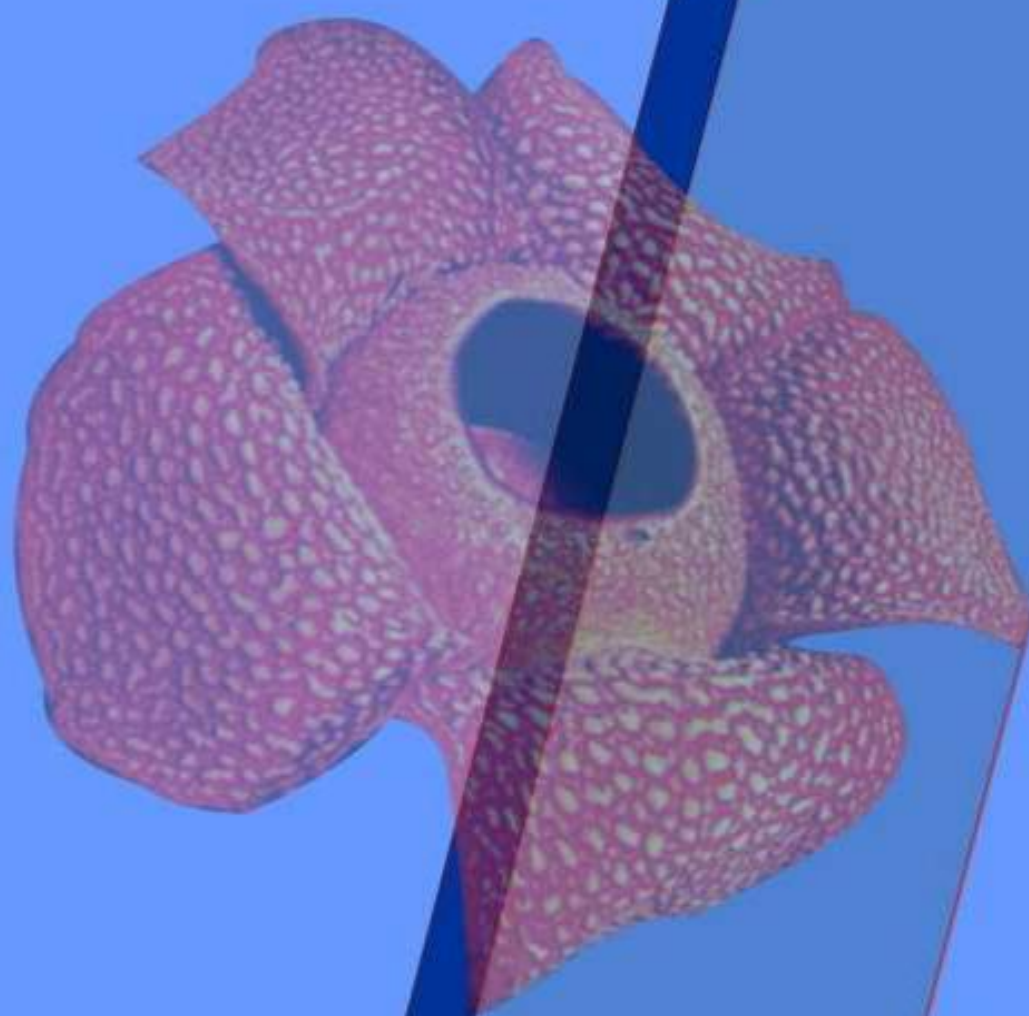


Proceedings

Of the 2nd International Conference On Law,
Environment, Culture and Globalization
In Bengkulu, Indonesia, Organized by Faculty of Law,
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Conference on Law Environment,
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and Corruption”

Bengkulu, 02 November 2020

Faculty of Law
Universitas Bengkulu

Proceedings of the 2nd
International Conference on Law Environment, Culture and Globalization
“Environment and Corruption”

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Speech from Dean of Faculty of Law, University of Bengkulu

On Opening Ceremony of The 2nd International Conference on Law, Environment, Culture and Globalization 2020.

The Honourable, Rector Universitas Bengkulu, Madam Minister of Environment and forestry Republic Indonesia, or their representative, Chief of Corruption Eradication Commission, our distinguish speaker: Prof James Harding from National University of Singapore, Prof Zainal Amin from Universitas Utara Malaysia, Prof Adrian Bedner From Leiden University and Prof Herlambang and also all attendees in this conference.

