

CHAPTER TWO

LITERATURE REVIEW

A. Tax and Taxation

In running a State, the Government requires fees and funds. A Government will not be functioned without a budget. In State's funding, the largest and most significant source was derived from tax. Taxes are a huge source of state revenue.¹⁰ Tax is considered as legitimate to enforce since the provisions regarding taxes are convinced firmly in article 23A of the 1945 Indonesian Constitution which reads "*Taxes and other levies which are forced for state purposes are regulated by law.*"

According to Rochmat Soemitro in *Dasar-Dasar Hukum Pajak dan Pajak Pendapatan*, tax is defined as people's contribution to the state treasury based on a law that can be imposed by not receiving reciprocal services that can be directly shown and used to pay government general expenses.¹¹ Based on the Law No. 28 of 2007 concerning General Taxation Provisions, tax is a compulsory contribution to the state owed by private or coercive bodies based on the Law by not receiving compensation directly and being used for the state's needs for the greatest prosperity of the people.

¹⁰ Anshari Ritonga, 2017, *Pengantar Ilmu Hukum Pajak & Perpajakan Indonesia*, Jakarta, Pustaka El Manar, p. 19.

¹¹ Rochmat Soemitro, 1997, *Dasar-dasar Hukum Pajak dan Pajak Pendapatan*, Bandung, PT Eresco, p. 22.

From the various definitions of the tax, there are five characteristics that are equally fulfilled as a feature of tax:¹²

- a. Based on the law;
- b. Obligatory/forced;
- c. Do not obtain immediate compensation;
- d. Collected through the state treasury; and
- e. For general expenses or Government.

Taxes also have several important functions, include:¹³

- a. Budgetary Function

The tax functioned as the main source of state revenue. Tax contributes to filling more than 75% of the State's income each year. Then, the income obtained from the tax will be spread out to finance all sectors expenditures, such as in infrastructures, development, apparatus wages, good procurements and so on. Therefore, tax collection must be carried out as efficiently and optimally as possible. Taxes which are the burden of the people must also be approved by the people and legalized through the Act.

- b. Regulatory Function

Tax imposition and collection can regulate policies to harmonize fiscal policy, monetary policy, and real sector policies in order to increase economic growth with the intention of balancing and avoiding

¹² R. Santoso Brotodiharjo, *Op. Cit.*, 1989, p. 6.

¹³ Anshari Ritonga, 2007, *Pembaharuan Perpajakan dan Hukum Fiskal Formal di Indonesia*, Jakarta, Pustaka El Manar, p. 21.

impartiality. With regulating functions, taxes can be used as a tool to achieve Government goals, such as economic justice and stabilization. By taxes, Government through policies related to price stability will control the inflation, by regulating the circulation of money in the community, tax collection, effective and efficient use of taxes. Through the regulatory function, tax plays an instrument for justice and equity by regulating tax payments at progressive tariffs.

c. Social Democracy Function

The social function of democracy may be observed in the form of tax payments obligation for citizens so that Citizens carry out cooperation or mutual cooperation in the development of a country. Furthermore, the tax that has been collected by the state will be used to finance all public interests, including also to finance development so that it can open employment opportunities, which in turn will increase people's income. The tax plays a role in distributing the fund for the people prosperity in line with social democracy principle.

Tax in Indonesia can be classified into 3 (three) categories, namely:¹⁴

1. Based on the party that bears the tax, tax is divided into 2 (two), namely:
 - a. **Direct tax** is a tax whose payment must be borne by the taxpayer himself and cannot be transferred to other parties and is repeatedly imposed at certain times. I.e., Income Tax, Land and Building Tax;

¹⁴ Anshari Ritonga, *Op. Cit.*, 2017, p. 37.

- b. **Indirect Tax** is a tax whose payment can be transferred to another party and is only imposed on certain things or certain events.
Example: Sales Tax, VAT, Sales Tax on Luxury Goods, Stamp Duty and Excise;
2. Based on its nature, tax is divided into 2 (two), namely
- a. **Subjective Tax** is the taxes imposed by primarily paying attention to the personal condition of the taxpayer (the subject). After considering the capability of the subject, then Tax will be imposed by considering the objective situation whether the subject can be taxed or not. For example, the calculation of Income Tax in which the number of dependents of the subject can reduce the amount of tax to be paid;
- b. **Objective Tax** is the tax imposed by primarily first paying attention to the object, either in the form of a condition or an action or event that raises the obligation to pay taxes. After considering the object, the tax will be imposed on the subject who possesses a legal relationship with the object. For example, the Value Added Tax (VAT) does not take into account whether the taxpayer has a dependency or not.
3. Based on those who collect taxes, taxes are also divided into 2 (two), namely:
- a. **Central Taxes** are taxes managed by the Central Government which in this case are partly managed by the Directorate General

of Taxes under the Ministry of Finance. The central taxes managed by the Directorate General of Taxes include:

