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TAX AVOIDANCE BY BUSINESS ENTITIES: A LEGAL ANALYSIS UNDER INDONESIAN TAX LAW*

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Abstract
Tax avoidance represents a persistent challenge in revenue administration, creating tension between corporate financial optimization and state revenue mobilization. This study examines the legal dimensions of tax avoidance practices by business entities within the Indonesian taxation framework. Employing a normative juridical methodology with a qualitative descriptive approach, the research analyzes statutory provisions, particularly Law No. 28 of 2007 on General Provisions and Tax Procedures, Law No. 36 of 2008 on Income Tax, and Law No. 40 of 2007 on Limited Liability Companies. The findings reveal that Indonesian tax law distinguishes between lawful tax avoidance, which exploits regulatory loopholes without violating statutory provisions, and unlawful tax evasion, which involves fraudulent acts such as financial statement manipulation. Business entities, as tax subjects possessing Taxpayer Identification Numbers, bear mandatory obligations to pay Income Tax and Value-Added Tax under the self-assessment system. The study identifies passive and active forms of tax resistance, with active resistance further categorized into avoidance, evasion, and negligence. While tax avoidance operates within legal boundaries, the absence of bona fide business purpose may render certain transactions illegitimate, particularly concerning multinational corporate structures. The research contributes to the theoretical understanding of the legal boundary between permissible tax planning and impermissible tax evasion, offering practical implications for tax administrators, corporate taxpayers, and legislative reform efforts. Limitations include the exclusive reliance on secondary data and the normative scope of analysis, suggesting future empirical investigations into enforcement patterns and corporate compliance behavior.

Keywords: Tax Avoidance, Tax Evasion, Business Entities, Indonesian Tax Law, Corporate Taxation, Self-Assessment System, Tax Compliance

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A. INTRODUCTION

Taxation constitutes a fundamental pillar of state revenue generation and fiscal sovereignty, serving as the primary instrument through which governments finance public expenditures, infrastructure development, and social welfare programs. In the Indonesian constitutional framework, the legality principle of taxation is firmly entrenched in Article 23A of the 1945 Constitution, which explicitly mandates that taxes and other compulsory levies for state purposes shall be regulated by law. This constitutional provision establishes the fundamental principle that every imposition of tax obligations must be grounded in statutory authorization and adhere strictly to the rule of law, thereby protecting citizens and entities from arbitrary state exactions (Butarbutar, 2020). The Directorate General of Taxation, operating under the aegis of the Ministry of Finance of the Republic of Indonesia, functions as the principal administrative authority responsible for tax collection, enforcement, and compliance monitoring across the Indonesian archipelago.

The fiscal significance of taxation in Indonesia cannot be overstated. Tax revenues consistently represent the most substantial component of state income, financing critical sectors including education, healthcare, infrastructure, defense, and social assistance programs. Empirical evidence indicates that tax revenues account for approximately 70% to 80% of total state revenue, underscoring the systemic dependency of national development on effective tax collection mechanisms (Wardani & Khoiriyah, 2021). This heavy reliance on tax revenues necessitates robust legal frameworks, efficient administrative systems, and high levels of voluntary compliance from both individual and corporate taxpayers.

Article 1(1) of Law No. 28 of 2007 on General Provisions and Tax Procedures provides the statutory definition of taxation as a compulsory contribution owed by individuals or entities to the state, enforceable under statutory provisions without direct compensation, and utilized for state purposes to promote the greatest welfare of the people. This definition encapsulates three essential characteristics: the coercive nature of taxation, the absence of direct quid pro quo benefits, and the public interest orientation of tax expenditures. The compulsory characteristic distinguishes taxation from voluntary contributions while emphasizing the legal obligation attaching to qualifying subjects and objects of taxation.

The conceptualization of taxation extends beyond mere revenue collection to encompass broader functions of redistribution, economic regulation, and fiscal stabilization. Musgrave and Musgrave (1989) articulated three essential functions of public finance: allocation of resources, distribution of income and wealth, and stabilization of the economy. Taxation serves each of these functions, redistributing resources from private to public sectors, promoting equity through progressive rate structures, and moderating economic fluctuations through countercyclical fiscal policies. Within this multidimensional framework, corporate tax compliance assumes particular significance given the substantial economic activities, income generation capacities, and employment contributions of business entities operating within Indonesian jurisdiction.

The international landscape of corporate taxation has undergone profound transformation in recent decades, driven by globalization, digitalization, and increasing awareness of aggressive tax planning strategies. The Organisation for Economic Co-operation and Development (OECD) has spearheaded the Base Erosion and Profit Shifting (BEPS) initiative, addressing tax avoidance strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations (OECD, 2015). The BEPS Project, comprising 15 action points, represents the most significant multilateral effort to combat tax avoidance in modern history, with Action 6 specifically targeting treaty abuse and Action 7 addressing artificial avoidance of permanent establishment status.

The global concern regarding corporate tax avoidance has intensified following revelations of aggressive tax planning by multinational corporations. High-profile cases involving technology giants and other multinational enterprises have demonstrated the scale of potential revenue losses, with estimates suggesting annual global revenue losses from corporate tax avoidance ranging from USD 100 billion to USD 240 billion (Crivelli et al., 2016; Cobham & Janský, 2018). These revelations have generated substantial public outrage, political pressure, and unprecedented international cooperation to strengthen anti-avoidance frameworks globally.

