

Conference Paper

Tax Amnesty Policy Discourse in Perspective of Politic of Taxation

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Abstract

Pro and cons have been raised of the tax amnesty policy initiated by the government. Even the policy proposals have been viewed as potentials to increase distrust between the government and the people. Aside from hurting sense of justice, the absence of roadmap and the lack of defined prerequisites of successful tax amnesty have raised suspicions of hidden agenda behind the tax amnesty initiatives.

The objective of this research is to analyze the policy formulation in the process of the legalization of tax amnesty occurring in 2015 until May, 2016 based on data from literature, documentation, as well as observation studies. The results show that the discourses on tax amnesty have occurred because of lack of government's transparency in showing the urgency and significance of the tax amnesty, as well as cost and benefits for the people of Indonesia. This is indicated by the absence of a roadmap that can convince people that the tax amnesty is a necessity in the political situation at this time, and will benefit the entire people of Indonesia in both the short term and the long term.

The political environment in the discussions on the Tax Amnesty draft indicates the two-polar opinions to the draft correlate to the political factions voicing the opinions. The dynamics of the discussion in the Parliament as well as changes in the Tax Amnesty draft from original proposal from the government show political dynamic processes and some pressure groups that are involved in it.

This research recommends the strengthening of political communications of taxation in order to create transparency and accountability so that distrust between states and people can be minimized. In addition, the government should change its paradigm of taxation by changing the view of taxation as not only as state budget collection machine, but also as an instrument of democratization.

Keywords: tax amnesty, equity, politic of taxation, tax revenue, law enforcement

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1. Introduction

Tax amnesty obviously represents willingness of a state to remove its authority in collecting revenue according to the mandate of taxation law. According to the Act No.11/ 2016 about Tax Amnesty (henceforth called TA Act), the state gives privilege toward taxpayers whose business circulation worth up to Rp 4.800.000.000 (four billion and eight hundred million rupiahs) at a very low rate redeem money, 0,5% (zero comma five percent) for those who reveals wealth value up to Rp10.000.000.000,00 (ten billion rupiahs) in a written Statement. Moreover, the special tax rate is valid until the end of Tax Amnesty period - unlike tax rate for other taxpayer which is lower only for the first three months of Tax Amnesty period. However, in reality, the implementation of Tax Amnesty Bill passed on July 1, 2016 leads to negative responds. Indonesian Forum for Budget Transparency (Fitra) pleads the Directorate General of Taxes in case of Tax Amnesty policy (henceforth shortened to TA) to the Ombudsman of Republic of Indonesia (ORI) on Tuesday September 6, 2016. Secretary General of Fitra's National Secretariat Yenny Sucipto considers Tax Amnesty policy to harm small to medium business. Tax officers' inability to properly explain Tax Amnesty policy had caused fear among small to medium businessman (Kompas Daily Newspaper).

At first, One Justice Foundation (YSK), along with the Indonesian People Resistance Union (SPRI) filed judicial review to the Constitutional Court (MK) on July 13, 2016. (Retrieved from <http://finance.detik.com/read/2016/07/13/115534/3252331/4/dinilailegalkan-praktik-pencucian-uang-uu-tax-amnesty-dibawa-ke-mk>) It is followed by Committee of Justice and Human Rights of Muhammadiyah Central Leader, which at the end of August 2016 also file judicial review on TA Act. (Retrieved from <http://www.republika.co.id/berita/ekonomi/makro/16/08/28/octlzw382-muhammadiyah-ajukan-judicial-review-uu-pengampunan-pajak>) Resistance and commotion caused by the implementation of TA of course is interesting to be examined. By analyze roots of the problem, can the government immediately conduct evaluation on TA Act as a lesson for the upcoming formulation of tax policy.

Many parties believe that the government has set tax revenue target too high on 2015, by implementing TA to resolve budget deficit. The government was considered too ambitious by setting tax revenue target of Rp 1.294,3 trillion or around 20,7% more than the previous year acceptance. While for the last five years, tax revenues never meet the target. Even in 2014 the revenue recorded shortfall of Rp90 trillion, below Rp1.072 trillion targeted in 2014 Revised State Budget. (Retrieved from <http://www.cnnindonesia.com/ekonomi/20151019235544-78-85922/penerimaan->

pajakloyo-terjebak-target-tinggi-jokowi/) Amid economic declining, high tax revenue target only widens the budget deficit as shown in Table 1 below.

TABLE 1: State Budget (in Billion Rupiah), 2007-2015. Source: Ministry of Finance

