

REVEALING TAX AVOIDANCE IN THE FAMILY-OWNED COMPANY: ETHNOMETHODOLOGY STUDY

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Abstract

This paper dismantles the occurrence of Tax Avoidance found in the family company in Malang. The method used in this research is ethnomethodology, a method that is used to investigate indexical expressions and other practical actions as a unified settlement that is being done (the organized Tax Avoidance) and how to apprehend their everyday world. It is mentioned in the beginning that there are a number of factors which cause tax avoidance, that is a drive to "enrich" themselves faster, gluttony, stingy, and a number of lust rage. It is also revealed that the practice of trailing attitude is driven by a fact that there are companies which do not pay taxes but they are safe. The presence of the National Land Agency (*Badan Pertanahan Nasional*), local governments and tax officials who must be "serviced", in fact also trigger the occurrence of tax avoidance. These kind of activities were uncovered due to the fictitious reports. There were no data and report books, the bank account is mixed between the personal and company affairs. They create their own cheating reports which are set up by themselves. They even wish that the tax officials do not need to check the tax affairs in the company if it is possible. Thus, the data reported are all fictitious and the bank flux does not appear. They are all manipulative reports. The impacts of this situation are very much felt by the employees, such as the emergence of envy, suspicion among them, being tensed when they have to manipulate data, blaming on each other, and throwing out responsibilities to each other. Psychologically, the impact to employees leads to being depressed and stressed due to the unclear payroll, resentmented, and hurt because of unfair treatments. Lastly, it is revealed that the solution to some of these problems are by apologizing and doing permissive attitude, such as "we apologize for any error, please help us, thank you profusely", and any kinds of apologies which will get prevalent from others. Those attitudes are also followed by permissive attitudes, for instance stating that "what we are doing is an emergency, and that the condition is very much stangling making the company having other better choice, so please understand". As a practical implication, this Tax Avoidance practices can bring collusion, nepotism, and even corruptions to various stakeholders, such as National Land Agency (*Badan Pertanahan Nasional*), the local government, tax officers and tax consultants due to the susceptible of informal negotiation.

BACKGROUND OF THE STUDY

The existence of tax in a country is like a blood in the body. A healthy body must have a fresh blood flow and pumps normally. Whether we like it or not, taxes must be paid because it is a coercive obligation. According to the law No. 28 of 2009 on Regional Tax and Retribution, tax is a mandatory contribution to the regions that are owed by individuals or entities that are enforceable under the law, by not getting the rewards directly and used for the purposes of the area for the prosperity of the people.

The historical record proves that the obligations to implement tax pay started from ancient Greece, Ancient Egypt, the Romans, until the Kingdom of Spain. There have been attempts to escape, and even to refuse taxes, which result to a prolonged conflict. Indonesian's history recorded that tax has also been imposed with the term tribute, or is known as *upeti* in Indonesia, since the era of the Majapahit and Sriwijaya kingdom. The people must pay tribute from their crops. Often, even the royal officer who is obliged to collect the tribute, do violence against people who disobey (Purwadi, 2004: 121-122)

There are several classifications of the people who are concerned with their attitude to the tax. In the Mojopahitera, the classifications were people who (1) consciously handed in their tribute on time to the government, (2) consciously handed in their tribute by delaying, (3) consciously wait for the officials coming to take the tributes that have been prepared, (4) intentionally did not want to pay the tribute , but also did not resist, (5) openly refused to give the tribute , even withstand against government officials, (6) intentionally refused to pay tribute , provoked , and incited others to not deliver the tribute and joined forces to fight and finally rebelled.

It should be noted that the defiance of the people is not done without reasons. The biggest factor which trigger defiance is social inequality. While the people work hard, drudge or knuckle down and even sweat to support themselves and their families and still have to hand in some part of tribute to the kingdom, some people in the kingdom, however, hold a royal revelry and spree by using the money from the people who have worked very hard. Obviously, this condition cause the people avoid paying the tribute. People are not willing to hand over their wealth to the kingdom where the people in the kingdom spend it out unwisely. It suggests that the tax defiance has occurred since the obligation to pay tax was imposed. Taxes as a liability often become a burden to people and there is always an attempt from the people to not pay the tax. Institute of Indonesia Chartered Accountants, (2015) mentions that many rebellions and revolution in the world begins with the rejection of the tax pay. Furthermore, it is even mentioned in the world's most important history that the revolution starts from the tax insubordination. Some of the fundamentals are remembered until now like the Magna Carta, the American Revolution, until the French Revolution.

