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The Implications of Implementing the Global Minimum Tax on Fiscal Incentive Schemes in Indonesia

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Abstract
The implementation of the Global Minimum Tax (GMT), initiated by the Organisation for Economic Co-operation and Development (OECD) and the G20, has brought significant changes to the effectiveness of fiscal incentive schemes in Indonesia, particularly those based on tax rate reductions, thereby requiring adjustments to national policies to remain aligned with global tax standards. This study aims to analyze the implications of the GMT's implementation on the design and effectiveness of fiscal incentive schemes in Indonesia, while also assessing the suitability of the GMT policy in influencing the structuring of fiscal incentives and strengthening the government's legal policy within the framework of tax policy reform. The research method used is normative legal research with a legislative approach, to examine the compatibility of GMT norms with the national legal system, as well as a conceptual approach to understand the paradigm shift from tax rate competition to global tax coordination. The research findings indicate that the top-up tax mechanism under the GMT regime significantly reduces the effectiveness of tariff-based fiscal incentives, thereby requiring Indonesia to restructure its fiscal incentive policies toward non-tariff incentives, enhanced legal certainty, and strengthened investment competitiveness. These findings confirm that the GMT policy is, in principle, aligned with the global tax reform agenda and reinforces the government's legal policy direction in building a fair and equitable tax system, as well as promoting a restructuring of fiscal incentives that is more selective, transparent, and oriented toward investment quality and legal certainty, thereby providing conceptual and normative contributions to the development of national tax law and fiscal policy formulation practices in Indonesia.

INTRODUCTION

From a constitutional perspective, the regulation of taxation and fiscal incentives derives its normative legitimacy from Article 23A of the 1945 Constitution of the Republic of Indonesia, which affirms that taxes and other compulsory levies for state purposes shall be regulated by law, as well as Article 33 of the 1945 Constitution, which emphasizes state control over sectors of production that are vital to the country and affect the livelihood of the people. Therefore, any influence arising from the development of international tax law, including the introduction of the Global Minimum Tax, must be situated within the framework of national legal policy that continues to safeguard fiscal sovereignty, legal certainty, and alignment with national development objectives, without disregarding Indonesia's commitments within the global legal order.[1]

The development of international tax law reflects a strengthening of the global regulatory framework aimed at addressing cross-border tax avoidance practices by multinational corporations. This strengthening has been formally articulated through the initiative of the Organisation for Economic Co-operation and Development (OECD) in collaboration with the G20 within the Inclusive Framework on Base Erosion and Profit Shifting (BEPS), which has produced an international consensus on the reallocation of taxing rights among jurisdictions. One of the principal outcomes of this framework is the introduction of the Global Minimum Tax under Pillar Two, which establishes a global minimum effective tax rate of 15 percent for multinational enterprise groups meeting certain criteria.[2]

The Global Minimum Tax is further elaborated in various international regulatory instruments, including the Global Anti-Base Erosion (GloBE) Model Rules, Commentary, and Implementation Framework, which function as normative standards for participating jurisdictions in aligning their domestic tax systems. Although these instruments do not take the form of legally binding international treaties, they possess the characteristics of soft law with strong de facto binding force, as their implementation directly affects countries' taxing rights through cross-jurisdictional top-up tax mechanisms.[3]

Economic globalization, characterized by the increasing mobility of capital, goods, services, and technology across national borders, has generated significant implications

[1] Mahfud MD, *Politik Hukum di Indonesia*, (Jakarta: RajaGrafindo Persada, 2017), 23–25.
[2] ECD/G20 Inclusive Framework on BEPS, *Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two)*, (Paris: OECD Publishing, 2021), 9–12.
[3] OECD, *Commentary to the Global Anti-Base Erosion Model Rules (Pillar Two)*, (Paris: OECD Publishing, 2022), 3–6.

for national tax systems, including that of Indonesia. These developments have facilitated the emergence of Base Erosion and Profit Shifting (BEPS) practices by multinational corporations through the shifting of profits to low-tax or no-tax jurisdictions (tax havens), thereby eroding the tax base in countries where substantive economic activities take place. This condition gives rise to fiscal injustice, distorts business competition, and threatens the sustainability of state revenue derived from taxation as the backbone of national development financing.[4]

In response to this phenomenon, the international community, through the OECD and G20, has formulated a global consensus within the Inclusive Framework on BEPS, one of whose key pillars is the introduction of the Global Minimum Tax (GMT), also known as Pillar Two. This policy establishes a global minimum effective tax rate of 15 percent for multinational enterprises with a certain level of turnover, ensuring that profits generated across jurisdictions are taxed in a fair and proportionate manner. Accordingly, the GMT is not merely a technocratic fiscal instrument but constitutes a global normative construct aimed at promoting global tax fairness and reducing harmful tax competition.[5]

