

TAX HEAVENS PHENOMENON: TAX PLANNING STRATEGY OR TAX AVOIDANCE

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Abstract

Tax planning is one example of the use of regulatory loopholes. On the other hand for the Fiscal Authority, carrying out tax avoidance practices as a form of tax planning will have a negative effect on the Government and, for this reason, the Government makes fiscal corrections as its remedial. Many also hide their assets in tax heavens countries. This is so that the assets they have are not taxed. Tax heavens countries are usually small countries that apply very low taxes, some even do not impose taxes at all. However, the government has prepared an Automatic Exchange of Information (AEOI) data exchange plan that occurs in 2018, certainly will make tax evaders unable to run away from the pursuit of the tax authorities, even if they have to flee to tax heavens countries (tax heavens).

Keywords: *tax heavens, tax planning, Automatic Exchange of Information (AEOI)*

Abstrak

Perencanaan pajak adalah salah satu contoh penggunaan celah peraturan. Pada sisi lain bagi Otoritas Fiskal, melakukan praktik penghindaran pajak sebagai bentuk perencanaan pajak akan membawa efek negatif bagi Pemerintah dan, untuk itulah, Pemerintah melakukan koreksi fiskal sebagai remedialnya. Banyak juga yang menyembunyikan asetnya di negara-negara tax heavens. Hal ini bertujuan agar aset yang mereka punya tidak terkena pajak. Negara tax heavens biasanya merupakan negara kecil yang menerapkan pajak yang sangat rendah, bahkan ada yang tidak mengenakan pajak sama sekali. Namun, pemerintah telah menyiapkan Rencana pertukaran informasi data perbankan secara otomatis (Automatic Exchange of Information/AEOI) yang terjadi pada 2018, dipastikan akan membuat para pengemplang pajak tidak akan bisa lari dari kejaran otoritas pajak, sekalipun mereka harus kabur ke negara surga pajak (tax heavens).

Kata kunci: *Tax Heavens, Tax Planning, Automatic Exchange of Information (AEOI)*

A. Introduction

The tax as the source of country revenue places the Director General of Taxes on crucial positions because the government expects the Director General of Taxes to be able to reach the target of tax revenue set every year. In the self-assessment system, the government gives trust to the community to calculate, pay and report their own taxes. The government of course expects honesty and awareness of the WP to carry out its taxation so that it can be implemented correctly, completely, and clearly. However, the level of community participation is still less satisfactory. Based on the DGT Annual Report 2015, the annual SPT delivery ratio as one indicator of tax compliance only reached 60.42%.

While in order to attract foreign investors, many countries actively promote their countries to become investment locations by providing various incentives. These incentives can be in the form of non-tax incentives or tax incentives. Non-tax incentives are generally given in the form of building adequate infrastructure, obtaining raw materials, providing labor resources prepared or provided. Meanwhile, tax incentives are provided through tax free tax, low tax for investors, accelerated depreciation or investment allowance and improvement of heaven tax.

The phenomenon of the tax heaven is an important discussion in the practice of global taxation. Millions of documents containing financial documents from Panama law firms leaked and revealed how networks of corruption and tax crimes by heads of state, secret agents, celebrities to fugitives, were hidden in a tax-free paradise (investigation.tempo.co).

One of the countries known as paradise for saving money is Switzerland. Customers either rich or corrupt people save their money in banking. The government and Swiss monetary authorities prohibit banks and their employees from leaking customer data. If this rule is violated, the sentence is very severe. Besides Switzerland, there is Liechtenstein that is the country in the Alps is a very attractive place for tycoons to save money. Like Switzerland, the banking system adopted in Liechtenstein greatly glorifies the confidentiality of customer data. The Mossack Fonseca law firm was founded by a German-born man named Juergen Mossack.

This data leak began when the international media consortium of Investigative Journalism (ICIJ) and the German Sueddeutsche Zeitung newspaper received data from an anonymous source more than a year or two years ago. According to ICIJ, the data is in the form of e-mail financial spreadsheets, passports, and company records detailing how these powerful people use banks, law firms and shell company category companies to store their assets. The data stretched around 40 years, from 1977 to the end of 2015.

Lately the focus of policy makers and market players has been on the Organization for Economic Cooperation and Development (OECD), which is an international organization of 30 developed countries whose task is to assist its member countries in facing economic, social and governance challenges in the global economy.

One of the OECD challenges is the problem of tax heavens. According to OECD Secretary General Jose Angel Gurría, the amount of money hidden by individuals and corporations in countries or regions of tax heavens to avoid taxes or avoid political instability ranged from USD 5-7 trillion. In early April 2009 the OECD held a meeting and announced reports on the progress of taxation countries. The large number of tax heavens countries or territories can disrupt other countries. In tax heavens country or territory, usually laws and policies can be used to avoid or deceive tax provisions from other

countries. The phenomenon of tax heavens arises as a reaction of humans as homo economics towards tax provisions in the country where they live which is higher than the tax rate in the country of tax heavens. Therefore, they transferred their money to the tax heavens country. Many countries / regions of tax heavens are small countries whose political and economic conditions are stable and supported by good infrastructure, such as Switzerland, Singapore and Hongkong. Some of the tax heavens countries have an offshore financial center like those owned by Malaysia in Labuan.

Tax heavens is a tax policy of a country that deliberately provides tax facilities, in the form of setting a low tax rate or not even taxing at all. It is intended to transfer the income of residents from other countries to that country.

