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INTERNATIONAL CONFERENCE ON SOCIAL SCIENCES  
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E-mail: [ulicoss2020@kpa.unila.ac.id](mailto:ulicoss2020@kpa.unila.ac.id) | Website: <https://ulicoss.unila.ac.id/> | WhatsApp: +6281367115180

**LETTER OF ACCEPTANCE**

Bandar Lampung, 28<sup>th</sup> October 2020

Dear **Marlia Eka Putri**,

On the behalf of The 1<sup>st</sup> Universitas Lampung International Conference on Social Sciences (ULICoSS) 2020's Committee, we are pleased to inform that your paper entitled:

**“LEGAL PERSPECTIVE OF TAX EVASION ON THE SALE OF IMPORTED  
GOODS THROUGH PERSONAL SHOPPER SERVICE AND THE EFFORTS TO  
MINIMIZE IT ON BEHALF OF PUBLIC REVENUE”**

Has been **ACCEPTED** to be presented at The 1<sup>st</sup> Universitas Lampung International Conference on Social Sciences (ULICoSS) 2020.

We congratulate for your achievement. Further technical issues will be informed later. Thank you very much for participating in our event.

With infinite respect,

**Prof. Yuliansyah, Ph.D., Akt., CA.**

The ULICoSS Committee

# **LEGAL PERSPECTIVE OF TAX EVASION ON THE SALE OF IMPORTED GOODS THROUGH PERSONAL SHOPPER SERVICE AND THE EFFORTS TO MINIMIZE IT ON BEHALF OF PUBLIC REVENUE**

Marlia Eka Putri A.T., Eka Deviani, Ati Yuniati  
Administrative Law Department, Faculty of Law, University of Lampung  
marlia.ekaputri@fh.unila.ac.id

## **Abstract**

This research was conducted to determine the legal perspective on tax evasion on the sale of imported goods through personal shopper service that occurs a lot, which causes tax leakage, and to find solutions to minimize it on behalf of public revenue.

The approach used in this research is the approach of laws and regulations and policies that apply in the field of taxation, especially income tax, value added tax, import duties and excise as primary legal materials.

The results show that tax evasion on the sale of imported goods through personal shopper service is a disgraceful and unethical act, and results in detrimental to the State and society, and can be said to be a form of smuggling, because it is a form of fraud which conducted by taxpayers who try to manipulate transactions with the intention of reducing income. Efforts to minimize it, are to push tax payer to register them in order to obtain an Tax Payer Number (NPWP), to eliminate legal loopholes that can be used to evade taxes, tighten supervision of imported goods, and provide awards for entrusted service business actors who have complied with and fulfilled their tax obligations.

Keywords: Tax Evasion, Imported Goods, Personal Shopper

## **1. INTRODUCTION**

The development of technology, especially in cyberspace through the internet, has brought about many changes in everyday human life, for example education, social media, and trade. The convenience provided by these technological advances makes people prefer to use more internet facilities. Buying and selling using personal shopper service, either by hand carry by means of passenger transportation or by delivery, is not limited to domestic products, but also for goods that are imported from. Generally, goods sold abroad are cheaper compared to the same goods in Indonesia.

Personal Shoppers, namely people who individually go abroad or out of town to buy goods entrusted by consumers by taking benefit from the agreed fee. Tax evasion by personal shopper service business actors includes:

- 1) Appoint several people to go abroad to buy the desired imported goods. This mode is carried out as if the goods brought from abroad are private property, even though the goods are ordered goods or jastip goods. This is done because there is a loophole that takes advantage of the exemption from import duty below 500 USD as regulated in Minister of Finance Regulation No. 203 of 2017

concerning Provisions for Export and Import of Goods Carried by Passengers and Crew of Transportation Means.

- 2) Splitting goods through freight forwarding facilities to avoid the threshold value of goods below 75 USD according to Minister of Finance Regulation No. 112 of 2018 concerning Provisions for Shipments which can only be purchased once per day. However, the provisions for the threshold value of goods in this Minister of Finance Regulation have been replaced by Minister of Finance Regulation No. 119 of 2019 since January 2020, which changes the threshold for the value of goods from 75 USD to 3 USD.<sup>1</sup>
- 3) Separating the packaging box with the goods. This is done as if the item is actually used or personal property. However, the packaging is sent via a delivery service and not hand carry.

Tax evasion conducted by personal shopper service violates statutory regulations. In 2019, Customs and Excise succeeded in thwarting tax evasion efforts by means of splitting or breaking up luggage from abroad via plane by handcarry by 14 (fourteen) personal shopper so that each person brought goods with a value below USD 500 or IDR 7,000,000.<sup>2</sup> The splitting mode causes the potential for state revenue to be lost and causes state losses and tax injustice for other entrepreneurs.