Ladies and Gentlement, Speaker, and all participants

First of all, allow me to say my gratittude to Allah SWT giving us the health amidst of Pandemic so that we can join and participate in this conference. Then, I would like to convey my highly appreciation to the committees who have already well organized International Conference on Law, Environment, Cultural and Globalization. It is an annual international conference hosted by Graduate school of Law, Faculty of Law Universitas Bengkulu. Moreover, I also appreciate and welcome all prominent speakers who I surely believe that will enrich and feed our brain through his lecture after this opening session.

Ladies and Gentlement, and all respected participants.

I cited the quote of Eric Weiner “ *When the last tree has been cut down, the last fish caught, and the last river dried up, Then we realize why money can not be eaten* ”. Based on his saying, we realize how pivotal environment in humankind life. Based on the Indonesia Corruption Perception Index (Well Known as CPI) released by Transparency International, Indonesia’s CPI is slightly well improved from year to year. But, Unfortunetly, The issue of Corruption in the enviromental issue is still happened, as known, the damage of environment takes many time to be reparation.

Today’s forum will talk regarding to the Corruption and Environment. Both of them are the crusial issue faced by Indonesia government. Because, Corruption in the environmental field treats the sustainable development, right to live and health, ecosystem so on and so forth. Of course, It is not only the issue faced by Indonesia but also in other countries all over the world. So We need to discuss and debate about how to prevent the environment from corruption.

Today’s forum attended by many stakehoders, policy makers, government officicals, professores, schollars, student, and also representative of NGO’s. I hope this conference will contribute many ideas, solution, and also recommendation. Then last not least, I welcome and pleased you all in this conference. Happy Conference, and enjoy the event. Wassalam

Dean,

Dr. Amancik., S.H.,M.Hum

INTRODUCTION

This book contains the proceedings of the 2nd International Conference on Law, Environment, Culture, and Globalization which was Held by Graduate School of Law, Faculty of Law Universitas Bengkulu Virtually, 2nd November 2020.

The main objective of this conference is to bring together academics, researchers, practitioners, students, and other group whose interests are in the issues of Environment, Culture and Globalization within the framework of law to share their work and experiences in relation to the topics. In addition to circulate thinking and study findings, this conference is also intended to strengthen networking and collaboration among participants.

The conference had 4 invited speakers coming from Singapore (Prof. Andrew James Harding., Ph.D.,M.A.,LL.M from Faculty of Law National University of Singapore); Malaysia (Associate Professor Dr. Zainal A. Ayub from Faculty of Law Universiti Utara Malaysia) , Netherlands (Prof. Adrian Bedner from Faculty of Law Leiden University) and Indonesia (Prof. Herlambang.,S.H.,M.Hum from Faculty of Law Universitas Bengkulu).

There were totally 22 papers selected for oral presentation. On the conference day, the committee categorized the presenters into 3 chambers based on topics of the papers. After the conference, the committee still give chances to the authors to revise their papers based on views or ideas they recorded during discussion before the papers finally published in this book. As the organizer, we would like to thank all parties involved in ICLECG for every contributions and willingness to make this conference run well and well organized.

Head of Committee

Prof. Dr. Herlambang, S.H.,M.H

Table of Contents

Cover	ii
Opening Speech of the Dean Faculty of Law, Universitas Bengkulu	iii
Introduction	iv
Table of Contents	v
Implementation Of Benefit Owner Recognition Principles As A Prevention Efforts Corporate Corruption In Taxation Anita Kamilah, Trini Handayani	1
 Strengthening The Cross Cooperation Of Anticorruption And Environmental Ngos In Dealing With Environmental Corruption Cases Clara Ignatia Tobing, Jantarda Mauli Hutagalung, Erika Samantha Verryndia, Dheanda Delviera Aryadikawa	13
 Corporate Responsibility as an Instrument for Environmental Protection and Sustainable Development Moch Andry Wikara Wardhana Mamonto, Rizki Ramadani	21
 Government Policy In Addressing Natural Resource Losses As A Result From Corruption In The Environment Field Jantarda Mauli Hutagalung, Clara Ignatia Tobing, Maria Abigail S., Alif Ramadhan	38
 Implementation of Area Development Policies in Accordance with the Regional Spatial Planning and Environmental Laws Nur Aida	47
 The Role Of Financial Institutions Of Shari'ah Insurance In Development Of Islamic Economic Law In Indonesia Sirman Dahwal	58
 Optimization Of Legal Protection Of Children Victims Of Sexual Crimes Through Integrated Juvenile Justice System Subaidah Ratna Juita, Deni Setya Bagus Yuherawan	76
 The Application Of Precautionary Principles by The Judges as a Progressive Efforts For Environmental Protection Ubaidillah Kamal	97

