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Tax Planning Practices Amongst Tax Agents: Evidence from Malaysia

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Abstract: This study explored the complexity of corporate tax planning practised by the tax agents. In Malaysia, studies on tax investigations were limited due to the high information privacy factors. This study aimed to reveal the tax planning strategies through frequent adjustments made by the companies helped by the tax agents. Tax management itself is a way to properly meet the tax obligations, but the paid amount of tax can be reduced to obtain the expected profits. Tax planning leads and attracts more public attentions. A survey among 106 tax agents in Malaysia working in big-four companies revealed that tax planning appeared to be significant suggested by the tax agents as the companies had limited knowledge on tax regulations and law. This study also found an interesting finding in which companies heavily relied on the tax agents in minimising their yearly tax incidence although the tax planning might violate the current tax laws. This study recommends that the essential elements of designing a good tax system will help restrict the conditions which enable the tax evasion for the future development. This study considered the theoretical developments and related empirical findings on the interrelated issues to measure the tax planning and possible causes and results of corporate tax evasion. This study presented some ideas for further research to examine the unexplained topics on tax planning. In addition, the research findings also signaled to the policy makers to focus more on the integrity of tax agents to increase the compliance.

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INTRODUCTION

The terms tax planning and tax evasion are used interchangeably in many literatures. These two terms' main difference is the degree of law violation in the action. Besides, tax planning is defined as corporate action of reducing tax liability without violating any tax law (Graham et al., 2014). The complexity of a tax system, such as multiple laws to be complied with, as in the process of filing income tax to the person in charge of income tax return, lack of clarity of the terms and overlapping foreign tax system are factors leading to increasing cases of tax planning in taxation system (Abdul Hamid, 2004). Taxpayers can act aggressively to reduce taxes to sort out conditions that may not be legally justified or otherwise as the consequence of complexity of the tax system leading to unclear situation or circumstance.

To overcome this problem, tax agents are appointed by taxpayers, primarily from the business sector, for advice and management of their tax. Tax agent is important for in taxpayer's improved tax compliance due to changes in global tax position. Asher and Rajan (2001) stated that the globalization process has changed accounting firms' level of services, such as audits and guarantees, financial advice, tax planning and administrative and compliance methods. There are basically two tax practices, tax planning and tax evasion, the first being law abiding and the second illegal. Tax planning signifies the wisdom in organizing tax affairs legally for tax reduction, while tax evasion is a deliberate, non-compliant act to lower tax payments (Takril & Sanusi, 2014). It is a tax agent's job to stimulate aggressive tax planning and reduce customer's tax liabilities, and these can be done by manipulating loopholes and ambiguities in tax law using their expertise and knowledge in tax accounting (Takril & Sanusi, 2014).

Tax evasion and tax avoidance are considered the same by many taxpayers and believed to be as tax planning, thus deemed permissible by law. Tax planning is limited compared to tax avoidance, however many tax agents would suggest tax evasion to their clients for lower tax liabilities. Therefore, for a clearer insight into this issue, this study attempt to examine tax planning practices among tax agents in Malaysia. Tax planning unclear and often interpreted differently by taxpayers and tax agents (Kirchler, Hoelzl, & Wahl, 2007). The importance of tax planning among companies can essentially lessen tax liability that the companies bear and increase the value and quality of tax paid. Moreover, lower number of tax audits and high tax incidence may encourage tax planning practices. Previous studies (Armstrong, Blouin, & Larcker, 2012; Takril & Sanusi, 2014; Isa, Yussof, & Mohdali, 2014; Walpole, 2009) recommend in-depth exploration of this topic to observe the extent of corporate income taxpayers' compliance and responsibility. Do companies perform their responsibilities honestly and transparently in reporting their annual income or, amongst those, who are trying to cheat or avoid taxes? Why do companies avoid tax while they enjoy the same benefits and facilities that other taxpayers gain? Do tax agents encourage the companies to practice tax evasion or tax avoidance?

This study aimed to investigate tax agents' influence on Malaysian companies' tax planning practices and identify the factors of Malaysian companies' tax planning through agents. To achieve the two objectives, this study developed two research questions to explore tax agents' behaviors in giving customers advice and consultancy. The questions are: First, what do Malaysian tax agents' plan in tax evasion? Second, what factors from tax agents influence Malaysian companies' tax planning practices?