The definition of tax heavens country can vary in each country depend on the provisions of each country defining tax heavens country. Japan categorizes a country as a tax heavens country if the actual tax burden is paid less than 25% of taxable income. South Korea categorizes a country as a tax heavens country if the actual tax burden is paid less than 15% of taxable income. France categorizes a country as a tax heavens country if the payable tax in that country is less than 66.67% of the tax owed if the income is calculated based on French tax provisions. The UK classifies a country as a tax heavens country if the payable tax in that country is less than 75% of the tax owed if the income is calculated based on the provisions of the UK taxation.

Yunus Husein, the Chairman of *PPATK* said that Indonesia was not included in the OECD list because of several reasons. First, Indonesia is not tax heavens. On the contrary, Indonesia is a victim whose money has been rushed to the country of tax heavens. For example, based on research conducted by he Merrill Lynch and Capgemini companies a few years ago, it can be seen that one third of the rich people in Singapore are from Indonesia.

The wealth invested in Singapore is estimated around USD70 billion. To pursue money planted abroad such as in Singapore is not an easy matter because the country receives the placement of funds that is often not cooperative. In addition, Indonesia also does not have an offshore financial center or offshore bank because the term offshore bank is not familiar in the banking system in Indonesia.

Offshore bank is a bank that can only raise funds from abroad, then distribute it abroad only (out-out offshore bank) or in certain areas it is also possible to distribute funds into the country where the bank is located. In addition, tax crime is one of the crimes originating from money laundry.

Nowadays there are still no strict rules stating that countries are included in the category of tax heavens country. Although previously there was Minister of Finance Decree Number 650 / KMK.04 / 1994 which lists 32 countries for the purposes of applying article 18 paragraph (4) of the Income Tax Law (when certain dividends are obtained), which is implicitly the tax heavens country, namely: Argentina, Macau, Bahamas, Mauritius, Bahrain, Mexico, Balize, Netherlands antiles, Bermuda, Nicaragua, British Isle, Panama, British Virgin Island, Paraguay, Cayman Island, Peru, Channel Island Greens, Qatar, Channel Island jersey, St. Lucia, Cook Island, Saudi Arabia, El Salvador, Uruguay, Estonia, Venezuela, Hongkong, Vanuatu, Liechtenstein, Greece, Lithuania, Zambia.

However, the provisions have been revoked by the Minister of Finance Regulation Number 256 / PMK.04 / 2008 so that currently the list of tax heavens country is non-existent. In 18 paragraph (3c) the Income Tax Law only defines tax heavens country as a country that provides tax protection. The definition is too general, so the legal certainty of the Directorate General of Taxes needs to immediately determine which countries are the tax heavens country.

The tax heavens country or close to tax heavens will harm other countries that do not implement the same policy. The existence of the tax heavens country is the forerunner to the occurrence of unhealthy practices in the field of international taxation including transfer pricing, controlled foreign corporations and treaty shopping.

The problem with the tax heavens since the regulation was issued is there is not updated list of countries. The out-of-date provisions have caused the list of countries with tax heavens to be irrelevant to existing developments. As a result, domestic taxpayers can still practice tax avoidance by investing in other tax heavens that are not listed in the list of tax heavens according to the Decree of the Minister of Finance of the Republic of Indonesia.

Determination of countries tax heavens based on lists contain systemic weaknesses because first, if not updated frequently, because of very rapid development. To anticipate this condition, many countries determine the tax heavens state based on certain criteria, such as based on the criteria for the amount of tax rates applicable in the country.

Secondly, in the provisions of article 18 paragraph (2) as Indonesian CFC Rules it is in terms of control. Indonesia uses a legal approach, namely ownership of CFCs in the amount of more than 50% alone or together with other Domestic Taxpayers. In this case, the definition of control applied by Indonesia is only limited to direct share ownership of the overseas business entity. The practice of CFC rules South Korea also regulates that indirect ownership is also included in the sense of control and imposition of CFC rules not only can be done in the first layer, the second layer or the subsequent layers. An indirect ownership arrangement is needed, such as ownership of the company's grandchildren through a subsidiary. The provisions of CFC Rules Indonesia also only concern passive income while active income is not included in the provisions.

According to Bambang, as stated on the Indonesian CNN website, the way Indonesian citizens hide assets is to form affiliated companies in the tax heavens country. It makes personal and corporate assets avoid tax collected in their home countries. This practice, according to Bambang, has been going on for a long time. Furthermore, Bambang estimates that the total assets held by Indonesian citizens abroad can reach more than Gross Domestic Product (GDP) or more than 11 trillion rupiahs.

Separately, Director of Counseling, Service and Public Relations DJP Mekar Satria Utama acknowledged the difficulty in proving tax avoidance for taxpayers who placed their assets in the tax heavens country. In addition, affiliated companies that are often only companies on paper (paper company) in the tax heavens country are considered as legal entities. According to Toto, proof of tax evasion efforts must be clear. One of the used standards is the verification of Base Erosion and Profit Shifting (BEPS) which is used internationally to view tax evasion actions intentionally.

Despite all the control over the countries that became the place of tax heavens (providing low taxes and not being transparent) provided benefits for Indonesia. However, competent tax officers are needed to take advantage

of those benefits as stated by Minister of Finance / Coordinating Minister for Economy Sri Mulyani Indrawati in Jakarta, Thursday (23/4). In the G20 meeting, one of the agreements reached was the curbing of the tax heavens countries. Several countries which are identified as tax heavens countries such as Malaysia, Singapore, Philippines, Hongkong, and Liechtenstein.

