

Terms and Conditions for Objection, Appeal and Reconsideration in the Tax Court

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Keywords:

Disputes,
Objections,
Appeals,
Reconsiderations

Abstract

This study aims to explain the terms and conditions of objection, appeal and review. The legal remedy that can be taken by taxpayers in the event of a tax dispute is by filing an objection. if you feel dissatisfied with the results of the objection, you can proceed by filing an appeal to the tax court. In principle, the tax court's decision is final and has permanent legal force, nor can a lawsuit be filed in a general court, state administrative court, or other judicial bodies. However, if the disputing parties are dissatisfied with the tax court decision, it is still possible to take the last resort in the form of extraordinary legal remedies, namely by submitting a judicial review of the tax court decision to the Supreme Court.

1. INTRODUCTION

Taxes are the main source of income for the state as well as the largest source of development financing in Indonesia. the tax sector which is managed in such a way can produce high advantages in various matters, including in the field of dispute resolution and legal certainty (Budiono, 2005).

Tax disputes arise in the field of taxation between taxpayers and authorized officials due to the issuance of decisions that can be appealed to the tax court based on tax laws, including lawsuits on the implementation of billing based on the Tax Collection Law with a Forced Letter (Pamungkas, 2011; Rachmawati & Sariono, 2011)

Taxpayer objections that are often rejected result in taxpayers filing an appeal to the tax court is the main problem of the taxpayer. However, in the appeal process, taxpayers often win this case. This fact is contained in the 2015 tax court decision data which shows that taxpayers often win in tax courts. It is very important to find a solution for collecting cases in the tax court because it wastes time and effort for taxpayers to seek

legal justice and guarantees. For them, it is better to spend time improving the economy than dealing with the problem of seeking justice. (Ilyas & Burton, 2012).

Analysis in tax dispute cases at the Supreme Court (MA) level. Differences in tax calculations between taxpayers and the Directorate General of Taxes regarding the amount of tax to be paid is the cause of tax disputes. [Pudyatmoko, 2009] said tax regulations were made to reduce opportunities for taxpayers to abuse opportunities in increasing tax disputes. The settlement of tax disputes requires a long time and process. However, many have appealed for the resolution of their tax disputes to the Supreme Court (MA). Therefore, the taxpayer's ambition to file a tax dispute must be identified.

The length of time required for the settlement of tax disputes fundamentally violates the principle of being simple, fast and cheap. This topic is interesting, because the role of a judiciary that is independent, not influenced by any party , clean and professional has not materialized as expected. This causes a

decrease in public trust in the judiciary (Budiono, 2005).

The purpose of this study is to find out the possibility of the conflicting parties winning a tax dispute. Analyzing the possibility of the conflicting parties in winning a tax dispute is expected to identify the taxpayer. Then, the analysis focuses on the application of tax regulations in Indonesia and tries to provide a solution for resolving tax disputes in Indonesian taxation.

2. LITERATURE REVIEW

Taxes are used for the government to finance development that is useful for the common good. In the income tax introduction system, Indonesia introduced the modern tax method used by many developed countries, namely self-assessment, into the income tax system.

This system gives trust to taxpayers to calculate the amount of tax payable by themselves, calculate taxes that have been paid by themselves or withheld by third parties, pay tax deficits and report the fulfillment of their tax obligations at the Directorate General of Taxes.

The Directorate General of Taxes has the authority to carry out inspections to examine the implementation of the provisions of the tax laws and regulations. Taxpayers examined to prove compliance with their tax obligations or for other purposes, must show and borrow books, records and other documents related to income or business activities.

However, if in disclosing the books, records, or documents and information requested, the Taxpayer is bound by the obligation to keep secret, then the obligation to keep it secret is waived for audit purposes (Dadang Rahmat Irawan, FISIP UI, 2008).

3. RESEARCH METHODS

This research uses normative juridical research. [Muhjadi and Nuswardi, 2012] argue that normative legal research is research that analyzes legal issues from the perspective of

legal science in depth to established legal norms.

This legal approach study examines efforts to resolve tax disputes in Indonesia based on the tax administration law and the tax court law. Data was collected through a library survey, the data used is secondary data which is generally in the form of legal documents and others. The juridical normative approach is used to achieve data validation by referring to legal norms regulated in laws and decisions.