Description	2007	2008	2009	2010	2011	2012	2013	2014	2015
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Revenue and Grant	723058	781354	985725	949656	1104902	1311387	1529673	1667341	1791589
Domestic Revenue	720389	779234	984786	948349	1101362	1310562	1525889	1665781	1791333
Tax revenue	509462	591938	725843	742738	850255	1032570	1192904	1280389	1379392
Domestic taxes	494592	569972	693947	715535	827246	989637	1134289	1226474	1328488
International trade taxes	14870	22006	28496	27203	23000	42933	58005	53915	51504
Non-tax revenue	210927	187236	258944	205411	250907	277992	332895	385392	410341
Natural Resources revenue	146257	126209	173496	132000	163119	177264	197205	225955	254270
Profits/losses from SOE	19100	23404	30394	24000	27590	28001	33500	40000	44000
Other non-tax revenue	45770	37620	49211	33894	45367	53492	77891	94888	89824
Public Service Institution	-	5089	5442	9487	15081	19235	23499	25349	22247
Grants	2669	2340	939	1507	3740	825	4484	1360	3256
Expenditure	763571	854660	1037067	1047666	1229558	1435407	1683011	1842495	2039483
Central Government Expenditure	504776	573431	716376	725243	836578	964997	1154381	1249943	1393442
Personnel expenditure	101202	128369	143556	160364	180825	215862	241606	267842	287310
Material expenditure	72886	52307	77688	107000	137850	188002	207035	232101	245132
Capital expenditure	73130	101539	98802	82176	135854	151975	184364	-	-
Interest payment	85087	91366	101658	115595	115209	122217	113244	-	-
Subsidy	102924	197875	166701	157620	167624	208850	317219	-	-
Of subsidy	63838	45407	103568	106527	136634	168560	274743	-	-
Non-oil subsidy	41086	52068	63133	51295	51080	40290	42476	-	-
Grant	-	-	-	7892	771	1797	3621	-	-
Social expenditure	53499	67402	67848	64291	63184	47764	73609	-	-
Other expenditure	18838	34683	65123	30715	15261	28530	19983	-	-
Expenditure for Regions	258295	281229	320638	323423	392980	470410	528630	592552	640041
Transfers to Regions	-	-	-	-	-	-	528630	592552	639775
Balance funds	250943	266780	296952	306023	334324	399986	444798	487981	506401
Revenue sharing	68462	66071	85719	81405	83558	100055	101962	113712	127692
General allocation funds	164787	179507	186144	203485	225533	273815	311139	341219	352888
Specific allocation funds	17094	21202	24819	21133	25233	26116	33697	39000	35821
Special autonomous region and balancing funds	8452	14449	25739	16400	58656	70424	83832	104621	121574
Village funds	-	-	-	-	-	-	-	-	9066
Primary Balance	44574	18060	50816	17585	-9447	-1802	-40084	-54089	-93926
Overall Balance	-40513	-73306	-53342	-98010	-124656	-124020	-153338	-175354	-248295
Net Financing	40513	73306	53342	98010	124656	124020	153338	175354	248295
Domestic Financing	55068	89795	60790	107891	125266	125912	172792	196258	269710
Domestic bank financing	12062	300	16629	7129	12657	8947	14307	4388	4468
Domestic non-banking financing	42806	89495	44161	100762	112609	116965	158885	191869	265242
Foreign Financing	-14555	-16689	-9448	-8881	-610	-1892	-19454	-20304	-23815
Gross drawing	40275	42989	52651	57606	58933	54282	49919	39132	47057
Subsidiary loan agreement	-	-	-	-8644	-11725	-8934	-8968	-1226	-4319
Amortisations	-54830	-59658	-63639	-58843	-47898	-47240	-58405	-58181	-66533

Source: Ministry of Finance
Data 2014 and 2015 quoted from Statistical Year Book of Indonesia 2015.

Source: Ministry of Finance
Data 2014 and 2015 quoted from Statistical Year Book of Indonesia 2015.
Retrieved from <https://www.bps.go.id/linkTabelStatistik/view/id/1178>

Although tax revenue target in 2015 did not achieved and the budget deficit widened, the government ambitions to carry out some national projects – especially in the field of infrastructure – has caused the tax revenue target to be raised up to Rp 1.546,7 trillion in 2016, as it can be seen in the Table 2 below:

Based on the above condition, the research problem of this study is on “How Tax Amnesty discourse be reviewed from the politic of taxation perspective?” The subject of this study is elaborated into three research questions as follows:

1. How can we understand tax amnesty in the context of politic of taxation?
2. Why did resistance occur in the implementation of Tax Amnesty Act?
3. What are the factors that cause negative perception on Tax Amnesty?

TABLE 2: Draft State Budget (RAPBN) and State Budget (APBN) (in Billion Rupiah), 2016.

Uraian (triliun Rupiah)	2016		
	RAPBN	APBN	Selisih
A. PENDAPATAN NEGARA	1.848,1	1.822,5	(25,6)
I. PENDAPATAN DALAM NEGERI	1.846,1	1.820,5	(25,6)
1. PENERIMAAN PERPAJAKAN	1.565,8	1.546,7	(19,1)
2. PENERIMAAN NEGARA BUKAN PAJAK	280,3	273,8	(6,4)
II. PENERIMAAN HIBAH	2,0	2,0	0,0
B. BELANJA NEGARA	2.121,3	2.095,7	(25,6)
I. BELANJA PEMERINTAH PUSAT	1.339,1	1.325,6	(13,5)
1. Belanja K/L	780,4	784,1	3,7
2. Belanja Non K/L	558,7	541,4	(17,3)
II. TRANSFER KE DAERAH DAN DANA DESA	782,2	770,2	(12,0)
1. Transfer ke Daerah	735,2	723,2	(12,0)
2. Dana Desa	47,0	47,0	0,0
C. KESEIMBANGAN PRIMER	(89,7)	(88,2)	1,5
D. SURPLUS/ (DEFISIT) ANGGARAN	(273,2)	(273,2)	0,0
<i>% Surplus/ (Defisit) terhadap PDB</i>	<i>(2,1)</i>	<i>(2,2)</i>	<i>(0,0)</i>
E. PEMBIAYAAN ANGGARAN (I + II)	273,2	273,2	(0,0)
I. PEMBIAYAAN DALAM NEGERI	272,0	272,8	0,8
II. PEMBIAYAAN LUAR NEGERI (neto)	1,2	0,4	(0,8)

Source: 2016 State budget. Retrieved from <http://www.kemenkeu.go.id/en/node/47651>

2. Research Method

This research is conducted by implementing literature, documentation and observation studies on the process of Tax Amnesty legalization occurring from 2015 until May 2016, as well as by assessing the implementation of TA Act since July 1, 2016.

3. Result and Discussion

3.1. Tax amnesty in the context of politic of taxation

In the context of politic of taxation, tax amnesty essentially requires state willingness to remove its authority to levy tax according to the mandate of taxation law. State also foregoes its right to force taxpayers by provide opportunity and offer fiscal compromise to them.

Tax in the classical paradigm is narrowly defined as mandatory fee collected according to the law. Tax in return is to be used to finance public purposes without directly provide feedback to the taxpayers. According to Article 1 Number 1 Act No.28 Third Amendment of Act No. 6/ 1983 about the General Rules and Procedures for Taxation (henceforth referred as KUP Act/ 2007), "Tax is compulsory contribution to the state which owed by personal or private corporation,... (it) is compulsory levy based on

the Act, which does not give direct reward to the taxpayers and is used for the purpose of state and the great prosperity of the people.” (Republic of Indonesia, Article No.28 Third Amendment of Act No.6/ 1983 about 1983 about the General Rules and Procedures for Taxation, Additional State Paper Republic of Indonesia No.4740) This formulation is dominantly influenced by classical paradigm that put emphasize on the elements of tax as: a) mandatory fee, b) can be imposed, c) collected based on the laws, d) taxpayers do not get direct contra-achievement, and e) used to finance public purposes.