Indonesia, said Sri Mulyani, was surrounded by many tax heavens countries. Brunei Darussalam, Malaysia, Singapore, Philippines, Hongkong, or Macau are included in the list of tax heavens countries according to the list published by the Organization for Economic Cooperation and Development. For Indonesia, the control of the state tax heavens brings profits because tax revenues become more maximized. So far, there has been potential for unexplored taxes. If the tax heavens are curbed, it is expected that there will be no more tax avoidance through transfer pricing (tax payments in countries that apply lower tariffs). It will help countries like Indonesia, which are increasing their capacity, because it simplifies and accelerates the ability to increase tax potential, but it requires a more competent tax apparatus to take advantage of this potential, which is why Indonesia must improve itself and create a tax apparatus that has integrity and able to detect gears complicated national company. It's a very important and uneasy task.

Because of that, now Indonesia is carrying out various concrete steps so that its citizens remain obedient in paying taxes, even though there are various ways to do tax evasion.

B. Literature Review

1. Tax Revenue

According to (Suhendra, 2010), the government's efforts to increase domestic revenues from the tax sector can be conducted by changing the tax collection system from the official assessment system to the self assessment system. The change in the taxation system is intended to make taxpayers as an independent subject in fulfilling the right to participate in development financing and simplification and improvement of administrative efficiency in the taxation sector.

The government's design in optimizing revenue from the tax sector is being intensively carried out. To optimize tax revenues, as in the Presidential Instruction (Inpres) Number 10 of 2016, in an effort to prevent and eradicate

corruption, the President has instructed the leaders of Ministries / Agencies and local governments to carry out the 2016 and 2017 Prevention and Eradication of Corruption. In the Presidential Instruction, there are two strategies, namely prevention and law enforcement strategies, where each strategy is described in the focus of activities.

The President paid great attention to the field of state revenue by focusing action activities through reforming tax governance and optimizing tax revenues. The focus of the activity is elaborated into seven actions, namely: (1) Quality evaluation and strengthening of mechanisms for exchanging data and information relating to taxation from agencies, institutions, associations and other parties, (2) Implementation of confirmation of taxpayer status for certain public services according to the provisions, (3) Regulations concerning the obligation to confirm taxpayer status for certain public services, (4) Evaluation of confirmation of strategic sector taxpayer status and strengthening of taxpayer confirmation mechanisms, (5) Preparation of policies on financial data integration, (6) Provision interfacing the database of Natural Resources and Energy management with the Tax Database and Non-Tax State Revenues (PNBP), (7) Accelerating the implementation of integrated planning and budgeting, and (8) Accelerating the implementation of integrated planning and budgeting. Among the eight activities above, there are three implementation programs related to taxation, namely: (1) Taxation Data and Information Exchange, (2) Taxpayer Status Confirmation, and (3) Financial Data Integration.

2. Agency Theory

This theory arises because of the correlation between the principal and the agent. Agency theory assumes that all individuals act in their own interests. The shareholders as principals are assumed to be only interested in increased financial results or their investment in the company. While the agents are assumed to receive satisfaction in the form of financial compensation and the conditions that accompany the relationship.

According to (Jaya & Karol, nd), in the perspective of agency theory, tax avoidance activities can facilitate managerial opportunities to carry out opportunism by manipulating earnings or placing inappropriate resources

and not being transparent in carrying out company operations so that tax avoidance has a negative impact on company value.

Although the agency theory in accounting case studies focuses on the relationship between managers and their companies, taxpayers can also be seen as agents, so that the relationship between the principal and agent occurs between tax authorities and taxpayers. The role of tax authorities is to collect taxes while the role of taxpayers is to report tax payable and pay taxes to the government. In this case it has the intention that the government wants the taxpayer to comply with its obligation to pay taxes while the taxpayers want to pay their tax obligations to be reduced as low as possible. Therefore, the tax heavens exist, so that businessmen, conglomerates hide their assets to avoid domestic taxes. This can lead to the tendency of companies or entrepreneurs who want a high level of profit by minimizing taxes that will be paid through tax planning, while tax authorities who tend to keep calculating corporate income tax in accordance with the provisions of applicable laws.

3. Tax Heavens

Tax heavens Country is a term that states that a country or territory is a place of refuge for taxpayers so that these taxpayers can avoid paying taxes. Tax heavens is one form of tax avoidance where a country allows a taxpayer to reduce the amount of tax that is diarrhea, which is where most people in the world use Tax heavens to hide their money or wealth from tax authorities in their country.

According to Lee Hadnum, there are countries that do not have direct taxes, namely:

- a. Do not have a personal income tax (PPH) or corporate income tax
- b. There is no tax on capital gains
- c. There is no inheritance tax

In addition, the tax heavens do not allow tax on income originating from abroad. Yet the tariff for domestic income tax can be very high. Tax heavens can also be said as a term that describes a country that is a place of refuge for taxpayers, so that these taxpayers can reduce or even avoid the obligation to pay taxes or commonly referred to as a heaven for tax evaders. In general, Tax heavens is defined as a country that imposes a low tax rate of

up to 0% or does not impose any tax at all and guarantees the confidentiality of the assets they hold. (news.ddtc.co.id/apa-itu-tax-heavens-7093, accessed May 19, 2019).

According to Suandy (2011: 161), tax heavens operations or activities are considered and may be liberated at varying levels of development from the Polycon Group. Tax heavens companies must be managed effectively with tax heavens if local companies can be determined in state A tax jurisdiction or other high tax regime. High tax jurisdiction has legislation that fairly shares the accumulation of corporate tax revenue to domestic shareholders. The most important thing is to know which countries consider the tax heavens and which countries eliminate fair distribution rules.

