

Taxpayer Protection Against Administrative Sanctions In The Fair Tax Dispute Objection And Appeal Process

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ABSTRACT

This research is motivated by the lack of synchronization between *das sollen* (the ideal law) and *das sein* (the reality) in the implementation of administrative sanctions during tax objection and appeal processes. Law Number 7 of 2021 concerning the Harmonization of Tax Regulations (HPP) introduced reforms to enhance compliance and fairness, yet its application often raises issues of legal uncertainty and potential injustice for taxpayers. The study aims to examine how taxpayer protection against administrative sanctions in the objection and appeal process can be implemented fairly. Using a normative juridical method with statutory, conceptual, and comparative approaches, this research analyzes primary legal sources (laws and regulations), secondary materials (literature and journals), and tertiary materials as support. The analysis employs descriptive-analytical techniques with deductive reasoning. The findings reveal that the administrative sanctions under the HPP Law still create justice-related problems, particularly concerning legal certainty and the protection of taxpayers' rights. Although intended to enforce compliance, these sanctions may burden taxpayers seeking justice. Therefore, a more proportional and transparent protection mechanism is required to align sanction enforcement with the principles of justice and fairness, balancing the interests of the state and taxpayers in resolving tax disputes.

Keywords: Administrative Sanctions, Tax Disputes, Justice.

INTRODUCTION

Legal Principles and Fairness in Indonesian Tax Dispute Resolution

According to P.J.A. Andriani as quoted by R. Santoso Brotodiharjo, tax is a mandatory contribution imposed by the state on individuals or entities, based on statutory law, without direct compensation, and used to finance government functions. The compulsory nature of tax is regulated by law and accompanied by administrative and criminal sanctions, although it must not be misused by authorities.

Constitutional Basis of Taxation

The constitutional foundation of taxation is Article 23A of the 1945 Constitution, stating that "Taxes and other compulsory levies for state purposes are regulated by law." This

reflects the principle of legality, ensuring that tax collection is valid only when based on law, protecting both taxpayers and tax officials from arbitrary actions. Delegation of this authority allows detailed regulation of tax procedures through legislation, aligning with the state's duty to protect public welfare through fiscal policy.

Tax System and Justice

Taxes are the main source of state revenue, funding development, public services, and economic stability. The tax system must therefore uphold justice, transparency, and accountability. Fairness in taxation includes proportional imposition, open mechanisms, and protection of taxpayer rights. A fair and transparent dispute resolution process is an integral part of legal protection in taxation, ensuring legal certainty for both taxpayers and tax officials.

Tax Disputes and Legal Framework

A tax dispute arises from differences between taxpayers and tax authorities regarding tax obligations or collection. Not all decisions can be disputed, but disputes generally involve taxpayers, collectors, and tax officials. They may occur when taxpayers incorrectly fulfill obligations or when authorities inconsistently apply regulations.

Tax disputes are handled through administrative channels (objection to the Directorate General of Taxes) or judicial channels (appeal to the Tax Court). The Tax Court, established under Law No. 14 of 2002, is part of the national judiciary and operates under the principle of "Justice Based on the One Almighty God" (Law No. 48 of 2009). Dispute resolution prioritizes fairness, simplicity, affordability, and speed.

Self-Assessment System and Tax Assessment

Indonesia applies a self-assessment system, where taxpayers calculate, pay, and report taxes independently (Article 2 paragraph (1) of Law No. 28 of 2007, amended by Law No. 16 of 2009). However, differences in interpretation or calculation often lead to discrepancies and potential disputes.

When discrepancies arise, tax authorities may issue Tax Assessment Letters (SKP) as regulated in Articles 13, 15, 17, and 17A of the KUP Law, including:

1. Article 13 – SKPKB (Tax Underpayment Assessment Letter)
2. Article 15 – STP (Tax Collection Letter)
3. Article 17 – Payment obligations and administrative sanctions
4. Article 17A – Tax amnesty provisions

Administrative Sanctions and Legal Controversies

Law No. 7 of 2021 (the HPP Law) introduces administrative fines for rejected objections (30%) and appeals (60%)—Article 25(9) and Article 27(5D)—plus a requirement to pay 50% of the disputed tax before appeal. While aimed at ensuring compliance, these sanctions are criticized as disproportionate and contradictory to justice principles, especially for MSMEs and small taxpayers.

Key issues include:

1. Financial burden: High fines hinder access to justice.
2. Legal inconsistency: The 30% fine is waived if directly appealing, discouraging the objection process.
3. Structural inequality: Uniform sanctions disregard economic scale and taxpayer capacity.

These provisions conflict with constitutional justice and human rights principles, potentially discouraging taxpayers from exercising their legal rights. A fairer system should balance revenue optimization and equitable treatment, protecting taxpayers from excessive sanctions.

Types of Administrative Sanctions

According to the KUP Law, administrative sanctions consist of:

1. Interest – for payment delays.
2. Fines – for reporting violations (e.g., late SPT submission).
3. Increases – for unreported or underpaid taxes discovered through audits.

These sanctions aim to encourage taxpayer compliance and fiscal discipline.