Elements of tax can be seen from the opinion of Handcock as quoted by Rosdiana and Irianto. Based on classical paradigm, Handcock mentioned that general characteristics of tax are: a) compulsory contributions, b) imposed by the government c) for which taxpayers do not get specific reward, and d) its main objective is to collect governmental income to finance public expenditure.

All taxes have some features in common. They are compulsory levy, imposed by government, either on income, expenditure or capital assets, for which the taxpayer receives nothing specific in return. The primary purpose of imposing a tax is to raise revenue for public purposes. (Haula Rosdiana and Edi Slamet Irianto. Pengantar Perpajakan: Teori dan Implementasinya di Indonesia. Rajagrafindo, 2013, pp. 1-2)

Prominent tax and financial experts generally implement classic paradigm in formulating tax definition. James, for example, defined tax as “a compulsory levy made by public authorities for whom nothing is received directly in return.” (Simon James and Christopher Nobes. The Economic of Taxation: Principles, Policy and Practice, 1996/1997 Edition, Europe: Prentice Hall, 1996, page 10.) While Sommerfeld, Anderson and Brock defines taxes as “..... any non-penal yet compulsory transfer of resources from the private to the public sector, levied on the basis of predetermined criteria and without receipt of a specific benefit of equal value, in order to accomplish some of a nation’s economic and social objectives.” (Ray M. Sommerfeld, Hershel M. Anderson and Horace R. Brock. An Introduction to Taxation. New York: Harcourt Brace Jonovich Inc., 1981, page 1/1)

Although they did not provide specific definition on tax, Musgrave and Musgrave mention that, (Richard A. Musgrave and Peggy B. Musgrave. Public Finance in Theory and Practice. New York: Mc Graw Hill Company, 1989, page 220) “Taxes and charges are withdrawn from the private sector without leaving the government with a liability

to the payee." Musgrave and Musgrave also mentioned that "Taxes are compulsory imposts." This opinion is clearly visible of using classic paradigm.

Indonesian taxation system was historically influenced by the Dutch. A financial expert whose opinion often referred, Adriani defines tax as "levy paid to state (that can be imposed) indebted by obligated payee according to the regulations, which receives nothing specific in return, directly appointed, and which purpose is to raise revenue for public expenditures. (R. Santoso Brotodihardjo. *Pengantar Ilmu Hukum Pajak. Third Edition. Bandung: PT Eresco, 1993, p. 2*) Adriani's opinions exist in almost tax literature.

Based on several definitions of tax according to classical paradigm, it can be concluded that one element which is important and fundamental in tax is "imposed" characteristics, because tax has execution strength. In the tax implementation, Indonesian government manifested the imposing element through Act of Tax Billing with Notification Letter (TASP Act). However, even though tax can be imposed; the sanction is different with those given to criminal. The punishment is aimed to prevent a person perform certain action that may damage or interfere the community. Quoting Sommerfeld, Rosdiana mentioned that taxes are non-penal. (Ibid) The main differences between tax sanction and criminal penalty are the scale and the underlying purpose of sanction. "The major differences between a tax and a penalty are (1) the relative size of exaction demanded, and (2) the specific objective behind the exaction."

The main purpose of tax sanction is not to imprison people, but to encourage people carry out his obligations to pay tax. Moreover, if tax sanction is stressed more to imprison people, then actually state has to spend bigger amount of funds to finance the investigations, prosecution, and execution of negligent taxpayer. In line with Gordon's opinion that "Financial sanctions may raise revenue, while prison sentences may increase expenditures. Financial sanctions may even be designed in such a way that they cover the tax administration's expenses in pursuing a case, from investigation through final collection. (Richard K. Gordon, Op. Cit.) Hence, For this reason, in international best practice, fiscal compromise becomes prevalence in the taxation system.

In Indonesian tax system, fiscal compromise is set in Article 8 on Paragraph 3 of KUP Act as quoted below:

Although an audit had been done, but criminal investigation on the existence of unrighteousness of Taxpayers has not been done yet; as it is referred in Article 38 on the unrighteousness deed of Taxpayers; investigations will not be performed if the Taxpayers with his own willingness reveals his fault and redeem obliged tax deficiency along with the penalty for the administration of 150% (one hundred and fifty percent) the unpaid tax. (Republic of Indonesia,

Article No.28 Third Amendment of Act No.6/ 1983 about 1983 about the General Rules and Procedures for Taxation, Additional State Paper Republic of Indonesia No.4740)

Fiscal compromise is part of the Tax Amnesty (TA). The word "Amnesty" is derived from the Greek ἀμνηστία/amnestia/, which means "forgetfulness or passing over". Andreoni defines TA as "Tax amnesties are government programs that forgive all or part of the penalties owed by tax cheaters if they voluntarily repay their delinquent taxes. (James Andreoni. The desirability of a permanent tax amnesty, Journal of Public Economics 45 (1991) 143-159. North-Holland. Retrieved from <http://econweb.ucsd.edu/~jandreoni/Publications/JPubE1991.pdf>) Tax formula to ascertain tax liabilities is basically determined by the tariff and taxable basis imposed. In self-assessment system, the obligation to a) calculate, b) pay and c) report tax liabilities is arranged in a formal tax law provisions which govern what, who, when, where, and how aspects, including sanctions if the formal terms are not fulfilled. Therefore, in general, TA can be defined as model of amnesty, either in form of a) elimination of tax due, and/or b) deletion/reduction of tax sanctions that should be imposed based on tax legislation. Hence, Tax Amnesty can be determined in the form of explicit or implicit, partial or full, permanent or temporary.

Whatever the shape or political perspectives it came from, TA is essentially a form of state willingness to remove its authority on collecting tax and/or levy sanction in accordance to the mandate of taxation law. The authority that state is willingly accepted is a part of taxation role as a political instrument. There are at least three main reasons of why a state justifies this policy.

Firstly, according to the perspective of tax as an instrument of democracy, TA can be defined as an effort to embrace more people and subject to participate in building the state. Both a) unregistered tax subjects and b) registered tax subjects (Taxpayers with Identification Number/ NPWP) yet partially fulfills his obligation, are expected to fully participate in the taxation system.