This study is divided into six parts. The first part is introduction that discusses the background of the study. The second part reviews past studies on tax planning in various dimensions. The third part discusses the research method. The fourth part explains the data analysis. The final part discusses the study's result and conclusion.

LITERATURE REVIEW AND HYPOTHESES

Companies' aggressive tax planning will eventually have tax collection decreased. Previous studies demonstrated that companies greatly relied on tax agents' advices in deciding tax planning and the tax planning would finally be decided by tax agents. Moreover, the relationship between taxpayers, tax agents and the government is considered significantly affecting tax compliance. For instance, Nkundabanyanga et al. (2017) conducted a research on tax treatment in a developing country, Uganda. Their observation found that tax compliance improves when the government was efficient, (e.g. the country's financial affairs' were well managed), has a transparent tax system, (e.g. in case of sources and use of tax money) and secures taxpayers' voice and rights (from basic human aspects). Nkundabanyanga et al. (2017) findings that were also previously supported by Ortega Hortelano, Vassallo Magro, and Pérez Díaz (2016) prove that government's improved functions amongst Latin American countries can help motivate people to pay taxes.

The situation is then complicated when tax payment and evasion are also associated with tax agent's level of tax knowledge. Generally, if a company finds problems or lacks of knowledge of tax calculation, its tax evasion tendency is very high. This is supported by Saad (2011, 2014) that tax agent's technical knowledge of taxation is imperative to ensure tax compliance, or otherwise lack of knowledge will be taken as the reason for tax evasion. In addition, a recent study by Bornman & Ramutumbu (2019) explained that there were three main components in high tax compliance, thus tax evasion occurrence is avoided, namely, (1) general knowledge of tax, (2) knowledge of tax procedures and (3) tax agent's knowledge of tax law.

Despite companies' insufficient tax knowledge, corporate taxpayers' reliance on their appointed tax agents for their (tax agents') knowledge and experience in planning and handling corporate tax reporting is great. According to Isa, Yussof, and Mohdali (2014), two main factors expecially make tax agents' role important in helping companies in Malaysia, namely internal and external factors. Internal factors include reasons, such as companies' lack of technical knowledge of taxation, complexity of tax affairs and cost-effective factor for corporate taxpayers to hire tax agents compared to handling tax issues by themselves (Isa, Yussof, & Mohdali, 2014). External factors include the need for professional opinions and advice on taxes, latest update of tax information and advice on the best tax planning (Isa, Yussof, & Mohdali, 2014). In line with these goals, the study conducted by Isa, Yussof, and Mohdali (2014) in Malaysia on various sectors show that majority of companies hired tax agents due to external factors. The following part discusses issues that may lead to tax planning by tax agents.

Transfer Price and Tax Planning

Transfer pricing is an accounting practice representing the prices that one division to charge other division within a company for any goods and services provided. Transfer pricing defines the right for setting, analysis, documentation, and adjustment of charges between related parties for goods, services, or use of property (including intangible property). This issue in international taxation keeps taxpayers and tax authorities confused. This usually occurs when two companies of the same multinational group perform trade activities with each other. According to Bartelsman & Beetsma (2003), difference in corporate tax rates of one country with another caused companies to divert their income, and the loss of over 65% additional tax revenue amongst industries in the Organisation for Economic Co-operation and Development (OECD) countries stemmed from the income shift. Using transfer pricing tactics, companies in the United States transferred their revenue to foreign affiliates with lower tax rates. Barker and Mayer (2017) also found that flexible transfer pricing on tax code in the United States' Internal Revenue Code allowed companies to adopt transfer pricing tactics to avoid taxes. This in turn concludes that avoidance (in the tax code) gives companies the chance to evade taxes.

