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## RELATIONSHIP BETWEEN SHAREHOLDERS MOTIVES AND CORPORATE TAX AVOIDANCE: A LITERATURE STUDY

Suryo Utomo  
Email: suryoutomo2010@gmail.com

Mohd Rizal Palil  
Email: mr\_palil@ukm.my  
Romlah Jaffar  
Email: Romlah@ukm.my  
Rosiat Ramli  
Email: rosie@ukm.my  
Universiti Kebangsaan Malaysia

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### ABSTRACT

*There are many studies have been done to formulate models that are useful for shareholders and stakeholders to detect fraud or manipulation of published financial statements. Some of them are Beneish mathematical model and Dechow F score model. Similarly, there are also many studies have been done in purpose to find the model in detecting tax avoidance. Some of them are Book-tax gap (differences) analysis, Long run Cash Effective tax rate analysis and Tax-gap Analysis. On the contrary, there are very few studies that investigate the relationship between management and shareholder motive and corporate tax avoidance. In this paper, I perform a literature study to explore the possibility of employing such existing models and analysis to investigate the relationship between shareholder's motive and corporate tax avoidance within the Agency Theory framework.*

Keywords: earning management, tax avoidance, shareholders motive, Agency Theory

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### INTRODUCTION

Consequences of applying Self-assessment system in a tax administration is the issue of tax non-compliance. This issue is believed to be the main factor that forces the country tax ratio in down to the lower rate. Tax non-compliance begins when taxpayer is reluctant to give part of his income away to the government. There are many ways that taxpayer can employ to reduce the amount of tax liabilities. Some of them are reducing reported income, ballooning deduction and tax shelter within different tax jurisdictions due to different tax rates. Tax non-compliance can be briefly described as a range of activities that unfavorable to government's tax system with result of tax liability unpaid (Fuest and Riedel, 2009) and corporate tax shelters have become an important instrument for reducing tax burden of many corporations (Wilson, 2007).

It could be said that shareholders perspective and tax authority perspective upon firm's financial performances are equal because they always crave the firms to earn high income. In shareholders point of view, corporate income is a valid measure to justify the effectiveness of their investment to increase their wealth. While in the tax authority point of view, the higher corporate income the more tax will be collected to the government in order to finance government spending. It is possible that the management itself or together with the shareholders engage in earning management to achieve a high corporate financial performance level and sometimes this action is followed by additional tax payments. But, it is also believed that many of this kind activities lack of correlation to additional tax payments. Therefore, persistence of corporate financial statements is the main measure that always is taken into consideration by both parties and fraud detection model or analysis is very needed to investigate corporate financial statements persistence.

Many studies have been done to investigate fraud in published corporate financial statements. Other line of research also have been performed to investigate corporate tax avoidance from the perspectives of book-tax differences, long run cash effective tax rate and tax gap. Several other studies also have been conducted to proof the relationship between corporate taxable income and corporate future income and the relationship between management motives with corporate tax avoidance. However, none of the research I found that specifically draws the line of relationship between shareholder motives and corporate tax avoidance. In this paper I try to fill this gap start from the literature review stage. Remain of the paper will be divided as follows: Section 2 describes literature review regarding management motives and shareholder motive and corporate tax avoidance within Agency Theory framework, section 3 describes literature review regarding earning management activity and the model useful to indicate fraud on published corporate financial statements, Section 4 describes corporate tax avoidance and useful model and analysis to justify tax avoidance practices, Section 5 discussion, and Section 6 concludes.

### MOTIVATION BEHIND TAX AVOIDANCE

The main purpose of corporate tax non-compliance is to take the economic benefit from corporate tax not being paid to the government. Such amount is not only useful to aid the firm cash flow but also management or shareholder cash flow. When we are discussing about tax non-compliance, we cannot disregard to false financial statement for tax purposes that also prepared by the management other than published financial statements. Basically, the way to prepare those two financial statements is not different, but the difference is the intention or motivation of the preparer which is the management when preparing them.

Intention of tax non-compliance is always identical with economic advantages and risks of not being comply. Management bears the responsibility to prepare the financial statements and also bears the contingent liabilities with the fitness of the financial statements within the corridor of the tax law and regulations. According to the tax laws, the most responsible person for the tax return is the management, then the shareholders, and finally the commissioners.

