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Uncovering the Deviation Practices in Tax Consultant Decision Making

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Abstract

This study aims to determine the forms of deviation committed by tax consultants. The main problem involves tax consultants, taxpayers, and the government regarding violations committed by several tax consultants because tax consultants do not adhere to the tax consultant's code of ethics regarding relations with taxpayers. An external factor that can cause taxpayers not to implement the rules is trust in the government, especially regarding tax cases and compliance that are very often discussed recently. The formulation of the problem includes questions regarding the forms of deviation, processes, and action suggestions that can be given to overcome the deviations committed by tax consultants. The purpose of the study involves understanding the forms of deviation, processes, and actions that can be taken so that these deviations do not recur. In conclusion, forms of deviation committed were found, one of which concerns gray regulations that place consultants in a dilemma and are demanded to work in accordance with the law, as well as the consultant's feeling of sympathy for the taxpayer client.

Keywords: Deviation, Tax Consultant, Code of Ethics

INTRODUCTION

The government has implemented tax reforms and other measures through the Directorate General of Taxes (DJP) in an effort to improve tax collection. Above all else, this tax reform is an effort to make the public truly pay their taxes. The self-assessment system has replaced the old official assessment system as a consequence of changes in the tax collection system. Currently, the government depends entirely on taxpayers to determine and pay off their tax obligations (Yanti & Lucy, 2022). Indonesia's tax ratio is only determined by central tax revenues; local tax revenues, royalties, and natural resource revenues are not taken into account (pajak.go.id, 2012). However, year-to-year tax revenue growth can be observed with the help of the tax ratio (Amir, 2014). The

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importance of financial transparency cannot be overstated in ensuring taxpayer compliance (Lindawati & Hadinata, 2015).

Having a strong sense of ethics is very important for anyone working in any field, and tax experts are no exception. In a career, a person must adhere to a code of ethics that spells out expectations for their actions based on practical and idealistic goals (Ciska & Arka, 2013). According to Ludigdo (2012), professional ethics is very important to maintain professional performance. ITCA is in charge of regulating the ethics of tax consultants in Indonesia. Rahmany said at a tax conference in Jakarta that the role of a tax consultant is not to represent clients in negotiations with the government (Rahmany, 2013). Taxpayers are protected by many tax experts. KPK Prosecutor Agus Susetyo in the case of Tax Consultant PT Jhonlin Baratama was charged with bribing General Prayitno Aji, former Director of Examination and Collection of the Directorate of Taxes Angin, and the examination team amounting to 3.5 million Singapore dollars or around Rp.39 Billion (Sukamto, 2022). Another example, the house belonging to suspect NKW in the Dalung area, Badung Regency, Bali was confiscated by the Regional Office (Kanwil) of the Directorate General of Taxes (DJP) Bali. The individual in question, NKW, is the head of a service sector company, PT DMSM. The suspect's actions resulted in a loss of state revenue of at least Rp. 463,890,000. In handling criminal tax cases, his party consistently adheres to the concept of ultimum remedium which states that criminal law will only be used as a last resort in law enforcement (Maya, 2023). Two examples of tax ethics violations show that members of the profession do not carry out their duties properly in upholding the code of ethics, thus causing ethical problems. This is in line with the opinion of White and Lam (2000). According to Mugoya and Chimilila (2013), Tan (2014), and Wenzel (2005), to motivate taxpayer compliance, professional ethical standards are highly essential. The services of a tax consultant are most often sought by taxpayers experiencing tax difficulties (Sutanto & Tjondro, 2013). Conversely, clients of ethical tax advisors are less likely to seek help in tax avoidance strategies (Convery & Outslay, 2012; Fogarty & Jines, 2014).

Like the recent case where Rafael Alun Trisambodo, a Tax General, abused his position. Rafael is suspected of being involved in laundering fifty billion dollars. It all started with an abuse case involving Rafael Alun Trisambodo's son, Mario Dandy, and the existence of tax consultations from a witness company with its own tax consultant, said Ali Fikri, Spokesperson for the Corruption Eradication Commission (KPK) in the enforcement division. This alleged money laundering case will later expand to that matter. Rafael Alun Trisambodo became a rat suspect. Rafael Alun's actions impacted more than just himself and his family; it also caused a decline in tax performance in 2023. The purpose of this study is to provide support for the idea that the psychological and cognitive attraction towards seeking fair desserts stems from a person's actions and inaction. Once

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again, this serves as a reminder to obey the Tax Consultant's code of ethics in making choices. From the perspective of a tax consultant, we will also discuss the history, definitions, and methods of overcoming deviations and other ethical violations.

