

## DECONSTRUCTION OF TAX AMNESTY IN BASED ON PANCASILA VALUES: THE CASE OF INDONESIA

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### Abstract

The main objective of this study is to deconstruct tax amnesty based on Indonesia's Principles (Pancasila) values. A postmodern paradigm is used to deconstruct current tax amnesty. The methodology used in this research is a combination of Derrida's deconstruction and Latif's thought on historicity, rationality, and actuality. The results show that the initial design of tax amnesty is repatriation, which is inferior in the development of taxpayers' character. Materiality, self-interest, and measurement object are tax amnesty logos. Religiosity, honesty, civility, and mutual cooperation are used in a reverse hierarchy of the before mentioned tax amnesty logos. The result of deconstruction is tax amnesty based on Pancasila in order to construct social justice. Tax amnesty is a current issue; however, only a limited number of research was dedicated on the philosophy of tax amnesty law. The research offers new meaning to tax amnesty based on Pancasila values which may encourage voluntary tax compliance.

**Keywords:** Deconstruction; logos; *Pancasila*; postmodern; tax amnesty; voluntary tax compliance

### INTRODUCTION

Tax amnesty is forgiveness given by Indonesia's Ministry of Financial Affairs to "tax evaders" after the payment of redemption tariffs. The main purpose of tax amnesty is the repatriation of business profits, or assets, belonging to Indonesian citizens and circulating overseas, back into domestic Indonesian accounts (Tax Amnesty Law No 11 2016, article 6 paragraph 4). In such cases, business profits or assets circulating overseas are not immediately recorded in the national tax system. The ministry estimates that they are able to repatriate at least 1.000 trillion rupiah during the period of July 1<sup>st</sup>, 2016, to March 31<sup>st</sup>, 2017 (Inside Tax Magazine - 37, 2016:16). Nevertheless, after a third batch of tax amnesty implementations, the target was not well achieved. From this historical data, we can conclude that tax amnesty is unable to dissuade materialism and build taxpayers' character flaws the building of taxpayers' poor character.

The character of the modern human is prioritized into optimization, rational choice, and individualism (Doucouliagos, 1994). In line with Doucouliagos view's, Mulawarman's (2013) perspective is that modern humans prioritize themselves first and give priority to nothing else, including God. Homo economic humans, also known as taxpayers, will use proprietorship theory to reduce costs, or expenses, in order to increase their own profit. Proprietorship theory is as owner he will increase the incomes or profit and reduce expenses or losses in the business activities (Chow, 1942). Proprietor as a center should be served by accounting information (Mulawarman, 2011:70-71). In accordance with expense concepts, tax is an expense (Mangoting, 1999) which is regulated in Accounting Standard No. 1 (Institute of Indonesia Chartered Accountants, 2016b). Since taxpayers' perspective on tax is that it is a burden, the end result is that some tax avoidance practices are encouraged to minimize tax expenses.

The implication of tax avoidance, or tax evasion, is the reduction of national tax revenue, which reflects a tax ratio of approximately 12%, the lowest such ratio in a comparison of Asian countries (Amir, Asafu-adjaye, & Duchpham, 2013; Setiyaji & Amir, 2005). Therefore, the additional purpose of tax amnesty is to increase long term tax compliance. In contrast to Alm & Beck (1993), Alm, Mckee, & Beck (1990), and Parle & Hirlinger (1986) who found that in USA the average level of tax compliance decreased after tax amnesty, Alm (1998) suggested that in Russia the tax amnesty only increased the tax revenue instead of long-term tax compliance. Tax revenue is a material object (money) and, thus, it creates distanced reality between the objects (money) and the characters of the taxpayers (subjects). The construction of the regulation that prioritizes material objects (money) is a centralization to the life of modernity. The policy of modernity that is applied to homo economicus (economic man) triggers bad (disobedient) actions.