Consider that the tax avoidance is a risky activity, whoever the risk taker must aware with the risks when the tax avoidance finally being caught by tax authority. The range of consequences that possibly will be enforced to the offender starts from paying additional tax assessment with penalty until possibly jail sentence. Sometimes, the decision to avoid taxes was made by management without shareholder approval and all of the economic benefit will be in favor of the management. In other situation, sometimes the decision was made by the management and being approved by shareholder, the economic benefit will be distributed to both parties, via compensation scheme for management.

Under the traditional view, engaging in tax avoidance clearly raises after-tax shareholder value, regardless of the compensation scheme. However, managers being paid salaries alone will not have any incentive to pursue the tax avoidance strategy. Indeed, if sheltering involves even a small effort cost, the manager will strictly prefer not to do so. Moving to an incentive compensation scheme of either the bonus or stock ownership will induce the manager to shelter, and thereby enhance shareholder value (Desai and Dharmapala, 2007). A first pass at incorporating managerial motivations into an analysis of corporate tax avoidance suggests that managers with interests more closely aligned with shareholders' would behave like residual claimants and engage in tax avoidance more aggressively to advance the interest of their shareholders. Essentially, when shareholders want managers to avoid taxes, managers will engage in tax avoidance once their incentives are sufficiently aligned (Desai and Dharmapala, 2005). Generally, the CEO will almost never be a tax expert and in many cases will not even have a financial background. In contrast, a CEO is more likely to have an understanding of the broad competitive landscape of the industry in which his firm operates, the potential for expansion to result in operational economies of scale, and the like. Along this line of thinking it would seem reasonable that a CEO could affect his firm's major operational and financial strategies and then a CEO can affect tax avoidance by setting the "tone at the top" with regard to the firm's tax activities (Dyreg, et. al, 2009).

Relationship between shareholder and management in a firm constitute a relationship between the principal and the agent in the Agency Theory framework. Jensen and Meckling (1976) define agency relationship as a contract under which one or more persons (the principal(s)) engage another person (the agent) to perform some service on their behalf which involves delegating some decision making authority to the agent. If both parties to the relationship are utility maximizers, there is good reason to believe that the agent will not always act in the best interests of the principal. The *principal* can limit divergences from his interest by establishing appropriate incentives for the agent and by incurring monitoring costs designed to limit the aberrant activities of the agent. In addition in some situations it will pay the *agent* to expend resources (bonding costs) to guarantee that he will not take certain actions which would harm the principal or to ensure that the principal will be compensated if he does take such actions. Within this framework, the historic unwillingness of managers to engage in corporate tax avoidance can be explained as a reflection of a principal-agent problem that put a natural brake on corporate tax avoidance, as agents were unwilling to pursue actions that advance shareholders interest (Desai and Dharmapala, 2005).

However, it is generally impossible for the principal or the agent at zero cost to ensure that the agent will make optimal decisions from the principal's viewpoint. In most agency relationships the principal and the agent will incur positive monitoring and bonding costs (non-pecuniary as well as pecuniary), and in addition there will be some divergence between the agent's decisions and those decisions which would maximize the welfare of the principal. The dollar equivalent of the reduction in welfare experienced by the principal as a result of this divergence is also a cost of the agency relationship (as residual loss). Jensen and Meckling (1976) define *agency costs* as the sum of:

- a. the monitoring expenditures by the principal,
- b. the bonding expenditures by the agent,
- c. the residual loss.

In this point of view, Desai and Dharmapala (2005) also mention that if only salary is employed, managers and shareholder payoffs are unaffected by possibility of earning management. However, if managements are facing earning bonuses, earning management enables the manager to realize earning-based bonus and provide an incentive to engage in tax sheltering strategy.

#### **DETECTING FRAUD IN EARNING MANAGEMENT**

The responsibility for preparing and publishing external accounting information lies with the firm's managers. The corporate behavior in preparing financial statements is very depending on the management intentions or motivations with or without shareholder approval. Spohr (2005) mentions that ideally, management use their inside knowledge of the firm's current state and business circumstances to prepare the information, thus giving a true and fair the firm's financial statements and performance that serve as a useful information source for investors, lenders, authorities, customers, suppliers and employees in their respective decisions regarding investments, taxes, whom to do business with or whom to work for. From the valuation perspective, it would be useful if the value of the firm could be read directly from the balance sheet.