H_1: Transfer pricing is significantly used by tax agents in tax planning

Charity/Donation Contribution and Tax Planning

The OECD (2009: 12) reported that evidence or cases existed that illustrated how charitable contributions are used as a tax evasion tactic. Amongst them are concealing information of permanent employees' salary as voluntary workers, issuance of false payment slips as giving donations, manipulation of assets' value or donated cash and so on. For instance, donated assets' value was manipulated in the United Kingdom for higher tax deductions (OECD, 2009). The Tax Research UK (2013) reported that a large company, The Cup Trust, was believed to be involved in tax planning activities. The company was ranked 14th for contribution according to its 2011 income. However, the issues surfaced when the company demanded higher tax deduction despite the value it had donated. This concludes that certain donors use improper resources or deliberately use donation as a reason for tax deduction.

H_2: Charitable contribution is significantly used by tax agents in tax planning

Bad Debt, Prepaid Expense and Tax Planning

Section 33 of Income Tax Act of 1967 indicates that tax deduction is not available for provision of bad debt, but only for real bad debt. Therefore, some companies may manipulate the amount of bad debt instead of provision of bad debt for tax deduction and presume that they will not be audited by tax authorities later. In addition, they are even willing to pay penalty if they were audited by tax authority. The study by Poli (2015) found that Italian companies tended to report bad debt for maximum tax deduction. If the bad debt expense is lower than the total tax deduction provision, the companies will attempt to increase the bad debt expense for the maximum amount tax deduction. The opposite occurs when bad debt expenses exceed the total allocation of tax deduction. Companies will take deduction for various business-related costs before filling out annual tax plan. Companies will reduce tax revenue, for example, if they want to reduce current year income tax, and some expenses of new financial year will be paid in current year.

H_3: Bad debt, provision of bad debt and prepaid expense are significantly used by tax agents in tax plan

Depreciation and Tax Planning

IRB may state that an asset' life expectancy is seven years regardless of the company's circumstances. IRB regulation also allows companies to accelerate their depreciation expenses. Accelerated depreciation means higher depreciation in the first few years and lower depreciation in the last years of asset life, referred to as accelerated method. This saves income tax payment in the first years of asset's life but will result in more taxes in later years. Profitable companies will find accelerated depreciation more attractive (Kulp & Hartman, 2011).

Kozub-Skalska (2016) conducted a study on how tax risk managers adopt depreciation to their advantage in accounting policies as an instrument of tax optimisation. The study found that the flexibility in depreciation calculation method gives the companies the chance to avoid taxes. They argued that the tax advantage from depreciation is due to the level of taxable income itself. Kozub-Skalska (2016) argued that depreciation method is selected be based on the company's economic/financial implications.

H_4: Depreciation expense is significantly used by tax agents in tax planning.

Company Acquisition and Tax Planning

A company can reduce its tax by acquiring a company with accumulated loss, in which the higher the loss the company bears, the higher the value of tax avoidance and reduction allowed is (Dash, 2010). This is the case when the acquiring company is able to spread its profit to the acquired company. The companies involved in such acquisition will have next year's unused capital losses and allowances absorbed in current or next-year assessment unless the company is inactive. According to Section 140 of the Income Tax Act 1967, if a company acquisition is performed based on reasonable economic aspect, the acquisition is likely to obtain tax saving. This is also supported with perceived misuse of tax law, in which the commitment to have debt financing to acquire a company is only for maximum tax deduction (Brewer et al. 2002).

H_5: Company acquisition significantly is used by tax agents in tax planning.

METHODS

This study was conducted through survey on Malaysian tax agents. The following section discusses variable selection and measurement, hypothesis development and population, sampling frame and data collection method.

Variable Selection and Measurement

Although many variables have been tested by researchers previously, this study only focused on five determinants (IV) which quite likely affect tax planning (DV) and are widely used by tax agents to minimise corporate tax liability. Transfer pricing was measured using five questions developed by Barker and Mayer (2017), which were measured using five-point Likert scale (from strongly disagree to strongly agree). Charitable contribution was measured using five questions developed by Webley et al. (1991), which were measured using five-point Likert scale (from strongly disagree to strongly agree. Bad debt and prepaid expense were measured using five questions developed by Poli (2015), which were measured using five-point Likert scale (from strongly disagree to strongly agree). Kulp and Hartman (2011) were taken as the main reference for depreciation measurement, with which five narrative questions were measured using five-point Likert scale (from strongly disagree to strongly agree). Lastly, the fifth independent variable, company acquisition, was measured with five questions developed by Belz et al. (2013). Meanwhile, the dependent variable, tax planning, was measured using seven questions based on Kasipillai (2003).

