Settlement of Tax Disputes Through the Application of the Principle of Equity

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Abstract

Tax is a mandatory financial contribution or obligation where individuals are required to allocate a portion of their wealth or income to the government. This process allows the government to access some of society's financial resources for the benefit of the country as a whole. In tax collection, the basic principle of equality is applied. This principle underlines that taxation must be applied impartially, without discrimination. People in similar circumstances should face the same tax rates, and there should be no deviation from applicable laws in tax collection. Fulfillment of this principle guarantees a tax system that prioritizes justice, and all forms of tax collection are carried out in accordance with legal limits, thus providing legal certainty for taxpayers. The research method used is a normative juridical approach, and the data collected in this research is secondary data.

Keywords: Tax, Tax Collection, Principle of Equality
INTRODUCTION

Taxation is a mandatory financial obligation, requiring individuals to allocate a portion of their wealth or income to the government. This mandatory contribution serves as a means for the government to access some of society's financial resources, which ultimately contributes to the welfare and development of the country. Payment of taxes is a mandatory requirement, and any negligence or failure to fulfill this responsibility may result in enforcement action being taken by regulatory authorities.

The definition of tax according to Law Number 28 of 2007 Article 1 is "Tax is a mandatory contribution to the state that is owed by an individual or entity that is coercive based on law without receiving direct compensation and is used for the greatest needs of the state for prosperity people."

Taxes have several functions, including:
1. Revenue Function (Budgetair): Taxes function as the main source of funds to finance government expenditure, playing an important role in the State Revenue and Expenditure Budget (APBN).
2. Regulatory Function (Regular): Taxes can be used as a regulatory tool to implement policies in the social and economic fields, such as Value Added Tax ("VAT") and Excise Tax.
3. Income Redistribution Function: Tax revenues are used by the government to finance national development projects, create jobs, and increase people's incomes through investments in infrastructure, education, health, and other essential services.
4. Function of Democracy: Taxation is a form of mutual cooperation between citizens and the government in a democratic system. Government services and facilities to taxpayers are an important aspect of this function, ensuring that citizens receive benefits and services in return for their tax contributions.

Taxes are systematically classified into various types, and the overall categorization includes three main groups: grouping based on the method of taxation, grouping based on the nature of the tax, and grouping based on tax collection institutions.

The first classification, based on the method of taxation, differentiates between Direct Taxes and Indirect Taxes. Direct Taxes are levied directly on taxpayers, the burden of which is solely borne by individuals and an example is PPh (Income Tax). On the other hand, Indirect Taxes allow for the transfer or delegation of taxes to other entities, usually related to certain activities or transactions, as exemplified by VAT (Value Added Tax).

The second classification, centered on the nature of taxes, distinguishes between Subjective Taxes and Objective Taxes. Subjective Tax takes into account the personal circumstances of the taxpayer, adapting tax decisions to the individual situation, as seen in the case of PPh (Income Tax). However, Objective Tax is imposed based on certain objects, circumstances, actions or events, without regard to the taxpayer's personal data. VAT, Sales Tax on Luxury Goods (PPnBM), and Land and Building Tax (PBB) are included in the Objective Tax umbrella.

The third classification focuses on tax collection institutions which are divided into State Tax (Central Tax) and Regional Tax. State Taxes, which are imposed by the central government, contribute to funding general national expenditure and include taxes such as PPh, VAT and Sales Tax on Luxury Goods (PPnBM). In contrast, Regional Taxes are imposed by regional governments at both the provincial and district/city levels, financing regional expenditure through taxes such as motor vehicle tax, hotel tax, restaurant tax, ground water tax, and fees for acquiring land and building rights. Adam Smith's Principles, commonly known as Smith's Canons, are a set of tax principles intended to serve as a universal guide for all countries. These principles, which consist of four principles, outline the fundamental considerations for a fair and effective tax system.
The first principle, Equality or Equity, underlines the importance of implementing taxation without discrimination. The agency advocates uniform tax rates for similarly situated individuals, with a commitment to avoid deviation from established law. By prioritizing justice, this principle guarantees that all tax collections are based on legality, thereby providing a sense of legal certainty for taxpayers.

