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## Legal Analysis of Tax Amnesty Policy in Indonesia

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### Abstract

The tax amnesty policy, implemented in Indonesia through Law Number 11 of 2016, aims to improve tax compliance and capital repatriation by eliminating unpaid tax liabilities and sanctions for taxpayers who disclose their hidden assets. Although this policy has succeeded in significantly increasing asset declarations and fund repatriation, this study reveals that it has also sparked debates on fairness and equity, and questions its long-term effectiveness on tax compliance. The legal analysis shows that while tax amnesty can increase short-term tax revenues, its effects on long-term tax compliance behavior are still ambiguous. In addition, the implementation of this policy faces significant administrative challenges. Based on these findings, the study recommends increasing transparency, periodic evaluation, and rewards for compliant taxpayers as strategies to improve the effectiveness of future tax amnesty policies.

**Keywords:** *Tax Amnesty, Fiscal Justice, Tax Compliance*

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### INTRODUCTION

Tax amnesty policy has become one of the controversial but important fiscal policy instruments in the history of tax management in various countries, including Indonesia. This policy is implemented with the aim of increasing taxpayer compliance and expanding the tax database which is ultimately expected to increase state tax revenues. In Indonesia, the implementation of the latest tax amnesty policy is regulated in Law Number 11 of 2016 concerning Tax Amnesty, which was passed in order to address the problem of tax leakage and invite repatriation of funds stored by Indonesian citizens abroad (Huda, 2017).

The tax amnesty policy in Indonesia was greeted with mixed reactions. On the one hand, this policy succeeded in producing significant asset declarations and massive repatriation of funds into the country, indicating success in terms of the amount of funds successfully 'repatriated'. However, on the other hand, this policy also raised various criticisms and controversies, especially related to aspects of justice and legal equality. Many parties argued that tax amnesty actually gave 'gifts' to tax evaders, while those who had been obedient in paying taxes did not receive equal incentives (Setiawan, 2018).

In the context of law and regulation, the legal analysis of tax amnesty policy in Indonesia reveals various complex legal dynamics. Basically, this policy is designed to attract the participation of taxpayers who have not fully fulfilled their obligations to the state, by providing incentives in the form of tax arrears and protection from tax sanctions. However, its implementation raises important questions regarding its long-term effectiveness and its impact on future tax compliance behavior (Wibowo, 2019).

**Legal Justice and Equality:** One of the main issues arising from the tax amnesty policy is the issue of legal justice and equality. This policy, which is basically intended to optimize tax revenue,

is often seen as a form of injustice for taxpayers who have complied with tax regulations. This issue includes how the tax amnesty policy affects the perception of justice among taxpayers and its potential impact on future tax compliance. This analysis will evaluate the impact of tax amnesty on taxpayer equality and how it affects public trust in the tax system (Sulistyo, 2020).

**Impact on Long-Term Tax Compliance:** The tax amnesty policy also raises questions about its impact on long-term tax compliance behavior. While this policy may be successful in increasing tax revenues instantly through massive asset declarations and repatriation of funds, there are concerns that this could actually reduce the motivation for tax compliance in the future. Taxpayers may assume that there will be tax amnesty in the future, which can reduce the urgency to comply with tax rules over time. This study will analyze how the tax amnesty policy affects tax compliance expectations among taxpayers and the potential for repeated tax amnesty cycles that can erode the tax base (Prasetyo, 2021).

Tax amnesty policies are often faced with the dilemma of justice and legal equality. On the one hand, this policy aims to increase tax revenue and encourage taxpayers who have not complied to pay off their obligations without severe sanctions. However, on the other hand, this can trigger negative perceptions among taxpayers who have complied with their tax obligations from the start. They may feel disadvantaged, because they do not get any benefits from their compliance, while those who avoid taxes are given incentives (Sulistyo, 2020).

A study by Sulistyo (2020) shows that the tax amnesty policy can damage public trust in a fair taxation system. This condition, if not managed properly, can reduce motivation to comply with tax laws in the future, and affect the stability of state revenues. To address this issue, the government needs to ensure that the tax amnesty policy is accompanied by improved services and fairness in tax administration, so that it can strengthen positive perceptions of the taxation system.

Another issue raised is the potential impact of tax amnesty policies on long-term tax compliance. According to Prasetyo (2021), although tax amnesty can increase tax revenue in the short term through large asset declarations and repatriation of funds, the long-term effects may be different. Taxpayers may assume that similar policies will continue to emerge in the future, which could reduce their urgency to comply with tax provisions over time.

In this context, it is crucial for the government to ensure that the tax amnesty policy is designed as a one-time or very rare strategy. This will help reduce expectations of future tax amnesties and strengthen tax compliance norms among taxpayers. In addition, there needs to be ongoing efforts to improve the tax monitoring and enforcement system so that the positive effects of tax amnesties are not just temporary.

## METHOD

This study uses a normative legal method to analyze the tax amnesty policy in Indonesia. This approach involves an in-depth study of primary and secondary legal materials, including Law Number 11 of 2016 concerning Tax Amnesty, its implementing regulations, and related academic literature including journals, books, and other publications. The data and information collected will be analyzed to understand the legal basis and implementation of the tax amnesty policy, as well as to identify and evaluate issues of fairness and their impact on long-term tax compliance.

