



Transformation of Politics of Tax Law to Create a Fair and Efficient Tax Collection System

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Abstract. In the context of the challenges of tax policy in creating a fair and efficient tax collection system, the politics of tax law needs to be transformed. Tax Law is a collection of regulations used to regulate the legal relationship between the State as a tax collector and the public as taxpayers. The purpose of tax law in general is to create justice in tax collection by the authorities to the public as taxpayers. Policymakers should be aware that the introduction of new tax expenditures and the introduction of special tax treatment for certain groups of taxpayers can create new special interest groups. A tax reform strategy that enables policy makers to achieve tax policy objectives and successfully implement fundamental and efficient reforms needs to be implemented. Policy makers must clearly communicate the strategic vision and objectives of tax reform. The transition in tax regulation in Indonesia in recent years could help bring about tax reform. The government can make tax reform happen by introducing rules that allow the old tax rules to continue to apply to some existing situations while the new tax rules will apply to all future situations.

Keywords: Tax, Politics of Law, Law Reform, Tax Collection, Justice

Abstrak. Dalam konteks tantangan kebijakan pajak dalam menciptakan sistem pemungutan pajak yang adil serta efisien, politik hukum pajak perlu bertransformasi. Hukum Perpajakan adalah kumpulan peraturan yang digunakan untuk mengatur hubungan hukum antara Negara sebagai pemungut pajak dengan masyarakat sebagai pembayar pajak. Tujuan hukum perpajakan secara umum adalah untuk menciptakan keadilan dalam pemungutan pajak yang dilakukan oleh penguasa kepada masyarakat sebagai wajib pajak. Pembuat kebijakan harus menyadari bahwa pemberlakuan pengeluaran pajak baru dan pengenalan perlakuan pajak khusus untuk kelompok pembayar pajak tertentu dapat menciptakan kelompok kepentingan khusus baru. Strategi reformasi pajak yang memungkinkan pembuat kebijakan untuk mencapai tujuan kebijakan pajak dan berhasil melaksanakan reformasi mendasar serta efisien perlu diterapkan. Pembuat kebijakan harus mengomunikasikan visi strategis dan tujuan reformasi pajak dengan jelas. Transisi pengaturan pajak di Indonesia dalam beberapa tahun terakhir dapat membantu mewujudkan reformasi pajak. Pemerintah dapat membuat reformasi pajak terjadi dengan memperkenalkan aturan yang memungkinkan aturan pajak lama untuk terus berlaku untuk beberapa situasi yang ada sementara aturan pajak baru akan berlaku untuk semua situasi di masa depan.

Kata kunci: Pajak, Politik Hukum, Transformatif, Pemungutan Pajak, Keadilan



1. Introduction

Tax law is a collection of regulations used to regulate legal relations between the State (*fiscus*) as tax collectors and the public as tax payers.¹ This shows that in the field of taxation there will be two legal subjects, namely the state and society as taxpayers. Because both are legal subjects, they legally have rights and obligations that must be adhered to in tax laws and regulations.

The economy in a capitalist system is primarily based on social and national capital; a democratic political system with separation of powers was implemented, and the state compulsively regulated the reallocation of social wealth according to tax laws to resolve class contradictions between rich and poor. It reflects the socialist nature of the capitalist regime and is a major advance in the development of capitalist society. It would appear that the 'invisible hand' of free economic adjustment has always played an important role. Keynesian theory has important realistic significance and has received very good results; however, Keynes did not recognize the prerequisites for producing free financial and economic laws or their function – the essence of positive and negative effects; Keynesian theory also failed to realize that the laws of conformity in the free market are also 'visible hands', which have general laws and special laws. Keynes tried to solve problems objectively and the steps he took could only solve very pressing problems and could barely solve the underlying problems that occurred during the process of economic change.² Therefore, negative financial and economic impacts are unavoidable; the cycle of events can be extended, but the events cannot be prevented, and the problem is not fundamentally solved.

Taxation has always been a central issue in political economy because it is one of the main activities of all states and a necessary condition for everything that states do.³ This review provides an analytical history of taxation from the earliest states and principalities to the present day, focusing on the structural and institutional determinants of tax revenue (taxation/GDP), tax structure (what and who is taxed), and tax administration (how taxes are assessed and collected).

