

TAXPAYERS PERCEPTION ON THE IMPLEMENTATION OF INDONESIA TAX TREATIES

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ABSTRACT

Tax treaties or P3B have been recognized for their important role to attract Foreign Direct Investment (FDI), giving legal certainty, providing tax relief, creating non-discrimination protection, and providing dispute mechanism in international tax. Nevertheless, the existing research that has been available so far yielded varied results with none of those examining the perspective of investors. This research aims to evaluate the state of the treaty as well as identify reasons to negotiate from the perspective of the investors. The data used are primary or first-hand data which is generated from the list of questions. This paper uses exploratory and explanatory methods to define the factors to renegotiate based on the survey and examine the effect of the variables determined from the survey results. The object of this research is the investors and potential investors that are represented by their tax consultant whose they possess the necessary knowledge to answer the questions. This study shows that their perception of tax treaties has a significant effect on their participation. However, a more thorough examination is necessary to explain how tax treaty policy should be formulated.

Keywords: tax treaty, Foreign Direct Investment, investment, ease of doing business, tax factor

ABSTRAK

Perjanjian perpajakan atau P3B telah diakui memiliki peran penting untuk menarik *Foreign Direct Investment* (FDI), memberikan kepastian hukum, memberikan keringanan pajak, menciptakan perlindungan non-diskriminasi, dan menyediakan mekanisme sengketa di bidang perpajakan internasional. Namun demikian, penelitian yang telah dilakukan selama ini memberikan hasil yang bervariasi dan tidak ada satupun yang menelaah perspektif investor. Penelitian ini bertujuan untuk mengevaluasi implementasi P3B serta

mengidentifikasi urgensi negosiasi dari perspektif investor. Penelitian ini menggunakan metode eksploratif dan eksplanatori untuk menentukan faktor-faktor yang akan direnegosiasi berdasarkan hasil survei dan juga menguji pengaruh variabel-variabel yang ditentukan dari hasil survei. Objek penelitian ini adalah para investor dan calon investor yang diwakili oleh konsultan pajak yang memiliki pengetahuan yang diperlukan untuk menjawab pertanyaan tersebut. Penelitian ini menunjukkan bahwa persepsi investor terhadap perjanjian pajak berpengaruh terhadap partisipasinya dalam perjanjian pajak. Penulis menyarankan untuk pemeriksaan yang lebih teliti untuk mendapatkan hasil yang lebih luas dalam pendefinisian variabel.

Kata kunci: perjanjian perpajakan, Foreign Direct Investment, investasi, ease of doing business, faktor perpajakan

1. PREFACE

1.1 Introduction

Foreign Direct Investment or FDI has been gaining more attention from the government of Indonesia. A lot of improvement and reform in laws and regulations related to investment have been pushed along to attract the global capital flows. Numerous factors are considered responsible to help attract it, one of which is the tax factor. In fact, countries try to improve the factors by analyzing and evaluating current regulations as means to maximize FDI inflow (OECD, 2002).

Regarding the policy-making process, a lot of surveys and analysis has been conducted to determine the most significant factor to attract global capital flows. Clark, Cebreiro, & Böhmer (2017) surveyed for the Middle East and North African countries to describe factors

influencing FDI. The factors are divided both into non-tax factors as well as tax factors and are ranked as defined in Table 1. The higher position of a factor means it is more significant than the one below.

According to Table 1, non-tax factors prevail in tax factors in determining investment. Although not on the top preference, transparency, simplicity, stability, and certainty in the application of the tax law and tax administration is no less important. Moreover, the tax factors mentioned in the table are not limited to domestic policy but also cover international tax policies vis-à-vis tax treaties. Yue (2019) provided that numerous research explaining the relation and effects of tax treaties on the inflow of FDI has provided robust arguments and empirical evidence. This calls for another research with different perspectives to investigate. This paper intends to grasp the understanding of designated tax treaties from the perspective of investors and later

Table 1 Non-tax and tax factors influencing FDI

Source: Tax Incentives for Investment – A Global Perspective: experiences in MENA and non-MENA countries 2017, Summarized

Non-tax factors	Market size	
	Access to raw materials	e.g. natural resources, energy supplies
	Availability and cost of skilled labor	
	Access to infrastructure	
	Transportation cost	
	Access to output markets	e.g. high consumer demand in region, low export costs.
	Political stability	
	Macro-economic stability	
	Financing cost	
Tax factors	Transparency, simplicity, stability, and certainty in the application of the tax law and in tax administration	
	Tax rates	
	Tax incentives	

measure those perspective factors to the extent of how much it influences their participation in the implementation of tax treaties. This is because the research that uses surveys from first-hand data is little to none to be known. One of those few studies is from Brauner (2020) that explores the factors of tax treaty negotiations based on negotiators' perspectives. This research is expected to complement a multitude of research on tax treaties to support empirical evidence of the necessary factors in tax treaties.

