

**Legal Protection Of The Taxpayer
In The Tax Objection Mechanism Which Has Passed The Time Limit Based On Minister
Of Finance Regulation No 202/Pmk 03/2015**

Thio Hin Kie, Tri Agung Tofiq, Yinni
kkphandi@gmail.com, triagungtofiq@gmail.com, yinnisky@gmail.com
Law Faculty of Pamulang University, South Tangerang City, Indonesia

ABSTRACT

Objection is an ordinary legal remedy that is outside the tax court which is intended to seek justice for losses for taxpayers. The objection procedure is not regulated in the Law on General Provisions and Tax Procedures. This causes the taxpayer to be faced with the power and authority of the Directorate General of taxes to grant it in whole or in part, refuse or increase the amount of tax still to be paid, not on the authority and power of the Tax Court judge in deciding tax disputes in accordance with the Tax Court Law. because of this, the writer is interested in researching it, in order to find out how the legal arrangements for filing tax objections, the tax objection mechanism, and the effectiveness of PERMENKEU No 202/PMK 03/2015 in the context of providing legal protection for taxpayers. The method used is normative legal research, the nature of descriptive research uses secondary data sources, which consist of primary legal materials, tertiary secondary and data collection through library research as outlined in the form of qualitative analysis. Based on the results of the research, that the legal basis for legal remedies for objections is regulated by Law of the Republic of Indonesia Number 28 of 2007 concerning General Provisions and Procedures for Taxation. Objections in the regulation provide legal certainty in terms of implementation and settlement in filing objections by taxpayers. Taxpayers can submit objections to the Director General of taxes made in writing in Indonesian and addressed to the tax official in charge of the type of tax in dispute, the period for filing an objection is three months.

Keywords : Legal Protection, Taxpayers, Objections.

ABSTRAK

Keberatan merupakan upaya hukum biasa yang berada di luar pengadilan pajak yang diperuntukkan untuk memohon keadilan terhadap kerugian bagi wajib pajak. Prosedur keberatan tidak diatur dalam Undang-Undang Ketentuan Umum dan Tata Cara Perpajakan. Hal ini menyebabkan wajib pajak dihadapkan pada kekuasaan dan kewenangan Direktorat Jenderal pajak untuk mengabulkan seluruhnya atau sebagian, menolak atau menambah besarnya jumlah pajak yang masih harus dibayar bukan pada kewenangan dan kekuasaan hakim Pengadilan Pajak dalam memutuskan sengketa pajak sesuai yang diatur dalam Undang-Undang Pengadilan Pajak. karena hal ini, membuat penulis tertarik menelitinya, guna untuk mengetahui bagaimana Pengaturan Hukum Pengajuan Keberatan Pajak, Mekanisme Keberatan Pajak, dan Efektifitas PERMENKEU No 202/PMK 03/2015 Dalam Rangka Memberikan Perlindungan Hukum Bagi Wajib Pajak. Metode yang digunakan adalah penelitian hukum normatif, sifat penelitian deskriptif yang menggunakan sumber data sekunder yaitu terdiri dari bahan hukum primer, sekunder tersier serta pengumpulan data melalui studi kepustakaan yang dituangkan dalam bentuk analisis kualitatif. Berdasarkan hasil penelitian, bahwa Dasar hukum upaya hukum keberatan diatur Undang-Undang Republik Indonesia Nomor 28 Tahun 2007 tentang Ketentuan Umum dan Tata cara Perpajakan Peraturan pelaksanaannya itu diatur dalam Peraturan Menteri Keuangan Nomor 202/PMK.03/2015 tentang Tata cara Pengajuan Pengajuan dan Penyelesaian Keberatan yang dalam peraturan tersebut memberikan kepastian hukum dalam hal pelaksanaan dan penyelesaian dalam mengajukan keberatan oleh wajib pajak. wajib pajak dapat melakukan pengajuan keberatan kepada Direktur Jenderal pajak dibuat secara tertulis dalam Bahasa Indonesia dan ditujukan kepada pejabat pajak yang membidangi jenis pajak yang dipersengketakan, jangka waktu pengajuan keberatan adalah tiga bulan.

Kata kunci: Keberatan, Perlindungan Hukum, Wajib pajak.

A. Introduction

Taxes have been known since the archipelago was still ruled by various kingdoms and sultanates that arose and sank over a long history. The kings of the archipelago have collected taxes or tribute from the public to support their kingdom, among other things for the operational activities of the kingdom, building and maintaining infrastructure, and holding religious events. The various taxes that are required range from land taxes, forest products, to performing arts. There are those who carry it out simply, there are also those who have used a systematic and structured tax collection system .¹

Indonesia is a constitutional state, characterized by a modern welfare state (modern welfare state) that wishes to realize justice for all Indonesian people. In a modern welfare state, the task of the government in carrying out the public interest is very broad and sometimes violates the rights of taxpayers in collecting taxes. This can be avoided if the government lives and obeys the applicable tax laws. The tax law is a supporting tool that makes it lawful for the government to obtain financing in the implementation of state obligations.

