

Does the Board of Commissioners Affect Tax Avoidance? Evidence from Banking Industry in Indonesia

Supriyati¹ and Indah Hapsari²

¹Department of Accounting, STIE Perbanas Surabaya, College of Economics and Business, Wonorejo Rungkut, Surabaya, Indonesia

²Department of Accounting, STIE Perbanas Surabaya, College of Economics and Business, Surabaya, Indonesia

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Abstract: Tax avoidance is one of the company's taxation strategies to reduce a company's tax burden. In order to realize tax avoidance efforts without incurring tax risks and sanctions, the role of the board of commissioners is important in tax avoidance efforts. The board of commissioners have to ensure the business strategy, management, potential risk in every decision made and ensure that the company's activities comply with applicable legal regulations. The board of commissioners is expected to be able to supervise and control tax policy. The board of commissioners must be able to carry out its supervisory function appropriately, independently and transparently in order to optimize financial performance and company sustainability. Research conducted on 156 samples of banking company data in Indonesia for the 2015-2019 period using regression testing has proven that only the variable number of independent commissioners has a significant effect on tax avoidance efforts. As for the variable of gender, tenure and political connections of the board of commissioners have no significant effect on tax avoidance efforts. The number of independent commissioners is the main factor affecting tax avoidance efforts. This is in line with the regulations of the Financial Services Authority and the Limited Liability Company Law.

1 INTRODUCTION

Tax is a taxpayer contribution to the State which is compelling and all tax revenues are used to finance government activities. In Indonesia, taxes are the largest source of state revenue compared to other sources of revenue. On the other hand, the taxpayers view regarding tax revenue and tax compliance is different. The reluctance of taxpayers to fulfill their tax obligations still occurs because taxes are seen as a component of expenses, a deduction of their assets, a reduction in corporate profits, and a reduction in return for company shareholders. The problem of tax compliance is still a major problem in Indonesia that affects government revenue from taxation.

For taxpayers, tax is an element of burden that has an impact on the achievement of company profits and assets so that taxpayers try to lower the tax paid. Tax avoidance is a practice that many companies do because this effort is legal and can reduce corporate tax payments (Hanlon & Heitzman, 2010; Taylor & Richardson, 2012; Coulmont et al., 2018). Tax avoidance efforts are part of corporate governance

(Jamei, 2017; Supriyati et al., 2019) and the company's overall tax strategy (Higgins et al., 2012; Hudiwinarsih, 2018) and part of the tax planning step by exploiting tax policy loopholes (Chan et al., 2013; Armstrong et al., 2015; Supriyati et al., 2019). Based on a survey report made jointly by Ernesto Crivelly, an investigator from the IMF in 2016, using the database of the International Center for Policy and Research (ICTD) and the International Center for Taxation and Development, data on corporate tax avoidance emerged from 3000 countries. Indonesia is ranked as the 11th largest with the value of taxes paid to the Directorate General of Taxes (DGT) estimated at US \$ 6.48 billion (<https://www.tribunnews.com> dated 20 November 2017).

Law Number 40 of 2007 concerning Limited Liability Companies Article 1 states that the company's organs are the General Meeting of Shareholders, the Board of Directors and the Board of Commissioners. Thus, the Financial Services Authority (OJK) Regulation Number 55 / POJK.03 / 2016 concerning The Implementation of Governance for Commercial Banks, article 1 paragraph 1-4,

explains the importance of the role of directors and boards of commissioners in banks. The board of commissioners is in charge of general and / or special supervision according to the articles of association and provides advice to the board of directors. The board of commissioners play a role in implementing the company's strategy including strategies in the field of taxation and tax avoidance efforts.

Agency theory (Jensen &Meckling, 1976) stated that a conflict that occurs between the principal and the agent, one of which is the existence of moral hazard and the agent's opportunistic behavior thus a supervisory function for the agent is needed. The board of commissioners has a very important role in the supervisory function of company operations and management behavior. The board of commissioners, which is dominated by outsiders, has a stronger role because they are more independent in overseeing management behavior (Aliani, 2014; Chyz & Gaertner, 2018; Jihene & Moez, 2019). The board of commissioners is expected to be able to supervise and control tax policy as part of the company's strategy so that the company is able to meet stakeholder expectations and avoid tax sanctions. Independent commissioners have an effect on tax avoidance (Uun, 2016; Doho & Santoso, 2020). However, it is different from research carried out by Prasetyo & Pramuka (2018), Kartana & Wulandari (2018), Novita et al, (2020) which states that independent commissioners have no significant effect on tax avoidance.

