

The “Missing-Part” in Withholding Tax Mechanism

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Abstract

This research aims to get understanding and find the solution of the problems related to withholding tax mechanism, especially to treasurers and non-treasurers. The informants are the taxpayers who are government partners. Data was collected through interviews and document analysis. The results show the problems are related to the socialization of new policy, the new procurement platform (SIPLah), the harmful mechanism, and the unclear tax rules. The suggested solutions are to strengthen the position of DGT in withholding tax mechanism and to improve inter-ministerial synergy.

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INTRODUCTION

This study aims to convey the complaints of taxpayers who become partners of withholders and find solutions to the related problems. Much research on withholding tax (WHT) has been carried out such as (Cheisviyanny, 2015, 2018; Dotulong et al., 2017; I Dewa Gede Sayang Adi Yadnya, 2022; Kusumawati et al., 2023; Tangka et al., 2023; Tulangow et al., 2023; Wati & Saadah, 2020). The results of previous research indicated that there were still many tax withholders (treasurers and non-treasurers) who have not carried out their obligations as tax collectors.

Although WHT makes a large contribution to tax revenue, there are still many problems that should be paid attention to Directorate General of Taxes (DGT). Most of the tax collection problems with government treasurers still revolve around classic problems such as problems with the documentation, price mark-ups, and fees/honors that cannot be fiscally deducted (Cheisviyanny, 2020a). We call this ‘classic problems’ because the problems have been going on for a long time but stay without solution. This research no longer discusses these problems, but instead discusses other urgent issues related to the withholding tax mechanism.

The focus of the research is the mechanism of WHT on treasurers and non-treasurer. Discussions are limited to the procurement with withholders and sales transactions to a State-Owned Enterprise (SOE). The taxes collected include Value-Added Tax (VAT), income tax Article 22/23, and Final income tax. The initial analysis showed that there is a "missing part" in this withholding tax mechanism, which has a negative impact on the taxpayer as a partner.

This research is a continuation of previous research (Cheisviyanny, 2015, 2018). The results are expected to provide an input for DGT to improve the quality of the withholding tax mechanism performance. The expected implication is that WHT remains a contributor to tax revenues without harming partners.

LITERATURE REVIEW

Withholding tax (WHT)

Withholding tax (WHT) tax is one of the tax collection systems in Indonesia, in addition to the official assessment and self-assessment system. The WHT system authorizes third parties appointed to collect taxes from taxpayers in accordance with applicable regulations. In this system, the dominant role lies with third parties. This is different from the official assessment where the dominant role lies with the tax authorities and self-assessment where the dominant role lies with the taxpayer (Resmi, 2019).

Tax collection by the treasurer is regulated in (Direktorat Jenderal Pajak, 2016). Tax collection by BUMN is regulated in (PMK Nomor 8/PMK.03/2021, 2021), while tax collection by other parties is regulated in (PMK Nomor 58/PMK.03/2022, 2022). The types of taxes collected in the WHT mechanism are VAT, Income Tax Article 21, Article 22, Article 23, Article 26, and Article 15.

WHT is claimed to be suitable applied in countries with low levels of tax compliance (such as Indonesia) because it has several advantages, including (Aini & Meikhati, 2022; Darmayasa et al., 2016):

1. It is more effective because tax revenues are deposited on time by third parties. Overshadowed by the potential for administrative sanctions if they fail to carry out their responsibilities, third parties are usually more disciplined in carrying out their obligations as a withholder.
2. It is more efficient because the cost-of-collection that should be borne by the government is transferred to the collectors/cutters. In addition, DGT only needs to supervise the withholders, not all taxpayers, so this cost can be saved even more.
3. It is, indirectly, increasing voluntary compliance (for several types of taxes) because the obligation to deposit and report taxes is carried out by the withholders. Taxpayers may not even be aware that their tax obligations have been fulfilled because tax collection/withholding is done when they receive or earn income.