Secondly, TA can become the momentum to perform national reconciliation. In the implementation of TA, not only the state must have volunteered its authority, but it also takes the taxpayers' willingness to fulfill his obligations. Therefore, national leaders must be able to convince the people that the TA is a means of national reconciliation to improve the economic, social and political system.

Thirdly, TA policy represents a momentum to improve the taxation system that ensures legal certainty. As what has become prevalence, in addition to provisioning overdue and billing overdue, retroactive principle term is also known in the taxation

system. According to retroactive principle, a state has an authority to impose indebted years of tax before a taxpayer was registered as long as the taxpayer status is legally proven (*tatbestand*). Indonesia is an example of nation which implements this principle.

3.2. Factors that trigger resistance and negative perception on tax amnesty

There has been any policy which stirs up controversy in the history of Indonesian taxation system. Before it was confirmed, TA Act gets positive feedback from academics, practitioners and parliament members, which have authority to pass the draft into legislation. Even good reaction among public were increased as soon as TA Act legalized.

However, on the early September 2016, at least an organization filed judicial review on the policy, whereas another organization also filed a lawsuit to the Ombudsman as it can be seen in the following table:

TABLE 3: Efforts to Resist Tax Amnesty Act.

Accusing/ Reporting Party	Accusation	Reason	Date of Report
Accusing/ Reporting Party	Accusation	Reason	Date of Report
One Justice Foundation (YSK) and the Indonesian People Resistance Union (SPRI)	Judicial review to the Constitutional Court (MK)	Eleven Articles in Tax Amnesty Act reported are Article 1 clause (1) and (7); Article 3 clause (1), (3) and (5); Article 4; Article 11 clause (2) and (3); Article 19; Article 21; Article 22; and Article 23. (Retrieved from http://finance.detik.com/read/2016/07/13/115534/3252331/4/dinilai-legalkan-praktik-pencucian-uang-uu-tax-amnesty-dibawa-ke-mk)	13-Jul-16
		1. Tax Amnesty Act allows money laundering practice legally.	
		2. Tax Amnesty Act gives priority to white collar criminals.	
		3. Tax Amnesty Act becomes "a red carpet" for negligent taxpayers.	
		4. Tax Amnesty Act provides magnified "discount" to negligent taxpayers.	
		5. Tax Amnesty Act tackles whistleblower program.	
		6. Tax Amnesty Act crashes into the Principle of Information Disclosure.	
		7. Tax Amnesty Act is potentially used by taxation criminals.	

Accusing/ Reporting Party	Accusation	Reason	Date of Report
		8. Tax Amnesty Act is deemed ineffective as the same policy on 1964 and 1986.	
		9. Tax Amnesty Act removes state revenue potential.	
		10. Tax Amnesty Act is a form of betrayal to the poor.	
		11. Tax Amnesty Act teaches the people to not obey tax regulation.	
		12. Tax Amnesty Act marginalizes obedience taxpayers.	
		13. Tax is a compulsory levy.	
		14. Tax Amnesty Act is strange because it applies one year only.	
		15. Tax Amnesty Act put the President and Parliament into a position which potentially violates the constitution.	
		16. Tax Amnesty Act implementation is not in accordance with the principle of equality before law.	
		17. Tax Amnesty Act is a form of intervention and destruction of law enforcement process.	
		18. Tax Amnesty Act reflects government's weakness toward negligent taxpayers.	
		19. Tax Amnesty Act paralyzes law enforcement institutions.	
		20. Tax Amnesty Act should be suspected as an instrument of negligent taxpayer because it provides them exclusive rights.	
		21. Tax Amnesty Act halts the ongoing law process on taxation.	
Committee of Justice and Human Rights of Muhammadiyah Central Leader	Judicial review to the Constitutional Court (MK)	1. Tax Amnesty policy should have clear direction according to the Article 1, 28, and 33 of Constitution 1945 which contains democracy and human rights values. However, in fact, the formulation of TA Act does not meet the elements of democracy. 2. The discussion of Tax Amnesty draft did not involve the public at large. Indonesian community should have been able to learn and evaluate academic draft of the amnesty. Communities also should have been given the opportunity to give suggestion before the bill was passed. Hence the unilateral arrangement had betrayed the democratic process.	Has not proposed yet

Accusing/ Reporting Party	Accusation	Reason	Date of Report
		3. Tax Amnesty Act has raises delirium among middle to lower society which at any moment potentially become the target of beleid implementation. The government intention to to raise revenue for public purposes by implementing Tax Amnesty toward Non-Resident Taxpayer pay harms obedient Resident Taypayer. (https://m.tempco.co/read/news/2016/08/28/090799606/muhammadiyah-akan-gugat-uu-pengampunan-pajak-ke-mkdan http://www.republika.co.id/berita/ekonomi/makro/16/08/28/ocltw382-muhammadiyah-ajukan-judicial-review-uu-pengampunan-pajak)	
Indonesian Forum for Budget Transparency (Fitra) will also file a judicial review.	- Sue Directorate General of Taxation to the Ombudsman of Republic of Indonesia (ORI)	1. The basic philosophy in the formation of Tax Amnesty policy is constitutionally flawed. For example, the basis argument of Tax Amnesty Act is misinterpreted from Article 23 A. It is contrary to the Constitution Article 23 and 23 A about State Budget management and tax levy. Tax Amnesty Act is also contrary to State Finance Act No. 17/2003.	6-Sep-16
		2. Tax Amnesty policy is considered unfair for small to medium businesses (UKM). This year tax amnesty is predicted to have the same fate with TA 1984 due to lack of information access, openness and socialization.	
	- Will also file a judicial review	3. Imaginary target of Rp 165 trillion will not be achieved and thus will only increase the burden of 2017 state budget deficit. Fitra simulation finds that from Rp 8.000-10,000 trillion overseas funds owned by Indonesian conglomerate, only Rp 50 trillion maximum funds will add into State Budget.	
		4. This policy will provide "red carpet" for negligent taxpayers, not the small to medium business because the main purpose of Tax Amnesty is not to fill in deficit, but rather to make conglomerate's business keep running.	
		5. This policy is counterproductive to the anti-corruption spirit. Tax Amnesty was initially designed to forgive corruptors and to delegitimize efforts to fight corruption. Since Tax Amnesty does not include verification on the origin of wealth; whether the assets of taxpayer is from corruption, illegal logging or drugs selling.	