The rise of immoral practices is led by tax amnesty, which worries taxpayers. For a reading text, who is the subject and the object of tax amnesty are affected by social norm. The attitudes of taxpayers are influenced by the surrounding social norms and environment (Jimenez & Iyer, 2016). The authority seems like belated to anticipate commotion of tax amnesty by issued fair value of asset disclosed (Per-11/PJ/2016, 2016). Taxpayers, as homo economic (Vaida & Ormenişan, 2013), chose to lower the value of their assets in order to pay less in their amnesty redemption payment (Darmayasa, 2017). However, there is illogic cash money with amount 150 trillion rupiah disclosed by some taxpayers in first batch July to September 2016 (taxamnesty.com, 2016). Self-assessment system, which is implemented by the homo economic human, tends to create unreasonable freedom (Palil & Mustapha, 2011; Riahi-Belkaoui, 2004; Saad, 2012, 2014). It is Self-assessment system is a tax system in Indonesia and used also in tax amnesty: its mean: taxpayers calculate, pay, and report by their own self, the official just control and monitoring. Such philosophical thoughts, which assume humans as homo economic, are derived from western philosophy and are not suitable with Indonesian character.

Historically, Indonesians were born and lived in mutual cooperation with the environment. This is one of the unique values of Indonesians (Junus, 1969). The Pancasila human places great importance in godliness, and is better termed homo socio and homo religious, as opposed to homo economic. The Pancasila human does not prioritize economics, but instead prioritizes the unity of humanity (Mubyarto, 1993:239-240). Therefore, due to its great importance in Indonesian society, tax amnesty should be designed on fundamental Pancasila values (Darmayasa, Sudarma, Achsin, & Mulawarman, 2016) instead of typical western values. The implication is that the prioritization of tax revenue by the Indonesian government is a philosophical mistake. In actuality, to increase voluntary tax compliance, tax authorities should consider the Pancasila values of traditional Indonesians as opposed to the western values of homo economic.

In consideration of this hypothesis, the objectives of this research include: first, the deconstruction of tax amnesty based on Pancasila values; second, whether tax amnesty based on Pancasila values is able to increase voluntary tax compliance.

## **LITERATURE REVIEW**

### **Historicity, Rationality, and Actuality of Tax Amnesty**

Historicity refers to proprietorship theory by Chow (1942) which implemented in a modern human tends to lead tax evasion practices. Tax amnesty is a government program to minimize tax evasion practices. Previous research indicate that after tax amnesty is level of tax compliance falls if just a poor program and limited reform (Alm & Beck, 1993; Alm, Mckee, & Beck, 1990; Hasseldine & Bebbington, 1991). The main purpose of Indonesia tax amnesty is to increase economic growth through the repatriation of funds (Tax Amnesty Law No 11 2016, article 2 paragraph 2a). However, the Ministry of Financial Affairs has stated that the purpose of tax amnesty is to improve the national database in order to increase voluntary tax compliance. The

main purpose, tax subject, and fair value asset disclosed by tax amnesty based on authority perspective, it's all are texts which is free interpreted by taxpayers.

Rationality refers to the implementation of a self-assessment system will not guarantee that taxpayers honestly report their tax obligations (Riahi-Belkaoui, 2004; Saad, 2012, 2014). Indeed, a self-assessment system will lead instead to tax evasion practices (Palil & Mustapha, 2011; Permita, Fauziati, Yulistia, & Minovia, 2014; Wahyuni, 2011). Additionally, the implementation of tax amnesty, using a self-assessment system and an underlying homo economic assumption, is likely to encourage immoral practices. The dominant rational of taxpayers (Vaida & Ormenişan, 2013) is that they will choose the lowest fair value since regulation guarantee (Darmayasa, 2017). Therefore, these researchers conclude that tax amnesty tends to encourage tax avoidance through tax evasion practices, the ones which are not reflected in Pancasila human values.

Actuality, according to the Pancasila, human is a combination of three characters, namely, economic, social, and religious. Regulations, such as tax amnesty, should include these human assumptions. The ideology of Indonesia is Pancasila, which consists of five precepts, with the main value being mutual cooperation of religiosity (Tanya, Parera, & Lena, 2015:4). Therefore, the design of tax amnesty must be based on the Pancasila value of "mutual cooperation of religiosity" in order to realize social justice. Accordingly, a psychological approach should be prioritized by designing tax regulations that increase tax compliance (Dijke & Verbon, 2010; Kirchler, Hoelzl, & Wahl, 2008; Prinz, Muehlbacher, & Kirchler, 2014; Wenzel, 2005).