In the national context, the introduction of the Global Minimum Tax carries direct implications for the design and orientation of fiscal incentive policies in Indonesia. Prior to the implementation of the GMT regime under the OECD/G20 Inclusive Framework on BEPS Pillar Two, Indonesia's fiscal incentive policies were generally grounded in the paradigm of tax competition—namely, competition among countries through the reduction of effective tax rates to attract foreign direct investment, as reflected in the provision of tax holidays, tax allowances, and other tax reduction facilities. International tax law literature indicates that this paradigm often leads to risks of base erosion and profit shifting by multinational corporations, thereby undermining the fairness and sustainability of national tax systems.[6]

With the implementation of the GMT, this paradigm is shifting toward a model of global tax coordination that emphasizes the protection of tax bases and fiscal fairness across jurisdictions. Drawing on the concept of relative fiscal sovereignty and the theory of harmful tax competition, this study seeks to fill a normative gap by specifically analyzing the implications of the GMT for the restructuring of Indonesia's fiscal incentives from a legal perspective, while also assessing how this policy reshapes the

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[4] OECD, *Addressing Base Erosion and Profit Shifting*, (Paris: OECD Publishing, 2013), 15–18.

[5] Reuven S. Avi-Yonah, *International Tax as International Law: An Analysis of the International Tax Regime*, (Cambridge: Cambridge University Press, 2007), 45–47.

6 Reuven S. Avi-Yonah, Kimberly A. Clausing, dan Michael P. Devereux, *Global Tax Revolution: The Rise of Tax Competition and the Battle to Defend It*, (Oxford: Oxford University Press, 2020).

direction of national tax legal policy within a more equitable, sustainable, and globally aligned tax system reform.[7]

The implementation of the GMT encourages a paradigm shift in the structuring of fiscal incentives in Indonesia, moving from a rate-based competition approach toward a more substantive and sustainable framework that links incentives to real economic activities, tax base protection, and legal certainty. This transformation underscores that post-GMT fiscal incentive policy is not merely an economic matter but also a question of the normative construction of national tax law in the context of integrating into the global tax regime.[8]

The restructuring of fiscal incentives as a result of the GMT is not unique to Indonesia but is also experienced by various countries that have implemented Pillar Two provisions. The European Union, through the EU Minimum Tax Directive, requires its member states to implement GMT provisions in a coordinated manner, reducing the effectiveness of rate-based tax incentives and encouraging a shift toward substance-based incentives. Advanced economies outside the European Union, such as Japan and South Korea, have adopted the Income Inclusion Rule while maintaining domestic fiscal incentives, albeit adjusted to ensure that effective tax rates do not fall below the global minimum threshold.[9]

Meanwhile, developing countries such as India and Vietnam face a dilemma similar to that of Indonesia, namely balancing their commitment to the Global Minimum Tax standards with the need to maintain fiscal incentives as instruments of development. This condition indicates that the GMT universally establishes a global normative framework that compels countries to reconstruct their fiscal incentive policies from a rate-based competition approach toward a more substantive and sustainable model.[10]

In the context of developing countries such as Indonesia, the implementation of the Global Minimum Tax presents a complex legal and fiscal policy dilemma. On the one hand, Indonesia has an interest in supporting the OECD/G20 global consensus to maintain its international reputation, enhance cross-jurisdictional legal certainty, and prevent base erosion and profit shifting practices by multinational enterprises, as widely discussed in international tax law literature. On the other hand, Indonesia has historically relied on fiscal incentives—such as tax holidays, tax allowances, and various tax reduction facilities—as strategic instruments to attract foreign direct investment and

[7] OECD, *Addressing Base Erosion and Profit Shifting*, *Op.Cit.*, 13-18.
[8] Reuven S. Avi-Yonah, *International Tax as International Law*, *Op.Cit.*, **1–5** dan **118–121.**
[9] OECD, *Global Minimum Tax Implementation – Country Experiences and Policy Considerations*, *Op.Cit.,* 22–26**.**
[10] OECD, *Pillar Two and Developing Countries*, (Paris: OECD Publishing, 2023), 15–18**.**

stimulate national economic growth, in line with the tax competition paradigm that positions reductions in effective tax rates as a key instrument of investment competitiveness.