The second principle, Certainty or predictability, emphasizes the clarity of tax law and rejects arbitrary decisions. This includes legal guarantees that protect the rights of taxpayers, precise definitions of tax objects, clear descriptions of taxpayer obligations, clear determination of tax amounts, and clear determination of tax groups. This principle seeks to build a transparent and predictable tax framework.

The third principle, Ease of payment, states that taxes should be collected at the most appropriate time, such as during the harvest season or when income is earned. The aim is to make paying taxes convenient and feasible for taxpayers, aligning the collection process with practical considerations.

The fourth principle, Economy in collection, underlines the need for efficiency and cost effectiveness in tax collection. This principle advocates a simplified process that incurs minimal costs while generating significant revenue for the government. This emphasizes the importance of optimizing the efficiency of tax collection mechanisms to benefit the government and taxpayers.

RESEARCH METHODS

In this research, the type of research used is normative research, which mostly relies on reviewing library materials or secondary data. These sources include primary legal sources and secondary legal sources. This method allows a thorough examination of the legal dimensions related to the research subject. Normative legal research directs its attention to various dimensions, which include positive legal analysis, identification of legal principles and doctrines, examination of legal cases in practical scenarios, legal systematics, evaluation of coherence in legal systems, comparative legal analysis, and an exploration of legal history. Through the application of this methodology, the aim of this research is to increase understanding of legal concepts and contribute to the expansion of knowledge in the field of law.

RESULTS AND DISCUSSION

How Taxes Are Collected in Indonesia

In general, taxes in Indonesia are divided into two categories: Central Taxes and Regional Taxes. Central Taxes, which are supervised by the Central Government and partly managed by the Directorate General of Taxes under the Ministry of Finance, include PPh—the income tax on Indonesian residents. Regional Taxes are under the management of the Regional Government at both the Provincial and Regency/City levels. Different types of taxes can be classified as follows:

1. Income Tax: A direct tax imposed by the central government on the income of individuals domiciled in Indonesia.
2. Value Added Tax (VAT): Imposed on the consumption of Taxable Goods or Taxable Services within the Customs Area, applies to individuals, companies and governments who consume these goods or services.
3. Sales Tax on Luxury Goods (VAT BM): Applies to certain luxury goods in addition to VAT, targeting non-essential goods consumed by high-income people, which reflects social status.
4. Stamp Duty: Applies to documents that use stamps, stamp machines, seals, or tax deposit letters.
5. Land and Building Tax (PBB): Land and building tax on immovable property, including land and buildings.
6. Land and Building Rights Acquisition Fee (BPHTB): Charged for the acquisition of land and/or building rights, the entire income of which is handed over to the Regional Government.

Apart from taxes managed by the Central Government, Regional Governments, both Provincial and Regency/City, also collect taxes, including:

1. **Provincial Tax:**
   a. Tax on Motor Vehicles and Water Vehicles
   b. Fees for Transferring Names of Motor Vehicles and Water Vehicles
   c. Motor Vehicle Fuel Tax
   d. Tax on Extraction and Utilization of Ground Water and Surface Water

2. **Regency/City Tax:**
   a. Hotel Tax
   b. Restaurant tax
   c. Entertainment Tax
   d. Advertising/Advertisement Tax
   e. Street Lighting Tax
   f. Class C Mineral Extraction Tax
   g. Tax on Extraction and Utilization of Ground Water and Surface Water

There are three systems used to determine and assess individual tax amounts:

1. **Official Assessment System:** The tax officer or authority calculates and determines the tax owed, with the taxpayer playing a passive role.
2. **Self Assessment System:** Taxpayers actively calculate, deposit and report taxes to the Tax Service Office, while the authorities provide information and supervision.
3. **Withholding System:** A third party, not the taxpayer or tax officer/fiscus, calculates and withholds the applicable tax, which determines the amount owed.