The meaning of tax heavens can be found in the regulation in Law Number 36 of 2008 concerning Income Tax. Article 18 paragraph (3c) states that tax heavens are "countries that provide tax protection". While SE Director General of Tax Number SE-04 / PJ.7 / 1993 states that the criteria for tax heavens are (a) countries that do not collect taxes, or (b) collect taxes lower than Indonesia. In the other hand, the criteria generally accepted by the international community are the criteria compiled by the OECD. In the Harnful Tax Competition, An Emerging Global Issue, the OECD divides the two types of countries, namely the tax heavens and the actual preferential tax. Here the criteria of the tax heavens are: (a) not collecting tax or collecting taxes in a certain nominal amount (not based on percentages), (b) no exchange of information mechanism or ineffectiveness, (c) lack of transparency in tax administration or (d) ring fencing policy (there are differences in tax treatment for residents and non-residents)

Anyone who is registered as tax heavens. We have the Minister of Finance Decree No.650 / KMK.04 / 1994. This KMK did not mention anything about the tax heavens but the attachments contained 32 lists of countries which were considered as tax heavens, and that was the only list of tax heavens ever known.

The United States Government Accountability Office provides 5 characteristics of the tax heavens country, namely:

- a. there is no tax or tax only nominal,
- b. no exchange of tax information with other countries,

- c. there is no transparency in the implementation of laws and implementing regulations,
- d. there is no obligation for foreign business entities to be physically at that country,
- e. promote their country or region as an offshore financial center.

Whereas according to the OECD there are four main factors used to determine whether a country is a tax heavens. The first is that the state does not impose taxes or only nominal. The criteria for no tax or nominal are not enough as the only criterion considered as tax heavens. The OECD recognizes that every country has the right to determine whether it is necessary to impose a direct tax (income tax) and impose a tax at a certain rate that suits the interests of the country. Analysis of other key factors needed for a country to be considered as tax heavens. There are three other factors to consider as follows:

- a. There is no transparency
- b. Has administrative provisions and practices that hinder the exchange of information with other countries related to taxpayers who benefit from the absence of taxation
- c. There is no obligation for substantial activity

4. Theory of Tax Policy

Alink and Kommer (2011, 40) state that taxes affect life decisions. Therefore an efficient and competitive taxation system should minimize deviations or distortions that arise due to the nature of the tax that is compelling, both in work, saving, and investment. An efficient taxation system can properly combine the tax bases and tax rates. To realize a tax system with a good structure and to achieve the taxation objectives above, policies are needed as one of the instruments in taxation. Alink and Kommer (2011, 52-54) explain various character policies that can be used in the tax system, among others, as follows:

- a. Neutrality / efficiency, the policy can distort behavior as minimum as possible.
- b. Low administration and compliance costs, costs incurred both from tax authorities and taxpayer can be as minimal as possible.

- c. Flexibility, tax and tax systems can flexibly adjust internal and external changes.
- d. Political responsibility (transparency), the existence of clarity or openness for what is imposed, who is subject to tax, who receives income.
- e. Simplicity, tax should be easily understood by taxpayer.
- f. Fairness (or equity), taxes can create horizontal justice (treatment between taxpayer) and vertical justice (consistent treatment with a taxpayer).
- g. Final incidence, careful consideration by policy makers on the ultimate goal of the impact of a tax.
- h. Feasibility, taxes should be feasible and can be implemented.
- i. Macroeconomic stability, taxes play a role in stabilizing economic conditions. Benefit principle, based on the principle of "paying fees for services provided by orders."
- j. Stability of revenue, the tax system stabilizes tax revenues which tend to fluctuate over certain economic conditions.
- k. International compatibility, clear rules and tax attribution are needed so that be able to increase tax resources between countries.
- l. Non-discrimination principle, there is no difference in tax treatment to taxpayer both abroad and domestically.
- m. Ability to pay, every taxpayer should contribute based on their ability to pay taxes.
- n. Convenient timing, the tax system adjusts the best time following the conditions of the taxpayer to be taxed.
- o. Timing, the adequacy of time preparation to implement a tax system, both from taxpayer and tax administration.

C. Research Method

The assessment of this study was conducted through literary studies. The literature that the authors use in writing this scientific work includes books, journals, and popular articles. The collection of data in this study is to collect various literature related to the main theme of this article, namely tax heavens. In a research titled *The Place of Literature Review in Grounded Theory Research* by Dunne in Darmayasa (2016) it states that Literature

Review is an important foundation in building research and has an important position in research Grounded Theory . In general, research with this method will be able to improve the reading ability and understand the academic research in which the ability is important (Gordon & Porter in Darmayasa, 2016).

D. Result and Analysis

1. Panama Papers Against Taxation in Indonesia

Panama Papers is the term to refer to 11.5 million leaked Mossack Fonseca law firm documents. The document was examined by 370 journalists, including from Tempo, who participated in The International Consortium of Investigative Journalists (ICIJ) since a year ago. Tempo found at least 899 individuals and companies in Indonesia available in the document. The existence of this document allows the public to know how the offshore world and the mode of avoiding the obligation to pay taxes.