The emergence of digital economic activities has further complicated traditional taxation paradigms. Digital business models often operate without physical presence in market jurisdictions, challenging conventional permanent establishment concepts and source-based taxation principles. Devereux et al. (2021) explain that the OECD's Two-Pillar Solution, agreed upon by over 135 jurisdictions in 2021, aims to address these challenges through reallocation of taxing rights under Pillar One and establishment of a global minimum corporate tax rate under Pillar Two. Indonesia, as a G20 member and active participant in the Inclusive Framework on BEPS, has committed to implementing these global standards while maintaining policy space for domestic revenue mobilization.

Empirical research on corporate tax avoidance has expanded substantially in recent years, documenting the prevalence, determinants, and consequences of aggressive tax planning. Dyreng et al. (2017) examined the long-run corporate tax avoidance behavior of United States public corporations, finding that approximately 25% of firms maintain cash effective tax rates below 20% over extended periods, suggesting persistent tax avoidance strategies rather than temporary fluctuations. In the Indonesian context, Wardani and Khoiriyah (2021) investigated the effect of profitability, leverage, and corporate governance on tax avoidance among manufacturing companies listed on the Indonesia Stock Exchange, revealing significant associations between financial characteristics and avoidance behavior.

Comparative studies across jurisdictions have demonstrated considerable variation in corporate effective tax rates, influenced by statutory rate differentials, tax incentive regimes, and enforcement intensity. Hanlon and Heitzman (2010) provided a comprehensive review of tax avoidance research, emphasizing the multidimensional nature of avoidance behaviors and the challenges inherent in distinguishing legitimate tax planning from aggressive avoidance. Beer et al. (2020) confirmed through meta-analysis that firm size, capital intensity, multinationality, and intangible asset intensity consistently predict higher levels of tax avoidance across jurisdictions.

The Indonesian tax authority has reported significant tax gaps attributable to avoidance and evasion. Tax gap analyses estimate that compliance deficits in the corporate sector range from 20% to 30% of potential revenue, translating to substantial fiscal losses annually (Tax Justice Network, 2021). The prevalence of transfer pricing manipulation, thin capitalization, and treaty shopping among multinational enterprises operating in Indonesia has prompted regulatory responses, including strengthened transfer pricing documentation requirements and specific anti-avoidance rules (Darussalam & Septriadi, 2019).

Despite the richness of existing scholarship, significant research gaps persist requiring further investigation. First, the legal boundary between permissible tax avoidance and impermissible tax evasion remains insufficiently theorized, particularly concerning the application of substance-over-form doctrines and business purpose tests in developing country contexts. Second, limited research has comprehensively examined the interaction between corporate law obligations, particularly directors' duties to maximize shareholder value, and tax law requirements for accurate reporting and payment. Third, the practical implementation challenges of anti-avoidance provisions in jurisdictions with developing administrative capacities require further investigation. Fourth, the specific mechanisms of tax avoidance employed by different categories of business entities, ranging from small and medium enterprises to large multinational corporations, remain underexplored in the Indonesian legal literature.

This study addresses these critical gaps by providing an integrated legal analysis of tax avoidance practices by business entities within the Indonesian taxation framework. The importance of this research derives from the substantial fiscal implications of corporate tax avoidance, the need for conceptual clarity in distinguishing lawful from unlawful conduct, and the practical challenges confronting tax administrators in detecting and responding to avoidance schemes.

The novelty of this research lies in several dimensions. Theoretically, the study contributes to legal scholarship by examining the intersection of corporate law duties and tax law obligations, analyzing how the statutory framework governing business entities interacts with taxation provisions. Methodologically, the normative juridical approach enables systematic analysis of legislative provisions, their interpretation, and application, providing comprehensive legal mapping of avoidance mechanisms and anti-avoidance responses. Practically, the research offers insights for tax administrators, corporate taxpayers, policymakers, and legal practitioners navigating the complex boundary between legitimate tax planning and impermissible avoidance.

This research pursues two primary objectives. First, to analyze the legal perspective of Indonesian tax law regarding corporate tax payment obligations, examining the statutory framework governing business entities as tax subjects and their corresponding duties under the self-assessment system. Second, to identify and categorize the forms of tax avoidance commonly practiced by taxpayers, distinguishing between permissible avoidance strategies and impermissible evasion conduct.

The theoretical contribution of this study encompasses the refinement of legal doctrine regarding the avoidance-evasion boundary, the integration of corporate law and tax law perspectives, and the development of analytical frameworks applicable to developing country contexts. By examining the Indonesian legal framework comprehensively, the research illuminates general principles while acknowledging jurisdictional specificities. The practical contribution extends to multiple stakeholder groups: for tax administrators, the study provides systematic analysis of avoidance mechanisms and corresponding legal responses; for corporate taxpayers, the research clarifies legal boundaries, reducing uncertainty and compliance risks; for policymakers, the findings inform legislative reform efforts; and for legal practitioners, the analysis offers interpretive guidance on complex provisions at the intersection of corporate and tax law.

B. METHODS

This study employs normative legal research methodology, consistent with the dominant paradigm in doctrinal legal scholarship. Normative legal research examines law as a system of norms, analyzing statutory provisions, legal principles, doctrinal interpretations, and systematic relationships within the legal order (Hutchinson & Duncan, 2012). The normative approach is particularly appropriate for investigating the legal dimensions of tax avoidance, as it enables systematic analysis of the statutory framework, identification of legal boundaries, and evaluation of regulatory coherence within the Indonesian taxation system.

