THE ANALYSIS OF *MASLAHAH* CONCEPT TOWARDS TAX AMNESTY POLICY IN THE ACT OF TAX AMNESTY NUMBER 11, 2016

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A THESIS

In Partial Fulfilment of Requirements
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ABSTRAK

ANALISIS KONSEP MASLAHAH TERHADAP KEBIJAKAN PENGAMPUNAN PAJAK DALAM UNDANG-UNDANG PENGAMPUNAN PAJAK NOMOR 11, 2016

Ade Tachrizatu Wirda
Reg. No: 35.2014.3.2.0591

Indonesia dihadapkan pada potensi risiko global. Dimana akan berpengaruh cukup signifikan terhadap Perekonomian Indonesia kedepannya. Di sisi lain Anggaran Pendapatan Belanja Negara kian meningkat pertahunya. Permasalahan lain yang juga cukup kompleks, adanya kesenjangan antara tingkat kepatuhan pajak dan potensi pajak yang ada di Indonesia. Hal ini kemudian menjadi tugas besar bagi pemerintah Indonesia untuk dapat mempercepat pertumbuhan stabilitas ekonomi, melalui penetapan kebijakan fiskal yang kredibel. Dalam kebijakan fiskal ini, pemerintah berupaya meningkatkan pendapatan pajak melalui kebijakan 'Pengampunan Pajak'. Diharapkan dari hasil amnesti pajak dapat meningkatkan kepatuhan pajak dan pajak pendapatan di masa yang akan datang. Namun, pada dasarnya kebijakan pengampunan pajak di Indonesia menuai kontroversional. Penelitian ini mencoba untuk menganalisa lebih dalam mengenai konsep *Maslahah* terhadap kebijakan amnesti pajak. Metodologi yang digunakan dalam pembahasan kali ini adalah kualitatif dengan pendekatan diskriptif. Dengan pendekatan ini, peneliti mengamati arti harfiah secara mendalam dari *Maslahah* dan mencoba untuk menjelaskan manfaat pajak amnesti dalam jangka pendek maupun panjang. Dimana dari manfaat ini akan lebih mengarah kepada kesejahteraan bangsa. Dari hasil yang peneliti temukan terdapat beberapa titik kelemahan dalam kebijakan pengampunan pajak diihat dari bentuk keringanan pengampunan pajak. Tidak adanya pengusutan fiskal menyebabkan kebijakan ini bertentangan dengan konsep kepemilikan harta yang ada dalam Al-Qur'an. Sehingga, menyebabkan kedudukan Maslahah yang terdapat dalam kebijakan ini tergeserkan dengan adanya pertentangan ini. Dimana sebaiknya *Maslahah* atau kebaikan ini lebih baik ditinggalkan untuk mencegah keburukan yang ada di dalamya. Sehingga, akan lebih baik apabila pemilihan bentuk keringanan pajak ini dapat dipertimbangkan kembali, mengingat pengampunan pajak sendiri sudah memiliki resiko yang cukup besar bagi perekonomian bangsa.

Key Words: ***Maslahah, Maqasid Shariah, Kesejahteraan Umum, Pengampunan Pajak dan Kebijakan Fiskal***

ABSTRACT

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Indonesia is projected to meet the potential global risk. Where actually it has a significant implication on Indonesian's economic rate in the future. In the other hand, the expenditure of nation is increasing year by year. But, there is a gap between the tax compliance and the the tax potential. So, the Indonesian government has a tremendous errand to provide the economic stability nowadays, where its program is establishing a credible fiscal policy. Towards its fiscal policy, the government tries to increase the nation revenue trough Tax Amnessty policy. However, the tax amnesty conducted the result of increasing of tax compliance and tax revenue in the future. Hence, this policy has a controversial issue. The paper is a qualitative research which tries to describe deeper on the meaning of Maslahah. This paper tries to analyse more the *Maslahah* concept towards Tax Amnesty policy in the term of Law of Islamic Economic. In this paper, the researcher observes the literal meaning of *Maslahah* and tries to describe the interest and benefits of Tax Amnesty in its sort and long term. Therefore, the benefits may lead to the public welfare. But, the result of the research found that there are some lack of Indonesia Tax Amnesty policy in its absence of tracking source, as its one of incentives. So, it causes to opposite of the Islamic Law to Al-Qur'an, which should keep the own of wealth well. Furthermore, the existence of tax amnesty policy should be more considered due to this issue, affecting in its level of importance towards *Maslahah* and Shari'ah compliance is one step down. Overall, the incentives of tax amnesty should be discussed carefully on its further implication –where the tax amnesty presents a high risk issue for the nation development.

Key Words: ***Maslahah, Maqasid Shari'ah Public Welfare, Tax Amnesty and Fiscal Policy***

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كلية الشريعة

CERTIFICATION

Dear,
Dean of Faculty of Sharia
Darussalam University Gontor
Darussalam Modern Islamic Boarding School Gontor

Bismillahirrahmanirrahim
Assalamu'alaikum Wr. Wb.

I present this thesis written by:

Name	: **Ade Tachrizatu Wirda**
Reg. Number	: **35.2014.32.01591**
The Title	: **The Analysis of Maslahah Concept towards Tax Amnesty Policy in The Act of Tax Amnesty Number 11, 2016**

It has been processed and corrected to meet the partial of requirement to attain the degree of Licentiate (S1) in Departement of Law of Islamic Economics. Therefore, we expect that the thesis could be examined.

Hopefully, this thesis would be useful for religion, nation, and development of educational institution.

Wassalamu'alaikum Wr. Wb.

Siman, 11 Sya'ban 1439
April 27, 2018

Supervisor

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Bismillahirrahmanirrahim
Assalamu'alaikum Wr. Wb.

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To fulfill the partial requirement for the degree of Licentiate (S1) in Departement of Law of Islamic Economics on academic year: 1438-1439/ 2017-2018.

Wassalamu'alaikum Wr. Wb.

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May 13, 2018

Dean of Sharia Faculty

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DECISION OF THE TEAM

The team of Thesis Examination in partial fulfillment for the degree of Licentiate (S1) Departement of Law of Islamic Economics had held the thesis examination on:

Day and Date : Sunday, 20th Sya'ban 1439/ 6th of May, 2018

Place : The office of Law of Islamic Economics Departement

And stated that student bellow:

Name : **Ade Tachrizatu Wirda**
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The Title : **The Analysis of Maslahah Concept towards Tax Amnesty Policy in The Act of Tax Amnesty Number 11, 2016**

Has passed in the Thesis Examination and is eligible for the degree of Licentiate (S1) Departement of Law of Islamic Economics.

Siman, 20 Sya'ban 1439
6 May, 2018

Chairman,

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v

DECLARATION

I hereby,

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Declare that this thesis is the result of my own research, expext where otherwise stated. I also ddeclare thet this has not been previously or concurrently submitted as a whole for any other degrees at Darussalam University or other universities. When, otherwise found that this thesis is a plagiarism, i am ready to accept any punishment according to academic regulation of university.

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April 27, 2018

The Researcher,

Ade Tachrizatu Wirda

MOTTOES

ءَامِنُواْ بِٱللَّهِ وَرَسُولِهِۦ وَأَنفِقُواْ مِمَّا جَعَلَكُم مُّسۡتَخۡلَفِينَ فِيهِۖ فَٱلَّذِينَ ءَامَنُواْ مِنكُمۡ وَأَنفَقُواْ لَهُمۡ أَجۡرٞ كَبِيرٞ ٧

Believe in Allah and His Messenger, and spend out of what He has made you to be successors of; for those of you who believe and spend shall have a great reward (Al-Hadid (57): 7)

DEDICATION

I dedicate this thesis to:

Allah SWT, who has been always giving me His mercy and blessing for the strength of my entire life

Prophet Muhammad SAW, for his guide in the conqueror of Islam

My most beloved parents, my Dad, Adies Prsetya, and my Mom, Titik Suryati Masruroh, with their love and support, I could survive in every single time of my life

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All praises to be upon to Allah SWT, the most Merciful and Beneficence, which has given us countless life, enjoyment, opportunity, experience and happiness. Do not forget also to Prophet Muhammad Salallahu'Alaihi wa Sallam, as leader of the Faithful, an exemplary example motivates us to always strive hard in God's way and provide aid day Apocalypse. The researcher is fully aware that this arrangement will not be successful without the contribution, motivation, helping aid, encouragement, direction, and guidance from the various parties. Therefore, with all modesty, researcher have expressed thanks and high appreciation to:

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May Allah reciprocate a proportionate reward for them and bless them, and may this humble thesis be valuable and useful for readers especially for the author.

Siman, 11 Sya'ban 1439
April 27, 2018

Sincerely yours,

Ade Tachrizatu Wirda
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CHAPTER 1

INTRODUCTION

A. Background

Despite once being the major natural resource producer in ASEAN, Indonesia is projected to meet the potential global risk. Especially when the world is facing a lot of 'Black Swan' events, when unexpected events suddenly happen such as Brexit, Donald Trump's Policy, and others recent conflict in the Middle East. They actually have a significant implication on Indonesians economic rate furthermore. Thus, the Indonesian government has a tremendous errand to provide the economic stability in which its program is establishing a credible fiscal policy. The fiscal policy consist the income revenue, credit and debt of one's nation. One of those sources was setting up 2017 state budget. By pushing significant economic growth in the final full year of the current administration, the government is proposing an optimization potential percentage of tax income.

Nowadays, considering the fact that tax revenue constitutes an important part of public revenue, collection of tax revenues becomes such an important issue. The purpose of total number of its income is around Rp 1.489,9 trillion, whereas non-tax revenues around Rp 250 trillion, and funds revenues is about Rp 1,4 trillion.[1] So it has 78% from overall state budget.[2] Indeed tax collecting as the main incoming resource cannot be denied anymore. According to this case, the taxation aims at meeting the state expenses and social welfare. It has been written in the 1945 Constitution of The Republic of Indonesia, on the act of 23rdA, said, "Tax *and other charges which are forced, aimed for state need will be set up in the legislation* ".

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[1] Refer to state budget of the year 2017, which has been approved by House of People's Representative (DPR), on the website of Economic Minister, http://www.kemenkeu.go.id/apbn2017, (Saturday, September 21st, 2017 on 10.55 PM)

[2] Gusfahmi, S.E., M.A., 2001, *Pajak Menurut Syariah*, (Jakarta: PT. Raja Grafindo Persada), p. 1.

BPS or Badan Pusat Statistik had reported around 2015, Indonesian has only 29, 4% from the overall number of Indonesian Worker and enrolled as the tax payers. The data also said that those tax payers have Tax Return on Income Tax only 60.27% of the total. As the majority of population, Indonesian level of tax payer submission is in the lower flat figure nearby 60%-70%. A fantastic number, despite Indonesia has an extensive capability to have such a great income from every side of the nation wealth[3]. Based on the latest data, if it's being a long-last doings should affect the decreasing of Indonesian's economic growth. In today's modern state understanding, creating a sustainable and voluntary tax paying culture is becoming the first priority[4]. Thus, the government has a duty to set a strategy to maintain the economic growth, especially in the taxation. To achieve such an optimist target, Government is purposing the implementation of tax amnesty policy.

This program has been represented through an Act of Tax Amnesty, Number 11, 2016, which was issued on 1st of July, 2016[5]. One step bigger makes a great change for a better Indonesian economic growth. The aim of this program is to push significant economic growth over asset repatriation, tax reformation; tax data based expansion, and the increasing of tax income for the next years.

Tax amnesties are accepted as one of the politically popular ways used for increasing the state revenue, and their importance in tax policies rises day by day. While such regulation is creating an additional income opportunity for taxpayers, at the same time, this study analyses tax amnesties become expectation. In the other hand, tax amnesties also have costs. The major issue is the possibility of tax amnesties actually decreasing, rather than increasing the efficiency and equity of tax system. However, has

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[3] Was taken from Refleksi Tingkat Kepatuhan Pajak http://www.pajak.go.id/ (Saturday, September 21st, 2017 on 11.45 PM)

[4] Mehmet Nar, 2015, *The Effect of Behavioral Economics on Tax Amnesty*, International Journal of economics an Financial Issues, Vol. 5, Issue 2, p. 580.

[5] Suharno, *Panduan Praktis Amnesty Pajak Indonesia,* (Jakarta: Kompas Media Nusantara, 2016) p.6.

the fair-minded principal of Tax amnesty run optimally? The Directorate General of Tax, Ken Dwijugeasteddi said in his speech, that there are many entrepreneurs that have not participated in the tax amnesty program.[6] Thus, this made the recent investment status in the lower rate. They who have many assets in the foreign country don't have any courage to put their asset in the risk of Indonesian's fiscal position. In fact, this condition gets worse for honest taxpayers that can have unfairness feeling. They have spent their money for being a good citizen as a tax payer, but on the other hand, many entrepreneurs hid their asset in other countries . Amid a weak condition of the economic growth, only 550 enterprises from the total amount of 5 million of them which regularly pay their tax.

At this problem, as the Moslem we have to realize, the needs of ummah have its correlation of Maslahah in Islam. At this point, a *Maslahah* could bring more advantages for preventing *mudarat.* So there are questions towards this problem, is this policy of the government meets many *Maslahah* for the nation citizen? In the view of Islam, this regulation could not be traced back hundred years yet, where Islam as the religion of conqueror . As the historical story, fiscal policy in the year of Rasulullah SAW focused not only on zakat but also such as *ghanimah, khumus, fay, and also jizyah*. Nothing *the dalil muttafaq alaihi* is looked forward to the relation of tax amnesty as the fiscal policy.

From this point of issue, this research studied deeper about the *Maslahah* in the Tax Amnesty policy derived from the Tax Amnesty tax number 11, 2016. This paper will explain more the concept of Maslahah and the opinion of scholars of Maslahah as one of Islamic sources and their evidence. This paper also mentions how the concept of Maslahah could analyze the concept of Tax Amnesty – where they have been explained above – in the Act of its self-Number 11, 2016.

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[6] was taken from "Dirjen Pajak Masih Kejar Pengusaha untuk Ikut Tax Amnesty" of http ://Bisnis.liputan6.com/ (Monday, 23 Oktober 2017 on 11.12 PM)

B. Problem Formulation

Based on the background of the study above, it can be compiled into some of the problem formulation, as the following parts:

1. How is the concept of Maslahah in the view of Islamic Fiqh?
2. How is the implementation of Tax Amnesty 2016-2017 in Indonesia?
3. How is the analysis of the concept of Maslahah towards the Tax Amnesty Policy on the Act of Tax Amnesty Number 11, 2016?

C. Writing Purpose

On the drafting of this paper, aimed:

1. To know the concept of Maslahah in Islamic Fiqh
2. To know the implementation of Tax Amnesty 2016-2017 in Indonesia
3. To know the implementation of concept of Maslahah in the tax amnesty policy in terms of Act of Tax Amnesty Number 11, 2016

D. Usability of the Research

1. Theoretical Usability

   This paper is a kind of an effort to increase and enrich the knowledge over Islamic Economic generally and towards Islamic Economic Law especially.

2. Practically Usability

   In the long-term, it is expected that it can give evaluation and some feedback to the government in establishing and issuing regulation of taxation in the nation of Indonesia.

E. Literature Review

A literature review is a brief description of the study or research that has been already done around the issues. It can be the reference, as the previous research . Here are some of those literature reviews that have the correlation with the paper:

A paper of a journal was written by Heru Purwono, in his paper "Kebijakan Pengampunan Pajak di Indonesia: Studi Analisis Maslahah Mursalah" indicated that this program was projected not only to the high net worth tax evader, but also for the officer due to their lack in carrying out their burden in taxation. It has Maslahah for the future tax reform in tax administrative. So on, he said that this special program kind of *Maslahah Dharuriyah* which keeping life and wealth of all Indonesian people[7].

The second literature review represented by Tyas Dian Anggraeni, on the title "*Keterpenuhan Prinsip Keadilan dalam UU Pengampunan Pajak*" issued by Jurnal Rechts Vinding, 5th volume, number 2, August 2016.