In addition, this study will also use a comparative approach to compare tax amnesty policies in Indonesia with other countries that have implemented similar policies. The purpose of this comparative approach is to identify best practices and lessons that can be applied in the Indonesian context. This analysis is expected to provide new insights into how tax amnesty policies can be refined to support a fairer and more effective taxation system in Indonesia. Thus, the results of this study are expected to provide concrete and evidence-based recommendations to policymakers for the improvement of tax amnesty policies in the future.

## RESULTS AND DISCUSSION

### Tax Amnesty Policy in Indonesia

Tax amnesty, often seen as a controversial yet vital strategy in increasing tax revenue and taxpayer compliance. In Indonesia, this policy was most recently regulated through Law Number 11 of 2016 concerning Tax Amnesty. This law was designed to address the problem of low tax compliance and increase repatriation of funds into the country, which has long been a challenge in the Indonesian tax system (Priyatno, 2016). However, behind its noble goals, this policy raises various legal and ethical questions, especially regarding fairness and equality in its implementation.

The tax amnesty policy in Indonesia was introduced with the hope of recovering unrecorded and untaxed funds that many Indonesian citizens have stashed abroad. In its implementation, this policy provides incentives for taxpayers to report previously unreported or unreported assets without having to face the risk of severe penalties or sanctions. Taxpayers who take part in this program are given a waiver of taxes owed, fines, and other sanctions, on the condition that they pay very low taxes on the assets they declare (Suryanto, 2017).

One of the main issues that arise from the tax amnesty policy is the question of fairness and equality. Basically, this policy can be seen as a form of state appreciation for non-compliance behavior, which can indirectly reduce the motivation of taxpayers who have been compliant so far. Taxpayers who have complied with tax provisions feel disadvantaged because they do not get incentives or tax exemptions as given to those who have just reported their assets (Hartanto, 2018). This criticism reflects a major dilemma in the implementation of the tax amnesty policy: how to balance between increasing tax revenues and ensuring fairness among taxpayers.

In addition, the tax amnesty policy also has implications for the perception of social justice and public trust in the taxation system. If this policy is considered to benefit a handful of people while others do not, this can erode public trust in the integrity and fairness of the taxation system. This is exacerbated by the lack of transparency in the tax amnesty implementation process, which is often unclear to the general public (Wicaksono, 2019).

From a tax compliance perspective, tax amnesty can have two conflicting impacts. On the one hand, this policy can encourage taxpayers who have previously avoided taxes to start a new chapter with the government, in the hope that they will continue to comply in the future. However, on the other hand, this policy can also be seen as a message that tax violations will be forgiven, which may reduce motivation to comply with taxes in the future. Research conducted by Anggraini (2020) shows that the long-term effects of tax amnesty on tax compliance are ambivalent, depending on how this policy is communicated and implemented.

The tax amnesty policy implemented in Indonesia through Law Number 11 of 2016 concerning Tax Amnesty has invited much discussion and debate, not only in terms of policy but also from the

legal and legal aspects. This law is explicitly designed to address several major problems in the Indonesian tax system, including tax avoidance and extensive fiscal evasion. However, its implementation and long-term effects on the national tax system raise important questions related to fairness, equality, and tax compliance.

Article 1 of Law No. 11 of 2016 explains that tax amnesty is the elimination of taxes owed, elimination of administrative sanctions, and elimination of criminal sanctions in the field of taxation for taxpayers who declare assets in the context of repatriation or declaration of assets (Law No. 11/2016). The purpose of tax amnesty is to improve taxpayer compliance and expand the accurate tax database. In this context, the government hopes to attract capital stored abroad and improve tax administration.

However, from a legal perspective, there are several areas that require critical review. First, there is a potential conflict with general principles of taxation, especially fairness and equality. Theoretically, tax amnesty can be seen as a form of reverse discrimination, where taxpayers who previously avoided taxes get more benefits than those who have been tax compliant (Setiawan, 2018). This may raise questions about the long-term effects of this policy on overall tax morale and compliance.

Second, the provision on repatriation of funds also raises questions about its effectiveness. Article 5 of Law No. 11/2016 regulates the repatriation of assets into Indonesian territory which must be carried out within a certain period of time and placed in investment instruments determined by the government for a certain period. However, without sufficiently attractive incentives or without adequate sanctions, this policy may not be effective enough in encouraging the expected large-scale capital repatriation.

The effect of tax amnesty on long-term tax compliance needs to be further evaluated. A study by Nugroho (2019) shows that although tax amnesty significantly increases the tax database in the short term, its long-term effect on tax compliance is not automatically positive. There is a risk that repeated tax amnesty can reduce trust in the tax system, if taxpayers believe that there will be more amnesty programs in the future, thereby reducing the urgency to comply regularly.