### **The Concept of Social Justice as Fifth Precept Based on Pancasila**

Social justice is a concrete reality of Pancasila precepts, including godly morals, fundamental humanity, knot of unity, and dimension in sovereignty. The only inclusion of Pancasila precepts written in the opening of the constitution states, "creating social justice for all Indonesia citizens" (Latif, 2011:606). Pancasila economics are ontologically rooted in the core values of human nature; creatures of God Almighty are creatures as well as individual and social beings. Therefore, Pancasila economy is not individualistic, which pursue only the highest gains such as that in the principle of free fight competition. It is differently based on the principle of solidarity so that prosperity can be widely distributed as well (Kaelan, 2014:294).

The epistemological basis of Pancasila economics is the principle of justice because the ontological characteristic of human nature is both as individual beings as well as social beings. This principle lays down the principle of harmony between rights and obligation, between the physical and spiritual, and the fulfillment of civil, political and economic, and socio-cultural values (Kaelan, 2014:295). The axiological basis of Pancasila economy places value on these principles; it is not an economy without value, but instead an economy which includes basic ethical character. Within these principles, the principle of kinship is not only realized but creates an equitable social life for all (Kaelan, 2014:295).

## **RESEARCH METHOD**

### **Research Paradigm**

The research conducted for the purposes of this paper was qualitative in nature. Qualitative research is not intended to generalize results; instead, it puts emphasis on seeking for meaning and values (Neuman, 2013). Ontologically, the Indonesian tax amnesty law analysed during the course of our research constitutes modernity logos; there is not single truth. The suitable paradigm to deconstruct modernity is postmodern paradigm, which is contra modernity. Therefore, this research used postmodern paradigm to construct findings.

The object of this research includes the words, or text, in Indonesian tax amnesty law. These texts are a distortion of ideas (Cavallaro, 2001; Sarup, 2008). In everyday life, people interpret the meaning of words or texts according to their social environments. To Derrida,

deconstruction is a methodology to generate new meaning through the reading of texts (Derrida, 1976; Royle, 2003). Derrida deconstruction, combined with Latif's thought (2011), is a suitable method in which to construct new meaning for tax amnesty. In this case, three steps of Derrida deconstruction are matched by Yudi Latif's thought. Firstly, a description is matched with historicity modernity, which is embedded in tax amnesty. Secondly, an erasing modernity words is match with rationality. And third, actuality is matched by constructing a new meaning for tax amnesty.

The data collection is used in-depth interview. The informants are persons who have an adequate experience and knowledge related to tax amnesty program.

**Table 1. List of Research Informants**

<i>No</i>	<i>Informants</i>	<i>Classification</i>
1	Mr. A	Personal taxpayer who joined tax amnesty program
2	Mr. B	Registered tax consultant & law firm

*Note: informants' name is not real name*

Historicity, rationality, and actuality are used to analyze data in this research. Historicity is related to the reading of historical texts of tax amnesty. Rationality is related to the reading of authoritative texts used for empirical research. Actuality relates to the implementation of tax amnesty to increase voluntary tax compliance. The data collection method used was a combination of literature review from journals, text books, and tax regulations. Some data collection and data analysis may be considered parallel (Creswell, 2007:150).

The first step of deconstruction considers the modernity-related terms used in Law of Tax Amnesty, such materialism, self-interest (injustice), and measurement object as the tax amnesty's logocentrism to be erased. The second step of deconstruction considers the precepts of Pancasila (Religiosity, civil honesty, and mutual cooperation) as value regarding the reverse hierarchy of tax amnesty logos. The result of deconstruction is an amended tax amnesty law based on Pancasila values in order to construct social justice. The new meaning of tax amnesty, based on Pancasila values, is tax amnesty for all taxpayers which increases voluntary tax compliance.