The consequence of being a constitutional state characterized by a modern welfare state is that taxes and other levies that are coercive for the needs of the state are regulated by law. This is expressly regulated in article 23A of the 1945 Constitution (UUD) as the basic law that must be obeyed by the state in imposing, collecting and collecting taxes. Apart from that, Article 23A of the 1945 Constitution contains the principle of legality as one of the principles of a constitutional state which cannot be violated by anyone, including the state if it requires taxes. The legality principle aims to provide legal protection for taxpayers when the state requires taxes.²

The tax collection system currently implemented mostly uses a self-assessment system in which the focus of taxation activities is on the taxpayer. Based on this self-assessment system, the taxpayer calculates the amount of tax owed and makes the payment himself. In practice, there are often differences in calculations between taxpayers and tax collection by the government (fiscus) regarding the amount of tax to be paid. This can lead to tax disputes. The relationship between taxpayers and tax collectors in their activities allows for disagreements to occur which can lead to

¹Catharina Vista Okta Frida. 2020. *Tax Law in Indonesia Introduction or basics taxation* . Jakarta: Garuda, page 2.

²Muchammad Djafar Saidi. 2008. *Taxpayer legal protection in the settlement of tax disputes*. Jakarta:Rajawali press, pages 2-3.

disputes.³

The problem faced by taxpayers in submitting objections is that the time for decisions on objections made by the Directorate General of Taxes takes so long. The main problem in the objection settlement process is that many taxpayers think that the settlement of objections that has been implemented so far does not place much importance on the rights of taxpayers to obtain justice. In the settlement of tax disputes, it should be able to guarantee legal certainty and a sense of justice for the disputing parties through procedures and processes that can be carried out quickly, transparently, cheaply and simply.

Based on Article 2 number 2 PMK NUMBER 202/PMK.03/2015, 12 (twelve) months is the longest time for objection reviewers (PKs) to resolve an objection case, if it exceeds this time, the taxpayer's objection is deemed accepted and the DGT must issue a Decision Letter of Objection. If before that period the PK has issued an objection decree, the taxpayer must pay the tax debt in the nominal amount stated in the objection decree reduced by the amount already paid and added with an administrative penalty of 50%.

Based on this, the discussion of objections submitted by taxpayers is a very interesting discussion to discuss. Therefore this research will be set forth in the form of a thesis with the title: "Legal Protection for Taxpayers in the Tax Objection Mechanism that Exceeds the Deadline Based on Permenkeu No 202/PMK 03/2015".

B. Formulation of the problem

- 1 What is the legal arrangement for filing tax objections?
- 2 What is the Tax Objection Mechanism?
- 3 How Effective is PERMENKEU No 202/PMK 03/2015 in the Context of Providing Legal Protection for Taxpayers?

C. Research methods

Basically, the types of legal research can be distinguished using 2 (two) approaches, which consist of: normative legal research (normative juridical), and sociological legal research (empirical juridical). Normative legal research is also called doctrinal research, where law is

³Wiratni Ahmadi, 2006, *Legal Protection for Taxpayers in Tax Dispute Resolution* , Bandung: PT Refika Aditama, page 50.

conceptualized as what is written in laws and regulations (law in books), and research on legal systematics can be carried out on certain statutory regulations or written laws. Meanwhile, empirical juridical research aims to analyze problems by combining legal materials (which are secondary data) with primary data obtained in the field.

D. Research Results And Discussion

1. Legal Arrangements for Filing Tax Objections

Tax law can be divided into two, namely: formal tax law and material tax law. Formal tax law is to contain provisions that support material tax law provisions, which are needed to carry out or complete material legal provisions. After the tax reform in 1983, formal tax law provisions were contained in a separate law, namely the law of the Republic of Indonesia Number 6 of 1983 as amended by the Law of the Republic of Indonesia Number 9 of 1994, the Law of the Republic of Indonesia Number 16 of 2000, and Law of the Republic of Indonesia Number 28 of 2007 concerning General Provisions and Procedures for Taxation, Law of the Republic of Indonesia Number 17 of 1997 concerning agency for the settlement of tax disputes, and Law of the Republic of Indonesia Number 19 of 1997 which has been amended by Law of the Republic of Indonesia Number 19 of 2000 concerning tax collection by forced letter. These three laws contain provisions that apply to all taxes, both income tax, value added tax, and sales tax on luxury goods.