Legal Disintegration Of Conflict Of Interest In Politics Which Results In Weak Institutions To Combat Corruption Yapiter Marpi	110
Illegal Unregulated Unreported Fishing Under Indonesia Laws and International Law Ari Wirya Dinata	118
The Precautionary and Justice Principle in Protecting and Managing the Enivrionment in Bengkulu City Nurhani Fithriah, Arini Azka, Dimas Dwi Arso	131
The Principle Role of Green Banking Concept in Banking Activities for Environmental Protection Siti Hatikasari	138

IMPLEMENTATION OF BENEFIT OWNER RECOGNITION PRINCIPLES AS A PREVENTION EFFORTS CORPORATE CORRUPTION IN TAXATION

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Page | 1

ABSTRACT

Corporations are one of the actors in Indonesian economy which has a major contribution in supporting national economic progress, through state revenue from the tax sector. However, taxes for corporations are a burden that will reduce net income so that many corporations take various ways to avoid paying taxes, which have a detrimental impact on state finances. This study has the following objectives: first to determine the tax avoidance mode by corporations, and second, to apply the principle of knowing the beneficial owner as an effort to prevent corruption by corporations. The research method used is normative juridical, descriptive analysis research specification, type and source of data derived from secondary data which is supported by three legal materials, namely primary legal materials, secondary legal materials, and tertiary legal materials. The results of the study: (1) The mode carried out by corporations is through tax evasion (Tax Evasion) by violating tax provisions to reduce the amount of tax owed; and (2) Every corporation is obliged to determine the beneficial owner to the Minister of Law and Human Rights, which can be submitted by a notary, founder or manager of the corporation; or other parties authorized by the founder or management of the corporation, so as to facilitate the imposition of sanctions against corporations that commit corruption in the taxation sector.

Keywords: Corporation; Ccorruption; Taxes; Beneficial owner.

INTRODUCTION

The Indonesian nation is carrying out national development continuously and sustainably in an effort to realize people's welfare as mandated in the 4th paragraph of the Preamble to the 1945 Constitution. BUMN, cooperatives, and corporations with a business focus on making profits are one of the economic actors that have an important role in supporting national economic development.¹ With the number of corporations of approximately 1,461,223, it has played a major role in the life of the nation, starting from the availability of jobs, delivery of goods and services for the benefit of the community, as well as state revenue from the individual or corporate tax sector which annually becomes the largest contributor to the State Budget.²

From the government's point of view, taxes are a very important and strategic "instrument" in financing and implementing development, driving the wheels of government, and regulating the economy of the community or state. In relation to development and welfare, the government optimizes the tax function, both the function *budgetary* (budget) to provide as much money as possible to the state treasury, as well as the function *regularend* tax, where taxes are a tool to regulate the welfare of the people both in the economic and political fields.³ Therefore, the government in an effort to increase or optimize tax revenue takes intensive and extensive measures of tax revenue.⁴ Intensive steps with the improvement of tax administration, improving the quality of employees or tax collectors (*fiscus*), and improving tax regulations, while Extensively carried out by further expanding the scope of taxpayers and improving tax rates.

However, from the point of view of the company's interests, tax is a burden that affects profit including affecting the distribution of profit to shareholders and will affect the *rate of return on investment*, because through taxes there is a transfer of some of the assets to the state treasury whose fulfillment is enforced through statutory provisions, and without there is a counter-achievement that can be directly appointed and accepted by the company.⁵ Therefore, not a few taxpayers, especially business entities, do tax avoidance, both legally (*tax avoidance*) and even

¹ Tawalujan, Jimmy. (2012). Pertanggungjawaban korporasi terhadap korban kejahatan, *Lex Crimen*, 1(3), 5.

² Moeljono. (2020). Analisis aspek perpajakan atas usaha jasa konstruksi dalam pemenuhan kewajiban perpajakan, *Jurnal Penelitian Ekonomi dan Bisnis (JPEB)*, 5(1), 104.