## **RESULTS & DISCUSSION**

### **Reading Texts: Tracer Back of Tax Amnesty Words**

Texts can be traced, and every such document is "history" because texts are created by previous texts (Derrida, 1976). In order to properly read and understand tax amnesty law, documents should be traced back to their previous texts. The various texts that make up tax amnesty law include a combination of the subject of tax amnesty, the object of tax amnesty, and fair value assets which are disclosed by referring to related tax regulations.

The subject of tax amnesty, which is based on income tax, consists of four taxpayer types: personal taxpayers, corporate taxpayers, permanent establishment, and undistributed heritage (Tax Law No. 36 Income Tax, Year 2008). However, in this analysis of current tax amnesty law, the subject of tax amnesty is all taxpayers, summarily categorized as tax evaders who park or invest their assets overseas.

The objects of tax, based on income tax law, are items adding economic value, and the exemption of tax objects is stated in accordance to income tax as a positive law. The object of tax amnesty includes assets which have not been reported yet in the 2015 annual tax return year. In contrast with tax amnesty law, taxpayers' perspectives are that the tax object refers to additional assets that are not yet taxable. Based on the accounting standard for 16 regulatively fixed assets, fair value is the amount that can be exchanged on the value of assets (Institute of Indonesia

Chartered Accountants, 2016a). However, the object of tax amnesty “assets” is reported by fair value and, of course, based on taxpayers’ valuation. Such regulation tends to lead to immoral practices by taxpayers who are, after all, human beings. Still, tax authorities have prioritized redemption payments for tax amnesty, and it seems like modernity is as a logos. Therefore, in order to construct tax amnesty based on Pancasila values, the first step is erasing the logos of tax amnesty.

### **Historicity: Tax Amnesty Logos Erased**

Tax amnesty law consists of modern philosophies. These modern philosophies reflect self-interest, humans as a center of importance, the prioritization of materials, and the ignoring of God. Materiality, as a modern term, is a main purpose of tax amnesty. Based on article 6 paragraph 4 of tax amnesty law, the main purpose of tax amnesty is to increase economic growth by utilizing the repatriation of funds. Informant Mr. B as a tax consultant and law firm stated that:

*The consideration of tax amnesty law is to improve government income as a national development fund. However, in the third batch, government issued regulations to support the implementation of tax amnesty, according to a few amount of taxpayers joined tax amnesty comparing with the amount of registered taxpayers.*

Based on Mr. B statement to the consideration of tax amnesty law, it reflects that tax amnesty is prioritizing materiality on tax revenue. Tax amnesty is one of several government efforts to increase tax revenue, especially to compensate for shortfalls in the national budget. The redemption payments for each implementation of tax amnesty constitute additional tax revenue. The meaning of reading texts of repatriation as the main purpose of tax amnesty is materiality. The redemption payment, which is paid by tax evaders to obtain governmental forgiveness of their tax liabilities is materiality. Additionally, tax revenue as a result of tax amnesty implementation is also materiality.

The interview with informant Mr. A as a personal taxpayer who joined tax amnesty program related to fairness of tax amnesty as follows:

*Tariff of redemption payment in tax amnesty law is prioritizing on simplification, by ignoring fairness. I feel that tax amnesty is unfair, if I knew that will be held tax amnesty, I will do tax evasion before, and wish earn tax amnesty after.*

Tax amnesty is offering forgiveness to tax evaders who are parking or investing their assets overseas after redemption payment. That offering is a “golden ticket” for tax evaders which their wickedness is erased. That is unfair for honest taxpayers, because some people that pay tax liabilities to fund our national development. Mr. A feels that tax amnesty is unfair. The government perspective that tax amnesty is fair policy to record tax evaders in to the national tax system in order to equalize taxpayers’ obligation. This purpose is emphasize on materiality comparing to taxpayers’ character building.