There are many reasons why management engages in earning management activity. Some of them are demands to meet earning target and often tied to compensation under management incentive plans (Ernst & Young, 2009), gain higher salaries and bonuses and raising of capital through public offering and attempt to reduce the level of taxation profits (Spathis, 2002), income smoothing to secure stock prices. Managers engage in income smoothing activities because they know that volatile earning

streams typically lead to lower market valuations and also many successful management teams believe the strategic timing of investments, sales, expenditures and financial decision is an important and necessary strategy for managers committed to maximizing shareholder value (Magrath and Weld, 2002) or dedicated to attract new creditor or strategic partner to invest in the firm. Some researchers believe earnings management is a legal act and totally different from fraud because it is within the boundaries of GAAP, while others see a very tiny line between earnings management and fraud, and view it as an unethical act that needs to be fought by external auditors (Kaseem, 2012).

Most common techniques for manipulating profits can be grouped into three broad categories: changing accounting methods, fiddling with managerial estimates of costs, and shifting the period when expenses and revenues are included in results (Worthy, 1984). Pinkasovitch (2011) mentions that common approaches to artificially improving the appearance of the financial statements include: overstating revenues by recording future expected sales, understating expenses through such means capitalizing operating expenses, inflating assets' net worth by knowingly failing to apply an appropriate depreciation schedule, hiding obligations off the company's balance sheet and incorrect disclosure of related party transaction and structured financial deals. Another alternative to financial statement fraud involves cookie-jar accounting practices, a procedure by which a firm will understate revenues in one accounting period and maintain them as a reserve for future periods with worse performance. He also mentions five basic types of financial statements fraud which are fictitious sales, improper expense recognition, incorrect assets valuation, hidden liabilities and unstable disclosures. While Magrath and Weld (2002) mention that there are some popular examples that could be used to create illusionary earnings: big bath restructuring charges, creative acquisition accounting, cookie-jar reserves, immaterial misapplication of accounting principles and prematurely recognition of revenues.

Despite of the intention of management to commit fraud, many studies attempt to seek fraud financial statements detection models or formulas using financial statements elements that useful as early warning signal for stakeholder if fraud has been happened in the firm. Information gained from a company's financial statements can be used to indicate the probability that the firm is potentially engaging in fraudulent manipulation of its numbers (Skousen and Twedt, 2009). So those, the stakeholder can prepare appropriate actions resolving this situation.

Employing logistic regression from ten financial ratios derives from published financial statements; Spathis (2002) developed a model to identify factors associated with false financial statements. He found some variables as possible indicators of FFS are: the inventories to sales ratio, the ratio of total debt to total assets, the working capital to total assets ratio, the net profit to total assets ratio, and financial distress (Z-score) and he concluded that according to result of stepwise logistic regression, companies with high inventories with respect to sales, high debt with respect to total assets, low net profit to total assets, low working capital to total assets and low Z-score are more likely to falsify financial statements. Comparative ratio analysis also allows analysts, auditors and stakeholders to spot discrepancies within the firm financial statements (Pinkasovitch, 2011).

A mathematical approach known as Beneish Model, evaluates eight ratios to determine the likelihood of earning manipulation. Asset quality, depreciation, gross margin, leverages and other variables are factored into the analysis. Beneish (1999) estimates a model for detecting earnings manipulation using sample manipulators and industry-matched firms in the period 1982-1988. The evidence from his research indicates that the probability of manipulation increases with: (i) unusual increases in receivables, (ii) deteriorating gross margins, (iii) decreasing asset quality (as defined later), (iv) sales growth, and (v) increasing accruals. The evidence of a systematic relation between the likelihood of manipulation and financial statement variables suggests that accounting data are useful in detecting manipulation and assessing the reliability of accounting earnings. Using data from the fiscal year of the first reporting violation, e.g., the first year for which the firm is subsequently required to restate. Then, Beneish constructs the model includes eight variables: (1) Days Sales in Receivables Index - DSRI, (2) Gross Margin Index - GMI, (3) Asset Quality Index - AQI, (4) Sales Growth Index - SGI, (5) Depreciation Index - DEPI, (6) Sales General and Administrative Expenses Index - SGAI, (7) Leverage Index - LVGI, (8) Total Accruals to Total Assets - TATA. The expression of M Score Beneish Model to be:  $M = -4.84 + 0.92 DSRI + 0.528 GMI + 0.404 AQI + 0.892 SGI + 0.115 DEPI - 0.172 SGAI + 0.327 LVGI + 4.679 TATA$ . Combining the variables into the model, an M-score is calculated; a value greater than -2.22 warrants further investigation as the firm maybe manipulating in its earning and vice versa.