Based on this legal analysis, several recommendations that can be considered to increase the effectiveness and public acceptance of the tax amnesty policy include:

1. Stricter implementation: Increase transparency in the tax amnesty implementation process and ensure that all taxpayers, without exception, receive clear and complete information on how and the requirements to participate in this program.
2. Periodic Review: Conducting periodic reviews of the effectiveness of tax amnesty policies and making adjustments based on these evaluations to avoid repeating similar policies in the future that could lower tax morale.
3. Sustainable Tax Education: Implementing sustainable tax education programs to increase public awareness and understanding of the importance of tax compliance and its positive impact on the national economy.

### **Justice and Equality in Tax Amnesty Policy**

The tax amnesty policy implemented in Indonesia through Law Number 11 of 2016 has invited intensive debate regarding the effectiveness and fairness of the implementation of this policy. In the legal and fiscal context, this policy raises several major issues that not only impact state revenues, but also the perception of fairness and tax compliance among taxpayers. These major issues include

questions about fairness and equality, the impact of the policy on long-term tax compliance, and challenges in effective implementation.

One of the main criticisms of the tax amnesty policy is the issue of fairness and equality. Tax amnesty, inherently, provides an opportunity for taxpayers who have not fulfilled their tax obligations to pay off their tax debts with very favorable conditions, including the elimination of fines and sanctions. While this may seem like an effective strategy to increase tax revenue in the short term, this policy is often seen as a reward for non-compliance and as a punishment for those who have complied (Suryanto, 2017). This can erode trust in the tax system and reduce the motivation of compliant taxpayers to continue to comply with tax provisions consistently in the future.

A study conducted by Harsono (2018) shows that taxpayers who have complied feel unfair when they see tax evaders getting incentives that they do not receive. In a legal context, this policy also has the potential to violate the principle of equality before the law as guaranteed in the constitution. The government must address this perception by providing a more transparent and fair mechanism in implementing the tax amnesty program, including providing incentives or rewards for taxpayers who are consistently compliant.

Another very important issue is the long-term impact of the tax amnesty policy on tax compliance. While tax amnesty may have temporarily increased asset declarations and tax revenues, its effect on future tax compliance is unclear. There is concern that this policy may create expectations that there will be more amnesties in the future, thereby reducing the urgency of timely and complete tax compliance (Wibowo, 2019). In this context, it is important for the government to evaluate and publish the results of the tax amnesty policy, including its impact on future tax compliance, and use the data to formulate more effective tax strategies.

The implementation of the tax amnesty policy also faces significant operational challenges. According to Nugroho (2020), these challenges include difficulties in verifying declared assets, difficulties in attracting repatriation of funds, and administrative complexity in managing the amnesty. Deficiencies in administrative capacity can result in less than optimal tax revenues and opportunities for abuse of the tax amnesty policy.

To address the identified problems, some recommendations that can be considered are:

1. **Increasing Transparency and Accountability:** Strengthening transparency in the tax amnesty process and improving communication about the benefits and objectives of this policy to the public.
2. **Periodic Evaluation:** Conducting periodic evaluations of the effectiveness of the tax amnesty policy and its impact on tax compliance, and adjusting the policy based on the results of the evaluation.
3. **Rewards for Compliant Taxpayers:** Develop incentives or forms of rewards for taxpayers who have demonstrated consistent compliance as a way to strengthen fairness and equality in the tax system.

## CONCLUSION

This study has explored various aspects and implications of the tax amnesty policy implemented in Indonesia, particularly through Law Number 11 of 2016. In the legal analysis conducted, it was found that the tax amnesty policy, while aiming to increase tax revenue and expand the tax base, presents significant dilemmas of justice and equality, and raises questions about the long-term impact on tax compliance.

This policy, which is intended as a solution to improve compliance and capital repatriation, in reality raises issues of fairness because it provides incentives to previously non-compliant taxpayers without providing equal rewards to those who have consistently fulfilled their tax obligations. This has the potential to erode trust in the tax system and may negatively affect motivation for tax compliance in the future. Research shows that although there may be an increase in tax revenue in the short term, the effect of this policy on long-term tax compliance behavior is still questionable. It is feared that repeated tax amnesties could reduce the urgency of timely tax compliance and erode the stable tax revenue base.

In addition, the implementation of the tax amnesty policy also faces significant administrative and operational challenges. Difficulties in verifying declared assets and repatriating funds are some of the main obstacles that reduce the effectiveness of this policy. These challenges indicate the need for improvements in tax administration policies and practices.

From the results of this study, several recommendations can be put forward to improve the tax amnesty policy in the future including improving legal provisions to ensure that all taxpayers are treated fairly and equally. Increasing tax education and awareness is also very important to build a better public understanding of the importance of tax compliance, which can help ensure long-term compliance. In addition, tighter supervision and more effective law enforcement are needed to ensure that the tax amnesty policy is not abused and its long-term goal of improving the tax system can be achieved.

The conclusion of this study emphasizes the importance of careful evaluation and continuous improvement in tax amnesty policy, with the main objective of not only increasing tax revenue but also strengthening tax fairness and compliance in Indonesia. With a more inclusive and fair approach, it is hoped that the tax amnesty policy can be more effective in achieving its objectives and support a more equitable and sustainable taxation system in the future.

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