According to improvement taxpayers’ character building, Mr. B stated that:

*I think the government is able to reverse of tax amnesty law consideration from the main purpose of tax redemption revenue become the amount of taxpayers who are participating in tax amnesty. Many ways can be done such as issuing replacement rule of law.*

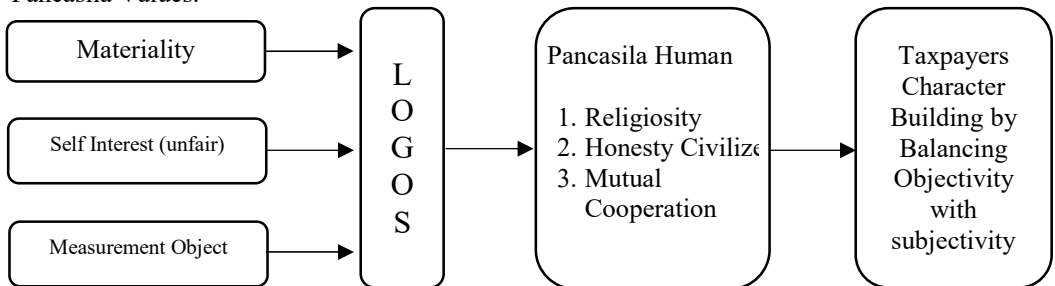
The amount of taxpayers who joined tax amnesty program is 48 % from target or 3,22 % from total registered taxpayers (Prastowo, 2017). Tax amnesty law is ignoring character building,

more emphasize on the amount of tax revenue. The materiality, self-interest, and measurement object are logos of tax amnesty. The history of tax amnesty is one of pragmatist regulation without any appropriate academic research. Deconstruction of tax amnesty's modernity is in accordance with Derrida's deconstruction, comprising first, erasing logos, second, reverse hierarchy of logos, and third, creating new meaning from the deconstruction's result (Riduwan, 2014; Ungkang, 2013). The first step of deconstruction is the elimination of materiality, self-interest, and measurement object terms in tax amnesty law. Furthermore, a discussion is directed to reverse hierarchy of logos words in tax amnesty law.

**Rationality: Reverse Hierarchy of Tax Amnesty Logos**

Tax amnesty should be implemented for all taxpayers; it should not just be forgiveness for tax evaders. Tax amnesty law must include both subjective and objective fairness. In contrast, tax amnesty which prioritizes materialism, self-interest, and measurement object lowers the character of taxpayers. Referring to earlier research that assumes the human as homo economic (Jensen & Meckling, 1994), the tendency of current tax amnesty regulation leads to immoral practices. In contrast, actions to increase tax compliance should consider the psychology and self-consciousness of taxpayers (Alm & Torgler, 2006; Fidiana, 2014a; Kirchler et al., 2008; Lago-Peñas & Lago-Peñas, 2010; Lubian & Zarrì, 2011; Torgler, 2012).

**Figure 1.** Deconstruction Process, Reverse Hierarchy of Tax Amnesty's logos with Centralized Pancasila Values.



Source: (Combination of Derrida's deconstruction, 1976; and Latif's thought, 2011)

Fundamentally, Indonesians are a religious people. They place value on Pancasila precept of religiosity in five Pancasila precepts. Likewise, these include the self-consciousness of Pancasila humans as honest civilians and their mutual cooperation for the funding of national development. The value of religiosity, civil honesty, and mutual cooperation construct social justice. Thus religiosity, honesty, and mutual cooperation are values that must be used for the reverse hierarchy of tax amnesty logos.

**Actuality: New Meaning of Tax Amnesty Based on Pancasila Values**

The logos of tax amnesty may be eliminated by one further step through Pancasila values. This third step of Derrida deconstruction creates a new meaning for tax amnesty after erasing processes and reversing hierarchy. The new meaning of tax amnesty is a balance of subjectivity and objectivity for the construction of social justice. Subjectivity, in terms of tax amnesty, considers the psychology and self-consciousness of taxpayers. Objectivity, in terms of maintaining the purpose of tax amnesty, also increases national tax revenue.

Subjectivity prioritizes the character building of taxpayers. A fundamental assumption must be of human beings not just as homo economic, but also homo social and homo religious. Tax amnesty must involve all taxpayers, not just self-interested tax evaders. The new meaning of

tax amnesty must be based on Pancasila values with an assumption of humanity as homo economic, homo social, and homo religious in order to construct social justice. Further discussion then needs to consider whether a new meaning of tax amnesty, based on Pancasila values, is able to increase voluntary tax compliance in some measure.