The objection letter made must provide clarity so that it describes the actual situation. This situation is in the form of the amount of non-tax state revenue owed according to the calculation of the obligator to pay as well as the amount of non-tax state revenue owed based on a decree or invoice from a government agency. Therefore, a decree or invoice is attached to the objection letter. This is intended so that the party conducting research on the objection can find out with certainty the legal situation that is the background to the birth of the objection in question.

In relation to these conditions, it turns out that the fourth condition regarding "submission of a period of three months from the date of determination" does not reflect fairness. This is because the basis for calculating the time period is from the date of determination, not from the time the payer receives it. Injustice occurs because in the event that the determination was made on 1 September 2008, but was received by the payer on 1 December 2008. This means that the opportunity for the payer to file an objection is only one

month remaining, not three months. Therefore, it should be changed from "since the date of determination" to "since the date received" so that fairness is reflected in the payer to fulfill the relevant time period.⁴

In addition, the three month period to provide an opportunity for the payer is too long to file an objection. It is necessary to amend the period of one month from the date of receipt of the stipulation by the payer, unless force majeure occurs, then the period of one month may be extended for another month. This is intended so that the filing of an objection does not take too long so that the consequences for settlement only require the shortest possible time.

A tax assessment letter (SKP) is an assessment letter which includes an underpaid tax assessment letter. Additional underpaid tax assessments, Zero tax assessments or overpaid tax assessments, the taxpayer is required to pay the tax payable without benefiting from the existence of the tax assessment letter. Underpayment tax assessment letters are issued by the Director General of taxes within 5 years after the time the tax becomes due or the end of the tax period, part of the tax year, or the tax year, if any of the following occurs:⁵

- a. If based on the results of the audit or other information, the tax payable is not paid or underpaid.
- b. If the notification letter is not delivered within the stipulated time period and after being given a written warning it is not delivered at the time specified in the warning letter.
- c. If based on the results of the inspection or other information regarding the tax, the excess tax difference is compensated or the 0% (zero percent) rate should not be known.
- d. If the bookkeeping and inspection obligations (as referred to in Article 28 or Article 29) are not fulfilled so that the amount of tax payable cannot be known.
- e. If the taxpayer is issued a tax identification number and/or is confirmed as a taxable entrepreneur by position

The amount of tax shortfall payable in the underpaid tax assessment letter as referred to in numbers 1 and 5 is added to the administrative sanction in the form of interest of 2% (two percent) per month for a maximum of 24 (twenty four) months, calculated from the time

⁴Official site. 2016. *Tax theory and cases*. Jakarta: Salemba Empat, page 4.

⁵Muhammad Djafar Saidi (3), 2008, *Non-Tax State Revenue Law*, Jakarta: Rajawali Press, page 129.

the tax becomes payable or the tax period ends , part of the tax year, or the tax year has been with the issuance of underpaid tax assessment letters.

2. Additional Underpaid Tax Assessment Letter (SKPKBT)

The Director General of Taxes can issue additional underpaid tax assessments within a period of 5 (five) years after the time the tax becomes payable or the end of the tax period part of the tax year or tax year if new data is found which results in the addition of the amount of tax payable an inspection action is carried out in the framework of issuance additional tax underpayment assessment letter. It is impossible to prove an additional underpaid tax assessment letter before it is preceded by the issuance of a tax assessment letter. Issuance of additional underpaid tax assessments is carried out on the condition that there is new data including data that was not previously disclosed which caused the addition of tax payable in the previous tax assessment letter. If new data is still found, including data that has not been disclosed at the time the additional underpaid tax assessments are issued, and/or new data, including data that was not previously disclosed, will be known later by the Director General of Taxes. Additional underpaid tax assessments can still be issued again.⁶

3. Zero Tax Assessment Letter (SKPN)

A zero tax assessment letter is issued if, after an inspection, it is found that the amount of tax credits or the amount of tax paid is the same as the amount of tax payable, or the tax is not payable and there are no tax credits or no tax payments. For each type of tax. A zero tax assessment letter is issued for:

- a. Income tax, if the amount of tax credit is the same as the tax payable or tax is not payable and there is no tax credit.
- b. Value added tax, if the amount of tax credits is equal to the amount of tax payable, or the tax is not payable and there are no tax credits. If there is tax collected by the value added tax collector, the amount of tax payable is calculated by means of the total output tax deducted by the tax collected by the value added tax collector.
- c. Sales tax on luxury goods if the amount of tax paid is equal to the amount of tax payable or tax is not payable and there is no tax payment.

4. Overpaid Tax Assessment Letter (SKPLB)

⁶Supriyadi, et al. "Evaluation of Objection Institutions in Fair Tax Dispute Resolution at the Directorate General of Taxes". *In the journal Indonesian Tax Journal* Vol.2, No. 2, 2018, page 13.