2. THEORETICAL FRAMEWORK AND HYPOTHESIS DEVELOPMENT

2.1 Tax Treaties to Support Ease of Doing Business

In the latest World Bank Group (2019) Report on Ease of Doing Business, Indonesia is the fifth lowest in ASEAN. Even so, Indonesia's position on the Ease of Doing Business in 2020 index remains the same as last year. The results of a World Bank survey of 190 countries show that Indonesia is ranked 73rd with a score of 69.2.

One of Indonesia's improvements that have been achieved was an easier tax payment due to the implementation of an online reporting and payment system. The government highly encouraged the people to utilize the system since it was able to significantly cut the time of fulfilling tax compliance. Directorate General of Taxes (DGT) as the formulator and the implementer of taxation policies was able to optimize information technology to provide many new opportunities to facilitate taxpayers. Another example of it was in the

field of international taxation. DGT already simplified and modernized the channel of the DGT Form by releasing a director general regulation (Perdirjen). The Perdirjen was proof of the government's commitment to implementing tax reform to improve business convenience.

Fiscal Policy Agency (FPA), who has the function to carry out analysis and formulation of policy recommendation is also able to support the business convenience by identifying and reevaluating business needs. Regarding international tax, FPA is mandated in the Minister of Finance Regulation (PMK) Number 118 the Year 2021 and further stipulated in the Minister of Finance Decree (KMK) as the main actor to negotiate and renegotiate tax treaty. In other words, FPA as the institution under the auspices of the Ministry of Finance, almost has a whole control to consider the feedback of another institution or ministries, designing and executing the plan to negotiate or renegotiate the tax treaties, and evaluating and revoking the tax treaties. This role should be utilized and explored further to give an utmost benefit for taxpayers whether it was seen merely as a relief mechanism for double taxation as well as exchange of information on taxation or creating a sound and stable environment for foreign investment. FPA as the lead negotiator and the policymaker should pay attention to the concept of transparency, simplicity, stability, and certainty, as highlighted by Clark, Cebreiro, & Böhmer (2017) should be prioritized when they plan to set out a new policy on international tax

or negotiate a treaty. However, as Brauner (2020) highlighted, mounting instances of doctrinal uncertainty, normative ambiguity, and political discomfort increasing challenge the viability of the achievement of such norms.

Regardless of the main reason for negotiation, over the years negotiating and renegotiating tax treaties has been providing robust benefits such as legal certainty, guidelines for dispute settlement between tax authorities (Petkova, Stasio, & Zagler, 2020), allocating taxing rights to avoid double taxation and encourage investment (United Nation, 2017) and capturing dynamic elements on the ever-changing nature of taxation such as tax avoidance and change in treaty policies of treaty partners (Brauner, 2020).

Tax treaties might have something or nothing to do with the ease of doing business. There is one indicator in the disclosed report namely Paying Taxes, but it only emphasized the importance of the domestic taxation system. The thing is the calculation of the indicators is based on a certain methodology that certainly, might not capture all types of business. One assumption of many they used as stated in their caveats, was the business is 100% domestically owned and has five owners, all of whom are natural persons. It means the assumptions are reliant on the existence of the personal establishment (PE) of the business. When the business is, let us say foreign-owned or Multinational Enterprise (MNE), the business in question might need to take another complementary insight. This

study tries to present perspectives that may be needed by the state in identifying and evaluating the needs of potential investors, particularly in terms of international tax policies as stipulated in the tax treaties. This is to address first, acutely raised concerns of different sides of Brauner's (2020) views about how the government using their sovereignty and legitimacy whether to negotiate or to renegotiate tax treaty for the sake of domestic business and second, to accentuate the relevance of the country partners and contents negotiated as pointed out by Petkova, Stasio, & Zagler (2020).

On one hand, the report of Ease of Doing Business indeed provides a helpful perspective and encourages countries to improve their competitiveness. On the other hand, the perspectives of the potential investors are also important to be considered. When talking about improving business convenience, the tax factors, especially regarding international tax policies as well as tax treaties, might be less important compared to the non-tax factors. Survey analysis shows that host country taxation and international investment incentives generally play only a limited role in determining the international pattern of Foreign Direct Investment or FDI (OECD, 2002).

Nevertheless, the effect of tax treaties is not entirely none. Instead, it offers incentives as supplementary options to invest since investors might get a lesser rate than the domestic tax rate. When the existence of tax treaties was considered as an incentive, the application of it should

provide legal certainty and simplicity to the same extent as the domestic law. The taxpayer may enjoy the benefit if they are the beneficial owner or conform to the requirement stipulated by those domestic rules. While preventing international double taxation, tax treaties shift taxing rights from capital-importing countries to capital-exporting countries as well as denying investors the benefits from lower source taxation (Braun & Zagler, 2014).