Dechow, et al (2007) also performed a study to identify factors predicting accounting manipulations. They examined 2,191 cases published on *Accounting and Auditing Enforcement Releases* (AAERs) that occurred between 1982 and 2005 and reporting periods in which earnings are alleged to have been manipulated, and then developed a prediction model to assess the probability of manipulation with the output known as *F-score*, where higher score indicate higher probability of manipulations and suggest that a firm with an *F-score* greater than 1.00 warrants for further investigation. *F-score* can be incorporated as "first-pass" test in evaluating the likelihood of manipulation.

#### **DETECTING TAX AVOIDANCE FROM ACCOUNTING INCOME (FALSE OR FRAUD TAX RETURN)**

The influence of taxes on corporation has been considered within the framework where taxes are involuntary payments that influence financing and investment decision. Tax information contained in the financial statements provides information about earning quality (Lev and Nissim (2004)). Further, Hanlon (2005) demonstrates that large book-tax differences are an important signal about earning persistence. Book-tax differences or book-tax gap is derived from the difference between income reported to capital market and to the tax authorities. Since tax avoidance is difficult to measure, Manzon and Plesko (2002) and Desai (2003, 2004) use book-tax gap as an indirect approach to construct a measure of corporate tax avoidance. Some of them say that it must be taken into account that the lack of available data regarding the outcome of tax audits, and in some cases regarding even the level of taxable income itself (Hanlon, 2003), impedes relevant research (Kouroumpalou and Karagiorgos, 2011). Desai and

Dharmapala (2005) provide such a measure based on so called “book-tax gaps” – the difference between financial income, as reported by the firm to its shareholders and the SEC (using generally accepted accounting principles, GAAP) and the tax income it reports to the IRS. This difference can be directly observed by those with access to tax return data and has been used as a proxy for corporate tax avoidance. However, there are two problems with this approach. The first is that tax returns are confidential, and thus the book-tax gap is not directly observable to most researchers or to investors. Second, book-tax gaps may be due to factors other than tax avoidance.

Even though there is a significant relationship between accounting income and taxable income, Shackelford and Shevlin (2001) and Coppens and Peek (2005) reported that the primary incentive of the listed companies is to report higher accounting earnings even at the cost of bearing a higher corporate tax. According to Cloyd (1995) and Cloyd et al. (1996), the public companies prefer to shoulder a higher corporate tax in their effort to report higher accounting earnings. Mills and Newberry (2001) have reached similar conclusions as the public companies in their study appear willing to bear the additional tax burden that arises from their decision to report both higher taxable and accounting earnings so as not to raise suspicion. Erickson et al. (2004) have also found out that public companies pay more taxes when they falsify their accounting earnings as they do not want to report a large discrepancy between taxable and accounting figures. On the contrary, some accounting scandals in the USA have shown that the firms are in position, with the use of tax shelters, to achieve both an increase in their accounting earnings and a decrease in their taxable income. Lev and Nissim (2004) have pointed out that through the use of tax shelters Enron company was able to report accounting profits of billions of dollars, before it went bankrupt in 2001, whereas at the same time the income tax paid was negligible. Desai (2005) and Desai and Dharmapala (2009) have further described in detail how companies like Enron, Tyco and Xerox used tax shelters in order to simultaneously reduce their taxable profits and increase their accounting ones.