Overpaid tax assessments are issued for:

- a. Income tax, if the amount of tax credits (total tax paid) is greater than the amount of tax payable.
- b. Value added tax if the amount of tax credit is greater than the amount of tax stated. If there is a tax collected by the value added tax collector. The amount of tax stated is calculated by means of the amount of output tax minus the tax collected by the said value added tax collector, or;
- c. Sales tax on luxury goods, if the amount of tax paid is greater than the amount of tax payable.

Payers who have submitted objections based on these conditions should be provided with a letter of proof of receipt from the government agency where the objection was filed. The function of the objection acceptance letter is to provide legal certainty that the payer has entered the objection letter correctly. In addition to having entered the letter of objection correctly. In addition, it also functions as a means of control over government agencies that receive mandatory payment objections to issue stipulations on their objections. However, law Np. 20/1997 does not regulate this matter so that it opens the possibility that an objection that has been submitted turns out to take too long to complete.⁷

The legal basis for legal remedies for objections is regulated in Chapter V Article 25 and Article 26 of the Law of the Republic of Indonesia Number 6 of 1983 concerning General Provisions and Tax Procedures as amended in the Law of the Republic of Indonesia Number 28 of 2007. In the Law of the Republic of Indonesia Number 28 In 2007, objections are regulated in Article 25, Article 26, Article 26 A. The implementing regulations include the Regulation of the Minister of Finance Number 202/PMK.03/2015 concerning Procedures for Submitting Submissions and Settlement of Objections.

Based on the provisions in Article 25 of the Law of the Republic of Indonesia Number 28 of 2007 concerning General Provisions and Tax Procedures, it can be seen that objection legal remedies can be made by taxpayers against SKP KB (Tax Assessment Letters of Underpayment), SKP KBT (Tax Assessment Letters) Additional Underpayment), SKP LB (Overpaid Tax Assessment Letter), SKPN (Nil Tax Assessment Letter) and withholding by

⁷Adrian Sutedi. 2016. *Tax Law*. Jakarta: Sinar Graphics, pages 228-229.

third parties based on the provisions of tax laws and regulations.⁸

Meanwhile, independence in appearance is the result of other interpretations of this independence. For example, in fact, internal auditors can conduct audits that really cannot be done on a division, where the head of the division is the internal auditor's sibling. Even though it cannot work, most of the audit functions have been lost due to the special relationship between the internal auditor and the auditee. In relation to the objection, the Objection Reviewer will re-examine and test the Audit Result Report issued by the tax examiner function, who is a fellow tax officer. Disputes between the functional examiner issuing the Tax Assessment Letter and the taxpayer are resolved by the objection agency located in the regional office in charge of the tax service office.

At the point of objection, the equality of relations between taxpayers and tax authorities has the highest gap of all tax processes and practices in Indonesia. Therefore, no matter how objective an Objection Reviewer is in his work, it will still only strengthen independence in fact, but his independence in appearance is not fulfilled. In its implementation, the Directorate General of Taxes is required to hold discussions with taxpayers at closing. Discussions and requests for information and evidence from taxpayers are also carried out during the research process.

The Directorate General of Taxes, who has the authority to decide on Objections is the head of the regional office which in fact is still in charge of the parties to the dispute, namely the issuer of the Tax Assessment Letter, the head of the tax service office. It can even be said that an Objection is a tax dispute between the taxpayer and the Directorate General of Taxes, and it is the Directorate General of Taxes who resolves the tax dispute at the Objection stage. In line with that, Marbun explained that the tax dispute resolution model through the Objection process is a settlement through administrative efforts, namely dispute resolution where the settlement still includes the litigants namely Fiskus (Objection process) in dispute resolution and is intended to make it easier for justice seekers to obtain justice and obtain protection. law both for self-administration and for citizens. The researcher acts as a judge who decides where the position of the researcher is not an independent judge but is part of the administration so that it is categorized as Impure Administrative Justice.

The issue of independence is indeed a dilemma for the Objection Reviewers

⁸Muhammad Djafar Saidi, 2010, *Tax Law Renewal*, Jakarta: Rajawali Press, Page 63

considering the position of the Objection Reviewers is still under the auspices of the Directorate General of Taxes. However, the Objection Reviewers in this case always try to ensure that the audit is carried out in accordance with statutory procedures and always emphasizes that the audit is carried out in a neutral and impartial manner to both the DGT and the Taxpayer.