Population, Sampling Frame and Data Collection Method

This study's population was all tax agents in the Federal Territories of Kuala Lumpur and Selangor. This population was chosen since the Federal Territories of Kuala Lumpur and Selangor were amongst the fastest growing cities and the centres for most Malaysian companies. As per Table 1, there were 664 tax agents in Kuala Lumpur and 408 tax agents in Selangor registered with the IRB. The samples were four largest tax agents from Kuala Lumpur and Selangor registered with IRB, namely Pricewaterhouse Cooper, Ernst & Young, KMPG and Deloitte.

Table 1. Study Population

Company Registered with LHDN	Number of Certified Tax Agents
ERNST & YOUNG	392
PRICEWATERHOUSE COOPER	313
KPMG	185
DELOITTE	182

The use of these stratified random sampling probabilities ensures that the samples selected were clear and distributed based on the same criteria to represent the population (Bell, Bryman, & Harley, 2018). The study samples comprised of tax agents around Klang Valley, Selangor, Malaysia. There were totally 350 questionnaires distributed to tax agents working in the big-four audit firms, namely Pricewaterhouse Cooper, Ernst & Young, KPMG and Deloitte Touche Tohmatsu using the 'Snow Ball' sampling method and totally 106 questionnaires were successfully collected and analysed (30.28% response rate). The snowball sampling method is believed to be the best way for respondents from the same group of practice as suggested by Bell, Bryman, and Harley (2018) and Black & Babin (2019). The data were analysed using SPSS, covering descriptive and multiple regression analyses.

RESULTS AND DISCUSSION

This section discusses the data analysis. The survey conducted involved 106 respondents, composed of 54 (50.9%) male and 52 (49.1%) female respondents. Table 2 shows that male respondents are more than the female respondents with a difference of 1.8%. Table 3 shows that acquiring other company shows the highest mean value of 4.18 with standard deviation of 0.644. Meanwhile, the second highest variable is shown by bad debt and prepaid expense variable with mean value of 4.17 and standard deviation of 0.669.

Charitable contribution has the third highest mean value of 3.73 with standard deviation of 0.763. Meanwhile, depreciation variable shows the fourth highest mean value of 3.49 with standard deviation of 0.759. Price shift variable has the lowest mean value of 3.04 with standard deviation of 0.729. Based on the results in Table 3, the three main tax planning practices performed by companies as suggested by tax agents were company acquisition, bad debt and prepaid expense and charitable donation.

Table 2. Demographics of Tax Agent Respondents

Category	Description	Frequency (N = 106)	Percentage (%)
Gender	Male	54	50.9
	Female	52	49.1
Age	20 – 30	67	63.2
	31 – 40	24	22.6
	41 – 50	12	11.3
	51 – 60	3	2.8
Race	Malay	40	37.7
	Chinese	46	43.4
	Indian	20	18.9
Position	Executive	32	30.2
	Senior Executive	50	47.2
	Manager	16	15.1
	Senior Manager	4	3.8
	Director	4	3.8
Highest level of study	Diploma	11	10.4
	Bachelor	93	87.7
	Master	2	1.9
Institutional Qualification	Local	46	43.4
	Overseas	60	56.6
Tax-related experience	< 1 Year	1	0.9
	1 – 3 Years	22	20.8
	3 – 5 Years	20	18.9
	5 – 8 Years	34	32.1
	8 – 10 Years	3	2.8
	> 10 Years	26	24.5
Tax agent's monthly income	< RM3,000	16	15.1
	RM3,000 – RM4,999	9	8.5
	RM5,000 – RM6,999	19	17.9
	RM7,000 – RM8,999	28	26.4
	RM9,000 – RM10,999	13	12.3
	RM11,000 – RM12,999	13	12.3
	RM13,000 – RM14,999	1	0.9
	> RM15,000	7	6.6