³ Suandy, Erly. (2002). *Hukum Pajak*. Jakarta: PT Salemba Empat, p.13.

⁴ Rachmawati, Aisyah, Nurul, dan Ramayanti, Rizka. (2016). Manfaat pemberian insentif pajak penghasilan dalam kepatuhan wajib pajak umkm, *Jurnal Akuntansi, Ekonomi dan Manajemen Bisnis*, 4(2), 177 dan Bram, AI, Djafar, H. (2013). Fasilitas perpajakan (tax holiday) pembebasan atau pengurangan pajak penghasilan badan bagi perusahaan industri (kalangan dunia usaha) yang melakukan penanaman modal di Indonesia, *Jurnal Hukum dan Pembangunan*, 43(1), 140.

⁵ Sarjono, Bayu. (2017). Aspek perpajakan atas usaha jasa konstruksi dalam pemenuhan kewajiban perpajakan, *Jurnal Bisnis Terapan*, 1(2), 57, Amri, Faisal. (2019). Analisis perhitungan dan penetapan pajak penghasilan atas wajib pajak yang memiliki peredaran bruto tertentu serta pelaporannya pada pt. artamas prima nusantara, *Tirtayasa EKONOMIKA*, 14(1), 130.

illegally or tax evasion (*tax evasion*), all of which aim to minimize the tax burden, including through exemptions, reduction deductions, tax incentives, non-taxable income, deferred tax imposition, state-borne taxes to cooperation with tax officials, bribery and counterfeiting, so that the Singapore newspaper, *The Straits Times*, once dubbed Indonesia "*The Envelope Country*".⁶

Based on the results of a 2016 survey by IMF investigator Ernesto Crivelly, and re-analyzed using the *database of the International Center for Policy and Research (ICTD)*, and the *International Center for Taxation and Development (ICTD)* on business entities in 30 countries, ranking 11 out of 30 countries is occupied by Indonesia which resulted in reduced state income of \pm U \$ 6.48 billion due to tax avoidance practices.⁷

The impact of tax avoidance by these business entities has reduced state revenues and revenues from the tax sector as well as hampered economic growth and the country's economic wheels. Legal action against corporate entities that commit illegal acts (corruption in the field of taxation) is not easy to prove, in connection with this, on March 5 2018 the government enacted Presidential Decree No. 13 of 2018 concerning the application of the principle of recognizing the beneficial owner of a corporation as an effort to prevent and facilitate the accountability of corruption by corporations in the tax sector. Against this background, this study aims to examine: (1) Tax avoidance modes carried out by corporations; and (2) application of the principle of knowing the beneficial owner as an effort to prevent corruption by corporations.

The assessment of these two problems has an important role in preventing *Corporate Corruption* in the form of *corporate* crimes to accommodate the results of corruption or *corruption for corporations* by someone or some people who have an important position in a company but are illegally seeking profit for the company.

METHOD

The approach used is normative juridical, namely studying and studying legal principles, especially positive legal principles derived from existing literature from statutory regulations, as well as provisions especially relating to the application of principles. recognize the beneficial owner as an effort to prevent *corporate corruption* in the tax sector. Analytical descriptive research specification, which provides a comprehensive and systematic overview of the above research

⁶ Khasan, Moh. (2011). *Reformulasi Teori Hukuman Tindak Pidana Korupsi*, Semarang: Laporan Penelitian Individual, p. 2.

⁷ Moeljono, (2020). Faktor-faktor yang mempengaruhi penghindaran pajak, *Jurnal Penelitian Ekonomi dan Bisnis*, 5 (1), 105.

objects, with the support of secondary data which is divided into three legal materials, namely primary legal materials, secondary legal materials, and tertiary legal materials.⁸ Primary legal materials, especially the 1945 Constitution of the Republic of Indonesia, Law of the Republic of Indonesia Number 16 of 2009 concerning General Provisions and Tax Procedures, KUHP, Law No. Page | 4 31 of 1999 *juncto* Law No. 20 of 2001 concerning the Eradication of Corruption Crime, as well as Presidential Regulation No. 13 of 2018 concerning the Application of the Principles of Recognizing Beneficial Owners of Corporations in the Context of Prevention and Eradication of Money Laundering and Terrorism Funding Crimes. Then it is supported by the opinions or thoughts of experts or experts as secondary legal material, among others, from books and literatures,⁹ and finally it is supported by the processing of tertiary legal materials as legal materials that support both primary and secondary legal materials.¹⁰ Lastly, data analysis done qualitatively, namely a procedure for research conducted without using the figures and formulas.