Another illustration occurred in England, in the 11th century, where the legendary Lady Godiva supported the tax insubordination made by the public in the area of Coventry in relation to tax increases made by her own husband, the Earl of Merica. Another illustration also occurred when the Charter of King John was forced to sign the Magna Carta at Runnymede, England on June 15, 1215 as a result of tax defiance of the

nobility and was supported by the people who are not satisfied with unfairness. Magna Carta is mentioned as a fundamental step in the process of a long history of constitutional law (Institute of Indonesia Chartered Accountants, 2015).

There are still many examples of other tax disobedience, even after the year 2000. Although the action does not extend into rebellion and bring down a regime, it describes that a force to pay taxes cannot be accepted anywhere. At present, the rejections of the tax have led into coercion and have evolved from such disobedience uprising into disobedience in the form of avoidance and even evasion. These rejections and rebellions have become a phenomenon of its own, making almost all governments in the world pay special attention to reduce behaviors that can interfere with tax revenue.

Avoidance or tax evasions in Indonesia have also occurred, which was the biggest tax scandal of Asian Agri case. It was a clear demonstration of how the power of capital can deceive tax authorities. The case was originated from the recognition of Vincent Amen Susanto, the financial controller of Asian Agri business group, who experienced tax avoidance and / or tax rejection for a long time. Vincent was allegedly trying to steal money from Agri Asian companies, but failed. From then, he did not remain silent and instead leaks the corporate tax irregularities which have been done by the companies for years. Asian Agri Group (AAG) as a major group in the oil industry which has affiliated to companies overseas do not accept and give up on the charges imposed by the Directorate General of Taxation (DGT), which has been reported by Dharmasaputra (2013). The long and arduous struggle ended following the decision made by the Supreme Court based on the decision of the Supreme Court (MA) No.2239.K / PID.SUS / 2012 on December 18, 2012 which requires Asian Agri Group to pay the penalty with the amount of Rp 2.5 trillion (SUWIR LAUT alias LIU CHE SUI alias ATAK, 2012).

Cheng and Celvin (2010) found out that family firms are less aggressive in doing tax avoidance rather than non-family-owned company. Contrary, the case in Malang shows that the family-owned company was found guilty of tax avoidance practices with the publication *SKPKB (Surat Ketetapan Pajak Kurang Bayar)* (Pay Less Tax Assessment Letter) income tax. Due to this evidence, the author is encouraged to uncover the embodiment of tax avoidance by the family-owned company in Malang. The problems that arise and will be discussed in this paper are: (1) What are the factors which caused tax avoidance done by the family-owned company in Malang?, (2) How did the process of tax avoidance happen done by the family-owned company in Malang?, (3) What are the impacts caused by the occurrence of tax avoidance by the family-owned company in Malang?, and (4) What is the solution taken after the tax avoidance done by the family-owned company in Malang?

THEORETICAL FRAMEWORK

Some theories used are the theory of Social Interaction by Kimball Young, (1959), Social action theory by Weber, M. (1968), Conflict theory by Durkheim (1967) and Skinner's theory (1971). The theory of Social Interaction Kimball Young (1959) says that social interaction is the key to social life, meaning that there will be no life without any social interaction. The Social action theory by Weber, M. (1968) states that humans do something because they decide to do so and is intended to achieve what they want. The Conflict theory by Durkheim (1967) have observed that the society will not always

be in order, meaning that tensions and compromises that are different from the original state are for certain to be found.

Skinner's theory (1971) elaborates the principles of psychology behaviorism into sociology. Skinner saw two paradigms of social facts and social definition as a mystical perspective, in the sense that it contains a problem which is like a puzzle, and cannot be explained rationally. There is a behavior created from environmental stress or born of an in self boost.

