



ISSN 2809-672X (Online)

IUS POSITUM (Journal of Law Theory and Law Enforcement)

Vol. 1 Issue. 4, October 2022

<https://journal.ifpublisher.com/index.php/ilte>

## Legal Protection for Taxpayers Participants of Voluntary Disclosure Program in the Law on Harmonization of Tax Regulations

Achmad Subagyo<sup>1\*</sup>

[tam.achmad@gmail.com](mailto:tam.achmad@gmail.com)

Postgraduate of Narotama  
University Surabaya

Saiful Abdullah<sup>2</sup>

[saiba.albangkalani@gmail.com](mailto:saiba.albangkalani@gmail.com)

Undergraduate of Law Faculty in  
Airlangga University Surabaya

Moh. Saleh<sup>3</sup>

[saleh.nwa@gmail.com](mailto:saleh.nwa@gmail.com)

Law Lecturer of Narotama  
University Surabaya

\*Corresponding Author: Achmad Subagyo

Email: [tam.achmad@gmail.com](mailto:tam.achmad@gmail.com)

### ABSTRACT

*The tax laws and regulations have changed many times, but these changes have not had a strong impact in terms of fulfilling the tax function as a regulator and source of financing for state administration and national development, especially during this Covid-19 pandemic. Therefore, the government regulates and changes several provisions in the field of taxation, such as Law No. 11/2020 concerning job creation and Law No. 7 concerning HPP (Harmonization of Tax Regulations). Minister of Finance stated that the HPP Law would provide provisions for the government to overcome disruption or shock of Covid-19 after effect. The objectives of this research are to describe the analysis of asset arrangements that must be reported in the Voluntary Disclosure Program and analyze legal remedies that can be taken by taxpayers who experience losses as participants. This research used a normative type of research. The approach used in this research is a descriptive analysis. The source data of this research consist of primary and secondary legal materials. In addition, the data collection used library research. Taxpayers participating in the Voluntary Disclosure Program can take legal action against all disputes related to the Tax Amnesty Program through an Objection Application when the Taxpayer receives an SKPKB (Tax Underpayment Assessment Letter). Meanwhile, based on the decision of the Director General of Taxes, apart from the issuance of SKPKB, it can only be resolved through a lawsuit to the Tax Court.*

**Keywords:** Tax, Taxpayer, Voluntary Disclosure Program Participants

## INTRODUCTION

Indonesia is a state of law, which has the will to create justice and prosperity for the entire nation. The tax obligation is stated in Article 23A of the 1945 Constitution, where it is emphasized that tax is a levy that is coercive in nature so it must be regulated by law. It is coercive because it contains legal sanctions in the form of administrative sanctions or criminal sanctions.

Tax law is a supporting tool that gives the government the authority to obtain financial status in the implementation of state obligations, as stated in paragraph IV of the Preamble to the 1945 Constitution such as "Protecting all the Indonesian people and the entire homeland and advancing public welfare, educating the nation's life, and participating in carrying out world order based on eternal peace and social justice."

The tax set in the form of a law has two functions, namely the budget function (*budgetair*) and the regulating function (*regureland*).<sup>1</sup> The budget function and the regulating function are absolute as stated in the Tax Law, including in its implementing rules, where both functions should be carried out in harmony. However, the purpose of law in the form of justice, usefulness and legal certainty should not be ignored. Therefore, the Tax Law absolutely reflects its function to fill the state treasury and the function of regulating the state economy with the aim of providing justice, benefit and legal certainty.

The tax reform began in 1983, after previously collecting taxes based on philosophical taxation rules, the concept of a state and an inappropriate organizational structure due to inheriting from the legal products of the Dutch East Indies government.<sup>2</sup> Based on the tax reform, the DPR and the Government enacted several Tax Laws, some of them are:

1. Law No. 6/1983 concerning General Provisions and Tax Procedures,
2. Law No. 7/1983 concerning Income Tax,
3. Law No. 8/1983 concerning Value Added Tax.

In line with the dynamics of economic development with all models and behaviors that are in line with the development of the economic sector and more importantly the need to fulfill the tax function as a regulatory and budgetary tool, the tax laws and regulations have changed many times. This shows that Tax Law is a very dynamic law. However, the changes that have occurred have not yet had a strong impact on the fulfillment of the tax function as a regulator and source of

---

<sup>1</sup> A.A Gede Diotama, I Nyoman Putu Budiarta, and Ida Ayu Putu Widiati, "Perlindungan Hukum Bagi Wajib Pajak Dalam Sengketa Pajak Daerah Di Kabupaten Badung," *Jurnal Konstruksi Hukum* 3, no. 1 (January 24, 2022): 153–159, <https://ejournal.warmadewa.ac.id/index.php/jukonhum/article/view/4411>.