Grounded in the theory of harmful tax competition and the concept of relative fiscal sovereignty, this study conceptualizes the GMT as an international soft law norm with de facto binding force on domestic policies, particularly through the top-up tax mechanism. This mechanism has the potential to neutralize the benefits of rate-based fiscal incentives granted domestically by allowing the parent jurisdiction to impose additional taxes, thereby reducing the effectiveness of national incentive policies. In this context, this study seeks to fill a normative gap by providing an in-depth legal analysis of the implications of the GMT for Indonesia's fiscal incentive framework, while also examining how the tension between compliance with global standards and national development needs reshapes the trajectory of Indonesia's tax legal policy.[11]

From a legal perspective, the GMT may be understood as a non-treaty international norm (soft law) with de facto binding force arising from global political and economic pressures. This condition requires states, including Indonesia, to undertake normative adaptation through the development of responsive, systematic legislation grounded in the principles of legal certainty, justice, and utility. The restructuring of fiscal incentives must therefore be aligned with GMT principles while continuing to enhance investment attractiveness through non-rate-based fiscal instruments or substance-based incentives.[12]

Furthermore, from the perspective of tax legal policy, the implementation of the GMT necessitates a reassessment of the orientation of fiscal incentive policies. Fiscal incentives can no longer be viewed merely as instruments of tax rate competition but must be repositioned as strategic tools to promote technology transfer, improve human capital quality, strengthen domestic supply chains, and support sustainable development.[13] Accordingly, the restructuring of fiscal incentives in the post-GMT era must be built upon a normative framework that balances compliance with global standards and the protection of national development interests.

It is therefore evident that the Global Minimum Tax is not merely an issue of international fiscal policy but a legal matter that requires in-depth examination of its normative construction as a basis for restructuring fiscal incentives in Indonesia. The

[11] Michael P. Devereux et al., "The OECD Global Anti-Base Erosion Proposal," *British Tax Review*, No. 6, 2020, 721–724.
[12] OECD, *Substance-Based Income Exclusion under Pillar Two*, (Paris: OECD Publishing, 2022), 5–7.
[13] Musgrave, Richard A. & Peggy B. Musgrave, *Public Finance in Theory and Practice*, (New York: McGraw-Hill, 1989), 210.

absence of a clear normative framework risks creating legal uncertainty, policy inconsistency, and a decline in the effectiveness of national fiscal instruments. Accordingly, this research is both relevant and necessary to comprehensively examine the implications of the GMT for Indonesia's fiscal incentive scheme, providing a legal foundation for designing and restructuring fiscal incentives that remain competitive, equitable, and aligned with the evolving landscape of global tax law.

METHODS

The type of research employed in this study is normative legal research. Normative legal research positions law as a set of norms or rules prevailing within the system of statutory regulations. Its primary focus is to examine legal principles, systematics, synchronization, and consistency of positive legal norms, as well as the construction of legal arguments concerning a particular issue.[14]

The approaches used in this study are the statutory approach and the conceptual approach. The conceptual approach is necessary to understand the paradigm shift from tax rate competition toward a more integrated global tax coordination.[15] This research is descriptive-analytical in nature, as it describes the legal construction of the Global Minimum Tax (GMT) and the national fiscal incentive scheme, thereby enabling the formulation of normative recommendations regarding the adjustment of Indonesia's fiscal policies to remain competitive without violating international commitments.[16] This is intended to provide recommendations on what should be done to address specific problems.[17]

The data collection technique in this study is conducted through library research on primary legal materials, secondary legal materials, and non-legal materials, complemented by interviews to support the secondary data. The research is carried out through various media, including both printed and digital literature. The author evaluates and examines the conformity between legal events and applicable positive law, while formulating legal perspectives on what ought to be, according to the law, in relation to the case under study.

[14] Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, (Jakarta: Rajawali Pers, 2001), 13.
[15] OECD, *Addressing the Tax Challenges Arising from the Digitalisation of the Economy-Global Anti-Base Erosion Model Rules (Pillar Two)*, (Paris: OECD Publishing, 2021), 171.
[16] Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, (Malang: Bayumedia Publishing, 2006), 295.
[17] Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana Prenada Media Group, 2014), 53.

The data analysis technique used in this research is qualitative data analysis, which consists of methods to explain the object of the problem being studied. The purpose of this qualitative analysis is to describe the issues discussed in this article in a clearer and more comprehensive manner. The steps in qualitative data analysis include data collection, systematic and comprehensive data presentation, and ensuring that the data are easily understood.

RESULT AND DISCUSSION

1. The Implications of Implementing the Global Minimum Tax on Fiscal Incentive Schemes in Indonesia

The Global Minimum Tax (GMT) within the OECD Pillar Two framework is not merely an international tax policy that establishes a global minimum effective tax rate for multinational enterprises, but also functions as a normative mechanism that structurally constrains national fiscal policy space, particularly in the use of tax incentives based on rate reductions. Unlike previous international tax regimes that still tolerated the paradigm of tax competition through tax holidays and tax allowances, the GMT introduces a top-up tax mechanism that effectively neutralizes the benefits of such incentives by allowing other jurisdictions to collect the tax differential up to the global minimum threshold.[18]