Accusing/ Reporting Party	Accusation	Reason	Date of Report
		6. Tax amnesty represents creativity deadlock of the government in its efforts to gain alternative state revenue as well as evidence of inability of the government to collect receiveable from State Owned Enterprises. Until 2015, Fitra noted, state has trade receiveable over dividend State Owned Enterprises of Rp656 trillion during 2010-2015, while tax receiveable from State Owned Enterprises up to Rp70,5 trillion. (Retrieved from http://www.beritasatu.com/nasional/383474-ini-6-alasan-fitra-judicial-review-uu-tax-amnesty-ke-mk.html)	

Resistance against TA Act actually could be predicted since the draft was discussed by the parliament. Conceptual/theoretical gap was discovered in TA formulation. In addition, gap was also found in the policy implementation. (See table 4). The elaboration of those three gaps is explained as follows:

TABLE 4: Core Problem of TA Act Resistance.

<i>Conceptual/theoretical gap</i>	<i>Policy gap</i>	<i>Implementation gap</i>
- Conceptually, TA is an issue debated;	- There is no clear roadmap to convince the people;	- Administrative Capacity (Delivery Capacity, Regulatory Capacity, Coordination Capacity, Analytical Capacity)
- Previous study has shown that TA does not always have positive implications;	- The implementing regulation has not meet ease of administration basis (certainty, efficiency, simplicity and convenience).	- Communication and Coordination
- There has been no international best practice that can be used as benchmark because the political system and condition of each country vary.		- Trustworthiness

Source: Several sources. Data processed by the researchers.

3.2.1. Conceptual/theoretical gap in the formulation of tax amnesty policy

The concept of Tax Amnesty is often considered controversial as it is alternatively used to boost national revenue. Alm and Rath stated that the obvious goal of TA is to improve short term revenue. This presumption may happen. However, post-enactment

of TA generates hope among taxpayers that similar policy may be implemented later on. This will cause low tax compliance in the future.

Tax amnesties are controversial revenue tool. The obvious purpose of a tax amnesty is to raise short-run revenue. This may or may not work, and it can bring about expectations of future amnesties thereby reducing taxpayer compliance after the amnesty (James Alm and David M Rath. Tax Policy Analysis: The Introduction of a Russian Tax Amnesty. Retrieved from http://papers.ssrn.com/sol3/papers.cfm?abstract_id=471321)

Those who support TA believe that this policy enables the government to collect potential revenue which is difficult to be billed through the law enforcement.

The argument for instituting tax amnesty program is usually to forgo the tax revenue that has proven to be difficult to enforce with the objective to secure a short term increase in tax revenue from that category of taxpayers. (Jonas Jensen and Florian Wöhlbier. Improving Tax Governance in EU Member States: Criteria for Successful Policies. Occasional Papers 114 | August 2012, European Commission Directorate-General for Economic and Financial Affairs Publications, ISSN 1725-3209)

This has become one of the reasons why TA remains a popular instrument to boost financial revenue and improve tax compliance.

Tax amnesties remain popular as an instrument aimed at raising revenue and increasing tax compliance. The common inducement offered in exchange for voluntary disclosure of past untaxed income is a significant but temporary reduction in tax liabilities including penalties. (Jonas Jensen and Florian Wöhlbier. Improving Tax Governance in EU Member States: Criteria for Successful policies, Occasional Papers 114 | August 2012, European Commission Directorate-General for Economic and Financial Affairs Publications, ISSN 1725-3209)

In line with Jensen and Wöhlbier, Beck II also suggests that TA is now a popular tool to increase income level quickly.

In recent years' state governments have pursued a variety of methods to generate immediate revenues and keep income levels growing. One approach that has become increasingly popular is the tax amnesty. (William Clifton Beck,

II. The Economics of Tax Amnesties: A Theoretical, Empirical, and Experimental Analysis, University of Colorado at Boulder, ProQuest Dissertations Publishing, 1991. 9132544. Retrived from <http://search.proquest.com/docview/303940481/fulltextPDF/362C9E8781942F0PQ/3?accountid=17242>)

TABLE 5: Pro and Contra of TA Policy.

PRO	CONTRA
1. To ease financial burden of the community due to tax defy and sanction caused by confusion in the past;	1. Trigger economic inequity;
2. To create tax justice due to the increasing number of tax payer;	2. Cause jealousy among taxpayers;
3. To improve tax compliance as a result of public confidence;	3. Cause legal jealousy especially from the other rule of law;
4. As a momentum to improve tax administration.	4. Trigger distrust toward the government if no changes happen to taxation orientation after the implementation of TA.
Source: Several sources. Data processed by the researchers.	

Meanwhile, those who oppose TA sense that the policy may arouse jealousy among taxpayers, which in long term can disrupt tax morale. In the study of Luitel and Sobel, as quoted by Jensen and Wöhlbier, TA policy in many countries was not encouraging. Contrary to what has planned, TA policy cause lower level of tax compliance after the amnesty.

The experience of tax amnesty programmes at country level is not encouraging. Several studies have provided evidence that additional tax amnesties are likely to produce decreasing yields and discourage future compliance (see Luitel and Sobel, 2007). (Jonas Jensen and Florian Wöhlbier. Improving Tax Governance in EU Member States: Criteria for Successful Policies, Occasional Papers 114 | August 2012, European Commission Directorate-General for Economic and Financial Affairs Publications, ISSN 1725-3209)

Alm, as quoted by Jensen and Wöhlbier, concluded that TA policy provide only little additional tax revenues and slightly affected taxpayers’ willingness on post-amnesty compliance.

Such programmes have, e.g., been implemented in Italy, Greece and Germany. Most evidence suggests that tax amnesties generate little additional tax revenues and also seem to have relatively little effects on post-amnesty compliance [2]. (Jonas Jensen and Florian Wöhlbier, Improving Tax Governance in EU

Member States: Criteria for Successful Policies, Occasional Papers 114 | August 2012, European Commission Directorate-General for Economic and Financial Affairs Publications, ISSN 1725-3209)

Furthermore, Jensen and Wöhlbier concluded that positive effects on post-amnesty enactment tend to be overestimated.

