

## Tax Amnesty and the Evidentiary Standards of Ownership Transfer in Indonesian Corporate Tax Litigation

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### ARTICLE INFO

#### **Keywords:**

Tax Amnesty;  
Transfer Of Ownership;  
Standard Of Proof;  
Tax Litigation;  
Fiscal Legitimacy.

#### **Article History:**

Received: Oct, 12 2025

Revised: Oct, 15 2025

Accepted: Oct, 16 2025

Online Available: Oct, 17 2025



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### ABSTRACT

*This study aims to analyze the role of tax amnesty in determining the standard of proof for asset ownership-transfer in corporate tax disputes in Indonesia, and analyze the implications of the tax amnesty policy on the implementation of state authority in the fiscal sector based on the principles of Indonesian constitutional law. Using a legal-normative method with a conceptual, statutory, and case study approach, it examines Tax Court Decision Number PUT-010465.12/2024/PP/M.XXA/2025. The results of the study show that tax amnesty not only functions as an administrative mechanism, but also as a declarative evidence tool that influences judicial assessments of share ownership transfers that are not fully reflected in formal documents. The court ruling confirms that although the Tax Amnesty Certificate does not have constitutive force, the document can be used to prove the economic substance of the transaction and the taxpayer's good faith in the asset ownership process. This study contributes to the expansion of understanding regarding the standard of proof in corporate tax litigation by positioning tax amnesty as a legal instrument that balances formal validity and material truth.*

## 1. Introduction

A comprehensive national tax database constitutes a foundational instrument in modern public financial governance because it provides the evidentiary infrastructure essential for detecting undeclared wealth and ensuring post-intervention compliance functions that cannot be achieved through transient revenue collection alone.<sup>1</sup> The establishment of an integrated tax database enables states to implement evidence-based fiscal supervision, strengthen revenue collection capacity, and reinforce public accountability through the systematic management of verified fiscal data. Within the framework of contemporary fiscal policy, tax databases serve not merely as administrative repositories but as strategic mechanisms for enforcing compliance and designing policies that are both effective and sustainable. Tax amnesty and voluntary disclosure programs have long been used by various countries as policy mechanisms to encourage taxpayers to disclose previously unreported assets by paying a certain amount of compensation as a waiver of past obligations.<sup>2</sup> Although frequently promoted as tools for short-term fiscal gain, their strategic significance lies in their ability to generate a comprehensive registry of taxpayers and assets seamlessly integrated into the national fiscal information system. From a constitutional law perspective, a comprehensive national tax database is a fundamental instrument in modern public financial governance because it provides essential evidentiary infrastructure for detecting undeclared assets and ensuring post-intervention compliance functions that cannot be achieved through ad hoc revenue collection. The state's authority to manage this tax system stems from fiscal sovereignty, as mandated by the constitution. Consequently, tax amnesty policies possess the potential to strengthen national fiscal databases by improving both the quality and quantity of information previously concealed from state oversight.

Empirical evidence and policy analyses indicate that the enduring value of tax amnesty programs derives not from their immediate fiscal yield, but from the structural database effects they generate within tax administration systems.<sup>3</sup> The information generated from amnesty declarations can be valuable clues for tax authorities in conducting audit selection, risk profile mapping, and ongoing compliance monitoring. In the long term, this data enables the government to design more targeted and administratively efficient law enforcement strategies that do not rely solely on broad coercive measures. This administrative efficiency consolidates the legitimacy of the fiscal system by minimizing disproportionate enforcement burdens and enhancing the perception of fiscal justice among taxpayers. However, the ultimate effectiveness of a tax amnesty program depends on its design and implementation, which determine whether the resulting database reinforces long-term compliance or inadvertently promotes systematic tax avoidance. Experts warn that poorly designed or repeatedly offered amnesties can send signals of legal leniency that undermine tax morality and

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<sup>1</sup> Subadriyah Subadriyah and Siti Aliyah, "The Differences of Taxpayer Compliance Before and After Tax Amnesty Stimulus," *Jema Jurnal Ilmiah Bidang Akuntansi Dan Manajemen* 15, no. 2 (2018): 15, <https://doi.org/10.31106/jema.v15i2.1024>; Budi Ispriyarso, "The Implication of Tax Amnesty Policy on the Increase of State Revenue From Tax Sector," 2019, <https://doi.org/10.4108/eai.10-9-2019.2289411>; John L Mikesell and Justin M Ross, "Fast Money? The Contribution of State Tax Amnesties to Public Revenue Systems," *National Tax Journal* 65, no. 3 (2012): 529–62, <https://doi.org/10.17310/ntj.2012.3.02>.

<sup>2</sup> Subadriyah and Aliyah, "The Differences of Taxpayer Compliance Before and After Tax Amnesty Stimulus"; Mikesell and Ross, "Fast Money? The Contribution of State Tax Amnesties to Public Revenue Systems"; Bambang Juanda et al., "A Study on Tax Compliance in Tax Amnesty Policy," *Jurnal Perspektif Pembiayaan Dan Pembangunan Daerah* 10, no. 3 (2022): 131–46, <https://doi.org/10.22437/ppd.v10i3.19572>.

<sup>3</sup> Desi Adhariani, Ain Hajawiyah, and Rima K Rini, "Tax Amnesty, Corporate Social Responsibility Disclosure, and Organizational Inertia," *Business Strategy & Development* 7, no. 1 (2023), <https://doi.org/10.1002/bsd2.317>; Dimitris Balios et al., "The Conjunction of Tax Auditing Mechanism With Behavioral and Institutional Parameters of Tax Evasion: The Role of Accounting Rules and Forensic Accounting," *European Journal of Accounting Auditing and Finance Research* 8, no. 2 (2020): 59–80, <https://doi.org/10.37745/ejaaf/vol8.no2.pp59-80.2020>; Justin M Ross and Neal D Buckwalter, "Strategic Tax Planning for State Tax Amnesties," *Public Finance Review* 41, no. 3 (2012): 275–301, <https://doi.org/10.1177/1091142112461687>.

voluntary compliance.<sup>4</sup> This phenomenon referred to as *amnesty fatigue* occurs when taxpayers deliberately postpone compliance under the assumption that another amnesty will eventually be offered. In this context, the effectiveness of fiscal policy depends not only on financial incentives but also on the institutional credibility and legal consistency underpinning tax administration. Building on this premise, mitigating the behavioral and structural risks associated with tax amnesty requires integrating amnesty data into credible post-amnesty enforcement frameworks, including selective audits and sanctions for persistent noncompliance.

