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# The Principle of Simplicity in Corporate Income Tax In Indonesia

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***Abstract:***
*This study aims to find out the simplicity of corporate income tax collection regulation in Indonesia's general provisions of taxation. This study uses normative research methods using a legal approach. This study was reviewed with primary and secondary legal material sources. The data analysis techniques used are the analysis of legal interpretation or interpretation of the law. The results showed that Law No. 36 of 2008 on the Fourth Amendment to Law No. 7 of 1983 on Income Tax regulates corporate tax and permanent establishment using a single rate with a tax collection percentage of 22%. This arrangement makes tax collection simpler because it uses only one layer of the same rate and makes corporate income tax in Indonesia more competitive.*

***Keywords**: Income Tax; Business Entity; Principles of Simplicity; Tax Law.*

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## Introduction

The need for funds for development is increasing in a country, prompting the Government to explore its sources of income more intensively (Kusumaatmadja 2002). The state's most significant source of revenue is taxes. The tax has a strategic function because, with taxes, the Government can regulate the allocation of economic resources. Therefore, tax arrangements within a country are essential to support economic development.

Since first starting to recognize and apply corporate tax, there is a dominant view that tax is mainly used to regulate the company's management with other stakeholders and the state. (R.S 2004) Therefore, one of the essential things related to tax collection to discuss is the amount of taxation or setting the rate to be used because it dramatically affects the willingness of taxpayers to pay taxes and is directly related to the welfare of taxpayers. (Uno n.d.)

The Income Tax Law (PPh) regulates the amount of tax rate that must be issued. An exciting change to discuss and become one of the topics that still experience the pros and cons of tax is the switch of progressive rates to single rates. This change is one way for the Government to create a simple tax. However, in this change, there is room for a collision of principles of fairness and simplicity because taxpayers no longer pay taxes based on their ability.

## Problem Statement

In-Law No. 36 of 2008 Article 17 paragraph 1 (b), the rate for Corporate Taxpayers and Permanent Establishments is determined as a flat rate of 28%. In 2010, this rate was lowered again to 25%. Under the changes, taxpayers will no longer pay taxes based on their income level, where the more significant the income the tax paid will increase, taxpayers will pay taxes at the same rate. So if seen, this rule will only benefit businesses that earn big.

This research was conducted to find out the simplicity of corporate income tax collection regulation in Indonesia's general provisions of taxation.

## Method

The type of legal research used in this study is a type of normative legal research. Normative law research is literature law research. (Soekanto 2014) The approach used is the approach of legislation (statute approach). (Marzuki 2008) Normative research must undoubtedly use a statutory approach because what will be researched is the various rule of law that becomes the focus and the central theme of a study.

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## Discussion

According to Law No. 28 of 2007 on General Provisions and Procedures for Taxation, an entity is a unit of persons or groups that seeks to establish a Limited Liability Company, Komanditer Company, State-Owned Enterprises, or Regional and Private Owned Enterprises. State-Owned Enterprises and Regional Owned Enterprises are the subjects of tax regardless of their name and form. So that every unit of government agencies, such as institutions, entities, and owned by the central Government and local governments that run businesses or conduct activities to earn an income, is the tax subject. One type of body that is the subject of tax is a body established or located in Indonesia, except for specific units of government agencies that meet the criteria:

- Its establishment based on the provisions of the laws and regulations;

- The financing is sourced from the state budget or regional revenue and expenditure;
- Its receipts are included in the budgets of the central or local governments; and
- The state functional supervisory apparatus examines the bookkeeping.

**1. The Principle of Simplicity of Corporate Tax Collection and Permanent Establishment Applied in the Law of General Provisions of Taxation in Indonesia**

Simplicity in the payment of taxes will increase public awareness in paying taxes, especially the Minister of Finance on various occasions. The number of Taxpayers in Indonesia should increase, coupled with the moment of tax amnesty. However, suppose the simplicity of the payment system and tax reporting are not immediately carried out. In that case, a negative impact will arise for the organization because time will be confiscated handling so many documents that must be supervised. The Directorate General of Taxation should also always enlighten the public on the importance of paying taxes and their impact on sustainable national economic development.