Previous Research

Most of the previous research was carried out using a case study approach on one research object. Some research on treasurer collectors were carried out by (Cheisviyanny, 2015, 2018; I Dewa Gede Sayang Adi Yadnya, 2022; Kusumawati et al., 2023; Tulangow et al., 2023). While some research on SOE collectors or other appointed parties were conducted by (Dotulong et al., 2017; Tangka et al., 2023; Wati & Saadah, 2020). The results of the research showed that there were many problems that occur in the field related to the WTH mechanism with treasurer and non-treasurer collectors.

If searched through search engines, previous research on this topic was carried out more than 10 years ago, but the same problem still occurs today. This research no longer addresses the classic problem. We explore other issues that also have the potential to become a problem or a burden to taxpayers.

The results of this research are expected to provide a warning to the government, especially DGT, that if solutions are not found for these problems, then the WHT mechanism will lose its meaning. If these problems are allowed to continue, then the WHT mechanism will only become a burden for taxpayers and this certainly creates injustice for taxpayers.

METHOD

Data were obtained through analysis of tax documents and interviews with owners and staffs. The documents analyzed included contracts, tax invoices, tax payments, sales invoices, and other supporting documents. The following is the data of the informant:

Table 1. Informant Data

	Name	Position	Partner of ...
1	Mr. A/Mrs. V	Owner PT A	Treasurer
2	Mrs. I	Staff PT B	Treasurer
3	Mr C	GM PT C	Non-treasurer (SOE)

The following table presents the general themes and specific themes obtained from the analysis of the interview recordings:

Table 2. General and Spesific Themes

	General Themes	Specific Themes	Data Source
1	Tax collection by treasurer	- The socialization of new policy - Procurement platform of Kemendikbudristek (SIPLah)	- Interview PT A - Interview PT B - Document analysis
2	Tax collection by non-treasurer	- The harmful mechanism - The unclear rules	- Interview PT C - Document analysis (appeal decision)

Source: Data analysis (2023)

ANALYSIS AND DISCUSSION

Analysis

The analysis is described based on specific themes in Table 2 above.

The socialization of new policy

Our informants (the owner of PT A) complained about the lack of socialization for new rules which causes disadvantage. The informant gave an example regarding the Covid-19 tax incentives. PT A, as a partner of the government, which was just established in 2020 actually got the incentive which income tax is bore by the government. This means that the treasurer does not collect income tax Article 22 on transaction bills. However, due to ignorance of information, PT A did not arrange the certificate which is the main requirement to get the incentive. The treasurer continued to collect income tax Article 22 for goods procurement transactions.

"We have heard information about the incentive. But we didn't know that in order to get the incentive, we had to arrange a Certificate. The treasurer also didn't ask us about it."

(Mr A, owner of PT A)

Mr. A's complaint was then continued by Mrs. V who is also the owner of PT A:

"We only found out at the end of 2020. Then we asked the treasurer to do transfer balance (*pemindahbukuan*/PBK), but the treasurer said that it was not her fault so they did not do the transfer. Yes, it was indeed our fault for not providing a Certificate, but the treasurer should have informed us."

Even though in ((PMK Nomor 44/PMK.03/2020, 2020) as amended by ((PMK Nomor 86/PMK.03/2020, 2020) in Article 5 paragraph 5 states that the Certificate must be confirmed as true. It means treasurers should know the existence of this Certificate and should, if there is a good intention, ask for it from partners. However, the treasurers did not notify partners about the certificate and continued to collect income tax Article 22. We suspect that this was due to a lack of socialization from the DGT.

Then the informants complained about the classic problem: tax payment slips that are hard to get, fees/honors that are fiscally corrected, tax invoices that have to be canceled or replaced because the name of the goods must be exactly the same as in the contract.

"We are tired of dealing with the treasurers. All risks are in our hands. Why have the treasurers never been audited, even though they are also taxpayers?"

(Mrs V, owner of PT A)

This question raises the thought that there is a missing part of the WHT mechanism. Partners are collected by treasurers and audited by the DGT. But who audits the treasurers?

The SIPLah Platform

According to (Permendikbudristek Nomor 18/2022, 2022), since 11 April 2022, the school procurement is applied through School Procurement Information System (*Sistem Informasi Pengadaan Sekolah*/SIPLah). The process of WHT is ruled by (PMK Nomor 58/PMK.03/2022, 2022). This platform is indicated to be able to provide potential problems in the future. PT B, as a SIPLah partner, is quite worried about transactions using this platform, especially related to tax payment slips.