RESULT AND DISCUSSION

1. Tax Avoidance Mode by Corporations

Corporations in Dutch: *corporatie*, English: *corporation*, Germany: *corporation*, all of them come from the word "*corporation*" in Latin, the substance (substantivum) comes from the word "*corporare*" used by people in the middle ages or after that. *Corporate* itself comes from the word "*corpus*" in Indonesian means body or to give body or to make a body, means *corporation as a result of the work of making a body*.¹¹

The term corporation cannot be separated from the field of civil law, because it is closely related to legal entities (*rechtsperson*).¹² This is as conveyed by several scholars such as according to Subekti and Tjitrosudibio that *corporate* or corporation is a company that is a legal entity, while Yan Pramadya Puspa stated that what is meant by a corporation or company here is an association or organization that is treated by law like a human (persona), namely as the bearer or owner of rights and obligations and has the right to sue or be sued in court.¹³

The notion of a corporation as a legal entity is also found in the *black's law dictionary*, which states that:

⁸ Hartono, Sunaryati, C.F.G. (1994). *Penelitian Hukum di Indonesia Pada Akhir Abad ke-2*, Bandung : Alumni, p. 134.

⁹ Marzuki, Mahmud, Peter. (2009). *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group, p. 93.

¹⁰ Marzuki, Mahmud, Peter. (2009). *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group, p 93- 94.

¹¹ Krismen, Yudi. Pertanggungjawaban pidana korporasi dalam kejahatan ekonomi, *Jurnal Ilmu Hukum*, 4(1), 140.

¹² Tawaluja, Jimmy. (2012). Pertanggungjawaban korporasi terhadap korban kejahatan, *Lex Crimen*, I(3), 5.

¹³ Muladi dan Priyatno, Dwidja. *Pertanggungjawaban Pidana Korporasi*, Jakarta: Prenada Media Group (Kencana), p. 25.

*"An entity (usually a business) having authority under law to act as a single person distinct from the shareholders who own it and having rights to issue stock and exist indefinitely. , a group or succession of persons established in accordance with legal rules into a legal or juristic person that has legal personality distinct from the natural persons who make it up, exist indefinitely apart from them, and has the legal powers that constitution gives it."*¹⁴

Page | 5

The corporation as a business entity, regardless of its form, either Firm Company (Fa), Limited Liability Company (CV) has rights and obligations, one of the obligations is to pay taxes ranging from income tax, value added tax (VAT), and PPnBM.

According to Soeparman Soemahamidjaja, taxes are mandatory contributions in the form of money or goods collected by the authorities based on legal norms, in order to cover the costs of producing collective goods and services in achieving general welfare.¹⁵ Then, according to Rochmat Soemitro, tax is the people's contribution to the state treasury based on law (which can be enforced) without getting lead services (counter-achievement) which can be shown directly and used to pay for general expenses.¹⁶ Another definition of tax is the transfer of wealth from the people to the state treasury to finance routine expenditures and the surplus is used for *public saving* which is the main source of financing *public investment*. Furthermore, according to SI Djajadiningrat, tax as an obligation to hand over part of wealth to the state treasury due to circumstances, events and actions that give a certain position, but not as a punishment, according to regulations established by the government and can be enforced, but there is no reciprocal service from the state directly, to maintain general welfare.¹⁷

The magnitude of the role of taxes as a source of state revenue supports the running of government and development, encouraging government made several changes, including the application of the tax collection system starting from the *official assessment system*, the *withholding system* and the system *self-assessment*. *Official Assessment System*, which is a tax collection system where the amount is tax is determined by the tax authorities by issuing a tax assessment (SKP). Here the taxpayer is passive, because of the authority to collect fees taxes, and determine the amount of tax owed to the government. *Withholding Tax System*, which is a tax collection system that provides authority to third parties to withhold or collect the amount of tax payable by the taxpayer. The last system is *Self Assessment System* enacted on January 1, 1984, is a tax collection system give authority and trust to tax payers to register, calculate,

¹⁴ Garner, Bryan A (editor in chief), (1999). Black's law dictionary, seventh edition, paul, minim, west publishing Co, p. 341.