A survey suggested that strategic investors consider the tax factors as only one of the obstacles to investment (counting only 24 percent), with the instability and unpredictability of the tax system (adding risk) being perceived as the key of tax impediments (OECD, 2002). Answering the concern of such investors, this paper sent out a set of questions to find out the perception and participation of investors and potential investors on tax treaties. Further, the questionnaire also tries to identify their needs of investment in Indonesia and to evaluate the current treaties from investor perspectives.

2.2 The Role of Tax Treaties and Its Relation to FDI

The relation of FDI inflow per year with the cumulative number of tax treaties can be seen in Graph 1. All data is processed from internal units of FPA that are responsible for dealing respectively the issues. Please note that the FDI is based on real projects with the data of 2020 only covering the first



Figure 1 FDI Inflow and Tax treaties Signed

Source: Center for State Revenue Policy and Center for Macroeconomic Policy, Data Accessed and Processed in 2021

quarter. The treaties are categorized by the year they entered into force. It might be hard to conclude from the image alone since there is no change of pattern that is discernible to tell if one affects another. As seen on the graph, the curve of tax treaties slightly rises with a little while leveling off in several periods meaning the negotiators are limiting and not rushing off the negotiations. This could be because of the limited personnel of the negotiator unit or a careful manner in planning and dealing with the negotiations.

This code of conduct may be consistent with the findings of Brauners (2020). Brauners explained that tax treaties are clunky mechanisms for regulating international investments in markets that constantly change and advance: they take a

long time to negotiate, are difficult to amend, and are rarely revoked. They are also negotiated in very conservative ways, all in line with practices steered by existing international institutions (OECD, UN, International Monetary Fund (IMF), etc.), the MLI being the glaring exception. The survey from Brauners (2020) confirms the slow processes that prevent quick and frequent negotiations of tax treaties, a property that is not inherent in treaties more generally, even if it is typical for international relations that require negotiations of legally binding instruments.

Meanwhile, the FDI part has a more drastic change because of the crisis at the time. The graph finally shaped an upward trend from 2004 until 2013 before it remained stable until 2019. The change or

shift of FDI might be caused by tax and non-tax factors.

The mere existence of a tax treaty indeed might not directly influence investment decisions nor is it the most important factor in placing investments, since the main objective to negotiate the treaties might differ among countries. Taxes are recognized as an important factor in making investment decisions, but not a major factor (OECD, 2008). The preamble of the 2017 OECD Model Tax Convention states that the main objective of the tax treaty is to avoid double taxation to reduce tax barriers in the context of cross-border trade and to strengthen economic relations

(OECD, 2017). In particular, the Committee of UN Model Double Taxation Convention (United Nation, 2017) noted that the Model provides the following useful checklist of the benefits and cost commonly associated with tax treaties as shown in Table 2.

Be that as it may, the motivation to negotiate is varied among negotiators around the globe. When asked about the primary goals of the treaties negotiated, 40% of the population mentioned trade needs, with an additional 25% citing the needs of multinational enterprises (MNEs) or individuals. Meanwhile, 35% viewed more general foreign policy goals as the primary driver for negotiations (Brauner, 2020).

Table 2 Checklist of Benefits and Costs of Tax Treaties
Source: UN Model Double Taxation Convention 2017

Benefits	Costs
<ul style="list-style-type: none">– Increased foreign investment because of removal or reduction of tax barriers– Greater access to foreign technology and skills– Flow-on benefits to the local economy from increased foreign investments– Increased certainty for both taxpayers and tax administrations– Improved consistency for tax treatment– Protection for investment abroad– Avoidance of fiscal evasion	<ul style="list-style-type: none">– Immediate revenue costs– Affect or limit on the operation of certain domestic tax laws– Risk of treaty shopping and treaty abuse– Risk of double non-taxation– Need for changes and/or clarifications to domestic law to conform with tax treaties– Challenge to tax administration capacity to negotiate and administer tax treaties, including obligations under the mutual agreement procedure, exchange of information and, in some treaties, assistance in the collection of taxes

Furthermore, the arguments that support the role of a tax treaty to attract investment is as follows (Suwardi & Abiyunus, 2020):

1. Elimination of double taxation: the establishment of the P3B is a sound signal to the business that a country is prepared to respect international norms and is committed to eliminating double taxation, although it is also possible to do so unilaterally.
2. Certainty: tax treaties provide foreign investors with stability and a predictable tax policy. A tax treaty is usually valid for 10-15 years. Tax treaty overrides domestic laws which change more frequently so that it increases the certainty of tax obligations arising in foreign countries by sharing taxation rights.
3. Non-discrimination: one of the objectives of establishing a tax treaty is to avoid the possibility of discriminatory treatment. Countries are concerned that residents of a country will be subject to a heavier tax burden than residents of other countries. A country to give a less favorable tax treatment to the permanent establishment (PE) compared to the domestic company, or discrimination against domestic companies owned or controlled by non-residents.
4. A mechanism for minimizing and resolving tax disputes: tax treaty provides a mechanism to avoid disputes and resolve them when they arise.