The research adopts a qualitative descriptive approach, aiming to provide comprehensive description and analysis of legal provisions governing corporate tax obligations and anti-avoidance measures. Qualitative legal research emphasizes the interpretive understanding of legal texts, their meanings, and their systemic implications, rather than quantitative measurement of phenomena (Dobinson & Johns, 2017). The descriptive orientation ensures thorough exposition of legal provisions while maintaining analytical depth in examining their interaction and application within the broader legal framework.

The research relies exclusively on secondary data, obtained through systematic library research and documentary analysis. Secondary data sources in legal research encompass legislative texts, judicial decisions, administrative regulations, scholarly commentaries, and other documentary materials that constitute the corpus of legal knowledge (McConville & Chui, 2007). The reliance on secondary data is methodologically appropriate for normative legal research, which focuses on doctrinal analysis rather than empirical observation of social phenomena.

The specific data sources utilized in this study comprise three categories of legal materials. Primary legal materials include binding legal instruments such as the 1945 Constitution of the Republic of Indonesia, Law No. 28 of 2007 on General Provisions and Tax Procedures, Law No. 36 of 2008 on Income Tax, Law No. 40 of 2007 on Limited Liability Companies, and related implementing regulations issued by the Ministry of Finance and the Directorate General of Taxation. Secondary legal materials encompass scholarly publications including textbooks, journal articles, conference proceedings, theses, and dissertations addressing taxation law, corporate law, and related fields. These materials provide doctrinal interpretation, critical analysis, and comparative perspectives essential for comprehensive legal analysis. Tertiary legal materials include legal dictionaries, encyclopedias, and reference works that support terminological clarity and conceptual understanding.

Data collection employed systematic documentary analysis, involving identification, retrieval, examination, and synthesis of relevant legal materials. The library research was conducted at institutional repositories, legal databases, and online academic platforms, ensuring comprehensive coverage of both historical and contemporary legal scholarship relevant to the research questions.

Consistent with the normative juridical approach, this study does not employ quantitative variables amenable to statistical measurement. Rather, the research focuses on legal concepts and their systematic relationships within the Indonesian taxation framework. The central analytical concepts examined include corporate tax obligations, defined as the statutory duties imposed on business entities as tax subjects to register, calculate, report, and remit taxes in accordance with prevailing legislation. Tax avoidance is conceptualized as the lawful exploitation of regulatory provisions, gaps, or ambiguities to reduce tax liabilities without violating statutory provisions, distinguished from tax evasion involving unlawful acts including fraud, concealment, or misrepresentation. Business entities are defined in accordance with Law No. 40 of 2007 and related legislation, encompassing limited liability companies, partnerships, cooperatives, and other organizational forms recognized as separate legal persons or taxable units. The anti-avoidance framework comprises specific anti-avoidance rules targeting particular avoidance techniques and general principles such as substance-over-form and business purpose doctrines that operate across avoidance categories.

Data analysis employed qualitative interpretive methods characteristic of legal scholarship. The analytical process involved several interconnected stages. First, systematic inventory and classification of relevant statutory provisions was conducted, identifying the normative content, scope of application, and interrelationships among provisions governing corporate taxation and anti-avoidance measures. Second, interpretive analysis of legislative texts was performed, employing established canons of statutory interpretation including textual, contextual, teleological, and systematic approaches. This analysis examined both the literal meaning of provisions and their purposive interpretation in light of legislative intent and systemic coherence. Third, doctrinal synthesis was undertaken, integrating analysis of individual provisions into comprehensive understanding of the legal framework governing corporate tax obligations and avoidance responses. This synthesis identified consistencies, tensions, gaps, and ambiguities within the legal order. Fourth, comparative analysis was applied where appropriate, examining Indonesian provisions in light of international standards and comparative experience while maintaining analytical focus on the domestic legal framework.

As a normative legal study relying exclusively on publicly available documentary sources, this research does not involve human subjects, personal data, or confidential information. The absence of empirical data collection eliminates concerns regarding informed consent, privacy protection, or participant welfare. The research maintains academic integrity through accurate representation of legal sources, appropriate citation of scholarly work, and transparent analytical reasoning throughout the study.

C. RESULTS AND DISCUSSION

1. Legal Perspective on Corporate Tax Payment Obligations

1.1. The Purpose and Legal Foundation of Business Entity Establishment

The establishment of business entities in Indonesia is governed by Law No. 40 of 2007 on Limited Liability Companies, which establishes the legal framework for corporate formation, governance, and dissolution. Article 2 of this legislation stipulates that every limited liability company must possess purposes, objectives, and business activities that do not conflict with applicable legal provisions, public order, or morality. This provision establishes the fundamental principle that corporate existence must align with the broader legal and social order, precluding formation of entities for purposes contrary to law. Article 18 further requires that corporate purposes, objectives, and business activities be explicitly stated in the articles of association, conforming to prevailing statutory provisions and providing transparency regarding corporate intentions.

The elucidation of Article 18 clarifies that corporate purposes and objectives constitute the essential rationale for company establishment, representing the foundational intentions of incorporators and shareholders. Business activities represent the operational manifestations through which purposes and objectives are realized, and must be detailed comprehensively in the articles of association. These activities must align with applicable legal requirements, ensuring that operational manifestations do not deviate from lawful purposes. This statutory framework establishes the principle of lawful corporate purpose, requiring that business entities operate within the boundaries of the legal order from their inception and throughout their existence.

