

CORPORATE GOVERNANCE, SHARE OWNERSHIP STRUCTURE AND TAX AVOIDANCE

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Abstract

This study aims to examine the effect of Corporate Governance and Share Ownership Structure on Tax Avoidance. The share ownership structure uses controlling shareholders who have the largest shareholding in the company with ownership of between 20-50%. This study used manufacturing companies listed on the Indonesia Stock Exchange (IDX) during 2015-2017, with 99 observation data and the analytical used multiple linear regression. The results of the study show that both corporate governance and the share ownership structure proxied using controlling shareholders have an effect on tax avoidance.

Keywords: *Corporate Governance, Share Ownership Structure, Controlling Shareholders, Tax Avoidance*

1. Introduction

One job of the Management of the company is to minimize the amount of tax that has to be paid in which some companies consider that tax is a burden for the company and will reduce the profits earned by the company. There are several ways taken by company management to minimize the tax burden, legally and illegally (Frank, Lynch, & Rego, 2009). The legal way taken by the company to minimize the tax burden is by utilizing the weaknesses in tax legislation called tax avoidance, while the illegal way is to violate the regulations in the tax law or tax evasion. Utilizing transactions not classified as objects of tax (natural granting) is one of the ways companies can minimize the tax burden by utilizing loopholes in the taxation law (tax avoidance). Tax evasion actions carried out by the company will cause losses for the income of a country, where taxes are a source of state revenue which will later be allocated to finance the government's general expenditure. If many companies carry out small tax activities that will have to be paid then it will affect state revenue from the tax sector. In addition, tax avoidance measures will also provide a bad reputation for the company.

The phenomenon of tax evasion in recent years has been horrified by the emergence of the document "Panama Papers". This document presents information about various state leaders, officials and political leaders, business people, sportsmen, and professionals who use the services of the law firm Mossack Fonseca in Panama for various purposes, business, ownership disguises, and tax avoidance. The disclosure of the Panama Papers document revealed the biggest alleged tax evasion in history. The Indonesian government was not silent about the findings. The Indonesian finance minister said that the government already has data on thousands of offshore companies and shell companies belonging to Indonesian people abroad. The tax amnesty policy is one of the government's efforts to withdraw all the funds.

The disclosure of the Panama case certainly has an impact on the state revenue from the tax sector. From year to year the government tries various ways to increase income from the tax sector. However, from the target set by the government, the target for tax revenue has not been fully achieved. To minimize tax avoidance actions carried out by company management, there is a need for a mechanism for implementing Corporate Governance within the company. Such supervision is very necessary to suppress opportunistic actions that will be carried out by management. Corporate governance in this study uses corporate governance indices developed by IICD.

The main objectives of corporate governance generally relate to accountability especially the implementation of guidelines and mechanisms to ensure good behavior and protect the interests of shareholders, including the

governance of company compliance in tax payment activities. The application of corporate governance in a company will determine the direction of the company's performance. If the company implements corporate governance, it will create effective company performance which will have an impact on determining policies related to the effective tax rate in a company (Hanum & Zulaikha, 2013; Kesit, 2014). To minimize tax avoidance activities, one of the tools used is implementing corporate governance (Sari & Martani, 2013; Schön, 2008). One principle of corporate governance that can influence tax decisions is the principle of transparency, if the company is transparent to the information it has, the company tends to take taxation policies that are not risky (Sari & Martani, 2013).

The audit committee is a committee formed by the board of commissioners with the aim of helping conduct checks or controls on the company's financial management activities. With the existence of audit committee members who have competence in the field of accounting or finance, they can support the creation of corporate governance in a company. Corporate governance can overcome agency problems so as to prevent management from doing unexpected tax avoidance. Supervision of the audit committee can help detect the practice of tax avoidance within the company. The practice of tax avoidance is done by redesigning transactions by taking advantage of loopholes in the tax law so as to minimize the amount of the tax burden paid. The existence of an audit committee can also suppress tax avoidance measures, when the level of tax avoidance is high, it encourages low risk tax planning activities, because tax avoidance practices can increase costs, namely the existence of fines and decreasing the company's reputation in the public (Sari & Martani, 2013). Dewi & I Ketut Jati (2014) states that audit committees have a significant effect on tax avoidance. The quality of corporate governance will increase when the number of audit committee members increases, the supervision will reduce the practice of tax avoidance in the company.