In this study, present a reason to be considered of carrying out this research is the issue of the anxiety of taxpayer which is a respectable on tax paying regularly. On the other hand, the polemics that rise from every personal or even board affected the national income. Actually, those people evade from every tax payment, due to saving the amount of their asset. The researcher also tells that taxation has two functions, as the budget function and the regulatory function. Otherwise, taxation is the most fundamental variable of economic growth, whereas it can gain more stimulus of increasing the welfare of citizen through real sector[8]. That function is done to realize the welfare of citizen, as said before, and the principle of its policy has been met all over the condition of a national need for welfare. Through " Uang Tebusan", it is the feedback of its facilities for having tax amnesty. The research method becomes the juridical normative approach. The main source used is its Act of Tax Amnesty 2016. The writer tried to compare the issue of tax amnesty in the term of Indonesian and also other tax amnesty applied in the country. However, she examined more on its program of the condition of purposing tax amnesty. There are three aspects that the writer has looked up, namely, the taxpayer identification number,

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[7] Heru Purwono, *Kebijakan Pengampunan Pajak di Indonesia: Studi Analisis Maslahah Mursalah*, Jurisdictie, vol. 8, no. 2 (2017), p. 193–194.

[8] Tyas Dian Anggraeni, *Keterpenuhan Prinsip Keadilan dalam UU Pengampunan Pajak*, Jurnal Rechts Vending, Volume 5, Issue 2, August 2016, p. 171-172

redemption money (uang tebusan), and their tax arrears. From these three aspects and the function of taxation has the main correlation in meeting the citizen welfare, and mostly for the nation which can develop its income revenue.

The third literature review is written by Umi Cholifah, S.H.I, on the title "*Pengampunan Pajak di Indonesia Perspektif Hukum Islam (Studi Telaah Filosofis dan Yuridis)*". In her thesis, she tried to shed the analysis towards two necessary points, the analysis of tax amnesty towards its acts, and the second towards Islamic law. However, the research conduct a result that this act of tax amnesty has a strong legality, based on the Indonesia's constitutive on the Act number 23A, the taxation is kind of forced liabilities of every citizen in order to conduct public interest based on Acts. In her conclusion, she said, that this policy is based on *Shari'ah* compliance, because the policy would conduct many Maslahah, in order to gain the tax compliance, which is the most revenue of Indonesia's yearly budget[9].

The fourth research was written by Muhammad Riza, one of a lecture of Institut Agama Islam Negeri Langsa, on title *Maqasid Syariah dalam Penerapan Pajak Kharaj pada Masa Umar bin Khattab RA*. A problem of Muslim to be considered in this research is where the application of Kharaj to non-Muslim was appropriate to maqasid sharia or not? Therefore the aim of this study is to find the concept of maqasid sharia and the application of kharaj during Umar bin Khattab RA period[10]. It had been shown that the Caliph Umar applied maqasid sharia in his *kharaj* policy to encourage the long term benefit which could cover welfare of every nation's need.

The last research is a paper from *Tax Amnesty and its Implication towards The Reformation of Taxation in Indonesia*, written by Abdul Qodir Jaelani and Udiyo Basuki. Tax has its correlation with the nation's revenue,

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[9] Umi Cholifah, *Pengampunan Pajak di Indonesia Perspektif Hukum Islam (Studi Telaah Filosofis dan Yuridis*, (UIN Sunan Kalijaga, 2017). p.1-3

[10] Muhammad Riza, *Maqasid Shariah dalam Peneran Pajak pada Masa Umar bin Khattab RA*, j-EBIS, Volume 2, No. 2 (April 2016), p.1

whereas its income has 84% contribution of total revenue of our nation[11]. So it can have too much implication for the nation as well as the taxation reform. The main problem that was conducted from the citizen's respond towards the tax amnesty was faced by the tough responds, Abdul Qodir Jaelani and Udiyo Basuki tried to relate the urge of tax amnesty, while at the same time they linked to the tax revenue in order to achieve the goal of stabilizing the welfare of nation.

F. Research Method

1. Types of Research

This study is based on the approach of qualitative research based on relative literatures on Tax Amnesty and Maslahah. In the point of analyzing the policy of tax amnesty in the side of Maslahah, the research used descriptive analyze , those one collecting data, compiling, explaining, then analyzing.

2. The Location of Research Study

These all analysis was organized in the nation-state of Indonesia, which has been implementing tax amnesties policy around 2016-2017.

3. Data Sources

Resources need to consider the sources which base and confirm their research and findings. There are two kinds of data; both of them are between primary dan secondary sources.

a. Primary Data

Primary data are information collected by a researcher specifically for the research assignment. Primary data are the data which the researcher collected through various sources. In this study, the researcher use mostly literature source that has the correlation

[11] Abdul Qodir Jaelani and Udiyo Basuki, *Tax Amnesty and its Implicatio towards The Refermation of Taxation in Indonesia,* Supermasi Hukum, Volume 5, No. 2, (Desember 2016), p.1.

on Maslahah and also Tax Amnesty, especially the legal law, Tax Amnesty's Act Number 11, 2016 and other relative literature on Maslahah.

b. Secondary Data

Secondary data are the data collected by a party not related to the research study but collected these data for some other purpose and at different time in the past. As for the secondary resource is journal, magazine, newspaper, or the official website of the government.

4. Data Collection Techniques

For collecting of data, the following instruments have been used:

a. Observation

There, the researcher put herself in the actual situation and watch carefully. On the basic of his knowledge, skill, and experience. He collected the data without contacting the respondents

b. Interview

In this method, the researcher personally met the informant and asked necessary questions to them regarding the subject of inquiry. Usually , a set of questions w carried by him and questions were also asked according to that.

G. Systematics Writing

A way to make easier in understanding the paper, the researcher presents her systematic writing, namely:

1st Chapter : Containing background , problem formulation, writing purpose, usability research, literature review, and research method.

2nd Chapter : General overview of Maslahah in Fiqh Islam and brief of Tax Amnesty.

3rd Chapter : Data Collecting of Tax Amnesty Policy in the term of

CHAPTER II

AN OVERVIEW TOWARDS *MASLAHAH* , TAX IN ISLAM AND TAX AMNESTY

A. Understanding *Maslahah* In Islamic Fiqh

The development of economy is an indispensable field of economic research nowadays. Its growth and transformation have expanded multipled. Its impact would have been affecting on human being's economic worldview. Whereas, everyone conduct to make a better future to survive to get real well-being off all irrespective of their age, sex, or even nationality. Then, there will be many latest economic policy, theory, or even model which is not based on Islamic famework – where Muslim in Indonesia has the huge population. So, Muslim need to contribute in this economic field. One of Islamic alternative approach to the global economic developing based on the concept of *Maslahah*.

In this part, *Maslahah* is a goal derived from *Maqasid Shariah*. Which Islam prioritizes public needs and its correlation towards its all means to harm, socio-economic difficulty and underdevelopment.

1. The Definition of *Maslahah* and Its Characters

   The term *Maslahah* in Arabic means interest or benefit. And it has the meaning literally, as providing benefits and avoiding harm. Usually *Maslahah* is referred to manfa'ah or public welfare/interest. But neither *masalahah* nor *manfaa'ah* has not the same meaning as utility concept that western theory purpose. *Maslahah* in another meaning is a device used by jurist in their Islamic legal theory to purpose public benefit and prevent social harm. Based on this definition, Al-Ghazali defines below:

   As for *Maslahah*, it is essentially an expression for the acquisition of benefit or the repulsion of injury or harm, but that is not

what we mean by it, because acquisition of benefits and the repulsion of harm represent human goals, that is, the welfare of humans through the attainment of these goals. What we mean by *Maslahah*, however, is the preservation of the ends of the shari'ah.[12]

Wheter As-Syatibi in his book *Al-Muwafaqat*, explained "*Maslahah* is a principle that concerns the sunsitence of human life, the completion of man's livelihood and the acquisition of what his emotional and intellectual qualities require of him, in absolute sense"[13].

In this definition, he tried to pointed out where *Maslahah* is a broad objective principle to measure everything in humanlife, including economic, laws of principles justice, or even *'ibadah*.

However, *Maslahah* linked to Maqasid Shariah, where it was defined as a mutual supports towards persivasive social fields at large. Indeed, Al-Ghazali had singled out in his definition, the importance of holding the aims of the shariah or the objectives of shariah (protection of faith, life, posterity, intellect and wealth) as the most essensial point of *Maslahah.* Muhammad Said Ramadhan Al-Buthi also highlighted on his definition, *Maslahah* as the object of interest of human life based on As-Syari', to protect of faith, life, posterity, intellect and wealth invigorate on its order.

Regarding on the definition of Al-Ghazali aand As-Syatibi, *Maslahah* in its term is defined as the universal objective of Islam to aquire benefits and repulse harm, representing human goals in both of the world and hereafter. Those goals are relied upon *Maqasid Shariah* which consists of the deeper meaning and inner aspects of wisdom, conducted by the Lawgiver in all of the inclusive of ibadah and moreover *muamalah.*[14]

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[12] Asyraf Wajdi Dusuki and Said Bouheraoua, No year, *The Famework of Maqasid Al-Shari'ah and Its Implication for Islamic Finance*, Islam and Civilisation Renewal, p. 318.

[13] *Ibid,* p. 319

[14] Abdullahi Abubakar Lamido, *Maqasid al-Shari 'ah as a Framework for Economic*

2. *Maslahah* as its Objectives and Classification

Most of scholar shed on its objective connote to *maqasid shariah's* object. Both of them promote the well-being of human being through protecting their faith (*din*), life (*nafs*), posterity (*nasl*), intellect (‘*aql*) and wealth (*mal*). Those five aspects refer to primary objective (*al-asliyyah*), whether out of this range is the corollaries (*tabi'ah*)[15]. Generally, it would be difficult without the indispensable of primary objective.

However, as the time goes by, there are the developing of human need and many problems of social-economic and political, should be determined upon its primary object. We should ensure *Maslahah* based on *Maqasid* to acquire well-being of every human being.

According to Al-Ghazali's book, he has divided the classification of *Maslahah* into three classifications based on its evidence.

a. *Maslahah Mu'tabarah* is one of *Maslahah* which has been ensured its validity by *Shari'ah* and become one of evidence in the univ,ersal matter. Its sources are derived from *Nash* (*Qur'an* and *Sunnah*) and *ijma'*, based on *qiyas*, for the example, drinking liquor which is disagreed by *Qur'an* and *Sunnah*. Its rule is determined as definitive. In order to promote and protect the objective of *Maslahah*. In posterity, Scholars are all in agreement that making *Maslahah* as the objective and framework of universal scope of mankind.
b. The second is *Maslahah Mulgha* or called with invalidated *Maslahah*. The evidences, both of *Al-Qur'an* and *Sunnah* do well on nullifying its legal law. It has been inclusive including a large ranges all human acts, which related to *'ibadah* and *mu'amalah*. In addition, the practice of usury in *mu'amalah*

Development Theorization (2016), p. 3.

[15] Asyraf Wajdi Dusuki and Said Bouheraoua, *The Famework of Maqasid Al-Shari'ah and Its Implication for Islamic Finance*, p.3

is forbidden. This case consists of unjusticy, whenever people tried to shift from one thing to other worth things.

c. The last is *Maslahah*, which has no evidence to be yielded as an agreement or disagreement. In this term, it is defines as *Maslahah Mursalah*. Large numbers of transaction in mu'amalah are not based on *Al-Qur'an* and *Sunnah*, but elaborated to be its evidence in the posterity. The utilization of *Maslahah Mursalah* can be established in the observing of multiplicity of texts and different range of evidences. So on it will invigorate a clear interest of mankind and insisting the rule of human being.[16]

B. The History of Islamic Taxation

Islam as the moderate rule in managing whole public interest, purposes ummah to take part in nation developing. Nevertheless, it also insists on the field of property owning, that has some correlation to the nation development. The word in Arabic to denote property is *maal*. Nowadays, *fuqaha* define maal generally to something belonging to somebody and has the usage[17]. Allah said in his Al-Qur'an to donate some of their *maal*. Hence, we have some rights of others in our *maal*. So on, it had explained in Al-Qur'an,

ءَامِنُواْ بِٱللَّهِ وَرَسُولِهِۦ وَأَنفِقُواْ مِمَّا جَعَلَكُم مُّسۡتَخۡلَفِينَ فِيهِۖ فَٱلَّذِينَ ءَامَنُواْ مِنكُمۡ وَأَنفَقُواْ لَهُمۡ أَجۡرٞ كَبِيرٞ ٧ [18]

"*Believe in Allah and His Messenger, and spend out of what He has made you to be successors of; for those of you who believe and spend shall have a great reward*."

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[16] Abdullahi Abubakar Lamido, *Maqasid al-Shari 'ah as a Framework for Economic Development Theorization* (2016), p. 3.

[17] Fatuurrahman Djamil, *Hukum Ekonomi Islam*, (Jakarta: Sinar Grafika, 2013), p. 174.

[18] Al-Qur'an Surah Al-Hadid (57) : 7

Al-Maal concept, like has been explained in *Fiqh Islam wa Adilatuhu*, is more both of service and commodity, such as gold, silver, animals, plants, or even likely the use of vehicles, clothes, should be made of use in the daily. It is added also, that the good, materials, and commodities are not allowed for its own sake, for the examples the birds fly in the sky, fish in the sea, or trees in the woods[19].

In a major breakthrough, an agreement of some fuqaha' was reached to the point, where Islam has been regulating its *syariah* appropriately enough. The setting up that was given on Al-Qur'an was *Zakat*, *Infaq*, *Sadaqah*, and moreover tax. So that, Islam – a long time ago- had recognizing economy in its policy. Rasulullah SAW, run public income and expenditure on health. The history can be traced back on the year of Quraisy and Jewish ethnic group. In this case, a war led to the outbreak, and became *Badar* War in the second year of Hijriyah. Suffering from this war, Islam got many *ghanimah* from his victory. This motive became the reason of *nuzulul ayat* for *ghanimah* distribution among poor people.

مَّآ أَفَآءَ ٱللَّهُ عَلَىٰ رَسُولِهِۦ مِنْ أَهْلِ ٱلْقُرَىٰ فَلِلَّهِ وَلِلرَّسُولِ وَلِذِى ٱلْقُرْبَىٰ وَٱلْيَتَـٰمَىٰ وَٱلْمَسَـٰكِينِ وَٱبْنِ ٱلسَّبِيلِ كَىْ لَا يَكُونَ دُولَةًۢ بَيْنَ ٱلْأَغْنِيَآءِ مِنكُمْ ۚ وَمَآ ءَاتَىٰكُمُ ٱلرَّسُولُ فَخُذُوهُ وَمَا نَهَىٰكُمْ عَنْهُ فَٱنتَهُوا۟ ۚ وَٱتَّقُوا۟ ٱللَّهَ ۖ إِنَّ ٱللَّهَ شَدِيدُ ٱلْعِقَابِ ﴿٧﴾ [٢٠]

"Whatever Allah has restored to His Messenger from the people of the towns, it is for Allah and for the Messenger, and for the near of kin and the orphans and the needy and the wayfarer, so that it may not be a thing taken by turns among the rich of you, and whatever the Messenger gives you, accept it, and from whatever he forbids you, keep back, and be careful of (your duty to) Allah; surely Allah is severe in retributing (evil)"

[19] Wahab Zuhaili, *Al-FIqh Al-Islamy wa Adillatuhu*, Volume 4, (Syiria: Daar El-Fikr, 1985), p. 40.

[20] Al-Qur'an Surah Al-Hasyr (59) : 7

In this period, property distribution was done directly neither any intermediate nor did institute take hand in. Hence, the governors would conduct for this task. The Income was also in expansion, and had apparent policy. No institute saved the *ghanimah, fay, and kaharaj.* So, this policy was based on direct income[21]. The governor had their policy to distribute the national income to the right people. In this period also they were under the Rasulullah supervision due to conduct Muslim welfare in that time.