METHOD

This study is a qualitative study based on an interpretive paradigm. The main purpose of this study is to provide a tax consultant's perspective in relation to understanding deviations, other ethical violations, their contexts, and potential solutions. Edmund Husserl's phenomenology is the research methodology used. One of the main goals of phenomenological research is to distill the core of the lived experience of a phenomenon into a description. Research in the field of phenomenology characterized by an emphasis on seeing and describing events in their natural habitat is considered qualitative (Creswell, 1996). The difficulties to be examined in this study are not only linked to numbers, but are explained clearly and in detail. To obtain in-depth data regarding the research topic, qualitative analysis techniques were used. The main objective of qualitative research is to provide an accurate picture of a particular issue, situation, or event. Efforts are made to provide an accurate and comprehensive picture of the object's condition based on the research findings. The data source used in this study is primary data.

The subjects of this study are expert tax consultants with valid licenses issued by the Minister of Finance as the focus of this study. Researchers selected informants whose personal stories match the research topic, which is to find meaning. Data can be collected in various ways, including through interviews, document analysis, and casual observation. Usually, interview notes or transcripts are the final result of data collection (Moleong, 2017, p. 235). The data required for this study depends on the type of data (qualitative or quantitative) and data sources (secondary data) to answer the research questions. The authors collected the data needed for this study through observation, interviews, literature study, and documentation methods.

Pengumpulan Data	Reduksi Data	Penyajian Data	Analisis Data
Pengumpulan Data Sekunder (Peraturan, Laman Resmi	Menghilangkan hasil wawancara yang keluar	Data disajikan dalam bentuk teks naratif maupun tabel	Melakukan obyektivikasi atas data yang telah

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Pemerintah, Dsb)	dari konteks pertanyaan	yang memudahkan membuat kesimpulan	dikumpulkan berdasarkan kerangka teoritik yang telah disusun.
Data Primer dari Hasil Wawancara Konsultan Resmi Di Indonesia	Mengolah dokumen yang bermanfaat dalam penelitian dengan membuat catatan		
	Meningkatkan hasil validitas hasil wawancara dengan melakukan observasi dan komparasi dengan dokumen pendukung		

Figure 1. Data Analysis

The study relies on research tools to support their procedures. Research instruments are tools used or required for data collection, meaning data can be obtained through the use of such equipment. Human beings, specifically the researcher or those assisting the research, are the main tools in the qualitative research data collection approach. To support the results found in the field, this study collected data through in-depth interviews and documentation. Three informants were interviewed: Mr. Nyoman, owner of KKP ABC, Mr. Made, a tax consultant and lecturer at a school in Bali, and Mr. Made Jr. Table 1 below shows that Mr. Wayan is a licensed tax consultant with an office in the Denpasar area.

Table 1. Informants

No	Informant Name	Description
1	Mr. Nyoman	KKP ABC
2	Mr. Made	KKP and Lecturer
3	Mr. Wayan	Tax Consultant

RESULTS AND DISCUSSIONS

Tax consultants will always face challenges during implementation, including expectation gaps, conflicts of interest, and ethical difficulties arising from divided loyalties

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within the company (Dellaportas, 2013). Because tax consultants have an obligation to comply with all types of related regulations, tension often occurs between them and their clients due to this conflict of interest, known as "dual agency" (Assydiq, 2013; Briando & Purnomo, 2019). Consequently, business consultants usually face ethical dilemmas when confronted with practical constraints, similar to what tax consultants face (Larkin, 2015). An ethical tax counselor is someone who has a strong understanding of what it means to do the right thing. Matters such as calming oneself, determining the magnitude of priorities, and considering all current hazards are essential for making ethical judgments.

This is in line with what another informant, Nyoman, expressed in the forum. "An example can be taken from Mrs. AA who can handle Foreign Business Entity clients even though she only has an AB brevet training certificate and has not done C brevet training; without a certification exam, she is able to handle many PMAs without fear of not having a permit." Based on this statement, a Tax Consultant has the right to request appropriate certification from their colleagues to handle the Taxpayer. Because many taxpayers still pay more attention to personal recommendations and employment history compared to correct credentials, we often see this happen in the field.

