	733	829	9.800.360.428	20.196.108.610
3.		320	1714	3	-	33.187.764	

The data above illustrates that the number of taxpayers who follow the Tax amnesty is still far from the number of registered taxpayers that should be. Moreover the taxpayer is an individual. Surely this illustrates that there are still problems in the implementation of tax amnesty. Major sectors such

as mining and plantation have not been maximally subject to the tax amnesty. Swift's nest that has been a mainstay in the potential tax is also still minimal to follow the tax amnesty. Chairman of ApindoKutaiKartanegara in an interview with the author revealed that employers always support the

government with confidence about the benefits of tax amnesty both for now and in the future. However, it seems that there is still a need to be improved in the implementation, the tax authorities are expected to apply tax amnesty policies as well as possible to avoid multi-interpretation of the tax policies that still occur in the field. Because there are quite a lot of implementations problems in the field that hamper the optimization of tax amnesty results.

Chairman of APINDO KutaiKartanegaraalso exposed, things that still inhibit among others related to the provision of a free certificate (SKB) from taxpayers who follow the tax amnesty, related behind the name of property in the form of land or shares previously in the name of nominee. In practice, taxpayers still encounter technical obstacles when dealing with tax officers in the Tax Office (KPP) when handling the free declaration (SKB). It is actually not necessary, because it is set clearly in Law No. 11 year 2016 About Tax Amnesty. In the field is still happening, tax officers who threaten to check SPT 2016 when it is not appropriate. In addition, there are still tax officers who threatened to test the additional property that has been included tax amnesty because it is considered unnatural. Various sectors are expected to be active in tax amnesty, however not all sectors follow tax amnesty maximally in West Kutai. Surprising is the taxation of the swift nest sector. Based on the information from the regional revenue service (DISPENDA), both inWest Kutai and KutaiKartanegara districts, the tax from the swallow bird's nest is empty.

Many problems occur in the implementation of tax amnesty. This has not yet covered the funds overseas. The important thing in this implementation is that the tax amnesty program is supported by many parties, even many entrepreneurs and conglomerates who participate in tax amnesty openly. This research will analyze various matters related to tax amnesty implementation. In this discussion, the author in detail described the implementation of tax amnesty. Particularly, it is related to things that must be done by the taxpayers in the KutaiKartanegara and Kutai regions of West Kalimantan Province.

Head of Tax Office (KPP) PratamaTenggarong (KutaiKartanegara), Widodo said in accordance with Law No 11 Year 2016 About Tax Amnesty explains Tax Amnesty is the abolition of taxes that should be payable not subject to sanctions taxation by revealing and pay the ransom money. By revealing the assets that have not been reported in the Annual Income Annual Tax Return (SPT) by redeeming the ransom for domestic funds two percent, while the foreign funds four percent. There is the term Reveal,Redeem and Relieved (Ungkap, TebusdanLega). Mr.Widodo said where the three words that reveal his wealth, then redeem with ransom money, so that the community becomes relieved. This program has received a waiver from the Directorate General of Taxes (DGT) by providing administrative convenience for taxpayers who want to participate in the tax amnesty program towards the end of this one period.

Table 3.Ransom Money

Ransom Money			
Period	Time	Domestic Declaration/Repatriation	Overseas Declaration
I	period I to 30 September 2016	2%	4%
II	October 2016- 31 December 2016	3%	6%
III	1 January 2017- 31 March 2017	5%	10%

Legal Analysis against the Tax Amnesty for Taxpayers at Tax Office Pratama (KPP) Based on Law no 11 Year 2016 About Tax Amnesty.

According to "Law No. 11 of 2016 on Tax Amnesty, Tax Amnesty is the abolition of taxes that should be owed, not subject to tax administration sanctions and criminal sanctions in the field of taxation, by disclosing the Property and paying the Ransom as stipulated in this Law. According to Regulation of the Minister of Finance No.118 / PMK.03 / 2016 Tax Amnesty is the abolition of taxes that should be payable, not subject to sanction of tax administration and

criminal sanctions in the field of taxation, by disclosing the Property and paying the Atonement as stipulated in the Law of Tax Amnesty.