## 2. LITERATURE REVIEW

Taxes are people's contributions to the state treasury based on law (which can enforced) by not getting lead services (counter-achievement) which directly gets intended and used to pay for routine expenses and the surplus used to finance government public saving.<sup>3</sup>

Tax as a reality that exists in society has certain functions. It is generally recognized that there are two main functions of tax, namely the budgetary function and the regulerend function. In the budgetary function, taxes have a function as a tool or instrument used to optimally input funds into in the state treasury. In this case the tax function is directed more as an instrument withdrawing funds from the public to be included in the state treasury.<sup>4</sup>

Besides having a function to attracting funds from public into the state treasury as mentioned above, tax have another function, namely the regulating function. In this case, taxes is used to regulate and directs society in the direction the government wants. Therefore this regulatory function uses taxes to be able to encourage and control community activities to be in line with the government's plans and wishes. If associated with one of the dimensions of the relationship between the government and the people, presumably this function cannot be separated from the control function (sturen).<sup>5</sup>

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<sup>1</sup> For more detail guidelines of Citation please visit: <https://bisnis.tempo.co/read/1253257/ini-akal-akalan-jastiper-untuk-selundupkan-produk-impor> accessed on September 10<sup>th</sup> 2020.

<sup>2</sup> For more detail guidelines of Citation please visit: <https://www.merdeka.com/uang/splitting-metode-yang-kerap-buat-pelaku-jastip-ditangkap-petugas-bea-cukai.html> accessed Februari 14<sup>th</sup> 2020.

<sup>3</sup> Rochmat Soemitro, 1994, *Dasar-dasar Hukum Pajak dan Pajak Pendapatan*, Eresco, Bandung, page 8.

<sup>4</sup> Ali Chidir, 1993, *Hukum Pajak Elementer*, PT Eresco, Bandung, page 7.

<sup>5</sup> Op.Cit, page 134.

Imported goods are goods that are entered the Customs Area or activities purchase of goods and/or services from other countries to meet domestic needs country. The benefits of importing goods are so that a country gets raw materials, goods, or services that are limited in number or may not even be produced in domestic. Generally, imported goods have a high price because there are a number of tax provisions which must be fulfilled by those who import goods. Inherent tax imported goods include:

- 1) Import Duty
- 2) Tax in the context of Import (PDRI), consisting of: Value Added Tax (VAT) and Income Tax (PPH).

In Minister of Finance Regulation Number 203 of 2017, imported goods that are exempt from tax are goods whose value is a maximum of USD 500. That is, if the value of the goods is more than USD 500, then the excess is subject to 10% import duty, PDRI which consists of VAT 10% and 7.5% PPh if you have a NPWP or 100% higher tariff if you don't NPWP.

In every country and at all times, the majority of the population has not would never have permeated its obligation to pay taxes in such a way fulfill it without grumbling. In fact, if there is the slightest possibility, at generally tend to escape every tax. In the fight against here, lies the main factor of tax resistance, which can be differentiated into which is called passive resistance and active resistance, ie:

- 1) Passive resistance to taxes, that is, the type of resistance that consists of barriers that complicate tax collection and that are intimidating relationship with the economic structure of a country, with development intellectuals and morals of the population, and with the tax collection techniques themselves.
- 2) Active resistance to taxes, includes all business and actions, which are aimed directly at the tax authorities and aims to avoid taxes. Way-the methods include:
  - a) Tax Avoidance. Done by not doing anything which gives reasons for being taxed, namely by eliminating or not doing taxable things. For example, excise tobacco over white cigarettes is avoided by indulging in "klobot" cigarettes.
  - b) Tax Evasion. If tax evasion is not possible implemented, the taxpayer tries to use other methods, for example by means of smuggling, for example against import duties. This circumvention is a violation of the law with a view to it get away from taxes or reduce the base.
  - c) Tax Ignoring/neglect, namely refusing to pay taxes that have been determined and refuse to fulfill the formalities it must fulfill. An example is attempts to thwart tax collectors by blocking foreclosures with how to get rid of items that can be confiscated by the tax authorities.<sup>6</sup>

### **3. RESEARCH METHODOLOGY**

This research was conducted by juridical normative (dogmatic legal research). done by reviewing relevant laws and regulations circumvention of sales tax on imported goods. The approach used is legislative approach (normative approach) and other documents related to the applicable taxation sector, and equipped with a direct approach empirical support.