In general, there are 4 tax functions, namely as a budget function, regulatory function, stability function, and income redistribution function. Taxes have a budgetary function, which means that taxes are useful as a source of funds for the government to finance state expenditures. Regulatory function (*regularend*) defines

¹ I. Made Sadha Suardikha. "Pengaruh sistem perpajakan yang kondusif terhadap dunia usaha." *Jurnal Ilmiah Akuntansi Dan Bisnis* 2, no. 2 (2007), p. 2.

² Neil B. Niman. "Keynes and the invisible hand theorem." *Journal of Post Keynesian Economics* 10, no. 1 (1987), p. 105.

³ John L. Campbell. "Institutional analysis and the role of ideas in political economy." *Theory and society* 27, no. 3 (1998), p. 409.

tax as a tool to regulate or implement government in the socio-economic field. While the stability function means that taxes are state revenue that can be used to carry out government policies. In the function of redistributing income, taxes are useful as revenue that can be used to finance public expenditures and national development.⁴ Thus, the government can open jobs with the aim of increasing people's income.

Tax has become a political instrument when it is used by the government in carrying out its function as a regulator,⁵ which plays a role in limiting the ownership of the rich and protecting and encouraging a weak economy through profit sharing. The existence of a reciprocal relationship between the state and the people here is mutually beneficial in accordance with the motto of democracy, government from the people for the people by the people. A necessity in democracy and an open political climate, the implementation of tax management requires community involvement.

Tax laws change from time to time, and there is no reason to end this process. This makes the folk theorem of an infinitely repeated game potentially relevant in thinking about tax competition. One question is whether the benefits of tax coordination or harmonization are to be gained in a game that is wholly uncooperative due to infinite repetition.

In this condition, tax fairness is questioned. While the increase in welfare has been limping, the tax revenue target has actually increased every year. The sense of justice is increasingly disturbed when the public witnesses the continued increase in personnel expenditure by relying on bureaucratic reform. As a result of bureaucratic reform, bureaucratic reform has exhausted a sizable budget. However, the benefits to society are still questionable.

The purpose of tax law in general is to create justice in tax collection by the authorities (state) to the public as taxpayers, while the fair value in each country in the collection of taxes is different. In carrying out tax collection, justice is very difficult in practice, but with the principles that animate every tax regulation or law, it is hoped that tax collection can be carried out properly and proportionally.

2. Methods

The research method used in this research is normative juridical research, namely research originating from legal norms and principles, applicable laws and

⁴ Retno Nilasari. *Analisis pengaruh tingkat kepatuhan wajib pajak hotel dan restoran terhadap penerimaan pajak daerah: studi kasus pada suku dinas pendapatan daerah Jakarta Pusat I*. Undergraduate thesis. Universitas Islam Negeri Syarif Hidayatullah Jakarta, 2007.

⁵ Machfud Sidik. *Optimalisasi pajak daerah dan retribusi daerah dalam rangka meningkatkan kemampuan keuangan daerah*. Bandung: Makalah disampaikan Acara Orasi Ilmiah, 2002.

regulations, legal theory and doctrine and library materials considered relevant to the research topic. In accordance with the normative juridical research method, the source of data in this study is secondary data with primary, secondary and tertiary legal materials. Legal materials are obtained from conducting searches, collecting, then conducting studies in the form of literature, laws and regulations, research results, scientific papers and other documents needed. The analysis used is descriptive qualitative, by processing data which includes editing, coding and presentation in narrative form. Data is described, discussed and interpreted to formulate conclusions from research questions.

3. Results and Discussions

Legal politics facilitate incentives to implement tax reforms that benefit a large number of voters. However, they may not need to give equal weight to the interests of all voters, preferring instead to focus on attracting “regular voters”, who are more likely to change their vote in response to reforms in their favour.⁶ Tax reforms that benefit regular voters are not necessarily in the public interest.