As the time went by, Islam was developing, and so was its income. Every income was on record and accounted towards its proportion. This was engaged on the period of Umar bin Khattab Caliph. When he was started his expand of Islam to Persia to Africa. Due to the rising revenue, he established for the first time *baitu-l-maal*. Umar didn't deal the captured land, but set up a land tax towards theirs. So the muslim troops could get the yield from the war of their *fathu* effort[22]. However, Umar needed somebody that was able to measure the land, and calculate its *dhariabah* that they got so deal out the yield. In this period Umar need more national income beside zakat and sadaqah. Tax was being the next option towards the captured nation, in order to stable the economic, politic, and social range of nation.

Therefore, in this point, the government has a right to manage policies to get some nation revenue. This some of funds has been allocated to some nation sector, which can fulfill the welfare of nation. The government has to encourage somehow the fail taxation upon progressive taxation, where the high net worth personal has to contribute in distributing their worth to the right people and nation sector.

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[21] Abdul Azim Islahi, *Economics Concept of Ibn Taimiyah*, (Leicester: The Islamic Foundation, 1998), p. 201.

[22] Ibnu Khaldun, *Muqaddimah*, (Beirut: Dar al-Fikr, no year), p. 192.

C. Understanding of Tax Amnesty In Indonesia

1. The Introduction of Taxation of Indonesia

Tax is the amount of money collected by national authorities, due to meet the public expenditures[23]. In other definition, on the book of "*Perpajakan Indonesia*" Drs. Muda Markus said tax is kind of the wealth in the term of act, that should be collected to the national or local authorities, without any direct influences that someone can get from his payment. Whether the definitions comes from the Act of General Term and Regulatory of Taxation No. 28 on the year of 2007, section 1, verse 1, said, "Tax is a must contribution on the debt of personal or institutions towards the state based on Act, without or with the direct return for the public expenditure due to meet the goals of having welfare of the state"[24].

From those definitions, there is some component of the taxation that should be considered to remark, namely:

a. Tax is a must for personally or institution or firm to pay
b. Its characteristic is forcing every single part of the country to contribute in this state economy policy
c. This tax will not provide any direct return

Nowadays, considering the fact that tax revenue constitutes an important part of public revenues, collection of tax revenues becomes an important issue in the economics of developing country. In terms of developing country, government has set up fiscal policy, including tax payment. Focusing on its policy, the government trying to improve the welfare in long period through the revenue and expenditure of governments, resources mobilize, price determination from the government. While that point to Manna, fiscal policy is taxation system made up to aim at solving the economic problem facing by nation.

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[23] Mehmet Nar, "The Effects of Behavioral Economics on Tax Amnesty", *International Journal of Economic and Financial Issues*, (Vol.5, Issue 2, 2015), p. 3

[24] The Act of No. 28 on the year of 2007, section 1, verse 1.

Tax is one of liability of every citizen as well as the practical policy operation to every nation. Furthermore it will be developed as the revenue finance of one's nation due to stimulate the nation's economy. The general department of tax -particularly Indonesia- is responsible for collecting those all taxes arranged on the Acts[25]. The other main parts of taxation are the taxpayer as the subject which pays tax for the government on the money they earn. They pay based on their tax relief, on how much the amount of tax they should pay. In this case taxpayer could be individual or firm. A taxpayer is set to have some conditions for having a legal obligation of tax payment. Mainly there are two conditions that they should fulfill:

a. Subjective taxation: both of individually and firm –which work and manage their duty somehow and somewhere in Indonesia- included as a taxpayer.
b. Objective taxation: whichever as the part to be considered in the condition of a taxpayer. Largely as the result of their own of expense and cost[26].

Tax plays a key functional role in its implementation. There are two principal functions,

a. Budgeter Function

   Tax as the largest nation investment revenue, which has 70% of public expenditure is fully paid-up by tax revenue.

b. Regular Function

   Tax in this role has an extra function as certain instrument. For the example, in Jokowi's era, the government efforts to solve the problem of traffic jam in Jakarta by applying ERP (Electronic Road Electric) on toll road. In the use of toll road, every driver must pay on its contribution for gaining the

[25] Acts of Taxation, Number 2, of 2007.

[26] Astrid Budiarto, *Pedoman Praktis Membayar Pajak.*(Yogyakarta: Genesis, 2017). p. 14

tax revenue[27].

These two key functional roles are the main function of taxation. Beside them, tax has other function in stabling monetary system and moreover in the rupiah exchange rate towards other money.

In addition, taxation also has redistributive function[28]. As the liability of citizen, taxation is only obliged to everybody who are capable to pay their tax relief. However, the government could be more helpful to push up their policy, whereas for untaxpayer it will be very useful on the public facilities, such as main road, public school, and so on.

Because tax is a government's policy, Indonesian government set its policy on UUD 1945, section 23, verse 2, being the former of tax in collecting tax. The Government also has set other Act to regulate this taxation.

a. Acts Number 28 on the year of 2007, deals with Public Determinate and the System of Taxation
b. Acts Number 36 on the year of 2008 considering tax on income
c. Acts Number 42 on the year of 2008 about Value Added Tax and Luxurious Property Tax
d. Acts Number 12 on the year of 1994 deals with land and building tax
e. Acts Number 13 on the year of 1985 about stamp duty
f. Acts Number 28 on the year of 2009 on region tax and Region Retribution Fee
g. Acts Number 19 on the year of 2000 on tax pressing collecting with hard forced letter (surat paksa)[29].

Generally, taxation in Indonesia is run based self-assessment system, which taxpayers should register himself to Internal Revenue or

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[27] was taken from "Mari Pahami Fungsi Pajak" http://www.kemenkeu.go.id/apbn2017 (Sunday, 29 January 2018 on 10.35 PM)

[28] *Ibid,.*

[29] Astrid Budiarto, *Pedoman praktis membayar pajak*, p. 13.

consider as KPP (Kantor Pelayanan Pajak) in his district where he lives. Self-assessment linked to Oxford Advanced Leaner Dictionary has the meaning that it is a system as paying tax in which you can calculate yourself how much you should pay[30]. But furthermore this system has some advantages, on which the country has no strong system to build and persuade all the taxpayers to comply the requirements of taxation. So on, the taxpayers should be aware for reporting his annual tax, in order to complement of the requirements of taxation.

2. Tax Amnesty and its Introduction

Tax amnesty which has explained in the Act Number 11 on the year of 2016, an amnesty for the delinquent taxes, without the financial and criminal penalties, but they should pay some tax administration effort or known as redemption money or *uang tebusan* by revealing on the whole of his own properties[31]. In this point, Budiarto tried to define tax amnesty as an amnesty granted by the government to the taxpayer for his penalties over taxation, taking over with redemption money[32].

The term of redemption money refer to tax administration efforts, which taxpayer should pay based on the number of his property to public treasury for admitting his tax amnesty[33].

Tax amnesty is a represent of initiative program, despite the fact that many conglomerates have and hold their fund in foreign trade[34]. The research of Capegemini –a France finance firm- released on 2015 there are 47 thousand Indonesian including HNWI or High Net Worth. Those who are owning invaluable assets more than US$ 1 million, or

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[30] was taken from https://www.oxfordlearnersdictionaries.com/ (Monday, January 29, 2018 on 11.38 PM)

[31] The Act of Tax Amnesty No. 11 on the year 2016

[32] Astrid Budiarto, *Pedoman Praktis Membayar Pajak*, p. 92

[33] Suharno, *Panduan Praktis Amnesti Pajak Indonesia*, (Jakarta: Kompas Media Nusantara, 2016), p. 5

[34] Gatra. *Tax Amnesty Dijegal Dua Tetangga*, No.44, on the year XXII, edition 1-7 September 2016. p. 14

about IDR 13 billion. According to its research, there are about IDR 200 quintillion from the accumulation of whole worth, which could boost Income Tax.

Not only a mass of amount number of money but also sufficient revenue, Bawoni Kristianji, a researcher from DDTC (Dany Darussalam Tax Center), admitted that nation revenue and income tax is not significant, it is only 1% from the accumulation[35].

The research is a proof of uneven tax revenue from its program. It will cause on the economic developing nation, especially on the need of liquidity within the nation. Another problem was the absence of taxpayer due to their tax compliance to meet their tax relief and hide their property outside[36].

Generally, tax amnesty held on three periods, within different rate on different property, mainly like this table

Table 1.1. The Rate of Redemption Money

General Taxpayers	**Redemption Money Rates based on Tax Amnesty Submission Period**		
	July-Sep 2016	**Oct-Dec 2016**	**Jan-March 2017**
Offshore assets declaration – not repatriated to Indonesia	4%	6%	10%
Offshore assets declaration – repatriated and invested in Indonesia for minimum of three years	2%	3%	5%
Onshore assets declaration – retained in Indonesia for minimum three years	2%	3%	5%

[35] Gatra, *Tantangan Pengampunan Pajak*. Edition no. 38 on the year XXII, 21-27 July 2016. p.15

[36] Suharno, *Panduan Praktis Amnesti Pajak Indonesia*, p. 1-2

However, tax amnesty is a right for every taxpayer, whoever got annual letter of affirmation (Surat Pemberitahuan Tahunan). The exception is only for taxpayer which has convicted for investigation of crime sentence[37]. The actual subject to be considered in this program is taxpayer which has uncompleted tax registration, such as Personal Income Tax.

Other point to be highlighted is the goal on the long-term impact on revenue and short-term impact. For the long-term impact, it could boast the nation's revenue for the public expenditure[38]. While the short-term impact, nation has some revenue from redemption money as the additional budget for some program in this year[39].

In the long term impact, another advantages that would be shown such as

- Increasing domestic liquidity
- Reparation on Rupiah exchange
- Decreasing the rate of interest
- And increasing the infestation

So on, the government tries to boost the taxation policy trough the wisdom system with comprehensive and integrity board.

[37] Suharno, *Panduan Praktis Amnesti Pajak Indonesia*, p. 93.
[38] The Act of Tax Amnesty, p. 3.
[39] Suharno, *Panduan Praktis Amnesti Pajak Indonesia*, p. 3.

CHAPTER III

ANALYSIS OF *MASLAHAH* CONCEPT TOWARDS THE TAX AMNESTY POLICY ON THE ACT OF TAX AMNESTY NUMBER 11, 2016

A. The Implementation of Tax Amnesty in Indonesia

Tax amnesty is a program to increase nation revenue in the short time. In this case, the government responds the fiscal need of nation based on the nation budget with encouraging the taxpayers in paying their taxes. The nation needs more revenue to fund its increasing expenditure. Indonesian Bank in its annual report of 2015 shows the nation expenditure about IDR 1.796,6 trillion, whereas in 2016 nation needs IDR 2082, 9 trillion, 16, 6% is larger than last nation budget.

As the developing country, Indonesia has many taxes potential. The data of BPS (Badan Pusat Statistik) from 1986-2017, there are 261 million inhabitants where over 124 million are in productive age[40]. In spite of the fact, Indonesia only has low registered taxpayers. Towards the standard of IMF of developing countries in the side of tax compliance, Indonesia still stuck at 12.4%. Nevertheless, the standard of developing country is more than 19% tax ratio.

Not only has the low tax ratio, but also Indonesia also has U$D 250 billion owned by Indonesian's high net worth individuals. Mostly, they invest their asset in the tax heaven countries, such as the nearest neighbor Singapore, Hong Kong, Malaysia, Macau, Luxembourg, Switzerland, and so forth so on. They invest the assets to other forms of properties, shares, deposit or even cash, without any reporting their annual tax report[41]. Even

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[40] Mohsin S. Khan, *Islam and The Economic System*, Review of Islamic Economics, vol. 2 (1992).

[41] Mohsin S. Khan, "Islam and The Economic System", *Review of Islamic Economics*, vol. 2 (1992).

worst, their assets are invested in illegal businesses, so they do not have any courage to report their annual tax report. The detail of complicated tax compliance will be observed in the next research. It will be discussed toward its history and some ranges of failed factors in developing tax compliance programs.

Main object of the program is Indonesian which include to high net worth overseas asset more than US$ 1 billion or IDR 13 billion. The government of Indonesia launches this special program over July 2016 to March 2017, which was divided into three periods. The first period was held from July to September 2016. Second, it was held from October to December 2016. And the final was from January until March 2017. There are some money that the taxpayers should pay, in order to abolish penalties for the delinquent taxpayers who voluntary repatriate their past error or admit their offshore wealth[42]. Every period has different redemption money, based on the wealth they reported. The redemption money should be paid by the taxpayers, which is calculated by multiplying the rate -as shown in the previous chapter- with the values of net assets which has not reported or incompletely.

The tax liabilities include Income Tax and VAT, or VAT and High Net Luxurious Asset Tax. The regulation, if the offshore wealth invests to Indonesia will have lower rate than the one which only declare and not repatriated in Indonesia. The repatriate asset of taxpayers should invest to the government investments that are approved being investment, mainly:

1. Indonesian Government Securities
2. Bond of State-owed Enterprise (SOE)
3. Bonds of financial institutions owned by the Government
4. Financial investment in Perception banks
5. Bonds in private company that the Financial Services Authority monitors the trading of

[42] Dusuki and Bouheraoua, “The Famework of Maqasid Al-Shari’ah and Its Implication for Islamic Finance”, p. 396.

6. Infrastructure investment through government's cooperation with business entities
7. Investment in real sector based on the priorities set by government through a Ministry of Finance Decree
8. Other legitimate investments in compliance with the prevailing laws and regulations.

In the further, the taxpayer who repatriates their offshore assets to Indonesia should invest at least three years since the asset repatriate in the nation. Along these three years, they should report periodically once in six months. Avoiding tax evasion after the program, the government also provides in regulating the data of taxpayers. They will have a guarantee regarding their asset data in the Directorate General of Taxes. The asset data of the participant of tax amnesty will be kept privately by the Directorate of General Taxes, and will not accessed or used as the investigation and prosecution by law enforcement. The data and information submitted by the Taxpayer would be the database of taxation in Directorate General of Taxes[43]. Furthermore, the government will track the tax amnesty participant's asset in Indonesia or overseas.

Nowadays, the government tries to improve its tax administration in some ranges, including the Automatic Exchange of Information (AEoI) towards many financial institutions of other countries bounding in this treaty. So, the data will also show the citizen who evade their tax report. The penalties would be heavier, because they have to pay about 200% of the total unpaid income tax. The Directorate General of Taxes also regulated its connection towards financial information access in every financial institution, like Bank in the Act Number 9/2017. They can track the bank account which keeps more than IDR 100 billion.

The target of this program is about IDR 165 trillion. But the fact is tax revenue from this program on the 1st and 2nd period is only IDR 114

[43] Emmiryzan Wasrinil Said, *Tax Policy in Action : 2016 Tax Amnesty Experience of the Republic of Indonesia* (2017), p. 1.

trillion, and at the end of this program over March 2017, the redemption money only reached over IDR 21 trillion. Overall, the total obtained money from tax amnesty was 81%. It was a good achievement of Indonesia. These impacts are not only coming from the tax revenue, but merely in the tax reporting, increasing to 71% in 2017. The table below shows data of tax revenue from tax amnesty in Indonesia.

From Gatra Magazine, Robert Pakpahan said the High Net worth of Indonesian participate tax amnesty program about 1 million[44]. This number of participant indicated that they considered this special program seriously.

B. Tax Amnesty's Chance and Challenge over Its Implementation in Indonesia

1. The Challenges of Tax Amnesty 2016 in Indonesia
   a. The Development of Tax Compliance in Indonesia

      Tax revenue is playing an important role for the developing countries, such as Indonesia. It has a direct line to the public finance, nation's budget, and the peak of government's programs towards the developing countries. So on, tax compliance would be problematic on one's developing nation to raise the tax revenue due to meet the state budget. Indeed, tax compliance in Indonesia is such as an old issue where always tend to solve. It is also has strong correlation in line with the latest government policy, tax amnesty.