The legal foundation for corporate establishment serves multiple functions relevant to tax analysis. First, it establishes the legal personality of business entities, creating separate juridical persons distinct from their shareholders, directors, and officers. This separate personality forms the basis for corporate tax subjectivity, as recognized in income tax legislation that treats business entities as distinct taxpayers. Second, it defines the scope of permissible business activities, providing reference points for evaluating whether particular transactions serve genuine business purposes or exist solely for tax avoidance purposes. Third, it establishes governance structures and fiduciary duties that influence corporate decision-making regarding tax compliance and planning strategies.

The comparative ease of establishing sole proprietorships relative to partnerships or corporate entities reflects the graduated complexity of business forms available under Indonesian law. Sole proprietorships, involving single founders, require only articles of association executed before a notary, without the contractual negotiations necessary for multi-party enterprises. However, this simplicity does not diminish tax obligations; sole proprietorships operating with Taxpayer Identification Numbers bear equivalent tax responsibilities to more complex business forms. The legal framework thus ensures that organizational form does not determine substantive tax liability, although procedural requirements may vary across entity types (Rastuti, 2015).

1.2. Business Entities as Tax Subjects and Taxpayers

Indonesian tax law establishes a clear conceptual distinction between tax subjects and taxpayers, with significant implications for corporate obligations under the taxation framework. The Income Tax Law, specifically Law No. 7 of 1983 as most recently amended by Law No. 36 of 2008, identifies tax subjects as individuals, undivided estates, business entities, and permanent establishments. Business entities are defined expansively as collectivities of persons and/or capital constituting unified entities, whether conducting business activities or not. This definition encompasses limited liability companies, limited partnerships, other corporate forms, state-owned enterprises, regional-owned enterprises irrespective of designation or form, firms, cooperatives, pension funds, partnerships, associations, foundations, mass organizations, political organizations, and other organizational forms including collective investment contracts and permanent establishments.

This expansive definition ensures comprehensive coverage of organizational forms, preventing avoidance through choice of entity strategies that might otherwise escape taxation. The inclusion of entities not conducting business activities, such as foundations and associations, recognizes that tax subjectivity may arise from income receipt irrespective of commercial purpose. The Income Tax Law thus establishes an inclusive framework that subjects virtually all organized entities to potential tax obligations, reflecting the comprehensive scope of Indonesian tax jurisdiction.

The transition from tax subject to taxpayer occurs upon satisfaction of both subjective and objective requirements. Subjective requirements identify entities qualifying as tax subjects under statutory provisions, addressing the question of who may be subject to taxation. Objective requirements pertain to the existence of taxable objects, specifically income received or accrued during the tax year. The conjunction of subjective and objective requirements triggers taxpayer status, with attendant registration, reporting, and payment obligations. This dual requirement ensures that mere legal existence without income generation does not impose tax liability, while income receipt by qualifying entities automatically activates taxpayer obligations under the self-assessment system (Suprianto, 2014).

Income Tax is imposed on tax subjects respecting income received or accrued during the tax year, as stipulated in Article 1 of the Income Tax Law. The statutory framework establishes an accrual or receipt basis for tax liability, with the tax year serving as the temporal unit for measurement and reporting. Article 2(1) specifies qualifying tax subjects for income tax purposes as individuals, undivided estates, business entities, and permanent establishments, providing clarity regarding the categories of persons and entities subject to income taxation.

The Taxpayer Identification Number (Nomor Pokok Wajib Pajak or NPWP) functions as the administrative mechanism for identifying and monitoring taxpayers within the Indonesian taxation system. Entities satisfying subjective and objective requirements must register to obtain NPWP from the tax office with jurisdiction over their domicile or place of business. This registration obligation initiates formal participation in the tax system, enabling filing, payment, and enforcement processes. The identification number system supports the self-assessment mechanism by establishing unique identifiers for each taxpayer, facilitating matching of reported information, payments, and third-party data essential for compliance verification.

1.3. Tax Payment Obligations of Corporate Taxpayers

Corporate taxpayers bear comprehensive obligations under the self-assessment system, encompassing registration, calculation, payment, and reporting responsibilities. All business forms operating in Indonesia, including limited liability companies, firms, limited partnerships, and other entities possessing NPWP, must discharge tax obligations, reflecting the essential role of taxation in state revenue and public welfare promotion. The universality of this obligation ensures that business form does not determine tax liability, maintaining horizontal equity among different organizational structures.

The self-assessment system represents a trust-based approach to tax administration, delegating to taxpayers the responsibility for accurately determining tax liabilities, making timely payments, and submitting complete reports. This system, adopted in Indonesia since the 1983 tax reform, reflects administrative resource constraints and assumptions of taxpayer integrity (Rosdiana & Irianto, 2012). Under self-assessment, taxpayers independently calculate tax payable, remit payment through Tax Payment Letters (Surat Setoran Pajak), and report obligations through Periodic and Annual Tax Returns (Surat Pemberitahuan Masa and Surat Pemberitahuan Tahunan). This delegation of responsibility places substantial burden on taxpayers to understand and correctly apply complex tax provisions.