To mitigate these risks, data obtained from tax amnesty declarations must be integrated into credible post-amnesty enforcement frameworks, including selective audits and sanctions for persistent noncompliance. A combination of incentive policies and strict sanctions will create a balance between voluntary compliance and formal enforcement. Furthermore, the success of tax amnesty policies is highly dependent on reforms to the tax information and procedural systems to ensure that the data disclosed can be properly processed, verified, and utilized on an ongoing basis.<sup>5</sup> Within the framework of Indonesian constitutional law, fiscal legitimacy is not only built through strict law enforcement, but also through the perception of procedural fairness among taxpayers that is in line with the principle of due process of law as guaranteed in the Indonesian legal system. In addition, behavioral evidence shows that excessive use of coercive power without procedural legitimacy can actually be counterproductive because it erodes public trust in tax authorities and increases the tendency to engage in tax avoidance. Therefore, the secure and accountable management of tax databases must sustain a balanced approach between legitimate facilitation and targeted deterrence, grounded in the principles of trust and fairness to uphold tax morality while reinforcing law enforcement effectiveness.<sup>6</sup> Within this framework, fiscal legitimacy is built not only through strict law enforcement, but also through taxpayers' perception of procedural fairness.

Tax amnesty constitutes a legally structured fiscal mechanism designed to grant specific legal protections to participating taxpayers through the voluntary disclosure of previously unreported assets, accompanied by a redemption payment and the remission of prior administrative and criminal sanctions. Normatively, this scheme in Indonesia is regulated in Law -Law Number 11 of 2016 concerning Tax Amnesty, which explicitly provides a legal basis for the process of declaration, repatriation, and collection of fines, while ensuring that disclosed assets will not be subject to routine tax penalties as stipulated in general taxation provisions.<sup>7</sup> This conditional legal immunity provides benefits in the form of exemption from previous administrative sanctions and, in many cases, reduced risk of audit and prosecution for forgiven tax liabilities. Empirically, the main motivation for taxpayers to participate in the amnesty program is to obtain legal certainty, report previously hidden assets without penalty, and avoid intensive scrutiny by the tax authorities.<sup>8</sup>

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<sup>4</sup> M M Erdoğan and Sevda Akar, "Behavioral Aspects of Tax Amnesties and Their Effects in Twelve Countries," *Pénzügyi Szemle = Public Finance Quarterly* 67, no. 2 (2022): 270–87, [https://doi.org/10.35551/pfq\\_2022\\_2\\_7](https://doi.org/10.35551/pfq_2022_2_7); James Alm, Jorge Martínez-Vázquez, and Sally Wallace, "Do Tax Amnesties Work? The Revenue Effects of Tax Amnesties During the Transition in the Russian Federation," *Economic Analysis and Policy* 39, no. 2 (2009): 235–53, [https://doi.org/10.1016/s0313-5926\(09\)50019-7](https://doi.org/10.1016/s0313-5926(09)50019-7).

<sup>5</sup> Waluyo Waluyo, "Tax Amnesty and Tax Administration System: An Empirical Study in Indonesia," *European Research Studies Journal* XX, no. Issue 4B (2017): 548–56, <https://doi.org/10.35808/ersj/910>; Ispriyarso, "The Implication of Tax Amnesty Policy on the Increase of State Revenue From Tax Sector."

<sup>6</sup> Eva Hofmann et al., "Enhancing Tax Compliance through Coercive and Legitimate Power of Tax Authorities by Concurrently Diminishing or Facilitating Trust in Tax Authorities," *Law & Policy* 36, no. 3 (2014): 290–313; Retnaningtyas Widuri et al., "Preventing Tax Evasion: The Moral Strength of Taxpayers and the Power of Tax Authorities," *Jurnal Akuntansi Dan Keuangan* 25, no. 2 (2023): 91–100, <https://doi.org/10.9744/jak.25.2.91-100>.

<sup>7</sup> Ahmad Munir, "Good Governance on Tax Amnesty," 2018, <https://doi.org/10.2991/iclpg-17.2018.5>.

<sup>8</sup> Yustina W Dwijayanti and Hamidah Hamidah, "Niat Dan Perilaku Wajib Pajak Orang Pribadi Mengikuti Program Tax Amnesty (Studi Fenomenologi)," *Jurnal Akuntansi Universitas Jember* 15, no. 1 (2018): 12, <https://doi.org/10.19184/jauj.v15i1.6877>; Riyans Ardiansyah et al., "Taxpayer Compliance and Tax Amnesty; Does

With this mechanism, the government seeks to create a more inclusive fiscal compliance environment, where taxpayers have the opportunity to normalize their fiscal obligations legally without fear of legal sanctions. Nevertheless, this protective framework embodies multidimensional complexities: while ensuring legal certainty, it concurrently risks creating fairness dilemmas whenever its implementation lacks uniformity and transparency.

The practical implementation of tax amnesty in Indonesia reflects an intersection between legal-formal regulation and administrative discretion exercised by the government. The legal protection inherent in this program is a combination of positive legal legitimacy established by law and operational policies carried out through executive authority.<sup>9</sup> Therefore, clear legalization and a solid regulatory basis are key prerequisites for the implementation of a legally valid amnesty program that can provide predictable legal protection for taxpayers. Without a firm legal framework, the implementation of tax amnesty risks creating legal uncertainty, especially in the enforcement of rights and obligations between the state and taxpayers. Empirical evaluations of the implementation of tax amnesty in Indonesia show that this program has succeeded in increasing formal compliance and material reporting in the short term, as reflected in a significant increase in the number of tax declarations and state revenue during the program period.<sup>10</sup> However, its impact on long-term asset repatriation and sustainable revenue growth shows mixed results and is highly dependent on the details of policy implementation, including the effectiveness of verification, procedural transparency, and post-amnesty enforcement. These findings show that the success of tax amnesties depends not only on the political courage to grant forgiveness, but also on institutional effectiveness in utilizing declaration data to strengthen the basis for long-term compliance.

