

The Role of Institutional Ownerships, Board of Independent Commissioner and Leverage: Corporate Tax Avoidance in Indonesia

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Abstract: *The purpose of this study is to examine whether an Institutional Ownership, Board of Independent Commissioner composition and leverage have the significant effect on tax avoidance. The population is limited to manufacturing firms listed on Indonesian Stock exchange for period 2010-2014. By purposive sampling, 108 samples are selected. This study used secondary data such as Annual Report Financial Statements that are published during the observation year. The results showed that only the Institutional Ownership has a significant effect on tax avoidance, on the other hand, the Board of Independent Commissioners and Leverage did not have a significant effect on tax avoidance. Overall, this study provides empirical evidence on the effects of institutional ownership, Board of independent commissioner and Leverage to the legal environment on corporate income tax avoidance.*

Keywords: *an institutional ownership, board of independent commissioner, leverage, tax avoidance*

I. Introduction

State revenue from Indonesian tax sector is the highest percentage of revenue income. One of the obstacles in the optimization of tax revenues is the act of tax evasion (tax avoidance). The number of companies who does it is not a few, and the problem of tax avoidance is not always legal. Tax avoidance itself is a tax evasion that is doable by following the rules. By law, those who does tax avoidance takes their opportunities within the set of rules in order to pay the lower tax. In particular, good corporate governance is an important factor in the assessment that is expecting the existence of tax savings. In this study, which will be examined in regard to good corporate governance, including institutional ownership and independent board. Institutional ownership plays an important role in overseeing the performance of management in order to avoid conflicts of interest. The greater the institutional ownership, the better the quality of corporate governance and the smaller the chances of tax avoidance, because of the existence of institutions is capable of being an effective monitoring tool for the company. Independent commissioner is a commissioner who did not originate from an affiliated party, which is expected to increase surveillance to prevent tax evasion by management. Aggressiveness taxes lead to tax savings, it also causes a potential company penalization by the Tax-Office. Some literature has shown that the increasing levels of tax evasion will follow high tax rates.

Another factor affecting the company's financial performance is leverage. Leverage is the external source of corporate funding of long-term debt that is calculated by dividing long-term liabilities to total assets. The higher the leverage ratio, the higher the amount of funding of the debt to third parties that is used by the company, as well as the higher interest expense to be borne. With the development of tax avoidance in Indonesia, it is necessary to redo research on leverage and good corporate governance on tax avoidance, which is expected to contribute to testing whether there was a strengthening consistency with the theory, as well as the research that is available this whole time, vice versa. Results of research conducted by the Pranata, et al. (2014) found that institutional ownership has a significant influence on tax avoidance. In contrast to research conducted by Annisa and Kurniasih (2012) as well as Fadhilah (2014), who found that institutional ownership has no significant effect on the tax avoidance. According to Annisa and Kurniasih (2012), Fadhilah (2014), and Pranata (2014), the independent board did not have a significant effect on tax avoidance. Research conducted by Budiman and Setiyono (2012) stated that the leverage has the significant influence on tax avoidance. Additionally, the research results of Sari (2013) stated that the leverage does not have a significant effect on tax avoidance. The scope of this study is limited to the effect of institutional ownership, independent board, and leverage against tax avoidance of manufacturing companies that are listed in Indonesia Stock Exchange from 2012 to 2014.

Based on the identification and scope described above, the problems can be formulated as follows:

1. Is there any influence of institutional ownership against tax avoidance?
2. Is there any influence of independent board against tax avoidance?
3. Is there a leverage effect on tax avoidance?
4. Is there any influencing effect of combining institutional ownership, independent board, and leverage against tax avoidance?

II. Literature Review

2.1 Tax Avoidance

Companies mostly choose how to plan their taxes with tax avoidance. The notion of tax avoidance, by Susan Lyons (Erly Suandi, 2011:7) are: *“Tax avoidance is the term used to describe the legal arrangements of tax payer’s affairs so as to reduce his tax liability. It’s often to pejorative overtones, for example, is use to describe avoidance achieved by artificial arrangements of personal or business affair to take advantage of loopholes, ambiguities, anomalies or other deficiencies of tax law. Legislation designed to counter avoidance has become more common and often involves highly complex provision.”*

The company can only do tax avoidance by taking into account the weaknesses that exist in the taxation laws in Indonesia. Affairs committee fiscal Organization for Economic Cooperation and Development (OECD) states that there are three criteria for tax evasion, namely: there is an element of artificial where various settings act as if it is available when it is not, take advantage of the loopholes of the law or apply the legal provisions for a variety of purposes, and consultants show how to apply tax avoidance with a confidentiality clause. In order for tax avoidance to perform as it is expected to, the company should be able to do tax planning properly. According to Barry Spitz (1983) in Erly Suandi (2011:13), If there are proper ways to do tax planning properly, they are as follows: 1) analyze the existing information, 2) create a model or plan likely the magnitude of the tax, 3) evaluate implementation of the tax plan, 4) look for weaknesses and then restore the tax plan, 5) enhance the delivery of the tax plan.