Previous studies have generally viewed the GMT as a positive instrument for curbing base erosion and profit shifting and enhancing global tax fairness. However, most of these studies focus on economic and technical aspects of implementation, without thoroughly examining its normative implications for the design of fiscal incentive policies in developing countries. In the Indonesian context, existing studies tend to be descriptive, highlighting the potential decline in investment attractiveness without linking it to a paradigm shift in legal policy from tax rate competition toward global tax coordination.[19]

Therefore, this study argues that the primary issue in the implementation of the GMT lies not merely in the reduced effectiveness of fiscal incentives, but in the incompatibility of rate-based incentive paradigms with the new global tax regime. This analysis underscores that the GMT necessitates a normative reconstruction of Indonesia's fiscal incentive policies toward substance-based incentives and legal certainty, ensuring that

18 Dilaga dan Daryatno, *Global Minimum Tax: Implications and Recommendations for Multinational Corporations*, *Journal Research of Social Science, Economics, and Management* 5, no. 4 (2025): 3968–3980,

19 Arthur J. Cockfield, 'The Political Economy of Tax Treaty Negotiation: BEPS and the OECD's International Tax Agenda', *Virginia Tax Review*, 37 (1), (2018), 24–27.

national fiscal policy continues to support development objectives without conflicting with global tax standards.[20]

In international literature, the GMT is also defined as part of effective minimum taxation under OECD Pillar Two, namely the imposition of a top-up tax on the profits of multinational enterprises when their effective tax rate falls below the agreed global minimum (e.g., 15%). In this context, the GMT requires the application of a top-up tax whenever a multinational enterprise is subject to an effective tax rate below the established threshold.[21]

From an academic perspective, the GMT is understood as an international tax policy under the OECD Pillar Two framework that establishes a global minimum tax rate for multinational enterprises to address cross-border tax avoidance.[22] Its implementation forms part of the broader international tax reform agenda developed under the Base Erosion and Profit Shifting (BEPS) framework through Pillar Two by the Organisation for Economic Co-operation and Development in collaboration with G20 member states within the Inclusive Framework. This policy sets a global minimum effective tax rate of 15 percent for multinational enterprise groups with a certain level of consolidated revenue, with the aim of preventing profit shifting practices and harmful tax competition.[23]

Conceptually, the introduction of the GMT shifts the paradigm of fiscal sovereignty in determining tax rates and incentive policies. Previously, states enjoyed broad discretion to offer tax exemptions or reductions as instruments to attract investment. However, under the GMT regime, the benefits of rate-based incentives or tax holidays are significantly reduced.[24] This is due to the mechanisms of the Income Inclusion Rule (IIR) and the Undertaxed Payment Rule (UTPR), which allow other jurisdictions to impose a top-up tax if the effective tax rate in a given country falls below the minimum threshold of 15 percent. Consequently, fiscal incentives that reduce effective tax rates

20 Andreas Perdelwitz & Alessandro Turina, *Global Minimum Taxation? An Analysis of the Global Anti-Base Erosion Initiative,* (Amsterdam: IBFD Publications, 2021), 154.

[21] Joachim Englisch, "Effective Minimum Taxation under Pillar Two of the OECD Proposal ('GloBE')," dalam *The Oxford Handbook of International Tax Law* (Oxford: Oxford University Press, 2023).

[22] Tirta Prasetya Dilaga & Andreas Bambang Daryatno, *Global Minimum Tax: Implications and Recommendations for Multinational Corporations*, *Journal Research of Social Science, Economics, and Management* 5, no. 4 (2025): 3968–3980

[23] Organisation for Economic Co-operation and Development, *Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two)* (Paris: OECD Publishing, 2021).

24 Kimberly A. Clausing, 'The Politics and Philosophy of Taxing the Rich', *Journal of Economic Perspectives*, 37 (4), (2023), 61–64.

below this threshold risk losing their economic attractiveness, as the tax differential will still be collected by the parent entity's jurisdiction or other jurisdictions.[25]

Fiscal incentives are generally understood as instruments of fiscal policy used to influence economic behavior through tax burden reductions or the provision of certain financial facilities.[26] According to Richard A. Musgrave and Peggy B. Musgrave, fiscal policy fundamentally serves to achieve efficient resource allocation, equitable income distribution, and economic stabilization; within this framework, fiscal incentives function as tools to promote allocation efficiency and economic growth.[27] Meanwhile, Alan J. Auerbach and James R. Hines Jr. explain that tax incentives constitute special provisions within the tax system that deviate from the general tax structure with the aim of attracting investment or encouraging specific economic activities, although their effectiveness remains debated in public economics literature.[28]

In the context of international tax law, Reuven S. Avi-Yonah defines fiscal incentives as a form of tax competition among countries, implemented through low tax rates, exemptions, or special facilities to attract cross-border tax bases.[29] From a legal perspective, fiscal incentives represent the exercise of state discretion in implementing fiscal sovereignty. Nevertheless, their provision must adhere to the principles of legality (nullum tributum sine lege), legal certainty, and fairness in taxation.[30]

In Indonesia, fiscal incentive schemes have long functioned as strategic instruments in investment policy, including tax holidays, tax allowances, import duty exemptions, and special economic zone facilities.[31] These policies are grounded in the regulerend function of taxation, namely the use of tax as a regulatory tool to promote economic growth and equitable development. However, with the implementation of the GMT, the effectiveness of incentives based on reductions in corporate income tax burdens must be reassessed, as their fiscal benefits may be diminished under the global minimum tax regime.