From a normative perspective, the tax amnesty program also raises a number of significant ethical and rule of law issues. Observers argue that the principles of equity and legal certainty can be distorted if the amnesty rules are applied unevenly, lack transparency, or are inconsistent with consistent law enforcement policies.<sup>11</sup> This inconsistency can undermine the legitimacy of the legal protection promised in the program, while eroding public trust in the fiscal system as a whole. If procedural justice is not realized, the public may view tax amnesty as more beneficial to violators than to compliant taxpayers, thereby creating moral tension in the fiscal social contract between the state and its citizens. This tension tests the pillars of the rule of law by emphasizing that the legal certainty promised by the tax amnesty policy must be implemented in line with the principles of due process of law and proportionality in the enforcement of fiscal authority. In the context of modern fiscal governance, legal protection in tax amnesty should not be understood merely as the removal of sanctions, but as a legal instrument that must be embedded in the principles of good governance. These principles include the formulation of clear and publicly accessible legislation, transparent asset declaration and assessment procedures, effective communication between authorities and taxpayers, and a firm and consistent post-amnesty law enforcement strategy.<sup>12</sup>

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Tax Amnesty Work?," *The International Journal of Accounting and Business Society* 29, no. 3 (2021): 139–54, <https://doi.org/10.21776/ub.ijabs.2021.29.3.5>.

<sup>9</sup> Agus Iskandar, "Kepastian Hukum Dalam Penegakkan Hukum Perpajakan," *Pranata Hukum* 14, no. 1 (2019): 38–49, <https://doi.org/10.36448/pranatahukum.v14i1.160>; Munir, "Good Governance on Tax Amnesty."

<sup>10</sup> Dokman M Situmorang and Eri Pratama, "Analisis Kepatuhan Wajib Pajak Pasca Implementasi Kebijakan Tax Amnesty," *Media Akuntansi Perpajakan* 7, no. 2 (2022): 8–14, <https://doi.org/10.52447/map.v7i2.6626>; Setiadi A Lim and Lilik Indrawati, "Program Pengampunan Pajak Di Indonesia: Peluang Dan Harapan Keberhasilannya," *Bip S Jurnal Bisnis Perspektif* 8, no. 2 (2016): 101–22, <https://doi.org/10.37477/bip.v8i2.4>.

<sup>11</sup> Yesi Arfianto, "Penerapan Asas Keadilan, Kemanfaatan, Dan Kepastian Hukum Dalam Kebijakan Pengampunan Pajak (Tax Amnesty) Di Indonesia," *Wijayakusuma Law Review* 3, no. 01 (2021), <https://doi.org/10.51921/wlr.v3i01.152>.

<sup>12</sup> Munir, "Good Governance on Tax Amnesty"; Dyah Sawitri et al., "The Effect of Amnesty Tax Policy and Tax Sanction on Taxpayer Compliance Through Motivation (Study on Primary Tax Office in Malang Raya Area)," 2019, <https://doi.org/10.2991/icoi-19.2019.81>; Adhitya Remitasari and Adam J Fenton, "Public Perception on the

Thus, the legitimacy of legal protection in amnesty programs can only be maintained if there is a balance between administrative transparency and substantive justice.

The main issue of concern in this study stems from the phenomenon that tax amnesty has been used as a legal argument in a number of corporate tax disputes in Indonesia, as reflected in the case of PT Sungai Mas Abadi (Tax Court Decision Number PUT-010465.12/2024/PP/M.XXA Year 2025). In this case, the taxpayer filed a defense based on the protection rights guaranteed by Law No. 11 of 2016 concerning Tax Amnesty, particularly in relation to assets that had been declared in the tax amnesty program and recognized as his property. Conversely, the tax authority advanced a different argument, asserting that the taxpayer's transfer of share ownership involved a special relationship and lacked sufficient economic substantiation, thereby justifying income corrections deemed unreasonable. This tension illustrates the intersection between fiscal administration and juridical interpretation within the tax amnesty framework, particularly regarding evidentiary standards for ownership and asset transfer in tax litigation. This issue reflects the ambiguity in the application of tax amnesty legal norms as a basis for legal protection and as a means of evidence in corporate tax litigation. Normatively, tax amnesty is intended to provide administrative immunity for declared assets, so that they cannot be subject to future audits or sanctions. However, in litigation practice, the data from the declaration is often presented as evidence by both parties, both by taxpayers to strengthen the legitimacy of their ownership and by the tax authorities to challenge the validity of the reported transactions or ownership. The uncertainty regarding the legal status of tax amnesty data, whether it is binding evidence or merely administrative in nature, raises fundamental questions about procedural justice and legal certainty for taxpayers. This condition reveals a regulatory gap in the harmonization between substantive tax law and procedural tax law.

The ambiguity observed in these judicial practices underscores a critical research gap that this study seeks to address. The novelty of this research resides in its analytical emphasis on the nexus between tax amnesty and evidentiary standards within Indonesian corporate tax disputes an underexplored domain in contemporary taxation scholarship. Until now, studies on tax amnesty have mostly focused on voluntary compliance and fiscal impacts, rather than their implications for the law of evidence and taxpayer protection in litigation.<sup>13</sup> This study introduces a new approach by examining the dual function of the tax amnesty certificate as an administrative document and a potential piece of evidence in asset ownership disputes. This analytical approach diverges from prior research, which has traditionally treated fiscal policy and juridical adjudication as discrete, non-intersecting spheres.<sup>14</sup> In addition, this study uses the case study of PT Sungai Mas Abadi to emphasize how differences in interpretation between the tax authorities and the panel of judges result in consequences for fiscal legal certainty. Consequently, this study contributes to the conceptual development of an evidentiary standards framework applicable to post-amnesty tax disputes, thereby bridging the gap between fiscal policy formulation and judicial interpretation.