In Indonesia, the government regulates various taxes, including Income Tax (PPh), Value Added Tax (PPN), and Land and Building Tax (PBB). An important framework for tax collection is the Self-Assessment System, which gives taxpayers the responsibility to report, calculate and fulfill their tax obligations independently in accordance with established regulations.

Indonesia's Land and Building Tax (PBB) applies a semi-self-assessment collection system. In this approach, tax authorities take a more proactive and collaborative role in determining and calculating the taxes due. The collected tax is then distributed to the regional government through the Regional Revenue Service, based on the Tax Object Notification Letter (SPOP) submitted by the taxpayer or verified by the tax authorities in the field. Regional governments usually through sub-districts/villages issue tax debt notification letters (SPPT) to taxpayers and supervise the management of PBB payments. Taxpayers have the freedom to make payments at the designated Bank/Post Office listed in the SPPT or choose electronic methods such as ePayment. Electronic transactions can be carried out via Automated Teller Machines (ATM), Internet Banking, or online Bank Tellers throughout Indonesia. The policies regulated by the government through the Directorate General of Taxes aim to simplify the fulfillment of tax obligations for taxpayers, thereby ultimately increasing compliance and awareness. The main objective is to minimize obstacles for taxpayers and ensure that state revenue targets, especially Land and Building Tax, are achieved optimally.
How to Apply the Principle of Equality in Tax Collection

The tax collection process in Indonesia faces ongoing challenges that impact central and regional taxes. Many factors hinder the effectiveness of tax collection, especially due to the erosion of public trust in tax institutions, and this concern is exacerbated by the increase in corruption cases involving tax officials. Whether related to central or regional taxes, common obstacles are complicated guidelines, conflicting regulations, and complications arising from tariff adjustments. The process of implementing tax rate changes is complex and time-consuming, and conflicts between existing guidelines and laws create major obstacles in determining appropriate rates. In addition, challenges arise due to unclear differences between regional taxes and national taxes, making the tax collection process even more difficult.

The Indonesian tax system consists of regional taxes and national taxes, which impose a large burden on society. To ensure fairness in tax policy and equal distribution of this burden, maintaining the integration of regional taxes with national taxation in line with comprehensive national principles is very important. Consistency in terms of levies, especially regarding certain levies and tariffs, is very important to ensure the effectiveness of complementary regional and national levies. The authorities face major challenges due to lack of information base and non-compliance with international guidelines. A strong information base is essential to validate the accuracy of cost assessments within a self-evaluation framework. In addition, public perception that funds collected by public authorities are often used inefficiently or corruptly hinders efforts to improve public tax compliance. Communities who are burdened by various types of taxes, both official and unofficial, both at the central and regional levels, have a very important role in supporting the overall tax collection process. In addition, the enforcement of effective legal measures to ensure that state officials fulfill their tax obligations makes a significant contribution to overcoming this challenge.

The principle of fairness in tax collection in Indonesia is rooted in several main principles in the taxation system. These principles are designed to ensure fair tax collection without overburdening taxpayers. The following are the main principles that guide fairness in tax collection in Indonesia:

1. Equality Principle: This principle emphasizes equal treatment of every taxpayer in the field of tax collection. This agreement explicitly prohibits discrimination or preferential treatment based on factors such as social status, gender, or religion. The aim is to uphold justice for all taxpayers.

2. Ability-to-Pay Principle: Focusing on the taxpayer's economic capacity, this principle states that tax collection must be in line with the taxpayer's ability to pay. This aims to prevent excessive burdens on those with low economic capabilities, and foster fairness in the distribution of the tax burden.

3. Benefit Principle: The Benefit Principle argues that taxes should be imposed based on the benefits that taxpayers obtain from public services or infrastructure funded by tax revenues. For example, taxes for highway maintenance must be collected from motor vehicle owners who directly benefit from highway use. This principle establishes the relationship between the tax burden and the benefits received.