      Refer to its definition; tax compliance is the willingness of taxpayers to meet their tax obligations in line with applicable regulations, within the boarder context of government performance and the functioning of public finance systems[45]. The willingness has a strong correlation to the tax payers and the government in their system and output. In generally, Indonesian's tax ratio dips

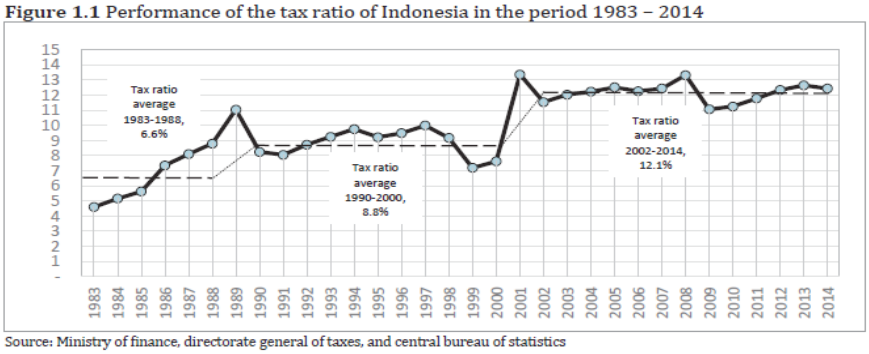
[44] *Ibid.*, p. 2.

[45] Elliot Uchitelle, *The Effectiveness of Tax Amnesty in Selected Countries* (FRBNY Quarterly Review, 1989), p. 1.

into lower level, and there is a gap of taxpayers between public good-needed and the public-actually-provided by the state.

Table 2.1. Performance of Tax Ratio of Indonesia in The Period 1983-2014

Figure 1.1 Performance of the tax ratio of Indonesia in the period 1983 – 2014



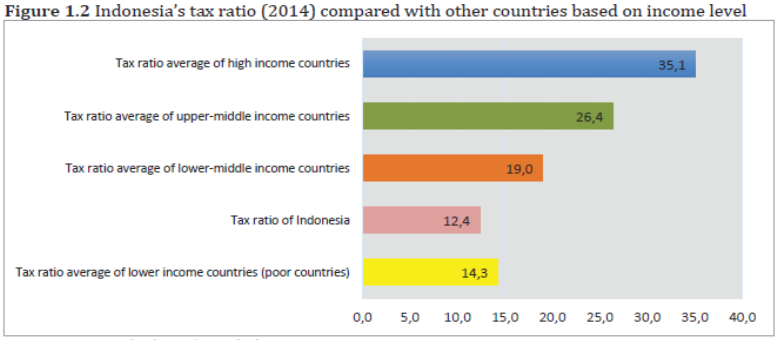
Source: Ministry of finance, directorate general of taxes, and central bureau of statistics

The graph shown by the ministry of finance, directorate general of taxes and central bureau of statistics, that on 2014 Indonesia stuck on the point of tax ratio over 12.4 percent[46].

Although Indonesia has significant developing tax ratio, Indonesia is below the standard of IMF of developing countries, which is on 19 percent. Among other Asean countries, Indonesia is also left behind Malaysia, Singapore, Thailand, and Vietnam[47].

Table 2.2. Indonesian's Tax Ratio (2014) compared with other countries based on income level

Figure 1.2 Indonesia's tax ratio (2014) compared with other countries based on income level



Source: IMF, 2011 and Indonesia's state budget, 2014

[46] President of The Republic of Indonesia, *Law of The Republic of Indonesia Number 11 of 2016 regarding Tax Amnesty*, pp. 23–4.

[47] Mukhlison S. Widodo and Umaya Khusniah, "Bersi-Bersih Demi Mengejar Pajak", *Gatra Magazine* (Jakarta, 2018), p. 15.

Over three decades of tax reform, Indonesia has three periods of tax reform, even less, the matter of tax compliance is such a major problem in fiscal policies.

This first change was carried out over 1983. Ongoing the development, to encourage this chance, several laws are issued such as general provisions of taxation, the personal income tax (PIT), the Value Added Tax (VAT), and other consumption taxes including the simplification of variety taxes. But, this policy is tax administrative reform, which aimed at improving the tax administration system[48]. But, in this period, the government was unsuccessful to collect voluntary taxpayers in a huge amount. Due to this period the government aimed at promoting the country as self-sufficient nation. So on, Indonesian shift from official assessment of tax liabilities to self-assessment. In this point, the taxpayers are able to examine the detail of returns in the process of assessment. Hence, according to Martinez-Vazquez, this first movement of tax reform in Indonesia has brought a gradual improvement mixing with positive elements of tax reform worldview within its characteristic of nation[49].

A point to remember in this year, Indonesia had set up a tax amnesty policy. In this term, the government did not state its policy to explicit conduct over tax amnesty. The government set some limits in their Presidential Decree Number 5, 1984. On this year also, the taxpayer who were registered in compliance with the provisions of the tax laws and regulations over 600 taxpayers from the total amount 150 million citizens[50]. These terrible conditions inflicted the financial loss of state revenue and investment, which slowed the economic growth of Indonesia. The goal is to improve the burden of every citizen in the state revenue and national

[48] Abdul Rahman, *Tax Compliance in Indonesia The Role of Public Officals as Taxpayers* (Enschede: Spirit - BAPPENAS RI, 2017), p. 18.

[49] *Ibid.*

[50] *Ibid.*, p. 19.

development through self-assessment system.

In obtaining this goal, the government did a heavy burden in exchanging the right of receiving tax revenue in this year to have bright future over public welfare. Furthermore, due to the period of tax amnesty towards Presidential Decree number 5, 1984 was over in 338 days, the government stimulated its policy by making the period longer to 439 days (it was conducted on the Presidential Decree Number 26, 1984).

Considering from this case, tax amnesty did not boost state revenue properly as hoped as well. The government did not succeed to grow the compliance trough tax amnesty in twice – Presidential Decree Number 5 and 26[51]. Some factors were directly contributed to its failure, mainly:

1) Worse carrying out the strategy of tax amnesty over its system and institute. The system had to be properly constructed and the institute in here – Directorate General Taxes –should collaborate with another institute due to the success of this program.
2) Trough lack of socialization, the citizen would be difficult to join this program. The next, only a few citizen responded its program, because they were not well-known of conditions, moreover the goals concerning of tax amnesty.
3) Low law enforcement after the amnesty. It could bring about bad moral obligation of the taxpayer to not pay their taxes due to no sanctions would seize whistle-blower.

The second tax reform in 2008, determined specifically the establishment of modern tax administration, moreover on the lowering the administrative burden of taxpayers, and at increasing the transparency of its. Since 1st of July, 2008 the goverment conducted a tax amnesty program, named Sunset Policy. It's an opportunity for registering voluntarily in filling their tax return.

[51] *Ibid.*, p. 36.

This policy was encouraging the taxpayer to amend their previous tax return. No penalties would be imposed related to the tax return and the amendment of their previous tax return as well[52]. So, the goal of its are reducing tax cheating and increasing tax revenue. As the result of the program, Sunset Policy had the lack of program planning, because the government did not manage the estimate of the program and also its publicity. The government should have a massive campaigns towards its publicity. Hence, the program could reach tax growth about 658.7 trillion rupiahs, from 67.3 of total nation revenue. The data from Rakhmindyarto shows that it grew to 20 percent with the highest growth in 2008. This program also had succeeded to develop tax revenue and significant number of taxpayers to the tax roll. Indeed, it was not focus on growing the tax revenue but data collecting, tax compliance, voluntary compliance from taxpayers in order to administrative tax reform.

From the data above, Darwin Nasution said, the new taxpayer –about 9million- over one year did not effect on tax revenue. He added 8 million from the newcomer is lower-bracket employer. The percentage of taxpayer consists of 70% institutes and 30% personally, weather in the leading countries, in fact as vice versa[53]. Some differences that we can conclude between sunset policy and tax amnesty, mainly:

Table 2.3. The Differences between Sunset Policy and Tax Amnesty

No.	Sunset Policy	Tax Amnesty
1	It would be applied only once of a chance for the taxpayer	It would be applied for more one time depends the government and nation's condition
2	This policy only amended the penalty of the previous tax, not amended its head tax	The policy gives a chance to the taxpayer to repatriate of assets that were stored outside nation, by paying the redemption money

[52] *Ibid.*, p. 40.

[53] *Ibid.*, p. 49.

3	The process or tracking the source of funds used by taxpayers still works	The absence of a process of checking or tracking of the source of the funds
4	The process was not followed by the law enforcement of the government	The process was followed by some of law enforcement and transparency of taxpayer's data
5	In fact, it had only gained more taxpayers rather than tax revenue	Gaining more taxpayers, and tax revenue

Overall the tax compliance has been major problem since the taxation had been encouraged in Indonesia. The problems of tax compliance in Indonesia have some various reasons, which have dragged the developing of economic growth. Those various reasons, mainly:

First, the level of public trust towards tax authorities is very low due to the corruption inside the government officials. The corruptions would make every operational programs capacity inefficient, decreasing the tax revenue, and giving strong influences between the taxpayers and the equity of tax system, where would causes tax revolts.

Second, other issues come from the provision of public good. It is such an important role in the public welfare. In this case, Indonesia has a low public provision of goods, which will make the government more difficult to gain their target in tax revenue in one year.

Third, it would be more complex in taxation system when the goverment could not manage the tax administration well. There is discrimination in their services, difficult in tax applications, uneven service facilities, and lack of publicity to conduct introducing government's programs and policies[54].

[54] *Ibid.*, p. 49.

b. The Tax Compliance of Indonesia After Tax Amnesty

As the most fundamental nation revenue, a low level of tax compliance is being hot issues during last two years. Indonesian tax ratio from 200-2015 is about 11, 5%. Comparing to other countries in Asia, the percentage is under the standard of tax ratio of developing countries.

This condition is a direct result of low tax compliance in Indonesia. The data shown in annual report of Indonesian Bank is that there are 120 million citizen and 3, 5 million enterprises working in Indonesia. On the other hand, the registered taxpayer is only 30 million that consist of 22, 3 million workforces, 5, 2 million unemployed workforces, 2, 5 million enterprises. Moreover, the obedient registered taxpayer in 2015 is only 60%[55].

Indication that may show us the level of tax compliance in Indonesia is the potential of illicit property of Indonesian and untaxable. The term of illicit property as defined in Annual Indonesia Economic Report of 2016 as if the movement of its fund to other countries are obtained, transferred, and used illegally. In a year Indonesia has average of illicit financial outflows about 18 million dollars AS. The main motivation of this case is tax evasion.

Another data from Capegemi, financial research firm, indicated that there are 47.000 Indonesian citizens including High Net worth Individual. The total amount of every citizen could reach US$ 157 billion or IDR 2.000 trillion. So, these High Net worth Individual will exceed taxable value added tax IDR 2.000 trillion.

Considering that the reality is so far from the estimate, Danny Darussalam Tax Center trough Gatra Magazine tried to do analyze toward Value Added Tax (VAT) 25/29 was not significant[56].

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[55] Rakhmindyarto, "Evaluating the Sunset Policy in Indonesia", *International Review of Social Sciences and Humanities*, vol. 2, no. 1 (2011), p. 1.

[56] Muttaqin, *Tax Amnesty di Indonesia*, p. 28.

Bawono Kristiaji, the researcher, Indonesia only obtained about 9 trillion. It is only 1% from the tax revenue in 2015 around IDR 1.000 trillion.

Furthermore, Indonesia still holds a lot of tax potential, mostly from the high net worth individual. Based on the data shown in BI Annual Report, Indonesia has made a significant number of developments in tax compliance. Total amount of registered taxpayers and who report their annual notifications (SPT) is improving. This condition cannot be separated from the Tax Amnesty Program process, which is followed by another regulation. The data also showed, where the citizen reports the annual notifications around 62, 3% to 71% in 2017[57]. Apart from the developing tax compliance in Indonesia, the taxpayer who is obliged to pay their annual notification decreases to 16,6 million people, due to the new regulation on taxpayers under obligation of employment around 54 million Rupiah each year, since July 2016. However, it is still being the duty of government to increase the percentage of registered taxpayer, but there must be continually taxation system to develop tax compliance of every citizen.

2. Tax Amnesty towards its Challenge in Indonesia

Indonesia *gemah ripah loh jinawi* is the brand symbol of Indonesia since a long time ago. This symbol represents that Indonesia has such large number of nation resources, including natural resource tend to be well–being and welfare of Indonesia. These asset –such the oil-gas exploration have played fundamental role as Indonesian revenue in 1984- were being the dominant of nation revenue in the term of state budget[58]. But the government could not hold on these resources. As the time goes by, the exploitation of minerals and other natural resources would reduce its supply, and the nation should manage somehow to get

[57] Indonesian Bank, *Laporan Perekonomian Indonesia 2016* (2016), p. 96.
[58] Bank, *Laporan Perekonomian Indonesia 2016*, p. 96.

another resource. So on, the symbol of Indonesia as *gemah ripah loh jinawi* is not useful again, because the government could not handle its resources optimally.

Another option to solve inhibiting the reducing the natural resources of Indonesia is growing the nation to be *self-sufficient* system. Through the program of taxation, nation tries to gain the citizen to contribute the nation-building as well as they pay the nominal account of their worth. This taxation policy could balance the stability of economic nation among many global challenges. But taxation its self is not enough, the government need voluntary taxpayer to pay their tax relief regularly. The tax compliance is being another problem as in the previous analysis. According to the nation budget in every year, Indonesia need more earning some funds, in order to conduct the finance of expenditures –even in the field of education, health, or even agriculture. This aim is in line according to the function of taxation as the budget air[59].

Hence, by and large, the global economy is growing simultaneously. But Indonesian trade volume is growing lower than last year. The percentage is 4, 8%, and 2 percent lower than last year (2014)[60]. The growth of economy was slower than expected. The nation budget indicated a gap between the economic growth and its nation budget towards the middle of 2016. On the basis, that the government needs fund supply in their budget, they set up short term policy. There is fiscal policy, monetary, macro prudential, and so on. This policies aim at gaining the percentage of economic domestic. Major role in the nation budget to grow the economy is towards the contribution of every citizen in taxation. But the tax evasion, tax shelter, or even tax avoidance are other complex problems in one nation. Government

[59] Indonesian Bank, *Annual Report of Indonesian Bank 2017 (BAB 6 : Kebijakan Fiskal)* (2017), p. 5.

[60] Indonesian Bank, *Annual Report of Indonesian Bank 2017 (BAB 6 : Kebijakan Fiskal)* (2017), p. 5.

loses large number of tax potential revenue; due to taxpayer avoid paying taxes[61].

Above all, I'd like to draw attention to the government package which designed to stimulate economic growth in 20016. This government package tried to promote productive expenses, strengthen the structure of tax revenue towards stable fiscal policies[62]. One of those programs is over strengthen the structure of tax revenue by tax amnesty. Tax amnesty as explained above, shall mean waiver of tax, without being subjected in tax administration penalties, by declaring their assets and pay the redemption money[63].

A report data of Indonesian Bank indicated there are three main factors lead to encourage tax amnesty.

First, Indonesia economic percentage as explained grew slower than last year. The economic experts predict, Indonesian economic is not strong enough towards any potential global risk or even several conflict in the Middle East. Hence, the new policies such Brexit or Trump policies would strongly influence Indonesia. A Brexit and its impact may be limited, because it affected to trading partner of Indonesia. Such as US and Japan , which its investment flow and trade are disputed by Brexit. If the UK economy stalls after Berxit, our export to the Europe United would also be affected[64]. This slow growth is not only happened in developing countries like Indonesia, but also in the leading countries. Many issues around 2016 come up towards United State of America or even UK in Europe. Those issues could impact on the global trading volume into lowest level recently.

Second, export commodity is still being stakeholder in nation

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[61] Ragimun, "Analisis Implementasi Pengampunan Pajak (Tax Amnesty) Di Indonesia", *Kementrian Keuangan RI* (2017), p. 3.