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25 Joshua Avron, 'Taxing Digital Transactions: Lessons from the European Union', *Tax Notes International*, 101 (4), (2021), 361.

26 Harvey S. Rosen & Ted Gayer, *Public Finance*, 10th ed. (New York: McGraw-Hill Education, 2014), 365–368.

27 Richard A. Musgrave & Peggy B. Musgrave, *Public Finance in Theory and Practice*, 5th ed. (New York: McGraw-Hill, 1989), 6–9.

28 Alan J. Auerbach & James R. Hines Jr., "Taxation and Economic Efficiency," dalam *Handbook of Public Economics*, Vol. 3, ed. A.J. Auerbach & M. Feldstein (Amsterdam: Elsevier, 2002), 1347–1350.

29 Reuven S. Avi-Yonah, *International Tax as International Law* (Cambridge: Cambridge University Press, 2007), 65–70.

30 Brian J. Arnold, *International Tax Primer*, 3rd ed. (Alphen aan den Rijn: Kluwer Law International, 2016), 23–25.

31 Rochmat Soemitro, *Asas dan Dasar Perpajakan* (Bandung: Eresco, 1990), 32.

The normative implication is the need to reconstruct the design of fiscal incentives so that they no longer rely solely on rate reductions, but instead adopt a substance-based approach, such as qualified refundable tax credits, infrastructure support, licensing facilitation, or other non-tax incentives. This approach aligns with the recommendations of the Pillar Two framework, which still allows incentives that do not artificially reduce effective tax rates. Accordingly, Indonesia is required to harmonize its international commitments with national interests in maintaining investment competitiveness. Such harmonization can be achieved by shifting from rate-based incentives to expenditure-based incentives or direct support mechanisms that do not erode the effective tax rate below the global minimum threshold.[32]

From the perspective of state sovereignty, the implementation of the GMT also generates a dynamic tension between the principle of fiscal sovereignty and the need for global coordination. Theoretically, fiscal sovereignty grants states full authority to determine their tax systems and policies.[33] However, in the context of economic globalization, such sovereignty is relative and constrained by voluntarily agreed international arrangements. Therefore, Indonesia's participation in the GMT regime should be understood as a form of pooled sovereignty, reflecting a collective strengthening of states' positions in addressing cross-jurisdictional tax avoidance practices.

In conclusion, the implications of the GMT for Indonesia's fiscal incentive schemes extend beyond technical taxation issues, affecting investment policy structures, national regulatory design, and the very conception of fiscal sovereignty. The reformulation of incentive policies is therefore imperative to ensure that Indonesia remains competitive in attracting investment while upholding the principles of tax fairness and its commitment to a transparent and equitable global tax system. Global commitments such as the GMT cannot be disregarded; rather, they must be carefully integrated into the domestic fiscal policy framework to preserve sufficient policy space for national investment strategies.[34]

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[32] Michael P. Devereux et al., "The OECD Global Minimum Tax," *British Tax Review* No. 3 (2022), 201–204.
[33] John E. Petersen & Jorge Martinez-Vazquez, "Fiscal Decentralization and Fiscal Policy," dalam *Public Finance in Theory and Practice* (Cambridge: Cambridge University Press, 2011), 87.
[34] Putri Jauharotul Wahidiyah & Sapto Hermawan, *Dampak Implementasi Pilar Dua OECD Terhadap Pengaturan Tax holiday di Indonesia*, *Jurnal Discretie: Jurnal Bagian Hukum Administrasi Negara,* Vol. 4 No. 1 (2023); 180–188

2. The Compatibility of the Global Minimum Tax Policy in Indonesia in Influencing the Restructuring of Fiscal Incentives and Strengthening the Government's Legal Policy in Tax Reform

The Global Minimum Tax (GMT) policy developed under the Base Erosion and Profit Shifting (BEPS) Pillar Two framework by the Organisation for Economic Co-operation and Development in collaboration with G20 member states represents a collective response to cross-jurisdictional tax avoidance practices and harmful tax competition. In the Indonesian context, the adoption of GMT principles cannot be understood merely as a technical fiscal adjustment, but rather as part of the broader direction of national tax legal policy that prioritizes tax fairness, legal certainty, and economic competitiveness as strategic objectives.[35]