The types of taxes payable by corporate taxpayers include Income Tax (Pajak Penghasilan) and Value-Added Tax (Pajak Pertambahan Nilai) as primary obligations, supplemented by withholding taxes on employee compensation, dividends, interest, royalties, and other payments made in the course of business. Income Tax on corporate profits represents the central corporate tax obligation, calculated at the statutory rate of 22% on taxable income as determined through fiscal accounting adjustments to commercial profits. Value-Added Tax applies to taxable goods and services supplied by registered enterprises, operating as an indirect tax collected from consumers but remitted by businesses at the rate of 11% as of 2022.

Tax compliance requires satisfaction of both substantive and procedural obligations. Substantive compliance involves accurate determination of tax base, application of correct rates, and timely payment of amounts due. Procedural compliance encompasses registration, record-keeping, return filing, and cooperation with audit processes. The legal framework establishes sanctions for non-compliance, including administrative penalties for late filing or payment and criminal sanctions for intentional evasion or fraud. Articles 38, 39, 39A, 41, and 41A of Law No. 28 of 2007 specify criminal offenses in taxation, providing graduated penalties reflecting offense severity and culpability.

Compliant taxpayers are those who fulfill all tax obligations in accordance with prevailing provisions, including timely payment and reporting as prescribed by tax legislation. Non-compliant taxpayers face administrative sanctions such as interest charges, fines, and enhanced tax assessments, or criminal sanctions including imprisonment and monetary penalties depending on violation severity and intent. The enforcement framework combines deterrence through sanctions with facilitation through taxpayer services, reflecting the dual approach of modern tax administration (OECD, 2019).

The legal obligation to pay taxes is not contingent upon agreement or consent; rather, it arises by operation of law upon satisfaction of statutory conditions. This compulsory character distinguishes taxation from contractual obligations and reinforces state authority in revenue collection. However, the compulsory nature coexists with rule-of-law constraints, requiring that every imposition be grounded in statutory authority and administered through due process. This tension between compulsion and legality defines the constitutional character of taxation and shapes the legal framework governing corporate obligations under Indonesian law.

2. Forms of Tax Avoidance

2.1. Tax Avoidance as Business Strategy and Criminal Offense

Taxation, as defined in Black's Law Dictionary, constitutes a charge, usually monetary, imposed by government on persons, entities, transactions, or property to yield public revenue (Garner, 2009). This definition emphasizes the governmental authority underlying taxation and the revenue-generation purpose that justifies its imposition. Professor Rochmat Soemitro defined taxation as contributions from the people to the state treasury without direct counterpart services, utilized to finance general public expenditures (Soemitro, 1992). These definitions converge on the compulsory character of taxation, the absence of direct benefits, and the public purpose orientation, establishing taxation as a fundamental obligation of citizenship and corporate existence.

The compulsory character of taxation generates legal consequences for non-compliance, including administrative and criminal sanctions designed to enforce compliance. The General Provisions and Tax Procedures Law specifies criminal offenses in taxation, distinguishing among various forms of non-compliance based on conduct severity and mental state. Understanding these distinctions requires careful analysis of the boundary between permissible tax planning and impermissible evasion, a boundary that determines the legal characterization of taxpayer conduct.

Resistance to taxation manifests in various forms, reflecting the inherent tension between individual or corporate interests in wealth retention and state interests in revenue collection. Tax resistance encompasses the spectrum of behaviors through which taxpayers seek to reduce, delay, or eliminate tax obligations, ranging from legal planning to criminal evasion. The conceptual distinction between passive and active resistance provides analytical clarity while recognizing the diversity of avoidance and evasion behaviors encountered in practice.

Passive resistance encompasses obstacles that complicate tax collection without active taxpayer opposition. These obstacles relate to economic structure, educational and intellectual development, societal morality, and tax system characteristics that may not align with prevailing social conditions (Bohari, 1995). Passive resistance is not initiated actively or aggressively by taxpayers but emerges from systemic conditions that impede effective tax administration. Examples include the predominance of informal economic activities falling outside formal reporting systems, low financial literacy limiting record-keeping capacities, and cultural attitudes that do not prioritize tax compliance as a civic duty.

The structural dimension of passive resistance is particularly significant in developing economies characterized by large informal sectors, limited financial inclusion, and weak administrative infrastructure. When substantial economic activity occurs outside formal channels, tax bases erode regardless of taxpayer intentions. Similarly, when educational systems do not cultivate tax awareness and compliance norms, voluntary compliance suffers without deliberate taxpayer resistance. These systemic factors complicate tax administration independently of active avoidance strategies, requiring systemic responses rather than enforcement intensification.

Active resistance encompasses all actions taken deliberately against tax authorities to avoid tax obligations. Forms of active resistance include tax avoidance, tax evasion or smuggling, and negligence in fulfilling tax obligations (Rimsky & Judiseno, 2002). Unlike passive resistance, active resistance involves deliberate taxpayer conduct directed toward reducing or eliminating tax liabilities, although the legal characterization of such conduct varies from permissible planning to criminal fraud depending on the means employed.

Tax evasion constitutes active resistance through illegal means, including deliberate non-reporting of taxable objects, understatement of income, overstatement of deductions, and falsification of records. Tax evasion typically occurs before the issuance of tax assessment letters and involves fraudulent conduct intended to conceal tax liabilities from authorities. As criminal conduct, tax evasion subjects perpetrators to both administrative recovery of unpaid taxes and criminal sanctions including imprisonment and monetary penalties, reflecting the seriousness with which the legal system views fraudulent interference with revenue collection.