<sup>2</sup> Endang Larasati, "Reformasi Perpajakan Untuk Penciptaan Keadilan, Peningkatan Kepatuhan, Dan Penguatan Fiskal" (Indonesia: Badan Kebijakan Fiskal, Kementerian Keuangan, 2021), [https://fiskal.kemenkeu.go.id/files/siaran-pers/file/1634008572\\_siaran\\_pers\\_uu\\_hpp\\_keadilan\\_kepatuhan\\_kekuatan\\_fiskal.pdf](https://fiskal.kemenkeu.go.id/files/siaran-pers/file/1634008572_siaran_pers_uu_hpp_keadilan_kepatuhan_kekuatan_fiskal.pdf).

financing for state administration and national development, especially during this pandemic.

During this Covid-19 pandemic, there are two Government initiative laws, which regulate and amend several provisions in the field of taxation. The first is Law No. 11/2020 concerning Job Creation that has been implemented on November 2, 2020, the second is Law No. 7 concerning Harmonization of Tax Regulations, hereinafter referred to as the HPP Law, which was promulgated by the Government on November 5, 2021.

Minister of Finance stated that the HPP Law would provide provisions for the Government to overcome *disruption* or *shock* of Covid-19 after effect.<sup>3</sup> The HPP Law also makes the tax system have better governance, fairness, and legal certainty. The Minister of Finance assessed that the HPP Law was able to increase voluntary compliance from taxpayers.

The Law on Harmonization of Tax Regulations amends and adds regulations related to taxation, namely:

1. Amending the Law on General Provisions and Tax Procedures (UU KUP)
2. Amending the Income Tax Law (UU PPh)
3. Amending the Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods ( VAT Law)
4. Regulates Taxpayer Voluntary Disclosure Program
5. Regulating carbon tax

The Voluntary Disclosure Program is listed in Chapter V of the HPP Law starting from article 5 to 12, where the regulation is as set out in the Chapter Remembering the HPP Law that this program is a continuation and is related to Law No. 11/2016 concerning Tax Amnesty.

Encouraging taxpayers to follow PPS, the state provides a legal certainty that is regulated by the HPP Law in Article 6 paragraph (5), Article 6 paragraph (6), Article 11 paragraph (1) letters a and c in brief as follows:

- a. Taxpayers not subject to administrative sanctions as referred in Article 18 paragraph (3) of Law No. 11 2016 concerning Tax Amnesty;
- b. No tax assessments on tax obligations are issued for Tax Year 2016, Tax Year 2017, Tax Year 2018, Tax Year 2019, and Tax Year 2020, except found data and/or other information regarding assets as referred in Article 8 paragraph (1) which have not been or are not disclosed in the notification letter for disclosure of assets;
- c. Data and information from the notification letter on the disclosure of assets and its attachments which are administered by the Ministry of Finance or other parties related to the implementation of this Law cannot be used as the basis of investigation and/or criminal prosecution against Taxpayers.

---

<sup>3</sup> Dian Hasbiah Putri and Suparna Wijaya, "Pajak Pertambahan Nilai Final: Belajar Dari Ghana Dan China," *Jurnal Pajak dan Keuangan Negara (PKN)* 3, no. 2 (June 24, 2022): 360–374, <https://jurnal.pknstan.ac.id/index.php/pkn/article/view/1646>.

As a means to ensure legal certainty, there are legal instruments and binding rules for DGT officials not to make decisions that are outside the agreed norms. The existence of the General Principles of Good Governance (AUPB), the existence of the State Administrative Court, in addition to the provisions contained in the HPP Law itself become a strong boundary about guaranteeing legal certainty.

The correction of the Certificate of Excellence either by rectification, cancellation or implementation of SKPKB by the Director General of Taxes, can reduce or even eliminate the privileges of the Taxpayer, which can be interpreted as a loss for the Taxpayer as a participant of the Voluntary Disclosure Program.

Based on the description above, this study aims to describe the analysis of asset arrangements that must be reported in the Voluntary Disclosure Program and analyze legal remedies that can be taken by taxpayers who experience losses as participants.