According to (Pohan, 2017), Related to the determination of tax rates in a country, Suzuki (2013: 1) concluded that small countries in Asia, such as Singapore, would apply lower tax rates to encourage foreign capital to enter the country. However, countries that have large domestic markets, such as Indonesia, apply higher tax rates because of differences in the level of elasticity of tax revenues between large countries and small countries. In this case, the optimal tax rate is as mentioned by Saez (2001: 208), which is a tax rate that if the slightest change is made to the tax rate does not have a negative impact on people's prosperity (BPPK Journal, Vol. No. 1, 2014: 14).

Lately Indonesia has been hit by a number of complicated economic problems, the economy only grew 4.9 percent in the first quarter of 2016, lower than the 5.3 percent assumption listed in the 2016. the government's debt are increasing, the GINI coefficient that measures distribution inequality income/reflecting the higher level of poverty, the unemployment rate is also getting higher. Because they did not have enough funds to be forced into the 2016 Draft State Budget, adjustments had to be made with a series of development projects whose budgets had to be cut in order to save the nation development program that had already been held to pursue increased economic growth and indexed public welfare indicators such as inflation , unemployment and so on, or if no adjustments are made, the nation's

development activities programs are counterproductive which will ensnare the country in a sustainable financial and economic crisis, as the saying says "big pegs from the pole" and we will also be trapped in a debt hole widened. The root of the problem or the main cause is that the tax target is not fulfilled, the implication of which is the inadequacy of state revenues to finance government administration activities. But clearly the principle of adequacy of state revenues has been disrupted, and this is the main trigger why the Indonesian government is very unanimous in declaring the ratification of the Tax Amnesty Law which has been effective since the beginning of July 2016 as a companion of the previously made Taxation Laws and thousands of regulations have been implemented as law enforcement instruments, and of course this instrument can at the same time be an antidote to "tax heavens minded" from business people who have been hiding their funds in the tax heavens countries to go home we are this beloved.

2. Tax heavens and State Characteristics of Tax heavens

The criteria for categorizing a country as a tax heavens countries, the OECD sets 4 criteria, namely:

- a. Apply a low tax rate or 0%
- b. Absence of information exchange
- c. The absence of transparency in tax collection
- d. The absence of substantial activity requirements for the company.

Furthermore, article 18 paragraph 3c of law No. 7 of 1983 concerning income tax as has been amended several times, lastly with Law No. 36 of 2008 refer to the tax heavens country as the tax protection center as follows:

"... In countries that provide tax protection (tax heavens countries) ..."

Here are some indications how to identify a country as tax heavens countries: (1) The shape of the country is small, has sophisticated communication networks and facilities, but has an economic establishment that allows to provide tax facilities. This country promotes the country's excellence as a financial center and investment. To support its operational banking, usually the country gets protection from large countries. The government knows that foreign investor companies registered in the tax

heavens only function as re-invoicing centers or letter box companies, usually not having active business. (2) applying the concept of low tax rates which is relatively lower than other countries, whose purpose is merely to attract foreign investment, providing the main attraction of tax convenience for foreign investors by not collecting taxes, even if there is a tax rate of even 0%. (3) Investment securities and bank secrecy are strictly guarded, including corporate, financial and trade confidentiality, with the intention of covering up the concealment of banking transactions, subjects and tax objects. The interest of foreign investors is mainly in the absence of a necessity for the government of the tax heavens to publicly announce the owners of the established companies, plus the state tax heavens are usually not transparent, refusing to exchange information with other countries that require information on certain companies in the tax country the heavens; (4) Some of the tax heavens referred to as tax shelters or tax resorts have imposed income taxation limited to domestic source income (territorial base taxation) or tax privileges over several categories of income. and or some groups of taxpayers, and very loose supervision of deposits in foreign currencies owned by foreign company or private persons.

The classification whether a country is considered as a tax heavens country or not actually depends on the definition of the tax heavens given by certain countries. Each country has its own policy to determine which countries are based on their tax provisions which are categorized as tax heavens countries; for example, Japan and South Korea stipulate that a country considered a tax heavens applies a tax rate below 15 percent.

3. Determination of tax heavens in Indonesia

Based on Article 18 in (Pohan, 2017), it is clear that Article 18 paragraph (3c) does not explain further about its limitations, criteria or articulation. Tax regulations in Indonesia only regulate the criteria for tax heavens country and are only regulated in Annex VIII of the Regulation of the Director General of Taxes No. 34 / PJ / 2010 amended by Per-19 / PJ / 2014, dated 3 July 2014 p. 87 Letter G concerning Transaction Statement in Special Relationship, the second Amendment to Regulation of the Director General of Taxes No. Per-34 / PJ / 2010 concerning Forms of Annual Tax Returns for Personal and Corporate Income Tax, namely: 1. Countries that impose low tax

rates or countries that do not impose income tax; or 2. Countries that implement bank secrecy policies and do not exchange information. a. Countries that impose low tariffs are countries that impose a tax rate on income lower than 50% of the agency rate in Indonesia (the tax rate in 2009 is lower than 14% and in 2010 lower than 12.5%) b. Countries that implement bank secrecy policies and do not exchange information are countries or jurisdictions based on their laws prohibiting the provision of customer information, including for the purposes of information relating to taxation.

It is stated in Appendix Per19 / PJ / 2014 above that the provisions regarding further tax heavens country will be regulated in the Minister of Finance Regulation. However, until this article was published, there were no rules for determining the countries included in the criteria for tax heavens country.