Mrs I, staff of PT B, said:

"Until now [April 10, 2023], we have not got any docs of tax collection. We don't know whether VAT and tax income Article 22 were paid or not. It says the document can be downloaded on the web, but there's no icon to be clicked."

The rule states that the seller does not receive the transaction number (*Nomor Transaksi Penerimaan Negera*/NTPN) and only accepts the tax payment slip. But if PT B does not get the docs, how to convince that income tax Article 22 has been collected and can be used as a tax credit? Not recognized, but the money has been collected. Admitted, but there is no evidence.

The unclear rules make partners confused whether the Tax Invoice is made with code 02 because the one ordering the goods is the government or code 03 because the one who collects the tax is Blibli. The statement

that the school does not accept NTPN implies that partners do not have a place to ask about the document. Everyone seems hands off, which in the end will be detrimental to the taxpayer. The point is school or seller should get the tax payment slip along with the NTPN.

The harmful mechanism

We interviewed Mr. C as the General Manager of PT C. PT C is a partner of SOE. There are 2 complaints which stated by Mr. C related to transaction with non-treasurers (SOE): (1) late tax invoices and (2) long payment times.

Firstly, the tax invoice is often late. Account Representatives (AR) or tax auditors often find tax invoices late and impose penalties for this. The reason of the delay in issuing tax invoices is SOE often asked partners to change tax invoices. The following is an explanation from Mr. C:

"... this SOE often asks us to change the tax invoice... For example, there are shipments from 15-30 April, of course we will make the tax invoice on 30 April.... they ask for 1 May because if the tax invoice is April 30, they only have 10 days to pay VAT, so they throw the risk at us. If we don't want to change, they don't want to pay."

Another factor that causes the late tax invoices is SOE asks for tax invoices to be made after the internal audit process is complete. The internal inspection process can take up to weeks to complete after the goods are delivered. The date of handing over the goods is made the same as the date of completion of the internal inspection, but definitely not the same as the date of the partner's bill of lading. As stated by Mr. C:

"Another example, our goods arrived at the SOE warehouse on 25 April with a bill of lading on 24 April, of course we make the tax invoice on 24 April. There is an internal inspection process that takes quite a long time. For example, the process finished on 5 May. The SOE asks us to make a tax invoice on 5 May."

Secondly, the payment takes a long time. Mr. C complained that the disbursement of funds took a long time. Two previous informants also complained about the same thing.

"...it really takes a long time to pay, use SKBDN or SCF, the interest is charged to us... It seems that this BUMN does not use capital, its working capital comes from sub-contractors and suppliers."
(Mr C, GM PT C)

It turns out that to become a government partner, a taxpayer must have a lot of capital. The capital refers to reserves to wait for long payments and reserves to pay potential (possible) administrative sanctions. What if the partners are MSMEs whose capital is not large? On the one hand, there is the potential of large turnover. However, on the other hand, there are constraints on the availability of capital/fund reserves. This is in line with Mr. Darussalam's thoughts in the DDTC Contribution Book. He said that:

"...withholding tax actually creates an additional administrative burden for the taxpayer because he has to take care of other parties' tax obligations.... The sanctions applied are also disproportionate because often the tax burden from the income recipient becomes a tax burden for the withholding party..."

The unclear rules

The unclear rules can lead to different interpretations. We can come to this conclusion after reading and analyzing PT MB's Appeal Decision. We believe that unclear regulations can be detrimental to taxpayers. PT MB is a partner of SOE (Pertamina). The basis for filing an appeal is that there is no confirmation or regulation regarding the imposition of VAT on 3 kg LPG other than SE-10/PJ.51/1993. The tax court decided to reject PT MB's appeal. PT MB must pay according to the results of the previous decision plus administrative sanctions.