The motivations for tax evasion include perceptions of taxation as burdensome or threatening to income and wealth. When taxpayers view taxes as unjustified expropriation rather than legitimate contributions to collective goods, resistance intensifies, potentially crossing into criminal conduct, this perception, while providing psychological explanation for evasion behavior, does not constitute legal justification; tax obligations remain enforceable regardless of taxpayer attitudes. The criminal character of evasion derives from violation of statutory provisions, not from the intensity of taxpayer motivation or perception of fairness.

2.2. Tax Planning as Compliance Strategy

Tax planning constitutes the systematic effort to structure affairs to minimize tax liabilities within legal boundaries. As a general concept, tax planning encompasses all measures taxpayers undertake to reduce tax payable, whether through lawful means consistent with statutory provisions or unlawful means violating them. The legal characterization of particular planning strategies depends on their conformity with applicable law and the presence or absence of bona fide business purposes (Arnold & McIntyre, 1995).

The relationship between tax planning and tax avoidance is intimate, as both represent lawful strategies to reduce or eliminate tax obligations through exploitation of statutory provisions, gaps, or ambiguities. Tax planning refers to taxpayers' capacity to structure financial activities to minimize tax burdens, arranging affairs to achieve the lowest possible tax liability within legal constraints. The distinction between planning and avoidance lies primarily in nuance: planning emphasizes the proactive structuring of affairs before transactions occur, while avoidance emphasizes the resulting reduction in tax liability achieved through such structuring.

Tax planning strategies may encompass entity choice decisions, transaction structuring, timing of income and deductions, utilization of tax incentives, and international tax planning through treaty networks and transfer pricing. Each strategy operates within legal boundaries while pursuing tax minimization objectives. The legitimacy of tax planning derives from taxpayer autonomy in structuring affairs and the absence of obligation to maximize tax payments beyond legal requirements (Weisbach, 2002). Taxpayers may choose among legally available alternatives, including those resulting in lower tax liabilities, without incurring obligations to select tax-maximizing options.

However, tax planning becomes legally problematic when it exploits statutory provisions contrary to legislative intent or involves artificial transactions lacking economic substance beyond tax benefits. The legal boundary between permissible planning and impermissible avoidance requires an examination of the transaction's substance, business purpose, and consistency with legislative intent. These doctrinal tools enable distinction between legitimate tax minimization and abusive avoidance, although their application generates interpretive challenges in borderline cases where transaction characterization determines legality.

2.3. Tax Evasion Distinguished

Tax evasion constitutes the illegal counterpart to lawful tax avoidance, involving fraudulent conduct to conceal or reduce tax liabilities. Tax evasion typically occurs before issuance of tax assessment letters and involves violations of taxation provisions to avoid or reduce taxes payable, including through concealment of income (Suprianto, 2014). Tax evasion qualifies as criminal conduct under Indonesian tax law, perpetrated illegally by taxpayers seeking to suppress their tax obligations through fraudulent means.

The forms of tax evasion include understatement of income, whereby taxpayers report income lower than actually received or accrued; overstatement of deductions, involving inflation of expenses or fabrication of deductions to reduce taxable income; and non-reporting of income, the most serious form, whereby taxpayers completely fail to report taxable income to authorities. Each form involves misrepresentation of financial reality to tax authorities, constituting fraud that subjects perpetrators to criminal liability under Articles 38 and 39 of the General Provisions and Tax Procedures Law.

Tax evasion differs fundamentally from tax avoidance in its relationship to legal provisions. Tax evasion involves violation of statutory provisions through fraudulent conduct, while tax avoidance operates within statutory boundaries, however aggressive the interpretation of those boundaries. This distinction, while analytically clear, encounters practical difficulties in borderline cases where transaction characterization determines legality. Transactions lacking economic substance beyond tax benefits may be recharacterized under anti-avoidance doctrines, transforming apparent avoidance into evasion through denial of legal effect to the transactions.

The perception of taxation as burdensome contributes to evasion motivation. When taxpayers view taxes as threats to income or wealth, psychological resistance may manifest in fraudulent conduct. However, this perception provides no legal defense; tax obligations remain enforceable regardless of taxpayer attitudes. The criminal law response to evasion serves both deterrent and retributive functions, punishing fraudulent conduct while discouraging similar behavior by other taxpayers through the threat of sanctions.

2.4. Tax Avoidance: Legal Characterization and Permissibility

Tax avoidance constitutes lawful conduct, undertaken without violation of applicable statutory provisions, and therefore lacking elements of legal contravention. The primary objective of tax avoidance is reduction or minimization of taxes payable through exploitation of loopholes, gaps, or provisions within the taxation system. The absence of legal violation distinguishes avoidance from evasion and establishes its permissibility within the legal order (Darussalam & Septriadi, 2019).

Tax avoidance by taxpayers, particularly business entities, is fundamentally permissible and not contrary to applicable legal provisions under Indonesian law. This practice is viewed as exploitation of loopholes, weaknesses, or gaps in taxation regulations, and therefore falls outside the category of legal violation. Tax avoidance more specifically refers to legal strategies to reduce tax burdens by utilizing weaknesses in taxation legislation. The permissibility of avoidance derives from the principle of legality in taxation: that which is not prohibited is permitted, and taxpayers may arrange affairs to minimize taxes unless specific anti-avoidance provisions apply.