### **Whether or not Tax Amnesty Based on Pancasila Values is Able to Increase Voluntary Tax Compliance**

Tax avoidance and tax evasion practices are on the rise for tax evaders who prioritize their own self-interests and material wealth. Many such evaders have been placing funds overseas to avoid the national tax system; this practice is classified as tax evasion. Tax evasion reduces tax compliance and tax revenue, which is reflected in tax ratios. Governmental efforts to increase tax ratio have been through the implementation of tax amnesty. Historically, economic perspectives on tax compliance analysis used deterrence variables, such as inspection and sanction, to increase enforcement and compliance (Allingham & Sandmo, 1972). Abolition of sanction and guarantee will not be examined by benefits of tax amnesty. Therefore, the benefit of tax amnesty deterrence variables was the rationalization of taxpayers to choose more efficient redemption payments as a reflection of a homo economic taxpayer philosophy.

Regulations, which assume taxpayers as homo economic, include objective aspects, in that they will participate to the policy in order to pursue tax amnesty benefit. This is reflected in the manner in which tax authorities have prioritized tax redemption payments to fill shortfalls within the national budget. However, the objective assumption should be balanced through the subjective assumptions of taxpayer's psychology. The theory of tax compliance through deterrence variables has become a slippery slope framework (Kirchler et al., 2008). Based on this slippery slope framework, tax compliance depends on taxpayers trusting the tax authorities and law enforcement (Holler, Hoelzl, Kirchler, Leder, & Mannetti, 2008; Kogler, Muehlbacher, & Kirchler, 2013; Lisi, 2014). The regulations of Minister of Financial Affairs which emphasize more on tax revenue is inappropriate to earn taxpayers trust.

Some deterrence variables and psychology aspects have created balance within the consciousness of some taxpayers. Their consciousness is a reflection of their spirituality or religiosity as social human beings. Spirituality or religiosity is believably able to lead to moral taxpayers. It may also be able to minimize tax avoidance and tax evasion (Darmayasa & Aneswari, 2015; Fidiana, 2014a, 2014b; Kastlunger, Lozza, Kirchler, & Schabmann, 2013; Mas'ud, Manaf, & Saad, 2014; Triyuwono, 2009; Widiastuti, Sukoharsono, Irianto, & Baridwan, 2015a, 2015b).

Governmental efforts attempt to minimize tax avoidance and tax evasion through tax amnesty law that does not take into consideration the self-consciousness of its taxpayers. The benefit of tax amnesty law is forgiveness for tax evaders who do not pay their legal tax liabilities. Such forgiveness is not fair for honest taxpayers who pay some tax liabilities in accordance with tax regulations. A possible remedy for this inequality is mutual cooperation of through fundamental Pancasila values, which is imbued by religiosity. A mutual cooperation religiosity is existed in tax amnesty in order to construct social justice. Social justice is the fair treatment of all taxpayers to comply with their tax obligations. Finally, we should be in temporary stop for a conclusion.

### **CONCLUSION**

Tax amnesty law consists of modern philosophies such as materialism, self-interest, and measurement object. For modernity, which is embedded by tax amnesty logos, the reading texts of taxpayers on tax amnesty logos tend to lead moral hazard practices. Minimizing immoral practices should consider the psychology and self-consciousness of taxpayers in Indonesian

society. Deconstruction should be used to construct a new meaning of tax amnesty that pursues Pancasila values in conjunction with the core essence of homo social and homo religious.

The conclusions of this research are firstly that materialism, self-interest, and measurement object, which are logos of tax amnesty, should be eliminated. Religiosity, civil honesty, and mutual cooperation must be used to reverse the hierarchy of tax amnesty logos. The result of deconstruction is tax amnesty based on Pancasila values in order to construct social justice. Secondly, a new meaning of tax amnesty may be able to increase some voluntary tax compliance.

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