5. Mechanism for Taxpayers in Filing Objections

The role of the tax court Law number 14 of 2002 concerning the Tax Court is an instrument and legal means provided to resolve tax disputes between taxpayers and tax authorities . Judging from the structure and content of the law, it is felt that there is an imbalance in the position of taxpayers seeking justice and tax officers in the event of a tax dispute. There are 3 (three) things that will be discussed in this paper in relation to legal theory. These three things are perma, in terms of the formal form of the tax court which is under executive administrative authority. Second, in terms of substance, the tax court does not recognize appeals to provide opportunities for justice seekers to find the ultimate truth. Third, there is an obligation for justice seekers to deposit 50% of the value of the disputed money in advance to the government while the dispute is being investigated.

A just law is a law that provides space for justice seekers to be heard and considered when objections are convenient when other people's rights are violated or an obligation is imposed on them beyond what they should be carrying. A just law is also a law that is balanced in favor of justice and which was originally constructed to give equal opportunity to the parties to defend and share their rights. People will obey the law when the law reflects a feeling of balance and justice and is a sublimation of the people's legal awareness in general, this is known, among other things, in the doctrine of the theory of the rule of law.

Tax is a source of income for the state treasury which is used for development with the ultimate goal of people's welfare and prosperity. Therefore, the tax sector plays an important role in the development of the nation's welfare. However, it cannot be denied that it is difficult for the state to collect taxes, because the large number of non-compliant taxpayers in paying taxes is a challenge in itself. The government has provided leniency by giving advance warnings through tax returns (SPP), but still many taxpayers are negligent in paying taxes and not even a few tend to avoid this obligation. This encourages the government to create a mechanism that can provide coercive power for taxpayers who do not comply with the law.

One such mechanism is gizing or forced body. The existence of this institution is still controversial. Some people think that the application of forced corporal institutions is an exaggeration. On the other hand, there is also an opinion that this institution is needed to provide a potential deterrent effect in dealing with bad taxpayers.

Following are the rights of taxpayers according to the Law of the Republic of Indonesia Number 28 of 2007⁹

- a. Report several tax periods in 1 (one) period notification letter.
- b. Submit objection and appeal letters for taxpayers with certain criteria.
- c. Extend the period of submission of the annual income tax return for a maximum of 2 (two) months by submitting written notice or by other means to the Director General of Taxes
- d. Correct the notification letter that has been submitted by submitting a written statement, provided that the Director General of Taxes has not taken an audit action.
- e. Submit an application for refund of tax overpayment.
- f. Submit an objection to the Director General of Taxes on:
 - 1) Underpaid tax assessment letter
 - 2) Additional tax underpayment assessment letter
 - 3) Zero tax assessment letter
 - 4) Overpaid tax assessment letter
 - 5) Withholding or collection of taxes by third parties based on the provisions of tax laws and regulations.
- g. Submit an appeal to the tax court body on the objection decision letter.
- h. Appoint a power of attorney with a special power of attorney to exercise rights and fulfill obligations in accordance with the provisions of the tax laws and regulations.
- i. Obtain a reduction or elimination of administrative sanctions in the form of interest for late settlement of tax underpayments in the event that a taxpayer submits a correction to the annual income tax return prior to the 2007 tax year, which results in greater accrued tax and is made within a period of 1 (one)) years after the enactment

⁹Djarmiko . 2016, *Tax Disputes in Tax Court Mechanisms in Indonesia*, (Jakarta: MA Law and Public Relations Bureau, 2016), page 31-34.

of Law of the Republic of Indonesia Number 28 of 2007.

Taxpayers have rights that taxpayers can use or take advantage of at certain times. If their rights are violated by the tax administration, the taxpayer can submit this matter to the superior official of the person violating his rights, or if necessary submit it before the tax court institution. This grouping is based on the fact that there are differences in the rights held by the central taxpayer with the rights held by regional taxpayers. The difference is due to provisions regarding the fulfillment of rights between central taxpayers and regional taxpayers. Fulfillment of the central taxpayer's rights is regulated in the KUP Law, while fulfillment of the regional taxpayer's rights is regulated in the PRPD Law.

6. Objection to Income Tax and Value Added Tax

Under the applicable provisions, normatively, the emergence of tax objections begins with the effectiveness of the self-assessment function, namely, through supervision of formal SPT research, namely through tax audits in compliance testing, where the tax returns (SPT) that have been submitted by the taxpayer to the tax authorities (Tax Service Office) if after recalculation of the results of the audit, then based on Gross Income minus financing charges, you will get net income multiplied by the tax rate so that there is an underpaid / unpaid tax (determination of tax payable).