Tax Amnesty becomes wild. From the initial spirit that had been pursuing the assets of Indonesians abroad for Rp 1.400 trillion, the report of Panama Paper leaks, as well as offshore leaks. But now the policy is widening everywhere, until then the ordinary people are required to follow the program. Of course, this is deeply troubling for the community and even a kind of terrifying psychological terror. Therefore, property owned by the public must be reported and pay 2 percent of

the total wealth. Though the small and medium-sized people have paid taxes, the community is clearly burdened in paying ransom rates. Especially, for those who have been obedient tax. The public also protested: following tax amnesty as well as the guilty people for asking to be forgiven. While the upper class tax criminals even forgiven. Free to put money abroad. The government policy stipulates that the implementation of the tax amnesty which is implemented from July 11, 2016 to March 31, 2017 purely to withdraw the funds owned by Indonesian citizens who have been nesting abroad, especially in tax haven country. Naively, the target of repatriation failed miserably. Far from the target. And in practice eventually the small people who are targeted. It was done following the failure of asset repatriation ie the return of assets in foreign banks.

Law no 11 of 2016 on Tax Amnesty is contrary to Law No. 08 of 2010 on Money Laundering Crime. Law No. 11 of 2016 on Forgiveness This tax is legal to legalize money laundering and reduce the entire process of law enforcement. Tax amnesty provides an opportunity for white-collar criminals to keep money abroad to hide their money origins. With a note when it can be a statement from the Minister of Finance, this money is declared legal and entitled to repatriated tax amnesty without any legal process. As Article 1 Paragraph (1), (7) Tax amnesty Law, there is a policy of elimination (forgiveness) of indebted taxes by paying ransom of magnitude 2 to 10 percent, so taxpayers are free from administrative and criminal sanctions. Law No. 11 of 2016 on Tax Amnesty provides a discount for tax collectors.

Law No. 11 of 2016 on Tax Amnesty also crashed into the principle of public information disclosure and inhibited the whistle blower system program due to a ban on disclosing information or leaking tax data payable at the Ministry of Finance. The violation can be criminalized. The choice of legal dispute is only through a civil suit to court. In addition, Law No. 11 year 2016 concerning Tax Amnesty is Taxpayers whose status of suspect cases may be terminated when the case file is not yet P-21 (incomplete). So taxpayers who report tax amnesty are not subject to legal action.

In Law No. 11 of 2016 on the tax amnesty, it is also questionable the immunity of the Minister of Finance and his staff. In addition to eliminating the potential of state revenues and the mandatory nature of the tax, Law No. 11 of 2016 on Tax amnesty marginalizes the obedient taxpayers. There is injustice to society, the tax is forced to be taken with a large fine, but this is given a big discount. Law No. 11 of 2016 on Tax amnesty is deemed to crash into the principle of equality before law and the destruction of law enforcement processes that violate the Constitution. There are pros and cons of

adding the rules regarding tax amnesty. The pro's argue that tax amnesty policy can be an effective solution to increase the number of new WP and tax revenues. However, there are counter arguing that the policy is a desperate step from the government. In addition, the imposition of tax amnesty can encourage citizens who had been tax-abusive to be naughty because there are factors of jealousy.

2. CONCLUSION

Implementation of a successful Tax Amnesty is done by collecting funds from the public however much remains to be done to raise tax awareness to improve welfare. Implementation of Law no 11 Year 2016 About Tax Amnestis still encountered many obstacles both legal constraints and in the form of tax information. Besides, the education of tax awareness must be done among the taxpayers so that people do not hesitate to follow the tax amnesty. Law no 11 Year 2016 About Tax Amnestysuccessfully implement tax amnesty program but still not able to realize tax compliance. In the future tax amnesty still requires a lot of legal material reform.

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