The study by Belianto and Rahayu emphasizes that the GMT prompts a rethinking of Indonesia's tax policy to align with international reform agendas without sacrificing fiscal efficiency and economic competitiveness.[36]

Normatively, the compatibility of the GMT policy with Indonesia's legal system must be analyzed based on the principles of fiscal sovereignty and the legality of taxation. The Indonesian Constitution affirms that taxes and other compulsory levies must be regulated by law. Therefore, any implementation of the GMT, including the imposition of a top-up tax through mechanisms such as the Income Inclusion Rule (IIR) or the Undertaxed Payment Rule (UTPR), must obtain legitimacy within the framework of national legislation. This compatibility is crucial to ensure that harmonization with global standards does not conflict with the principle of due process of law and the hierarchy of norms within Indonesia's legal system.[37]

Gerald J. Postema argues that due process is not merely a matter of formal protection but also encompasses substantive aspects concerning the reasonableness of law and the legitimacy of procedures.[38] The essence of due process, as reflected in Black's Law Dictionary and the classical view of A.V. Dicey, is that no punishment may be imposed without a fair judicial process.[39]

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35 Lorraine Eden, 'The Implications of Digitalization for International Taxation', *Journal of International Business Studies*, 52 (3), (2021), 348.
[36] Daniel Belianto & Ning Rahayu, *Tinjauan Kebijakan Global Minimum Tax dan Implikasinya Bagi Indonesia*, *Syntax Literate: Jurnal Ilmiah Indonesia* 9, No.10 (2024).
37 Niels Johannesen dan Gabriel Zucman, 'The End of Bank Secrecy? An Evaluation of the G20 Tax Haven Crackdown', *American Economic Journal: Economic Policy*, 12 (1), (2020), 8.
[38] Gerald J. Postema, "Due Process and the Forms of Formality," dalam *Due Process*, ed. Gerald J. Postema (Cambridge: Cambridge University Press, 2010), 12–14.
[39] A.V. Dicey, *Introduction to the Study of the Law of the Constitution*, 10th ed. (London: Macmillan, 1959), 202–204.

From the perspective of fiscal incentive restructuring, the GMT substantively encourages a shift in policy design from rate-based tax incentives toward substance-based incentives. Incentives such as tax holidays or reductions in corporate income tax rates that result in effective tax rates falling below the 15 percent threshold risk losing their economic value, as the tax differential may still be collected by other jurisdictions. This condition necessitates a reformulation of fiscal incentive policies to focus more on enhancing productive capacity, technology transfer, human resource development, and infrastructure support, thereby maintaining competitiveness without violating the GMT framework.

Furthermore, the compatibility of the GMT policy with national tax reform is closely related to the strengthening of the government's legal policy. Legal policy in taxation reflects the direction of the state in shaping a tax system that is fair, efficient, and sustainable.[40] By adopting the GMT, the government demonstrates its commitment to transparent and equitable global tax governance, while also strengthening Indonesia's position in international cooperation. This step can be understood as part of a broader structural tax reform strategy that is not only oriented toward revenue generation but also toward maintaining the integrity of the tax system and protecting the national tax base.[41] Empirical studies in Indonesia also indicate that tax reforms grounded in fairness and legal certainty can enhance the overall effectiveness of the tax system.[42]

Joseph E. Stiglitz menekankan bahwa sistem pajak harus memenuhi prinsip keadilan (*equity*) dan efisiensi (*efficiency*) secara seimbang.[43] Reformasi struktural tidak boleh mengorbankan daya saing investasi, tetapi juga tidak boleh menciptakan ketimpangan beban pajak. Dalam konteks global minimum tax, misalnya, negara perlu menyeimbangkan komitmen internasional dengan kepentingan nasional.

Joseph E. Stiglitz emphasizes that a tax system must balance the principles of equity and efficiency. Structural reforms should neither undermine investment competitiveness nor create inequities in the tax burden. In the context of the global minimum tax, countries must balance international commitments with domestic interests.[44]

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[40] Mahfud MD, *Politik Hukum di Indonesia*, *Op.Cit.*, 12.
[41] Vito Tanzi & Howell H. Zee, "Tax Policy for Developing Countries," *IMF Working Paper* No. 00/35 (2000), 3–8.
[42] Wanda Dwi Ramadhan & Tiolina Evi, *Reformasi Pajak Berbasis Keadilan dan Kepastian Hukum*, *Jurnal Pajak dan Keuangan Negara* 7(1) (2025), 63–70.
[43] Joseph E. Stiglitz, *Economics of the Public Sector*, 3rd ed. (New York: W.W. Norton, 2000), 456–460.
[44] Risa Mayasari & I Made Narsa, "Kajian Kritis Terhadap Strategi Reformasi Perpajakan Dalam Menyambut Era Digital," *E-Jurnal Akuntansi* 30, no. 2 (2020), 414–427.