Relevant Legal Instruments

Tax auditors and courts rely on various regulations, including:

1. Law No. 6/1983 (KUP Law, latest amendment Law No. 6/2023)
2. Law No. 7/1983 (Income Tax, amended by Law No. 6/2023)
3. Law No. 8/1983 (VAT and Luxury Goods Tax, amended by Law No. 6/2023)
4. Law No. 1/2022 on Financial Relations between Central and Regional Governments
5. Government Regulation No. 35/2023 on General Provisions for Regional Taxes

6. Minister of Finance Regulation No. 80/2023 on Tax Assessment Procedures
7. DG Tax Regulation PER-05/PJ/2022 on Tax Assessment Forms and Content
8. DG Tax Circular SE-05/PJ/2022 on Supervision of Taxpayer Compliance

Justice Perspective and Policy Recommendation

Using John Rawls' theory of justice, particularly the principle of equal liberty and the difference principle, the sanction provisions in the HPP Law appear to undermine fairness. They disproportionately burden small taxpayers and contradict the principle that inequalities are acceptable only if they benefit the least advantaged.

Therefore, a normative and constitutional review is needed to ensure that Indonesia's tax policy not only strengthens revenue collection but also upholds justice, equality, and protection of taxpayer rights, aligning taxation with the constitutional mandate for the greatest prosperity of the people.

RESEARCH METHODS

The approach is descriptive analytical, the research specifications are carried out using descriptive, namely a research method aimed at describing existing phenomena that are taking place at present or in the past. The collection of legal material sources in this normative legal research is from various legal sources, namely consisting of primary legal materials, secondary legal materials, including all publications on law that are not text documents, legal journals and comments on court decisions, tertiary legal materials, including materials that provide information on primary legal materials and secondary legal materials. The materials used in this research are legal dictionaries and encyclopedias. The data collection technique used is library research.

RESULTS AND DISCUSSION

Arrangement Administrative Sanctions in the Tax Dispute Objection and Appeal Process Are Linked to the Principle of Justice

Tax is a legal obligation agreed upon by the DPR and the President as a means for the state to obtain funds for public purposes. Because it is established by law, tax collection carries coercive power and includes administrative and criminal sanctions. As a mandatory levy without direct benefit to taxpayers, it must be applied fairly and based on law at every stage—from regulation, assessment, and collection to dispute resolution.

Tax law provides specific mechanisms such as objections and appeals that enable taxpayers to challenge tax determinations. However, differences in time limits among various tax laws often cause legal uncertainty. The filing of an objection or appeal also does not postpone the obligation to pay taxes, meaning interest sanctions continue to apply while the case is being reviewed. This condition creates an imbalance between the state's authority to secure revenue and taxpayers' rights to obtain justice. Therefore, proportional and transparent legal protection is necessary so that administrative sanctions and tax collection remain consistent with the principles of justice and legal certainty.

Forms of Legal Protection for Taxpayers Against Administrative Sanctions in the Tax Dispute Objection and Appeal Process.

Legal protection for taxpayers is a logical consequence of the rule of law, realized through preventive and repressive mechanisms. Preventive protection allows objections before a decision is final, while repressive protection resolves disputes through judicial processes such as appeals or lawsuits. Although the KUP and HPP Laws regulate various taxpayer rights, several provisions—such as Articles 25(9), 27(5b–5d), and 36(1)(a)—still contain disproportionate elements that reduce fairness and legal certainty. Administrative sanctions that continue during objection and appeal processes create an economic burden for taxpayers and indicate an imbalance between fiscal interests and justice.

Based on justice theories from Rawls and Aristotle, sanctions should be applied proportionally according to intent, error, and taxpayer capacity. In practice, however, Indonesia's tax system remains positivistic and formalistic, prioritizing legal certainty over substantive justice, which erodes trust and voluntary compliance. Therefore, regulatory reform is needed to include conditional suspension during disputes, proportional interest adjustments, and the establishment of a tax mediation institution. The Singapore model, which applies conditional postponement and emphasizes good faith, can serve as a reference to realize an equitable balance between fiscal certainty and taxpayer justice.

CONCLUSION

1. The regulation of administrative sanctions in the tax objection and appeal stages based on the KUP Law and the HPP Law shows that the Indonesian tax system still places more emphasis on fiscal legal certainty than on substantive justice for taxpayers. In practice, as seen in the STP and several Tax Court decisions, the application of interest

sanctions is still carried out even though taxpayers are still undergoing legal proceedings, so that the legal protection provided is formalistic and does not reflect justice as mandated by Pancasila and Article 28D paragraph (1) of the 1945 Constitution.

2. According to the concept of Philipus M. Hadjon, legal protection aims to protect the rights of legal subjects from arbitrary actions by the authorities, but in the context of taxation, the provisions of Article 25 paragraph (9) and Article 27 paragraph (5d) of the KUP Law actually place taxpayers as legal objects because they are still subject to interest sanctions even though the objection or appeal process is still ongoing. This practice shows the weakness of preventive legal protection and the occurrence of unequal relations between the tax authorities and taxpayers, which reflects procedural injustice and reduces taxpayer trust in the tax system. Thus, Indonesian tax law still emphasizes fiscal legal certainty more than substantive justice, contrary to John Rawls' principle of justice as fairness and Gustav Radbruch's view that law without justice loses its legitimacy.

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