4. RESULT AND DISCUSSION

4.1 Submission of objections

In Law No. 28 of 2007 concerning the Third Amendment to Law No. 6 of 1983 concerning General Provisions and Tax Procedures (UU KUP) there are articles that regulate tax rights and obligations. One of the rights of the taxpayer is to file an objection. Objection is an effort made by taxpayers who feel they do not agree with the tax assessment letter given to them. Objection is the first step taken in resolving tax disputes. This process is an administrative effort whose completion is carried out by the Directorate General of Taxes within 3 months after the issuance of the tax assessment letter.

In accordance with Article 25 paragraph (1) of the KUP Law, strictness can only be submitted to the Director General of Taxes for:

a. Underpaid Tax Assessment Letter

An underpaid tax assessment letter is a letter issued by the Directorate General of Taxes to inform the amount of the tax amount, the nominal sanction of fines, as well as the total amount of tax that must be paid by the payable taxpayer.

This Underpaid Tax Assessment Letter is issued within a period of 10 years in accordance with the provisions of the applicable law.

b. Additional Underpaid Tax Assessment Letter

The additional underpaid tax assessment is a correction to the previous tax assessment.

This letter can only be issued after the Underpaid Tax Assessment Letter is issued. The issuance of this letter was carried out due to new data that had not been disclosed, causing an increase in the amount owed in the previous tax assessment letter.

What is meant by new data is data regarding everything needed to calculate the amount of tax payable which the Taxpayer has not been notified at the time of the original determination.

Additional Underpaid tax assessments are issued within a period of 5 years in accordance with applicable laws.

c. Overpaid Tax Assessment Letter

Overpaid Tax Assessment Letter is an assessment letter that determines the amount of overpaid tax because the amount of tax credit is greater than the tax payable. Issuance of this letter after examination of the application and no later than 12 months from the receipt of the application letter.

d. Zero Tax Assessment Letter

A Zero Tax Assessment Letter is an assessment letter that determines the principal amount of tax equal to the amount of tax credits. This letter is issued after the Directorate General of Taxes has conducted an inspection.

e. Withholding or Collection by a Third Person

Requests for objections that can be processed are applications that are considered complete and in accordance with applicable regulations, so applications that do not meet the requirements will not be considered as applications by the Directorate General of Taxes.

Provisions regarding filing objections are regulated in more detail by the minister of finance in PMK-194 of 2007 concerning Procedures for Filing and Settlement of Objections as follows:

1) An objection letter is submitted in writing using the Indonesian language.

- 2) Contains the amount of tax owed or withheld or collected or the amount of loss according to the calculation of the Taxpayer.
- 3) Accompanied by clear reasons as a basis for calculation.
- 4) 1 (one) objection letter is submitted only for 1 (letter) of tax assessment or for 1 (one) tax year.
- 5) The letter is submitted within 3 (three) months from the delivery of the Tax Assessment Letter or the date of withholding or collection of tax by a third person unless there is a *force majeure*, namely the Taxpayer can show that the said period cannot be fulfilled due to circumstances beyond the Taxpayer's control.
- 6) The objection letter is signed by the Taxpayer and in the event that the objection letter is not signed by the Taxpayer, the objection letter must be accompanied by a special power of attorney.
- 7) Specifically for objections to tax assessment letters, the taxpayer must have paid a minimum of the amount of tax payable which was approved in the final discussion of the audit results.

The 2007 KUP Law regulates in detail the procedure for resolving objections carried out by the Directorate General of Taxes in accordance with article 26 as follows :

- 1) At most within a period of 12 (twelve) months from the date the objection letter is received, the Directorate General of Taxes must make a decision on the objection submitted by the Taxpayer.
- 2) Before the decision letter is issued, the Taxpayer can submit additional reasons or a written explanation.
- 3) In the case of a Taxpayer submitting an objection to a Tax Assessment as referred to in Article 13 paragraph (1) letter b and letter d of the KUP Law, the Taxpayer concerned must be able to prove the tax assessment is untrue.
- 4) Decisions issued by the Directorate General of Taxes on objections submitted can be in the form of granting them in whole or in

part, rejecting or increasing the amount of the tax debt.

