

# eJournal of Tax Research

Volume 15, Number 2  
(Special Edition: Tax and Corruption Symposium)

December 2017

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**Ator**





The costs of corruption are substantial. The IMF, noting that these costs are difficult to measure, nonetheless suggests that the annual costs of bribery alone<sup>11</sup> in developing and advanced economies are in the order of USD 1.5 trillion to 2 trillion (or roughly 2 per cent of GDP).<sup>12</sup> The same report goes on to note that corruption has a number of other manifest and direct implications for taxation. *Inter alia* it can: weaken the state's capacity to tax, leading to lower revenue collections; create disincentives for taxpayers to pay taxes; reduce the impetus for the state to collect taxes; and undermine spending programs.<sup>13</sup>

This article uses an Indonesian case study as a framework to explore critical issues in this relationship between tax and corruption. More particularly, it considers the causes and impact of corruption at tax administrative levels in Indonesia, and identifies and evaluates strategies the Indonesian revenue authority (the Directorate General of Taxation, or DGT) has adopted, or can adopt, to ensure opportunities for such corrupt activity are mitigated or eliminated. This is done in the context of an evaluation of a major tax office corruption scandal that has occurred in recent years in Indonesia: the Gayus case.<sup>14</sup>

The article adopts a qualitative approach, utilising archival analysis supplemented with interviews and correspondence with key players involved. After this introduction, section 2 identifies the principles that typically underpin anti-corruption strategies in revenue authorities in developing countries, together with examples of some of the anti-corruption strategies employed. The article then considers (section 3) the nature of the corrupt activity exemplified by the Gayus case in Indonesia, how it arose, and how it came to light. This is followed (in section 4) by a consideration of the impact upon the organisation, how the DGT dealt with it and what changes came about as a result in terms of anti-corruption strategies subsequently adopted and now operating in the DGT. The article concludes (section 5) with a section on the lessons learned and prospects for the future, both in Indonesia and elsewhere in the Asia-Pacific region.

## 2. PRINCIPLES AND STRATEGIES<sup>15</sup>

The integrity of its staff and systems is a vital component of any effective revenue administration, and yet – as Bahl and Bird point out – corruption and taxation have always been associated in history – and not just in developing countries.<sup>16</sup> It would be naïve to believe that corruption is not a serious issue in most developing economies – indeed Uche and Ugwoke noted in 2003 in relation to Nigeria, for example, that '[t]he major threat to the effective administration of VAT in Nigeria ... is the widespread

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<sup>11</sup> As noted earlier, bribery is only one aspect of the possible forms of corruption.

<sup>12</sup> IMF, 'Corruption: Costs and Mitigating Strategies', above n 8, 5.

<sup>13</sup> *Ibid* 6-7.

<sup>14</sup> Gayus Halomoan Partahanan Tambunan, a relatively low-ranking DGT official.

<sup>15</sup> Parts of this section are based upon material originally contained in Margaret McKerchar and Chris Evans, 'Sustaining Growth in Developing Economies through Improved Taxpayer Compliance: Challenges for Policy Makers and Revenue Authorities' (2009) 7(2) *eJournal of Tax Research* 171.

<sup>16</sup> Bahl and Bird, above n 6, 291, citing Carolyn Webber and Aaron Wildavsky, *A History of Taxation and Expenditure in the Western World* (Simon and Schuster, 1986).

corruption and indiscipline which are deeply entrenched in all aspects of the country's social and economic life'.<sup>17</sup>

Corruption may be systematic – involving groups of employees acting together in a corrupt fashion and often led by senior staff – or individual; and may or may not involve external 'clients'. Examples are not difficult to cite: charging for services that should be free; diverting cash; making false repayment claims; losing files; and receiving payments to complete tax returns or bribes to favourably settle audits. And corruption is not limited simply to tax activities – it can also include abuses of power such as theft or private use of goods like office equipment; fraudulent subsistence and travel allowance claims; and stealing time to pursue outside interests and/or employment.<sup>18</sup>

The consequences of corruption are obvious. It is a cancer that destroys the organisation itself and undermines all other aspects of society. It erodes confidence in the tax system and encourages evasion. It increases the costs of doing business and distorts the level playing field that should be available. And to the extent that there is a political limit as to the amount of tax that people will bear in developing countries (and that there is therefore a substitution effect between taxation and corruption), it reduces the amount of formal tax that can be collected.<sup>19</sup>

A comprehensive literature already exists on how to design and implement effective anti-corruption strategies in revenue authorities.<sup>20</sup> This section of the article merely highlig