Seeing the rapid development of the business world, the Government provides facilities for entities and permanent establishments in paying taxes by further simplifying the taxes they will pay. Law No. 30 of 2008 on Income Tax (PPh) regulates tax rates for Corporate Taxpayers and Permanent Establishments . In-Law No. 36 of 2008 Article 17 paragraph 1 (b), the rate for Corporate Taxpayers and Permanent Establishments is determined as a single rate (flat-rate), which is 28%. This rate from 2010 was lowered again to 25%. The change from progressive tariff to single tariff may answer many proposals from businesses to making Indonesia's tax rate more straightforward. It can encourage the business world (corporations) to be more competitive. With the entry into force of a single tariff, business entities and permanent establishments will be simpler to pay taxes because they only use one rate of the same.

In mid-2008, the Government again made changes to the Income Tax Law, namely by establishing Law No. 36 of 2008 concerning the Fourth Amendment to Law No. 7 of 1983 on Income Tax. One of the latest Income Tax Law changes is a change in rates for Private Person Taxpayers and Corporate Taxpayers.

In making a public policy, the Government must have a foundation or rationale to make policy. Similarly, the policy of applying flat-rate for Corporate Income Tax. In the policy of applying flat-rate for Corporate Income Tax, the rationale used by the Government are (R.S 2004):

1) Simplifying the collection of corporate tax and Permanent Establishment

In an article titled "A Conceptual Analysis of The Flat Tax," it is said that,
"flat-rate taxation occurs when a single rate of tax is applied regardless of the amount of taxable income".

Based on this explanation, it can be said that the flat rate is a fixed percentage tax rate for each amount of income that is the object of tax. Since this flat rate consists of only one rate, the advantage of this flat rate is in terms of its simplicity. Simplicity is one of the rationales for the Government in implementing flat-rate policies. This is following the opinion expressed by John Hutagaol, that this flat-rate rate makes it easier and simplifies the tax collection arrangements because this flat-rate rate applies only one rate, so this flat rate is more straightforward when compared to progressive rates. In addition, flat-rate rates provide convenience for the business world in calculating its tax obligations, making it easier for entrepreneurs to predict the amount of tax owed. (H 2012)

2) More competitive rates

Indonesia has time to implement a tax reform that implements flat-rate if it wants to compete with regional and world economies. This is because tax is no longer an instrument of state revenue  also an instrument to incentivize. With this flat-rate incentive, Indonesia can compete more with other countries, so it is expected that investment will also increase. However, to attract investors into the country, it is recommended that other taxation policies follow this flat-rate policy. As explained earlier, the tariff of PPh Badan in Indonesia is relatively high compared to other neighboring countries, such as Malaysia and Singapore. Therefore, without any other benefits offered by the Government to investors, the application of flat rates of 28% in 2009 and 25% in 2010 will become less attractive for investors to enter and invest in Indonesia. (W 2008)

**2. Corporate Income Tax Arrangements and Permanent Establishments That Support the Principles of Simplicity and Fairness in Tax Collection**

Government policy to lower the tax rate can also produce adverse effects, where the negative effect is potential lost tax revenue. Suppose the rate reduction is not following the conditions of the community and corporate taxpayers. In that case, the situation will reduce the compliance of corporate taxpayers so that tax receipts will be reduced. In addition, with the same level of corporate taxpayer compliance with lower rates, tax receipts will be lower than when the tax rate imposed is higher. (Daud and Hani 2013) The policy of applying flat-rate Corporate Income Tax, reviewed from the principle of fairness, is one of the essential considerations for policymakers in determining the existing policy options in building a tax system. The tax system can succeed if the public feels confident that the tax collected by the Government has been imposed reasonably and everyone pays taxes according to their ability. (Wantu 2011) Fair regulation means a balance between protected interests, where everyone gets as much as possible for their part. Justice does not mean that everyone gets an equal share. Concerning income tax, the main principle that income tax should have, both for Corporate Taxpayers and Private Person Taxpayers, is that collecting such income tax must be done fairly. Do not let this income tax collection even benefit the wealthy and burden the lower middle class.

In income tax, fairness consists of vertical fairness and horizontal fairness. Taxes can be vertically fair if taxpayers who have additional different economic capabilities are treated unequally. At the same time, horizontal justice is met if taxpayers in the same condition are treated equally (equal treatment for the equals). Based on this, in formulating a tax regulation, especially Income Tax, the Government must pay attention to fairness because the most crucial thing in income tax is that the income tax must meet the principle of fairness, both horizontal and vertical justice.