Hence the tax avoidance is a form of resistance against the tax. The synthesis of resistance means that the Community did not fulfill tax obligations properly. Tax avoidance is an active’s form as the businesses' tried to get the tax evasion directly to the government (tax authorities).

2.2 Good Corporate Governance

In the Corporate Governance Conference, Agoes and Ardana (2009:101), stated that good corporate governance is the set of rules governing the relationship between shareholders, management (manager) of the company, the creditors, governments, employees and stakeholders of other internal and external parties relate to their rights and obligations; or in other words a system that directs and controls the company.

Tjager at all (2003), Agoes and Ardana (2009:106) concluded that there are at least five reasons why the implementation of Good Corporate Governance is beneficial, namely:

1. Based on the survey conducted by McKinsey & Company, it shows that more institutional investors trust companies in Asia that have implemented Good Corporate Governance.
2. Based on various analyses, there were indications of linkages between the financial crises with the weakness of corporate governance.
3. The internationalization of markets includes the liberalization of financial markets and capital markets, requires the companies to implement good corporate governance.
4. Even if Good Corporate Governance is not a panacea for overcoming the crisis, this system can be the base for the development of new value system that is more in line with the current business landscape that has changed a lot.
5. Theoretically, the practices of good corporate governance can lead to the value of the company.

2.3 Institutional Ownership

Institutional ownership is right for institution investors for owning the company. Institutions that act as shareholders include insurance institutions, pension funds, investment banks, and others. Institutional ownership has an incentive to monitor and influence the manager directly to protect the investment of the institution. According to Friend and Lang (1988) in Harjito (2012: 105), agency problems can be reduced if the institutional ownership increases. Institutional investors have the ability to reduce opportunistic behavior by managers. Manageristic institutional causes agency problems because the power given from the owner of the company to the manager to perform actions that digress the interest of the shareholders.

2.4 Board of Independent Comissioner

Independent term is often defined as free, impartial, not under the pressure of any party, neutral, objective, has integrity, and is not in a position of conflict of interest. According to Surya and Yustiavanda in Agoes and Ardana (2009:110), there are two independent understanding regarding the concept of the independent commissioner. First, the independent commissioner is a person designated to represent the independent shareholders (minority shareholders). As set forth in the company's Law, Directors and Commissioners are appointed and dismissed by the General Shareholders Meeting (GMS), whereas the decisions taken at the Annual General Meeting (AGM) is based on a comparison of the number of votes of the shareholders. Secondly, the independent commissioner is appointed party not in the capacity of representing any party and appointed solely based on background knowledge, experience, and professional skills at his disposal

to fully carry out tasks in the interest of the company. Independent commissioner appointed solely due to the consideration of "professionalism" in the interests of the company. The company's interest here is intended for all stakeholders, not the just majority of shareholders or minority of shareholders. In addition to these two terms, there is still a third notion commonly used in the code of ethics of public accountants, which in this context is often known as an independent in fact and in appearance. Independent-in-fact emphasizes the mental attitude in taking decisions and actions are based solely on the consideration of the professionalism of the auditors themselves are concerned, without interference, influence, or pressure from outside.

While the independent-in-appearance was taken from the perspective of the outsiders (candidate auditors, commissioners or directors) physically do not have a blood relationship with the company or with other stakeholders that could cause doubt to outsiders about neutrality is concerned, It seems that the provisions of the Jakarta Stock Exchange more emphasis on independent-in-appearance, following the rules of the Jakarta Stock Exchange No. Kep-305 / BEJ / 07-2004 Section III.1.6, the requirements to become an independent director are as follows:

- a) Not affiliated with the controlling shareholders of listed companies concerned at least six (6) months prior to his appointment as director unaffiliated.
- b) Not affiliated with other commissioners and directors of the listed company.
- c) Do not work double as directors at other companies.
- d) Do not be a person in the institutions or professions and capital market services are widely used by companies listed six (6) months prior to the appointment as a director.

2.5 Leverage

"Leverage according to Harjito and Martono (2013: 315) refers to the use of assets and sources of funding (sources of funds) by companies in which the use of assets or the fund company must use a fixed fee or a fixed load. The use of assets (assets) or the funds is ultimately intended to increase the potential profit for shareholders".