This study focuses more on the characteristics of the board of commissioners. In addition to general provisions regarding the number of independent commissioners, it is also linked to gender, tenure and political connections to the board of commissioners. Executive board gender influences tax planning (Richardson, 2011; Aliani, 2014; Khlif & Achek, 2017; Ambarsari et al. (2020) because gender is required in conservative reporting. Long tenure affects experience in decision making, influences corporate risk taking (Chan et al., 2013), as well as on tax planning (Goldman et al., 2017; Duan et al., 2018). The replacement of company commissioners reduces tax avoidance because the company will receive wider public attention. Companies that have political connections will get government protection, easy access to capital loans, low risk of tax audits, thus making companies more aggressive in carrying out tax planning which results in financial transparency (Faccio, 2006; Butje & Tjondro, 2014; Duan et al., 2018).

The problem of taxpayer compliance and tax avoidance is still an important topic in the field of

taxation, as well as the results of previous research which have not shown consistency in the results of their research, which make a reference for conducting this research again. This study aims to see the effect of the characteristics of the board of commissioners in the banking industry on tax avoidance efforts.

2 LITERATUR REVIEW AND HYPOTHESIS DEVELOPMENTS

45 2.1 Agency Theory

Agency theory describes a relationship between the agent as business management and the principal as a shareholder. The principal has the right to grant authority to the agent to carry out all activities on behalf of the principal in his capacity as decision making. Jensen &Meckling (1976) in agency theory, the contract between agent and principal occurs in the company's operations. The agent as the party in charge of managing the company has more information about the company's capacity, work environment and the company as a whole. On the other hand, principals do not have sufficient information about agent performance. The difference in the information held can cause harm to one of the parties who has less information.

The self-assessment system currently in effect in Indonesia provides an opportunity for agents to calculate taxable income as low as possible, so that the tax burden borne by the company decreases. The existence of asymmetric information carried out by the agent to the principal causes the agent to be able to do tax planning so that the agent gets its own benefits that cannot be obtained from cooperation with the principal. Tax planning as part of the company's strategy must be directed not only to benefit the agent, but must be able to protect the interests of other stakeholders such as creditors, shareholders, and the government. The role of the board of commissioners is important in overseeing the actions of directors in respective companies, especially in the field of taxation.

2.2 Tax Avoidance

Tax avoidance is the process of controlling actions in order to avoid unwanted tax consequences. Tax avoidance is a transaction scheme shown by minimizing the tax burden by taking advantage of loopholes in state taxation regulations (Hanlon &

Heitzman, 2010; Richardson & Lanis, 2007; Taylor & Richardson, 2012). Tax avoidance is an effort made by taxpayers whether it is successful or not to reduce or write off the tax debt based on applicable taxation provisions. Tax avoidance does not violate tax laws because the taxpayers' efforts to reduce, avoid, or alleviate the tax burden are made possible by the Taxation Law.

Tax avoidance has become an integral part of a company's strategies (Supriyati et al., 2019). The role of the company is realized in an effort to avoid tax in the form of effective tax rate (ETR) which is a comparison of corporate tax expense with net income before tax (Hanlon & Heitzman, 2010). The smaller the ETR percentage, the lower the company's tax burden. This shows an indication of the company's efforts to reduce the company's tax burden in legal ways.

2.3 Hypothesis Developments

2.3.1 Independent Commissioner and Tax Avoidance Efforts

An independent commissioner is a member of the board of commissioners who is independent and has no relationship with other commissioners, directors, shareholders, or company management who have the task of supervising and directing the performance of company management. Based on OJK Regulation No. 33 / POJK.04 / 2014 Chapter III Article 20 paragraph 3 Concerning the Board of Commissioners states that the presence of independent commissioners in a company is at least thirty percent of the total board of commissioners of the company. This independent commissioner is in charge of overseeing the performance of the company's management in carrying out business activities and directing business activities to be carried out properly and in accordance with applicable regulations. The presence of an independent board of commissioners in a company is very important because it can reduce or minimize conflicts that occur between one party and another. Independent commissioners may not have a business relationship or special relationship with other directors, shareholders and the board of commissioners because this can affect their ability to be neutral or impartial to anyone thus the goals of the company can be achieved. The company's board of commissioners, which is dominated by outsiders, has a much stronger role because they are more independent in monitoring the achievement of company performance and management behavior. (Uun, 2016; Sofiati & Zulaikha, 2018; Butje &

Tjondro, 2014). The greater the number of independent commissioners, the greater their role in tax planning supervision so that tax avoidance efforts can avoid tax sanctions and be able to optimize the company's financial performance.