4. Country Providers of Tax Relief Facilities

According to (Pohan, 2017), the OECD (Organization for Economic Cooperation and Development) issued a list of countries providing tax relief facilities according to the agreement of the G-20 conference in London which ended on Thursday 2/4/2009. One of the agreements reached was the curbing of the tax heavens countries. The G-20 threatens to give strict sanctions to countries that refuse to cooperate in tax matters. The country can be excluded from the membership of the World Bank or the International Monetary Fund (IMF). Overall, the OECD organization based in Paris classifies countries in three classifications, namely: (1) Countries that follow the rules and share tax information (white list). (2). States that state that they will follow the rules, but have not done anything (gray list). (3). Countries that have not agreed to changes in banking rules (blacklist).

Several countries identified as tax heavens countries include Malaysia, Singapore, Philippines, Hongkong, and Liechtenstein. The four blacklisted countries are Malaysia (Labuan state), Philippines, Costa Rica, and Uruguay. The four countries are considered unwilling to cooperate in eradicating international tax crimes and refuse to adopt new rules regarding to banking and financial openness. Whereas there are 38 countries in the gray list. Yet lately, the abolition of four countries from the black list mentioned above was

announced directly by the OECD Chairperson the following week after it was previously announced after the G-20 group meeting in London. Switzerland, which is known to have a secret tradition of banking that is very strict, promises to loosen their rules. Similarly, a number of countries are listed as gray. In addition to Switzerland, the ones listed in the gray list are Singapore, Brunei Darussalam, Bermuda, and Cayman (Jawa Pos, April 4, 2009 and Daily Seputar Indonesia, April 8, 2009).

5. Impact of tax heavens for Indonesian tax revenues

For a country like Indonesia, the tax heavens are a dangerous and deadly system with several reasons as follows: (1). The tax heavens provide low and even zero tax rates and strict confidentiality of information. (2). Tax heavens trigger taxpayers to try to make certain schemes to maximize profits. (3). The tax heavens are also an estuary for illegal money flows of multinational companies operating in countries with high tax rates.

According to (Pohan, 2017), there are several reasons why the tax heavens considered dangerous and detrimental to developing countries:

- a. Tax heavens are more detrimental to developing countries because many multinational companies use tax heavens for tax evasion. Many multinational companies are enthusiastic about moving financial assets and establishing companies to tax heavens because tax heavens apply low tax rates and some tax heavens have no tax at all. Moreover, the confidentiality of information owned by the tax heavens allows taxpayers not to report wealth or income as a whole so that the tax imposed can be minimized (Yanuar Falak Abiyunus, 2013). It can be said that this impedes economic development, alleviates poverty and provides public goods in developing countries. In Indonesia, almost 75% of the Indonesian state budget is supported by income from the tax sector, so that if Indonesia contributes to lowering tax rates, the country's income will decrease. In addition, the population in Indonesia is bigger than the tax heavens where the population is small, it will be very difficult to support citizens with small state income. In connection with the confidentiality of information, in Indonesia it is realized in the form of a bank as a place to store financial assets of citizens including companies operating in

Indonesia. Laws in Indonesia mandate disclosure of information for tax purposes, settlement of bank receivables that have been submitted to the State Receivables and Auction Agency / Committee on State Receivables Affairs, and for the interests of the judiciary in criminal cases (Article 40 paragraph 1, article 41 paragraph 1, and article 42 paragraph 1 of Law No. 10 of 1998 concerning Banking). Unlike in tax heavens, for certain circumstances the confidentiality of information in Indonesia can be flexible for the sake of the state, so that the existence of the tax heavens poses a threat that can harm Indonesia.

- b. Facilities offered by tax heavens are attractive choices for multinational companies to make certain schemes such as tax planning. The scheme is used to maximize. With the tax planning scheme, income earned by multinational companies as taxpayers in one country can be transferred to the tax heavens country. Automatically it results a reduction in the tax base of the taxpayer domicile (small tax paid), even though the taxpayer earns income by utilizing all public facilities provided in the free rider. Aggressive tax planning will be very detrimental to the country and classified as unacceptable tax avoidance. An example of a company in Indonesia is PT Asian Agri (AAG). PT. Asian Agri was declared responsible for tax reporting in several tax offices. It was stated that there was a tax planning meeting that discussed planning to reduce taxes "(Supreme Court Decision No. 2239 K / PID.SUS / 2012). Obviously, this activity is detrimental to the country of Indonesia as the operational place of PT. Asian Agri.

6. Tax Utilization

Tax benefits in Indonesia can be seen from the allocation of tax money that has been deposited by the taxpayer. Following are the details of the allocation of tax funds in 2018 as quoted from the official website of the Ministry of Finance of the Republic of Indonesia.

1. Tax allocation in the State Government Expenditure Budget

- a. Public Services. At present the total budget of the State Budget for Public Services reaches 435.9 trillion rupiahs. This fund is used to accelerate achievement and targets in public service functions

such as: 1. Management of the number of civil servants from recruitment to salary payments; 2. Improve effective and efficient bureaucratic performance through the implementation of the Public Service Information System (SIPP) in 623 Government Agencies (IP); 3. Increasing access and quality of public services through the implementation of e-government integrated in 623 IP; 4. Increasing bureaucratic performance accountability through the implementation of the Government Agency Performance Accountability System (SAKIP) at 581 IP; 5. Support management and implementation of output-based K / L technical duties.