Having said that, a myriad of empirical studies has documented the relationship or (lack of relationship) between tax treaties and FDI (Yue, 2019). Despite the growing number of contributions, the empirical evidence on the effects of tax treaties on bilateral FDI remains inconclusive (Petkova, Stasio, & Zagler 2020). Specifically, those studies can be classified according to whether their conclusions indicate that DTTs have a positive effect (Di Giovanni, 2005; Neumayer, 2007; Azémar, Desbordes, & Mucchielli, 2007; Barthel, Busse & Neumayer, 2010; Weyzig, 2013; Lejour, 2014, Chandrasari, 2019; Satrio & Lestari, 2020), no effect (Davies, 2003; Blonigen & Davies, 2005; Baker, 2014), negative effect (Egger et al, 2006; Coupe, Orlova & Skiba, 2008), and mixed effect (Blonigen & Davis, 2005; Kumas & Millimet, 2009; Ohno, 2010; Blonigen, Oldenski, & Sly, 2014).

Despite the positive effect becoming the major results of the studies, it is obvious that the subject of each research is different, not to mention the diverse assumptions and caveats. This research does not intend to inspect the effect of tax treaties or the methodology. Rather, it wants to question how effective the tax treaties confirm the wants of investors/potential investors. This research aims to evaluate the state of the treaty as well as identify reasons to negotiate from the perspective of the investors.

Regarding finding out whether the policies taken are correct, considering that the implementation of tax treaty will have an outcome on reducing tax rates and capital flows for related parties, a policy impact

assessment method is needed. The OECD developed a list of questions called the Regulatory Impact Assessment (RIA) that the Government can use to assess the impact of new and existing regulations. RIA can be used to increase efficiency, transparency, and accountability of regulations in decision-making. RIA has been used as the main tool that has been practiced in OECD member countries and the European Union (Widiyanto & Puspita, 2020). Ten questions need to be answered in RIA analysis according to those used in the OECD guidelines (2008). The following questions later will be transformed into variables to verify the interconnectivity between those indicators:

1. Is the problem correctly defined?
2. Was the government action correct?
3. Is the existing regulation the best for the government's move?
4. Is there a legal basis for regulation?
5. How many levels of government bureaucracy are involved in coordinating this regulation?
6. Are existing regulations worthwhile, relative to the costs?
7. Is the distribution of the impact transparent in the community?
8. Are the regulations clear, consistent, understood, and accessible to users?
9. Do all interested parties have the same opportunity to share their views?
10. How can regulatory compliance be achieved?

The questions above later will be transformed into one variable dependent (*Participation*) and one variable

independent (*Perception*). Since there is no prior research, the process of variable transformation involved academics from Administration Science of the University of Indonesia and a survey practitioner from Demographic Institute, Faculty of Economics and Business University of Indonesia. The academic in question is chosen because he is adept at translating the institution's needs in the form of measurement. His prior works incorporate different approaches of interviews, surveys, and data analysis such as the economic effects of tobacco consumption. For the sake of this analysis, his works are only limited to the questionnaire guidelines.

The research in the field of international tax that is based on primary data is still few and hard to find, let alone from the perspective of investors. One of those few studies is from Brauner (2020) that examine the incongruities of the tax treaties negotiators. The striking difference with that of Brauner is this research used data from the private business while Brauner's took the data from negotiators, which by nature is government official. In the end, this research aspired to fill the small gap in the international tax area, especially regarding the expectation of investors/potential investors.

3. RESEARCH METHODOLOGY

This research is a combination of exploratory and explanatory research. The explorative is chosen because of the limited source of prior research regarding the area

of research. As a part of explorative research, literature search and focus group discussion have been performed to produce a set of questions as an effort to find out investors' perceptions on the designated tax treaties. A literature search was carried out to explore any previous research that could be used as a foundation to determine question items. Due to the limited reference of the designated concept, Focus Group Discussion (FGD) was held. The FGD brought in an expert from the Demographic Institute, Faculty of Economics and Business University of Indonesia, as a consultant to assist the questionnaire drafting.

The questionnaire is composed of two parts. The first part is designed to cover general information or preference of respondents that consist of multiple-choice, ordinal scale scoring and open-ended questions. The second part is designed to support the explanatory research that consists of inter-rater reliability questions to measure the perception and participation of investors/potential investors. The second part also allows for open-ended questions to accommodate the feedback of respondents concerning the implementation of tax treaties. To understand the relation of perception and participation of respondents, a quantitative analysis was done with a simple linear regression method.

The effect of perceptions towards participation has been widely used in social science, especially regarding people's participation in producing better outcomes and promoting good governance (Lowndes,

Pratchett, & Stoker, 2001). Mohammadi, Norazizan, & Nikkiah (2018) supported that there are differing perceptions on how desirable policy is produced in which affects the extent of citizen's participation.