H1: The number of independent commissioners has a significant effect on tax avoidance efforts.

2.3.2 Gender and Tax Avoidance Efforts

Gender is categorized as male and female. In terms of leadership, the difference between the two is communal and agentic. Communal defined is included as a person who is full of affection, helpful, friendly, kind, sympathetic, interpersonal sensitive, gentle, and soft-spoken. Meanwhile, men are associated with very aggressive, ambitious, dominant, confident, strong, and independent and individualistic characters. The differences in the nature of men and women have an impact on their behavior. One of them is risk behavior. Men and women have different risk preferences (Ho et al, 2015; Khlif & Achek, 2017; Farag & Mallin, 2018).

The impact of gender in accounting conservatism and earnings management is based on the fact that female gender is more risk averse than male. Women have more ethical behavior than men in choosing accounting policies (Francis et al., 2016; Khlif & Achek, 2017). However, these studies were not in line with research conducted by Charness & Gneezy (2012), Faccio et al. (2016) which explained that women tend to avoid risk in decision making compared to men. Commissioner gender has no effect on Tax Avoidance. This ethical behavior minimizes any fraudulent actions that can be committed by leaders or managers.

H2: The gender of the board of commissioners has a significant effect on tax avoidance efforts.

2.3.3 Tenure and Tax Avoidance Efforts

Tenure is the service period for the board of commissioners to work / serve in the company. Some strategic management theorists argue that the tenure of a board of commissioners in an organization affects the executive's condition. The longer the tenure of the board of commissioners causes rigidity in the corporate structure and the less it is to promote or change the old strategy (Chyz & Gaertner, 2018). The board of commissioners with long tenure has good experience in supervision. The quality and performance of the board of commissioners are better in understanding the internal conditions of the company and formulate the company's external

strategy appropriately, including the supervision of tax avoidance efforts by the company.

H3: The tenure of the board of commissioners has a significant effect on tax avoidance efforts.

2.3.4 Political Connections and Tax Avoidance Efforts

Companies are said to have political connections if at least in one of the primary shareholders (a person with at least 10 percent of the total voting rights) or one of the company leaders (CEO, president or vice president). Chairman or company secretary) are members of parliament, ministry or possess a relation with politicians or political parties (Faccio, 2006; Francis et al., 2012; Butje & Tjondro, 2014; Duan et al., 2018). Companies with political connections will receive protection from the government, easy access to obtain capital loan, the risk of tax audits is low, which makes companies more aggressive in implementing tax planning which results in cloudy financial transparency. Various kinds of privileges can be obtained by companies easily. A board of commissioners with political connections is able to oversee the company's operations in order to reduce tax penalties and maintain reporting transparency. Political connections influence tax avoidance (Butje & Tjondro, 2014; Duan et al., 2018).

H4: The political connection of the board of commissioners affects tax avoidance efforts.

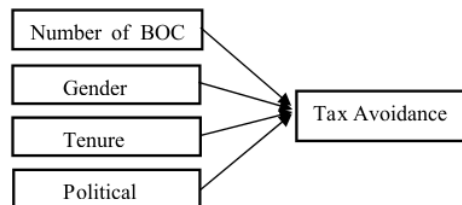


Figure 1: Theoretical Framework.

3 RESEARCH METHODOLOGY

This study is quantitative research. The populations in this study were all banking companies listed on the Indonesian stock exchange. The unit of analysis used was the banking annual report. The observation period in this study was carried out in 2015-2019. The sampling technique in this study used purpose sampling with the following criteria: a) banking companies listed on the Indonesia Stock Exchange in five periods during the 2015-2019 period, b) listed

companies have never experienced losses in the 2015-2019 period, c) does not have an ETR value above 1 or below 0. The data used is the annual report and the data is obtained from the official IDX website.

Tax avoidance is a transaction scheme shown by minimizing the tax burden by taking advantage of the loophole of tax provisions. In this study it was proxied using the effective tax rate (ETR) ratio used by Hanlon & Heitzman (2010), Lanis & Richardson (2011) namely income tax expense divided by net profit before tax. The number of Independent Commissioners is a ratio between the number of independent commissioners and the total board of commissioners in the company (Farag & Mallin, 2018; Chyz & Gaertner, 2018; Ambarsari et al., 2020). Gender (Farag & Mallin, 2018) is a dummy variable with a value of 1 if it is classified as female and 0 if it is classified as male. Tenure is the service period for commissioners to work / serve in the company. The tenure of more than two terms was given a dummy score of 1 and terms of office with a term of less than 2 periods were valued as a dummy of 0. Political connections were given a dummy score of 1 if there was a political connection and 0 if there was none. This study also uses control variables, namely company characteristics such as profitability (return on asset), company size (ln total assets), capital intensity (fixed assets compared to total assets), company growth (total equity compared to total assets) and leverage (ratio of liabilities to equity).

