The legal policy of implementing automatic exchange of information (aeoi) in indonesia: what and how?

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Abstract

The Automatic Exchange of Information (AEOI) is a scheme for the automatic exchange of financial information between countries to combat tax evasion and money laundering. Indonesia has established AEOI through Law Number 9 of 2017 and Minister of Finance Regulation Number 60/PMK.03/2017, taking into account various economic, social, and political interests in its legal political process. The purpose of this research is to analyze the legal politics behind the establishment of the Automatic Exchange of Information (AEOI) in Indonesia and to formulate effective and efficient implementation strategies in the government's efforts to combat tax evasion and money laundering through the scheme of automatic exchange of financial information between countries. This research uses normative legal research methods, focusing on examining and analyzing the applicable legal norms. The sources of legal materials used in this research consist of primary, secondary, and tertiary legal materials, with data collection techniques in the form of literature studies and data analysis conducted qualitatively. The research results reveal that the legal politics behind the establishment of the Automatic Exchange of Information (AEOI) in Indonesia are based on efforts to align with international standards in combating cross-border tax evasion and money laundering, enhancing fiscal transparency, strengthening law enforcement in the field of taxation, and increasing state revenue from the tax sector. The implementation of AEOI can be carried out effectively and efficiently by ensuring a strong legal framework, developing reliable information technology infrastructure, enhancing human resource capacity, building cooperation and coordination with financial service institutions and partner countries, conducting monitoring and evaluation, and raising public awareness and education about the importance of AEOI in combating cross-border tax evasion.

I. Introduction

In the era of globalization and increasing global economic integration, the issue of international tax compliance has become a major focus. Tax avoidance practices and money laundering have become serious problems faced by many countries, including Indonesia.(Nurhani et al., 2024) To address this issue, various efforts have been made by the international community, one of which is through the Automatic Exchange of Information (AEOI) initiative spearheaded by the Organisation for Economic Co-operation and Development (OECD). AEOI is a mechanism where countries systematically and periodically exchange financial information related to taxpayers who have financial accounts in other jurisdictions. This information includes the identity of the account holder, account balance, income from investments, and other relevant information for tax purposes. The concept of AEOI is based on the principles of fiscal transparency and fair information exchange, and aims to prevent tax avoidance practices by hiding wealth in jurisdictions with strict banking secrecy.(Indriani, 2021)

Efforts to combat tax avoidance and tax evasion have become a top priority for countries worldwide. These practices not only harm national revenues but also create unfairness in the tax system and disrupt healthy business competition. To address this, international cooperation through the automatic exchange of tax information (Automatic Exchange of Information/AEOI) has become the new standard in efforts to combat cross-border tax avoidance and evasion.(Mappadang, 2021) Indonesia, as one of the G20 member countries and committed to adhering to international standards in taxation, has become one of the countries participating in the AEOI initiative. However, the process of establishing and implementing AEOI in Indonesia is not free from complex legal political dynamics. Legal politics itself is the fundamental policy of state organizers in the legal field, which will serve as the basis for the formation of good positive law. In this context, the legal politics of establishing AEOI in Indonesia includes the decision-making process, policy formulation, and the drafting of regulations related to the implementation of the AEOI scheme.(Narulita & Pohan, 2023)

One of the main legal foundations for the establishment of AEOI in Indonesia is Law Number 9 of 2017 concerning the Stipulation of Government Regulation in Lieu of Law Number 1 of 2017 on Access to Financial Information for Tax Purposes into Law. This law grants the Indonesian tax authorities the authority to access financial information in order to implement the provisions of legislation in the field of taxation, including in the context of automatic exchange of information with partner countries. Furthermore, to implement AEOI, Indonesia has enacted Minister of Finance Regulation Number 60/PMK.03/2017 on Access to Financial Information for Tax Purposes. This regulation governs the mechanisms and procedures for the automatic exchange of financial information, as well as the obligations for financial institutions to report certain financial information to the tax authorities. This regulation also establishes reporting standards in accordance with the Common Reporting

Standard (CRS) set by the OECD.

In the process of establishing AEOI (Automatic Exchange of Information) in Indonesia, there are various interests and legal-political dynamics involved. On one hand, the Indonesian government strives to comply with international standards and enhance tax compliance in order to combat tax evasion and money laundering. However, on the other hand, there are concerns regarding the impact on the financial sector and individual privacy.(Nugraheni et al., 2023) Therefore, it is important to comprehensively examine the legal politics behind the establishment of AEOI in Indonesia, including the economic, social, and political considerations that underlie this policy. Based on the background explanation above, the author is interested in conducting a study titled "The Legal Politics of the Establishment of Automatic Exchange of Information (AEOI) in Indonesia: What and How?". The formulation of the problems in this research are:

1. What is the legal-political background behind the establishment of the Automatic Exchange of Information (AEOI) in Indonesia?
2. How can the implementation of the Automatic Exchange of Information (AEOI) be conducted effectively and efficiently in Indonesia?