¹⁵ Waluyo. (2012). *Akuntansi Pajak*. Yogyakarta: Salemba Empat.

¹⁶ Mardiasmo. (2011). *Perpajakan Edisi Revisi 2011*. Yogyakarta: Andi Offset.

¹⁷ Resmi, S. (2011). *Perpajakan Teori dan Kasus*. Yogyakarta: Salemba Empat.

deposit, and report tax obligations at the place of the Mandatory Registered tax.¹⁸

Implementing a *self-assessment system* as a form of government appreciation in giving full confidence to taxpayers to carry out its tax obligations. However, considering that taxes are still considered as a burden to the company, and awareness and compliance are still lowPage | 6 taxpayers, including the low level of public trust as mandatory taxes to the government are one of the reasons for avoidance tax both in the form of *tax avoidance* and *tax evasion* which have an impact reduced deposits of tax funds into the state treasury, or even no tax funds which goes to the state treasury.

Tax evasion(*tax avoidance*) is a way to minimize or savings taxes that arise by making use of the taxation provisions that are carried out regularly legal without violating the law, while tax evasion (*tax evasion*) is a way of minimizing / evading taxes by taxpayers in fulfilling actual tax obligations by doing violation of laws.¹⁹ *Tax evasion* is illegal, therefore it can subject to administrative or criminal sanctions.²⁰

However, in its development, *tax avoidance* itself has branches, namely *tax avoidance acceptable* and *tax avoidance* that is *unacceptable*. the difference between the two seen from the first factors the existence of good / not good business objectives, second, solely to avoid taxes / not, third, in accordance / not with the spirit and *the intention of the parliament*, and the fourth is to do / not make a transaction engineered.

The modes of tax evasion (*tax evasion*) carried out by corporations include (1) Report sales are smaller than they should be, (2) inflating company fees by charging fictitious or intangible fees, (3) transactions fictitious exports, (4) falsification of corporate financial documents, (5) not reporting part of sales, (6) increase costs in a fictitious way, (7) collect taxes but not deposit.²¹ tax evasion(*tax evasion*)including an act criminal because of the engineering subject (perpetrator) and object (transaction) tax for obtaining tax savings(*unlawfully unlawfully*). Besides committed by corporations, crimes in the field of taxation can also be

¹⁸ Zaimah, Toyyibatuz. (2016). Efektivitas sistem self assessment dalam pajak penghasilan di kantor pelayanan pajak pratama batu (perspektif hukum positif dan hukum islam), *Jurisdictie: Jurnal Hukum dan Syariah*, 7(1) 45, dan Supriyati. (2017). Tantangan demokratisasi dalam upaya meningkatkan kepatuhan wajib pajak, *Jurnal Aset (Akuntansi Riset)*, 9(2), 64.

¹⁹ Averti, Regina, Ancilla. dan Suryaputri, Vitarimetawatty, Rossje. (2018). Pengaruh keadilan perpajakan, sistem perpajakan, diskriminasi perpajakan, kepatuhan wajib pajak terhadap penggelapan pajak, *Jurnal Akuntansi Trisakti*, 5(1), 110.

²⁰ Astuti dan Aryani, (2016). Tren pengindaran pajak perusahaan manufaktur di indonesia yang terdaftar di bei tahun 2001-2004, *Jurnal Akuntansi*, XX(3), 379-380.

²¹ Averti, Regina, Ancilla. dan Suryaputri, Vitarimetawatty, Rossje. (2018). Pengaruh keadilan perpajakan, sistem perpajakan, diskriminasi perpajakan, kepatuhan wajib pajak terhadap penggelapan pajak, *Jurnal Akuntansi Trisakti*, 5(1), 116.

committed through conspiracy to pay bribes to the "tax authorities / state managers", as a structural crime to manipulate payment of taxes, as in the case of fictitious tax refunds use of a fictitious Value Added Tax (VAT) invoice that causes the state suffered a loss of Rp. 607 billion. Economic motive tax crimes In addition to having an impact on state financial losses, Page | 7 this also has a negative influence on activities in the community economy including in the life of the nation and state. Hence, tax evasion is no longer seen as a conventional crime, but as extraordinary crime (*Extraordinary Crime*), which in terms of criminology classified into the form of *White Collar Crime* because of the characters corruption which is highly criminogenic (can be a source of other crimes) and *victimogin* (can potentially harm various dimensions of interest),²² too it is not easy to hold a reliable corporation accountable responsibility for crimes in the field of taxation.