The association between tax avoidance and tax planning reflects their shared legal character as permissible tax minimization strategies. Both operate within statutory boundaries, seeking to reduce tax liabilities without violating legal provisions. Tax planning emphasizes the systematic structuring of affairs to achieve minimization objectives, while avoidance emphasizes the resulting reduction in liability. Together, they constitute the lawful spectrum of tax minimization behavior available to taxpayers.

Tax avoidance generally occurs before issuance of tax assessment letters, during the planning and reporting phases when taxpayers determine the characterization of transactions and calculation of liabilities. In this practice, taxpayers do not explicitly violate statutory provisions, although they may interpret taxation regulations in ways inconsistent with legislative intent. This interpretive divergence, while problematic from a policy perspective, does not constitute legal violation in the absence of specific anti-avoidance rules or doctrines authorizing recharacterization of the transactions.

The legal permissibility of tax avoidance is not absolute, however. Certain avoidance transactions may be deemed illegal if undertaken solely for tax avoidance purposes without bona fide business motives or reasonable commercial justification. Arnold and Wilson (2014) observe that many countries, including Indonesia, have implemented anti-avoidance rules to address avoidance practices, particularly those involving multinational corporate structures. The business purpose doctrine and substance-over-form principle enable tax authorities to disregard transactions lacking economic substance beyond tax benefits, recharacterizing them according to their economic reality rather than their legal form.

The Indonesian Income Tax Law incorporates specific anti-avoidance rules in Article 18, addressing transfer pricing, thin capitalization, and controlled foreign corporation scenarios. These provisions authorize tax authorities to redetermine transaction values, recharacterize debt as equity, or attribute foreign subsidiary income to Indonesian parent companies under specified conditions. The specific anti-avoidance framework complements general doctrines, providing targeted responses to common avoidance techniques while preserving administrative flexibility for addressing novel avoidance arrangements.

2.5. The Corporate Perspective on Tax Minimization

Corporate taxpayers approach taxation from a fundamentally different perspective than tax authorities. While authorities pursue revenue maximization within legal constraints, corporations pursue after-tax profit maximization, viewing taxes as costs to be managed rather than contributions to be embraced. This perspective divergence generates inherent tension, as corporate tax minimization efforts, however lawful, reduce public revenues available for collective purposes.

Corporations perceive tax avoidance as providing economic benefits for business continuity and shareholder value maximization. Tax minimization strategies are not necessarily a rejection of participation in a national cooperation spirit but rather efforts to manage tax payments to levels below statutory maximums. Shareholder interests in profit maximization drive corporate tax minimization, as reduced tax burdens increase after-tax earnings available for distribution or reinvestment. Fiduciary duties of directors to pursue corporate interests reinforce tax minimization imperatives, as failure to manage tax costs may constitute failure of managerial responsibility (Rimsky & Judiseno, 2002).

The legal framework partially accommodates this corporate perspective, recognizing taxpayer autonomy in structuring affairs and the absence of obligation to maximize tax payments. Taxpayers may choose among legally available alternatives, including those resulting in lower tax liabilities, without incurring obligations to select tax-maximizing options. This autonomy, rooted in principles of freedom of contract and private ordering, limits state authority to compel particular transaction structures or to penalize tax-favorable choices among legally available alternatives.

However, corporate tax minimization encounters limits where statutory provisions expressly prohibit particular avoidance techniques or where general anti-avoidance doctrines authorize recharacterization of artificial transactions. The business purpose doctrine, substance-over-form principle, and specific anti-avoidance rules define boundaries beyond which tax minimization becomes impermissible. Within these boundaries, corporations may legitimately pursue tax minimization; beyond them, conduct constitutes impermissible avoidance or evasion subject to administrative adjustment or criminal sanction.

2.6. Discussion of Theoretical and Practical Implications

The analysis of tax avoidance within the Indonesian legal framework contributes to several theoretical discussions in tax law scholarship. The distinction between tax avoidance and tax evasion, while analytically clear, encounters practical difficulties in borderline cases, supporting scholarly recognition of the avoidance-evasion continuum rather than binary categorization (Slemrod & Yitzhaki, 2002). The Indonesian approach, recognizing both lawful avoidance and unlawful evasion while providing for administrative recharacterization of abusive transactions, reflects this continuum conceptualization and provides flexible tools for addressing the full spectrum of non-compliant behavior.

The intersection of corporate law and tax law raises fundamental questions about the coherence of legal obligations across doctrinal fields. Corporate directors' fiduciary duties to pursue shareholder interests may conflict with tax law expectations of accurate reporting and payment, creating legal tensions requiring reconciliation through clear statutory guidance. The Indonesian framework partially addresses these tensions through specific anti-avoidance rules that override corporate structuring autonomy where avoidance purposes predominate, but interpretive challenges persist in borderline cases where business purposes and tax motivations intertwine.

The categorization of tax resistance into passive and active forms contributes to theoretical understanding of compliance determinants. By distinguishing structural obstacles from deliberate non-compliance, the categorization identifies different policy responses: systemic reform for passive resistance and enforcement or legislative response for active resistance. This theoretical framework, while developed in Indonesian scholarship, offers analytical tools applicable across jurisdictions seeking to understand the diverse sources of tax non-compliance.