Sutrisno (2013: 205), leverage is the use of assets or sources of funds in which to use, the company must bear the fixed costs or pay a fixed load. Leverage is divided into two kinds: 1) operating leverage or operating leverage and, 2) financial leverage or financial leverage. Operating leverage is the use of assets, which forced the company to bear the fixed costs such as depreciation. The use of leverage is expected that the company's operations by the income earned on the use of fixed assets cover fixed costs and variable costs. Financial leverage is the use of funds that forced the company to bear the burden of fixed form of interest. Use of funds forced the company to bear the brunt of this still expected a larger earned income compared with expenses incurred. The Company uses operating and financial leverage with the aim that corporate profits greater than the cost of assets and sources of funds that will increase profits for shareholders.

2.6 Taxes Overview

Based on the Law on General Provisions Taxation number 28 of 2007 article.1 definition of tax is as follows: "Taxes are a mandatory contribution to the state owned by private persons or entities that are enforceable under the Act, by not getting the rewards directly and used to state's purposes for the greatest prosperity of the people". Meanwhile, according to Rochmat Soemitro (1990) Dalam Waluyo (2011:3), "Taxes are dues to the state treasury by law (enforceable) by not getting the services of reciprocity (contra), which directly can be demonstrated and used to pay for general expenses. "based on the above understanding, the characteristics inherent in the tax is levied under the law, there is no direct contra, levied by the state, achieved to finance the public interest, and nature can be placed in force. The Company is incorporated under the provisions of the general taxpayer's tax law; it is obliged to pay taxes to the state.

Under agency theory of Jensen and Meckling (1976), stated the individuals have different interests. Within the company, managers have different goals with corporate goals. It is quite a similar position relationship between the government and the company as the subject of the corporate tax. The government wants revenue from major taxes to assist countries in implementing government activities. Meanwhile, the company wants to pay taxes to a minimum so the profits generated optimally. The Company assumes that the tax is a burden and would reduce the income earned the company but in fact, there are other assumptions, namely: tax as income distribution that will affect the rate of return on investment (Erly Suandi, 2011:5). Therefore, different interests, companies must find ways to minimize the tax burden without violating applicable regulations, known as tax management.

The Company always analyzes the costs and benefits derived from the execution of an action, including paying taxes. The company will analyze whether to pay taxes, they can get the advantages or benefits obtained both directly and indirectly. If the company thought that the profits related to the incurred-cost, it will not be a problem. In the opposite way, then the company will minimize the tax burden in various ways. Tax management is a part of financial management. Tax management is the means to meet the tax obligations

correctly but the amount of tax paid can be as low as possible to obtain the expected profits and liquidity (Sophar Lumbantoran, 1996). The goal of tax management is to apply the tax rules correctly and efficiency to achieve the earnings and liquidity should be. These objectives can be achieved by functions: tax planning (tax planning), implementation of tax obligations (tax implementation) and control of tax (tax control). According to Resmi (2011b :11) in the tax levy known some collection system, namely: "Official Assessment System", it is a system of taxation which authorizes the taxation officers to decide for themselves the amount of tax payable annually in accordance with the laws and regulations applicable tax", In this system, initiatives and activities to calculate and collect taxes entirely in the hands of taxation officers. Thus, the success or failure of the implementation of tax collection depend on a lot on taxation officers.

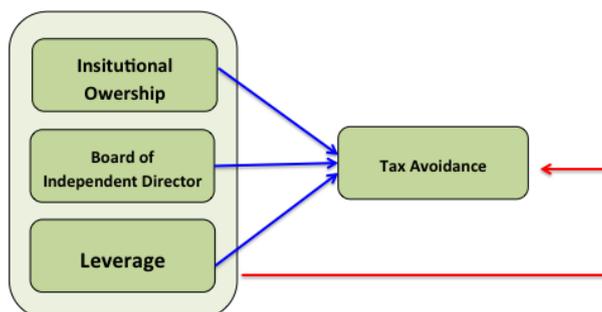
Meanwhile, the "Self Assessment System", is a system of taxation which authorizes taxpayers to determine for themselves the amount of tax payable annually in accordance with the laws and regulations applicable tax. In this system, initiatives and activities to calculate and collect taxes rest with the taxpayer. Taxpayers considered to be capable of calculating the tax is able to understand the tax laws in force, and has a high honesty, and realize the importance of paying taxes. Lastly, "Withholding Tax System", is a system of taxation authorizing a third party designated to determine the amount of tax payable by the taxpayer in accordance with the laws and regulations applicable tax."