Therefore, the Head of the Tax Service Office in issuing this Tax Assessment Letter (SKP) can be in the form of a Zero SKP, Overpaid SKP, Underpaid SKP (SKPKB), Additional Underpaid SKP (SKPKBT) starting from a compliance test on the implementation of Laws in the field of taxation which is a pouring comes from the Tax Audit Results Report and Preliminary Audit Working Papers, this is where conflicts of interest often occur in determining the amount of tax, namely regarding differences in the calculation of the amount of tax that should be owed and should be paid by the Taxpayer, through the issuance of a tax assessment letter issued by the tax authorities. If the result of a tax audit through the issuance of a Tax Assessment Letter is a fulfillment of compliance with the embodiment of justice for the Taxpayer, then the Taxpayer's dissatisfaction in fulfilling the tax obligation has the right to file an objection, if it is deemed that the burden of the tax debt is not in accordance with its carrying capacity. Tax Objections raised are basically civil law conflicts in the field of public law, so that disputes that arise are the jurisdiction of the judiciary in the field of taxes, which can only be done at the Tax Court.

In general, for taxpayers who can submit objections to both Income Tax (PPh) as well as Value Added Tax and Sales Tax on Luxury Goods (PPN & PPnBM) and other Indirect Taxes that are subject to Tax Law appeals or Tax Lawsuits. In the provisions of Article 25 of Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures (KUP), among other things it is stated that Tax Objections can only be submitted by Taxpayers on a Tax Assessment Letter Underpayment, Additional Underpaid Tax Assessment, Overpaid Tax Assessment, Zero Tax Assessment, and Withholding or Collection through third parties based on laws and regulations in the field of taxation.

Prior to filing an objection, the taxpayer has the right to request written information on matters that form the basis for tax imposition, loss calculation, withholding by third parties to the Director General of Taxes through the local KPP. Upon request for this information, the Director General of Taxes is obliged to provide information. The conditions for filing an objection are as follows:¹⁰

- a. Objections must be submitted in writing using the Indonesian language, addressed to the Director General of Taxes (for Central Tax) through the local KPP or the Governor (for Provincial Tax), Regent/Mayor (for Regency/Municipal Tax);
- b. Must state the amount of tax owed or the amount of tax withheld or collected or the amount of loss according to the calculation of the Taxpayer and accompanied by clear reasons;
- c. One objection must be filed for one type and one tax year/period;
- d. Objections must be submitted within a period of 3 (three) months from the SKP, unless the Taxpayer can show that the said period cannot be fulfilled because it is beyond his control. If objections are submitted directly to the KPP, the period of 3 (three) months is counted from the date of SKPKB, SKPKBT, SKPLB, SKPN or since the withholding/collection by a third party until the objection is received by the Tax Service Office.

Furthermore, the procedures for submitting and settling objections are regulated in a Regulation of the Minister of Finance, which among other things regulates the granting of

¹⁰Mohammad Djafar Saidi, 2008, *Taxpayer Legal protection in Administration of Tax Disputes*, Jakarta: Rajawali Press, pages 167-168 .

rights to taxpayers to be present to provide information or obtain explanations regarding their objections. The decision of the Director General of Taxes on the objection of taxpayers, is likely to have legal consequences in the form of:

- a. Granted in its entirety;
- b. grant in part;
- c. Refuse, or
- d. Increase the amount of tax owed

Objections submitted by taxpayers are directed at the material or content of the form of legal action carried out by tax officials and withholding or tax collection in the form of:

- a. Loss amount;
- b. The amount of tax;
- c. Withholding or collection of taxes;
- d. Application of tax rates;
- e. Application of percentage norms for calculating net income;
- f. Application of administrative sanctions;
- g. Application of non-taxable income;
- h. Calculation of income tax in the current year; and
- i. Tax credit calculation.

Forms of legal action from tax officials in collecting taxes that can be objected are;¹¹

- a. Notice of tax payable;
- b. Tax assessments;
- c. Underpaid tax assessment letter;
- d. Additional underpaid tax assessment letter;
- e. Overpaid tax assessment letter;
- f. Zero tax assessment letter;
- g. Tax bill.

An application for filing an objection is made in writing in Indonesian and is addressed to the tax official in charge of the type of tax in dispute. The written application contains the reasons which form the basis for the said calculation. To be more convincing, the form of

¹¹ Andrian Sutedi, 2011, *Tax Law*, Jakarta: Sinar Graphic, page 231.

legal action from tax officials and tax collectors or collectors should be attached to the said written application. For example, an underpaid tax assessment letter of which the material or content is in dispute is attached or proof of withholding or collection of tax whose material or content is in dispute. This is intended so that the examination conducted by the tax official on the application letter can be completed in a not too long period of time.

The period for submitting objections as referred to in Article 25 paragraph (3) of Law of the Republic of Indonesia Number 28 of 2007 concerning General Provisions and Tax Procedures, only applies to objections related to income tax, value added tax, and sales tax on luxury goods . In a sense, Article 25 paragraph (3) of Law of the Republic of Indonesia Number 28 of 2007 concerning General Provisions and Tax Procedures does not apply to the period for filing objections regarding land and building taxes, fees for acquiring land and building rights, and regional taxes. The three types of taxes (land and building tax, fees for acquisition of land and building rights, and local taxes) also have provisions that specifically regulate the time period for submitting objections.