- 1) Income Tax is a tax imposed on an individual or entity based on the income obtained in a Tax Year. Income is any additional economic capability originating from either Indonesia or outside Indonesia that can be used for consumption or to add wealth by name and in any form. Thus, the income can be in the form of business profits, salary, honorarium, prizes, and so forth.
- 2) Value Added Tax (VAT) is a tax imposed on the consumption of Taxable Goods or Taxable Services in the Customs Area under Law No. 8 of 1983 concerning Value Added Tax and Sales Tax on Luxury Goods which was last amended by Law No. 42 of 2009;
- 3) Land and Building Tax is a tax imposed on the ownership of land and building under the Law Number 28 of 2009 concerning Regional Taxes and Regional Levies. By that law, the authority of the central government to carry out Land and Building Tax collection only in the Forestry, Plantation and Mining sectors while the Rural and Urban sectors are transferred to Regency / City governments.
- 4) Stamp Duty, is a tax on documents as stipulated in Law Number 13 of 1985 concerning Stamp Duty;

- 5) Export and Import Duty is a tax imposed on the export and import activities based on the Law No. 10 of 1995 jo. Law No. 17 of 2006 concerning Customs;
 - 6) Excise Law as stipulated in the Law No. 11 of 1995 jo. Law No. 39 of 2007 concerning Excise.
- b. Regional Taxes are taxes that are managed by the Regional Government both at the Provincial and Regency / City levels based on Law Number 28 of 2009 concerning Regional Taxes and Regional Levies which are managed by the Regional Revenue Service, including:
- 1) Provincial Tax, which consists of:
 - Tax on Motorized Vehicles and Vehicles on Water;
 - Customs for transferring names of motorized vehicles and vehicles on the water;
 - Tax on Motorized Vehicle Fuel;
 - Surface Water Tax; and
 - Cigarette tax.
 - 2) Regency / City Tax
 - Hotel tax;
 - Restaurant tax;
 - Entertainment Tax;
 - Advertisement tax;
 - Street Lighting Tax;
 - Tax on Non-metallic Minerals and Rocks;

- Parking Tax;
- Groundwater Tax;
- Tax for Swallow Bird Nest;
- Tax on Land and Building for Rural and Urban sectors;
- and
- Fees for the acquisition of land and building rights.

The tax in Indonesia is carried out through several key regulations and implementing regulations. The basic rules consist of:

1. Law Number 6 of 1983 amended by Law Number 16 of 2009 concerning General Provisions and Procedures for Taxation;
2. Law Number 7 of 1983 amended by Law Number 36 of 2008 concerning Income Tax;
3. Law Number 8 of 1983 amended by Law Number 42 of 2009 concerning Value Added Tax and Sales Tax on Luxury Goods;
4. Law Number 10 of 1995 amended by Law Number 17 of 2006 concerning Customs; and
5. Law Number 11 of 1995 amended by Law Number 39 of 2007 concerning Excise.

In studying tax, there are some terminologies widely used related to taxation, namely: ¹⁵

1. **Tax subject** is described as an individual or legal entity recognized by laws and regulations.

¹⁵ *Ibid.*, p. 33.

2. **Tax object** is a source of income that can be taxed.
3. **Taxpayers** are tax subject that meets subjective and objective requirements regulated in Tax law and possesses rights and obligations in the field of taxation.
4. **Tax imposition** is related to fulfilment of subjective and objective requirements according to tax law to determine tax obligations.
5. **Tax collection** is related to the implementation of collection methods, the issuance, the system and where or by whom the tax is collected.

B. The Principle and Theories on Tax Collection

Some scholars had defined some tax collection principles omit this applied as the basic principles in Indonesian taxation system. Adam Smith in his book *An Inquiry into the Nature and Causes of the Wealth Nation*. Revealed the Four Canons Maxim's Taxation¹⁶ provides four tax collection principles, there are:

a. Principle of Equality

Principle of Equality (or known also as the principle of balance or the principle of justice) means tax collection carried out by the state must be in accordance with the ability and the income of taxpayers. The state must not discriminate against taxpayers.

¹⁶ Adam Smith (1723-1790): *Encyclopedia Americana: An Inquiry Into the Nature and Causes of The Wealth of Nation* (1776)., Page 27 as cited in Erly Suandy, *Hukum Pajak, Salemba Empat*, Jakarta, 2011, p. 25

b. Principle of Certainty

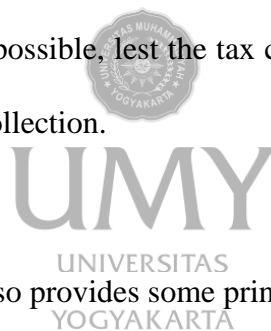
Principle of Certainty means all tax levies must be based on law, so those who violate will be subject to legal sanctions.

c. Principle of Convenience of Payment

Principle of Convenience means taxes must be collected at the right time for the taxpayer, for example when the new taxpayer receives his income or when the taxpayer receives a gift.

d. Principle of Efficiency

Principle of Efficiency means tax collection costs are kept as economical as possible, lest the tax collection costs be greater than the results of tax collection.



