

Efforts to Settle Tax Disputes Through the Submission of Objections by Taxpayers Based on the Regulation of the Minister of Finance of the Republic of Indonesia Number 202 / PMK.03 / 2015 concerning Amendments to the Minister of Finance Regulation Number 9 / PMK.03 / 2013 concerning How to Submit and Settle Objections

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Abstract. Tax disputes can arise if there are differences in interpretation of the implementation of certain tax provisions and / or differences in tax calculations between taxpayers and the Directorate General of Taxes. The problems discussed are the legal arrangements for tax disputes by taxpayers according to positive law in Indonesia, efforts to resolve tax disputes through the submission of objections to the Minister of Finance Regulation on procedures for filing and resolving objections, legal protection for taxpayers in resolving tax disputes through objections. The research method used is descriptive analytical, the type of research used is normative juridical, the data collection tool uses Library Research. Data analysis uses a qualitative method that produces descriptive-analytical data. In Indonesian tax law, the provisions on objections are regulated in several tax laws, namely the KUP Law and the Minister of Finance Regulation on procedures for filing and resolving objections. In essence, objection is an ordinary legal remedy outside the Tax Court as a result of differences in interpretation and stance on legal provisions in the field of taxation on a particular case submitted by the taxpayer intended to request justice against losses for taxpayers. Objection efforts are submitted and resolved by the field of objections, appeals and reductions under the scope of the directorate general of taxation. In practice, the objection process is often considered one-sided and unfair by taxpayers.

Keywords: Objection, Tax, Taxpayer

1. INTRODUCTION

National Development is an activity that is continuously carried out by the government together with the community with the aim of improving the welfare of the people both materially and spiritually. To realize this goal, a large amount of money is required, most of which is obtained from within the country through taxes. In this context, taxation is one form of state obligation that is carried out jointly with community participation in financing development.

The goal of the Indonesian state is the welfare of its people as stated in the Preamble of the 1945 Constitution of the Republic of Indonesia, hereinafter referred to as the 1945 Constitution of the Republic of Indonesia, in the 4th paragraph which formulates "Then, to form an Indonesian State Government that protects the entire Indonesian nation and the entire Indonesian homeland and to promote general welfare ...". To achieve these goals, the government needs funds that come from the taxpayers.

Taxes are contributions of the people to the state treasury based on laws (which can be imposed) by not getting reciprocal services (contraprestasi) which can be directly shown and which are used to pay for public expenses. This is stated by Rochmat Soemitrod in Adrian Sutedi's book. Taxes are generally regulated in the 1945 Constitution of the Republic of Indonesia, namely Article 23 A. The provisions of the 1945 Constitution of the Republic of Indonesia Article 23A state that "Taxes and other levies that are compelling for state purposes shall be regulated by law". This is the basis of the Tax regulation that will be issued later.

In addition, Article 23A of the 1945 Constitution of the Republic of Indonesia contains the principle of legality as one of the principles in the rule of law that must not be violated by anyone including the state if it requires taxes. The principle of legality has the aim of providing legal protection for taxpayers, when the state requires taxes.

According to Prof. Dr. P. J. A. Adriani, in a book by Ida Zuraida and L.Y Hari Sih Aduianto entitled Central and Local Taxes, states that: Taxes are public contributions to the state (which can be taxed) owed by those who

are obliged to pay according to general regulations (laws) by not getting a direct re-achievement that can be appointed and the use is to finance general expenses related to the state's duty to organize the government.

In relation to tax reporting, Indonesia currently adheres to a self-assessment tax regime that requires taxpayers to calculate, pay, and report their own tax obligations to the DGT. However, DGT is also authorized to conduct tax audits to assess taxpayers' compliance with laws and regulations, including issuing tax assessment letters if the taxpayers concerned have not fulfilled their tax obligations. Based on the above arrangements, tax disputes may arise if there are differences in interpretation of the implementation of certain tax provisions and/or differences in tax calculations between taxpayers and DGT. Statistics from the Tax Court Secretariat of the Ministry of Finance show that the number of tax disputes filed by taxpayers has increased to 16,278 decisions in 2023.

Tax disputes are disputes arising in the field of taxation between taxpayers or taxpayers and the government in the field of taxation. The tax dispute can be divided into two tax disputes in a narrow sense and in a broad sense.

Tax disputes in the form of appeals and lawsuits are tax disputes in the narrow sense. Tax disputes in a broad sense, not only include appeals and lawsuits but also include tax disputes that are resolved through objections as ordinary legal remedies.

The problem faced by taxpayers in terms of filing objections is that the time for objection decisions made by the Directorate General of Taxes is so long. The main problem in the objection resolution process is that many taxpayers think that the objection resolution that has been applied is less concerned with the rights of taxpayers to obtain justice. Based on Article 17 Paragraph (1) of PMK Number 202 / PMK.03 / 2015, it states that "The Director General of Taxes within a maximum period of 12 (twelve) months from the date the Objection Letter is received must provide a decision on the objection filed. If the period exceeds, the taxpayer's objection shall be deemed accepted and the DGT shall issue an Objection Decision Letter.

If taxpayers feel fair about the results obtained, of course they will lightly express their sense of justice by making payments from the objection decree that has been determined to the tax office where they are registered. In practice, it often happens that taxpayers do not agree on the amount of tax used as the basis for tax imposition as stated in the SKP. The difference in calculations between the tax authorities and taxpayers is one of the causes of a tax dispute.

3. METHODOLOGY

This research uses normative juridical and empirical juridical approaches. This research falls into the category of descriptive legal research, which is research that aims to find legal rules, legal principles, and legal doctrines to answer the legal problems at hand. This research will also explore the gap between existing legal rules and their application in the field. The researcher will review various relevant legal literature, laws and regulations, and other official documents related to the protection of tax law in Indonesia. This methodology is designed to ensure that the research runs systematically and provides valid results that are relevant to the issue of tax legal protection in Indonesia.