The tax treaty of Indonesia-India and Indonesia-Netherlands was picked as the subject of analysis since both came into effect in the last five years and happened to be subject for assignment. The questionnaire was handed out to tax consultants as the representation of investors/potential investors that possess the necessary knowledge in respect of international taxation. The process of variable operationalization is defined as shown in Appendix Table 1.

Based on the explanation in the table, seven questions are used as the basis for determining the questions in the questionnaire. Considering its importance, several RIA items were used as indicators to explain more than 1 (one) questions. The following indicators are used to explain the variables.

Perception is defined as immediate response (acceptance) of taxpayer in perceiving:

- a. Importance of renegotiating (*Perception1*)
- b. Change of economic state (*Perception2*)
- c. Benefit in investment (*Perception3*), (*Perception4*)
- d. Action being considered (*Perception5*), (*Perception6*), (*Perception7*)
- e. Certainty of impact (*Participation8*)

Meanwhile, participation is defined as the list of possible changes that might be

driven by the object of research –which is business and investors– to be achieved by the government. The changes in question are as follows:

- a. Adequate support and convenience of implementing regulation (*Participation1*), (*Participation2*)
- b. Achievement of government objectives (*Participation3*)

Therefore, the *Perception* variable was used to measure the business or investors' assessment on the current condition of the Indonesian tax treaty to affect the *Participation* variable that explains the ideal condition of tax treaty implementation.

The model formula is as follows:

$$Y = \alpha + \beta_1 X_1 + \varepsilon_{it}$$

$$\text{Participation} = \alpha + \beta_1 \text{Perception} + \varepsilon$$

Data collection was performed on June 9th, 2020, by distributing the questionnaire to the participants of a web-

seminar series held by the Center for Indonesia Taxation Analysis with an actual target number of participants of 1,000 (a thousand) people. From the population of 1000 respondents, 447 respondents filled out the questionnaire. Of this number, respondents who are familiar with international transactions are 272 people. Based on the normality test to see the distribution of data using Boxplot, it was found that several samples were outliers. So that the model is not biased, and the data is normally distributed, as many as eight respondent subjects were eliminated from the test. Testing will be carried out with respondents or a sample of 264 people. The profiles of 264 respondents by position and experience in handling international transactions are shown the Table 3.

Based on Table 3, the sample selection consists of a sufficient number of all clusters/strata results in a representative data group for research.

Table 3 Respondents Profile
Source: Data Processed in 2020 from Descriptive Statistics

Profile	Subprofile	Frequency	Percentage (%)
Position	Chief Tax Consultants	90	34.1
	Partners	71	26.9
	Staff of tax consultants	103	39.0
	Total	264	100.0
Int'l transactions experience	Less than 1 year exp.	37	14.3
	1 to 5 years exp.	120	45.2
	5 to 10 years exp.	50	18.8
	More than 10 years exp.	57	21.7
	Total	264	100.0

4. RESULTS AND DISCUSSIONS

4.1 Overview of Transactions

The first part of the questionnaire assigned the respondents to choose. First, the frequency of international transactions that are based on substantive articles as mentioned in Article 6 through Article 21 OECD Model. Secondly, the countries that need to be renegotiated. Respondents can choose more than one country in the latter. The frequency of the international transactions was measured by the following

ordinal scale: 1 is for very few, 2 is for a few, 3 is for quite a lot, 4 is for plentiful. As for the question of international transaction frequencies, the table will be divided into three groups, namely most common transactions, often occurred and sometimes occurred transactions, and seldom occurred transactions.

As shown in Table 4, the most common types of income were related to income from business (business income or business profit) and interest in which more than 50% of respondents scored 3 and 4.

Table 4 Most Common Transactions
Source: Author (Data Processed in September 2020)

No.	Transaction	1 very few	2 few	3 quite a lot	4 plentiful
1.	income from business (business income or business profit)	16.10%	17.98%	40.45%	25.47%
2.	Interest	22.18%	21.05%	34.20%	22.56%

In addition, income from royalties (royalties) and dividends (dividends) are types of income that were often occurred which comprised almost 50% of respondents scoring 3 and 4. Next, income from fixed assets or immovable property, income from independent personal service, income from work in the employment relationship (income from dependent personal service), salary for directors (directors' fees), and profit from the sale of assets (capital gain) are sometimes happened covering between 25% -40% respondent scoring 3 and 4 as shown in Table 5.

In this paper, a transaction will be included in the seldom occurring transactions group when the answer of scores 3 and 4 is below 25%. Other income is just below 25%, meanwhile, income from shipping and air transport is close to 20%, while the following income is below 15%, namely income from artists, entertainers, and sportsmen (income earned by entertainers and athletes), pension and social security for workers (pension and social security payment), income of government officials (income in respect of government services), and income of students and trainees (income received by

students and apprentices). The list and percentage can be seen in Table 6.