## LITERATURE REVIEW

Legal certainty is a judicial protection against arbitrary actions, which means that someone will be able to get something that is expected under certain circumstances. The community expects legal certainty, because it will be easier to control the community.<sup>4</sup>

Normative legal certainty is when a regulation is made and enacted with certainty because it regulates clearly and logically. It is clear in the sense that it does not cause doubt (multi-interpretation) and is logical. It is clear in the sense that it becomes a norm system with other norms so that it does not clash or cause norm conflicts. Legal certainty refers to the application of a clear, permanent, consistent and consequent law whose implementation cannot be influenced by subjective circumstances. Certainty and justice are not just moral demands, but factually characterize the law. An uncertain and unjust law is not just a bad law.<sup>5</sup>

Legal certainty according to Jan Michiel Otto defines it as the possibility that in certain situations:

1. There are clear (clear), consistent and easy to obtain rules, issued by and recognized because of the (power) of the state.
2. Ruling agencies (government) apply these legal rules consistently and are also subject to and obedient to them.
3. Citizens adjust their behavior to these rules.
4. Independent and thoughtful judges (judiciary) apply the rules of law consistently when they resolve legal disputes.
5. Judicial decisions are concretely implemented.<sup>6</sup>

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law must be implemented in a good way. Legal certainty requires efforts to regulate law in legislation made by authorized and authoritative parties, so that these rules have a juridical aspect that can guarantee certainty that the law functions as a regulation that must be obeyed.<sup>7</sup>

According to Utrecht, legal certainty contains two meanings, namely first, the existence of general rules that make individuals know what actions may or may not be done, and second, in the form of legal security for individuals from government arbitrariness because with the existence of general rules, individuals can know what the State may charge or do to individuals.<sup>8</sup>

---

<sup>4</sup> Hardi Munte, *Model Penyelesaian Sengketa Administrasi Pilkada* (Jakarta: Penerbit Pusantara, 2017).

<sup>5</sup> Viswandro, *Kamus Istilah Hukum*, Cet. 1. (Yogyakarta: Pustaka Yustisia, 2014).

<sup>6</sup> Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Penerbit Universitas Indonesia (UI-Press), 2015).

<sup>7</sup> Zainal Asikin, *Pengantar Tata Hukum Indonesia* (Jakarta: Rajawali Pers, 2012).

<sup>8</sup> Suratman & Dillah. P, *Metode Penelitian Hukum* (Bandung: Alfabeta, 2015).

This teaching of legal certainty comes from Juridical-Dogmatic teachings which are based on a positivist thought in the world of law, which tends to see law as something autonomous, independent, because of this thought, law is nothing but a collection of rules. Legal certainty is realized by law with its nature which only makes a general law. The nature of the rule of law proves that the law does not aim to achieve justice or benefit, but solely for certainty.<sup>9</sup>

Legal certainty is a guarantee of law that contains justice. Norms that promote justice must really function as rules to be obeyed. According to Gustav Radbruch, justice and legal certainty are permanent parts of the law. He argues that justice and legal certainty must get enough attention, legal certainty must be maintained for the security and order of a country. Finally, positive law must always be obeyed. Based on the theory of legal certainty and the value to be achieved, which are the value of justice and happiness.<sup>10</sup>

The Voluntary Disclosure Program is an effort by the Government to expand the tax base and raise awareness of voluntary Taxpayers with the object in the form of assets that are lacking or have not been reported by Taxpayers.

Law No. 7 concerning Harmonization of Tax Regulations in Chapter V concerning the Voluntary Disclosure Program divides two groups of Taxpayers who can participate in the Voluntary Disclosure Program, the first is Taxpayers Participating in the 2016 Tax Amnesty program, both Corporate Taxpayers and Individual Taxpayers, which is further referred to by the Directorate General of Taxes as being included in Policy I, this is regulated in Article 5 to Article 7 of the Law on Harmonization of Tax Regulations in Chapter V concerning the Voluntary Disclosure Program. The second group is Individual Taxpayers, which are categorized as included in Policy II, this is regulated in Articles 8 to 12.

As the objectives of the Voluntary Disclosure Program are related to net assets, namely assets minus debt, the distribution of participants of the Voluntary Disclosure Program either Policy I or Policy II above relates to differences in the acquisition period of assets, valuation of assets as well as the distribution of types of assets, as the basis for calculating net assets, as well as the rate of Final Income Tax on reported net assets.

Property law is a law that regulates human rights and obligations that are worth money. These rights and obligations arise because of the relationship between one legal subject and another. The relationship between the legal subjects can be valued in money. Relationships are made in order to meet the needs of his life.