The practical implications of this analysis are substantial. For tax administrators, systematic understanding of avoidance mechanisms enables targeted enforcement strategies and efficient resource allocation. For corporate taxpayers, clarity regarding legal boundaries reduces uncertainty and compliance risks, facilitating legitimate tax planning while avoiding impermissible schemes. For policymakers, the analysis identifies gaps and ambiguities in existing anti-avoidance provisions, informing legislative reform priorities. For legal practitioners, the comprehensive framework supports accurate advising on complex transactions at the intersection of corporate and tax law.

Limitations of the current study should be acknowledged. The exclusive reliance on secondary data and normative analysis, while appropriate for legal research objectives, precludes empirical investigation of actual compliance behavior, enforcement patterns, or taxpayer motivations. The focus on Indonesian law, while providing depth, limits direct applicability to other jurisdictions without comparative adaptation. Future research should incorporate empirical methods to investigate actual avoidance practices, enforcement effectiveness, and compliance determinants, complementing the doctrinal foundation established in this study.

D. CONCLUSION

This study has examined the legal dimensions of tax avoidance practices by business entities within the Indonesian taxation framework, addressing two primary research objectives through normative juridical analysis. The findings contribute to an understanding of corporate tax obligations and the legal boundaries governing tax minimization behavior.

Regarding the first research objective, the analysis establishes that every business entity operating in Indonesia, whether in the form of limited liability companies, firms, limited partnerships, or other business forms, bears mandatory tax payment obligations upon obtaining a Taxpayer Identification Number. This obligation derives from the constitutional mandate of Article 23A of the 1945 Constitution and is operationalized through statutory provisions governing income tax and value-added tax. Business entities as tax subjects transition to taxpayer status upon satisfying both subjective requirements, relating to their legal character, and objective requirements, relating to income receipt or accrual. The self-assessment system delegates to corporate taxpayers the responsibility for accurate calculation, timely payment, and complete reporting of tax obligations, with non-compliance attracting administrative or criminal sanctions depending on violation severity and intent.

Regarding the second research objective, the analysis identifies and categorizes tax avoidance as a form of active tax resistance, distinguishable from passive resistance rooted in structural conditions. Tax avoidance operates within legal boundaries as permissible exploitation of statutory provisions, gaps, or ambiguities to reduce tax liabilities, fundamentally distinct from tax evasion involving fraudulent violation of legal prohibitions. The legal framework recognizes this distinction, permitting tax avoidance while providing specific anti-avoidance rules in Article 18 of the Income Tax Law to address abusive transactions, particularly those involving transfer pricing, thin capitalization, and controlled foreign corporation arrangements. However, the permissibility of tax avoidance encounters limits where transactions lack bona fide business purpose or economic substance beyond tax benefits, enabling administrative recharacterization under anti-avoidance doctrines.

The theoretical contribution of this study encompasses refinement of the avoidance-evasion boundary concept within Indonesian legal doctrine, integration of corporate law and tax law perspectives on business entity obligations, and development of analytical frameworks distinguishing passive and active resistance applicable to developing country contexts. The practical contribution extends to tax administrators through systematic analysis of avoidance mechanisms, corporate taxpayers through clarification of legal boundaries, policymakers through identification of regulatory gaps, and legal practitioners through interpretive guidance on complex transactions.

The research acknowledges several limitations. The exclusive reliance on secondary data and normative methodology precludes empirical investigation of actual compliance behavior or enforcement effectiveness. The focus on Indonesian law limits direct applicability to other jurisdictions without comparative adaptation. The study does not examine judicial interpretation of anti-avoidance provisions or administrative practice in applying specific anti-avoidance rules.

Suggestions for future research include empirical investigations of corporate tax avoidance practices and their determinants in the Indonesian context, comparative analyses of anti-avoidance frameworks across Southeast Asian jurisdictions, examination of judicial decisions applying anti-avoidance doctrines, and studies of the interaction between transfer pricing regulations and avoidance behavior. Additionally, research examining the impact of the OECD BEPS initiative implementation on Indonesian tax law and corporate compliance would contribute to understanding of international tax cooperation effects on domestic legal frameworks.

RECOMMENDATION:

Based on the findings of this study, the following recommendations are proposed:

For Legislative Reform: Indonesian tax legislation should consider strengthening general anti-avoidance rules to complement existing specific anti-avoidance provisions, providing clearer standards for distinguishing permissible avoidance from impermissible abuse. The codification of substance-over-form and business purpose doctrines would enhance legal certainty while preserving administrative flexibility.

For Tax Administration: The Directorate General of Taxation should enhance guidance materials clarifying the legal boundaries of permissible tax planning, reducing uncertainty for corporate taxpayers while facilitating detection of impermissible avoidance schemes. Capacity building for tax auditors in identifying and responding to complex avoidance arrangements should be prioritized.

For Corporate Taxpayers: Business entities should implement robust tax governance frameworks ensuring that tax planning strategies maintain bona fide business purposes and economic substance beyond tax benefits. Documentation of business purposes underlying transactions with tax implications would support compliance positions during administrative review.

For Future Research: Empirical studies investigating actual corporate tax avoidance practices in Indonesia, their determinants, and their fiscal consequences would complement the doctrinal foundation established in this research. Comparative analyses examining anti-avoidance frameworks across ASEAN jurisdictions would provide insights for regional harmonization efforts.

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