[62] Lina Said, "Implementation of Tax Amnesty and Its Impact on Indonesia Economics", *HIKARI*, vol. 4, no. 1 (2018), p. 3.

[63] Bank, *Annual Report of Indonesian Bank 2017 (BAB 6 : Kebijakan Fiskal)*, p. 93.

[64] Uchitelle, *The Effectiveness of Tax Amnesty in Selected Countries*, p. 1.

revenue. Moreover, Indonesia has a huge natural resource that could be used to fund many of Indonesian expenditure. Government should have been better utilized the natural resource, and developing the human resource, due to utilizing the profit of its. The reason to review, in 2016 the price of export commodity under the standard. Economic growth and the price of global commodity, include oil, was very low implicated the nation revenue was so far from the target. The oil pride along 2015 is U$ Dollar 49, 2 for 778 thousands barrel of Indonesia Lifting Oil. Comparing to 2016, Indonesia lifting oil is higher 51 thousands barrel, but the price is lower than expected in the first three months, U$D 40[65].

Third, high indeterminacy of monetary value could also increase the rate of inflation[66]. Then, the conflict and the new policies of lead nation also implicate its growth. Thus, the government should manage somehow to stabilize the economic growth due to the high rate of indeterminacy of monetary value. The government introduced tax amnesty program in the general law by lunching this special program designed to last in a limited time in line with an opportunity to have data base of taxpayers towards the new system of automatic exchange of information (AEoI).

The government tried to draft this program carefully, due to be beneficial to the citizen in making compliant taxpayers and governments. Many benefits are derived from this program, which is designed with boarder macro-economic goals such as balance of payments, domestic investment, or financial system consideration[67].

The benefits come from the increasing of tax revenue from its redemption collecting money. Thus, governments tried to collect

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[65] Indonesia, *Law of The Republic of Indonesia Number 11 of 2016 regarding Tax Amnesty*, p. 1.

[66] Indonesia, *Law of The Republic of Indonesia Number 11 of 2016 regarding Tax Amnesty*, p. 1.

[67] Laila Martin, Agatino Camarda, and Jackson Oldfield, *Best Practices in Tax Amnesty and Asset Repatriation Programmes*, (Transparency International, September 2017), p. 2.

tax revenue from three main resources. The first is the large number of unreported wealth in underground economy. The underground economy would be notice more careful attention toward this case. So, the government would reduce its activity occurring in underground economy. The second, an active motivation on taxpayers who have been illegally transported their capital overseas, to be a substantial amount of reported tax revenue yearly in future. The final source is coming from the mistaken taxpayers in fulfilling their reports. The tax amnesty encourages the taxpayers by eliminating the penalties[68].

[68] *Ibid.*, p. 239.

Table 2.4. The Development of Tax Amnesty Program in Indonesia

	1st Period				2nd Period				3rd Period				1st, 2nd, 3rd, Period
	July 2016	Aug 2016	Sep 2016	Total	Oct 2016	Nov 2016	Dec 2016	Total	Jan 2017	Feb 2017	March 2017	Total	
Redemption Money	130,2	4.816,2	88.790,8	93.737,2	734,5	1.015,5	7.734,3	9.484,3	449,8	1.110,4	9.432,9	10.993,1	114.214,6
Ceasing of Preliminary Evidence Audit/ Investigation	0,5	65,7	287,9	354,1	44,9	84,1	256,2	385,2	32,6	11,7	964,8	1.009,1	1.748,4
Late Payment Tax	986,8	1.137,1	941,0	3.064,8	0,0	0,0	6.911,1	6.911,1	508,3	813,9	7.659,0	8.981,2	18.957,1
Total	1.117,5	6.019,0	90.019,7	97.156,1	779,4	1.099,6	14.901,6	16.780,6	990,7	1.936,0	18.056,7	20.983,4	134.920,1

Source: Laporan Perekonomian Indonesia 2017 Bank Indonesia

This program had been run over three periods. As explained in the previous chapter, tax amnesty has brought also positive impact towards tax compliance.

The table shows the developing of tax compliance in Indonesia which is growing positively. Tax compliance of taxpayers which has tax right and liabilities is increasing. Proved also with the number of redemption money that had been collected over IDR 114.214,5 million[69]. This target is only 81% fulfillment of tax revenue target and not more than 15% of repatriation of assets targeted around IDR 147 trillion. This number of windfall money could increase nation revenue in that year. A further advantage, tax amnesty could enlarge the base registered taxpayers. The next step that the government would take to undertake structural changes in their taxation system. Robert Pakpahan as the Chief of Taxation Reform Team makes sure that Indonesia engages its tax reform by tax amnesty. Following up after this special program, a plan to have an automatic exchange of information (AEoI) to avoid tax avoidance after tax amnesty; regulating the human resource inside the institute; updating the data base of taxation trough e-filling, e-form and e-invoice; so on[70]. So, it is a transition for the government to the new tax enforcement regime.

The tax amnesty hopefully is not only added the follower of this program to be list taxpayers, as well regulated it could be audited carefully in the future. Furthermore, it can decrease the need of tax rising due to expanded tax database.

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[69] *Ibid.*, p. 239.

[70] Laila Martin, Agatino Camarda, and Jackson Oldfield, "Best Practices in Tax Amnesty and Asset Repatriation Programmes", *Transparency International*, no. September (2017), p. 2.

C. Analysis of *Maslahah* Concept Towards The Tax Amnesty Policy On The Act of Tax Amnesty Number 11, 2016

1. Maslahah Aspect towards Tax Amnesty 2017 in Indonesia

Al-Qur'an is being the principal of Sharia and as "the way of life" for human being eternally, either in the world or in the hereafter. All of His principle which conduct some goals in the term of Maslahah is written in Al-Qur'an and also rules from the His Prophet Muhammad SAW, in Prophetic Tradition.

But nowadays, implication of Islamic Economic in *Mu'amalah* ranges has been developing into many broad new products, which is more innovative and creative. Mostly, no evidence –even from Al-Qur'an or Sunnah- would underlie the new cases. So, ulama has been struggling in their *ijtihad* towards its *Maslahah*. In the previous chapter, *Maslahah* defined as drawing benefit and removing harm, in order to promote easy life, meaningful, prosperous, and avoiding all thing to harm.

In this paper, the writer would like to draw a point towards the latest government packet of fiscal policy in the term of *Maslahah. Maslahah* would connect between the spirits and philosophy of Sharia on one hand towards its object (eligibility, coverage, and incentives). Within Sharia actualization on the policy, it explores *Maslahah* as the agenda for the study of Islamic Economic development, which ends on a reflection, conclusion, and some recommendations.

a. Eligibility

The role of eligibility would be the fundamental things in every government program. Its subject has to be considered carefully, because it has strong correlation in the succeed of its program. Furthermore, the subject would carry out the program and the advantages feed back into their welfare. Taxpayers who have the right qualifications for participating in tax amnesty program have been managed in the Article 3 of The Act Number 11 of 2016.

Every taxpayer shall have the right to receive Tax Amnesty, by declaring the Assets owned in Declaration Letter. But there are some exceptions where the citizens do not have any right in it, mainly:

1) The taxpayer under investigation, due to declared investigation in the Prosecution Office
2) In juridical process
3) Or undergoing criminal sentence in the Tax Crime

This policy is regulated by the government. Where, the aim at regulating this policy is to boost the database of taxpayers. Whereas, since 1984, Indonesia had low percentage of taxpayer or tax ratio. The latest data show that not more than 12, 4% the obliged taxpayers report their asset every year. In the other hand, nation budget is increasing year to year.

In Islam, taxation is controled since the period of Rasullulah SAW. In the beginning the Islamic expansion in many *futuhat* in the Middle East, muslim got many valuable things after winning the war. Afterwards, his valuable thing became the nation revenue. In this period there were three foundation of nation revenue, *fai, khumus,* and *zakah.* Islamic Public Finance were developed sistematicaly related to nothing save Qur'an and Prophetic Tradition. The rule of distributing some of those valuable things was regulated in Al-Anfal 1,

يَسْـَٔلُونَكَ عَنِ ٱلْأَنفَالِۖ قُلِ ٱلْأَنفَالُ لِلَّهِ وَٱلرَّسُولِۖ فَٱتَّقُواْ ٱللَّهَ وَأَصْلِحُواْ ذَاتَ بَيْنِكُمْۖ وَأَطِيعُواْ ٱللَّهَ وَرَسُولَهُۥٓ إِن كُنتُم مُّؤْمِنِينَ ١

[71] Al-Qur'an Surah Al-Anfal (8) : 1

> *"They ask you about the windfalls. Say: The windfalls are for Allah and the Messenger. So be careful of (your duty to) Allah and set aright matters of your difference, and obey Allah and His Messenger if you are believers"*

From this verse, Islam regulates his taxation towards nation upon Rasulullah SAW as the stakeholder. Islam does not need any institution to manage the distribution and expenditures. In that period, the nation need was not too large and significant.

On the contrary, when it came to Caliph Umar's period. Islam had many troops and large inhabitants. So, there were many expenditures to fulfill the welfare of nation. Umar tried to regulate taxation in the baitulmal, to handle the public finance more smoothly towards *Maslahah* value in line with Al-Qur'an. At this point, the policy of taxation in Islam is conducted by the government linearly to Al-Qur'an and Prophetic Tradition. The centralization of financial power is needed nowadays, in order to keep the *Sharia* rule and the welfare of nation. Moreover, it becomes the duty of scholar and ulama', after the absence of Rasulullah SAW and his Caliphs.

This is similar with the condition of our nation, which needsmore nation revenue to improve welfare. Taxation plays very important role in our nation. The government always tries to stimulate the percentage the taxpayers to pay the tax rate. In spite of the fact that, nation budget 2016 needs IDR 2.095,7 trillion, 16.6% larger than last year, government set tax amnesty to collect more data of delinquent taxpayer.

To promote the public welfare or *Maslahah*, in spite of low nation revenue, government tries to stimulate the economic nation by encouraging taxation trough tax amnesty for many evaders (as explained in the tax compliance). The benefits of this program could be seen on its short terms.

The taxpayers who declare their offshore and onshore unreported assets into the tax net of Indonesia got abolishment of tax rate, administrative penalty, and criminal case in taxation, saved database of any transaction in their asset. Willy-nilly, taxpayers will pay their rate voluntary. In the future, the nation can maintain somehow the tax evaders which has participated this program to complicate the rules of taxation annually. The number taxpayers, who pay their tax rate regularly, will grow the nation economy. More than just numbers of nation revenue, but also tax amnesty will build the tax compliance to contribute in the nation development. In other words, this policy can bring to new tax reform. In order to strengthen the regulation, the government enforces tax evader trough tax amnesty. So, they will not fear to have penalties in the next tax reform introduced.

But not every taxpayer has a right in participating this program. The government conducts somehow to make sure this program is success by setting some exception in it. In order to establish its legal security and justice principle. Merely, the government points the main target of this program is taxpayer that own high net worth offshore. They should declare their offshore asset, because –like the government said- this program is only once, no more repetition, and the evader of this program would be given penalties toward their violation.

b. Coverage

The kind of tax that is provided in the amnesty is over Income Tax and Value Added Tax or Value Added Tax and Sales Tax on Luxury Goods. The reason of picking out this kind coverage is the most percentage of tax revenue come from this kind of tax. Whether the potential inhabitant of workforce is very large. There are IDR 1000 trillion of potential of income tax, if there is high tax compliance. In fact, the government is only collecting around IDR

9 trillion of potential income tax. So, this point the government can push up the tax revenue toward the right coverage, Income tax, Value Added Tax or Value Added Tax and Sales Tax on Luxury Goods.

c. Incentives

Tax as the researcher has been sketched in the last paragraph, is the authorities of government to regulate its law. Due to the need of the nation and its expenditures is very large. The government as the stakeholder has a legal in punishing the taxpayer that is not loyal to the nation. The punishments in Islam where no evidence encourage, to be upright, refer to *at-ta'dzir*. This is a form of government to keep nation welfare, rather than the economic stall. Masslahah in this point should be drawn to be the major part of discussion. The right of this punishment should be also controlled carefully. Many penalties acts, leak of promoting program, and the difficulties administration bounded to the taxpayers cause some evader in their compliance of law. So, the government needs a special program to encourage the tax compliance in that year, due to many factors and reasons. Tax amnesty could bring broad *Maslahah* in some ranges moreover in the tax revenue of nations.

Tax amnesty has brought some ease to taxpayers which have offshore assets. Through this government special program, they will not have any worry or difficulties to declare or repatriate their assets towards taxation. Tax amnesty has many kinds incentives to collect its participate, both of onshore and offshore.

There are paying the low rate towards unreported assets, tax-holiday on the last tax liabilities, abolishment of administration penalties, and abolishment of investigating of criminal sentence, so forth and so on.

The most used incentives in other applicator countries, such as India, Argentina, and Brazil is the abolishment of tracking the

investigating assets. It is being the main factor of tax amnesty.

In Indonesia, the government opens chances widely to those who want to declare not to be investigated in their criminal sentences of taxation, in the other hand they should pay the redemption money based on their asset. Flash back on the last tax amnesty in Indonesia, in 1984 when it was not success. It was caused because the government did not give the right incentives to the participant. The participant would have 5% or 10% redemption money, in multiplying the tax liabilities in the previous years which undeclared. 5% was for income of government priority, whereas 10% was out of that aim. The multiplying asset on the tax liabilities were other serious complicated problem. A long time ago, tax administrative of Indonesia was full of penalties. Whereas the taxpayers needed more information towards the new self-assessment system and the ease and simple tax administration.

Evaluating from the previous program, in this third tax amnesty program, government tries to reform into more adjustable taxation. They make the tax administration is more simple and easy. The redemption money that should be paid is calculated by multiplying the net of Asset only. Net Asset value shall include the latest SPT PPh or unreported assets. But, after conducting this program, government is preparing on a set of penalties for who evade the special program in that year. Tracking the tax evader is not difficult anymore. Because the nation make a broad data integrity with the financial institution of other countries around the world.

2. The Existence of Indonesia Tax Amnesty Policy in Maslahah Framework

Maslahah has been basis for many contemporary issues in Islamic law. Since then, *Maslahah* has an objective valuable thing to promote the well-being of inhabitant. In particular, the concept

of *Maslahah* represents the correlation between the contemporary financial issues with the Islamic framework based on the aim of *din* to hold the *Maqasid sharia*. Due to promoting the public welfare, *Maslahah* does not only mean serving interest (*jalb al-manfa'ah*) and save every human being from harm (*daf al-mafasid*), it is determined as the boarder dimension of epistemologist (*'aqidah*).

Indeed, the Islamic Financial Institutions including the government have to ensure that every transaction based on *shari'ah*, not only in the terms of forming and technicalities, but the most fundamental, in their substance outlined by *shari'ah*. This framework makes the contemporary financial issues more efficient and effective in managing.

The large number in mistake for defining *Maslahah* concept is relating its meaning in the narrow range. *Maslahah* has its fundamental factor, that we called with "benefit". People only focus on the benefit in the term of secular. The term of benefit is not only bounded with world aspect, furthermore in the Islamic prespective, its correlation with hereafter. Therefore, there's no reason to have the legality of ones financial issue that would ruin the concept of *shari'ah* in hereafter. Even merely, the contemporer of financial issues should not opposite the evidence of Al-Qur'an and Prophetic Tradition. Thus, it can not say justice replaces with injustice, mercy with its opposite, or wisdom with nonsense, it is not belonging to *Maslahah* concept in Islam. Every stakeholder should choose the basis of legislation carefully, not depends on their strong desire of subjective goals.

In this issue, tax amnesty is a policy with no evidence, both of Al-Qur'an and also Hadist. So, the writer considers it's as kind of *Maslahah Mursalah*. The economic policy and situation always change every time. And Islam as the moderate religion, can conduct somehow that every issue has its solution trough *Shari'ah* law. In this term, like the writer has been presented before, to analyze and approach its term,

Maslahah, must be carefully an aware not to create any policy based on personal interest. In this time, the writer admits that tax amnesty policy has some *Maslahah* in it, where actually its program is conducting a public welfare in Indonesia.