### 2.2.3 *Ethical policies and practices*

Staff must be aware of the importance of integrity at both the personal and organisational levels, and policy and practice must reflect this. It is not sufficient merely to introduce ethical 'Codes of Conduct', sets of internal disciplinary rules and instruments such as 'Taxpayers' Charters'; they also need to be shown to be 'living' documents that inform everyday activity and decision-making. Other practical measures include asset declarations for all staff, and the availability of avenues for whistleblowing (including protection from disclosure after the event). Collier et al., in an Indonesian context, identified that the establishment of peer learning groups in the workplace considerably enhanced and reinforced ethical behaviour and reduced corruption in a revenue authority when allied to internal training on the topic. The groups comprised a small number of trainees who maintained contact and reinforced communities of ethical practice in a variety of ways, including face to face meetings, and SMS and email groups, during and after the delivery of the training.<sup>32</sup>

### 2.2.4 *Internal controls and deterrence*

Strong internal controls are an essential part of any strategy designed to address

countries is that, apart from withheld taxes, tax liabilities are, in fact, often negotiated'.<sup>36</sup> In similar vein, Awasthi and Bayraktur have produced empirical findings which support the existence of a significant link between measures of tax corruption and tax simplicity, such that a less complex tax system is shown to be associated with lower corruption in tax administration.<sup>37</sup>

#### 2.2.6 *Autonomous revenue authorities*

In recent years many developing countries have established their tax departments into autonomous or semi-autonomous revenue authorities ('ARAs'). It has been a noticeable worldwide trend, with some suggestions that the World Bank has, upon occasions, 'been a persuasive salesman'.<sup>38</sup> The defining feature of an ARA is some World Bank ha

authorities have been suggested both in the broader organisational theory literature<sup>46</sup> and in more specific literature relating to tax administration:<sup>47</sup>

1. product-based, relating to the type of tax (income tax, VAT, etc.) administered by the revenue authority;
2. functional, relating to the different administrative functions performed by revenue authorities such as processing tax returns, or auditing, or collecting taxes; and
3. client-based, relating to the different types of taxpayer according to criteria such as scale of operation (large, small, etc.), form of ownership or industrial/economic sector.

Developing countries have tended to move away from product-based structures built upon different types of tax to those which are based upon function, although often with elements of a client-based market segmentation approach also in evidence (for example, the introduction of large taxpayers units focusing upon the large companies which are often responsible for a disproportionate amount of revenue collections; or the introduction of industry-based organisational structures).<sup>48</sup> In this way they have been able to secure the advantages of improved accountability and control, enhanced compliance, better administrative efficiency, reduced corruption and more customised taxpayer service.

#### 2.2.8 *Minimise taxpayer/revenue agency interaction*

The higher the level of contact and interaction between tax officials and taxpayers, the greater the scope for corruption and collusion. Therefore minimising that contact through the use of self-assessment, withholding taxes and the like can be an effective strategy. Gill identifies examples from Latvia and Russia where work processes were modified to reduce interaction between tax officials and taxpayers,<sup>49</sup> and Bahl and Bird note that VAT and payroll taxes tend to score relatively highly in this respect.<sup>50</sup>

#### 2.2.9 *Reduce compliance costs*

Compliance costs for taxpayers in developing countries are four to five times higher than those in developed countries.<sup>51</sup> This therefore suggests that reducing compliance costs 'lowers the amount of bribe a (rational) taxpayer might be willing to pay to avoid the declaration and payment process'.<sup>52</sup>

#### 2.2.10 *Other strategies*

Other strategies mentioned by Rahman include greater institutional use of e-services and automation; simplified and standardised procedures; and taxpayer outreach and

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education.<sup>53</sup> One strategy that does not appear to have been successful in combating corruption is the privatisation or outsourcing of the tax collection function. Tax farming (the process where the right to collect tax is auctioned off to a private agent in exchange for a fixed sum payable in advance) and tax sharing (whereby private agents collect taxes, with the right to keep a share of the total collection) have often been introduced with the objective of reducing administrative costs and increasing the level and reliability of collections.<sup>54</sup> The examples of outsourcing of some local authority

1. *first*, that Gayus, as a Reviewer in the Objections and Appeals Directorate of the DGT, together with four other DGT officials (a fellow Reviewer from the same Director

associated with the Golkar party chief, Aburizal Bakrie (though subsequently he recanted this aspect of his testimony).

But perhaps the most worrying aspect of the Gayus case is that the nature of the case, and the manner in which it unfolded, played directly into a narrative that has led the Indonesian public to suspect that there is a very large gap between policy rhetoric and action, and that the much-vaunted anti-corruption campaign being conducted in

With respect to the third point, it also appears somewhat unlikely that tax collectors and bailiffs would be capable of postponing or cancelling the seizure of assets without being detected given the implementation of new real time and comprehensive information systems such as the DGT Information System (Sistem Informasi Direktorat Jenderal Pajak or SI







is provided by the Inspectorate General of the Ministry of Finance which is  
pion



Interviews recently conducted with DGT officials and others with a close knowledge of the DGT certainly suggest that there may have been a cultural shift with a positive change in the behaviour of DGT officials. Noticeably they suggest, on a purely anecdotal basis, that corrupt activity has tended to decrease. In part this may be because officials are afraid to engage in corrupt activities because there is stronger