The data used in this study consisted of secondary data, namely:

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<sup>6</sup> R. Santoso Brotodihardjo, 2003, Pengantar Ilmu Hukum Pajak, PT Refika Aditama, Bandung, page 13- 20.

- 1) Law Number 16 Year 2000 Concerning the Second Amendment to the Law Number 6 of 1983 concerning General Provisions and Procedures of Taxation
- 2) Law Number 17 of 2006 concerning the Fourth Amendment to the Law Number 7 of 1983 concerning Customs
- 3) Law Number 36 of 2008 concerning the Upper Fourth Amendment Law Number 7 of 1983 concerning Income Tax
- 4) Law Number 42 of 2009 concerning the Third Amendment to Law Number 8 of 1983 concerning Value Added Tax on Goods and Services and Taxes Sale of Luxury Goods
- 5) Government Regulation Number 23 of 2018 concerning Upper Income Tax Income from business received or obtained by the taxpayer Has a Certain Gross Turnover
- 6) Minister of Finance Regulation Number 203/PMK.04 / 2017 concerning Export Provisions and Import of Goods Carried by Passengers and Crew of Transportation Means
- 7) Minister of Finance Regulation Number 34 of 2017 concerning Income Tax Collection Article 22 In connection with the payment for the delivery of goods and activities In the import sector or business activities in other fields
- 8) Minister of Finance Regulation Number 203/PMK.04/2017 concerning Export Provisions and Import of Goods Carried by Passengers and Crew of Transportation Means
- 9) Minister of Finance Regulation Number 199/PMK.101/2019 concerning Provision Customs, Excise, and Taxes on Imported Shipment.

Data collection methods that will be used in this study include:

- a) Inventory of legal documents related to research;
- b) Study of literature related to research;
- c) The correspondence method with competent elements is related to research.

Data processing has been done by reading and classifying systematization data. The statutory regulations have been analyzed by means of content analysis analyses). Processing of legal materials has been carried out through stages positive law description, positive law systematization, positive law analysis and positive law interpretation. Then proceed with reflection systematics of legal reality in its enforcement. Analysis of Legal materials and data were carried out in a descriptive analytical manner, namely examining concepts law, legal principles, legal norms and related legal systems circumvention of sales tax on imported goods and efforts to minimize it for improve taxpayer legal compliance which in turn can increase state revenue. Viewed from the aspect of dogmatic law science, analysis of legal materials carried out by way of exposure and analysis of the applicable legal structure, legal systematization, legal interpretation and judgment.

#### **4. RESULTS AND DISCUSSIONS**

Active resistance to taxes consists of three ways: tax avoidance, tax evasion, and tax neglect. This distinction is based on the legality and intention of the taxpayer itself. Usually tax avoidance is done legally or does not violate the law by exploiting a loophole as regulated in existing taxation regulations, while tax evasion is related to the use of unlawful means to reduce or eliminate the obligation of tax

burden. The similarity between the two lies in the existence of tax planning, which is that they both intend to reduce or avoid paying taxes. There is a gray distinction between tax avoidance and tax evasion, depending on the interpretation of the tax laws.

The grey area between legality and illegality here is relatively large and the interpretation of tax regulations is often pushed to the limits in the interests of the clients.<sup>7</sup> If under tax avoidance one understands the legal possibilities of avoiding tax and under tax evasion the illegal (i.e. punishable) activities to reduce the tax burden, there remains a relatively large grey area between the two in which so-called 'aggressive tax planning' assumes a large role.<sup>8</sup>

Tax evasion is generally carried out by hiding or ignoring taxation regulations, or the taxpayer pays less tax than he is supposed to pay under the law. For example, by hiding income or information from tax authorities. Some experts argue that tax evasion is the same as tax smuggling, and thus it is clear that tax evasion is completely illegal and is different from tax avoidance which is carried out by refraining from activities that can give rise to tax obligations, for example by substituting the use of sugar expensive by using coconut sugar.

Tax evasion by personal shopper to foreign goods can be categorized as smuggling of goods, if it is done not in accordance with the rules or norms regulated in the statutory regulations. In general, personal shopper try to find legal loopholes which are weaknesses in the provisions of taxation legislation, making it possible to do tax evasion that can save tax amounts or minimize the amount of taxes paid, or by not reporting income or reporting however what is reported is not the actual income value.