The results of the above studies are not in line with the results of the research conducted by Hsu, Pathak, Srivastava, Tschida, & Bjorklund (2015) saying that audit committees do not have a significant effect on tax avoidance. The existence of audit committee members who have competence in the field of accounting or finance can be associated with an effective tax rate that shows the effectiveness of tax management within the company. Tax management is used as a means to fulfill tax obligations by utilizing loopholes in the Law so that companies can benefit in the form of schemes/figures in their tax calculations. The role of the audit committee only monitors corporate tax planning activities specifically in the company's business strategy. Supervision of audit committee members is to ensure the quality of financial statements. According to Mahendra, Luh, & Widhiyani (2016) the audit committee has no significant effect on tax avoidance, the role of the audit committee is limited in carrying out its duties and responsibilities. The audit committee cannot access company documents, but it also cannot communicate with internal auditors regarding the results of the company's internal audit. So, it is said that the audit committee is only to meet regulations while its roles and responsibilities are limited.

In Indonesia, the structure of share ownership tends to be concentrated in a group of shareholders whose majority of shares are owned by a group or majority shareholders (Masripah, Diyanti, & Fitriyani, 2015; Rebecca & Siregar, 2012). The ownership structure of a corporation will determine the characteristics of agency problems so that it will map the division between power and supervision in a corporate entity (Lukviarman, 2016). The existence of majority owners is expected to act as an alternative governance mechanism in reducing the negative impacts caused by agency problems. The research conducted by Afni & Hermawan (2016) states that controlling shareholders have a significant positive relationship to corporate tax avoidance, the weak corporate governance system in the company benefits the controlling shareholders in obtaining benefits from the controls they have. The percentage of shares owned provides an opportunity to determine policies within the company.

Management that has control rights over cash flow rights will reduce tax avoidance measures by trying to maximize the benefits received to regulate transactions in companies that can harm minority shareholders (Masripah et al., 2015; McGuire, Omer, & Wang, 2012). The research conducted by Masripah et al., 2014 states that the control rights possessed by management can be used to reduce corporate tax avoidance activities though tax avoidance measures are allowed or legal according to the Law but controlling shareholders tend to take policies to avoid relatively large expenditures as the impact of tax avoidance activities

This study intends to integrate the pre-existing research on the effect of Corporate Governance and the shareholding structure on tax avoidance activities by using a research sample of manufacturing companies listed on the Indonesia Stock Exchange (IDX) during the period of 2015 to 2017. The manufacturing sector is a fairly complex corporate

sector and the large number of issuers makes manufacturing companies have a significant influence on the dynamics of trade in the Indonesian capital market.

2. Literature Review and Hypotheses Development

Agency problems arise when there is a separation of ownership and control functions within the company (Jensen & Meckling, 1976). Principal as the owner of the company gives authority to the agent to make decisions related to the company's operations. There is a conflict of interest between the agent and the principal and this is compounded when one party has more information than the other party. Information about the company is more owned by the agent than the principal, this will lead to information asymmetry. Information asymmetry according to Jensen & Meckling (1976) includes:

1. Moral Hazard, i.e. activities carried out by agents are not fully known by shareholders, of course it violates contracts that have been mutually agreed upon and violates applicable ethics or norms
2. Adverse Selection is information owned by an agent (manager) about the condition and prospects of a company's business, not all of which are reported to shareholders