The publication research of factors affects the tax avoidance came with the varying results from each researcher. Pranata et al (2014) conducted a study of 2009-2012 against 55 companies. The factors studied were institutional ownership. They found that institutional ownership has a significant effect on tax avoidance. Other research conducted by Annisa and Kurniasih (2012) in 2008 using a sample of 200 companies. The factors studied were institutional ownership and independent board. The study stated that institutional ownership and the independent board did not have a significant effect on tax avoidance. Further research conducted by Fadhillah (2014) in the year 2009 to 2011 using a sample of 55 companies. The factors studied were an institutional ownership and independent board. He found that institutional ownership and the independent board did not have a significant effect on tax avoidance. Followed with Kurniasih and Sari (2013) used 72 companies during the years 2007-2010. The factors studied were leverage, and independent commissioner. The study stated that Leverage and independent commissioners no significant effect on tax avoidance. Budiman and Setiyono (2012) using 41 companies during the period 2006-2010. Factors examined in this study is leverage. Their result obtained that the leverage to have a significant effect on tax avoidance.

III. Research Design

The investigation to determine the effect of institutional ownership, independent board, and leverage against tax avoidance the period 2012 to 2014 carried out by taking data from the annual financial statements of companies listed on the Indonesian Stock Exchange (BEI). The variables used in this study consisted of five variables, where there are three independent variables and the dependent variable. The independent variables are variables that are not influenced by other variables, while the dependent variable is the variable that is affected by the independent variable. The independent variables in this study are institutional ownership, independent board, and leverage. And the dependent variable in this study is tax avoidance. Those data was processing through SPSS software to test classic assumptions and hypothesis testing.

Hypothesis;



Based on the theoretical basis and the previous studies on the various relationships between independent and dependent variables, it can be described as follows;

H1 : Institutional ownership has an influence on tax avoidance,

H2 : Council independent commissioners have an impact on tax avoidance,

H3 : Leverage has an influence on tax avoidance,

H4 : Institutional ownership , independent commissioner Council , and Leverage have an influence on tax avoidance .

The samples selection criteria used are : a) registered as a manufacturing company in Indonesia Stock Exchange from 2012 to 2014 year, b) manufacturing company 's net profit before tax is positive (no loss position at P/L) for the year 2012-2014, c) companies that deliver complete data during the observation period 2012-2014 related to the variables studied, d) manufacturing company presents its financial statements in the currency, e) not under delisting process during the observation period 2012-2014 year .The data collection of research is a financial statement manufacturing company listed on the Indonesia Stock Exchange. The study was using secondary data, collected by others in the form of an external secondary data having been published on the official website Indonesia Stock Exchange. The total companies that serve as research samples are 33 companies, using SPSS (Statistical Package for the Social Sciences) software and quantitative analysis using non-parametric statistics as the method of analysis.

IV. Research Finding

Total sample used in this study is 99 samples from 33 manufacturing companies listed in Indonesia Stock Exchange during the year of 2012 to 2014 during the period of observation. Institutional ownership during the period of 2012-2014 has a minimum value of 0.33040. The maximum value of institutional ownership amounted to 0.98180. The average value of institutional ownership is equal to 0.6320228. Standard deviation value of institutional ownership of 0.17113028, where the value of the standard deviation is smaller than the average value of institutional ownership. Meantime the minimum value of the BOC Independent amounted to 0.25000 and the maximum value of the BOC amounted to 0.75000. The average value and Standard Deviation Independent Commissioner Board of 0.11628398 and 0.3991582 respectively. Finally, the minimum and maximum value of leverage are equal to 0.13383 and 0.70448. The average value of leverage is equal to 0.3947710 and standard deviation value leverage of 0.15634531.

Based on the statistical test with Kolmogorov-Smirnov, inferential data are not normally distributed. In order to obtain research data are normally distributed, the next screening step to do is detect the presence of data outliers. The outlier is the case or data that has unique characteristics that look very different from other observations and appears in extreme good value for a single variable or combination of variables. Screening to detect outliers of data has been done and can be seen there are the data of five companies that have unique characteristics or have Z-score value greater than 3 to 5 the company should be excluded from the study sample. Finally, after re-running the Kolmogorov-Smirnov test, tax avoidance is 0.588 for $0.588 > 0.05$ indicates that the data are normally distributed. Test of the value of Durbin-Watson statistic performed and concluded that in this study no autocorrelation in the regression models. Another test was, the value of tolerance for the institutional ownership, the independent board and leverage indicates that the three of variables do not occur multicollinearity symptoms.

The four classical test in the regression model has been performed, i.e. normality test, multicollinearity test, autocorrelation test and heteroscedasticity test. The results of these tests show that the data in this study fit for use for the next test is multiple regression analysis.