Multiple linear regression analysis was used to examine the model and the effect of the number of independent commissioners (X1), gender (X2), tenure (X3), and political connections (X4) on tax avoidance efforts (Y). In addition, the coefficient of determination and t test were also carried out.

The regression equation in this study is as follows:

$$TA = \alpha + \beta_1 KI + \beta_2 GDR + \beta_3 MJ + \beta_4 KP + e \quad (1)$$

$$TA = \alpha + \beta_1 KI + \beta_2 GDR + \beta_3 MJ + \beta_4 KP + \beta_5 ROA + \beta_6 SIZE + \beta_7 CI + \beta_8 GROWTH + \beta_9 LEV + e \quad (2)$$

4 EMPIRICAL RESULTS

4.1 Sampel Selection

The banking sector was chosen as the sample in this study because the banking sector has a close relationship with tax avoidance. Revocation of PER-01 / PJ / 2015 due to limitations in tax audits with banking confidentiality, however PER-01 / PJ / 2015 stipulates that the DGT can obtain customer

information that can be used for tax purposes. Following are the details of the samples obtained for testing where 156 sample data were obtained that were ready to be tested.

Table 1: Sample composition.

Sample Selection Criteria	Total of Sample Data
Registered company = 43 x 5 years	215
Deductions based on criteria:	
The company that suffered a loss, ETR exceeded 1 and data are not available	49
Total Observations	156

4.2 Descriptive Statistics

The statistical analysis indicated by the minimum, maximum, mean, as well as the crosstab test for the dummy variables is shown below. The average value of the independent commissioner variable is 0.60, indicating that the number of independent commissioners still dominates the total board of commissioners. The average value of the tax avoidance variable is 0.23, which is close to 0, indicating that most companies are making tax avoidance efforts. The profitability average value of 0.07 indicates the company's ability to generate profits is low. The average company size was 18.26 or Rp. 399,924,414,000 shows that the company's assets are quite large. The average capital intensity value of 0.44 shows that the company's fixed assets are only 44% of the total assets owned. The company growth average value of 0.24 shows that the company's growth is still low. The average leverage level is 2.35, indicating that part of the company's capital comes from debt, especially from customers and other creditors.

Table 2: Descriptive Test Results.

Variable	Min	Max	Mean
Independent commissioner	0.33	1.00	0.60
Gender	0.00	1.00	0.10
Tenure	0.00	1.00	0.51
Political connections	0.00	1.00	0.41
Tax avoidance	0.01	0.77	0.23
Profitability	0.00	0.64	0.07
Company size	12.48	31.71	18.26
Capital intensity	0.08	1.00	0.44
Growth	0.00	0.70	0.24
Leverage	0.15	9.81	2.35

The results of crosstab testing showed 135 (87%) classified as male, and the remaining 21 (13%) were classified as female. When viewed from the tenure of the male board of commissioners, it shows that 69 (51%) have tenure of more than 2 years, 66 (49%) and a tenure of less than 2 years. When viewed from the presence or absence of political connections, it shows that 76 (56%) did not have political connections, the remaining 59 (44%) had political connections. On the other hand, if it is seen from the tenure of the female board of commissioners, it shows that 11 (52%) had tenure of more than 2 years, 10 (48%) had tenure under 2 years. When viewed from the presence or absence of political connections, it shows that 16 (76%) had no political connections, the remaining 5 (24%) had political connections.

Table 3: Crosstab Testing Results.

Tenure	Gender		Political Connection	Gender	
	Male	Female		Male	Female
<2 periods	66	11	No	76	16
>2 periods	69	10	With Connections	59	5
Total	135	21	Total	135	21

4.3 Results

The results of the model test or the F test indicated the fit model. The results of model 1 test showed that only the independent commissioner variable had a significant effect on tax avoidance efforts. The results of model 2 test after the inclusion of control variables showed that the independent commissioner variable, profitability, capital intensity, company growth and leverage had a significant effect on tax avoidance efforts.