So far, tax amnesty with its goals bring many benefits to the nation revenue. But, the researcher would like to draw more clearly and deeply towards the real *Maslahah* concept in Islam. We can derive from the Article 2 of Act Number 11 of 2016, tax amnesty should aim at some of these goals:

a. Boosting the economic growth trough assets transferring, where could bring some advantages in strengthen the domestic liquidity, exchange rate of Rupiah, volume of investment, and decreasing the interest rate.
b. Promoting tax reform to be equitable valid, integrated, and comprehensive taxation system and database extention.
c. Increasing tax revenue toward high tax compliance.

In short terms, Indonesia has reached such a fantastic number of redemption money of this special program. Even the nominal was not as expected before, but Indonesia got the 1st rank on the highest redemption money after tax amnesty program. As explained before, in the long term, tax amnesty will also collect the names and data of taxpayer to comply with their tax rate payment annually.

To shed on the deeper observe of its *Maslahah*. The writer would like to highlight the term of *Maslahah* in Islam. The benefits are not only derived as in the world, but also have some merits in the hereafter. As presented before, tax amnesty has many advantages, both of in the short and long term. But the researcher found there are some gaps inside those benefits.

a. The absence of tracking the source of the asset

One of facilities of tax amnesty is the absence of tacking source of assets. The government chose this kind of incentives due

to collect database of tax amnesty as large number of expectation. But leading countries, which have high tax compliance and good tax administration is very effective to increase tax revenue. In the other hand, for the developing countries, tax amnesty will not guarantee the increasing of tax revenue and tax adminidtration. Tax amnesty as Gatra said is neutral. It usulally gives many tax revenue in the short term, but vice versa in the long term.

However, the facilities of absence of tracking of source of the asset gives opportunities for the taxpayers who have asset of illegall business, drug smuggler, and corruption to participate in tax amnesty and repatriation assets. In particular, the government admits money laundry in the policy of tax amnesty. From this program they can manage their illegal asset tobe "whiten asset" where invested and feedback into some profit from the investment.

The number of money laundry in Indonesia is never accessed and shown. But it is very danger situation in Indonesia, if the government is still admitting their process. The asset that is brought back to Indonesia is being questioned and gharar, due to the absence of tracking source of it. Islam in Islamic fiancé prohibits any product of *maysir, gharar*, and *riba*. The government must ensure the form of technicalities which are based on *shariah*-compliant. Furthermore, the government do not build the tax compliance in this term, but rather than collect the funds as much as can neglect its big substance, in the moral values.

This point also inhibits the development of regulation of anti-corruption in Indonesia. Because, the authorities of taxation will save carefully the database of funds of that participant. It will be difficult for the institute in uncovering corruption cases. Even the General Directorate knows that the asset in taxmanesty program from illegal or criminal business, they cannot report to police or KPK. So on, the accountability and transparency of Indonesian government is questioned, from choosing this program.

b. The Importance of Tax Amnesty in Indonesia towards *Maslahah*

Another critic towards this program in *Maslahah* concept is the importance of this program. Because the program would bargain the nation revenue and the role of law enforcement away. It should be conducted in the state of emergency. In Islam, the state of emergency can make a policy with high risk being *Maslahah Daruriyah* depending on its welfare in that time. In one time, this policy can be *Maslahah Daruriyah* if it is applicated well towards *Shari'ah* compliment, but then, it can change if the characteristic in contradiction with one of the conditions as it has been observe before. But, leak of economic development is not fundamental point to be considered as its reason to be done. As do the psychology's factor in 1984, was not also the main reason. Moreover, tax amnesty is policy which consists of high risk in the range of nation revenue, public economic and social politic.

The researcher would like to highlight the emergency situation in the term of law. Jimly Asshiddiqie, mentioned the state of emergency as following :

1) The condition of war due to aggression from intern or extern
2) Strained atmosphere in the society which need the power of army
3) The disasater or strained atmosphere from the government internally or externally.

The condition of Indonesia in that year is still in good condition. Because the Indonesia is an independence country since 1945. This condition has been getting better after the new order. The worst disaster was tsunami in Aceh, but Indonesia was suffering after then.

The study above has shown that the concept of *Maslahah* is aplicated well in this policy, except in one kind of incentive. The absence of tracking source makes the enforcement institutions and

financial institution in gap. Due to fact that, the General Diractorate blocks the notifying data of criminal and illegal business of taxpayers. They are protected from every investigation of any cases, wheter financial and tax database can be strong proof for beginning enforcement proceeding in Indonesia. It can be drawn this leak of tax amnesty policy include one of *mafasid*.

Considering from its mafasid, *Maslahah* run againist its principles, not to contrast with the principle of Al-Qu'ran and Sunnah. But the way of government to collect some nation revemue in short term with omitting the tracing or tax audit of the participant seems like they legalize every ways to get an numerous tax compliant and nation revenue. It is contrary to *shariah* principles in Al-Qur'an, where taking another's wealth is forbidden without any permittion, including in the way of taking illegally such as corruption, money laundry, and others. So, so forth, *Maslahah* in tax amnesty term is not *Shari'ah* compliance applicated well. The importance of its policy is not over *Maslahah Dharuriyah* again, but it has stalled to be *Maslahah al-Hajiyyah.* There some points to be avoided, due to opposition the aim of *Shari'ah*. It proves that the government should examine carefully in electing this program, due to some reason represented before. In further, we can observe the importance of its *Maslahah* in *ushul-fiqh*. The proper one, tax amnesty is a complementary need or *Hajjiyah*. The benefits or interests that supplement *daruriyyah* or essentials need. Because it is only becomes the bases of conducting the welfare in the world much and little in the hereafter. But if one tries to fulfill this complementary need, it will make the life easier and undistress. Overall, *daruriyyah* of *sharia*-compliance should be kept up rather than *hajiyyah* and *tahsiniyah.* Because the defiance of *hajiyyah* will not fundamentally affect *daruriyyah*.

CHAPTER IV

CLOSING

A. Research Result

From the previous analysis, it can be concluded as below:

1. The term *Maslahah* in Arabic means interest or benefit. And it has the meaning literally, as providing benefits and avoiding harm. Most of scholar shed on its objective connote to maqasid sharia's object. Both of them promote the well-being of human being through protecting their faith (din), life (nafs), posterity (nasl), intellect ('aql) and wealth (mal).

   According to Al-Ghazali's book, he has divided the classification of *Maslahah* into three classifications based on its evidence. First, *Maslahah Mu'tabarah* is one of *Maslahah* which has been ensured it's validly by Shyara' and becomes one of evidence in the universal matter. Its sources are derived from Nash (Qur'an and Sunnah) and ijma', based on qiyas. The second is *Maslahah Mulgha* or called with invalidated *Maslahah*. The evidences, both of Al-Qur'an and Sunnah do well on nullifying its legal law. The last, *Maslahah Mursalah* as *Maslahah* with no evidence to be yielded as an agreement or disagreement.

   Due to promoting the public welfare, *Maslahah* does not only mean serving interest (*jalb al-manfa'ah*) and save every human being from harm (*daf al-mafasid*), it is determined as the boarder dimension of epistemologist (*'aqidah*). Indeed, the Islamic Financial Institutions including the government have to ensure that every transaction based on *shari'ah*, not only in the terms of forming and technicalities, but the most fundamental, in their substance outlined by *shari'ah*. This framework makes

the contemporary financial issues more efficient and effective in managing.

2. Tax Amnesty in its program has brought many advantages to promote public welfare. There are short term and long term goals to be reached, mainly:

a. In short terms, the government tries to collect additional revenue and would stable nation economy in that year around 2016-2017.

b. In long terms, it is hoped from this program, government can increase tax ratio compliance, bring some investment from repatriated program which has some profits to the participate and nation, will ease tax reform in the future and increase the developing of the nation smoothly.

3. The study above has shown that the concept of *Maslahah* in this policy is kind of *Maslahah Mursalah*. Based on its importance as *Maslahah al-Hajjiyah*, which actually implicated well in this policy, except in one kind of incentive. The absence of tracking source makes the enforcement institutions and financial institution in gap. It seems that the government admits the practice of money laundry in Indonesia, and backed up its practice in the institutions.

Other lack of this program is the implementation of tax amnesty is only in the state of emergency, which has been discussed in the last chapter. It makes the degrees of tax amnesty towards shariah-compliance is lower. Tax amnesty is not as *daruriyah* or essential need, but it rather as *hajiyyah* need to complement the ease of human need and well-being.

B. Recommendation

1. The incentives of tax amnesty should be considered carefully. Because, it has broad correlation with the success of program in tem of *Shari'ah*-compliance. The absent of tracking source

just make other enforcement institutions difficult to investigate white-collar crimes or international smuggling cases in Indonesia. There are many choices of incentives of tax amnesty that can succeed all of part of government institute in Indonesian.

2. Before this program, Indonesia could take an observe of Tax Amnesty in some other implicated countries. Such as South Africa, which implemented pull and push *program* before tax amnesty. And in the incentives of its program, they only abolished the penalty and tax liabilities, with no absence of tracking of funds.
3. In the future, the government should consistently to reform the tax enforcement into effective and efficient in managing. Because, its law can be kept be held up, if the government always tries not to burden every citizewith long circumvent administration.
4. Considering its importance and degree of *Maslahah* in shariah. Government should set out another program to encourage the welfare towards micro-economic package. Because saving from harm is better than taking its benefits of profits. Like in ushu-l-fiqh said.

«درء المفاسد مقدم على جلب المصالح»

C. Closing

After finishing this thesis, the researcher would like to be extremely very grateful to Allah SWT for his blessing and mercy in finishing this thesis. Hopefully, every single part of this paper would be very helpful in the role of Islamic Economy in the future. Nevertheless, I persevered and, all in all, which can highly result as a positive return of Nation Economic in the range of Islam.

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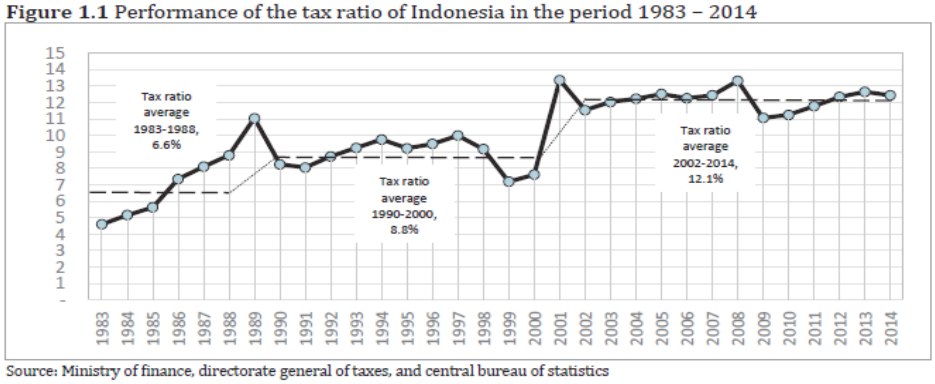
ATTACHMENT

Table 1.1. The Rate of Redemption Money

General Taxpayers	Redemption Money Rates based on Tax Amnesty Submission Period		
	July-Sep 2016	Oct-Dec 2016	Jan-March 2017
Offshore assets declaration – not repatriated to Indonesia	4%	6%	10%
Offshore assets declaration – repatriated and invested in Indonesia for minimum of three years	2%	3%	5%
Onshore assets declaration – retained in Indonesia for minimum three years	2%	3%	5%

Table 2.1. Performance of Tax Ratio of Indonesia in The Period 1983-2014

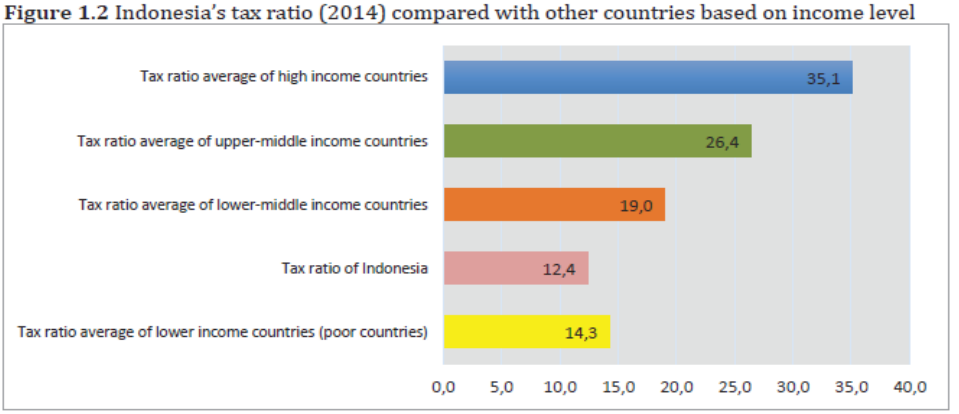
Figure 1.1 Performance of the tax ratio of Indonesia in the period 1983 – 2014



Source: Ministry of finance, directorate general of taxes, and central bureau of statistics

Table 2.2. Indonesian's Tax Ratio (2014) compared with other countries based on income level

Figure 1.2 Indonesia's tax ratio (2014) compared with other countries based on income level



Source: IMF, 2011 and Indonesia's state budget, 2014

Table 2.3. The Differences between Sunset Policy and Tax Amnesty

No.	Sunset Policy	Tax Amnesty
1	It would be applied only once of a chance for the taxpayer	It would be applied for more one time depends the government and nation's condition
2	This policy only amended the penalty of the previous tax, not amended its head tax	The policy gives a chance to the taxpayer to repatriate of assets that were stored outside nation, by paying the redemption money
3	The process or tracking the source of funds used by taxpayers still works	The absence of a process of checking or tracking of the source of the funds
4	The process was not followed by the law enforcement of the government	The process was followed by some of law enforcement and transparency of taxpayer's data
5	In fact, it had only gained more taxpayers rather than tax revenue	Gaining more taxpayers, and tax revenue

Table 2.4. The Development of Tax Amnesty Program in Indonesia

Table 2.4. The Development of Tax Amnesty Program in Indonesia

	1st Period				2nd Period				3rd Period				1st, 2nd,
	July 2016	Aug 2016	Sep 2016	Total	Oct 2016	Nov 2016	Dec 2016	Total	Jan 2017	Feb 2017	March 2017	Total	3rd, Period
Redemption Money	130,2	4.816,2	88.790,8	93.737,2	734,5	1.015,5	7.734,3	9.484,3	449,8	1.110,4	9.432,9	10.993,1	114.214,6
Ceasing of Preliminary Evidence Audit/ Investigation	0,5	65,7	287,9	354,1	44,9	84,1	256,2	385,2	32,6	11,7	964,8	1.009,1	1.748,4
Late Payment Tax	986,8	1.137,1	941,0	3.064,8	0,0	0,0	6.911,1	6.911,1	508,3	813,9	7.659,0	8.981,2	18.957,1
Total	1.117,5	6.019,0	90.019,7	97.156,1	779,4	1.099,6	14.901,6	16.780,6	990,7	1.936,0	18.056,7	20.983,4	134.920,1

Source: Laporan Perekonomian Indonesia 2017 Bank Indonesia

LAW OF THE REPUBLIC OF INDONESIA
NUMBER 11 OF 2016
REGARDING
TAX AMNESTY

COPY

BY THE GRACE OF GOD ALMIGHTY
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering : a. whereas the national development of the Unitary State of the Republic of Indonesia, aiming at the equal and just welfare of all Indonesian people, shall require great funding to be primarily sourced from tax revenues;

b. whereas in order to meet the increasing demands of tax revenues, it is necessary to establish the people's awareness of and compliance with their tax liabilities by optimizing all available potentials and resources;

c. whereas the people's awareness of and compliance with their tax liabilities shall need to be raised due to the fact that there are Assets, both in and outside Indonesia, which have not been reported or fully reported in the Annual Income Tax Return;

d. whereas in order to increase the state revenue and improve the economic growth as well as the people's awareness of and compliance with the tax liabilities, it is necessary to issue a policy regarding Tax Amnesty;

e. whereas based on considerations as referred to in letters a, b, c and d, it is necessary to stipulate a Law regarding Tax Amnesty;

In view of : Article 5 paragraph (1), Article 20, and Article 23A of the 1945 Constitution of the Republic of Indonesia;

With the. . .