From a legal perspective, this issue highlights the importance of confirming evidentiary standards in the context of ownership and transfer of assets that have been declared through tax amnesty. This dispute shows that administrative evidence in the form of asset declarations and tax amnesty certificates is not considered sufficient to prove legal ownership of shares if it is not accompanied by valid economic evidence. This raises the question of whether tax amnesty certificates can serve as *prima facie* evidence in tax litigation or are merely administrative documents that do not have

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Implementation of Tax Amnesty Program,” *Journal of Communication & Public Relations* 1, no. 1 (2021): 16, <https://doi.org/10.37535/105001120213>.

<sup>13</sup> Munir, “Good Governance on Tax Amnesty”; Iskandar, “Kepastian Hukum Dalam Penegakkan Hukum Perpajakan.”

<sup>14</sup> Annisa Febriana et al., “Value Relevance Using Accounting Information and Market Reaction to Tax Amnesty in Indonesia,” 2019, <https://doi.org/10.2991/apbec-18.2019.34>.

binding legal probative force. Based on the above description, this study focuses on systematically examining the relationship between tax amnesty and the standard of proof of ownership in corporate tax disputes in Indonesia. This study will answer the key question of how the legal position of tax amnesty declarations fits into the process of proving ownership of assets in corporate tax disputes, as well as the extent to which tax amnesty policies can provide legal protection consistent with the principles of legal certainty and fiscal justice. The analysis will be conducted by reviewing the legal aspects of tax amnesty regulations, court practices in interpreting declaration evidence, and the relationship between fiscal policy and the principle of due process of law in the context of tax dispute resolution.

Building upon these analytical findings, the theoretical contribution of this research lies in advancing the interdisciplinary discourse between tax law and the legal theory of evidence by introducing an analytical model of evidentiary hierarchy within the fiscal policy context. This study seeks to emphasize that the success of tax amnesty is not solely measured by short-term revenue, but also by the consistency between the promised legal protection and its application in court. In practical terms, this study provides recommendations for policymakers and tax authorities to develop more explicit guidelines on the use of amnesty data as evidence in disputes, in order to ensure a balance between taxpayer rights and the fiscal interests of the state. The findings of this research are anticipated to inform judicial practice by guiding tax courts in developing consistent jurisprudence on the evidentiary status of tax amnesty certificates in ownership and asset transfer disputes.

## 2. Research Methods

This study employs a normative juridical-dogmatic method because its analytical focus is directed toward the examination of written positive law and the legal doctrines that govern the relationship between tax amnesty and evidentiary standards of ownership in corporate tax disputes in Indonesia. This method is selected for its ability to systematically elucidate legal norms and interpret prevailing legal principles to identify the relevant rule of law necessary for resolving the legal issues under investigation.<sup>15</sup> The normative-dogmatic approach conceptualizes law as a set of written norms derived from statutory regulations, doctrines, and authoritative judicial decisions rather than as a social phenomenon measurable through empirical observation. Within the scope of this research, this approach is particularly appropriate because the central issue concerns the legal status of tax amnesty as a basis for protection and as an evidentiary instrument in tax litigation—an issue that can only be explained through a systematic analysis of the normative structure and legal principles that regulate it.

The *normative juridical–dogmatic method* serves to identify, construct, and interpret the legal norms contained in tax legislation, doctrinal writings on tax law, and relevant tax court jurisprudence.<sup>16</sup> This methodological orientation enables the researcher to assess whether the positive legal provisions concerning *tax amnesty* and the evidentiary standards of asset ownership ensure legal certainty and adequate protection for taxpayers within the practice of tax litigation. The principal aim of employing this method is to produce prescriptive legal reasoning—that is, to clarify how the law should be interpreted or applied to align with the principles of fiscal justice and legal certainty.<sup>17</sup>

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<sup>15</sup> Doris Rahmat, “Juridical Review of International and National Law Relationships,” *East Asian Journal of Multidisciplinary Research* 2, no. 1 (2023): 357–68, <https://doi.org/10.55927/eajmr.v2i1.2872>; Depri L Sonata, “Metode Penelitian Hukum Normatif Dan Empiris: Karakteristik Khas Dari Metode Meneliti Hukum,” *Fiat Justisia Jurnal Ilmu Hukum* 8, no. 1 (2015), <https://doi.org/10.25041/fiatjustisia.v8no1.283>.

<sup>16</sup> Rocky Marbun and Endra Wijaya, “Language, Communication, and Law: Dismantling Binary Opposition in the Pre-Adjudication Sphere,” 2019, <https://doi.org/10.4108/eai.5-8-2019.2289787>.

<sup>17</sup> Nurul J M Khan, Hasani M Ali, and Hazlina Shaik Md Noor Alam, “Addressing Sustainability Challenges as Part of Director’s Duty in Malaysia,” *International Journal of Law and Management* 65, no. 6 (2023): 538–59, <https://doi.org/10.1108/ijlma-03-2023-0044>.

In its implementation, this research adopts three primary approaches: the *statutory approach*, the *conceptual approach*, and the *case approach*. The *statutory approach* is utilized to examine and interpret written legal provisions that directly govern *tax amnesty*, asset ownership verification, and the resolution of tax disputes.<sup>18</sup> Through this approach, the researcher identifies, reads, and interprets statutory provisions contained in *Law No. 11 of 2016 on Tax Amnesty*, the *General Provisions and Tax Procedures Law*, and their implementing regulations to establish the systematic interrelation among norms. A constitutional law approach is needed to analyze the state's authority in issuing tax amnesty policies and their implications for the system of checks and balances in state administration. The analysis involves examining legislative intent, fundamental principles of tax law, and regulatory hierarchy to generate an argumentative synthesis regarding the legal standing of *tax amnesty* data within evidentiary processes in tax disputes. The second approach, namely the conceptual approach, is applied to explore fundamental legal principles and theoretical doctrines that rationalize tax amnesty as both a fiscal policy instrument and a legal protection mechanism.<sup>19</sup> This approach allows the researcher to elaborate on abstract concepts such as the principles of legal certainty, fiscal equity, legal protection, and evidentiary value within tax law.