4. Efficiency Principle: This principle emphasizes the need for efficiency in tax collection. Governments are urged to collect taxes in an efficient and effective manner, ensuring that the costs and efforts invested in tax collection are commensurate with the amount of tax collected. The aim is to optimize resource utilization in the tax collection process.

The application of the principle of justice in tax collection in Indonesia is strengthened by various tax laws which regulate the rights and obligations of taxpayers, as well as transparent tax collection mechanisms. Agencies such as the Directorate General of Taxes play an important role in ensuring that tax provision is in line with the principles of justice.

However, despite these efforts, there are still challenges in fully realizing the principle
of fairness in tax collection in Indonesia. Important challenges faced are significant economic disparities among taxpayers, examples of tax avoidance, and the effectiveness of government administration in implementing tax collection. Ongoing efforts are directed at increasing fairness in tax collection, which includes tax reform initiatives and initiatives to increase taxpayer awareness of their obligations.

Tax fairness serves as an important criterion in shaping tax systems, emphasizing that taxpayers must make a fair contribution to government costs. This justice extends to both vertical and horizontal dimensions, with vertical justice emphasizing that individuals with higher incomes should pay more taxes, while horizontal justice states that individuals with the same income should pay an equivalent amount of taxes. Vertical justice focuses on taxpayers, while horizontal justice looks at the object or aspect of taxation.

The tax reform implemented in Indonesia towards the end of 1983 marked a significant change from an official assessment system to an independent assessment system. This change is not an assessment of the superiority of one system over another, but rather a response to the dynamics of society that continues to develop. This transformation aims to adapt the tax system to societal developments, especially considering the government's success in implementing development initiatives since gaining independence. The shift in the tax collection system reflects strategic adjustments that are in line with changing needs and circumstances of society, thereby supporting effective tax collection.

The self-assessment system is a contemporary tax legal framework that is in line with the national philosophy which views tax payments as a form of national collective cooperation, in line with the spirit of Pancasila. The main principles inherent in the general self-assessment system governing tax collection include:

1. Balanced Obligations: Tax obligations imposed on taxpayers must be balanced with the obligations of the tax manager (fiscus).
2. Equivalent Rights: Obligations imposed on Taxpayers should give rise to commensurate rights. The obligation to repay the tax credit must be balanced with the right to receive a refund of the overpayment.
3. Good Governance: Tax administration must adhere to the principles of good governance, ensuring immediate correction of errors in tax assessments and decisions based on these principles.
4. Empathy towards Human Errors: Human errors made by Taxpayers in fulfilling their tax obligations are responded to with empathy. Taxpayers are allowed to correct their mistakes, but if it results in underpayment, the taxpayer is obliged to pay along with interest penalties if paid after the due date.
5. Uniform Criminal Sanctions: Criminal acts related to tax obligations are subject to uniform criminal sanctions, varying based on the severity of the violation.

The self-assessment system reflects the state's trust in taxpayers, viewing them as individuals who have the freedom to make decisions autonomously based on rational thinking to fulfill legal obligations. The system outlined in Article 12 of the KUP Law is in line with philosophical teachings which emphasize human freedom of choice put forward by thinkers such as Plato and Aristotle.

The fairness of taxes imposed on the public can be measured using two approaches, namely the benefit principle and the ability to pay principle. Public service levy collection can be carried out professionally, progressively, or regressively based on differences in consumer opinion. Progressive tax rates are considered the fairest, while the special benefits concept argues that taxes are imposed on benefits received, such as taxes relating to certain goods and services. However, when taxes directly related to these benefits become expensive, taxes can be imposed on complementary goods to maintain balance, as seen in the case of SWP3D. The mandatory contribution to the development and maintenance of regional infrastructure is borne
by motorized vehicles, even though the main purpose is to maintain roads.