Policy makers can create or use reform opportunities to signal to certain groups of voters that they care about the well-being of taxpayers. This might give rise to a series of additional tax reforms that target specific groups and try to create winners without creating losers. However, if piecemeal reforms are undertaken reform after reform and without any sort of strategic vision to guide them, policymakers need not consider the long-term implications of these steps. The visibility of changes in tax policy may be highly asymmetric. On the one hand, legislators may find it easy to adopt a tax break that brings significant and visible benefits to certain groups who are thus aware of the change and will support it, but resulted in an increase in the overall tax burden on other groups that was so small as to go unnoticed. This asymmetry contributes to incentives to increase tax spending and thus the complexity of the tax system as a whole.

In general, legislators face incentives to enact reforms whose benefits are visible at the next election and, where possible, whose costs are invisible. If the benefits of tax reform are seen during elections, politicians will maximize the likelihood of being rewarded for doing so. This is, of course, assuming that both regular and regular voters will associate responsible politicians with the benefits of reform. Because basic tax reforms usually take longer to implement than incremental changes to tax laws and are sometimes so complex they leave voters unsure about how to evaluate them, politicians who operate with an election time

⁶ Paola Profeta, Simona Scabrosetti, and Stanley L. Winer. “Wealth transfer taxation: an empirical investigation.” *International Tax and Public Finance* 21, no. 4 (2014), p. 720.

horizon in mind may prefer highly visible ad hoc actions over more basic ones. reform, especially when the next election is relatively near. The visibility of tax reform also has other implications. If politicians view voters as overwhelmingly averse to tax increases, they may want to choose forms of taxation that are less visible to the decisive (swing) electorate. This partly explains why the recurring tax on immovable property, which is highly visible, is rarely raised by politicians.⁷

There is considerable uncertainty about who will win and who will lose from the tax reform and whether (and how) voters will change their voting behavior in response. With the high uncertainty of the results of tax reform – namely the uncertainty of the impact of tax reform on agent behavior, income distribution, tax revenues, and so on. Policy makers may become more cautious in making decisions to engage in tax reform. In fact, risk-averse taxpayers may vote against tax reform even if they know that the majority will benefit from the reform.⁸ This status quo bias reflects the fact that, while some of those who stand to gain or lose from reform can be easily identified, the median or swing voter may not know ex ante whether he or she will join the winners, because the benefit tax reform will become clear only in the future.

Policy makers may also be unsure about the quality of information available on the likely impact of reforms. The greater the uncertainty about the quality of information and the greater the discrepancy between information obtained through different channels, the more difficult it is for politicians to draw conclusions and make decisions regarding the actual implementation of tax reforms. Uncertainty about the differential impact of tax reform on different parties in a governing coalition (or different groups within a ruling party) can be an obstacle to the implementation of fundamental tax reforms, especially if constituents from one of the coalition parties bear most of the costs.

In this case, special interests may be effective in influencing tax policy. An alternative political economy approach focuses on the political influence of tax reform losers who might seek to hinder tax reform implementation. They may exert influence either directly, through their ability to block reforms from being enacted in parliament, or indirectly, by persuading politicians to vote for the status quo over rolling out tax reforms.⁹ Indeed, the potential beneficiaries of tax reform are often silent in contrast to taxpayers who are (or are perceived to be) reform losers.

⁷ James Alt, Ian Preston, and Luke Sibieta. “The political economy of tax policy.” *Dimensions of tax design: The mirrlees review* (2010), p. 1277.

⁸ Raquel Fernandez, and Dani Rodrik. “Resistance to reform: Status quo bias in the presence of individual-specific uncertainty.” *The American economic review* (1991), p. 1146.

⁹ Anders Olofsgård. *The Political Economy of Reform: Institutional Change as a Tool for Political Credibility*. Washington, DC: World Bank, 2003.

Politicians may be more willing to listen to certain special interest groups if they receive direct or indirect campaign contributions from these groups or if these special interest groups consist of swing voters who have some influence on the outcome of the next election.¹⁰ Different groups of taxpayers may also face different transaction (lobbying) costs.¹¹ As a result, tax policy reforms will be biased towards reforms favored by influential lobby groups, which can then hinder the implementation of tax reforms that will improve overall welfare.