Property law covers two fields, which are: Property law in the form of regulations governing absolute property rights. This means that with respect to the rights to these objects, people are obliged to respect them. The law of engagement are the regulations governing the legal relationship of property between two or more

---

<sup>9</sup> Achmad Ali, *Menguak Tabir Hukum*, 2nd ed. (Jakarta: Prenada Media Group, 2015).

<sup>10</sup> Ibid.

people where one party is entitled to a certain achievement, while the other party is obliged to fulfill the achievement. For instance in a purchase agreement.

Understanding objects according to science is anything that can be the object of law. While the definition of objects according to Article 499 of the Civil Code are all goods and rights that can be used by people (become objects of property rights). Objects can be divided into: fixed goods, namely: objects which declared as an immovable objects according to regulations or by nature (land, buildings, plants = because of their nature; factory machines = because of their purpose; right to cultivate, right to use building, right to mortgage = due to stipulation of law). Movable objects, namely objects which are declared as movable objects according to regulations or by nature (tools, vehicles, animals = because of their nature; rights to securities = because of the regulations). Objects can be divided into two: Tangible objects (things that can be seen with the five senses). Intangible objects (various rights) in the law of engagement, the object of the engagement are achievements.<sup>11</sup>

Understanding these objects is important for taxpayers to know how far the coverage of assets that must be reported when they wish to participate in the Voluntary Disclosure Program.

In the implementation of the Voluntary Disclosure Program, which is based on the taxpayer's voluntary disclosure of his net assets, it will lead to the issuance of a government decision, namely the issuance of a Certificate as regulated in Article 6 paragraph (3) and Article 10 paragraph (6) of Law No. 7 concerning Harmonization of Tax Regulations in Chapter V on the Voluntary Disclosure Program.

Issuance of a Certificate is one of the government's actions in the form of a Government decision. The Government action is considered as a state administration tool (*bestuurorgan*). This action is intended to cause legal consequences in the field of state administrative law, or government action is an action taken by state administration officials in carrying out government affairs.

In Article 1 of Law No. 30 of 2014 concerning Government Administration, the definition of Government Administration Decree is called a State Administrative Decree or State Administration Decree, hereinafter referred to as a Decree, is a written decision issued by a Government Agency and/or Official in the administration of government.

As a legal subject, the government can take various concrete actions as well as legal actions, where government legal actions can lead to legal consequences in the form of changing rights, obligations or authorities.

In the section considering the HPP Law, it is stated that the HPP Law aims to increase sustainable economic growth and support the acceleration of economic recovery, the need for a fiscal consolidation strategy that focuses on improving the

---

<sup>11</sup> L.Y. Hari Sih Advianto, "Pengakuan Dan Perlindungan Hukum Hak-Hak Wajib Pajak Dalam Sistem Hukum Pajak Indonesia," *SNKN 2018 / Simposium Nasional Keuangan Negara* (2018): 398–416, <https://jurnal.bppk.kemenkeu.go.id/snkn/article/download/251/130/>.



budget deficit and increasing the tax ratio, among others through the implementation of policies to increase tax revenue performance, reform of tax administration, increase in taxation base, creation of taxation system that prioritizes the principles of justice and legal certainty.

## RESEARCH METHODS

This research uses a normative type of research, which is a research that has been conducted with reference to the legal norms contained in the applicable laws and regulations. According to Jonaedi and Ibrahim statement, normative legal research is commonly known as document study, uses qualitative methods in analyzing data, and uses secondary data sources, such as regulations, court decisions, books, legal theory, and doctrine.<sup>12</sup> This study examines assets within the scope of taxation and legal protection of taxpayers participating in the Voluntary Disclosure Program. An in-depth understanding of norms and regulations regarding the Voluntary Disclosure Program is reviewed based on Law No. 7 concerning Harmonization of Tax Regulations in Chapter V concerning the Voluntary Disclosure Program and other applicable regulations. Normative research type is a research that has been conducted with reference to the legal norms contained in the applicable laws and regulations.<sup>13</sup> This study examines legal certainty in the bankruptcy petition filed by the debtor based on the laws and regulations.

The approach used in this research is a descriptive analysis, by describing the analysis of the regulation of assets and legal protection in the Voluntary Disclosure Program and describing the analysis of legal remedies that can be taken by the Directorate General of Taxes as government officials.