Risa Mayasari and I Made Narsa highlight the challenges of digitalization in tax system reform, which form part of a broader structural strategy to modernize tax administration, improve compliance, and enhance overall system effectiveness.[45] In Indonesia, research shows that simplifying the tax system, strengthening administrative capacity, and digitalizing services can improve transparency and compliance, which are essential components of structural tax reform. International studies by the OECD also demonstrate that modern tax reforms involve harmonizing national policies with global trends to protect the tax base, enhance competitiveness, and promote economic growth.[46]

Nevertheless, such compatibility requires careful implementation to avoid creating disincentives for investment.[47] ax policy reform must strike a balance between compliance with global standards and domestic needs for economic growth. Richard M. Bird and Pierre-Pascal Gendron emphasize the importance of simplicity in tax systems and regulatory consistency to improve compliance and reduce administrative costs.[48] Overly complex tax reforms may instead generate legal uncertainty and increase the risk of tax disputes. Therefore, the government's legal policy must be directed toward the development of adaptive, progressive, and responsive regulations that address global dynamics without compromising the principles of fairness and legal certainty.

From a comparative perspective, Alan J. Auerbach and James R. Hines Jr. demonstrate that tax policy reforms in many developing countries are generally aimed at simplifying tax rates, broadening the tax base, and reducing opportunities for tax avoidance to improve fiscal efficiency.[49] Modern tax reforms are no longer focused solely on increasing tax rates, but rather on strategies of broadening the tax base while lowering rates as part of structural Moreover, Michael Keen and Joel Slemrod emphasize that the primary challenge of contemporary tax reform is maintaining the integrity of the tax system amid global capital mobility and the digital economy.[50] This requires international coordination and the strengthening of anti-avoidance rules to prevent tax base erosion. From a public administration perspective, Christopher Hood stresses that fiscal policy

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[45] Djoko Santosa & Rusdianto, "Reformasi Hukum Perpajakan dalam Upaya Meningkatkan Penerimaan dan Kepatuhan Wajib Pajak," *Perspektif: Kajian Masalah Hukum dan Pembangunan* 26, No. 2 (2020).
[46] Pandaraman Lumbantoruan, "Implementasi Strategi pada Sektor Publik Merujuk pada Reformasi Sistem Perpajakan oleh Direktorat Jenderal Pajak," *Jurnal Manajemen Dinamis* 6, No. 2 (2025).
[47] Joel Slemrod & Christian Gillitzer, *Tax Systems* (Cambridge, MA: MIT Press, 2014), 2–5.
[48] Richard M. Bird & Pierre-Pascal Gendron, *The VAT in Developing and Transitional Countries* (Cambridge: Cambridge University Press, 2007), 7–10.
[49] Alan J. Auerbach & James R. Hines Jr., "Taxation and Economic Efficiency," dalam *Handbook of Public Economics*, Vol. 3, ed. Alan J. Auerbach & Martin Feldstein (Amsterdam: Elsevier, 2002), 1347–1421.
[50] Michael Keen & Joel Slemrod, *Rebellion, Rascals, and Revenue: Tax Follies and Wisdom Through the Ages* (Princeton: Princeton University Press, 2021), 315–320.

reform must be accompanied by managerial and institutional reforms to ensure effective implementation.[51] Without improvements in governance and accountability, changes in tax legislation often fail to produce significant impacts on compliance and revenue.

Overall, the GMT policy in Indonesia holds significant relevance in encouraging the restructuring of fiscal incentives and strengthening the legal policy of tax reform. A measured and norm-based implementation will ensure that global harmonization does not diminish fiscal sovereignty but instead enhances the legitimacy and credibility of Indonesia's tax system amid increasing international economic integration.

According to Darussalam, Danny Septriadi, and B. Bawono Kristiaji, the implementation of the global minimum tax requires adjustments to domestic regulations to ensure that Indonesia retains its taxing rights over multinational entities operating within its jurisdiction, particularly through the Qualified Domestic Minimum Top-up Tax (QDMTT) mechanism.[52] They emphasize that without adequate domestic regulation, potential additional revenue may instead be collected by other countries.

Furthermore, Hestu Yoga Saksama explains that the GMT policy will directly affect the design of Indonesia's fiscal incentives, particularly tax holiday schemes and corporate income tax facilities.[53] From a fiscal policy perspective, rate-based incentives risk becoming less effective because any tax rate differential below the 15 percent threshold may be subject to top-up tax by other jurisdictions.