This research will explore the political dynamics of the implementation of AEOI (Automatic Exchange of Information) law in Indonesia, starting from decision-making processes, policy formulation, to regulation drafting. Additionally, the research will also analyze the challenges and opportunities in the implementation of AEOI in Indonesia, as well as its implications on international tax compliance and efforts to combat tax evasion. Therefore, this research is expected to provide a significant contribution to understanding the legal-political dynamics of AEOI implementation in Indonesia and serve as a consideration for stakeholders in developing more effective and transparent tax policies.

II. Research Method

This research utilizes the normative legal research method, focusing on examining and analyzing the applicable legal norms related to the implementation of the Automatic Exchange of Information (AEOI) in Indonesia. This method is chosen because the research aims to understand the legal politics behind the establishment of AEOI and how its implementation can be effectively and efficiently carried out within the existing legal framework. In this study, a conceptual approach will be used to understand the concepts and legal principles underlying the implementation of AEOI. This approach will help analyze the concepts of fiscal transparency, tax information exchange, and related principles that form the basis for the implementation of AEOI in Indonesia and other countries.

The legal materials used in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant legislation, such as Law Number 7 of 2020 concerning the Ratification of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, Minister of Finance Regulation Number 73/PMK.03/2017 regarding Access to Financial Information for Tax Purposes, and other relevant regulations.

Secondary legal materials will include books, scholarly journals, articles, and other literature discussing related topics. Tertiary legal materials will encompass legal dictionaries and encyclopedias.

The data collection technique used in this research is library research. Researchers will gather and study relevant primary, secondary, and tertiary legal materials related to the research topic. Additionally, researchers may conduct interviews with experts or practitioners in the field of taxation and law to obtain additional necessary information. Once the data is collected, the data analysis technique used will be qualitative analysis. Researchers will systematically and comprehensively analyze and interpret the data obtained from legal materials and other sources. This analysis will help researchers understand the legal politics behind the establishment of AEOI in Indonesia, as well as identify challenges and opportunities in its implementation. The results of the analysis will then be presented in descriptive and argumentative forms in the research report.

III. Results and Discussion

The Automatic Exchange of Information (AEOI) is a system for the automatic exchange of financial information between countries aimed at enhancing tax transparency and combating tax evasion. Indonesia has been a member of the AEOI since 2017 and started implementing it in 2018. Through the AEOI, Indonesia is committed to automatically sharing financial information of its citizens who hold accounts in financial institutions in partner countries every year. This policy is part of Indonesia's efforts to adhere to global standards for combating tax evasion and ensuring better tax compliance for its citizens with assets abroad.

The Legal Certainty Regarding the Requirement of Gross Negligence as One of the Elements of Criminalization for Medical Personnel in the Applicable Laws and Regulations in Indonesia

The legal and political framework underlying the establishment of Automatic Exchange of Information (AEOI) in Indonesia is based on several important factors, both from national and international perspectives. Globally, efforts to combat tax avoidance and tax evasion have become a top priority for countries worldwide. These practices not only harm state revenue but also create unfairness in the tax system and disrupt fair competition in business. The Organisation for Economic Co-operation and Development (OECD) has played a significant role in promoting the standardization of automatic tax information exchange as one of the measures to combat cross-border tax avoidance and evasion.(Ispriyarso, 2020)

The legal policy underlying the implementation of the Automatic Exchange of Information (AEOI) in Indonesia cannot be separated from global efforts to combat tax avoidance and tax evasion across borders. These practices have long been a primary concern for countries worldwide, including Indonesia, as they can undermine state revenues and create injustices within the tax system.(Pohan et al., 2022)

One significant global initiative in combating tax evasion and avoidance is the Automatic Exchange of Information (AEOI) standard developed by the Organisation for

Economic Co-operation and Development (OECD). AEOI is a mechanism in which participating countries systematically and periodically exchange financial information related to taxpayers who hold financial accounts in other jurisdictions. This information includes the account holder's identity, account balances, income from investments, and other relevant tax-related information.(Pohan et al., 2022)

Indonesia, as a member of the OECD and a G-20 member country, has committed to adopting AEOI standards in order to strengthen tax law enforcement and create a healthier investment climate. This step aligns with the government's efforts to increase tax revenue and expand the domestic tax base.(Purwijanti & Prihandono, 2018) Therefore, the legal politics underlying the establishment of AEOI in Indonesia is an effort to align with international standards and fulfill global commitments in combating cross-border tax evasion and avoidance.