- b. Defense. The total budget for defense needs reached IDR 107.8 trillion. The funds are allocated to accelerate the achievement and expected targets for national defense, including: 1. The fulfillment of military modernization through the procurement / replacement of 50 combat vehicles; 2. Development of facilities and / or facilities for the sea dimension through the construction of 3 border security posts; 3. Modernization of the National Air Defense Command (*Kohanudnas*) command center.
- c. Order and Security. At present, the total budget for the State Budget for Order and Security needs is 136 trillion rupiahs. The allocation of funds is used to achieve the following targets: 1. The fulfillment of *Alutsista* modernization through the procurement / replacement of 50 combat vehicle units; 2. Development of sea floor facilities / facilities through the development of 3 border security posts; 3. Modernize the *Kohanudnas* command center.
- d. Economy. The budget in the 2018 State Budget for the economic sector is 335.5 trillion rupiahs. The funds are used to achieve economic targets, including: 1. Construction of a 639 kilometer railway line; 2. Construction of 23 kilometers of LRT; 3. Construction of 832 kilometers of new roads; 4. Construction of 15 new dams and 92 new reservoir units; 5. Construction of 15,373 meters of new bridges; 6. Construction of 17 sea ports; 7. Construction of new airports in 8 locations; 8. Construction of 947 kilometers of irrigation; 9. Provision of a national fiber optic

- backbone network (Palapa Ring) in 57 districts / cities; 10. Provision of 70% multifunctional satellites; 11. Provision of access to Base Transceiver Station (BTS).
- e. Environmental Protection. At present, the budget available in the APBN for Environmental Protection reaches IDR 15.7 trillion. The budget will be distributed to interests such as the following: 1. Recovery of conservation areas that are collaboratively degraded with communities covering 30,000 hectares; 2. Development of infrastructure in the area of 1.5 million hectares; 3. Collaborative management of conservation forests with the community in a 70,000 hectare national park conservation forest area; 4. Protection of new conservation areas designated / declared at the national level and an area of 700,000 hectares; 5. Forest rehabilitation and critical land in the vegetative watershed / post-disaster watershed covering 16,800 hectares; 7. Rehabilitation of forests and critical land in the watershed that supports food security covering 8,500 hectares.
 - f. Housing and Public Facilities. At present, the APBN budget for Housing and Public Facilities reaches 31.5 trillion rupiahs. The funds are allocated to: 1. Construction and development of urban and rural areas covering an area of 2,941 hectares; 2. Coaching and development of environmental sanitation through a wastewater management system for 489,489 households; 3. Development and development of environmental sanitation through a drainage management system in an area of 392 hectares; 4. Guidance and development of environmental sanitation through a solid waste management system for 1,605,565 households; 5. Development and development of drinking water supply systems in 214 regions; 6. Construction of 6,000 units of self-help housing and improvement of the quality of self-help housing for 174,000 units.
 - g. Health. The health budget in the APBN reaches 65.1 trillion rupiahs. These funds will be allocated to achieve various health-related objectives, including: 1. Community nutrition development through the provision of supplementary food for

460,000 pregnant women Chronic Energy Deficiency (SEZ) and provision of supplementary food for 612,900 underweight children under five; 2. Quality improvement and accreditation of health services for hospitals in 147 districts / cities and health centers in 2,100 sub-districts; 3. Development of health financing and JKN / KIS which includes 92.4 million people of Contribution Beneficiary (PBI) participants.

- h. Social Protection. The budget for social protection is IDR 162.6 trillion. These funds will be used for a number of objectives, namely: 1. Conditional cash assistance to 10 million beneficiaries based on a more valid and accountable database; 2. Distribution of food social assistance in the form of social assistance and non-cash food assistance (BPNT) to 15.6 million beneficiaries; 3. Provision of assistance to productive economic business groups (KUBE) in rural areas for 64,700 poor families; 4. Rehabilitation and social protection for neglected toddlers / street children, law-faced children and children who receive special protection as many as 90,000 children.

2. Tax contribution allocation in the regional government budget

- a. General Allocation Fund. The total budget in the APBN is IDR 401.5 trillion. The central government will send funds to local government funds for the purpose of equalizing financial capacity between regions and funding regional needs in the context of implementing decentralization.
- b. Sharing Results Funds. Profit Sharing Funds in the 2018 State Budget are valued at 89.2 trillion rupiahs. Funds allocated to regions are useful for funding regional needs in order to implement decentralization. Profit Sharing Funds consist of Profit Sharing Funds from Taxes and Profit Sharing Funds from Natural Resources.
- c. Non-Physical Allocation Funds. In the 2018 State Budget, the Non-Physical Allocation Fund reaches 123.5 trillion rupiahs. This fund is used to finance various activities, such as: 1. Activities in the field of School Operational Assistance (BOS); 2. Early childhood education (PAUD Operational Assistance (BOP); 3.

- Regional civil servant (PNS) Teacher Professional Allowances; 4. Additional Income for Regional civil servant (PNS) Teachers; 5. Regional Government Project Funds and Decentralization; 6. BOK and BOKB; 7. Cooperatives, SMEs and Employment Capacity Building Funds.
- d. Village Funds. The total budget in the APBN for the Village Fund is 60 trillion rupiahs. This fund was allocated to 74,954 villages with an average allocation 800 million rupiahs/village. The direction of the fund policy is for village development such as: 1. Increasing the Village Fund budget, while paying attention to the state's financial condition; 2. Allocation of Village Funds by taking into account aspects of equity and justice; 3. Improve the quality of Village Fund management; 4. Increasing the capacity of village officials through village training and assistance to improve the effectiveness of the management and use of the Village Fund. [<https://www.online-pajak.com/harga-pajak>]

Based on the description of the benefits of taxes, then with the disclosure of Panama this paper will help the government in detecting and knowing businessmen, politicians and even state officials who hide their assets in the tax heavens in order to avoid their tax obligations domestically. This will certainly have an impact on Indonesia's economy is unstable and some of the above cannot be achieved due to the actions of taxpayers who do not obey taxes, and tax evaders.