2. Application of the Principle of Knowing the Beneficiary as an Effort to Prevent Corruption What the Corporation does

Apart from having a positive effect, the development of economic globalization, on the other hand, has the potential for crimes / crimes in the economic sector that are committed by business actors in the form of corporations to commit tax evasion which can cause losses to state finances. Corporations as subjects of criminal law, their actions can be criminally accounted for, the regulations of which are either contained in the taxation provisions, the Criminal Code, as well as the liability stipulated outside the Criminal Code, among others as regulated in Law No. 31 of 1999 *juncto* Law No. 20 of 2001 concerning the Eradication of Corruption Crime.

Corruption comes from the Latin "*corruptio*" or "*corruptus*", which in English, French is "*corruption*", Dutch is "*corruptie*", and in Indonesian is known as "*corruption*", which means rotten, bad, lecherous, bribable, like bribed.²³

According to Law No. 20 of 2001, Corruption is an act against the law with the intention of enriching oneself, other people, or corporations which results in detrimental to state finances or the country's economy. Likewise, Subekti defined corruption as a criminal act that enriches itself which directly harms the country's finances or economy.²⁴ Furthermore, the *Asian Development Bank (ADB)* states that corruption is an act that involves the behavior of some

²² Averti, Regina, Ancilla. dan Suryaputri, Vitarimetawatty, Rossje. (2018). Pengaruh keadilan perpajakan, sistem perpajakan, diskriminasi perpajakan, kepatuhan wajib pajak terhadap penggelapan pajak, *Jurnal Akuntansi Trisakti*, 5(1), 50.

²³ Sina, La. (2008). Dampak dan upaya pemberantasan serta pengawasan korupsi di indonesia, *Jurnal Hukum Pro Justitia*, 26(1), 40.

²⁴ Kasiyanto, Agus. (2018). *Teori dan Praktik sistem Peradilan Tipikor Terpadu di Indonesia*, Jakarta: Kencana, p.32.

public and private sector employees, who inappropriately and illegally enrich themselves and or those close to these parties, or persuade others. to do these things, by abusing the position in which the parties are placed.

This definition of corruption, according to Jeremy Pope, has not accommodated all public Page |
8 views on what is considered corruption, because the views about the meaning of "corrupt" are very different from one another.²⁵ In connection with this matter, the Indonesian Transparency Society provides clarity on activities that can be categorized as acts of corruption, namely: (1) Involving more than one person; (2) Does not only apply to civil servants or members of the state bureaucracy, but also occurs in private business organizations; (3) May take the form of receiving bribes, coffee money, post-it notes, polish, smoothing money, either in the form of cash or in kind or women; (4) Generally completely secretive unless it is cultured; (5) Involves elements of obligation and mutual benefit which is not always in the form of money; (6) Every act of corruption contains fraud, usually in public bodies or the general public; (7) Every act of corruption violates the norms of duties and accountability in the public order; and (8) In the private sector, corruption can take the form of accepting payment of money, etc. to reveal the secrets of the company where people work, taking commissions which should be the right of the company.²⁶

Referring to the definition and category of corruption as described above, *tax evasion* by corporations is a criminal act of corruption. However, prosecution of criminal acts or crimes committed by corporate entities is not easy to prove because they face obstacles / difficulties, especially in determining who is the perpetrator of a corporate crime in the application of punishment. Responding to this problem, the Government enacted Presidential Regulation No. 13 of 2018 concerning the Application of the Principles of Recognizing Beneficial Owners of Corporations in the Context of Prevention and Eradication of Money Laundering and Terrorism Financing Crimes, where according to Article 1 point 2 it is stated that the Beneficiary is an individual who can appoint or dismiss directors, boards of commissioners, management , the supervisor, or supervisor of the corporation, has the ability to control the corporation, is entitled to and / or receives benefits from the corporation, either directly or indirectly, is the real owner of the corporation's funds or shares and / or meets the criteria as referred to in this Presidential Regulation.

²⁵ Pope, Jeremy. (2003), *Strategi Memberantas Korupsi*, Elemen Sistem Integrasi Nasional, p. 31.

²⁶ Suwitri, Sri. (2007). Pemberantasan korupsi di indonesia: sebuah upaya reformasi birokrasi, *Jurnal Ilmu Administrasi dan Kebijakan Publik*, 4(1), 24.