Furthermore, the positive effects of past tax amnesties are likely to have been overestimated. Figures for received amounts in a tax amnesty programme would invariably include amounts that might otherwise have been collected in the normal course of tax enforcement. Moreover, the long term effects of deteriorating the tax morale are never included. (Jonas Jensen and Florian Wöhlbier, Improving Tax Governance in EU Member States: Criteria for Successful Policies, Occasional Papers 114 | August 2012, European Commission Directorate-General for Economic and Financial Affairs Publications, ISSN 1725-3209)

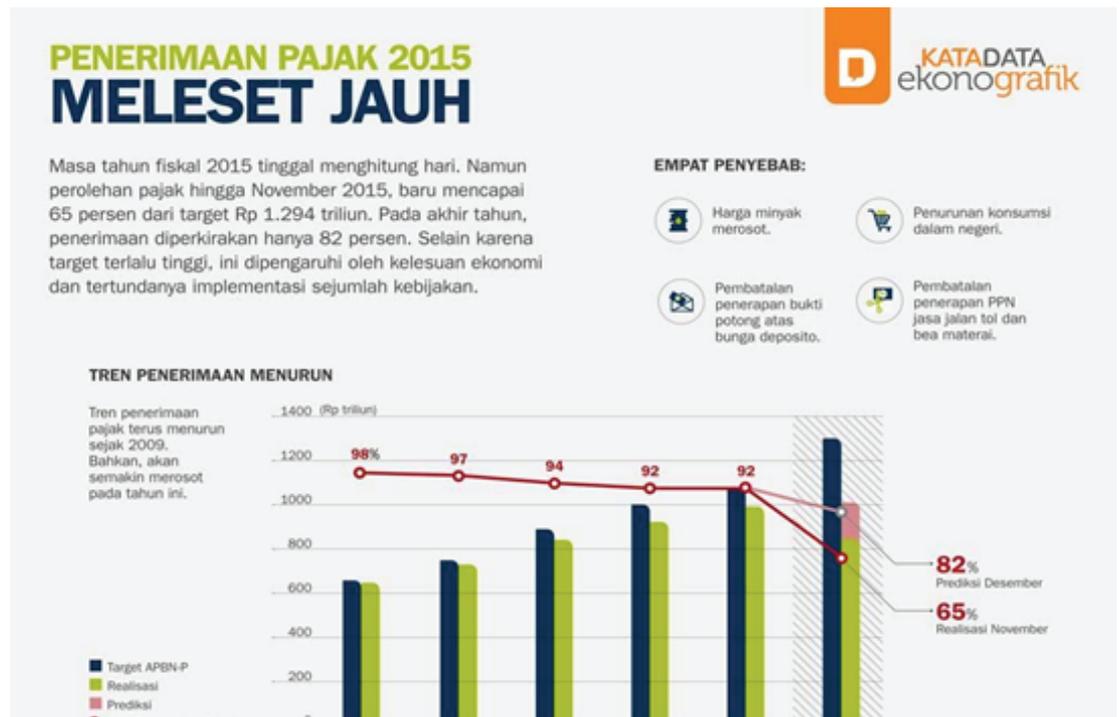
Conceptually, TA itself does not have standard and rigid definition to be used as international best practice. This can be understood since tax strategic environment varies in every country. Therefore, based on politic of taxation perspective, TA policy may have positive and negative side effects as seen in Table 6.

TABLE 6: Positive and Negatives Sides of TA Policy.

Positive Side of TA	Negative Side of TA
1. Tax Amnesty requires state willingness to remove its authority in collecting tax along with the mandate of taxation law;	1. Tax Amnesty may trigger taxpayers to neglect their duty if the tax authority unable to expand taxation basis;
2. Tax Amnesty can be narrowly defined as the momentum to improve tax relations between the state and the people as a basic principles of statehood;	2. Tax Amnesty has widened economic imbalance due to fiscal incentives and tax liberation given to large scale entrepreneur.
3. Tax Amnesty can be an effective instrument in building foundation of taxation trust.	
Source: Several sources. Data processed by the researchers.	

3.2.2. Policy gap in the formulation of tax amnesty policy

It is likely to say that TA Act correlate with budget and tax revenue deficit in 2015. Tax revenue in 2015 fiscal year hit the lowest percentage since 1990 as it can be seen in the picture below:



Picture 1: Factors that Lead to 2015 Achievement Target Not Achieved. (Source: <http://katadata.co.id/berita/2015/12/28/rekor-baru-penerimaan-pajak-tembus-rp-1000-triliun>.)

Therefore, it is natural that some parties criticized the implementation of TA Act as forced and completely unprepared. Even the crucial TA Act was not enclosed with government readiness to publish regulations (See Table 8) as it is often in the procedures of legislation and other tax law such as KUP Act, TAh Act and TAN Act.

Refer to the process of provisioning a policy agenda modeled by Kingdom (See picture 3), policy gap can be seen in the formulation of Agenda Setting without full support from the people, parliament, and related government body.

3.2.3. Implementation gap in the formulation of tax amnesty policy

As a result of unprepared implementation, various problems arose in the field. Even in the social media hashtag #StopBayarPajak (#StopPayingTax) had become viral.

The trending hashtag in general assume that Tax Amnesty policy inflict a financial lost too small to medium business. (Retrieved from <https://m.tempo.co/read/news/2016/08/29/087799780/stopbayar-pajak-jadi-viral-pramono-tax-amnestytetap-jalan>) After getting negative reactions from various communities, then the government issued Regulation of the Directorate General of Taxes No. PER-11/PJ/2016 about Further Setting on the Implement action of Act No. 11/2016 about Tax Amnesty on August 29, 2016. Even though the regulation is considered sufficient, since the first



Picture 2: Tax Achievement for the Last 25 Years. (Source: <http://katadata.co.id/berita/2016/01/04/palingrendah-realisisi-pajak-2015-cuma-815-persen>.)

period of TA will expire at the end of September 2016, some communities demand the government to issue a Government Regulation to Replace Law Number (Perpu) for the first quarter period of TA to be extended until November 2016. (See: "Tunggu Aturan Baru, Pengusaha Usul Perpu Perpanjangan Tax Amnesty <http://katadata.co.id/berita/2016/08/24/apindo-tunggu-regulasi-lengkap-wajib-pajak-besar-tahan-diri>, and <https://pengampunanpajak.com/2016/09/08/dpr-minta-pemerintah-konsultasibila-terbitkan-perpu-tax-amnesty/>).