W.J. Langen also provides some principles of tax collection, namely:¹⁷

1. The Ability-to-Pay principle explains that the size of the tax collected must be based on the size of the income of the taxpayer. The higher the income the higher the tax charged.
2. The Principle of Benefit is defined as tax collected by the state to be used for activities that are beneficial to the public interest.
3. Principle of Welfare means the tax collected by the state is used to improve the welfare of the people.

¹⁷ Bohari, 2014, *Pengantar Hukum Pajak*, PT Raja Grafindo Persada, Jakarta, p.42

4. The principle of equality requires that taxpayers with one another in the same conditions must be taxed in the same amount (treated equally).
5. The principle of the smallest burden is defined as tax collection is as small as possible (as low as) when compared with the value of the tax object so it does not burden the taxpayers.

Another scholar, Adolf Wagner also formulate some principles regarding tax collection, namely:¹⁸

1. Financial Political Principle, the amount of tax collected by the state is sufficient so that it can finance or encourage all state activities.
2. Principle of Economy, the determination of the object of the tax must be right, for example: income tax, VAT for luxury goods.
3. The principle of Justice, taxation applies generally without discrimination, for the same conditions are treated the same.
4. Administration Principle, concerning the issue of tax certainty (when, where to pay taxes), flexibility of billing (how to pay it) and the amount of tax costs.
5. Juridical Principle, all tax collection must be based on the law.

¹⁸ Directorate General of Tax, Asas Pemungutan Pajak, <https://www.pajak.go.id/id/asas-pemungutan-pajak>, Accessed on 3rd January 2019, at 09.03 AM.

According to R. Santoso Brotodiharjo S.H., there are several underlying theories regarding the existence of tax collection, as follows:¹⁹

a. Insurance Theory

According to this theory, the State has a duty to protect its citizens both the safety of their lives and the safety of their property in return for paying taxes by the taxpayer to the state.

b. The Theory of Interests

According to this theory, taxes collected are based on the interests of each citizen, including interests in protecting lives and property. The higher the level of interest in protection, the higher the tax that must be paid.

c. The ability-to-pay principle

The essence of this theory is that tax pressure for everyone must be in accordance with one's abilities.²⁰ Person's endurance can be seen from two elements, namely 1) Objective Elements (Income or income of the taxpayer), 2) Subjective Elements (Material needs of the taxpayer). According to Professor W. J de langen, the principle of bearing power embodies the ideal of getting the same pressure on individuals, balanced with the satisfaction of the needs that can be achieved by someone.²¹

¹⁹ R. Santoso Brotodiharjo, 2008, *Pengantar Ilmu Hukum Pajak*, Bandung, Refika Aditama, p.102.

²⁰ Bohari, *Op. Cit.*, 2014, p.42.

²¹ Soetrisno PH, 1982, *Dasar-dasar Ilmu Keuangan Negara*, Fakultas Ekonomi, Universitas Gajah Mada, Yogyakarta, p.117

Basically, the theory of bearing power is a suggestion given to maintain justice in tax collection.²² This collection is carried out based on the principle of equity and justice because everyone has the same burden in state funding. But the funding was formed with a fair system. Two elements used to determine the ability of taxpayers must be fulfilled. When a taxpayer meets these two elements, the taxpayer has an obligation to make tax payments.

d. Theory of Consecration

According to this theory, the basis for tax collection is the relationship between the people and the State. The people have the obligation to pay taxes to the State as a form of expression of the people's devotion to their country so this theory is called the theory of absolute tax obligations

e. Theory of Purchasing Power Principle

This theory is based on the tax benefits, namely taxes collected from households in society into the State household and then distributed back to the community. The aim is to improve the welfare of the community. So, it is appropriate for the State to ask people to collect taxes for the people.

²² Stephen Smith, 2015, *Taxation: A Very Short Introduction*, Oxford University Press, New York, p.56.

C. YouTube

In this era, the world has entered a new era called the digital era. In the digital age people can interact across countries through a media called social media. Social media is a new set of communication and collaboration tools that enable many types of interactions that were not available to the common person.²³ The concept of social media is online content that uses publishing technology that is very easy and measurable.²⁴ In the implementation of its use, social media is a place to share content such as images, sounds, and even videos. One of the biggest video sharing sites in the world is YouTube.