With the Joint Approval of
THE HOUSE OF REPRESENTATIVE OF THE REPUBLIC OF INDONESIA
and
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

BE IT HEREBY RESOLVED:

To stipulate : LAW REGARDING TAX AMNESTY.

CHAPTER I GENERAL PROVISIONS

Article 1

As intended herein, the following terms shall have the corresponding meaning as referred to hereunder:

1. Tax Amnesty shall mean waiver of tax due, without being subjected to tax administrative sanction and tax criminal sanction, by declaring the Assets and paying the Redemption Money as regulated herein.
2. Taxpayer shall mean an individual or a corporate having tax right and liability in compliance with the provisions of the tax laws and regulations.
3. Assets shall mean additional accumulation of economic capacity constituting all properties, both tangible and intangible, movable and fixed, used and not used for business, in and/or outside the territory of the Unitary State of the Republic of Indonesia.
4. Debt shall mean the total outstanding amount of principal directly related to the acquisition of Asset.
5. Tax Year shall mean a period of 1 (one) calendar year, unless the Taxpayer has fiscal year which is different from calendar year.

6. Tax Arrears. . .

6. Tax Arrears shall mean the amount of outstanding tax principal based on Tax Collection Letter which covers the outstanding tax principal, Underpaid-Tax Assessment, Additional Underpaid-Tax Assessment, Rectification Decision Letter, Objection Decision Letter, Appeal Decision Letter, and Reconsideration Decision Letter, which ultimately increases the amount of tax payables including unreturned tax, as regulated in the Law regarding General Provisions and Tax Procedures.

7. Redemption Money shall mean the amount of money deposited to the state treasury in order to receive Tax Amnesty.

8. Taxation Crime shall mean the act of crime as regulated in the Law regarding General Provisions and Tax Procedures.

9. Declaration Letter of Assets for Tax Amnesty, hereinafter referred to as Declaration Letter, shall mean a letter used by Taxpayer to declare Assets, Debts, net Assets value, as well as the calculation and payment of Redemption Money.

10. Minister shall mean the minister administering governmental affairs in state finance.

11. Tax Amnesty Approval Letter, hereinafter referred to as Approval Letter, shall mean the letter issued by the Minister as the proof of approval of Tax Amnesty.

12. Latest Annual Income Tax Return (*Surat Pemberitahuan Tahunan Pajak Penghasilan Terakhir*), hereinafter referred to as Latest SPT PPh, shall mean:

    a. Annual Income Tax Return for Tax Year 2015 for Taxpayer whose fiscal year ends in the period of July 1, 2015 up to December 31, 2015; or

    b. Annual Income Tax Return for Tax Year 2014 for Taxpayer whose fiscal year ends in the period of January 1, 2015 up to June 30, 2015.

13. Data and Information Management shall mean Taxpayer administration system of data and information in connection with Tax Amnesty managed by the Minister.

14. Collecting Bank shall mean commercial bank designated by the Minister to receive the state revenue deposit and hereunder assigned to receive the deposit of Redemption Money and/or fund transferred to the territory of the Unitary State of the Republic of Indonesia for the purpose of Tax Amnesty.

15. Latest Tax Year shall mean Tax Year ending in the period of January 1, 2015 up to December 31, 2015.

CHAPTER II PRINCIPLES AND PURPOSE

Article 2

(1) Tax Amnesty shall be implemented based on the principles as follows:

a. legal security;

b. justice;

c. expediency; and

d. national interest.

(2) Tax Amnesty shall aim at:

a. accelerating economic growth and restructuring through Assets transfer, which brings impacts such as, among others, improved domestic liquidity, improved exchange rate of Rupiah, reduced interest rate, and increase in volume of investment;

b. promoting tax reform for more equitable taxation system, and more valid, comprehensive, and integrated tax database extension; and

c. increasing tax revenues, which will be utilized among others to finance development.

CHAPTER III SUBJECT AND OBJECT OF TAX AMNESTY

Article 3

(1) Every Taxpayer shall have the right to receive Tax Amnesty.

(2) Tax Amnesty as referred to in paragraph (1) shall be provided to Taxpayer by declaring the Assets owned in the Declaration Letter.

(3) Excluded from the provision as referred to in paragraph (1) shall be Taxpayer who is currently:
a. under investigation in connection with which the investigation files have been declared as complete by the Prosecution Office;
b. undergoing court proceedings; or
c. undergoing criminal sentence,
for Tax Crime.

(4) Tax Amnesty as referred to in paragraph (1) shall include amnesty for tax liabilities up to the end of the Latest Tax Year which have not been discharged or fully discharged by the Taxpayer.

(5) Tax liability as referred to in paragraph (4) shall cover liabilities over:
a. Income Tax; and
b. Value Added Tax or Value Added Tax and Sales Tax on Luxury Goods.

CHAPTER IV
RATE AND CALCULATION OF REDEMPTION MONEY

Article 4

(1) Redemption Money Rate over Assets existing within the territory of the Unitary State of the Republic of Indonesia or those outside the territory of the Unitary State of the Republic of Indonesia transferred to the territory of the Unitary State of the Republic of Indonesia and invested in the territory of the Unitary State of the Republic of Indonesia within at least 3 (three) years as of its transfer shall be:
a. 2% (two percent) for submission period of Declaration Letter in the first month up to the end of the third month as of the enactment of this Law;

b. 3%. . .

b. 3% (three percent) for submission period of Declaration Letter in the fourth month as of the enactment of this Law up to December 31, 2016; and

c. 5% (five percent) for submission period of Declaration Letter as of January 1, 2017 up to March 31, 2017.

(2) Redemption Money Rate over Assets outside the territory of the Unitary State of the Republic of Indonesia and not transferred to the territory of the Unitary State of the Republic of Indonesia shall be in the amount of:

a. 4% (four percent) for submission period of Declaration Letter in the first month up to the end of the third month as of the enactment of this Law;

b. 6% (six percent) for submission period of Declaration Letter in the fourth month as of the enactment of this Law up to December 31, 2016; and

c. 10% (ten percent) for submission period of Declaration Letter as of January 1, 2017 up to March 31, 2017.

(3) Redemption Money Rate for Taxpayer whose business turnover is up to Rp4,800,000,000.00 (four billion eight hundred million rupiahs) in the Latest Tax Year shall be in the amount of:

a. 0.5% (zero point five percent) for Taxpayer declaring Assets value up to Rp10,000,000,000.00 (ten billion rupiahs) in the Declaration Letter; or

b. 2% (two percent) for Taxpayer declaring Assets value exceeding Rp10,000,000,000.00 (ten billion rupiahs) in the Declaration Letter,

for submission period of Declaration Letter in the first month since the enactment of this Law up to March 31, 2017.

Article 5

(1) The amount of Redemption Money shall be calculated by multiplying the rate as referred to in Article 4 by the basis of Redemption Money.

(2) Basis of Redemption Money as referred to in paragraph (1) shall be calculated based on the net Assets value which has not been reported or fully reported in the Latest SPT PPh.

(3) Net Assets value as referred to in paragraph (2) shall represent the balance between values of Assets and Debts.

Article 6

(1) Assets value declared in the Declaration Letter shall include:
a. Assets value which has been reported in the Latest SPT PPh; and

b. additional Assets value which has not been reported or fully reported in the Latest SPT PPh.

(2) Assets value which has been reported as referred to in paragraph (1) letter a shall be defined in Rupiah based on the value reported in the Latest SPT PPh.

(3) In the event that the Taxpayer is required to submit Annual Income Tax Return in any currency other than Rupiah, Assets value which has been reported as referred to in paragraph (1) letter a shall be denominated in Rupiah based on the exchange rate published by the Minister for the purpose of tax calculation at the end of the fiscal year in accordance with the Latest SPT PPh.

(4) Additional Assets value which has not been reported or fully reported as referred to in paragraph (1) letter b shall be denominated in Rupiah based on the nominal value for Assets in cash or fair value for Assets in kind at the end of the Latest Tax Year.

(5) In the event that additional Assets value is denominated in a currency unit other than Rupiah, additional Assets value shall be denominated in Rupiah based on the:
a. nominal value for Assets in cash; or
b. fair value at the end of the Latest Tax Year for Assets in kind,
at the exchange rate published by the Minister for the purpose of tax calculation at the end of the Latest Tax Year.

Article 7

(1) Value of Debts declared in the Declaration Letter shall include:
a. value of Debts reported in the Latest SPT PPh; and
b. value of Debts related to additional Assets as referred to in Article 6 paragraph (1) letter b.

(2) For the calculation of the basis of Redemption Money, the value of Debts directly related to the acquisition of additional Assets which may be taken into account as reduction of Assets value for:
a. Corporate Taxpayer shall not exceed 75% (seventy five percent) of additional Assets value; or
b. Individual Taxpayer shall not exceed 50% (fifty percent) of additional Assets value.

(3) Value of Debts which has been reported as referred to in paragraph (1) letter a shall be defined in Rupiah based on the value reported in the Latest SPT PPh.

(4) In the event that Taxpayer is required to submit Annual Income Tax Return in a currency unit other than Rupiah, the value of Debts as referred to in paragraph (3) shall be determined in Rupiah at the exchange rate published by the Minister for the purpose of tax calculation at the end of fiscal year in accordance with the Latest SPT PPh.

(5) Value of Debts related to additional Assets as referred to in paragraph (1) letter b shall be determined in Rupiah based on the value reported in the list of Debts at the end of the Latest Tax Year.

(6) In the event. . .

(6) In the event that value of Debts related to additional Assets as referred to in paragraph (1) letter b is determined in a currency other than Rupiah, it shall be determined in Rupiah at the exchange rate published by the Minister for the purpose of tax calculation at the end of the Latest Tax Year.

CHAPTER V
PROCEDURES FOR SUBMISSION OF DECLARATION LETTER, ISSUANCE OF TAX AMNESTY APPROVAL, AND AMNESTY FOR TAX LIABILITY

Article 8

(1) In order to receive Tax Amnesty, Taxpayer shall submit Declaration Letter to the Minister.

(2) Declaration Letter as referred to in paragraph (1) shall be signed by:

a. individual Taxpayer;

b. the highest rank management based on the deed of establishment or any other equivalent document, for corporate Taxpayer; or

c. attorney-in-fact, in case of unavailability of such highest rank management as referred to in letter b.

(3) Taxpayer as referred to in paragraph (1) shall fulfill the requirements as follows:

a. to have Taxpayer Registration Number;

b. to pay Redemption Money;

c. to discharge Tax Arrears in full;

d. to discharge unpaid or underpaid tax or to settle tax which should not have been refunded for Taxpayer currently subject to preliminary evidence audit and/or investigation;

e. to submit the Latest SPT PPh for Taxpayer required to submit the Annual Income Tax Return; and

f. to revoke any application for:
   1. tax overpayment refund;
   2. reduction or waiver of tax administrative sanction in Tax Assessment and/or Tax Collection Letter which includes outstanding tax principal;
   3. reduction or cancellation of incorrect tax assessment;
   4. tax objection;
   5. revision of tax assessment and decision letter;
   6. tax appeal;
   7. tax lawsuit; and/or
   8. judicial review,

   in the event that the Taxpayer is applying for such processes and no judgment or decision has been issued.

(4) Redemption Money as referred to in paragraph (3) letter b shall be paid in full to the state treasury through the Collecting Bank.

(5) Payment of Redemption Money as referred to in paragraph (4) shall be made using the tax payment slip which shall serve as the Redemption Money payment slip upon its validation.

(6) In the event that Taxpayer wishes to transfer its Assets to the territory of the Unitary State of the Republic of Indonesia, in addition to meeting the requirements as referred to in paragraph (3), the relevant Taxpayer shall transfer the Assets to the territory of the Unitary State of the Republic of Indonesia and invest such Assets in the territory of the Unitary State of the Republic of Indonesia within at least --3 (three) years:

   a. prior to December 31, 2016 for Taxpayer who prefers the Redemption Money Rate as referred to in Article 4 paragraph (1) letters a and b; and/or

   b. prior to March 31, 2017 for Taxpayer who prefers the Redemption Money Rate as referred to in Article 4 paragraph (1) letter c.

(7) In the event. . .

(7) In the event that Taxpayer declares that there are Assets situated and/or placed in the territory of the Unitary State of the Republic of Indonesia, in addition to meeting the requirements as referred to in paragraph (3), Taxpayer may not transfer such Assets to any territory outside the Unitary State of the Republic of Indonesia within at least 3 (three) years as of the issuance of Tax Amnesty Approval.

Article 9

(1) Declaration Letter as referred to in Article 8 paragraph (1) shall at least contain information regarding the identity of the Taxpayer, Assets, Debts, net Assets value, and calculation of Redemption Money.

(2) Declaration Letter as referred to in paragraph (1) shall be enclosed with:

a. payment slip of Redemption Money;

b. proof of Tax Arrears settlement for Taxpayer having Tax Arrears;

c. detailed list of Assets and ownership information of the reported Assets;

d. list of Debts and its supporting documents;

e. proof of settlement of unpaid or underpaid tax or tax which should not have been refunded for Taxpayer currently subject to preliminary evidence audit and/or investigation;

f. copy of Latest SPT PPh; and

g. revocation letter with respect to any application as referred to in Article 8 paragraph (3) letter f.

(3) In the event that Taxpayer has the intention to transfer Assets to the territory of the Unitary State of the Republic of Indonesia as referred to in Article 8 paragraph (6), in addition to providing the documents as referred to in paragraph (2), Taxpayer shall be required to provide a letter stating that it will transfer and invest such Assets to and in the territory of the Unitary State of the Republic of Indonesia within at least 3 (three) years as of such transfer.

(4) In the event that Taxpayer declares that there are Assets situated and/or placed in the territory of the Unitary State of the Republic of Indonesia as referred to in Article 8 paragraph (7), in addition to providing documents as referred to in paragraph (2), Taxpayer shall be required to provide a letter stating that it will not transfer the Assets to any territory outside the Unitary State of the Republic of Indonesia within at least 3 (three) years as of the issuance of Tax Amnesty Approval.

(5) For Taxpayer whose business turnover amounts up to Rp4,800,000,000.00 (four billion eight hundred million rupiahs) in the Latest Tax Year as referred to in Article 4 paragraph (3), in addition to providing documents as referred to in paragraphs (2) and (4), the Taxpayer concerned shall be required to provide a statement letter regarding the amount of its business turnover.

Article 10

(1) Declaration Letter shall be submitted to the Directorate General of Taxes with which the Taxpayer is registered or any other location as designated by the Minister.

(2) Prior to submitting Declaration Letter and its attachments as referred to in Article 9, Taxpayer shall request for explanation regarding completion and requirements of documents which should be enclosed with the Declaration Letter to be submitted to the Directorate General of Taxes or any other office as designated by the Minister.

(3) Based on the explanation as referred to in paragraph (2), Taxpayer shall pay the Redemption Money and submit the Declaration Letter and its attachments.

(4) The Minister or the appointed official on behalf of the Minister shall issue Tax Amnesty Approval no later than 10 (ten) business days as of the receipt of Declaration Letter and its attachments and deliver the Tax Amnesty Approval to the Taxpayer.

(5) In the event that within the period of 10 (ten) business days as referred to in paragraph (4) the Minister or the appointed official on behalf of the Minister has not issued Tax Amnesty Approval, the Declaration Letter shall be deemed to be the Tax Amnesty Approval.