The capital structure consisting of majority ownership called ownership of controlling shares and minority ownership which is called non-controlling share ownership can cause agency problems. So far, agency problems tend to only involve principals (shareholders) and agents (management). Apparently, the potential for conflict does not only involve the principal agent but can also involve shareholders. The controlling shareholders have the authority to make a policy that can provide benefits to the majority shareholders which of course will indirectly harm minority shareholders. With the majority and minority shareholder conflicts, it will reduce conflicts between agents and principals (Masripah et al., 2015)

2.1. Tax Avoidance

Tax Avoidance is an effort to reduce or even eliminate the tax debt that the company must pay by not violating existing laws (Lauger, Wisniewski, & Mckenna, 2014). Another definition of Tax Avoidance is an action that aims to reduce taxable income through tax planning using either methods classified or not classified as tax evasion (Sari & Martani, 2013).

According to Alfiyani Nur Hidayanti (2013), there are several components to measure tax avoidance, namely effective tax rate (ETR), cash effective tax rate (CETR), Current ETR (CETR), book-tax difference Manzon-Plesko (BTD-MP), book-tax difference Desai-Dharmapala (BTD-DD), and tax planning (TAXPLAN). From the various types of tax avoidance measurements above, it is concluded that the measurements used in tax avoidance studies use the Current ETR (Current Effective Rate), a formula that accommodates the taxes paid by the company at this time. The value obtained from this measurement is if it is low, it will have an impact on increasing tax avoidance.

Given that tax is a burden (which will reduce the company's net profit), the company will make every effort to pay taxes as little as possible and try to avoid taxes, but the efforts carried out are still in a positive context or in the legal sense by utilizing existing loopholes and rules Taxation law (Harnovinsah & Mubarakah, 2016). The way companies conduct tax avoidance is usually by utilizing transactions that are not classified as tax objects. The tax law regulation cannot yet regulate financial instruments so that companies can easily interpret the recognition of profits or losses and capital debt in accordance with the considerations of the management of the company. This is what is used by companies to exploit the shortcomings in the tax law so that the practice of tax avoidance is inevitable (Alfiyani Nur Hidayanti, 2013).

2.2. Corporate Governance

The Organization for Economic Cooperation and Development (OECD, 1999) states that Corporate Governance is a system that brings together various elements of the organization (board of commissioners, managers, shareholders, and stakeholders) with rules and procedures for decision making designed to achieve organizational goals.

Along with the concept, there are several insights to clarify corporate governance, one of which is according to Lukviarman (2016), the role of corporate governance becomes very critical in empowering companies to be more competitive in their competition environment. The good implementation of CG will increase the ability of companies to access international capital markets, besides, it will also produce governance outcomes that are

expected to increase competitiveness and company access to funding sources at the global level. Realization of governance outcomes is an increase in the performance of the company, so that it cannot be denied that with the optimal governance system in the company surely the company will avoid the risk of bankruptcy

The measurement of the practice of Corporate Governance (CG) in this study refers to the effectiveness measurement of the board of commissioners conducted by The Indonesian Institute for Corporate Directorship (IICD).

2.3. Controlling Shareholders

Controlling shareholders are shareholders who have the largest shareholding in the company (Afni & Hermawan, 2016). The percentage of share ownership shows a strong concentration of ownership in the company. The percentage of controlling shareholding in this study uses a percentage of ownership between 20-50%

The corporate governance structure in Indonesia is characterized by the many found companies, both private and public, regulated and owned by the founding family. This phenomenon indicates the lack of separation between ownership and control in the company as commonly found in modern companies. In fact, the majority owner can maintain control of their company, even though some ownership of the company has been sold to the public through the mechanism of listing in the capital market. This is done by only selling a small portion of their shares, usually 20% according to the provisions of the minimum number of shares to be sold. Thus, it means that ownership rights and management control which, if combined, are still owned by a circle of family members and (trusted business associates).