Wilson (2009) tries to extend the research in the field of tax shelter activity. He concludes that recent studies differ in their conclusions about what drives the difference between book and taxable income. Some research indicates this growing book-tax difference is attributable to aggressive financial reporting. Phillips, Pincus, and Rego (2003) find firms that avoid losses or have small earnings increases have larger deferred tax expenses. Hanlon (2005) reports firms with large BTDs have less persistent earnings than firms with small BTDs. In contrast, Desai (2003) argues that the increase in BTDs is consistent with increasing levels of tax sheltering in the 1990's. Heltzer (2006) also reports results consistent with large positive BTDs being due to aggressive tax reporting rather than aggressive financial reporting. From his investigation, he finds that: (1) tax sheltering is significantly positively associated with BTDs and it is consistent with the conjecture that BTDs are an important signal of tax aggressiveness, (2) tax sheltering are positively associated with the existence of foreign income, (3) the coefficient on the CASH ETR variable is not significantly associated with incidence of tax sheltering and this result is not consistent with CASH ETR being a useful proxy for tax aggressiveness, (4) the coefficient on the  $\Delta$ CUSHION variable is positively and significantly associated with incidence of tax sheltering. This result is consistent with the change in tax cushion being a useful measure of tax aggressiveness, (5) aggressive accrual-based earnings management is positively associated with tax aggressiveness.

From the studies above it seems that the book-tax gap does not necessarily reflect tax avoidance activity. The very basic question need to be addressed in the particular issue of tax avoidance is how to detect tax avoidance from the elements of published financial statements. Some researchers attempt to formulate measures for detecting tax avoidance using published financial statements. Dyreng et. al, (2008) examine how useful annual cash effective tax rates at reflecting long-run tax avoidance. They find that on average the annual rates exhibit some persistence over time, but that the persistence is asymmetric. The data reveal that annual effective tax rates are not very good predictors of long-run effective tax rates and thus, are not accurate proxies for long-run tax avoidance. They develop and describe a new measure of long-run corporate tax avoidance that is based on the ability to pay a low amount of cash taxes per dollar of pre-tax earnings over long time periods and label this measure the “long-run cash effective tax rate”. To overcome the limitations of *GAAP ETRs*, they make two key modifications. First, and most importantly, they measure effective tax rates over long time periods, i.e., ten years. The second improvement is that they measure effective taxes using cash taxes paid rather than GAAP tax expense. They find a significant fraction of firms that appear to be able to successfully avoid large portions of the corporate income tax over sustained periods of time. Using a ten-year measure of tax avoidance, 546 firms, comprising 26.3 percent of our sample, are able to maintain a cash effective tax rate of 20 percent or less. The mean firm has a ten year cash effective tax rate of approximately 29.6 percent. This suggests that tax avoidance is concentrated in a subset of firms.

Furthermore, there has also been politically motivated research on corporate effective tax rates. For example, the Citizens for Tax Justice (CTJ) published a series of studies that provide a good example of how effective tax rates have been used in tax policy debates. Based on effective tax rate calculations, in each of their studies, the CTJ claims that the largest U.S. corporations are not paying their fair share of taxes. None of these studies have examined long-run effective tax rates nor have they utilized cash taxes paid rather than the firm's tax expense reported on the firm's income statement. While it may be possible for firms to avoid taxes in the short run, it is not clear if firms are able to avoid taxes over the long run (Dyreng, et. al, 2008).

Using the results of tax audits data that obligated to be published along with the company's prospectus in Athens Stock Exchange when to be listed in stock exchange, Kourdoumpalau and Karagiorgos (2011) estimate the level of tax evasion of the listed companies is in accordance with international practice (Giles, 1998; OECD, 2001; Kanellopoulos, 2002; Tedds, 2006) and lies in determining three different measures. At first, the level of tax compliance is estimated by comparing the amount of taxes that has been declared in a fiscal year with the amount of taxes that would be reported and owed if the actual level of profits had been declared. This last figure becomes known only after a tax audit has taken place. The difference between the two amounts is called “tax gap” and is expressed as follows:

$$\begin{aligned}
 \text{Tax Gap} &= \text{Post-Audit Tax Liability} - \text{Pre-Audit Tax Liability} \\
 &= (\text{Taxes Declared} + \text{Additional Tax Assessments}) - \text{Taxes Declared} \\
 &= \text{Additional Tax Assessments (includes the taxes plus the fines and penalties)}.
 \end{aligned}$$

A second approach to estimating the level of tax compliance is in relative terms by expressing it as the ratio of the taxes declared by the companies to their actual tax liability:

$$\begin{aligned}
 \text{Tax Compliance (\%)} &= (\text{Pre-Audit Tax Liability} / \text{Post-Audit Tax Liability}) \times 100\% \\
 &= (\text{Taxes Declared} / (\text{Taxes Declared} + \text{Additional Tax Assessments})) \times 100\%
 \end{aligned}$$