(6) The Minister or the appointed official on behalf of the Minister may issue revision letter of Tax Amnesty Approval in the event of:
a. typographical error in the Tax Amnesty Approval; and/or
b. miscalculation in the Tax Amnesty Approval.

(7) Taxpayer may submit Declaration Letter at a maximum of 3 (three) times as of the enactment of this Law up to March 31, 2017.

(8) Taxpayer may submit the second or third Declaration Letter before or after the issuance of Tax Amnesty Approval for the first of second Declaration Letter.

(9) In the event that Taxpayer submits the second or third Declaration Letter, the calculation of the basis of Redemption Money in the said Declaration Letter shall consider the basis of Redemption Money specified in the Tax Amnesty Approval for the previous Declaration Letter.

(10) In the event of overpayment of Redemption Money resulting from:

a. issuance of revision letter due to miscalculation as referred to in paragraph (6) letter b; or

b. submission of the second or third Declaration Letter as referred to in paragraph (8),

such overpayment shall be returned and/or set off against any other tax liabilities within the period of no later than 3 (three) months as of the issuance of the said revision letter or submission of the second or third Declaration Letter.

Article 11

(1) Taxpayer that has submitted Declaration Letter as referred to in Article 8 paragraph (1) and its attachments as referred to in Article 9 shall be given a receipt as proof of receipt of such Declaration Letter.

(2) Taxpayer that has received such receipt as referred to in paragraph (1) shall not be subject to:
a. audit;
b. preliminary evidence audit; and/or
c. Tax Crime investigation,
for the tax period, fraction of Tax Year, or Tax Year up to the end of the Latest Tax Year.

(3) In the event that Taxpayer that has received the receipt as referred to in paragraph (1) is under:
a. audit;
b. preliminary evidence audit; and/or
c. Tax Crime investigation,
for the tax period, fraction of Tax Year, or Tax Year up to the end of the Latest Tax Year, such audit, preliminary evidence audit, and/or Tax Crime investigation shall be postponed up to the issuance of Tax Amnesty Approval.

(4) Audit, preliminary evidence audit, and/or Tax Crime investigation as referred to in paragraph (3) shall be terminated in the event that the Minister or the appointed official on behalf of the Minister issues Tax Amnesty Approval.

(5) Taxpayer that has received the Tax Amnesty Approval shall be entitled to Tax Amnesty facilities as follows:
a. waiver of tax payables for which tax assessment letters have been issued, waiver of tax administrative sanction, and waiver of tax criminal sanction, for tax liabilities accruing during the tax period, fraction of Tax Year, and Tax Year, up to the end of the Latest Tax Year;

b. waiver of tax administrative sanction in the form of interest, or penalty, for tax liabilities accruing during the tax period, fraction of Tax Year, and Tax Year, up to the end of the Latest Tax Year;

c. exemption from tax audit, preliminary evidence audit, and Taxation Crime investigation, for tax liabilities accruing within the tax period, fraction of Tax Year, and Tax Year, up to the end of the Latest Tax Year; and

d. termination of tax audit, preliminary evidence audit, and Taxation Crime investigation, in the event that Taxpayer is undergoing tax audit, preliminary evidence audit, and Taxation Crime investigation for tax liabilities, up to the end of the Latest Tax Year, which had previously been suspended as referred to in Article 11 paragraph (3),

in connection with tax liabilities as referred to in Article 3 paragraph (5).

(6) Termination of investigation as referred to in paragraph (5) letter d shall be carried out by the official of the Directorate General of Taxes in charge of the duty and function of investigation in compliance with the provisions of the tax laws and regulations.

CHAPTER VI
INVESTMENT LIABILITY OVER DECLARED ASSETS AND REPORTING

Article 12

(1) Taxpayer that declares to transfer and invest the Assets as referred to in Article 8 paragraph (6) shall transfer the said Assets through the Collecting Bank specifically designated for such purpose no later than:

a. December 31, 2016 for Taxpayer declaring to transfer and invest the Assets as referred to in Article 8 paragraph (6) letter a; and/or

b. March 31, 2017 for Taxpayer declaring to transfer and invest the Assets as referred to in Article 8 paragraph (6) letter b.

(2) The period of investment shall be at least 3 (three) years as referred to in Article 8 paragraph (6) as of the transfer of such Assets into the territory of the Unitary State of the Republic of Indonesia.

(3) Investment as referred to in paragraph (1) shall be carried out in the form of:

a. state securities of the Republic of Indonesia;

b. bonds of State-Owned Enterprise;

c. bonds of Government-owned financing institution;

d. financial investment in Collecting Bank;

e. bonds of private company of which trading activities are under the supervision of the Financial Service Authority;

f. infrastructural investment through a cooperation between the Government and business entities;

g. real sectoral investment based on priorities specified by the Government; and/or

h. other lawful forms of investment in compliance with the provisions of the statutory regulations.

Article 13

(1) Taxpayer or the appointed attorney-in-fact shall submit a report to the Minister or the appointed official on behalf of the Minister regarding:

a. realization of the transfer and investment of additional Assets declared in the Declaration Letter for additional Assets transferred to the territory of the Unitary State of the Republic of Indonesia, for Taxpayer required to make the transfer as referred to in Article 8 paragraph (6); and/or

b. placement of additional Assets declared in the Declaration Letter for additional Assets situated in the territory of the Unitary State of the Republic of Indonesia, for Taxpayer not allowed to transfer the Assets to any territory outside the

Unitary State of the Republic of Indonesia as referred to in Article 8 paragraph (7).

(2) Based on the report as referred to in paragraph (1), the Minister or the appointed official on behalf of the Minister may issue and deliver a warning letter after the expiry of the submission period of Declaration Letter in the event that:

a. Taxpayer declaring to transfer and invest the Assets into the territory of the Unitary State of the Republic of Indonesia fails to comply with the provision as referred to in Article 8 paragraph (6); and/or

b. Taxpayer declaring not to transfer the Assets to a territory outside the Unitary State of the Republic of Indonesia fails to comply with the provision as referred to in Article 8 paragraph (7).

(3) Taxpayer shall submit a response to the warning letter as referred to in paragraph (2) within a period of no later than 14 (fourteen) business days as of the delivery date of such warning letter.

(4) In the event that based on the response of Taxpayer it is evidenced that the Taxpayer fails to comply with the provision as referred to in Article 8 paragraph (6) and/or Article 8 paragraph (7), the following provisions shall apply:

a. additional net Assets stipulated in Tax Amnesty Approval shall be treated as income in Tax Year 2016 and such income shall be subject to tax and sanction in compliance with the provisions of the tax laws and regulations; and

b. Redemption Money already paid by Taxpayer shall be deemed as tax reduction as referred to in letter a.

(5) Taxpayer as referred to in paragraph (4) shall remain being subject to the provision regarding special treatment for Tax Amnesty as referred to in Article 11.

CHAPTER VII
TAX TREATMENT

Article 14

(1) Taxpayer required to maintain its bookkeeping in compliance with the provisions of the Law regarding General Provisions and Tax Procedures shall record the balance between net Assets value as referred to in Article 5 paragraph (3) submitted in the Declaration Letter and the net Assets value reported by the Taxpayer in the Latest SPT PPh as referred to in Article 6 paragraph (1) letter a, as an addition to retained earnings in the balance sheet.

(2) Additional Assets declared in the Declaration Letter as referred to in Article 6 paragraph (1) letter b in the form of intangible assets may not be amortized for the purpose of taxation.

(3) Additional Assets declared in the Declaration Letter as referred to in Article 6 paragraph (1) letter b in the form of tangible assets may not be depreciated for the purpose of taxation.

Article 15

(1) Taxpayer that has received Tax Amnesty Approval and paid Redemption Money for:

a. fixed Assets in the form of land and/or building; and/or

b. Assets in the form of shares,

the title to which has not been transferred to the relevant Taxpayer, shall be obliged to transfer the title to such assets to himself.

(2) Transfer of title as referred to in paragraph (1) letter a shall be exempted from Income Tax, in the event that:

a. application for transfer of title; or

b. execution of a statement letter by both parties before a notary stating that the Assets as referred to in paragraph (1) letter a is

truly owned by the Taxpayer submitting the Declaration Letter, in the event that the application for transfer of title over the said Assets cannot be applied,

is made no later than December 31, 2017.

(3) Transfer of title as referred to in paragraph (1) letter b shall be exempted from Income Tax in the event that an agreement of transfer of title is executed no later than December 31, 2017.

(4) If until December 31, 2017, Taxpayer fails to carry out the transfer of title as referred to in paragraph (1), such transfer of title shall be subject to tax in compliance with the provisions of the statutory regulations regarding Income Tax.

Article 16

(1) Taxpayer submitting the Declaration Letter shall not have the right to:

a. carry forward the fiscal loss in the tax return for the fraction of Tax Year or Tax Year, up to the end of the Latest Tax Year, to the fraction of the following Tax Year or the following Tax Year;

b. carry forward the tax overpayment in the tax return for the types of tax as referred to in Article 3 paragraph (5) for the tax period at the end of the Latest Tax Year, to the following tax period;

c. submit application for tax overpayment refund in the tax return for the types of tax as referred to in Article 3 paragraph (5) for the tax period, fraction of the Tax Year, or Tax Year, up to the end of the Latest Tax Year; and/or

d. make revision to the tax return for the types of tax as referred to in Article 3 paragraph (5) for the tax period, fraction of the Tax Year, or Tax Year, up to the end of the Latest Tax Year, upon the enactment of this Law.

(2) After this Law being enacted, any revision of tax return for the tax period, fraction of the Tax Year, or Tax Year, up to the end of the

Latest Tax Year submitted by the Taxpayer that submits the Declaration Letter shall be deemed to have not been given.

Article 17

(1) Tax Assessment, Decision on Advance Tax Return, Decision on Rectification, Decision on Reduction of Tax Assessment, Decision on Nullification of Tax Assessment, Objection Decision Letter, Appeal Decision Letter, Lawsuit Verdict, Decision on Judicial Review, for the tax period, fraction of the Tax Year, and Tax Year prior to the end of the Latest Tax Year, issued before the submission of Declaration Letter by the Taxpayer, shall remain the basis for:

a. the Directorate General of Taxes to collect tax and/or refund tax overpayment;
b. the Taxpayer to compensate for fiscal loss; and
c. the Taxpayer to compensate for tax overpayment,

in compliance with the provisions of the tax laws and regulations.

(2) Tax Assessment, Decision on Advance Tax Return, Decision on Rectification, Decision on Reduction of Tax Assessment, Decision on Nullification of Tax Assessment, Objection Decision Letter, Appeal Decision Letter, Lawsuit Verdict, Decision on Judicial Review, for the tax period, fraction of the Tax Year, and Tax Year prior to the end of the Latest Tax Year, issued after the submission of Declaration Letter by the Taxpayer, shall not be used as the basis for:
a. the Directorate General of Taxes to collect tax and/or refund tax overpayment;
b. the Taxpayer to compensate for fiscal loss; and
c. the Taxpayer to compensate for tax overpayment.

(3) In case of issuance of Tax Assessment, Decision on Advance Tax Return, Decision on Rectification, Decision on Reduction of Tax Assessment, Decision on Nullification of Tax Assessment, Decision on Reduction of Administrative Sanction, Decision on Waiver of Administrative Sanction, Objection Decision Letter, Appeal Decision Letter, Decision on Judicial Review, for the tax period, fraction of the Tax Year, and Tax Year prior to the end of the Latest Tax Year, before the submission of Declaration Letter by the Taxpayer which incurs

any interest payment liability to the Directorate General of Taxes, such liability shall be null and void.

CHAPTER VIII

TREATMENT OF ASSETS NOT DECLARED OR NOT FULLY DECLARED

Article 18

(1) If, upon receipt by Taxpayer of Tax Amnesty Approval, it is found that certain data and/or information regarding Assets have not been declared or fully declared by the Taxpayer in the Declaration Letter, the said Assets shall be deemed as additional income received or receivable by the Taxpayer at the time when such data and/or information regarding the said Assets are found.

(2) In the event that:

a. Taxpayer fails to submit Declaration Letter until the expiry of the Tax Amnesty period; and

b. Director General of Taxation discovers any data and/or information regarding Assets acquired by the Taxpayer as of January 1, 1985 up to December 31, 2015 and not already reported in the Annual Income Tax Return,

the said Assets shall be deemed as additional income received or receivable by the Taxpayer at the time when such data and/or information regarding the said Assets are found, no later than 3 (three) years as of the enactment of this Law.

(3) The additional income as referred to in paragraph (1) shall be subject to Income Tax in compliance with the provisions of the statutory regulations regarding Income Tax and tax administrative sanction amounting to 200% (two hundred percent) of the unpaid or underpaid Income Tax.

(4) The additional income as referred to in paragraph (2) shall be subject to tax and sanction in compliance with the provisions of the tax laws and regulations.

CHAPTER IX
LEGAL REMEDY

Article 19

(1) Any dispute in connection with the implementation of this Law may be settled by filing a suit.

(2) Suit as referred to in paragraph (1) may only be filed to a tax court.

CHAPTER X
DATA AND INFORMATION MANAGEMENT

Article 20

Data and information derived from Declaration Letter and its attachments and administered by the Ministry of Finance or any other party in connection with the implementation of this Law shall not be used as the basis of inquiry, investigation, and/or criminal prosecution against Taxpayer.

Article 21

(1) The Minister shall administer the Data and Information Management in the implementation of this Law.

(2) The Minister, Vice Minister, officials of the Ministry of Finance, and other party related to the implementation of Tax Amnesty shall not divulge, disseminate, and/or disclose to any other person any data and information received from or disclosed by the Taxpayer.

(3) No data and information submitted by the Taxpayer for the purpose of Tax Amnesty may be requested by any person nor shall they be given

to any other person under other statutory regulations, except with the consent of the relevant Taxpayer.

(4) Data and information submitted by the Taxpayer shall be used as tax database of the Directorate General of Taxes.

Article 22

None of the Minister, Vice Minister, officials of the Ministry of Finance, and other party related to the implementation of Tax Amnesty may be reported, sued, subjected to inquiry, investigation, or prosecuted, both in civil and criminal case if they have performed their respective duty in good faith and with due observance to the provisions of the statutory regulations.

CHAPTER XI CRIMINAL
PROVISIONS

Article 23

(1) Any person violating the provision as referred to in Article 21 paragraph (2) shall be liable to imprisonment for a term not exceeding 5 (five) years.

(2) Prosecution of criminal offense as referred to in paragraph (1) may only be carried out on the complaint of a person whose confidentiality has been violated.

CHAPTER XII
PROVISIONS REGARDING THE IMPLEMENTATION OF TAX AMNESTY

Article 24

Further provisions regarding:
a. implementation of Tax Amnesty;
b. designation of Collecting Bank to receive the transferred Assets;
c. procedure and process of investment;

d. submission of report as referred to in Article 13 paragraph (1); and
e. appointment of official authorized to implement the provisions as referred to in Article 10 paragraph (4), Article 10 paragraph (5), Article 10 paragraph (6), Article 11 paragraph (4), Article 13 paragraph (1), and Article 13 paragraph (2),

shall be governed in a Regulation of the Minister.

CHAPTER XIII
CLOSING PROVISION

Article 25

This Law shall come into effect as of the date of its promulgation.

For public cognizance, this Law shall be announced by publishing it in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta
on July 1, 2016
PRESIDENT OF THE REPUBLIC OF INDONESIA,

signed.

JOKO WIDODO

Promulgated in Jakarta
on July 1, 2016
MINISTER OF LAW AND HUMAN RIGHTS OF
THE REPUBLIC OF INDONESIA,

signed.

YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 131 OF 2016

PRESIDENT OF
THE REPUBLIC OF INDONESIA
- 25 -

Certified true copy MINISTRY OF
STATE SECRETARY OF THE
REPUBLIC OF INDONESIA
Assistant Deputy of Economic Affairs
Deputy of Law and Legislation

[Signed and sealed]

Lydia Silvanna Djaman