APPROACH AND RESEARCH METHODOLOGY

This approach has a number of similarities with the symbolic interactionism approach by Blummer. In a face-to-face interaction emphasizes the importance of language, and tries to explain the empirical reality of the person being researched, as well as understand the aspects of society subjectively and objectively. The development of ethnomethodology is relatively new when it is compared to symbolic interactions approaches which have been previously established.

Conotatively, now I am entering an area where angels have no fear to tread and able to move. I set myself to understand everything that comes from the ethnomethodology rubric, and I was not assisted by the fact every time I read the author's work in this field, there should be a member who understand. Regardless of the accuracy of the problems presented in sociological theory, ethnomethodology has become an important conversation subject. Therefore, I choose these approach and research methodology to expose the practice of Tax Avoidance by family-owned companies in Malang.

Garfinkel (1967: 10) explains that the views Schutz on how people interact is not based on scientific theory, but on the practical importance. The discussion of common-sense reality by Schutz then gave a perspective to carry out Garfinkel's ethnomethodology studies, and provide a theoretical basis for the treatises other ethnomethodologies. Ethnomethodology empirically has tried to show the philosophical observation made by Schutz.

Garfinkel (1967: 11) limits the area of ethnomethodology as an "investigation of indexical expressions and other practical actions as an unified settlement that is done on the practices of an organized everyday life. Moreover, the approach that explains "Liability practical rational action "are (1) the difference between objective and indexical expressions; (2) various flexibility of practical measures, and (3) ability to analyze these measures in the daily basis context. In short, the problem for the experts on ethnomethodology is how people capture their everyday world. Experts observe the way people receive the regularity or patterns of their life. Language and meanings that are associated to the significant symbols thus constitute important sources of indexical expressions.

Stages of the ethnomethodology work by Garfinkel (1967)

Objective and indexical expression	Reflections on practical action	Analysis of action in the context of everyday life	The resulting patterns

The stages on the process of data analysis was based on Miles, Matthew B & A. Michael Huberman (1992), which are (a) the collection of data, (b) exposure of the data, (c) data reduction, (d) conclusion and verification.

FINDINGS

The nature of " always being hungry " (to replace the word "greedy") in humans give rise to an intention , a drive to take some ways which may be prohibited. They know the rules that are supposed to be obeyed, the laws enforced and the ethics that must be upheld, but they deliberately break them. The statement above was revealed in the interview with RD as follows:

"I probably work for almost 10 years now. To get through this company, you have to firstly be in the holding company. In the holding company, I was directly placed in the tax section, because earlier I was also in the property section as well . On my first day of work, I didn't directly make an employment report. Instead, I corrected a consultant report. There used to be a consultant who happened to be an outsider. I was reviewing what they like, and then after a few years I moved to this town where the texture is smaller. In the past, we used to have a consultant, but now I handle everything by myself"

From the interview, it can be noticed that there is a boost from every human to "enrich" themselves faster by doing various manipulations. Starting from manipulating the rupiahs scale until manipulating the evidence's attachment. There are internal factors (within the company owner) which cause tax avoidance, which is a controlled lust to gain the most maximum profit. This is done with the person's full awareness and knowing the risks faced.

Basically, there are two nature of humans, known as *amar ma`ruf* (enjoining the good) and *amar munkar* (inviting to do crime). Imagine if a human is placed in the middle between two poles which drag, push, and pull each other. Both of these poles are pulling the human position to do the good or do the crime. If they cannot control themselves, the bad things will defeat the goods, then what appears in human's mind is to do *amar munkar* (crime). In this kind of condition, they will use various excuses to correct themselves, although they know that what they are doing is wrong. Furthermore, they also noticed that preparing and manipulating financial statements that are intended to avoid tax is considered wrong. Meanwhile, they also made the exaggerated financial report in order to obtain huge number of loans from the Bank. Unfortunately, this act is done with full awareness.

The nature of being stingy, miserly, fearing loss, wanting to get rich, having a passion of anger, and wanting to dominate others will become a habit and can shape the character of a person. If a person's mind is filled with those kinds of desires, then the character of a person will form into a criminal character. In line with the hadith of the Messenger HR Buchori (6438), it is stated that " if human is given a pit of gold, then he

will certainly wish for a second pit of gold and so on; the human desire does not stop before they go back into the ground (die). Surely the Almighty Allah accept repentance for anyone who repents." In the Al - Quran Al - Ma`arij (QS. 70:19-21), it is also described that human is created to be a complaining nature, and that when they have goods, they will be stingy.

