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Table of Contents

S.NO.	PAPER TITLE	PG NO.
1.	NEURAL NETWORKS FOR CREDIT RISK MANAGEMENT: A CASE STUDY IN THE CAR FINANCING INDUSTRY	1 – 4
2.	EMPOWERING THE SMALL AND MEDIUM ENTERPRISES IN BANGLADESH: LESSONS FROM CHINA	5 – 8
3.	INCULCATING ENTREPRENEURIAL THINKING: THE INTERPLAY BETWEEN PERSONALITY AND ENTREPRENEURIAL EDUCATION	9 – 18
4.	REMUNERATION MODELS IN OUTSOURCING SERVICES	19 – 28
5.	A CONSTRUCTIVE HEURISTIC FOR THE TWO-DIMENSIONAL BIN PACKING PROBLEM WITH GUILLOTINE CUTS AND STACKED BOARDS	29 – 31
6.	UTILIZATION OF SURPLUS LABOR IN THE ECONOMY OF BANGLADESH	32 – 35
7.	GRASPING THE KNOWLEDGE CONVERGENCE AND DIVERGENCE IN A HETEROGENEOUS TEAM	36 – 40
8.	HUMAN RESOURCE MANAGEMENT AND LEADERSHIP: LESSONS FROM LEE KUAN YEW	41 – 44
9.	ADDRESSING YOUTH UNEMPLOYMENT IN BANGLADESH: A POLICY PERSPECTIVE	45 – 48
10.	A STUDY ON THE INNOVATOR'S DILEMMA BASED ON MULTI-AGENT SIMULATION	49 – 53
11.	TAX DISINCENTIVE AS A PREVENTION FOR ENVIRONMENTAL POLLUTION	54 – 56 ✓
12.	AN ANALYSIS OF THE IMPLEMENTATION OF SHARI'AH PRINCIPLES IN THE MANAGEMENT OF TAKAFUL	57 – 61
13.	VAT REFORM IN BANGLADESH : PERSPECTIVES ON TAX MORALE	62 – 66
14.	NEUROMARKETING: METHODOLOGIES OF MARKETING SCIENCE	67 – 71
15.	THE IMPACT OF MICROCREDIT ON HOUSEHOLD EXPENDITURE PATTERNS OF RURAL WOMEN BORROWERS: A COMPARATIVE STUDY ON GOVERNMENT ORGANIZATION AND NONGOVERNMENT ORGANIZATION OF BANGLADESH	72 – 77



# Tax Disincentive as a Prevention for Environmental Pollution

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**Abstract**— The tax function has associated with the nation goal, that are to accommodate the financial interests of government and at the same time capable to provide space for environmental protection and do not inhibit creativity of the community to try to create a decent life and prosperity. State has authority to implementing tax policies. The tax functions in Indonesia have not yet harmonious and balanced, because the government lead more on the budgetary function and the state budget allocations are not based on state revenue. The ideal concept of tax law for Indonesia is in accordance with the Indonesian legal idea. The establishment and enforcement of tax laws must always manifest that values, which is given the mandate by and accountable to God Almighty, so that in its application felt to be fair, humane and civilized, capable of creating national unity and realize the welfare of all Indonesian people. Setting the disincentive of taxes in the national legal tax system of Indonesia, connected with the application of environmental protection, should be integrated in the tax law, while the settings are currently scattered in various laws and regulations with substantially different purposes. National tax law is expected to achieve certainty, fairness and benefits for all Indonesian people.

**Keywords:** Indonesian, tax, law

## I. Introduction

There is an issue that state that environmental damage is getting crucial along with the industrial construction by the reason for improving the fulfillment of life and the welfare of mankind.

Whether people realize about that phenomenon or not, the development make a big impact to the environment. The environment referred can be defined as objects, nature, living creatures, and the place where they live. To respond to these impacts, the Indonesian government has proposed the development with the concept of environmental safety since 1987. At the same time, the ministry of environment was formed and it has a main responsibility to coordinate environmental policy in dealing with environmental problems. As a written guide, there is a legal instrument in the form of law no 23 year 1997 which are then converted to law no. 32 year 2009 about the protection and environmental management.

Various instruments for the prevention and law enforcement in order to protect the environment has been provided both preventive and repressive, including licensing, the report on the environmental impact assessment review or *Analisis Dampak Lingkungan* (AMDAL) in Bahasa, administrative sanctions, compensation, and even criminal sanctions. However, in its implementations, these instruments is not quite effective as the environmental damage still often occurs, such as pollution due to industrial waste, the burning of forests, and forth.

In addition, law no. 32 year 2009 providing another instrument which is in the form of economic instruments that

is set in article 42 clause 2. Including in an instrument is the application of incentive and disincentive tax.

In a system of taxation in Indonesia, the application of incentives given to taxpayers who do business activities that got priority from the government as regulated in the law no. 25 years of 2007 about capital investment. In relation to environmental safety, the application of incentives and a disincentive tax has not yet been done. Hence, this research aims to find the concept of the application of incentive and disincentive taxes for those who have a role in environmental pollution as mandated by law no. 32 years of 2009.

In terms of its function, can be distinguished the function of a tax, which are budgeter and regulerend. The budgeter function is a function which is in a public sector, tax used as an instrument for a way to put the money into the state treasury which in turn will be used to finance the state's expenses. Meanwhile, regulerend function means a tax used as a tool to achieve certain objectives which are outside the field of financial and its usually seen in the private sector. Hence, from the function of the tax, it is clear that the government has an important role in determining the direction of policy in the field of taxation. It was because the national development can be done by either the government for public sector or by private sector for private sector.

## II. Objective

To answer the question on how a system of taxation in Indonesia can apply incentives and disincentive tax to taxpayers who make environmental pollution or damage.

## III. Analysis

### A. Tax Incentive

The efforts to protect the environment from damage can be done either through efforts to prevent (preventive) as well as with the restoration (repressive). Licensing is an important means to prevent the occurrence of the destruction of the environment by human beings. A prior business activity that may give negative impact to the environment, there are strict rules that regulate about the environmental impact assessment that written on AMDAL. A permit to the do a business activity given by the government through the letter of permission and should also give by the community, particularly the one who will be around locations that will be affected directly by these activities. Despite this, licensing is not only the preventive efforts, because prevention efforts can be done through regulation and the application of incentives and a disincentive tax. There is a strong relationship between AMDAL, the licensing, and incentives along with a disincentive tax. Through AMDAL, an activity that affects the environment can be anticipated and the government should not give permission for the activity