1. Understanding of YouTube

YouTube is the biggest social media sharing video at the moment. YouTube has the concept of sharing information through videos uploaded by its users. YouTube is one of the entertainment media on the internet. This social media contains a lot of content that is entertaining or that is just sharing information for each user. In everyday people use YouTube to just listen to music along with videos presented on this social media. This social media is not only a means of interaction and sharing of content, but also can be a land of income for the content creators who contribute to social media. YouTube has made it easy for billions of people to find, watch and share various videos. YouTube provides a forum for people to interact, provide information and inspire

²³ Chris Brogan, 2010, *Social Media 101: Tactics and Tips to Develop Your Business Online*, Hoboken, New Jersey, John Wiley & Sons, Inc., p. 11.

²⁴ Patrick R Dailey, 2009, *Social Media: Finding Its Way into Your Business Strategy and Culture*, Burlington, Linkage, p. 14.

others around the world, and acts as a distribution platform for original content creators and advertisers, both large and small.

YouTube was first founded by Steve Chen, Chad Hurley, and Jawed Karim on February 14, 2005.²⁵ Social media which was founded by these three former PayPal employees initially prioritized entertainment that can be shared throughout the world. So, they found an idea using the internet that was implemented with YouTube to realize that dream. After being successful for more than a year, YouTube was acquired by the company looking for giant searchers on the internet, Google. Google acquired YouTube in 2006 at a price of US \$ 1.65 billion. As an open means, not only individuals can enjoy this sharing system but also the company. Usually companies that use YouTube aim to promote to be more known or used by the community.²⁶

The goal or goal of YouTube is to give freedom to express opinions and show the world to everyone. On his official website Susan Wojcicki²⁷ said "We believe that everyone is having a voice, and that we are listening to, sharing and building community through our stories." In carrying out the freedom referred to by social media, YouTube determines 4 main freedoms that are the basis of their goals.

²⁵ Margaret Holland, 2010, *The YouTube Social Network*, North California, Elon University, p. 1.

²⁶ Paula R. Rodriguez, Master Thesis: "Effectiveness of YouTube Advertising: A Study of Audience Analysis", (Rochester: Rochester Institute of Technology, 2017), p. 14.

²⁷ Susan Wojcicki is Chief Executive Officer (CEO) from social media video sharing YouTube which was founded on February 14, 2005 and has been acquired by Google in 2006. She has been the CEO of YouTube since February 2014 until now.

a. Freedom of Expression

Everyone should be able to speak freely, share opinions, foster open dialogue, and that creative freedom leads to new voices, formats and possibilities.

b. Freedom of Information

Everyone should have easy, open access to information and that video is a powerful force for education, building understanding, and documenting world events, big and small.

c. Freedom of Opportunity

Everyone should have a chance to be discovered, build a business and succeed on their own terms, and that people—not gatekeepers—decide what's popular.

d. Freedom to Belong

Everyone should be able to find communities of support, break down barriers, transcend borders and come together around shared interests and passions.

For everyone who uses YouTube it is called a user. YouTube divides user types into two categories, first is the viewer and the second is the content creator.

a. Viewers

Viewers are people who enjoy existing content and on YouTube. The things that are usually done by viewers are watching, liking

or disliking videos, commenting and subscribing.²⁸ The viewer has a significant impact on Content Creator, which is increasing popularity to make Content Creator get loyalty or salary provided by YouTube.

b. Content Creators

Content Creators is a person who makes content to be enjoyed by other users (viewer). Most of content creators are people who make content because of hobbies or want to express what they feel or just want to share moments. There are no special provisions for people who want to become content creators. Those who want to become content creators only have to create an account and register by filling in some information such as name, place and date of birth, password, and so on. Being a content creator can also provide income. However, the income from each content creator is calculated based on the number of views, likes, and subscribe from the viewer.

In the sharing system, YouTube uses a channel system. This channel system allows content creators to create a place to accommodate all videos uploaded by them on YouTube. This system can make the content creator to express and create their own channels like television stations. This channel system can be created by users who want to become content creators by creating a Google account and relating it to

²⁸ Activities referred to as subscriptions are activities or things that can be done by the viewer to subscribe to content created by certain content creators.

the features on YouTube. Channels can also be likened to brands because in making a channel someone also makes a brand on the videos uploaded.

In various ways, it must have a significant influence or impact on many aspects. In this case YouTube can also cause influence or impact starting from good or bad.

Good impact:

- a. Become a means of education
- b. Become a means of entertainment media
- c. Increase one's creativity and productivity
- d. Make people famous for their creativity.

Bad Impact:

- a. Can display adult content
- b. Influencing psychology with violent videos
- c. Can spread or defame other people's names
- d. Forming attitudes of the younger generation by following trends that conflict with norms in society.