E. Conclusion

Tax heavens Country is a term that states that a country or territory is a place of refuge for taxpayers so that these taxpayers can avoid paying taxes. The country tax heavens or close to tax heavens will harm other countries that do not implement the same policy. The existence of the tax heavens country is the forerunner to the occurrence of unhealthy practices in the field of international taxation including transfer pricing, controlled foreign corporations and treaty shopping.

However, the government has prepared an Automatic Exchange of Information (AEOI) data exchange plan that occurs in 2018, certainly will make tax evaders unable to run away from the pursuit of the tax authorities,

even if they have to flee to tax haven countries (tax heavens). And also for Indonesia, the control of the state tax heavens brings benefits because tax revenues are becoming more optimal. So far, there is potential for unexplored taxes. If the tax heavens are curbed, it is hoped that there will be no more tax avoidance through transfer pricing (tax payments in countries that apply lower rates). Control of tax heavens, will help Indonesia in increasing tax revenues. It will help countries like Indonesia, which are increasing capacity, because it simplifies and accelerates the ability to increase tax potential. However, a more competent tax apparatus is needed to take advantage of this potential.

Reference

- Aditya Pradirga M, dkk. 2015. *Tax heavens Country & Controlled Foreign Corporation. Makalah: Pajak Internasional, Jurusan Administrasi Bisnis Fakultas Ilmu Administrasi Universitas Barawijaya Malang.*
- Anang Mury Kurniawan, S.S.T., Ak., M.Si. 2010. *Pajak Internasional. Bahan Ajar Program Diploma III Keuangan Spesialisasi Pajak, Sekolah Tinggi Akuntansi Negara*
- Darmayasa, I Nyoman, dkk. 2016. *Meningkatkan Kepatuhan dan Penerimaan Pajak Melalui Withholding Tax System. Jurnal InFestasi. Vol. 12, No.2*
- Dr. Titi Muswati Putranti, M.Si Wisamodro Jati, S.Sos, M.Int.Tax Maria R.U.D. Tambunan, S.I.A, MGE. 2015. *Ebook: Studi Penghindaran Pajak, Kegiatan Jasa Perbankan Di Indonesia*
- Elisa Valenta Sari, CNN Indonesia. 2017. *Pengemplang Pajak Tak Bisa Lari, Sekalipun ke 'Tax heavens'.* Tersedia di <https://www.cnnindonesia.com/ekonomi/20170223175239-78-195720/pengemplang-pajak-tak-bisa-lari-sekalipun-ke-tax-heavens> (diakses pada 18 mei 2019)
- Hari Utomo Triyanto, Susi Zulvina . 2017. *Analisis Perumusan Kebijakan Mandatory Disclosure Rules Sebagai Alternatif Dalam Mengatasi Praktik Penghindaran Pajak Di Indonesia. Jurnal: Pajak Indonesia Vol.1, No.1, (2017), Hal.65-75*
- Irfansyah. 2010. *Analisis Peran Tax heavens Dalam Melakukan Penghindaran Pajak Lintas Negara. FISIP UI*

- Jaya, A., & Karol, G. (n.d.). *Pengaruh Penghindaran Pajak terhadap Nilai Perusahaan Dimoderasi Oleh Corporate Governance dan Kepemilikan Mayoritas*. JURNAL AKUNTANSI [VOL. 13, NO.2, 12(2), 126–145.
- Koran Jakarta. 2009. *Penertiban Tax heavens Untungkan RI*. Tersedia di <http://pajakonline.com/engine/artikel/art.php?artid=5656> (diakses pada 18 mei 2019)
- Ning Rahayu. 2010. *Evaluasi Regulasi Atas Praktik Penghindaran Pajak Penanaman Modal Asing*. *Jurnal: Akuntansi dan Keuangan Indonesia* Volume 7 - No. 1, Juni 2010
- Pohan, C. A. (2017). *Panama Papers dan Fenomena Penyelundupan Pajak serta Implikasinya Terhadap Penerimaan Pajak Indonesia*. REFORMASI ADMINISTRASI *Jurnal Ilmiah Untuk Mewujudkan Masyarakat Madani*, 4(2).
- Purwoko Erie Dharmawan, Syahril Djaddang, Darmansyah. 2017. *Determinan Penghindaran Pajak Dengan Corporate Social Responsibility Sebagai Variabel Moderasi*. *Jurnal: Riset Akuntansi dan Perpajakan JRAP* Vo. 4, No. 2, Desember 2017, hal 183-195 ISSN 2339 – 1545
- Safyra Primadhyta, CNN Indonesia. 2006. *Menkeu Duga Banyak WNI Sembunyikan Aset di Negara Tax heavens*. Tersedia di <https://www.cnnindonesia.com/ekonomi/20160406114709-78-122050/menkeu-duga-banyak-wni-sembunyikan-aset-di-negara-tax-heavens> (diakses pada 18 mei 2019)
- Sumarasan Thomas.2013. *Tax Review dan Strategi Perencanaan Pajak*, Jakarta: Indeks
- Suhendra, E. S. (2010). *Pengaruh Tingkat Kepatuhan Wajib Pajak Badan Terhadap Peningkatan Penerimaan Pajak Penghasilan Badan*. *Urnal Ekonomi Bisnis* No. 1, Volume 15, April 2010, 15(1).
- Suandy Erly.2011. *Perencanaan Pajak*, Jakarta: Salemba Empat