Negative publicity over the TA implementation has caused the realization of acceptance to be very far from target set by the government, of 165 trillion rupiah (See Picture 4). At the previous discussion on TA Draft, Indonesian government estimated the additional state revenue of 165 trillion rupiah if the amnesty is implemented. Even the prediction had been inserted in National Budget Changes (RAPBN) 2016. In addition, the government also targeted repatriation funds of 1,000 trillion rupiah. (See <http://www.cnnindonesia.com/ekonomi/20160523174352-78-132895/menkeumasukkan-penerimaan-tax-amnesty-rp165-t-dalam-apbnp/>)

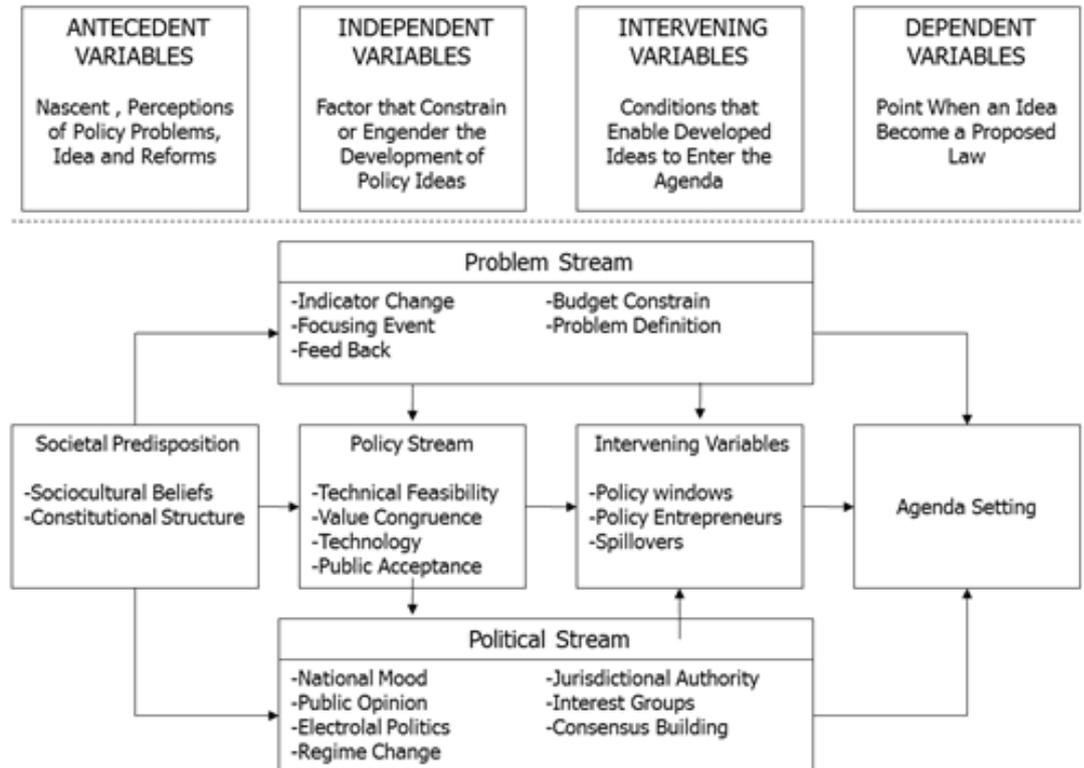
Based on a Press Release published by the Directorate of Information, Counseling and Public Relations at the Directorate General of Taxes, Ministry of Finance Republic

TABLE 7: Rules in Tax Amnesty Implementation.

Ministry of Finance Decree	Ministry of Finance Decision	Directorate of Taxes Regulation
No. 118/Ministry of Finance (MoF) Decree.03/2016 about the Implementation of Act No. 11/2016 about Tax Amnesty	No. 600/ Ministerial Decision.03/2016 about the Announcement of the Perception Bank Acting as the Recipient of Ransom Money in the Context of Tax Amnesty (1.28 MB)	No. PER-44/PJ/2015 about Fourth Amendment over the Regulation of the Director General of Taxes No.PER/38/PJ/2009 about the Form of Tax Deposit Payment Slip
No. 119/ MoF Decree.08/2016 about Procedures of Wealth Redirection of the Taxpayers into the Territory of Unitary State of Republic of Indonesia and the Placement on Investment Instrumental in the Financial Market in the Context of Tax Amnesty	No. 658/ Ministerial Decision.03/2016 about the Announcement of the Head Office and Regional Offices of the Directorate General of Taxes as Specific Place to Deliver the Asset Statement Letter in the Context of Tax Amnesty (540,34 KB)	No. PER-06/PJ/2016 about Fifth Amendment over the Regulation of the Director General of Taxes No.PER/38/PJ/2009 about the Form of Tax Deposit Payment Slip (July 15, 2016)
No. 122/ MoF Decree.08/2016 about Procedures of Wealth Redirection of the Taxpayers into Unitary State of Republic of Indonesia and the Placement on the Investment outside Financial Market in the Context of Tax Amnesty		No.PER-07/PJ/2016 about Document and Technical Guidelines in Filling Document in the Context of Tax Amnesty (July 18, 2016)
No. 123/ MoF Decree.08/2016 about Changes in the Regulation of the Minister of Finance No. 119/ MoF Decree.08/2016 about Procedures of Wealth Redirection of the Taxpayers into the Territory of Unitary State of Republic of Indonesia and the Placement on Investment Instrumental in the Financial Market in the Context of Tax Amnesty		No. PER-10/PJ/2016 about Changes in Regulation of the Director General of Taxes No. PER-07/PJ/2016 about Document and Technical Guidelines in Filling Document in the Context of Tax Amnesty (August 19, 2016)
No. 127/ MoF Decree.010/2016 about Tax Amnesty Based on Act No. 11/ 2016 about Tax Amnesty for Taxpayers with Intangible Assets Through Special Purpose Vehicle		No. PER-11/PJ/2016 about Further Setting on the Implementation of Act No. 11/ 2016 about Tax Amnesty (August 29, 2016)

of Indonesia, it was announced that up to 6 September 2016 Acquisition Cost that has been entered into the state treasury is 4,78 trillion rupiah (See Table 8).