Table 3. Descriptive Statistics

	Average	Standard Deviation	Max	Min	Confidence Interval (95%)	
					Lower	Upper
Transfer Pricing	3.04	0.729	1	5	2.90	3.18
Charitable Donation	3.73	0.763	2	5	3.58	3.87
Bad Debt and Prepaid Expense	4.17	0.669	2	5	4.04	4.30
Depreciation	3.49	0.759	2	5	3.34	3.64
Company Acquisition	4.18	0.644	2	5	4.06	4.30

Further analysis result in findings as presented in Table 4 based on the following mathematical equations:

$$Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \beta_4 X_4 + \beta_5 X_5 + e$$

$Y = 1.991 + 0.351_{\text{ transfer pricing}} - 0.063_{\text{ charitable contribution}} - 0.288_{\text{ bad debt and prepaid expense}} + 0.317_{\text{ depreciation}} + 0.114_{\text{ company acquisition}} + e$

Based on the equations above, each factor's coefficient can influence tax planning. This situation explains that in case of 1 increment of (X_1) transfer pricing, then Y (tax planning) will increase by 0.351. Meanwhile, in case of 1 increment of (X_2) charitable contributions occurs, then Y (tax planning) will decline by 0.288. Then, in case of 1 increment of X_3 (bad debt and prepaid expense), then Y (tax planning) will decline by 0.288. In case of 1 increment of X_4 (depreciation), then Y (tax planning) will increase by 0.317 and in case of 1 increment of X_5 (company acquisition), then Y (tax evasion) will increase by 0.114.

This analysis also shows that transfer pricing, depreciation and company acquisition positively affect Y (tax planning), while charitable contribution, bad debt and prepaid expense negatively affect Y (tax planning). The highest predictor influencing tax planning is transfer pricing. This situation is shown with beta value of 0.351, while the lowest predictor influencing tax planning is charitable contribution with a beta value of 0.063.

Table 4: Multiple Regression Analysis

	R	***R*²**	***B***	***p***
Dependent Variable: Tax Planning				
Independent Variables:	0.57	0.325		
Transfer pricing (X_1)			0.351	0.000
Charitable Donation (X_2)			−0.063	0.440
Bad Debt and Prepaid Expense (X_3)			−0.288	0.025
Depreciation (X_4)			0.317	0.000
Company Acquisition (X_5)			0.114	0.344

Table 4 shows that the three factors (transfer pricing, bad debt and prepaid expense and depreciation) significantly influence tax evasion, with significance value respectively 0.000, 0.025 and 0.000, lower than the alpha 0.05, thus they support H1, H3 and H4. Charitable contribution and company acquisition show insignificant values respectively of 0.440 and 0.344, higher than alpha 0.05, rendering H2 and H5 negative.

Table 5 shows the statistics of the factors of tax evasion by Malaysian companies through tax agents. There are nine factors identified in this analysis, including lack of general tax-related information, lack of tax intensive, weak relationship between taxpayer and stakeholder, tax growth, high tax rate, tax system's fairness and efficiency, lack of willingness to pay taxes, poverty and lack of tax calculation skill. The analysis results show that the lack of attitude/awareness to pay taxes shows the highest mean value of 3.58 with standard deviation of 0.645, while the second highest factors causing companies to avoid paying taxes their lack of tax calculation skill and poor relationship between taxpayer and stakeholder (IRB) with mean value of 3.42 and standard deviation of 0.601. The third factor influencing the companies to avoid paying taxes is high tax rate with mean value of 3.41 and standard deviation of 0.687. Tax system's fairness and efficiency is ranked fourth with mean value of 3.34 and standard deviation of 0.675.

Lack of tax intensive is ranked fifth with mean value of 3.32 and standard deviation of 0.655. This is followed by lack of extensive campaign and public information, especially to companies that should be potential taxpayers, with mean value of 3.20 and standard deviation of 0.668. The lowest factor influencing tax planning is poverty, in which the companies pay daily expenses and needs more, with mean value of 3.15 and standard deviation of 0.513. Finally, this study determines that the factor and cause of companies' tax planning through tax agents is their lack of awareness of obligation to the country.