Personal Shoppers must comply with the regulations stipulated in Minister of Finance Regulation Number 203 of 2017. Provisions related to Import Duty include exemption from import duty if the customs value of FOB is not more than 500 USD. If the FOB customs value is more than 500 USD, then it is obliged to pay import duty of 10% of the value of imported goods after deducting FOB 500 USD. If the luggage consists of 200 pieces cigarettes, 25 cigars, or 100 grams of other tobacco products, or 1 liter drinks containing ethyl alcohol, are exempted from excisable goods. The rest, the tax authorities will immediately destroy the excisable goods even without being witnessed by the passenger.

In relation to income tax, personal shoppers who register personal shopper services as the main business activity it will be categorized as an intermediary service, subject to PPh 25 with a norm of 50% if the turnover is <IDR 4.8 billion a year and don't do bookkeeping. If the personal shopper doesn't register his business as a main business, then their personal shopper service is considered as side job, so the provisions in Government Regulation Number 23 of 2018 concerning Upper Income Tax Income from business received or obtained by the taxpayer has a certain gross circulation, which is subject to a tariff of 0.5% of the total gross turnover (considered final income tax).

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<sup>7</sup> Farny Otto Franz Michael, Gerhartinger Philipp, Lunzer Gertraud, Neuwirth Martina, Saringer Martin, 2015, *Tax Avoidance, Tax Evasion and Tax Heavens*, Impressum, Wina, page 64.

<sup>8</sup> Alfred Hacker in Farny Otto et.al, *Ibid*, page 4.

As an act that violates the law, tax evasion is a form of fraud committed by taxpayers, because they try to manipulate transactions with the intention of reducing their income. Ethically, tax evasion is clearly an act that is not praiseworthy or despicable, because in the financial sector it can cause losses to the State and society. A taxpayer who evades taxes may think that the State takes an amount that is already in its pocket, but in essence it is he who takes money from other citizens which the State must make other sacrifices to compensate for the shortcomings caused by taxpayers who do not fulfill their obligations.<sup>9</sup>

In contrast to the Egoism Theory, tax evasion is not considered an ethical violation, because it is an act that is done for one's own interests, and selfishness is not an ethical violation.<sup>10</sup> However, because the tax is based on the history of its collection, it is based on the Society Agreement Theory as proposed by J.J. Rosseau, where the people surrender part of their rights to be submitted to the State which will take care of the common interest, then this egoism theory cannot be used as a basis for tax evasion for their own interests.<sup>11</sup> From an ethical standpoint, tax evasion clearly violates public rights.

Tax is one of the powers and powers that the Government has over its people. From the Government's point of view, taxes allow the State to obtain public funds from profit or corporate profits (profits), which are taken as a form of donation to be used with the communities where they live in society.<sup>12</sup>

From an ethical point of view, of course this is unfair for obedient taxpayers, because it is not in accordance with the principle of tax justice, namely:

- 1) Horizontal justice, that is, if the tax burden is the same for all tax payers that earn income equal to the number of dependents the same, regardless of the type of income or source of income.
- 2) Vertical justice, when people with additional abilities different economies are subject to different Income Taxes equivalent to the difference.<sup>13</sup>

It does not fulfill a sense of justice, if the taxpayer seeks maximum profit by using public facilities provided by the State, where these facilities are financed from taxes, but the State and society do not get contributions from the taxpayer to finance the construction of these public facilities.

In the economic sphere, tax evasion can affect fair competition among entrepreneurs, because entrepreneurs who evade taxes by suppressing their costs illegally are in a more favorable position than rivals who do not. In addition, psychologically tax evasion will familiarize the perpetrator to commit other violations of the law. If he has the heart to commit fraud in the fiscal sector, gradually he will not hesitate to do the same in other fields.<sup>14</sup>

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<sup>9</sup> R. Santoso Brotodihardjo, *Loc.Cit.*

<sup>10</sup> Sri Hutami, 2010, *Tax Planning (Tax Avoidance dan Tax Evasion) Dilihat Dari Teori Etika*, Jurnal Politeknosains Vol 9 No.2 September Edition, 2010.

<sup>11</sup> Safri Nurmantu, 2005, *Pengantar Perpajakan*, Granit, Jakarta, page 11.

<sup>12</sup> Stephen Barkoczy, 2009, *Foundations of Taxation Law*, CCH Australia Limited (McPherson's Printing Group), Sydney, page 4-5.

<sup>13</sup> Hector S. De Leon, 1998, *Administrative Law : Text and Cases*, Rex Book Store, Manila, page 10-11.

<sup>14</sup> Tony Marsyahrul, 2005, *Pengantar Perpajakan*, PT Grasindo, Jakarta, page 21-22.

Tax evasion by personal shopper to buy imported goods shows that the threat of administrative punishment or the threat of criminal punishment has not provided a deterrent effect for those who violate taxation regulations in the import of goods. This is related to tax compliance, which is still very low, both formal and material compliance.