The performance on the implementation of TA, which is still very far from target, can be analyzed by a model that Meter and Horn proposed (Picture 5). As it has been described previously, standards and objectives of the TA policy in detail have not been clear and firm, so that the implementation is different from one Taxation Service Offices



Picture 3: The Agenda-Setting Process: A Model. (Source: John W. Kingdom. 1984. Agenda Alternatives and Public Policies. Boston: Little, Brown.)



Picture 4: Tax Amnesty Statistics. (Source: <http://www.lembagapajak.com/2016/09/realisasi-uangtebusan-tax-amnesty.html>.)

and another. Even on the early stage of implementation, many subordinate staffs' in the Directorate General of Taxation could not well explain the amnesty.

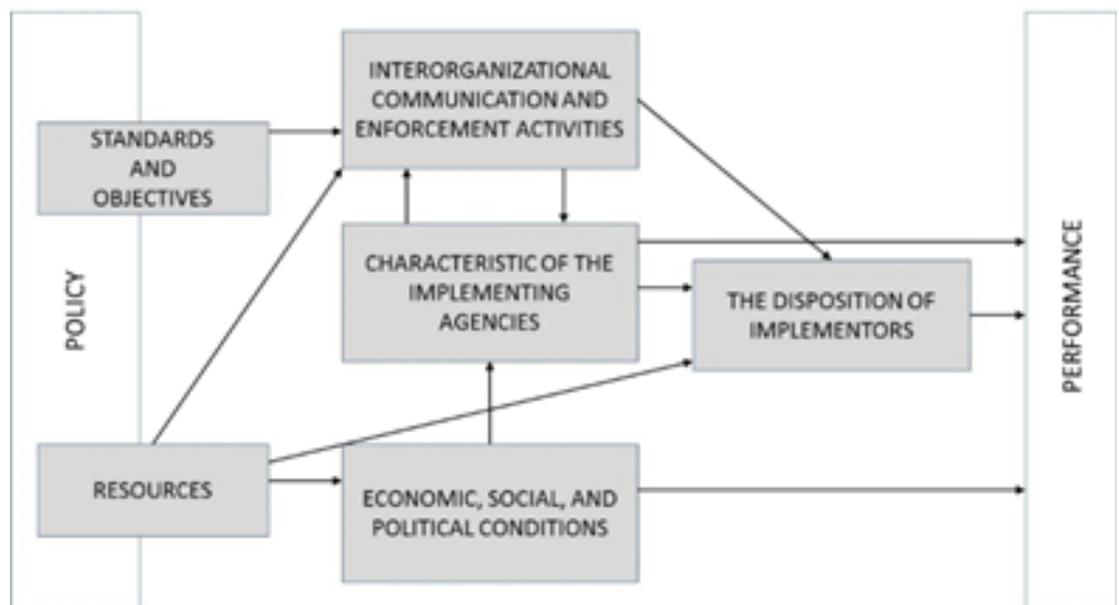
TABLE 8: Tax Amnesty Program Development (until September 6, 2016).

1. Jumlah Surat Pernyataan Harta (hingga 5 September 2016) adalah sebagai berikut:

Wajib Pajak	Surat Pernyataan Harta	Uang Tebusan (Rp triliun)	Harta Deklarasi (Rp triliun)
a. Orang Pribadi	25.218	4,24	196,28
— UMKM (a.1)	9.920	0,28	30,13
— Non-UMKM (a.2)	15.298	3,96	166,15
b. Badan	6.104	0,54	27,61
— UMKM (b.1)	1.851	0,01	1,67
— Non-UMKM (b.2)	4.253	0,53	25,94
c. Total (a+b)	31.322	4,78	223,89

2. Jumlah Harta Deklarasi (hingga 5 September 2016)

Deklarasi Harta	Jumlah Harta (Rp triliun)
a. Dalam negeri	175,21
b. Luar negeri	35,60
c. Repatriasi	13,08
d. Total (a+b+c)	223,89



Picture 5: A Model of the Policy Implementation Process. (Source: Donald Van Meter and Carl Van Horn. 1975 "The Policy Implementation Process: A Conceptual Framework. Administration and Society 6. Sage Publication. p. 163)

4. Closing

This study shows that the discourse of Tax Amnesty occurs because the government were lacking in showing transparency on the significance of Tax Amnesty as well as the benefit for Indonesian people. There is no general roadmap that convince people the importance of Tax Amnesty toward present political situation, and that Tax Amnesty will benefit Indonesian people in general both in short and long term.

5. Conclusion

This research concludes that:

Firstly, the significant of Tax Amnesty from the perspective of political taxation are:

- a. Tax Amnesty is a state political decision which will get positive response from its community widely, only if the nation is able to convince its community that the amnesty will provide common good for both state and people.
- b. Tax Amnesty is an offer from the state to its people on taxation. Hence, Tax Amnesty must bring benefit to the state and its people.
- c. Tax Amnesty can be used as an indicator of citizen's nationalism. Therefore, Tax Amnesty policy is considered successful when it brings repatriated assets back onshore from non-resident taxpayers as expected by the government.

Secondly, in refer to the *conceptual/theoretical gap*, resistance toward TA occurs because a) conceptually, TA is a controversial instrument in increasing state revenue, b) previous study had proven that TA has negative implications, and c) there have been no international best practice that can be used as benchmark because the political system and condition of each country vary.

Policy gap occurs because a) there is no clear roadmap that convinces people, and b) implementing regulation has not met the ease of administration basis (certainty, efficiency, simplicity and convenience). Finally, from the perspective of implementation gap, TA policy is considered fail mainly because of unappropriated administrative capacity, ineffective political communication and no trustworthiness in the coordination of taxation on various levels.

6. Recommendation

To minimize distrust between state and people, as well as to create thorough transparency and accountability, the author urges the need to strengthen communication on political taxation. The government must also change tax paradigm not only as budget collector machine, but also as an instrument of democratization. Recommendations of this research are:

- a. The government should change its communication strategy in politic of taxation. Thus people will believe that Tax Amnesty is the right momentum to improve lives of nationhood and statehood for the sake of social welfare.
- b. The government should make a serious effort to improve tax administration after the enactment of TA, so that people will feel the impact of lighter tax burden as the result of bigger tax value basis.

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