In terms of legislation, Indonesia has ratified the Multilateral Convention on Mutual Administrative Assistance in Tax Matters through Law Number 7 of 2020. This convention serves as the legal basis for Indonesia to engage in automatic exchange of tax information with other countries that have also ratified the convention. By ratifying this convention, Indonesia demonstrates its commitment to following international standards and strengthening global cooperation in combating tax evasion and avoidance. Additionally, Minister of Finance Regulation Number 73/PMK.03/2017 on Access to Financial Information for Tax Purposes also serves as an important legal basis for the implementation of Automatic Exchange of Information (AEOI) in Indonesia. This regulation mandates financial institutions to report financial information related to taxpayers who have financial accounts in Indonesia to the Directorate General of Taxation. This information is then exchanged automatically with partner countries within the framework of AEOI.

The legal-political context behind the establishment of AEOI in Indonesia is also inseparable from the government's efforts to enhance fiscal transparency and strengthen law enforcement in taxation. By adopting AEOI standards, Indonesia hopes to prevent tax evasion and avoidance practices by taxpayers who hide their wealth in jurisdictions with strict banking secrecy. The transparency of financial information is expected to promote tax compliance and increase state revenue from the taxation sector.(Nugraheni et al., 2023)

However, the implementation of AEOI in Indonesia also faces its own challenges. One of them is the need for harmonization of regulations related to the protection of personal data and the confidentiality of financial information. Although automatic exchange of tax information aims to combat tax evasion and avoidance, the right to privacy and the protection of personal data must also be well-maintained.(Astuti & Abbas, 2023) Therefore, a comprehensive legal policy is needed to balance the interests of the state in improving tax compliance with the protection of human rights guaranteed by law. In addition, the legal framework underlying the implementation of AEOI in Indonesia must also consider the readiness of information technology infrastructure and adequate human resources.

Automatic financial information exchange requires a reliable and integrated information system, as well as trained human resources to operate and analyze the acquired data.(Yanuar, 2023) Therefore, the government needs to allocate sufficient budget and enhance the capacity of human resources in the field of taxation to support the effective implementation of AEOI.

Furthermore, the legal-political policy of establishing AEOI in Indonesia is also influenced by global trends in combating tax evasion and avoidance practices. Many developed countries have adopted the AEOI standard, and Indonesia does not want to lag behind in adhering to these international standards. By implementing AEOI, Indonesia hopes to enhance its reputation and credibility in the eyes of the international community, as well as attract more foreign investment by creating a healthier and more transparent investment climate.(Pohan et al., 2022) Nevertheless, the implementation of AEOI in Indonesia is not without challenges and obstacles. One of the main challenges is the need for harmonization of regulations related to personal data protection and financial information confidentiality. In addition, adequate information technology infrastructure and trained human resources are also important factors for the successful implementation of AEOI in Indonesia.(Nugraheni et al., 2023) Therefore, the government needs to conduct continuous evaluation and refinement of policies to ensure the effective implementation of AEOI and alignment with the principles of fiscal transparency and fair law enforcement.

Overall, the legal-political context underlying the implementation of AEOI in Indonesia reflects the government's efforts to align with international standards, enhance fiscal transparency, strengthen tax enforcement, and increase state revenue. However, the implementation of AEOI also requires harmonization of legislation, protection of privacy rights, as well as adequate infrastructure and human resources readiness. Considering these factors, it is hoped that Indonesia can effectively and efficiently implement AEOI in efforts to combat cross-border tax evasion and avoidance.

The Implications of Legal Uncertainty Regarding the Requirement of Gross Negligence as One of the Elements of Criminalization for Medical Personnel on Law Enforcement and Public Trust in the Medical Profession

The implementation of Automatic Exchange of Information (AEOI) in Indonesia requires various efforts and strategies to be carried out effectively and efficiently.

The first step in implementing AEOI in Indonesia is to ensure a strong and comprehensive legal framework. As mentioned earlier, Indonesia has ratified the Multilateral Convention on Mutual Administrative Assistance in Tax Matters through Law Number 7 of 2020. This convention provides the legal basis for Indonesia to exchange tax information automatically with other countries that have also ratified the convention. However, harmonization and improvement of related legislation, such as regulations on personal data protection and confidentiality of financial information, need to be carried out to ensure that the implementation of AEOI is in line with the principles of data security and privacy.(Jan et al., 2020) In addition, adjustments and updates to Minister of Finance Regulation Number

73/PMK.03/2017 regarding Financial Information Access for Taxation Purposes are necessary. This regulation governs the obligation of financial institutions to report financial information related to taxpayers who have financial accounts in Indonesia to the Directorate General of Taxes. However, this regulation needs to be aligned with the Common Reporting Standard (CRS) established by the OECD and international best practices, in order to facilitate effective and efficient information exchange with partner countries.