## 5. CONCLUSION

Public effort to avoid taxes is a natural thing considering that tax is a collection by force, and something that is imposed will inevitably cause negative reactions that can be in the form of resistance to tax payments. Tax resistance is very detrimental to the State, therefore in order to reduce or completely eliminate these obstacles it is necessary to try to establish a condition which makes taxpayers aware, willing and able to pay taxes.

Efforts to minimize tax evasion from the perspective of personal shopper are to register themselves in order to obtain an NPWP, report their business as the main business in the intermediary service sector, keep expenditure receipts, so they can honestly declare their luggage to customs properly and correctly. From the government's point of view, efforts are needed to eliminate legal loopholes that can be used to evade taxes, tighten supervision of imported goods, require NPWP, and provide awards for entrusted service business actors who have complied with and fulfilled their tax obligations.

## REFERENCES

1. For more detail guidelines of Citation please visit: <https://bisnis.tempo.co/read/1253257/ini-akal-akalan-jastiper-untuk-selundupkan-produk-impor> accessed on September 10<sup>th</sup> 2020.
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## Introduction

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- This research was conducted to determine the legal perspective on tax evasion on the sale of imported goods through personal shopper service that occurs a lot, which causes tax leakage, and to find solutions to minimize it on behalf of public revenue.
- The development of technology, especially in cyberspace through the internet, has brought about many changes in everyday human life, for example education, social media, and trade. The convenience provided by these technological advances makes people prefer to use more internet facilities. Buying and selling using personal shopper service, either by hand carry by means of passenger transportation or by delivery, is not limited to domestic products, but also for goods that are imported from. Generally, goods sold abroad are cheaper compared to the same goods in Indonesia.
- Tax evasion conducted by personal shopper service violates statutory regulations. In 2019, Customs and Excise succeeded in thwarting tax evasion efforts by means of splitting or breaking up luggage from abroad via plane by handcarry by 14 (fourteen) personal shopper so that each person brought goods with a value below USD 500 or IDR 7,000,000. The splitting mode causes the potential for state revenue to be lost and causes state losses and tax injustice for other entrepreneurs

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## Literature Review

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- Taxes are people's contributions to the state treasury based on law (which can enforced) by not getting lead services (counter-achievement) which directly gets intended and used to pay for routine expenses and the surplus used to finance government public saving.
- Tax as a reality that exists in society has certain functions. It is generally recognized that there are two main functions of tax, namely the budgetary function and the regulerend function. In the budgetary function, taxes have a function as a tool or instrument used to optimally input funds into in the state treasury. In this case the tax function is directed more as an instrument withdrawing funds from the public to be included in the state treasury.
- Besides having a function to attracting funds from public into the state treasury as mentioned above, tax have another function, namely the regulating function. In this case, taxes is used to regulate and directs society in the direction the government wants. Therefore this regulatory function uses taxes to be able to encourage and control community activities to be in line with the government's plans and wishes. If associated with one of the dimensions of the relationship between the government and the people, presumably this function cannot be separated from the control function

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## Research Methodology

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- This research was conducted by juridical normative (dogmatic legal research). done by reviewing relevant laws and regulations circumvention of sales tax on imported goods. The approach used is legislative approach (normative approach) and other documents related to the applicable taxation sector, and equipped with a direct approach empirical support.
- Analysis of Legal materials and data were carried out in a descriptive analytical manner, namely examining concepts law, legal principles, legal norms and related legal systems circumvention of sales tax on imported goods and efforts to minimize it for improve taxpayer legal compliance which inturn can increase state revenue.
- Viewed from the aspect of dogmatic law science, analysis of legal materials carried out by way of exposure and analysis of the applicable legal structure, legal systematization, legal interpretation and judgment.

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## Conclusion

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- The results show that tax evasion on the sale of imported goods through personal shopper service is a disgraceful and unethical act, and results in detrimental to the State and society, and can be said to be a form of smuggling, because it is a form of fraud which conducted by taxpayers who try to manipulate transactions with the intention of reducing income.
- Efforts to minimize it, are to push tax payer to register them in order to obtain an Tax Payer Number (NPWP), to eliminate legal loopholes that can be used to evade taxes, tighten supervision of imported goods, and provide awards for entrusted service business actors who have complied with and fulfilled their tax obligations. de clear regulations regarding the rules contained in the law.

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## THANK YOU

Marlia Eka Putri A.T., S.H., M.H.  
marlia.ekaputri@fh.unila.ac.id

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