- 5) If within 12 months the Directorate General of Taxes does not issue a decision, the objection submitted is considered granted.

f. Submission of Appeal

If the Taxpayer is still not satisfied with the objection decision letter for the objection that has been submitted, then the legal remedy that can still be taken by the Taxpayer is to submit an appeal to the Tax Court. In the process of carrying out an appeal, there are several requirements that serve as a reference for determining whether a Taxpayer can appeal the tax payable or not, namely as follows :

- a. Appeals must be submitted in writing using the Indonesian language.
- b. The appeal letter must be accompanied by clear reasons.
- c. The letter of appeal that will be submitted must attach a letter of objection decision that has been decided.
- d. Submitted a maximum of 3 (three) months after receiving the objection decision letter .
- e. Submission of appeal can only be filed when the amount of tax owed by the Taxpayer has been paid at 50%.
- f. The Taxpayer attaches a Tax Deposit Letter.
- g. In the settlement of tax appeals, the court is obliged to issue a decision letter no later than 12 (twelve) months after the appeal letter is received. This appeal decision letter can be granted in full and can also be rejected or granted in part which makes the Taxpayer subject to a 100% penalty of the amount of tax payable based on the appeal decision that comes out.

h. Reconsideration Submission

Judicial Review is a situation where the Taxpayer is still not satisfied with the decision of the letter of appeal that has been submitted, the Taxpayer can submit a Letter of application for Review addressed to the Supreme Court.

- 1) In Supreme Court Regulation Number 7 of 2018 concerning Procedures for Submission

of Review of Tax Court Decisions there are articles that regulate the ways of filing a letter of Judicial Review as referred to in article 3 (three), namely:

- 2) The application for judicial review is submitted to the Supreme Court through the tax court and delivered in person.
- 3) An application for review can only be made 1 (one) time to the Supreme Court through the Tax Court.
- 4) The application for review does not suspend or stop the implementation of the Tax Court's decision.
- 5) A request for review can be revoked before it is decided and if the request for reconsideration has been revoked, it cannot be resubmitted.
- 6) The procedural law that applies to a re-examination is the procedural law for reviewing a review as referred to in the Supreme Court Law, except for what is specifically regulated in Law Number 14 of 2002 concerning the Tax Court.

A request for judicial review can be submitted in writing by the applicant, heir or attorney specifically appointed for this purpose by stating clear reasons.

5. CLOSING

5.1 Conclusion

The meaning of tax dispute according to the law, from the 2002 tax court is a dispute arising from the tax sector between the taxpayer and the tax authority. The consequences of making a decision that can be appealed or litigated to a tax court based on tax regulations, including this court process or an appeal for tax collection enforcement based on tax collection rules. Law No. 14 of 2002 concerning tax courts based on this matter a person does not delay or prevent tax collection from fulfilling tax obligations. however, in an examination of an ongoing tax dispute, the appellant or plaintiff may request a postponement of the tax collection examination until a tax court decision is made. Requests for postponement can only be accepted in urgent circumstances which result

in the loss of the interests of the parties in the process at the time the tax collection is carried out.

According to article 77 paragraph 3 of 2002 only 1 time can be submitted to the supreme court through the tax court in connection with the judicial process (PK), namely submitted based on:

- a. If the tax court decision is based on lies or fraud by another party which is known after the case is completed or based on evidence deemed valid by the criminal judge.
- b. If there is new written evidence that is significant and decisive which is known to the tax court at the trial stage it leads to a different decision
- c. If the matter is resolved, this is unnecessary or greater than necessary, except as decided under section 80(1)(b) and (c)
- d. If some of the demands are not decided without considering the reasons,
- e. And if the decisions taken are clearly not in accordance with the laws and regulations

5.2 Suggestion

Establishment of a mediation agency and tax dispute resolution mediation agency is a non-ministerial government agency domiciled in Jakarta and has representative offices in each provincial capital, tasked with handling and deciding tax objections and acting as a mediator on tax disputes between tax authorities and taxpayers both in process mediation before and after the SKP is made by the tax authorities.

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