Adequate information technology infrastructure is also a crucial factor in the successful implementation of CRS in Indonesia. The Directorate General of Taxes needs to develop an information system capable of securely and efficiently managing, storing, and protecting taxpayers' financial data. This system must be able to collect and process financial data from financial institutions, as well as exchange information with partner countries automatically and in a timely manner. Investment in reliable and up-to-date information technology infrastructure is essential to support effective CRS implementation.(Batara Randa & Haryanto, 2021)

Trained and competent human resources in the field of international taxation and information exchange are also key factors. The Directorate General of Taxes needs to enhance the capacity of human resources through specialized training and certification programs related to the implementation of AEOI. This is aimed at ensuring that tax officials have adequate knowledge and skills in managing and analyzing taxpayer financial data obtained through AEOI, as well as understanding the procedures and international standards in tax information exchange. Additionally, training and capacity development for officials of the Directorate General of Taxes and other relevant parties should be conducted comprehensively. This includes improving understanding of AEOI concepts, mastering the information technology used, and developing skills in analyzing and utilizing information obtained through information exchange. Furthermore, it is important to build awareness and a culture of tax compliance among the public, especially among taxpayers who have assets and financial accounts abroad.(Anubhakti et al., 2020)

Collaboration and coordination with financial institutions are also important aspects in implementing AEOI in Indonesia. Financial institutions such as banks, insurance companies, and other financial institutions play a crucial role in collecting and reporting financial information related to taxpayers. Therefore, it is necessary to conduct socialization and training for financial institutions regarding their obligations and procedures for reporting financial information within the framework of AEOI. The Directorate General of Taxes should also establish effective coordination mechanisms with financial institutions to ensure compliance and accuracy of reported data.(Pohan et al., 2022)

International cooperation also plays a key role in the effective implementation of AEOI in Indonesia. As a country committed to adopting AEOI standards, Indonesia needs to build close relationships with partner countries and international organizations such as the OECD. Exchange of information and experiences, as well as sharing best practices with other

countries that have already implemented AEOI, can provide valuable learning materials for Indonesia. Moreover, this cooperation also enables Indonesia to identify and address challenges that may arise in the implementation process.(Indriani, 2021)

Another important aspect is to ensure the existence of strict monitoring and evaluation mechanisms in the implementation of AEOI in Indonesia. The Directorate General of Taxes needs to establish an effective internal supervision system to ensure compliance with applicable regulations and procedures. In addition, external audits by independent institutions can also be conducted periodically to assess the effectiveness and efficiency of AEOI implementation. The results of these evaluations can be used as feedback to continuously improve and refine the system.(Diamendia & Setyowati, 2021)

Next, the implementation of AEOI in Indonesia also requires cooperation and coordination with partner countries in tax information exchange. Indonesia needs to build bilateral or multilateral relationships with other countries that have also adopted the AEOI standard. This can be done through negotiations and signing agreements or memoranda of understanding (MoU) related to tax information exchange. This cooperation will ensure that information exchange can be conducted reciprocally and in accordance with applicable international standards.(Mardianto, 2022)

Finally, the socialization and education of the general public about the importance of AEOI in combating tax evasion and avoidance are also crucial factors. The public needs to understand the benefits of implementing AEOI in creating a fairer and more transparent tax system, as well as its role in supporting the country's economic development. By increasing public awareness, it is hoped that support and active participation from all parties can be fostered in efforts to successfully implement AEOI in Indonesia.(Ispriyarso, 2020) By comprehensively applying the above strategies, the implementation of AEOI in Indonesia can be carried out effectively and efficiently. This will help combat cross-border tax avoidance and evasion practices, increase the state's revenue from the taxation sector, and create a healthier and more transparent investment climate in Indonesia.

4. Conclusion

The legal policy underlying the establishment of the Automatic Exchange of Information (AEOI) in Indonesia is based on efforts to align with international standards in combating cross-border tax evasion and avoidance, enhancing fiscal transparency, strengthening tax enforcement, and increasing state revenue from the tax sector. Indonesia, as a member of the OECD and G-20, has committed to adopting the AEOI standard developed by the OECD. This step is in line with the government's efforts to expand the domestic tax base and create a healthier investment climate through improved tax compliance and the eradication of tax evasion and avoidance practices.

The implementation of Automatic Exchange of Information (AEOI) in Indonesia can be effectively and efficiently carried out by ensuring a strong and harmonious legal framework,

developing reliable information technology infrastructure, enhancing human resource capacity in international taxation, fostering close cooperation and coordination with financial institutions and partner countries, and conducting regular monitoring and evaluation for system refinement. Additionally, public outreach and education on the importance of AEOI are also necessary to raise awareness and support in combating cross-border tax evasion and avoidance.

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