Table 5: Explanatory Statistics for Tax Planning Factors

	Average	Median	Mod	Standard Deviation	Variance	Max	Min
Provision of Information	3.20	3	3	0.668	0.446	2	4
Lack of Tax Incentive	3.32	3	3	0.655	0.429	2	5
Weak Relationship	3.42	3	3	0.645	0.417	2	5
Tax Growth	3.25	3	3	0.553	0.306	2	5
High Tax Rate	3.41	3	3	0.687	0.472	2	5
Tax System's Fairness and Efficiency	3.34	3	3	0.675	0.455	2	5
Lack of Tax Morality	3.58	4	4	0.645	0.417	2	5
Poverty	3.15	3	3	0.513	0.263	2	4
Lack of Tax Calculation skill	3.42	3	3	0.601	0.361	2	5

The paper's main objective was to find the factors affecting Malaysian companies' tax planning with tax agents as respondents. The study found that tax agents played a significant role in determining Malaysian companies' tax planning. Based on the findings, it is evident that tax agents strongly advised the companies to reduce their tax liability through tree main factors: transfer pricing, bad debt and depreciation (Table 4). The other two variables, namely charitable contribution, and business acquisition, seem insignificant. From another perspective, as the main samples were tax agents of big four companies that usually dealt with multinational companies, the main significant factors to determine tax planning was transfer pricing, instead of the other determinants. The results of this study may vary if the respondents were of medium or small sized accounting firms. In addition, charity contribution factor has low contribution to tax planning. This means that tax planning is not driven by donation since it is either in the form of goods or cash, which is one valid way to obtain tax deduction in Malaysia under section 44 of Income Tax Act of 1967. The IRB has generally listed the organisations or registered the institutions qualified to have tax deduction through donation. However, for verification purpose, a letter of tax deduction confirmation issued by the IRB and one from the beneficiary must be attached as evidence of actual donation.

Tax administrator also plays a significant role in determining tax planning and compliance in a country. The study (Table 5) shows that the main factors affecting tax planning (from tax administrator's perspective) are lack of tax morality, lack of tax calculation skill, weak relationship, and high tax rate. Tax morality becomes the main factor in this situation, thus the aggressive tax planning stems from tax agents' internal factor or it is their intention to do tax planning. The Government should collaborate with the IRB to take proactive measures in enforcing policies and guidelines in order to regulate transfer pricing, even if transfer pricing tactics cannot be eliminated entirely. One measure to take is to enter into agreement with relevant countries to solve the transfer pricing issue. The government can also issue guidelines for tax agents in facing companies' transfer pricing situation. Taking example of the Internal Revenue Service's (IRS) approach in the United States, a more stringent guideline was issued by the IRS to minimise loopholes in the tax code as the consequence of transfer transactions (Barker & Mayer, 2017). Therefore, the IRB can also take similar measures by examining and reviewing the weaknesses found in Malaysian Income Tax Act 1967.

Moreover, lack of tax morality, constituting the companies' lack of attitude towards or awareness of paying taxes to the government, becomes profound. It is then necessary to make effort to install positive values in the community and companies, including the awareness of the importance of taxes for the national development. This is as reported by Horodnic (2018) in his study related to the factors influencing the taxpayers' morals, such as trust, government's performance, level of corruption, inflation rate and so on. In this case, the government must take active measures to attract the people's confidence and trust through good relations between taxpayers, tax authorities and the government.

CONCLUSION

This study concludes that tax agents' role is important in determining tax planning practices in Malaysia. Professional tax agents with high integrity and professionalism may give the companies profound tax planning strategies (tax avoidance) in order to minimise their tax incidence. This study contributes to providing not only Malaysian, but also foreign, tax administrators insight that tax agents' role in tax planning is very important and, to minimise the companies' tax planning, they are to focus on tax agents' morals. Although tax planning is legal, however, in the long run, the government will suffer a long-term tax loss that will affect the fund available to develop domestic economy.

Despite the contribution, this study still has its limitations, which can be solved in further research. Further research should consider more extensive range of tax agents, including medium and small firms. In the data collection, the respondents were from the minority out of the whole population. A good mixture of tax agent firms from every level category may have better tax morals and tax planning. Further research should also cover relevant determinants that were not included in this study, since other untested variables may strengthen the conditional indirect effect of relationship between tax agent and company.

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