From that moment on, I did a track record on that company. As if struck by lightning in a daylight, there was a chaos found everywhere, as mentioned previously in the interview with one of the companies' managers. It turned out that there are no data found, nor is there a book report (if there is one, it will be made right before there is an inspection). There are even accounts that are mixed between corporate and personal accounts, making it difficult to distinguish, sort, let alone reporting it. All of the reports are manipulated in such a way so that it looks real. As shown in the result of the interview with HR, an operational manager:

"The data for accounting reports are not owned by the company. If the company will make a financial report, the data is false and manipulative. So it is difficult for the finance department in the company to make the report. When the tax office comes to audit the finance report of the company, the reports look messy and not valid."

This is also strengthened by the results of the interview with a cashier, HT, who explains that the company's profits are not calculated by accounting basis, but only by comparing between the income and expenditure every end of the month or the end of the year. Thus, the companies have difficulty in developing progressively in the future, as stated as follows:

In principle, assets are assets, and financing the company's operations should be in cash. Her boss thought that the name of the profit is the difference between the sale and the purchase price. It must be cash, and he did not want in the form of assets. So from the beginning they interpret that profit must be in the form of cash, if there is a difference of money then it means profit."

Skinner tries to elaborate the principles of behaviorism psychology into sociology. Skinner sees the two paradigms of social facts and social definition as a mystical perspective, in the sense that it contains a problem which is like a puzzle and cannot be explained rationally. There is a behavior which is created from environmental stress or born from oneself. This is done from the beginning, although it is started unconsciously, which then end with fully conscious. Although they have known the truth, they still did something wrong. This means that there is an intention, plan, conversation, and concept in his mind. In his book "Beyond Freedom and Dignity", Skinner attacked directly and indirectly the social definition of paradigm to the paradigm of social facts.

Conflict is a social process in which individuals or groups seek to meet its objectives by going against the opposition and accompanied by threats and violence. It is understood that the disagreement synonymous with social conflict is a social process

between individuals or particular groups of people caused by the disagreement and fundamental interests, and causing a sort of gap or gaps between them. A state can be regarded as a form of social interaction. Basic forms of social interaction do not have to be in a continuance, in the sense that it always starts from the interaction of cooperation which later becomes the competition and culmination into contention which finally get into the accommodation stage. Individuals or groups are aware of the differences in the traits, from physical, emotional, cultural elements, patterns of behavior and so on with other parties, because these characteristics can sharpen the differences that exist so it becomes a conflict or dispute. The human needs to have an interaction with others as a fundamental requirement.

In the first level, the interaction is limited between the individual and the family as the smallest unit in society. Even then, there is an interaction between one group and other group in the society. Thus, social interaction is the most fundamental requirement for a human without having to limit the context of a particular community, because it is a universal phenomenon.

Kimball Young and Royman W Mack (1959:137) argues that social interaction is the key of social life. Therefore, there will no be life without any social interaction. In conjunction with this research, it is necessary to explain the purpose of social conflict in its own definition. Social interaction is a dynamic social relation, which concerns the relationship between individuals, groups, and individuals within groups.

This study found that expression of apology is capable of avoiding crisis tax. When all the reports is discovered to be wrong, full of manipulation and filled with nuances lies and fictional evidence, apology words become the powerful expression to overcome the problems. The words used are polite, respectful, humble, apologetic language expressing not to repeat their fault and will improve their work in the future. The apology language has three key words: sorry, thank you, and ask for help. These three words are effective to break the ice. Although these words may sound simple, it will have an extraordinary power when they are put together in a sentence. The following dialog provides an example on the use of "thanking, apologizing, and asking for help made by AD to tax officers who were conducting checks at his company:

"In this problem of tax avoidance, we would like to say "thank you for the advice, input, and many useful insights. I hope all this error does not happen again. Certainly, with our limitations (weaknesses) we apologize, once again we do apologize. We feel that we cannot develop without the help of you (tax officer). If we can ask for your help to review and correct our report, we would highly appreciate"

An expression of gratitude and apology with humble tone and intonation is repeated again and again to indicate his full of modesty, resignation, and helplessness to get an immediate help from the tax officer. Below is the interview having an example of apology expression.