The third approach, the *case approach*, serves to connect normative rules with judicial practice by analyzing relevant court decisions, particularly *Tax Court Decision No. PUT-010465.12/2024/PP/M.XXA of 2025* in the *PT Sungai Mas Abadi* case.<sup>20</sup> Using this approach, the researcher examines the *ratio decidendi* or the legal reasoning underpinning the judgment and evaluates the consistency of arguments presented by the tax authority and the judicial panel in interpreting *tax amnesty* certificates as evidence of share ownership. The analysis of this ruling provides concrete insights into how legal norms are applied in practice, the extent to which *tax amnesty* provisions offer legal protection, and where discrepancies arise between written law and judicial implementation. Hence, the *case approach* functions as an empirical validation tool assessing the congruence between positive law and its practical enforcement.

### 3. Result and Discussion

#### 3.1. Conceptualization of Tax Amnesty Law in the National Taxation System

Tax amnesty in the Indonesian legal system is not only rooted in constitutional principles as stipulated in Article 23A of the 1945 Constitution, but also reflects the implementation of the government's discretionary authority in the fiscal sector, which must remain subject to the principles of good governance and constitutional limitations. This provision not only gives the state the authority to collect taxes, but also affirms that every collection must be based on law as a manifestation of the democratic consent of the people. Thus, tax collection and accompanying fiscal policies, including tax amnesty, are not only an expression of the state's fiscal power, but also a constitutional instrument that reflects the balance between state authority and the people's consent. Based on this principle, Law Number 11 of 2016 concerning Tax Amnesty has legal legitimacy as a form of the state's constitutional authority to engineer fiscal policy in order to maintain economic stability and increase state revenue. The economic rationale behind this policy is based on the state's need to expand its tax base and strengthen its fiscal structure through the voluntary disclosure of assets that have not been recorded in the national taxation system. In the context of economic globalization, many Indonesian taxable assets are located overseas, making

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<sup>18</sup> Windy V Putri and Nanik Prasetyoningsih, "The Limitation of Hospital Liability in Indonesian Health Law," 2024, 775–83, [https://doi.org/10.2991/978-2-38476-273-6\\_81](https://doi.org/10.2991/978-2-38476-273-6_81).

<sup>19</sup> Ariyanto Ariyanto and Lucky S Wicaksono, "The Influence of the Equity Principle on Undue Influence Doctrine and the Urgency of Its Application in Indonesian Contract Law," *Kne Social Sciences*, 2023, <https://doi.org/10.18502/kss.v8i9.13351>.

<sup>20</sup> Atika Thahira et al., "The Strategy for the Resolution of Marine Pollution on the Northern Coast of Bintan Island Indonesia Due to Sludge Oil With the Principle of Cooperation to Realize the Sustainable Development Goals," *Iop Conference Series Earth and Environmental Science* 1148, no. 1 (2023): 12031, <https://doi.org/10.1088/1755-1315/1148/1/012031>.

tax amnesty a strategic instrument to encourage capital repatriation to the country. The main objective of this policy is not merely to increase short-term revenue, but also to strengthen the long-term foundations of the taxation system through the creation of a comprehensive and accurate tax database. Therefore, tax amnesty is understood as a fiscal policy oriented towards voluntary compliance, in which the state provides legal opportunities for taxpayers to correct their past obligations without the threat of criminal or administrative sanctions. Within this framework, tax amnesty is a concrete manifestation of the balance between the fiscal interests of the state and the legal protection rights of taxpayers.

Normatively, tax amnesty is comprehensively regulated in Law Number 11 of 2016, which stipulates three main components, namely asset declaration, fund repatriation, and payment of redemption money as compensation for the elimination of past tax obligations. This provision explicitly guarantees that declared assets and redemption payments will receive legal protection in the form of the elimination of administrative and criminal tax penalties. This protection reflects the principle of legal certainty, as taxpayers participating in this program can no longer be subject to examination or investigation of their disclosed assets. From a tax law perspective, this tax amnesty functions as a temporary *lex specialis* but has legal binding force on the general norms in Law Number 6 of 1983 concerning General Provisions and Tax Procedures as last amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law - Law Number 2 of 2022 concerning Job Creation into Law. This means that during its period of validity, tax amnesty creates a separate legal regime that regulates the legal relationship between the state and taxpayers in a conducive and preventive manner. However, the granting of tax amnesty is not a form of moral exoneration, but rather a corrective mechanism that provides taxpayers with the opportunity to normalize their tax status within a legal framework.

The main function of tax amnesty in the national taxation system is not limited to fiscal aspects, but also serves as a legal mechanism that enforces fiscal legitimacy. In this framework, fiscal legitimacy is not only built through strict law enforcement, but also through the perception of procedural fairness among taxpayers. The state must ensure that the implementation of tax amnesty is carried out in a transparent, accountable, and nondiscriminatory manner in order to restore public trust in the tax authorities. Strengthening fiscal legitimacy is important because the success of tax amnesty depends on the extent to which taxpayers believe that the national tax system is run fairly and consistently. Such public trust will foster sustainable voluntary compliance and reduce dependence on coercive law enforcement instruments. Therefore, tax amnesty policies must be understood as an integral part of good fiscal governance that places the principles of openness, proportionality, and accountability as key operational principles.

From a systemic perspective, tax amnesty has long-term implications for the development of a data- and evidence-based tax law system. The data from taxpayer declarations during the amnesty program is a strategic legal asset for strengthening the Directorate General of Taxes' information base in conducting post-amnesty supervision. However, the integration of this data must be carried out within a credible law enforcement framework so as not to create new legal uncertainty. If the government fails to maintain the confidentiality and consistency of the use of amnesty data, the legal legitimacy that has been built will be degraded. For this reason, the principle of due process of law must be the main foundation in utilizing tax amnesty data for both law enforcement and further fiscal policy purposes. In the context of national tax reform, the results of the amnesty program should be used as a basis for structural reforms, such as modernizing tax administration, establishing an integrated database system, and increasing risk-based monitoring capacity. Through these reforms, tax amnesty will no longer be seen as a temporary policy, but as a catalyst for the transformation of a more equitable, transparent, and sustainable taxation system.