The case of tax official Rafael Alun Trisambodo is one of many cases that are now making headlines. Rafael Alun Trisambodo worked as a civil servant at the Directorate General of Taxes, Ministry of Finance. Authorities accused him of accepting taxpayer bribes, laundering money, and abusing his trust. Despite being a class III civil servant, Rafael is suspected of having assets worth tens of billions of rupiah. From 2002 to 2013, Rafael Alun Trisambodo and his wife Ernie Meike Torondek obtained gratuities amounting to Rp 16.6 billion for handling the tax affairs of several companies, according to the first indictment. This gratification was achieved through four consulting companies specializing in tax and construction. Rafael started three of the four businesses—PT ARME, PT Cubes Consulting, and PT Cahaya Kalbar—while Ernie served as commissioner. The most notably absent in the discussion of its establishment and commissioning was PT Krisna Bali International Cargo, another company. Meanwhile, the defendant and his wife took home 16.6 billion rupiah, while the four companies took home 27.8 billion. This was stated in a conversation by informant Made as follows. "The Rafael Alun case is only a fraction of the cases that have just been uncovered; if only his son did not act up, cases like that would certainly be covered up, many things have not been revealed in President Jokowi's administration." Given the rampant corruption and tax evasion plaguing our country lately, it is clear that Tax Consultants have realized that we as a society have no choice but to obey all applicable laws and regulations. Public perception and trust in the government are both damaged as a result of this case.

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Consultants face a conundrum due to unclear laws. Compliance with laws, regulations, and ethical standards is highly essential for tax consultants. On the other hand, current regulations in Indonesia are very different from the application of regulations and reality on the ground. Developing a tax strategy that can survive or even succeed in the face of an audit requires an expert's knowledge of the relevant regulations and laws. Arrestanti et al. (2016) noted that financial statement planners often take advantage of the ambiguity of tax regulations and rules. When there is no strict statement whether something is acceptable or not, the regulation is said to be in a gray area. Uncertain regulations will lead to different interpretations as a result. This aligns with what consultant Mr. Wayan expressed in the quote below. "Yes, we certainly sometimes play in that gray area; the gray area I mean is that the rules are not firm. There are permissions but no instructions at all, while there are prohibitions but no punishments either, both in finance and taxation" (Mr. Wayan). It is clear from the expression "playing in the gray area" that there is fundamentally an ambiguous aspect to the subject discussed. From the use of the phrase "both in finance and taxation," it is implied that this field is still closely related to sectors perceived as gray. It turns out that tax consultants can legally save their clients money or charge more by utilizing regulatory gaps. Given the not-too-strict declaration of the rules, this might provide a picture of how loose the existing restrictions are in Indonesia today. Mr. Made, who is also a consultant, has also confirmed Mr. Wayan's statement: "As for me, I am used to playing in the gray area, it is a certainty to play there because taxpayers look for us (tax consultants) only to find those loopholes" (Mr. Made). Consultants who are accustomed to "usually playing in the gray area" are able to help their clients seize opportunities by finding and exploiting existing loopholes. We learn from this that consultants often find ways to prove that current regulations are flawed by looking for and using loopholes. According to Assydiq (2013) and Rereja and Sudaryati (2019), clients can still take advantage of existing restrictions to pay more taxes or pay less due to the ambiguity in the rules governing financial regulations and tax laws.

There are several provisions in the Indonesian Tax Law and financial regulations that can be used as an opening in the context of structuring financial statements. The missing part of the article is the line that makes up the article. Before using the gap clause in financial planning reports, its meaning needs to be understood so that consultants can reduce potential risks (Blankley et al., 2014; Pietsch & Messier, 2017). However, as conveyed by Mr. Wayan, it is not always easy for consultants to interpret the significance of these gaps: "An example is like this, have you ever read a financial regulation which states 'others'? That's usually at the end of a sentence. It is already clear there that it will become a gray area, it's also unclear" (Mr. Wayan). The current applicable laws and regulations in Indonesia, according to Mr. Wayan, contain several provisions that are less clear. The word "others" appears in the text of the rule. In this situation, the consultant's

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task is to research the definition of "others" and the regulations that are part of it and not part of it. General regulations make it difficult for consultants to make guesses regarding costs, hazards, and the meaning of the phrase "others".