The number of independent commissioners has a strong enough influence on compliance in paying taxes as regulated by the Financial Services Authority Article 21 paragraph 2, it is explained that there is an independent commissioner who does not take sides with anyone in the company. The increasing number of independent commissioners is expected to encourage transparency in monitoring management behavior. In banking companies, it shows that on average 60% is dominated by independent commissioners and the average level of avoidance efforts is strong. The results also showed that the greater the composition of the commissioners had a significant effect on tax avoidance efforts. Independent commissioners are able to provide an independent attitude so that the supervisory function runs well. The duties and functions of the independent

Table 4: Descriptive Test Results.

	β	Sig	Adj R ²
Model 1:			
Independent commissioner	0.133	0.028**	0.012
Gender	- 0.055	0.186	
Tenure	- 0.041	0.149	
Political connection	- 0.039	0.179	
Model 2:			
Independent commissioner	0.118	0.034**	0.062
Gender	- 0.053	0.196	
Tenure	- 0.036	0.214	
Political connection	-0.041	0.167	
Profitability	-0.291	0.099***	
Company size	0.001	0.810	
Capital intensity	0.312	0.007*	
Company growth	0.160	0.055***	
Leverage	0.032	0.005*	

*) significant in 0.01

**) significant in 0.05

***) significant in 0.10

commissioner are to supervise and control in providing useful information to the aliied party. Independent commissioners are also responsive in paying attention to the presence or absence of tax avoidance so as to reduce tax sanctions.

The company's strategy regarding taxation must be supervised and controlled in a structured manner by management, commissioners and audit committee so that the company is not too aggressive and avoids tax sanctions that will harm the company later. The presence of independent commissioners as parties involved in supervision is expected to be able to act independently because independent commissioners have no direct interest in the company's operations or decision-making parties. This is in line with agency theory regarding the importance of the supervisory function so that agents are not selfish and able to be accountable for their duties in a transparent manner. The results of this study are supported by previous research carried out by (Sofiaty & Zulaikha, 2018; Kurnia et al., 2019) which stated that the independent board of commissioners tends to encourage company

management to disclose broader information to shareholders and stakeholders.

This was different from the results of other hypothesis testing. Gender, tenure and political connections of commissioners did not have a significant effect on tax avoidance. The majority of boards of commissioners in Indonesian banking were male, with a tenure of more than 2 terms and without political connections. The risk preferences faced in the banking and other financial service industries are indeed classified as larger, therefore there was no need for individual character requirements to occupy the position of commissioner. Besides, tax avoidance efforts are considered a routine strategy that companies must undertake as a legal effort, without having to consider the presence or absence of political connections. Banking still prioritizes the provisions stipulated in the OJK regulations and the Limited Liability Company Law, particularly in relation to the number of independent commissioners and the commissioners' field of expertise. The results of this study are supported by Charness & Gneezy (2012); Faccio et al. (2016); Winasis et al., (2017), Farag & Mallin (2018), Chyz & Gaertner (2018)

In addition, tax avoidance efforts are also influenced by financial performance such as profitability, capital intensity, company growth and leverage. Efforts to maximize profits and company assets can be achieved if the company is able to make efficiency and minimize costs. One of them is by reducing the company's tax burden and tax payments. Therefore, tax avoidance efforts are appropriate when included as part of the company's strategy so that the sustainability of the company can be maintained.

5 CONCLUSIONS

Tax avoidance efforts are one of the company's strategies specifically related to the taxation aspect. Tax avoidance is influenced by the number of independent commissioners and the company's financial performance. Meanwhile, gender, tenure and political connections do not have a significant effect on tax avoidance efforts. The existence of independent commissioners as parties involved in supervision is expected to be able to act independently because independent commissioners have no direct interest in the company's operations or decision-making parties. This is in line with agency theory regarding the importance of the supervisory function so that agents are not selfish and able to take account for their duties transparently.

This study has limitations: 1) many companies have suffered losses before tax and the complete data is not available thus the amount of data tested was not much compared to other sectors, 2). The financial industry has different measurement indicators from other industrial sectors thus it requires sufficient time in tabulation and testing. With the limitations of the research, the suggestions are: 1) it should be able to focus on other sectors or increase the research period in order to obtain sufficient and generalizable samples, 2) it should be able to focus on the two pillars of good corporate governance and other variables suspected to affect tax avoidance, for example the board of directors, audit committee, non-financial aspects, the role of the independent auditor.

The implication of this research is the definition of tax planning needs to be improved because currently it has become the main concern of company stakeholders. Likewise for companies and corporate stakeholders to consider strategies in the field of taxation as part of the company's strategy and utilize various tax policies or facilities to support tax avoidance efforts. The government is also expected to be able to formulate tax policies and facilities that accommodate the interests of companies but do not harm state revenues. The synergy between the company and the government is expected to create voluntary compliance among taxpayers.

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