4. RESULTS AND DISCUSSION

The results showed that legal protection for taxpayers has a strong foundation in the principle of rule of law and equality before the law as stated in Article 1 Paragraph (3) of the 1945 Constitution. This principle emphasizes that every citizen, including taxpayers, has the right to fair and effective legal protection and equal standing before the law. In the context of tax dispute resolution, legal protection is realized through two mechanisms, namely administrative objection at the Directorate General of Taxes and lawsuit or appeal at the Tax Court.

The administrative objection mechanism often draws criticism related to the independence and objectivity of the decision, because the institution that issues the tax assessment also plays a role in resolving the dispute. This situation contradicts the principle of *nemo iudex in causa sua* (no one may be a judge of his own case), which causes concerns about the principle of checks and balances. On the other hand, although the Tax Court provides room for settlement through appeal or lawsuit, the final and binding decision limits the taxpayer's right to seek further justice, except through Judicial Review at the Supreme Court. This condition results in a disparity in the legal protection of taxpayers, considering that the Tax Court as the first-level court has different characteristics from other general courts in Indonesia

In addition, the existence of an objection institution in the tax administration system places taxpayers in a position that is vulnerable to potential abuse of authority (*detournement de pouvoir*) or harmful actions (*onrechtmatige overheidsdaad*). The *pouvoir discretionnaire* power given to the state administration needs to be supervised through internal and external supervision so that the rights of taxpayers are protected. Objection as a taxpayer right also requires compliance with applicable legal procedures. However, this effort is still considered more in favor of institutional interests in order to increase state revenue.

With this research, it can be informed that there is still a need for a thorough evaluation of the tax dispute resolution mechanism, especially regarding objectivity and fairness in the administrative objection process. Reforms should prioritize the

principles of deliberation, efficiency, transparency, and procedures that are more accessible to taxpayers. This step is expected to create a fairer, independent, and effective legal protection system, so as to ensure legal certainty and prevent arbitrary actions that harm taxpayers.

4. CONCLUSIONS

- a. Law is a regulation drafted by authorized institutions to maintain public order, with the main objective of creating legal certainty. In the context of tax disputes, there are several regulations that govern them, including the Law on General Provisions and Tax Procedures, the Tax Court Law, and Minister of Finance Regulation No. 202/PMK.03/2015 which regulates changes in the procedures for filing and resolving objections to tax disputes.
- b. Efforts to improve the quality of the objection process can be carried out through several strategies, including by providing legal protection guarantees to objection reviewers, as well as making changes to the institutional structure of the objection institution to increase independence and objectivity in the review process. In addition, to improve the competence of human resources, objection reviewers can be made functional and receive structured and continuous education and training to ensure their ability to handle objections professionally and effectively.
- c. This study concludes that legal protection in the tax context is reflected through three main aspects, namely the substance of tax law in the form of legislation, the structure of tax law involving agencies or institutions authorized to handle tax issues, and legal culture that reflects fair treatment of taxpayers. These aspects have accommodated the implementation of recognition and protection of taxpayer rights, especially in situations of disputes between taxpayers and the Director General of Taxes related to objections to tax assessment letters issued by the Director General of Taxes.

Reference

- Asriyani. (2017). Upaya Hukum Dalam Penyelesaian Sengketa Pajak. *Jurnal Katalogis*, Vol. 5 No.8.
- Mafaid, Ahmad, & dkk. (2022). *Peradilan Dan Alternatif Penyelesaian Sengketa*. CV. Amerta Media.
- Marsyahrul, & Tony. (2005). *Pengantar Perpajakan*. Jakarta: PT. Gramedia Widiasarana.
- Marzuki, & Mahmud, P. (2013). *Pengantar Ilmu Hukum*. Jakarta: Kencana.
- Mertokusumo, & Sudikno. (2001). *Penemuan Hukum Pengantar*. Yogyakarta: Liberty.
- Moch, K. d., & Iqbal. (2020). *Hukum Pajak Teori dan Praktik*. Bandar Lampung: CV. Anugrah Utama Raharja.
- Muhaimin. (2020). *Metode Penelitian Hukum*. Mataram: Mataram University Press.
- Mulkan, Hasanah, & Aprita, S. (2023). *Hukum Pajak*. Jakarta: Mitra Wacana Media.
- Mustaqiem. (2014). *Perpajakan Dalam Konteks Teori dan Hukum Pajak Di Indonesia*. Yogyakarta: Buku Litera.
- Pamuji, Kadar, & Nasihuddin, A. A. (2020). *Buku Ajar Hukum Pajak*. Purwokerto: UNSOED Press.
- Rahardjo, & Satjipto. (2012). *Ilmu Hukum*. Bandung: Citra Aditya Bakti.
- Rahayu, & Kurnia, S. (2013). *Perpajakan Indonesia, Konsep dan Aspek Formal*. Yogyakarta: Graha Ilmu.
- Rahmadi, & Takdir. (2013). *Mediasi Penyelesaian Sengketa Melalui Pendekatan Mufakat*. Jakarta: PT. Raja Grafindo Persada.
- Rato, & Dominikus. (2012). *Dasar-dasar Ilmu Hukum Memahami Hukum Sejak Dini*. Jakarta: Kencana.
- Safri, & Nurmantu. (2015). *Pengantar Perpajakan*. Jakarta : Granit Kelompok Yayasan Obor Indonesia.
- Sutedi, & Adrian. (2011). *Hukum Pajak*. Jakarta: Sinar Grafik.