Table 5 Often Occurred and Sometimes Occurred Transactions

Source: Author (Data Processed in September 2020)

No.	Transaction	1 very few	2 few	3 quite a lot	4 plentiful
1.	income from fixed assets or immovable property (income from immovable property)	40.38%	32.83%	32.83%	4.91%
2.	Dividend	27.92%	28.68%	28.68%	14.72%
3.	Royalty	28.79%	23.86%	32.20%	15.15%
4.	income from independent work (income from independent personal service)	35.09%	28.30%	27.55%	9.06%
5	income from work in an employment relationship (income from dependent personal service)	35.47%	25.66%	26.04%	12.83%
6	salary for directors (directors' fees)	36.88%	27.76%	24.71%	10.65%
7	profit from sale of assets (capital gain)	42.05%	30.68%	21.21%	6.06%

Table 6 Seldom Occurred Transactions

Source: Author (Data Processed in September 2020)

No.	Transaction	1 very few	2 few	3 quite a lot	4 plentiful
1.	income from shipping or air transportation business (income from shipping and air transport)	61,39%	23,17%	10,81%	4,63%
2.	income of artists, entertainers, and athletes (income earned by entertainers and athletes)	72,94%	19,61%	5,49%	1,96%
3.	pension and social security for workers (pension, and social security payment)	70,43%	19,07%	8,95%	1,56%
4.	income of government officials (income in respect of government service)	80,16%	13,10%	5,16%	1,59%
5.	income of students and trainees (income received by students and apprentices) other income	78,52%	14,45%	6,25%	0,78%
6.	(Other income)	48,47%	27,86%	20,23%	3,44%

4.2 Countries and reasons to negotiate

Respondents answered ASEAN countries, such as Singapore, Malaysia, Thailand, Vietnam, and the Philippines as well as the Netherlands, Germany and Australia, and the United States as the countries that need to be evaluated or come through renegotiation.

For the question of countries and reasons to negotiate sections, respondents were asked to choose an ordinal scale from 1 to 4, in which 1 meant less necessary and 4 meant very necessary. Table 7 shows the number of respondents and the average response of each reason.

When asked whether the rates were too low, as much as 41% agreed it was less necessary. On the other hand, 36% of respondents also thought the reason the

rates were too high was less necessary as well. The other less important reason was the signed tax treaty erodes tax revenue.

Surprisingly, 38.93% of respondents perceived that the treaty was used easily for tax planning and needed to be renegotiated. Whether or not this is an early sign of compliance is still needed to be investigated further. The respondents also agreed that the reason that the tax payments were too small compared to their potential is one of the necessary reasons to renegotiate. Another reason that was considered necessary by the respondents was the administrative factors for the use of tax treaties. The last factor later will be investigated by including them in the indicators of the variable. The reasons and percentage as seen in Table 7.

Table 7 Reasons to Renegotiate
Source: Author (Data Processed in September 2020)

No.	Reasons	Number of Respondents	1 Less necessary	2	3	4 Very necessary
1.	tax treaty rates were too low	241	24.90%	41.49%	21.99%	11.62%
2.	tax treaty rates were too high	243	16.46%	36.21%	34.16%	13.17%
3.	tax treaty were easy to be used for tax planning.	244	10.25%	29.51%	38.93%	21.31%
4.	the signed tax treaty erodes tax revenue	241	16.60%	39.42%	31.95%	12.03%
5.	tax payments were too small compared to their potential	251	12.76%	35.80%	38.27%	13.17%
6.	the administrative factors for the use of tax treaties	243	8.76%	31.47%	34.26%	25.50%

4.3 Quantitative Analysis for the Perception and the Participation of Tax Treaties

The model developed in this study is based on focus group discussion (FGD) with the help of survey experts from the Demographic Institute, Faculty of Economics and Business University of Indonesia. This research uses newly built variables based on literature review and discussion throughout FGD since there is little to no prior survey research in the area of interest. This study aims to find out the level of perception and its effect on the participation of business in the Indonesian tax treaties that are being measured by using the RIA indicators suggested by OECD (2008). Tax treaties used as the

object of this research are Indonesia-Netherland and Indonesia-India.

4.3.1 Descriptive Statistical Analysis

The results of descriptive statistical analysis of the variables used in this analysis are presented in the Table 8.

The standard deviation (Std. Deviation) of the three variables is smaller than the average (mean). It indicates that the data taken from the sample is good and evenly distributed. Thus, the seminar participants' perceptions can be used to assess the extent to which the perception of a tax treaty affects their participation in the treaties that have been signed.