Theoretically, tax amnesty can be viewed as a form of extraordinary legal measure in tax law, namely an instrument designed to balance the interests of state revenue and the protection of

taxpayer rights. In public finance law doctrine, this policy represents the concept of fiscal leniency, which is relief granted by the state under certain conditions to achieve broader macroeconomic objectives. However, to prevent fiscal leniency from causing injustice, its implementation must be accompanied by the principles of distributive justice and procedural transparency. From the perspective of tax administration law, tax amnesty also expands the government's discretion, thus requiring strict supervision to prevent abuse of authority. Therefore, the implementation of tax amnesty must always be positioned within a legal framework that ensures a balance between fiscal effectiveness and the legal protection of taxpayers.

Normatively, the technical provisions regarding the implementation of tax amnesty are clearly regulated in Article 3 of Law Number 11 of 2016, which states that taxpayers who wish to obtain amnesty must submit a Statement of Assets along with the payment of redemption money to the Minister of Finance. The Asset Declaration Letter serves as a declarative legal instrument that has administrative power to legitimize ownership status over assets that were not previously reported. This provision shows that tax amnesty is not only a fiscal policy, but also an administrative verification mechanism that creates direct legal effects on tax subjects and objects. In the event that taxpayers choose to repatriate, Article 8 paragraph (2) stipulates the obligation to transfer assets from abroad to within the country no later than March 31, 2017, and place them in investment instruments designated by the government. Repatriation has a dual function, namely as an effort to strengthen national liquidity and as proof of taxpayers' legal commitment to the tax amnesty regime. The deadline and repatriation mechanism provisions reflect the principles of legal certainty and administrative finality, as only taxpayers who meet the substantive and procedural requirements can obtain legal protection. From a tax law perspective, Article 8 is a conditional norm that emphasizes that the right to legal protection only arises after the repatriation obligation and payment of the redemption fee have been carried out in accordance with the provisions of the legislation.

Furthermore, Article 11 of Law Number 11 of 2016 provides explicit legal guarantees regarding protection for taxpayers who have participated in the tax amnesty program. This article states that assets disclosed in the Asset Disclosure Statement cannot be used as a basis for investigation, inquiry, and/or criminal prosecution for tax or other crimes, except in cases of criminal acts outside the field of taxation, such as predicate offenses in money laundering. This provision has very important normative significance because it creates a legal shield for taxpayers who are acting in good faith in participating in the amnesty program, while also providing certainty for the government that it will not double-dip on obligations that have been waived. By prohibiting re-examination of assets that have been disclosed, the state ensures that the principles of non bis in idem and finality of legal acts are upheld in the implementation of tax law. However, this legal protection is conditional and not absolute, as stated in Article 18 paragraph (3), which states that if the taxpayer is proven to have misrepresented their total assets, the tax amnesty that has been granted can be revoked and the unreported assets will be considered as additional income subject to taxation in accordance with general taxation provisions. This norm emphasizes the balance between rights and obligations and ensures that tax amnesty is not used as a means of permanently avoiding taxes. Dogmatically, the provisions in Articles 11 and 18 show that the tax amnesty legal regime in Indonesia contains both corrective and repressive-corrective elements because it provides an opportunity for normalization, but is repressive because it maintains legal integrity through a mechanism of sanctions for substantial violations of the principle of fiscal transparency.

### **3.2. Normative and Dogmatic Construction of the Position of Tax Amnesty Evidence**

The normative and dogmatic construction of the position of tax amnesty evidence stems from the need to organize the relationship between the text of the law, the principles of administrative law, and the practice of evidence in the Tax Court in a consistent and predictable manner. From a constitutional law perspective, the normative and dogmatic construction of the tax amnesty

evidence must be understood within the framework of limiting state power and protecting taxpayers' constitutional rights, including the right to legal certainty and due process of law. This approach emphasizes that legal norms cannot be read separately from their implementation context, because the effectiveness of evidence depends on the ability of procedural law to operationalize the principles of justice and legal certainty. In this context, the normative framework outlines the limits of valid evidence as stipulated in Law Number 14 of 2002 concerning the Tax Court, while the dogmatic construction describes how these norms are applied in assessing the probative value of documents, including tax amnesty documents. This framework also requires integration with the principles of administrative law because tax decisions and tax amnesty documents are forms of concrete, individual, and final administrative actions. Therefore, analysis of the status of tax amnesty evidence cannot be separated from the interaction between substantive tax law norms and tax court procedural law, which guarantees legal protection for taxpayers. The integration of evidentiary norms and the general principles of good governance is a prerequisite for maintaining fiscal fairness and accountability.

The Tax Court Law places evidence at the center of the adjudication process by stipulating various types of evidence that can be used cumulatively. Article 69 paragraph (1) states that evidence includes letters or writings, expert testimony, witness testimony, admissions by the parties, and the judge's knowledge, while paragraph (2) emphasizes that matters that are already common knowledge do not need to be proven. Furthermore, Article 70 specifies that "letters or writings" include authentic deeds, private deeds, decisions of authorized officials, and other letters relevant to the appeal or lawsuit. This category includes fiscal administration documents resulting from the tax amnesty process, which are legally qualified as documentary evidence. Articles 71 to 72 regulate the procedure for appointing experts, which is useful for clarifying technical issues that arise in disputes regarding the validity or relevance of tax amnesty documents. On the other hand, Articles 73 and 74 emphasize the limitations on witness testimony and admissions by the parties so that they are not used arbitrarily without supporting evidence. Articles 75 and 76 reinforce the role of judges in determining the burden of proof and assessing the sufficiency of evidence, with a minimum requirement of two pieces of evidence for proof to be valid.

From an administrative law perspective, tax amnesty documents are products of government actions that have individual legal consequences, and are therefore subject to the principles of legality and propriety as applicable to administrative decisions. These documents can be subject to judicial review because they contain ratifications of the rights and obligations of individual taxpayers. The Tax Court's competence to assess such documents is based on the final and concrete nature of the tax authority's decision. In this context, the principle of state administrative law protection requires that every issuance and use of tax amnesty documents comply with the principles of legality, transparency, and accountability. This ensures that tax amnesty documents are not only formally valid but also have substantial validity as evidence in tax disputes. The distinction between the formal validity of a document and its probative force is very important, because administrative legality does not automatically guarantee the material truth of the disputed tax facts. Therefore, judges must assess the extent to which the document can prove the relevant economic facts, not just its administrative validity.