The establishment process requires the inclusion of capital in a Notarial Deed. By utilizing a PMA (Foreign Capital Investment) business company, several international visitors settle in Bali to accelerate the processing of their residence permits. Businesses falling under the PMA umbrella are considered large companies unless stated otherwise. Regardless of the implementation of regulations, the investment value, and capital requirements to obtain an investment permit are mandated by legislation. If a PMA company meets the following criteria, the company is considered a large business: (1) annual sales of more than Rp 50 billion; or (2) net worth of more than Rp 10 billion (excluding property and buildings used for commercial purposes) on the latest financial statements. It is very rare for tourists to want to invest their entire wealth of Rp 10 billion into Indonesian assets. Responding to this, tax advisors exclude all assets owned by foreign nationals at the time of deed ratification with a paid-up capital of 10 billion in the Notarial Deed. In the next discussion, informant Nyoman revealed this matter. "If the truth is checked, there are rarely foreign nationals (WNA) who want to invest 10B to create a PT PMA in Indonesia, because they (WNA) want the duration of their KITAS to be longer so a PT can be created and manage Investor Kitas and have a Paid-up Capital of 10B created for administrative order." Mr. Nyoman, the informant, stated that he wants to continue carrying out tax administration in accordance with licensing laws properly because he finds it difficult to do so with that permit. A similar sentiment was conveyed by informant Mr. Made below. "Yes, regarding PMA, we here must continue to circumvent capital deposits in reality that are not in accordance with permits, if it remains so, then the remaining unpaid capital is considered as shareholder debt."

According to Mr. Made, capital deposits made by PMA companies manipulatively and improperly can lead to fraud and tax sanctions if the practice continues without a policy change regarding full capital deposits. This will be seen in the preparation of financial statements. According to Article 12 of PP 94/2010 as amended by PP Number 45 of 2019, Taxpayers can borrow money from shareholders in the form of a limited liability company without paying interest as long as the capital that should have been paid up by the lending shareholder has been paid in full as determined in the regulations. Failure to pay all capital in accordance with the approved notarial deed will result in the imposition of reasonable interest on the PMA taxpayer on the shareholder's debt. Circular Letter SE-50/PJ/2013 which contains technical instructions for Taxpayers who have unique ties, regulates matters relating to natural interests. In the taxation sector, Taxpayers have the responsibility to exercise their rights and fulfill their obligations in connection with transactions affected by special relationships in accordance with the

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Arm's Length Principle (PKKU). Regarding transactions affected by special connections, PMK 172 of 2023 regulates the application of company fairness and justice principles. The first step is to use business valuation techniques to set transfer prices; this approach applies to various transactions, such as transactions involving corporate reorganizations or transfers of assets other than money. For the business world or its shareholders, this is done in accordance with regulations and provisions governing the tax evaluation process.

The presence of tax experts and authorities is expected to complement the Self-Assessment tax collection system, which invites the public to play a more active role in fulfilling their tax responsibilities. Article 10 of Decree 485/KMK.03/2003, "Minister of Finance Decree Concerning Indonesian Tax Consultants," states that tax consultants have a number of responsibilities, including informing taxpayers of their rights and obligations relating to taxation and ensuring that they comply with all relevant tax provisions; conducting taxation accurately and in accordance with the law; following all rules and regulations set by tax authorities; and refraining from doing anything that could harm the state. Thus, it can be said that tax experts are on the side of both the government and the taxpayer. Tax experts and taxpayers will have more face-to-face opportunities once the self-assessment tax collection system is implemented. The study of the basics of tax collection and how to reduce the tax burden is one of the tax tasks that must be carried out in this scenario. As is well known, for various reasons and individual agendas, not all tax experts strictly follow the rules. According to Mr. Made, an informant: "Mr. Putu, in running my tax consultant business all this time, I always give meaning to what I do with my clients; if I do things that are less in accordance with the rules, I am always aware and prepare plan A or plan B in case it is discovered by the government." This tax advisor makes an interesting confession: he does not strictly adhere to regulations, even though it is in the best interest of the customer and the company. He also takes responsibility for various tasks and says he is not afraid to admit his mistakes. There is a belief that the government's revenue targets will be difficult to achieve if these restrictions are not implemented. Following the direction of informant Made, Mr. Wayan, in his capacity as a lecturer and tax consultant, made the following observation: "Honesty is indeed the most primary thing, Mr. Putu, but we also need clients for business sustainability, because some clients look for us only to cover up their taxes, not to report taxes correctly, so we only find solutions to those clients' problems." According to the statement of informant Mr. Wayan, it is not easy to maintain the tax consulting company; therefore, he chooses to continue fulfilling customer demands, even if he has to look for loopholes. Mr. Nyoman, an informant, made the following contradictory statement: "Yes, as a consultant, we should still hold firm to principles, if there are already those who have gone too far in playing around, we must always