The objection period as referred to in the four provisions mentioned above, turns out to have the same period, namely 3 (three) months. However, the start-up period varies. As with Article 25 paragraph (3) of the Law of the Republic of Indonesia Number 28 of 2007 Concerning General Provisions and Procedures for Taxation, the period for submitting objections to income tax, value added tax, sales tax on luxury goods, and local taxes is effective from the date letters, withholding or collection of taxes. Because it is calculated from the date of the letter, withholding or collection of tax, it may happen that the three month period is not enough for filing an objection. For example, an underpayment assessment letter is dated February 3 2007, but the tax officer submitted it on April 3 2007, meaning that the period for filing an objection ends on May 2 2007. Thus, Article 25 paragraph (3) of the PDRD Law does not provide mandatory protection taxes in the settlement of tax disputes.

In contrast to the period for submitting objections to land and building taxes, as well as fees for obtaining land and building rights, starting from the date the letter is received by the taxpayer (see Article 15 paragraph (3) of the United Nations Law and Article 16 paragraph (3) of the Law BPHTB). Because the period for filing an objection is calculated from the date of receipt of the letter, whenever the taxpayer receives the letter, it means that at the same time the intended period is counted, thus Article 15 paragraph (3) of the United Nations Law and

Article 16 paragraph (1). 3) The BPHTB Law provides legal protection for taxpayers in the context of filing objections.

The period for filing an objection is three months, long enough for a taxpayer to prepare an objection to be submitted to the tax. Supposedly, the period of time is shortened or reduced, just one month, starting from the date of receipt of the letter or proof of tax withholding or collection. Likewise, regarding the force majeure provisions contained in article 25 paragraph (3) of the Law of the Republic of Indonesia Number 28 of 2007 concerning General Provisions and Procedures for Taxation, Article 15 paragraph (3) of the United Nations Law, Article 16 paragraph (3) The BPHTB Law, and Article 13 paragraph (3) of the PDRD Law, should simply be abolished, considering that this causes taxpayers to not adhere to the proper and correct timeframe for filing objections.

7. Permenkeu Effectiveness No. 202/PMK 03/2015 In Order to Provide Legal Protection for Taxpayers

Article 2 paragraph (1) Regulation of the Minister of Finance of the Republic of Indonesia Number 2020/PMK.03/2015 Concerning Amendments to Minister of Finance Regulation Number 9/PMK.03/2013 Concerning procedures for filing and settling objections, states:

- a. Taxpayers can submit objections only to the Director General of Taxes for:
 - 1) Underpaid Tax Assessment Letter;
 - 2) Less Additional Tax Assessment Letter;
 - 3) Overpaid Tax Assessment Letter;
 - 4) Zero Tax Assessment Letter; or Pay withholding or collection by third parties in accordance with the provisions of laws and regulations in the field of taxation.

Article 2 of Regulation of the Minister of Finance of the Republic of Indonesia Number 2020/PMK.03/2015 Concerning Amendments to Minister of Finance Regulation Number 9/PMK.03/2013 Concerning procedures for filing and settling objections, states:

- b. Taxpayers can submit objections only to the Director General of Taxes on a:

Taxpayers can only submit objections as referred to in point 8: paragraph (1) against the material or contents of a tax assessment letter, which includes the amount of loss in accordance with the provisions of laws and regulations in the field of taxation , the amount of the amount of tax, or to the material or content of the withholding or

collection ·

- c. In the event that there are reasons for the objection other than the material or contents of the tax assessment letter or withholding or collection of tax, these reasons are not considered in resolving the objection.
- d. The objection as referred to in paragraph (1) is submitted by the Taxpayer by submitting an Objection Letter.
- e. The objection letter as referred to in paragraph (5) is made using the same format as listed in Appendix I which is an integral part of this Ministerial Regulation.

Based on the provisions of the Article above, it can be seen that the taxpayer is given the right, namely to file an objection but is limited to something regulated in the Regulation of the Minister of Finance of the Republic of Indonesia Number 2020/PMK.03/2015 concerning Amendments to the regulation of the minister of finance number 9/PMK.03/2013 concerning procedures for submitting and resolving objections.

Law enforcement is a series of activities, efforts and actions through the organization of various instruments to realize what the law or law drafters aspire to. In the sense of law enforcement, it also includes counselling, outreach, and education as well as guidance so that taxpayers can follow and comply with tax laws in accordance with what is desired by laws or regulations in the field of taxation.