From the perspective of international tax law, Gunadi argues that strengthening anti-tax avoidance norms and harmonizing domestic policies with global standards constitute strategic steps in safeguarding the integrity of the national tax system.[54] Thus, the adoption of the GMT should not be viewed merely as compliance with global pressure, but as part of a broader strategy to protect Indonesia's tax base.

Additionally, Haula Rosdiana and Edi Slamet Irianto emphasize that tax policy must always be situated within the framework of national fiscal legal policy, which balances legal certainty, tax fairness, and economic competitiveness.[55] In the context of the GMT, the state must ensure that the implementation of a global minimum tax does not reduce

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[51] Christopher Hood, *The Art of the State: Culture, Rhetoric, and Public Management* (Oxford: Oxford University Press, 1998), 17–25

[52] Darussalam, Danny Septriadi, dan B. Bawono Kristiaji, *Konsep dan Studi Komparasi Pajak Minimum Global (Global Minimum Tax)* (Jakarta: DDTC, 2022), 45–60.

[53] Hestu Yoga Saksama, "Implikasi Global Minimum Tax terhadap Kebijakan Insentif Pajak di Indonesia," *Jurnal Pajak Indonesia* 6, no. 2 (2022): 115–130.

[54] Gunadi, *Hukum Pajak Internasional* (Jakarta: Lembaga Penerbit Fakultas Ekonomi UI, 2007), hal. 210–215.

55 Haula Rosdiana dan Edi Slamet Irianto, *Pengantar Ilmu Pajak: Kebijakan dan Implementasi di Indonesia* (Jakarta: Rajawali Pers, 2012), 78–85.

investment attractiveness while still upholding the principles of fairness and fiscal sovereignty.

It is evident that this policy has the potential to affect investment competitiveness if not accompanied by strategic adjustments in domestic regulations.[56] In this regard, the implementation of the Regulation of the Minister of Finance of the Republic of Indonesia Number 136 of 2024 concerning the Imposition of Global Minimum Tax Based on International Agreements becomes crucial. This regulation provides the legal basis for implementing the GMT in Indonesia, effective from the 2025 tax year.[57] At the same time, it carries implications for fiscal incentives and underscores the importance of effective communication strategies with investors, while also addressing the broader challenge of combating profit shifting and cross-border tax avoidance practices.[58]

In conclusion, the GMT is not merely a global fiscal instrument, but forms part of Indonesia's structural tax reform strategy in responding to the dynamics of the digital economy and capital globalization.[59] The challenges it presents should be viewed as an opportunity to strengthen the foundations of national tax law, making it more adaptive, transparent, and competitive within an increasingly integrated international tax system.[60]

CONCLUSION

Based on the foregoing discussion, this study concludes that the implementation of the Global Minimum Tax (GMT) under the OECD/G20 Pillar Two framework directly reduces the effectiveness of Indonesia's rate-based fiscal incentives, particularly tax holidays and tax allowances, as their fiscal benefits are neutralized by the top-up tax mechanism in the parent entity's jurisdiction. The key finding of this research underscores that the sustainability of rate-based fiscal incentive schemes is no longer relevant within the GMT framework and may instead lead to policy inefficiencies without providing competitive advantages for Indonesia. Therefore, this study recommends that the Indonesian government reconstruct its fiscal incentive policies by shifting from rate-based incentives to non-rate and substance-based incentives, such as qualified refundable

[56] Ali Suryo Herlambang, *Peluang Pajak Minimum Global Untuk Meningkatkan Daya Tarik Investasi di Indonesia*, *COMSERVA: Jurnal Penelitian dan Pengabdian Masyarakat* 4, No. 11 (2025).
[57] Dan Nembesa Ginting, "Pajak Minimum Global Datang, Insentif Fiskal Baru Dibutuhkan," Direktorat Jenderal Pajak (May 8, 2025).
[58] Wisnu Saka Saputra, "Menuju Kesetaraan dengan Global Minimum Tax," Direktorat Jenderal Pajak (Jan 24, 2024)
[59] B. Bawono Kristiaji, "Global Minimum Tax dan Tantangan Kebijakan Pajak Indonesia," *DDTC Working Paper* (Jakarta: Danny Darussalam Tax Center, 2023).
[60] Ning Rahayu, *Hukum Pajak Internasional dan Implementasinya di Indonesia,* (Jakarta: Rajawali Pers, 2021), 93.

tax credits, infrastructure support, and streamlined licensing; integrating incentive policies with stronger legal certainty through the harmonization of domestic tax regulations with GMT provisions, including the strengthening of the Qualified Domestic Minimum Top-up Tax (QDMTT); and reorienting fiscal incentive policies to be more selective, transparent, and focused on the quality of long-term investment. In this way, the GMT policy in Indonesia not only aligns with the global tax reform agenda but also normatively strengthens the government's legal policy in building a fair, equitable, and sustainable tax system.

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