We imagine how many resources (time, effort and money) are sacrificed to seek justice. In addition to explicit costs, namely paying the principal tax and administrative sanctions and paying for legal services, taxpayers must also bear the implicit costs related to psychological factors. The tax dispute arose when the taxpayer decided to submit an objection on 10 August 2020 to the underpaid tax assessment letter (*Surat Ketetapan Pajak Kurang Bayar/SKPKB*) dated 19 May 2020 and the correction of the SKPKB dated 30 November 2020. The result of the appeal decision was set for 7 September 2022. It took more than two years to resolve this tax dispute.

If the rules are clear and have been socialized since the beginning of implementation, tax disputes can be reduced. Cost-of-collection and cost-of-compliance can be reduced significantly. In the long run, this cost reduction can increase taxpayer compliance, especially voluntary/cooperative compliance (Cheisviyanny, 2020a, 2020b; Darussalam et al., 2019).

Discussion

The findings imply that something is missing from the withholding tax mechanism. The figure below shows the WHT mechanism. It can be seen that the collectors seemed untouched by the DGT. The partner suffered two losses. First, by the collector related to the tax payment slip and the complexity and length of the payment procedure. Second, by DGT related to sanctions imposed for late tax invoices.

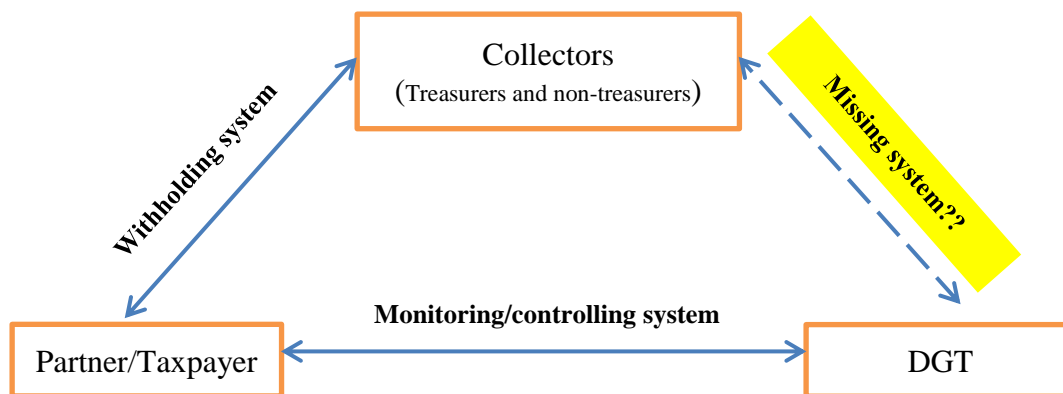


Figure 1. “Missing-Part” of Withholding Tax Mechanism

The solution key lies with DGT. We really hope DGT can become a bridge between taxpayers and treasurers. As the party that oversees state revenues, DGT actually understands that these problems do occur. So far, the DGT seems to have turned a blind eye that the WHT mechanism is detrimental to taxpayers.

The existence of DGT and Collectors in different ministries also presents another challenge. DGT is at the Ministry of Finance, SOE is at the Ministry of SOE, the government treasurer is at another ministry. (Subroto, 2020) uses the term 'institutional disintegration' to describe the monitoring of State revenues which is carried out separately. In his book “Tax and Funding for Indonesian Civilization”, he criticizes institutional disintegration because it has negative implications for the efficiency, effectiveness, and economic aspects of managing state revenues both from a tax administration perspective and from a tax-paying public perspective. For this reason, it needs inter-ministerial synergy among the ministries involved in the WHT mechanism. If this synergy is realized, the "missing-part" in Figure 1 above can be replaced with a "coordination system".

CONCLUSION AND RECOMMENDATION

From the results of interviews and document analysis, we conclude that there are several issues that need to be addressed immediately by DGT: (1) the lack of socialization of new rule, (2) the potential problems on the Ministry of Education and Culture's procurement platform (SIPLah), (3) the harmful mechanism (late tax invoices and long payment time), and (4) the unclear rules.

We suggest the need for synergy between ministries involved in this WHT mechanism. All ministries need to sit together to make a beneficial SOP on a WHT mechanism. If this synergy can be realized, it will automatically strengthen the position and power of DGT in the WHT mechanism.

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