The general elucidation of Law Number 14 of 2002 states that in the case of an appeal being filed against the large amount of tax payable, the settlement of tax disputes through the Tax Court requires the Taxpayer to pay off 50% (fifty percent) of his tax obligations first. Even so, the tax dispute resolution process through the Tax Court does not hinder the tax collection process.

There are three imbalances, namely first, the existence of disputes is only recognized after the tax authorities determine the amount of tax liability or tax burden for taxpayers. Second, in the process of proceedings at the court of appeal, the judge is only required to hear the statement of the respondent unilaterally, while requests for justice are not required to be heard. Third, in the case of a taxpayer submitting an appeal, the person concerned must first pay or pay off 50% of his tax obligations.

The obligation to submit 50% of the disputed amount will be able to significantly affect the liquidity capacity or financial solvency of justice seekers. Apart from that, the

principle of presumption of innocence seems to be neglected in situations that require the payment of half of the disputed amount. The imbalance in the legal position of taxpayers in tax disputes is as follows.

- a. The absence of direct sanctions for officers who harm the taxpayer.
- b. Obligation to pay part of the dispute

Based on the provisions in Article 36 paragraph (4) of the Tax Court Law, it is stated that an appeal may only be made if the appellant has paid 50% of the disputed amount. On the other hand, this seems to reflect the injustice inflicted on the tax court environment on the taxpayer or tax bearer. By paying 50% in advance, aside from being economically burdensome to justice seekers, it also essentially implies that there is a strong belief that the decision taken by the tax official is correct. Moreover, it should be noted that the enormous authority given (vested in) to the tax court.

Opportunities for taxpayers to win in tax disputes at objection level. The problem that occurs is that many dispute requests that were initially rejected at the Objection level turned out to be won by the Tax Court when the taxpayer filed an appeal. Although they have prepared the formal and material aspects of filing an objection, the Objection Reviewers tend to defend the SKP results issued by the tax examiners and do not consider the taxpayer's arguments. Taxpayer dissatisfaction is reflected in the number of taxpayers who filed appeals even though their objections have been rejected.

Taxpayer dissatisfaction with the results of objection decisions where the majority reject all or only partially grant objections is a reason to say that the objection process they are requesting is unfair. In 2016, out of 9,042 objection files submitted by taxpayers, only 7.92% or around 716 requests were granted in full. A total of 19.74% or around 1,784 were partially granted. In fact, as many as 77.63% or around 7,019 requests were rejected by the Directorate General of Taxes. Almost the same as in 2016, in 2017 (data as of October), only 8.56% of objection requests were granted by the Directorate General of Taxes or only around 362 of 4,230 objection files. A total of 19.74% or around 835 requests that received a decision were partially granted, and there were 71.70% that were rejected or around 3,032 requests.

Over the past 4 years, decisions against objections have always been above 70% per year. Meanwhile, the decision to grant part of the WP's Objection requests was in the

second highest position, namely 13.27% in a total of 4 years. This phenomenon shows how small the chance for the taxpayer to win in a tax dispute at the objection level. The problem that occurs is that many dispute requests that were initially rejected at the Objection level turned out to be won by the Tax Court when the taxpayer filed an appeal.

E. Conclusion

1. The legal basis for legal remedies for objections is regulated in Chapter V Article 25 and Article 26 of the Law of the Republic of Indonesia Number 6 of 1983 as amended in the Law of the Republic of Indonesia Number 28 of 2007 concerning General Provisions and Procedures for Taxation. In the Law of the Republic of Indonesia Number 28 of 2007 concerning General Provisions and Procedures for Taxation, objections are regulated in Article 25, Article 26, Article 26 A. The implementing regulations are regulated in the Regulation of the Minister of Finance Number 202/PMK.03/2015 concerning Administration the procedure for filing submission and settlement of objections in the regulation provides legal certainty in terms of implementation and settlement in filing objections by taxpayers.
2. Based on the Application for Regulation of the Minister of Finance Number 202/PMK.03/2015 concerning Procedures for Submitting Submissions and Settlement of Objections, taxpayers can submit objections to the Director General of taxes made in writing in Indonesian and addressed to the tax official in charge of the type of tax in dispute, The period for filing an objection is three months. The Director General of Taxes is obliged within a maximum period of 12 (twelve) months from the date the objection letter is received must make a decision on the objection.
3. Effectiveness with the Regulation of the Minister of Finance Number 202/PMK 03/2015 has Provided Legal Protection for Taxpayers because in this regulation it is made regarding the rights of taxpayers namely filing objections in accordance with what is regulated in Minister of Finance Regulation Number 202/PMK 03/2015 concerning Governance How to Submission and Settlement of Objections With such objections there will be legal certainty contained in the regulation regarding the implementation and resolution of objections by taxpayers to the Director General of Taxes.

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