In the concept of ability to pay, the focus shifts from the relationship between taxes (income side) and benefits (expenditure side). On the other hand, determining the amount of services that must be provided precedes individual taxpayers making contributions based on their respective abilities. Various measures are used to assess ability to pay, including:

1. Income (Income)
2. Consumption
3. Wealth (wealth)

In addition to these steps, the taxpayer's situation is also an important consideration. Challenges arise in determining minimum living standards or primary needs. Some experts argue that primary needs include more than just basic physical needs; it includes all the essential requirements for living in accordance with human dignity, while taking into account applicable societal norms. However, there is a consensus that spending on luxury goods and social needs that differentiate one's status from others should be excluded from primary needs. The composition of a family is also influenced by external factors, such as:

1. State Financial Condition
2. Income Distribution
3. Purchasing Power of Money

In line with the carrying style theory adopted in Indonesian Law Number 36 of 2008 concerning Income Tax, there is a concept of minimum living costs which includes basic needs such as food, clothing and shelter. This concept is operationalized through the provision of Non-Taxable Income (PTKP) which depends on variables such as the taxpayer's marital status (married/unmarried) and the number of dependents (maximum three people). This approach seeks to set fair and realistic thresholds, ensuring that individuals are not unduly burdened by taxes, especially considering their essential living needs.

Government Regulation Number 23 of 2018 regulates Final Income Tax which is intended for Taxpayers who have gross turnover of up to 4.8 billion Rupiah in one tax year as intended in Article 4 Paragraph (2). Notable changes include reducing the Final Income Tax rate on Certain Gross Income from 1% to 0.5% of turnover. Monthly tax payments must be paid before the 15th of the following month, depending on the taxpayer's monthly income. This is different from Government Regulation Number 46 of 2013 which does not provide a time limit for the imposition of Final Income Tax rates. PP Number 23 of 2018 stipulates the period for applying the Final Income Tax rate of 0.5% which varies for individuals (7 years), business entities, cooperatives and CVs (4 years), and Limited Liability Companies (PT) (3 years).

This change in PP 46 of 2013 was due to pressure, especially from Micro, Small and Medium Enterprises (MSMEs) who considered the Income Tax rate to be too high. Therefore, the President directed the Director General of Taxes and the Minister of Finance to review total tax revenues, especially from MSMEs, and determine the percentage of tariff relief. The reduction in rates aims to ensure fairness for business actors, especially MSMEs, so that they are able to pay taxes according to their ability.

Moreover, PP Number 23 of 2018 seeks to increase the involvement of MSMEs in formal economic activities by simplifying payments and tax imposition. This also guarantees fairness for taxpayers with certain gross turnover who maintain good bookkeeping, so that they can be subject to Income Tax based on the rates in Article 17 of the Income Tax Law—an option that does not exist in Government Regulation Number 46 of 2013. Government Regulation Number 23 of 2018 emphasizes fair tax collection compared to PP 46 of 2013, because MSME income tax is now based on net income and is subject to general rates regulated in the applicable Income Tax Law.

Determining income tax liability involves assessing subjective circumstances and evaluating whether income meets tax criteria. However, Law Number 36 of 2008 faces
complications because it appears to only regulate income tax obligations for those carrying out traditional economic activities, and ignores considerations for entities carrying out digital economic activities. The rise of online or digital strategies creates challenges, especially with the absence of provisions for foreign parties involved in Indonesia's digital economy without a permanent business form. The law lacks guidance regarding managerial roles, company branches, physical facilities, and various activities. This also applies to agents, employees of foreign insurance companies, and providers of electronic transactions with computers, electronic agents, or automated equipment.

The current situation creates a scenario where foreign participants in the digital economy appear to be avoiding their income tax (PPh) obligations in Indonesia, as they fall outside the scope of Article 2 of Law Number 36 of 2008. Currently, the income identification criteria of tax subjects in Indonesia aligned with the OECD Model Tax Treaty, an internationally accepted standard. However, the OECD Model tax treaty relies on an outdated framework that uses physical presence to determine income tax liability based on the presence or absence of a permanent establishment. This approach results in an inherent imbalance between countries of origin and residence, thus perpetuating the unfair imposition of income taxes on economic actors, both domestic and foreign, in all jurisdictions that follow the OECD Model tax treaty.