Alt, Preston, and Sibieta note that policy makers must be aware that the introduction of new tax spending and the introduction of special tax treatment for certain groups of taxpayers can create new special interest groups.¹² Elimination of special tax treatment is then very difficult and may lead to additional or extended special tax treatment provisions from time to time. Ashworth and Heyndels view tax spending, in particular, as a tool to serve first-time voters and special interest groups.¹³ The rationale for this relates to the fact that, as noted above, the benefits of spending taxes can be targeted while the costs – reductions in overall tax revenue – can be spread across all taxpayers.

A tax reform strategy that enables policy makers to achieve tax policy goals and successfully implement fundamental and efficient reforms needs to be implemented.¹⁴ Policy makers must clearly communicate the strategic vision and goals of tax reform. Since tax reform will be a long and complex process, articulating broad aspirational goals can help clarify what reform means for both taxpayers and voters, while also making it easier to resist special interests lobbying. This allows for longer-term implementation of reforms and creates incentives to continue reforms and prevents reforms from stalling, being changed or reversed. Once broader tax reform objectives have been defined, the government can then begin to evaluate specific reform proposals and study the degree to which these proposals achieve their intended goals.

Framing the tax reform debate broadly is critical: by considering the tax system as a whole, rather than focusing on isolated elements, policy makers can better communicate the issues involved, as well as address issues of efficiency and equity. Lobby groups may be interested in framing certain tax policy reforms narrowly, for

¹⁰ *Ibid.*

¹¹ Randall G. Holcombe. "Tax policy from a public choice perspective." *National tax journal* 51, no. 2 (1998), p. 359.

¹² James Alt, Ian Preston, and Luke Sibieta. "The political economy of tax policy." *Dimensions of tax design: The mirrlees review* (2010), p. 1204.

¹³ John Ashworth, and Bruno Heyndels. "Political fragmentation and the evolution of national tax structures in the OECD." *International Tax and Public Finance* 8, no. 4 (2001), p. 377.

¹⁴ Andika Satriyo. *Pengaruh Reformasi Administrasi Perpajakan Terhadap Kepatuhan Wajib Pajak Pada Kantor Pelayanan Pajak (KPP) Pratama Jakarta Setiabudi*. Jakarta : Universitas pembangunan Nasional "Veteran", 2007.

example by focusing on each tax separately, but this approach is unlikely to be in the interest of the general public.

Accepting certain reform constraints ahead can help the government to build support for tax reform. Governments could, for example, commit to implementing only those reforms that it considers redistribution neutral or decide in advance not to include certain taxes in the reform package. However, explicitly accepting some constraints upfront regarding key tax goals may mean setting aside some of the Pareto-boosting reforms. However, accepting constraints in the reform process may also make reform implementation easier. The more negotiable the details of a tax reform, the greater the likelihood of reform delays.¹⁵

Policy makers must decide when to bring tax reform proposals to the attention of the wider public, when to explain the impact of reforms and when to implement them. New governments that have campaigned for election on a tax reform platform can use their electoral credentials to make rapid progress. However, other issues about the timing of reforms may depend more on the state of public finances than on the political conjuncture. Experience shows that it is easier to implement fundamental tax reforms when a country is running budget surpluses that can absorb possible revenue losses or can be used to partially compensate those who lose out from tax reform.

There are strong arguments for “bundling” tax reform into a comprehensive package. In devising approaches to tax reform, policy makers face a difficult choice between “combining” and “sequencing” – that is, between trying to adopt more or less comprehensive tax reforms all at once, in what is sometimes referred to as a “big bang” approach and pursuing a more gradual strategy. Both offer advantages and disadvantages, and the question of which is preferable depends not only on the institutional and political context, but also on the objectives of the reform and the impediments that might arise.

However, in general, the literature suggests that comprehensive reforms are preferable, at least where possible. Policy makers should treat the tax system as an interacting tax system, rather than considering each tax separately. Disconnected tax debates may be counterproductive.¹⁶ Bundling reforms can make it easier to overcome distribution problems and to compensate for tax reform losers. This allows for adequate political support and is preferable if a full tax reform package is needed to realize the long term benefits of tax reform. This may allow for the spread of costs and benefits over the population at large, and may allow reducing the costs of reform for those groups that may be hit hard by reform. There are also occasions when an incremental reform approach may work well. It may take too

¹⁵ Allan Drazen. “The political economy of delayed reform.” *The Journal of Policy Reform* 1, no. 1 (1996), p. 25.