The prevailing tax rate in a country is one of the indicators that can be used to see if the implementation of tax collection in a country is fair or not. About the policy of applying flat-rate for Corporate Income Tax, there are pros and cons as to whether this flat rate is fair or not. Some have mentioned that this flat rate is unfair because it will burden the Corporate Taxpayers to come down. However, some also consider that this flat rate is fair because it has provided incentives for tariff reduction of 50% to lower-middle-class entities.

This single rate will only benefit large companies when viewed from the calculation, while small companies will bear a more significant tax burden. The tax burden is significant for relatively small companies because, at a single rate, any income earned will be subject to the same tax rate by ignoring the fairness aspect. After all, the single rate does not take into account taxable income. Thus, for large taxpayers, this single rate will probably provide convenience in its calculations. However, this single rate will be unfair for small taxpayers because, in absolute amount, this single rate is large enough for lower-middle-class taxpayers.

The use of a single rate calculates the effective rate that does not experience a difference for each amount of income or equal to the tax rate. Thus, the single rate is less reflective of fairness because employers with large and small incomes are charged the same rate. However, the purpose of the imposition of a single rate itself is to make it easier and simpler for employers to calculate the taxes owed. For example, for PKP of Rp1,000,000,000, PPh savings are payable by 0.25% or Rp2,500,000, while for PKP rp100,000,000 bear higher payable PPh of 15.5% or 15,500,000. The Government's efforts to implement a single rate are expected to make it easier for employers to calculate the taxes they owe, thus contriing more to state revenues. This is following the general explanation of the Income Tax Act.

## Conclusion

The simplicity of the tax collection arrangement of the Agency and the Permanent Establishment is done by changing the tax rate from the original progressive rate to the single rate. Applying a single tariff will create simplicity in collecting corporate and permanent business taxes because it only uses one tariff. This regulation is stipulated in the general provisions of fixed taxation, namely Law no. 36 of 2008 Article 17 paragraph 1 (b), which is the tariff for Corporate Taxpayers and Permanent Establishments is determined as a single rate (flat-rate). However, the policy of setting a single rate creates friction between the principle of simplicity and the principle of fairness because corporate taxpayers and permanent establishments no longer pay taxes based on their ability are equalized. Therefore, corporate and Permanent Establishment tax collection arrangements that support the principle of simplicity and fairness can be achieved with a single-rate enforcement policy followed by a gradual reduction in the percentage of tax collection and the expansion of the tax base. This is necessary so that there is no deterioration in the tax receipts of the Agency and the Permanent Establishment.

## Recommendation

Simplicity and fairness in the tax collection of Entities and Permanent Establishments is a thing tha t must and should run together so that a KUP Law that includes the principle of fairness and simplicity in tax collection in order to create a good tax collection and not make taxpayers burdened with existing rules. It is expected that the Government in the future pays more attention to the percentage of tax collection in Indonesia because for now, the percentage of tax collection is still in a large category when compared to other ASEAN Countries. That way, employers will not feel burdened with tax collection and can also reduce tax avoidance.

## References

Daud, HR, and S Hani. 2013. "Analisis Penurunan Tarif PPh Badan dalam Meningkatkan Penerimaan PPh di KPP Medan Barat." *Jurnal Riset Akuntansi dan Bisnis* 13 (1).

H, Rosdiana. 2012. *Pengantar Ilmu Pajak: Kebijakan dan Implementasi di Indonesia.* Jakarta: Rajawali Press.

Kusumaatmadja, Mochtar. 2002. *Konsep-konsep Hukum dalam Pembangunan.* Bandung: ALUMNI.

Marzuki. 2008. *Penelitian Hukum.* Jakarta: Kencana Press.

R.S, Avi-Yonah. 2004. *SSRN.* Accessed March 21, 2021. doi:http://dx.doi.org/10.2139/ssrn.516202.

Soekanto, Soerjono. 2014. *Penelitian Hukum Normatif- Suatu Tinjauan Singkat.* Jakarta: Rajawali Press.

Uno, Sandiaga S. n.d. "Insentif Pajak dalam Mendorong Dunia Bisnis." Business Seminar, Solo.

W, Ramadhani. 2008. *Kebijakan Penerapan Flate Rate pada Pajak Penghasilan Badan.* Jakarta: UI Press.

Wantu, Fence M. 2011. *Kepastian Hukum, Keadilan dan Kemanfaatan.* Yogyakarta: Pustaka Belajar.