Considering the principle of justice, it appears that there is inherent injustice in the application of income tax (PPh) in Indonesia as regulated in Law Number 36 of 2008. This injustice arises from the situation where digital economic activities are carried out in Indonesia, with some actors being subject to income tax while the perpetrators others are exempt. To overcome this problem, Indonesia, in line with the OECD Model Tax Agreement, must consistently seek global consensus, by prioritizing the implementation of income tax as outlined in Article 6 paragraph (6) of Law Number 2 of 2020. Achieving international harmony is very important in realizing that matter. building a fair and equitable taxation framework that takes into account the ever-evolving landscape of digital economic activity.

If a global consensus led by the OECD is difficult to achieve, the government still has the option to implement Electronic Transaction Tax (PTE) as intended in Article 6 paragraph (8) of Law Number 2 of 2020, taking into account certain conditions at that time. finalization. This step aims to create equality between domestic and international participants involved in digital economic activities. However, the non-implementation of Income Tax (PPh) or Electronic Transaction Tax (PTE) could pose a risk to the compliance of income tax entities and domestic economic actors, as well as income tax subjects in general.

Referring to USTR investigations in France, the government incorporated the perspectives of Smith (1962), Leon (1998), and Langen (1954) into the regulations regarding Income Tax (PPh) or Electronic Transaction Tax (PTE) in Law Number 2 of 2020. This ensures that there are no discriminatory elements which can be seen from the consistency of the nomenclature of the types of tax applied to income charged to Taxpayers, whether obtained through traditional or digital means, which is called Income Tax (PPh) or Electronic Transaction Tax (PTE). In contrast, France's GAFA Tax appears to specifically target large American digital companies such as Google, Apple, Facebook, and Amazon. To emphasize the principle of fairness in tax regulations related to digital economic activities, the government should include these provisions in Government Regulations derived from Law Number 2 of 2020, which regulate rates, bases of imposition and tax procedures for digital economic entities that carry out activities through media. social. This comprehensive approach aims to ensure fairness of income tax regulations for digital economic activities without causing confusion.
CONCLUSION

In Indonesia, taxes are broadly categorized into Central Taxes and Regional Taxes. Central Tax is under the jurisdiction of the Central Government and is partly supervised by the Directorate General of Taxes, a division of the Ministry of Finance. One of the prominent central taxes is PPh, a direct tax levied on the income of residents in Indonesia. Meanwhile, Regional Taxes are administered by the Regional Government at both the Provincial and Regency/City levels. This discussion covers various types of taxes managed by the Central and Regional Governments, exploring various tax collection systems such as the Official Assessment System, Self-Assessment System, and Withholding System. Land and Building Tax (PBB) is highlighted as an example of a semi-self-assessment system, illustrating the diversity of tax structures and collection methods in Indonesia.

To achieve tax fairness, principles such as Equality, Capability, Benefits and Efficiency are the basis for determining the amount of tax that must be paid by individuals. The government oversees various taxes, including Income Tax, VAT, and PBB, with a focus on the Self-Assessment System to improve taxpayer compliance. However, there are still challenges faced, such as the loss of public trust in tax institutions and other factors that hinder the effectiveness of tax collection.

Efforts to improve tax knowledge and disseminate information to the public regarding rights, obligations and the tax system are very important. This is expected to mitigate the loss of public trust in tax institutions. Transparency and accountability in tax management by both the Central and Regional Governments also need to be improved, so as to facilitate public access to information on the use of tax funds. Intensive outreach regarding the Self-Assessment System, especially regarding Income Tax, is very important to increase awareness and encourage compliance. Reforms in the tax structure can be implemented to ensure fairness and effectiveness.

ACKNOWLEDGE

The author would like to sincerely express his gratitude to all parties who have participated and made valuable contributions to this research. We would like to express our thanks to all individuals and institutions who have provided extraordinary assistance and support in facilitating the progress of this research. As for all those who have provided support, advice and technical assistance during the research process, we would like to express our deepest gratitude for their significant contributions to the smooth completion of this research.

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