The multiple linear regression equation:

$$Y = a + bX_1 + bX_2 + bX_3 + e$$

$$Y = 0,194 + 0,074X_1 - 0,003 X_2 + 0,009 X_3 + e$$

Where as:

a = Constant

b_1 - b_3 = The regression coefficient is the change of magnitude in the dependent variable due to changes in each unit of the independent variable.

Y = Tax avoidance

X_1 = An institutional onwership

X_2 = Independent Board of Commissioner

X_3 = Leverage

e = Residual error

The regression equality above shows the direction of the influence of each object of research. The regression coefficient that has a positive sign means institutional ownership, and leverage have positive effects on tax evasion or tax avoidance, while the regression coefficient has a negative sign means independent board has a negative effect on tax evasion or tax avoidance. The equality has 'R-value' or correlation coefficient of 0.341; *Adjusted R square* of 0.116; F value of 4,155 with 0,008 significance level. The significance value less than 0.05 or 5% show that these results can be said that institutional ownership, independent board, and jointly leverage effect on tax avoidance. On the individual variable view, ***the institutional ownership has a significance level of 0.001 with t-value of 3.474, it is less than 0.05.*** This means that institutional ownership has a significant effect on tax avoidance manufacturing companies listed in Indonesia Stock Exchange. Institutional ownership plays an important role in monitoring, disciplining and influencing managers. The

institutional owner based on the size of voting rights they held, can force managers to focus on economic performance and avoid opportunities for self-interested behavior. Their responsibilities to the company, the institutional owners have an incentive to ensure that the company's management make decisions that will maximize shareholder wealth. These results are consistent with studies conducted by the Institution, et al. (2014) which states that the institutional ownership has a significant effect on tax avoidance. The results of this study contrast with the research conducted by Annisa and Kurniasih (2012), Fadhilah (2014) which states that institutional ownership has no significant effect on tax avoidance.

Secondly, the **level of significance of independent board amounted to 0.917 with t-value of -0.105, it is greater than 0.05**. This means that the independent board had no significant effect on tax avoidance manufacturing companies listed in Indonesia Stock Exchange. Not all independent board members can show their independence so that the monitoring function does not run well and have an impact on the lack of oversight of management in the conduct of tax avoidance. The ability of independent directors in order to monitor the process of disclosure and provision of information will be limited if the affiliated parties in the company dominate and control the board of commissioners as a whole.

Independent board is less responsive in considering whether there is tax avoidance or tax act aggressively in companies that neglect their obligations to the state, especially taxes. The large or small proportion of independent board will not affect in reducing the earnings of management, it gives the opportunity for managers to perform activities of earnings manipulation and will benefit the company in terms of taxation. This is due to the difficulty of coordination among the commissioners that inhibit the process of monitoring should be the responsibility of the board of commissioners. These results are consistent with research conducted by Kurniasih and Sari (2013), Annisa and Kurniasih (2012), Fadhilah (2014), and the Institution et al. independent board that is not significant to tax avoidance.

Finally the **significance level of leverage of 0.704 with t-value of 0.381, it is greater than 0.05**. This means that the leverage does not have a significant effect on tax avoidance manufacturing companies listed on the Indonesian stock exchange. Leverage as a source of funding coming from external parties (loans), interest expense in the long-run will reduce the tax burden there. Leverage represents interest expense that may reduce earnings. Reduced income means fewer taxes; so the greater the leverage, the greater the level of tax evasion. These results are consistent with research conducted by Kurniasih and Sari (2013) but in contrast to research conducted by Budiman and Setiyono (2012), which stated that the leverage has a significant effect on tax avoidance.

V. Conclusion & Suggestion

Based on the results of the study, it can be summarized as follows: 1) Institutional Ownership has a significant effect on tax avoidance. Testing results of significance level are smaller than the standard significance, 2) The Board of Independent Commissioners has no significant effect on tax avoidance. Results of testing the significance level are greater than the standard significance, 3) Leverage does not have a significant effect on tax avoidance. Results of testing the significance level are greater than the standard significance, 4) Combine three factors of Institutional Ownership, Board of Independent Commissioners, and Leverage have a significant effect on tax avoidance. Results of testing the significance level are smaller than the standard significance. This study only tested the institutional ownership, independent board, and leverage as the independent variable, tax avoidance as the dependent variable, so we need to consider the addition of new variables for future research. Subsequent research may consider other independent variables that are not included in this study; such as, return on assets, managerial ownership, and firm size. Future studies are also expected to use a longer study period and to multiply the number of samples so that the research result can represent the existing population.

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