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reprimand and remind clients or taxpayers to always remain compliant with the rules." Based on what Mr. Nyoman conveyed, it seems he still has a favorable impression of taxpayers who ignore these restrictions, perhaps because they are more focused on maximizing their income through tax planning. Trust in the government is an external element that causes taxpayers not to comply with regulations, especially given the tax and compliance issues that have been widely discussed recently.

In 1977, Triandis. The fields of social and scientific psychology do not often use the expression "positive deviant behavior" in their publications. In most contexts, "deviant behavior" is acting in a manner contrary to accepted cultural or societal standards. However, there are other instances where this phrase is used to describe things that are slightly out of the ordinary, yet highly helpful to humans or the planet. In a social context, "positive behavior" is performing anti-social acts that ultimately benefit others. Creativity, originality, and the ability to improve community understanding are hallmarks of this kind of behavior. Positive actions are often viewed as beneficial by society because they are directed at shared societal ideals and goals. Positive actions are usually well-received by the general public because they show that society continues to grow and change with the times. We must immediately correct mistakes. "We directly focus on what needs to be fixed, not why it is wrong, but what needs to be fixed and why the rules are as such," explained Mr. Nyoman. Then, at the end of the discussion, Mr. Nyoman stated that tax consultants are a vocal connector between taxpayers and the government because we are assigned to that. Mr. Nyoman's opinion shows that tax consultants must follow the rules set by the code of ethics and professional standards of the Tax Consultants Association. This is what Mr. Wayan conveyed throughout our conversation: "We must be brave enough to reject clients if asked to do things beyond reasonable limits, such as drastically reducing taxes by making fictitious reports, because that strongly wagers on the profession, and if I do it, my consultant license will be revoked and I will lose my job." The concern that tax consultants risk losing their licenses by engaging in tax deviations is illustrated by Mr. Wayan's comments. Because taxes are permanent and will always apply, he added, ensuring the sustainability of the company is crucial. Any taxpayer who finds irregularities or makes unintentional errors while serving as a tax advisor will still be directed in accordance with current regulations. It is clear from this statement that the public actively seeks ways to avoid paying their fair share of taxes. Various tax violations have been committed by individuals, tax advisors, and tax officials. A number of factors contribute to these violations, including taxpayer pressure to minimize their tax payments, tax consultants' failure to adhere to relevant codes of ethics and regulations, and the failure of tax authorities or officials to comply with relevant codes of ethics within the Directorate General of Taxes. Therefore, the function of a tax consultant is crucial. As equal partners in fulfilling taxpayers' tax responsibilities, tax advisors have a responsibility

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to educate their clients. However, tax consultants are expected to stick to the code of ethics and understand the relevant tax laws and regulations. When facing challenges, there are some things that can be done and some that cannot be felt by the taxpaying public. Alternatively, taxpayers will face additional challenges resulting from the actions of tax experts.

CONCLUSION

One type of tax consultant deviation is when they do not obey the law when dealing with gray areas in regulations. Another type of deviation is when consultants show too much sympathy for their taxpayer clients, which can harm their business continuity in the long run. Finally, tax consultants in this developing country often engage in manipulative practices and do not understand the capital deposit obligations of foreign taxpayers, which can lead to future tax sanctions. There are many taxpayers, tax authorities, and other parties involved in tax consultant scandals, and these scandals are massive and designed to prevent interested parties from knowing about them. To ensure the long-term survival of the company, Tax Consultants have fulfilled their responsibilities and disclosed them in financial statements. The Tax Consultant believes in the client's ability to fulfill legal and ethical responsibilities as a business, as well as its capability to maintain its environment in good condition and comply with all applicable laws and regulations, which are outlined in the client's financial statements and tax planning strategy, as a means to be accountable to those holding shares. To meet shareholder expectations regarding financial and tax reporting, compliance with government regulations and established codes of ethics can be seen as a reflection of professionalism in carrying out a tax consultant's duties. This shows the Taxpayer that the consultant is committed to their profession, thereby increasing their self-esteem as experts in the field of taxation and helping to overcome deviations committed by tax consultants.

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