It is obvious that in this second approach the level of tax evasion is estimated as follows:

$$\text{Tax Evasion (\%)} = 100\% - \text{Tax compliance (\%)}$$

In the case that the additional taxes charged are reported separately from the fines and penalties in the outcomes of the tax audits, it is also possible to determine the level of tax compliance by taking into account only the extra income taxes, as following:

$$\text{Tax Compliance (\%)} = (\text{Taxes Declared} / (\text{Taxes Declared} + \text{Additional Income Taxes})) \times 100\%$$

By analyzing the extent of tax evasion per sector of economic activity, they find that: (1) the sectors with the three lowest rates of tax evasion (“oil and gas”, “communications” and “banks”) present at the same time the three highest amounts of tax gap. This shows that if the primary aim of the tax authority is to maximize public revenue, it should focus on the sectors with the highest tax gaps and not on the ones with the highest tax evasion rates. (2) the companies only temporarily appear more tax compliant (i.e. in the year of the IPO and in the previous one) in view of their listing in ASE. This finding reinforces the results of other studies (Coppens and Peek, 2005), which claim that the incentive for tax evasion is higher in countries where tax and financial accounting align. Also, it provides an answer to the question set by a number of academics (Eilifsen et al., 1999; Desai, 2005; Desai and Dharmapala, 2009) whether book-tax conformity would lead to more reliable financial statements as it would assimilate the interests of the shareholders to the ones of the tax authority.

## DISCUSSION

For purpose to examine the relationship between shareholders motives and corporate tax avoidance based on models and analysis found, there are three steps of examinations must be taken. First step is examining published corporate financial statements whether they contain fraud. Second step is examining published corporate financial statements whether they are prepared to avoid taxes. The third step is examining relationship between shareholders motives and tax avoidance based on Agency Theory framework.

First step of examination must be taken because there is very close correlation between fraud financial statements and tax avoidance. Some researchers suggest that taxable income is useful to measure persistence financial statements and also future income. So, referring to the same understanding, fraudulence of financial statements can be used to indicate corporate tax avoidance. Employing Spatis Model ratio analysis which are inventories with respect to sales, debt with respect to total assets, net profit to total assets, working capital to total assets and Z-score we can justify the likelihood of fraud financial statements. Other models also can be used to enrich the examination in this step, which are Beneish mathematical model and Fraud Score (Dechow F score).

The second step of the examination is to make sure that corporate tax avoidance has been committed. Result of this step examination will be the basis of third examination. Ideally, examination of tax avoidance activity performed by comparing published corporate financial statements to corporate tax return to find book-tax differences and by comparing pre-audit tax liability to post-audit tax liability to find tax-gap. Consider that tax return and other taxpayer data remains confidential in tax authority custody, data of tax liability on the financial statements is the only data for this examination. When doing book-tax different analysis, we have to consider the source of the differences, does it come from time difference or permanent difference which is legally allowed or it comes from different interpretation of tax law and regulation, or from possibly fraud. To amplify the analysis in this step, Long-run Effective Tax Rate analysis initiated by Dyreng can be deployed. It is understandable if a firm commits for tax avoidance, it will maintain tax avoidance activity in the long run in order to avoid tax authority radar. In this analysis, low cash effective tax rate in the long run reflects that systematic tax avoidance is executed in the long run.

After validity test in the second step of examination finds that the firm employs tax avoidance activity, the third step of examination needs to be run. In this step, we will examine the correlation between shareholder motivation and corporate tax avoidance within Agency Theory framework and employing regression analysis to explain their relationship. Some variables can be used as measures which are shareholder-management relationship, portion of shareholders ownership, shareholders position in board management, bonus and compensation scheme and frequency of management turnover.

## CONCLUSION

The basic measure to examine the relationship between shareholder motives and corporate tax avoidance is that the firm found to commit tax avoidance in certain year(s). It is undoubt that the relationship between shareholder and management is the reflection

of principal-agent relationship outlined in Agency Theory. Therefore, Agency Theory will be useful to investigate the relationship between shareholder motives or influences and corporate tax avoidance. Tax authority which has most of data needed in all analysis model, will much easier to validate all existing models and to choose the most appropriate model as early warning signal of tax avoidance.

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