According to the *Black's Law Dictionary*, states that "A corporate shareholder's power to buy or sell the shares, although the shareholder is not registered on the corporation's books as the owner". (The power of corporate shareholders to buy or sell shares, even though the

shareholders are not registered in the corporate books as owners).²⁷ Page | 9 In accordance with Article 4 paragraph

(1) Presidential Regulation No. 13 of 2018,

identification of beneficial *owners (BO)* of a limited liability company is an individual who meets the following criteria: a. owning shares of more than 25% (twenty five percent) in the limited liability company as stated in the articles of association; b. has voting rights of more than 25% (twenty five percent) in a limited liability company as stated in the articles of association; c. receive a profit or profit of more than 25% (twenty five percent) of the profit or profit obtained by the limited liability company per year; and D. has the authority to appoint, replace, or dismiss members of the board of directors and members of the board of commissioners.

The concept of the Beneficiary is regulated in Presidential Decree No. 13/2018 has similarities with the concept of a *Beneficial Owner (BO)* as stipulated in the *Financial Action Task Force (FATF) Recommendations*. First, according to the *FATF Recommendation*, *BO* refers to an individual who *ultimately owns or controls* another party (*ultimately owns or controls*), and / or an individual whose interests are controlled by another person. In addition, *BO* also refers to an individual who exercises the *ultimate effective control* over other parties or over legal arrangements.²⁸³⁰ Second, the terms *ultimate owns or controls* and *ultimate effective control* define a situation where the exercise of ownership or control is exercised either through direct or indirect control.²⁹ The two provisions regarding transparency *beneficial owner* can guarantee the responsibility of corporate controllers, so that law enforcers can track and supervise allegations of tax evasion related to corporations.³⁰

²⁷ Priyatno, Dwidja. (2020). *Keterbukaan Beneficial Ownership dan Penegakan Hukum Terhadap Kejahatan Sumber Daya Alam oleh Korporasi, Tantangan dan Hambatan dalam Penerapan Prinsip Mengenali Pemilik Manfaat Korporasi Dalam Penegakan Hukum*, Jakarta: Yayasan AURIGA, p. 8.

²⁸ Donald Lbn, Henry. (2017). Pembentukan regulasi badan usaha dengan model omnibus law, *De jure* 1(1), 463.

²⁹ Priyatno, Dwidja. (2020). *Keterbukaan Beneficial Ownership dan Penegakan Hukum Terhadap Kejahatan Sumber Daya Alam oleh Korporasi, Tantangan dan Hambatan dalam Penerapan Prinsip Mengenali Pemilik Manfaat*

³⁰ Ariani, Varida, Nevey. (2020). Beneficial owner: mengenali pemilik manfaat dalam tindak pidana korporasi (beneficial owner: recognizing the owners of benefits in corporate crimes) *Jurnal Penelitian Hukum De Jure*, 20(1), 78.

CONCLUSIONS

Corporations as business entities have an obligation to pay taxes as a form of national mutual cooperation in supporting national development goals. However, the absence of contradictions that Page | 10 can be directly accepted by the corporation, and the perception that taxes are considered a burden on the company, is one of the causes of tax evasion in the form of *tax evasion* through falsifying data in the company's financial statement of income, which has a financial adverse impact. country and hinder the national economy. In connection with the many modes of tax evasion carried out by corporations, it is necessary to improve the quality of good tax services, wise management of tax money, competent tax officials and not corruption, and procedures for paying taxes that are not complicated. If the services provided by the tax authorities are good and can meet the expectations of the taxpayer, the corporation as a taxpayer is expected to have tax compliance.

Tax evasion is Corporate criminal act of corruption as an illegal act involving public and private sector / corporate employees with the intention of enriching themselves or others with adverse effects on state finances and the national economy. The difficulty in determining the perpetrator of a corporate crime is facilitated by the obligation of the corporation to report on the *beneficial owner (BO)* in accordance with Presidential Regulation (Perpres) No. 13 of 2018 concerning the Application of the Principles of Recognizing Beneficial Owners of Corporations in the Context of Prevention and Eradication of Money Laundering and Terrorism Funding Crimes. Transparency as regulated in Presidential Decree Number 13 of 2018 can provide a *multiplier effect* for tax authorities to obtain information *beneficial to the owner* to track taxpayer compliance, as well as track parties committing tax evasion.

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