Table 8 Results of Descriptive Statistical Analysis
Source: Data Processed in September 2020

	N	Min	Max	Mean	Std. Deviation
Sum Perception	264	8.00	40.00	29.500	8.26325
Sum Participation	264	3.00	15.00	10.754	3.09114

4.3.2 Simple Linear Regression Analysis

Table 9 Results of Simple Linear Regression Analysis
Source: Data Processed in September 2020

Model	Unstandardized Coefficients Beta	t _{critical value} /t _{statistics}	T _{value}	Sig.
(Constant)	0.602			
Perception	0.809	1.969	22.431	0.000
Adjusted R ² = 0.656				
F _{value} = 503.129				0.000
Dependent Variable = Participation				

The simple regression equation in this analysis is used to test the effect of the independent variable Perception (X1) on the dependent variable Participation (Y). The multiple linear regression equation can be expressed in the following equation:

$$\text{Participation} = 0.602 + 0.809\text{Perception} + \varepsilon$$

From the regression model equation, it can be explained that:

1. The constant value is positive 0.602, which means that if the Perception variable is constant, then the Participation variable is a constant 0.6.
2. The regression coefficient for the Perception variable is positive at 0.809, which means that if the Perception value increases by one unit, the Participation value will increase by 0.809, assuming other independent variables are fixed or constant.

According to the coefficient of determination, as seen in Table 9, the model can explain as much as 65.6% of the elements of Participation comes from the Perception variable, while the remaining 34.4% is explained by other variables outside the regression model of the results of this analysis. Since the Perception variable is the only variable that explains the dependent variable, the use of a simultaneous hypothesis test –indicated by F_{value} can be used as complementary. Regardless of it, both value of simultaneous hypothesis test and significance individual test is bigger than their critical value/statistic meaning that the

Perception variable has a significant positive effect on Participation. Since the Perception variable is statistically different from 0, the Perception variable is significant in affecting Participation. In particular, this paper argued that people's perspectives are considered as an important factor for determining which treaties or countries should be examined to be renegotiated or negotiated. This aligns with the study of Lowndes, Pratchett, & Stoker (2001) and Mohammadi, Norazizan, & Nikkhah (2017) which emphasized the importance of people's perspectives to shape the desirable policy which affects the extent of participation.

4.4 Open-Ended Questions related to the Indonesia-India and the Indonesia-Netherland Treaties

The respondents provide several inputs to the Indonesia-India tax treaty regarding articles on interest and articles on royalties due to technical services. The respondent also gave suggestions related to the administration that needs to be improved. To create legal certainty that later can increase tax revenue, the agreement is proposed to be more detailed so that there is no misperception. The need for clarity of the administrative aspects to be reflected in tax treaties and the absence of unilateral administrative application is very necessary for future renegotiation. This mostly happened related to the Advance Pricing Agreement where a unilateral APA gives rise to potential double taxation. According to

the tax treaties that Indonesia has, Indonesia has 21 tax treaties with partner countries that do not accommodate the corresponding Adjustment in Article 9. Further, as much as 67 Indonesian tax treaties do not give an exception to the corresponding adjustment if there is a final decision on the tax disputed. This concern of taxpayers aligns with OECD's recommendation that countries might remain to revisit the term of the unilateral APA.

The respondents were concerned with Indonesia-Netherland tax treaties that don't keep up with the times. Respondents expected many things to be modified. For instance, a lower rate, modification in interest article and the imposition of taxes on loan interest, business profit definition, clarity on reduced rates of interest, digital economy aspects as well as the definition of Beneficial Owner (BO). The input for administrative aspects is much less the same as that of India. Respondents expected an improvement in legal certainty, supervision, and administrative service as well as the absence of unilateral administrative application.

5. CONCLUSION

This survey is conducted as an early evaluation of Indonesia's current tax treaty. The objective of the research is to identify the reasons and aspects for renegotiating tax treaties from the perspective of the investors as well as to examine the effect of certain aspects (Perception) to other aspects (Participation). The tax treaties used as the

object research in this survey are the Indonesia-India and the Indonesia-Netherland treaties. The survey consists of two parts composed of two parts. The first part is designed to cover general information or preference of respondents that consist of multiple-choice, ordinal scale scoring, and open-ended questions. The second part is designed to support the explanatory research that consists of inter-rater reliability questions to measure the perception and participation of investors/potential investors. The second parts also allow for open-ended questions to accommodate feedback of respondents concerning the implementation of tax treaties. The latter is also used to examine the relationship between Perception and Participation in which the indicators of the variable are based on Regulatory Impact Assessment (RIA) following the OECD guidelines. Since there are only little to no references to be used to set up the questions, all questions are based on focus group discussions with academics and experts from the University of Indonesia.

The results of this research are as follows. Business income or business profit and interest is the most common transaction in tax treaties. Respondents answered ASEAN countries, such as Singapore, Malaysia, Thailand, Vietnam, and the Philippines as well as the Netherlands, Germany and Australia, and the United States as the countries that need to be evaluated or come through renegotiation. The most answered reasons to renegotiate are that tax payments were too small

compared to their potential, tax treaty was easy to be used for tax planning, and the administrative factors for the use of tax treaties.

Regarding the input for Indonesia-India and Indonesia-Netherland treaties, respondents expect improvement in administrative aspects, particularly in legal certainty and the absence of unilateral administrative application. Indonesia might need to revisit its terms in Article 9 and Article 9 paragraph 3 regarding the corresponding adjustment.