In the context of documentary evidence, Article 70 of the Tax Court Law provides a classification that covers all forms of fiscal documents, including certificates and decisions arising from the tax amnesty program. Tax amnesty documents issued by authorized officials can be classified as authentic deeds, while documents originating from taxpayers can be categorized as private deeds. Decisions issued in the context of tax amnesty qualify as high-value documentary evidence, as long as they fulfill the elements of authority and lawful procedure. However, in accordance with Article 76, tax amnesty documents must still be accompanied by other evidence in order to obtain a valid legal conclusion. Expert testimony, witness testimony, and admissions by the parties are supporting elements that strengthen or test the reliability of these documents. Judges may also use

judicial knowledge to assess the validity and relevance of evidence, provided that it is based on rational and measurable considerations.

In practice, the Tax Court applies a tiered level of proof ranging from verification of authority to evaluation of the substance of the dispute. The panel of judges documents all written evidence submitted, assessing its formal validity, consistency with comparative data, and relevance to the subject matter of the dispute. In cases involving issues such as the distinction between capital deposits and shareholder loans, the panel relies on a combination of documentary evidence, expert testimony, and transaction facts. This demonstrates the application of the principle of free evaluation of evidence, whereby judges assess the weight of each piece of evidence based on its consistency with the material facts. This process reflects the Tax Court's orientation towards achieving material truth through comprehensive evaluation, rather than merely justifying the tax authorities' decisions. This structure guarantees due process of law because all legal considerations are recorded transparently and systematically.

The administrative law approach emphasizes that tax amnesty documents must be interpreted with proportionality between administrative certainty and substantive justice. Legally issued documents have a presumption of regularity but remain open to verification against other fiscal evidence. Within the framework of free proof, judges combine administrative presumptions with material verification to ensure that factual truth is not sacrificed for the sake of administrative finality. This approach is important to prevent moral hazard arising from preferential treatment of tax amnesty participants. With this balance, the tax legal system can enforce compliance without creating disincentives for compliant taxpayers. The principle of efficiency is also maintained through the strengthening of documentary evidence, which reduces dependence on witnesses without sacrificing the accuracy of the evidence. The result is an efficient and fair evidence mechanism that maintains the credibility of national fiscal policy.

The status of tax amnesty evidence also raises important issues regarding the intersection between administrative finality and *res judicata* in tax courts. Tax amnesty certificates that are administratively final do not automatically preclude judicial review of disputed tax facts. The document serves as valid administrative evidence, but its factual substance must still be examined through the court's evidentiary mechanisms. This separation is important so that administrative validity is not used to lock in interpretations of economic realities that have not been legally examined. At the same time, respecting the presumption of regularity prevents the court from undermining the authority of tax officials without strong evidence. This balance ensures a harmonious relationship between administrative and judicial functions in the taxation system.

### **3.3. Case Analysis of PT Sungai Mas Abadi: Application of Tax Amnesty in Judicial Practice**

Tax Court Decision Number PUT-010465.12/2024/PP/M.XXA/2025 is an important jurisprudential precedent in understanding the application of Tax Amnesty as evidence in tax disputes, particularly when there are differences in interpretation between the tax authorities and taxpayers regarding the status of declared share ownership. This case originated from a dispute between PT Sungai Mas Abadi (hereinafter referred to as the Appellant) and the Directorate General of Taxes (hereinafter referred to as the Respondent) over the issuance of a Tax Assessment Letter for Underpayment (SKPKB) for Income Tax Article 23 for the December 2018 Tax Period amounting to IDR 4,055,231,950.00 along with an administrative penalty of IDR 265,698,797.00, which was based on the results of a tax audit of share transactions between the Appellant and a related party, namely PT Multi Guna Gas. This dispute then developed into a legal debate regarding the evidentiary value of the Tax Amnesty Certificate or Tax Amnesty Letter (SKPP) in determining the legal ownership of shares that had been declared in the 2016 Tax Amnesty program.

The legal facts show that the Respondent determined a correction to the Tax Base (DPP) under Article 23 on the grounds that the formal requirements for ownership of shares worth IDR 39,999,000,000.00 registered in the name of PT Sungai Mas Abadi in the deed of PT Multi Guna Gas were not met. The tax authority argued that because there was no amendment deed listing Raharjo Sapto Ajie Sumargo as a direct shareholder, the shares could not be recognized as personal property, but rather as receivables or liabilities between the company and the shareholder. Conversely, the Appellant argued that the shares had been included in the list of personal assets disclosed through the 2016 Tax Amnesty program and were listed in Tax Amnesty Certificate Number KET-7654/PP/WPJ.13/2017 dated April 21, 2017. According to the Appellant, this is sufficient proof that the shares are substantively owned by Raharjo Sapto Ajie Sumargo, even though they are not formally listed in the deed of amendment due to legal constraints with the bank, which is holding back changes to the shareholder structure due to the principle of creditor prudence.

The panel of judges then assessed the evidence submitted by both parties, including financial documents, annual tax returns, and the SKPP, which was the main subject of the dispute. Based on this examination, the panel found that there was no flow of funds from Mr. Raharjo Sapto Ajie Sumargo to PT Sungai Mas Abadi, but rather directly to PT Multi Guna Gas. Thus, the Respondent's argument that there was a loan from the shareholder to the appellant was deemed unfounded because it was not supported by strong evidence as referred to in the Explanation of Article 29 paragraph (3) of the General Provisions and Tax Procedures Law. The judge emphasized that fiscal corrections based on Article 12 of Government Regulation No. 94 of 2010 could not be applied because the element of a loan between legal entities required in that provision was not proven factually or legally.

The panel's considerations show an approach to evidence that is consistent with the principle of due process of law in tax law, whereby every fiscal correction must be based on material facts and relevant evidence. In this case, the judge ruled that the tax amnesty certificate (SKPP) submitted by the appellant did indeed have declarative value as an acknowledgment of asset disclosure for tax purposes, but did not constitute evidence of legal ownership of shares under civil law. This declarative value means that the SKPP serves to demonstrate fiscal transparency and asset reporting, but does not necessarily establish ownership rights or legal status over shares without the support of formal documents such as a deed of capital participation or amendments to the articles of association approved by the Ministry of Law and Human Rights in accordance with the provisions of Articles 7 and 8 of Law -Law Number 40 of 2007 concerning Limited Liability Companies.