2.4. Corporate Governance and Tax Avoidance

Board of Commissioners is a party that has an important role in overseeing the performance of directors. Independent commissioners are considered to have better supervision of management because they are free from various internal interests of the company. Through the role of the board of commissioners in carrying out the supervisory function of the company's operations, it is expected to provide an effective contribution to prevent aggressive tax behaviour carried out by management. Research conducted by Nasution & Setiawan (2008) states that a large proportion of board of commissioners will make it difficult for board members to carry out coordination activities so that it will hamper their duty to conduct supervision, this will be used by management to conduct aggressive tax actions. The worse the level of corporate governance in a company is, the higher the tax avoidance action is taken by the company (Desai & Dharmapala, 2006). Minnick & Noga (2010) study found that corporate tax management will increase when the corporate governance mechanism has gone well, this can be seen from the existence of audit committee members within the company. The existence of an audit committee helps the board of commissioners carry out their duties to ensure that internal and external audits run well so that the quality of financial statements can increase. The task of the audit committee is to control and supervise the preparation of financial statements so as to minimize fraudulent activities carried out by management. The effectiveness of the function of the audit committee can improve the company's control activities and the quality of financial reporting, and support the implementation of corporate governance (Andriyani, 2008).section.

H1: Corporate governance has an effect on Tax Avoidance

2.5. Controlling Shareholders and Tax Avoidance

Concentrated share ownership will cause agency problems, no longer a conflict between the principal and the agent but has developed into a conflict between the controlling shareholders and non-controlling shareholders. Weak corporate governance in a company causes controlling shareholders to influence company policy to control management decisions in accordance with their interests which of course can later harm minority shareholders (Masripah et al., 2015). The higher the percentage of majority shareholders is, the greater the influence in determining company policy will be (Timothy, 2010). Thus, controlling shareholders can influence company policies which surely can be used to achieve personal goals (La Porta, Lopez-de-Silanes, Shleifer, & Vishny, 2000).

H2: Controlling Shareholders has an effect on Tax Avoidance

3. Research Method

The sample used in this study is manufacturing companies listed on the Indonesia Stock Exchange in the period 2015-2017. Purposive sampling method is used in sample selection which is first done by determining criteria by the researcher. Samples that do not meet the established criteria will be issued.

The criteria for the company that will be used as samples in this study are as follows:

1. Manufacturing companies listed on the Indonesia Stock Exchange from 2015-2017
2. Consistently publish audited financial statements from 2015-2017.
3. Financial statements are expressed in rupiah.
4. The company does not experience losses in the commercial financial statements and fiscal financial statements during the year of observation.

3.1. Dependent Variable (Y)

In this study, the dependent variable used is tax avoidance. Tax avoidance is the avoidance of tax legally and safely done for taxpayers. This is because tax avoidance does not violate the applicable tax laws, therefore tax avoidance measures can be used by utilizing the weakness (grey areas) contained in the applicable laws and tax regulations so that taxpayers can reduce the amount of tax which he owed (Pohan, 2013).

$$\text{Current ETR} = \frac{\text{Current tax expense}}{\text{Profit before tax}}$$

3.2. Corporate Governance

The Organization for Economic Cooperation and Development (OECD, 1999) states that Corporate Governance is a system that brings together various elements of the organization (board of commissioners, managers, shareholders, and stakeholders) with rules and procedures for decision making designed to achieve organizational goals.

The measurement of Corporate Governance (CG) in this study refers to the measurement of the effectiveness of the board of commissioners conducted by The Indonesian Institute for Corporate Directorship (IICD). The characteristics of the board of commissioners are based on information available in the annual report of each company. To measure the effectiveness of the board of commissioners consists of 21 questions which are grouped into 2 categories, namely: Board Qualification and Composition, Board Activities.

Each question will consist of 3 ratings:

- Good = value 3 is given if each existing criterion is fulfilled
- Fair = value 2 is given if only a number of criteria are met
- Poor = value 1 is given if no existing criteria are met

After obtaining scores for each question, the score for the board of commissioners is obtained by summing the total score for each characteristic then divided by the maximum score.

3.3. Controlling Shareholders

Controlling shareholder is the shareholder who has the largest shareholding in the company (Afni & Hermawan, 2016). The status as controlling shareholder is obtained through a 20% -50% share ownership.