6. IMPLICATIONS AND LIMITATIONS

There might be lots of research that is supposed to be the basis of this research that the writers do not acknowledge. The process of questionnaire drafting needs to be investigated further to provide better clear results. This paper is subject to omitted variable bias (OVb) due to the nature of using only one independent variable. However, this does not nullify the validity of the questionnaire result and the respondents' views on the Indonesia-India and the Indonesia-Netherland tax treaties.

Acknowledgement

This research will never be done without the support and valuable input from Yanuar Falak Abiyunus in preparing the questionnaire. We would also like to thank Wisamodro Jati for sharing his knowledge in

international tax and Paksi Brapaloma Walandouw for his assistance in composing the questionnaire from scratch.

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APPENDIX

Table 1 Variable Operationalization
Source: Data Processed from FGD in 2020

No.	Indicators	Description	Statement questions
1.	Is the problem correctly defined?	Many researchers have defined and confirmed whether there is an effect of tax treaties on the entry of FDI inflow. This study is conducted as an early and quick evaluation to demonstrate the perception and participation of investors in tax treaties that have been negotiated by the government.	Tax treaties renegotiation are important for Indonesia. (<i>Perception1</i>)
2.	Was the government action correct?	By the theories and general application that are generally accepted worldwide, tax treaties should be evaluated and renegotiated when they become obsolete and when it is no longer relevant to current economic conditions. Yet, it still needs to be confirmed that investors and businesses have the same understanding of the conditions.	The economic conditions were different from when a tax treaty was signed (<i>Perception2</i>)
3.	Is the existing regulation the best for the government's move?	By the theories, tax treaties should allow for trade barrier removals and reduce investors' tax burden that later led to enhanced competitiveness and ease of doing business.	Changes in P3B make it easier for investors to compete globally (<i>Perception3</i>) Amendments to the <i>tax treaties</i> can further eliminate the double tax burden (<i>Perception4</i>)
4.	Is there a legal basis for a regulation?	To carry out the duties and functions as mandated on Article 1698 of PMK 234 / PMK.01 / 2015, the Center for State Revenue Policy of Fiscal Policy Agency (PKPN) has the function to carry out analysis and formulation of	Therefore, Fiscal Policy Agency represented by Center for State Revenue Policy has the urge to conduct the evaluation survey

		<p>policy recommendations for tax and international agreements related to subjects, objects, and rates. In addition, PKPN also has a function to carry out research and study activities in the field of state revenue.</p> <p>Fiscal Policy Agency was also appointed as the Competent Authority by Minister of Finance Decree Number 208/KMK.010/201 regarding the establishment and renegotiation of tax treaties.</p>	
5.	How many levels of government bureaucracy are involved in coordinating this regulation?	The Fiscal Policy Agency actively cooperates and collaborates with the Directorate General of Taxes to create a sound and stable environment of taxes for businesses and investors.	-
6.	Are existing regulations worthwhile, relative to the costs?	While the impact of tax treaties establishment and renegotiations can't be estimated in projected numbers, tax treaties are expected to encourage investment in a short-term and a long-term as well as to reduce tax avoidance.	<p>Changes in tax treaties can increase investors' willingness to invest up to 1 year in partner countries [short-term investment] (<i>Perception5</i>)</p> <p>Changes in tax treaties can increase investors' willingness to invest with a term of more than a year in partner countries [long-term investment] (<i>Perception6</i>)</p> <p>Changes in tax treaties can reduce the desire to do tax evasion (<i>Perception7</i>)</p>
7.	Is the distribution of the impact transparent in the community?	A tax treaty provides a clear and legal certainty about the subject, object, basis for imposition, and rates of the tax. The procedure of the	The revised tax treaties can provide legal certainty about the subject, object, basis for imposition of

		implementation will be arranged in domestic regulation that is acknowledged throughout the state.	taxes, rates as well as the procedures (<i>Perception8</i>)
8.	Are the regulations clear, consistent, understood, and accessible to users?	Adequate domestic regulations to support the implementation of tax treaties are needed to provide a clear mechanism and give certainty on how to use the facilities. In addition, transparency, simplicity, stability, and certainty in the application of the tax law and in tax administration are needed in context to capture FDI.	The revised tax treaties have been supported by adequate domestic regulations (<i>Participation1</i>) The implementation of revised tax treaties is easy to implement and straightforward (<i>Participation2</i>)
9.	Do all interested parties have the same opportunity to share their views?	Every interested party may participate to share their views by asking an audience or discussion or asking inquiries concerning the international tax. This survey otherwise actively reached the business to confirm as much as possible about the perception and participation of business in tax treaties.	The survey is expected to become quick research to provide an elaborate view of the interested parties, with investor as the subject, in respect of the implementation of tax treaties.
10.	How can regulatory compliance be achieved?	Regulatory compliance is expected to contribute to the achievement of the objectives coming from revised tax treaties	The revised tax treaties can achieve the specific goals set by the government (<i>Participation3</i>)