However, the judge also emphasized that data and documents originating from the tax amnesty program remain relevant as administrative evidence in the context of assessing the taxpayer's good faith. In this case, the fact that the amount of IDR 39,999,000,000 was reported in the SKPP and also listed in the Annual Tax Return for both individuals and corporations for 2018 became the basis for the panel to assess that the fiscal actions taken were in accordance with the principle of tax transparency. Thus, although the SKPP does not have the legal power of evidence to determine share ownership, its existence strengthens the argument that the transaction was not intended as a loan that incurred interest obligations, but rather as part of a legitimate capital structure. Based on these considerations, the panel concluded that the correction made by the Respondent to the Tax Assessment Basis (DPP) for Income Tax Article 23 in the amount of IDR 4,055,231,950 did not have a sufficient legal basis and was not relevant to the material facts of the case. The panel also rejected the application of analogy to Article 12 of Government Regulation No. 94 of 2010 because the elements of a loan relationship between the shareholder and the company as stipulated in paragraph (1) letters a-d were not fulfilled. Therefore, the Tax Court granted all appeals and canceled the fiscal correction.

This analysis shows that in judicial practice, tax amnesty does not necessarily change the tax law evidence regime, but rather becomes an additional component in the administrative assessment of fiscal compliance. The judge's considerations in this case show consistency with the principles of legal certainty and fiscal equity, whereby legal protection is given to taxpayers as long as the evidence submitted meets material standards and does not conflict with positive legal norms. Thus, the application of tax amnesty in the context of corporate tax evidence in Indonesia must be understood as an administrative instrument that serves to complement, not replace, formal legal evidence regarding ownership or financial relationships between entities.

### **3.4. Implications of the Decision for Taxpayers and the Directorate General of Taxes**

The implications of the Tax Court's decision in the case of PT Sungai Mas Abadi against taxpayers and the Directorate General of Taxes (DGT) are fundamental because they touch on the epistemological aspects of fiscal evidence and the relationship between tax amnesty and legal certainty in taxation. For taxpayers, this ruling confirms that asset reporting through the tax amnesty program has significant administrative power in demonstrating good faith and fiscal transparency, even though it does not necessarily change the legal status of asset ownership as regulated by corporate civil law. The fact that the panel of judges considered the existence of a Tax Amnesty Certificate (SKPP) as an indicator of fiscal openness shows that the judicial authorities value the disclosure principle as the foundation of voluntary compliance, which is the main orientation of tax reform. This strengthens the position of taxpayers as legal subjects who are not only formally subject to reporting obligations, but also substantively entitled to legal protection when they meet the established compliance standards.

In addition, this ruling implies that taxpayer participation in the tax amnesty program can be a mitigating factor in tax disputes, particularly in assessing economic intent and transaction motives. In the context of PT Sungai Mas Abadi, the disclosure of assets worth IDR 39,999,000,000 through SKPP is considered as evidence that the funds did not originate from loan activities that incurred interest obligations, but rather as capital participation that had not been formalized due to technical factors. This judicial approach is in line with the spirit of a material rule of law state, where judges are not only fixated on formal texts (*formeel*), but also explore the economic reality and good faith of taxpayers to realize substantive justice. For taxpayers, this ruling sets an important precedent that as long as the economic substance of a transaction can be proven, assumptive or inferential fiscal corrections can be overturned. Furthermore, for the DGT, this ruling reaffirms the importance of applying the due diligence principle in making fiscal corrections. The panel of judges rejected the DGT's argument because it was not supported by concrete evidence regarding the flow of funds, thus deemed not to meet the standard of proof as mandated in the Explanation of Article 29 paragraph (3) of the General Provisions and Tax Procedures Law. Normatively, this means that tax authorities must base every correction action on valid, reliable data sourced from objective examinations, not merely on administrative assumptions.

## **4. Conclusion**

The purpose of this study is to analyze in depth the legal position of tax amnesty and the standard of proof of ownership in corporate tax disputes in Indonesia by examining the normative, dogmatic, and jurisprudential constructs that form the legitimacy of this policy. This research confirms that tax amnesty as a fiscal policy instrument has constitutional legitimacy based on Article 23A of the 1945 Constitution, but its implementation must remain subject to the principles of constitutional law, particularly the principle of limiting power and protecting taxpayers' constitutional rights. In tax court practice, as reflected in Decision Number PUT010465.12/2024/PP/M.XXA/2025, SKPP has strong declarative and administrative value as evidence of good faith, although it does not determine legal ownership of disputed assets. The results of this study confirm that tax amnesty documents such as the Tax Amnesty Certificate

(SKPP) have strong declarative and administrative value as evidence of good faith, even though they do not necessarily determine legal ownership of disputed assets. In tax court practice, as reflected in Decision Number PUT-010465.12/2024/PP/M.XXA/2025, SKPPs are used as additional evidence that reinforces fiscal transparency, not as constitutive evidence of ownership rights.

Theoretically, this study makes an important contribution to the development of tax law by strengthening the concept of tax amnesty as a legal instrument that is not only fiscal in nature, but also functions as an administrative verification mechanism that broadens the understanding of the relationship between fiscal legitimacy and taxpayer protection. Furthermore, this study enriches our understanding of how fiscal policies such as tax amnesty have direct implications for the dynamics of the power relationship between the state and its citizens. The court's decision in this case sets an important precedent that demonstrates the role of the judiciary in maintaining a balance between the fiscal authority of the state and the protection of the constitutional rights of taxpayers. In practical terms, the findings of this study provide concrete guidelines for the Directorate General of Taxes in formulating evidence policies that are more data-driven and based on the principle of due process of law. The resulting policy implications emphasize the need for harmonization between substantive tax law norms and tax court procedural law so that legal certainty can be maintained without neglecting substantive justice for taxpayers. However, this study has limitations in the scope of its jurisprudential analysis, which still focuses on a single tax court decision, so that its empirical generalization needs to be further tested through comparative studies across cases and policy periods.

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