4. Results And Discussion

T-test is used to determine whether or not there is influence of each independent variable on the dependent variable that supports by comparing the count with t table. The results of the trial can be seen in the table below.

Table 1. Regression Result

Model	Unstandardized Coefficients		Standardized	t	Sig.
	B	Std. Error	Beta		
(Constant)	-.264	.009		-28.902	.000
IndeksCG	.400	.011	.506	35.352	.000
KP	.653	.009	1.044	72.977	.000

a. Dependent Variable: CurrentETR

4.1. Corporate Governance and Tax Avoidance

In this study in which corporate governance has an effect on tax avoidance, the principle of corporate governance which includes transparency, accountability, responsibility, independency and fairness can be used as one of the company's controllers to not to carry out tax avoidance activities that pose risks. The role of the audit committee is very helpful in providing objective reviews of corporate financial reporting. There are many gaps in the tax law that can be utilized by management to reduce tax payment activities rather than choosing full of risk actions that can lead to penalties and damage to the company's reputation.

The results of this study are in line with the research of Dewi & I Ketut Jati (2014) which states that the existence of competent audit committee members in accounting and finance has an effect on tax avoidance. The existence of audit committees that is increasingly high within the company shows the high level of quality of good governance within the company so that it can further reduce the possibility of a company going to practice tax avoidance. The audit committee can be more responsible and open in presenting financial statements because the audit committee will immediately see all activities carried out by the company.

The results of this study are also in line with the research conducted by Waluyo (2017) which states that Audit Committee and Audit Quality have positively affected Tax Avoidance at banking enterprises registered on the Indonesia Stock Exchange. It has figured out the roles of Audit Committee and Audit Quality have been involved in a decision making to execute Tax Avoidance.

On the other hand, this study is not in line with the research conducted by Hsu et al. (2015) and G. Dewi & Sari, (2015) which state that audit committees do not affect tax avoidance. The existence of an audit committee within the company lacks an active role and responsibility in a company's policy regarding tax rates. The duties and authority of the audit committee within the company are only neutral. This is due to the limitations of the audit committee to be able to access the company's data and information. This study is also not in line with the research of Sari & Martani (2013) which state that corporate governance index does not affect aggressive tax actions, the application of good governance in public companies tends to be limited to meeting existing regulations. The effects of implementing corporate governance have not had a significant impact on companies in Indonesia.

4.2. Stock Ownership Structure and Tax Avoidance

The shareholding structure in this study uses controlling shareholders, namely the largest shareholders in the company whose shareholdings are between 20-50%. The controlling shareholder has an effect on tax avoidance. The greater the share owned by the controlling shareholder, the greater the control rights held to determine company policy. The control rights held by the largest shareholders in the company are used to suppress tax avoidance activities carried out by management. Tax avoidance is a risky issue and incurs high costs, not to mention the threat of fines and damage to the company's reputation is one factor that must be considered. This research is in line with the research conducted by Masripah et al, 2015 where the controlling shareholders have limited cash flow rights so

that the effect is very small on tax avoidance activities. Unlike the research conducted by Afni & Hermawan (2016) the largest shareholders in the company have the right to be involved in making company policy. The policies taken must be chosen which are most beneficial to shareholders, and aggressive tax policies that will be chosen to achieve their goals.

4.3. Suggestion

1. For further researchers, it is recommended to be able to further expand the scope of the research by adding to the number of other variables in the observation that have not been used in this study and with better measurements so that the results obtained become even better. Further researchers are advised to add other variables to measure corporate governance such as the characteristics of audit committee members seen from the expertise of audit and industry committee members, expertise of audit committee members in the field of industry and financial supervision, expertise of audit committee members in certain industries so that they obtain maximum results.
2. For companies, they should understand more about the practice of tax avoidance that tax avoidance practices are permitted to be carried out to reduce the tax burden if it is still within good business limits and does not violate applicable tax rules.

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