¹⁶ Bert Brys, Sarah Perret, Alastair Thomas, and Pierce O'Reilly. “Tax Design for Inclusive Economic Growth.” *OECD Taxation Working Papers* 26 (2016).

long to implement comprehensive tax reform given the election cycle. Supplemental tax reforms might also help overcome status quo bias by separating reforms that do not harm the same electorate.¹⁷ In essence, the sequencing strategy aims to bring in taxpayers who reject fundamental reforms if carried out all at once. Incremental reform may also be more efficient when the outcome of the tax reform is uncertain, because it allows minimizing the “reversal costs” of the tax reform. The incremental tax reform approach also makes fewer demands on scarce policy-making and administrative resources and is therefore likely to be more likely to succeed.¹⁸

Therefore, the proper design of the different phases of tax reform – which types of tax reform to implement, and what are the conditions for delaying tax reform – is critical. Thus, a sequential approach to tax reform would still benefit from the kind of overall strategic reform vision discussed above. Otherwise, there is a risk that policies will become increasingly ad hoc and inconsistent. Finally, comprehensive tax reform may also require a series of additional “adjustment” reforms.

4. Conclusion

Transitions in tax arrangements can help bring about tax reform. Governments can make tax reform happen by introducing rules that allow old tax rules to continue to apply to some existing situations while new tax rules will apply to all situations in the future. This strategy may be considered if agents no longer have the opportunity to adjust their behavior in response to new tax regulations because they are, for example, retired and therefore no longer have the opportunity to adjust their labor market behavior. However, such rules would reduce the advantages of tax reform and would increase the complexity of the tax code. Gradual phasing and the use of temporary tax measures may help bring about reform as well, although temporary tax measures have a tendency to become permanent. Therefore, it is a best practice to use the sunset clause.

Good quality institutions that design and implement tax reforms are at the heart of tax reform. Tax reform proposals must be supported by solid research and analysis. A good evidence-based and analytical case for reform serves both to improve the quality of policy and to increase prospects for the adoption of reforms. If proponents of reform can build a broad consensus on the merits of reform, they will be in a much stronger position when dealing with their opponents. There is

¹⁷ Mathias Dewatripont, and Gerard Roland. “The design of reform packages under uncertainty.” *The American Economic Review* (1995), p. 1208.

¹⁸ Richard M. Bird. “Managing tax reform.” *Bulletin for International Fiscal Documentation* 58, no. 2 (2004), p. 50.

often a role for an independent body tasked with assessing the likely impact of proposed reforms on taxpayer behavior, revenues, equity and administrative ease; the role of tax administration, in particular, is often critical.

The transparency of the process and design of tax reforms is often an important factor. The way taxation and public spending is perceived by the public or reported by the media can be decisive in winning public support for a given tax reform. Appropriate tax reform communication strategies and dialogue with business, trade unions and other social partners, special interest groups, academia and the wider community can help overcome barriers to implementing fundamental tax reforms. Transparency is also a key element of government accountability. Some countries, however, have been able to implement tax reforms due to a lack of transparency, but the reform process is not considered best practice.

Policy makers may also want to be transparent about the unfairness of the current tax system and the status quo. This can convince voters that tax reform is needed. Here too, the quality of information available to politicians and the public may be important to prospects for “selling” reforms. Detailed reporting of tax expenditure costs, for example, could strengthen the case, on equity and other grounds, for reforms aimed at simplifying income taxation, in particular.

Discussions on tax reform are complex and cannot always be summed up in concise statements. Therefore, governments looking to introduce complex tax reforms must adapt to a modern media landscape that appears to provide fewer opportunities for in-depth analysis and discussion. Therefore, discussion of tax reform in parliament is important. Dialogue on substantial tax reform measures with businesses, unions, and others also helps to signal the quality of reforms and the reform intent of the policy makers involved and to build broad tax reform support.

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