I would like to express my thanks for your support and help. *For me, the presence of you Sir is like a god. For your help Sir, our company in the future will be better. I am aware of all faults and limitations of our ability. Once again, I would like to apologize. I wonder when you can help us so that we could still exist in the business of property and find a way out wisely"*

The forms of permissiveness were shown by (1) lack of power and inability to pay tax; (2) a number of shareholders who ignore the income of the company; (3) the opening of new land with urban planning that is increasingly stringent; (4) the local government which always gives the option to choose all difficult choice; (5) the imbalance between the income to the cost of field operations, and a number of real conditions trigger the use of apology language. Of course it is conditional, because the rule of law must be upheld slowly, gradually and continuously.

CONCLUSION

Based on the results of the study, it can be concluded that there are four points that have been discussed. First, there are two factors which cause the origin of tax avoidance, namely (a) internal factors coming from within the company owner: the attitude of wanting to get rich quickly, controlling the region, having a fear of loss with less restrained lust; (b) external factors, namely the various parties involved in the company, such as the local government parties, notary, consultant, tax officer, users, consumers, and shareholders. This is understood because the companies which start go public must face many challenges. This becomes a major cause of tax avoidance practiced by the family-owned company in Malang. There is imposition of a will which leads to uncontrolled lust. Evil thoughts are expressed in words or in writing regarding tax report. This wrong doing is followed by an evil action, that is manipulation that becomes evil habits for many years. Eventually, that habit has characterized the company owner.

Second, there are forms of tax avoidance found which include: data manipulation, falsification of evidence, reduction rupiah figures, and a number of report that are not clear. The reports are based on need, not reality. For instance, in order to get much loan from a bank the company also manipulate the data. When reporting in taxation, the digit scale is decreased so that the tax decrease. The forms of misbehavior have been mentioned in the interview which gives a clear picture, that the issue of money that is not properly managed will become a backfire for themselves and their family. Other real forms of misbehavior that should be noted, among others are: (1) making a fake receipts for the sale and purchase transactions, (2) making a false testimony by manipulating witnesses, (3) building a collusion with several parties to pass the fake report, (4) Making some kind of a report in accordance with the requirements (not in accordance with reality), (5) imposing the will by violating the rights of others (must agree no matter what), (6) practicing nepotism that gives an opportunity for the state officials (Notary, National Land Agency, Supervisory Tax, Tax Consultant, and Local Government) to do corruption, (7) not being trustworthy by having no clear dividends making it unclear for how much profit should be distributed to the beneficiaries and (8) emerging persecution attitudes, either for himself or others, which may harm the country.

Third, the impact caused by tax avoidance include (a) social conflicts between employees, the rise of envy, jealousy, revenge which can lead to clashes, though it is initially started by argument only, (b) psychological conflict within the company owner and employees. At a certain level, psychological conflicts could affect the physical condition and the abandonment of the main tasks of employees. The social conflict

turned to spreadout to the psychological conflict . The existence of resentment, envy, fear, hurt, disappointed is a form of psychological conflict. The emergence of conflict between conscience and what is done is a serious psychological burden. Shame, guilt, and a feeling of discomfort are manifestation of a person's psychological conflict.

Fourth, apology expressions and permissiveness can be used as a solution of tax avoidance. This is proven by the fact that the tax issues can be solved by the expression of gratitude, apologize, ask for help, and attitude to admit any shortcomings, weaknesses, oversight, and promise to improve in the future.

The forms of permissiveness done by the company include (1) lack of power and ability in the field of taxation, (2) the number of shareholders who do not want to know the income of the company, (3) the opening of new land with urban planning that is increasingly stringent, (4) the local government which always gives the option to choose all difficult choice, (5) the imbalance between the income to the cost of field operations, and a number of real conditions. This is of course conditional because the law enforcement must be upheld slowly, gradually and continuously. In general, it can be concluded that the act of tax avoidance is a continuum from event to event as a whole.

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