The data for this research are secondary data that is relevant to the content of the study. The secondary data used consists of:

Primary legal materials related to this research, including:

- 1) Law No. 7 concerning Harmonization of Tax Regulations
  - 2) Regulation of the Minister of Finance No. 196/2021 concerning Procedures for the Implementation of the Voluntary Disclosure Program.
- The secondary legal materials are materials that support and provide explanations regarding primary legal materials or the writings of legal experts, legal science books, and articles from the internet about trademarks provisions.

The method of data collection is carried out through library research, which is in the form of document study activities on secondary data to obtain basic knowledge regarding the issues to be discussed. The literature study was carried out by accessing data through the internet.

---

<sup>12</sup> Johnny Efendi, Jonaedi & Ibrahim, *Metode Penelitian Hukum Normatif Dan Empiris*, 1st ed. (Depok: Prenada Media Group, 2016).

<sup>13</sup> Sri Mamudji Soerjono Soekanto, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Cetakan ke. (Jakarta: Rajawali Pers, 2015).



## RESULTS AND DISCUSSION

### **The Wealth of Taxpayers Criteria who must participate in the Voluntary Disclosure Program based on the Law on the Harmonization of Tax Regulations**

#### **The Definition of Wealth and Property in Taxes**

Indonesian taxation adheres to the principle of imposition of taxes on all income earned by Taxpayers, including income derived from overseas. For domestic taxpayers, the tax to be imposed will be based on the principle of domicile. Meanwhile, for foreigners who live and earn income in Indonesia, a check will be carried out to determine whether this individual or entity will be included as a resident Taxpayer or a foreign Taxpayer. Then, for foreign taxpayers, it will be imposed on income earned from Indonesia only.

Based on the principle of taxation in Indonesia, wealth cannot be separated from the income owned by everyone, so that wealth is considered worthy of being taxed and taxpayers are required to report their assets. In addition, wealth is also considered appropriate to be taxed with the aim of helping to restore economic problems experienced by the state, especially the problem of economic and social inequality and is a reflection of the culture of mutual cooperation in Indonesia.

Wealth tax is basically a tax imposed on all wealth assets owned by each taxpayer. Based on the type of wealth tax according to the IMF in 2013, it can be divided into 3 types such following below:

- Based on the value of assets
- Based on the transfer of wealth
- Based on the increase in the value of an asset

Indonesia has issued and implemented policies that regulates this wealth tax, precisely before the Indonesian country proclaimed its independence. This policy was inaugurated through the Wealth Tax Ordinance of 1932 (State Institution of the Republic Indonesia of 1932 No. 404) which was amended several times until the last amendment was in the Law of the Republic of Indonesia No. 24/1964 concerning Amendments and Supplements to the Wealth Tax Ordinance of 1932. This policy was previously made in order to increase the income of the Indonesian country.

In the amendment of the law, according to article 9 which stated that taxpayer who lives in his own house, then the selling value of the house and the land for the basis of imposition of wealth tax is assessed as follows:

- first 20 million: 10%
- next 20 million: 20%
- the rest: 50%

For the Taxpayer who is also an entrepreneur which related to the government, he can inform or show that the amount of wealth he owns is not entirely his personal property but is also used for businesses related to government

politics in the field of development. Based on this policy, the assessment of the assets owned by the Taxpayer can be carried out based on the decision of the Head of the Directorate of Taxes. However, this law was repealed when the tax reform was carried out in 1983.

One of the changes in the tax reform was the enactment of Law No. 7/1983 about the Income Tax, one of the explanations discussed about regulates income as a tax object, whether income is a tax imposed on individuals or entities based on the amount of income received for one year. The latest amendments of PPh regulations can be seen in Law No. 36/2008, hereinafter referred as the Income Tax Law.

### **The Definition of Assets in the Voluntary Disclosure**

The Voluntary Disclosure Program is motivated by the condition of Taxpayers who have not been fully disclosed. If there is no PPS and the property is found by the Directorate General of Taxes (DGT), the property will be the subject to Income Tax (PPh) as stipulated in Government Regulation (PP) No. 36/2017 at a higher rate than when participating in the Tax Amnesty Program and subject to administrative sanctions in the form of an increase of 200%. PPS is expected to be a solution to this condition, according to the HPP Law, taxpayers who participate in PPS are not subject to administrative sanctions in the form of an increase of 200%. The rate offered is also lower than PP 36/2017.

In addition, PPS is also a solution for individual taxpayers who have not reported assets acquired in the 2016-2020 period and still owned the property as of December 31, 2020. If there is no PPS and the DGT found the assets, it will be the subject to income tax as regulated in the Income Tax Law at a higher rate than when participating in the PPS and also the subject to administrative sanctions.

In the context of policy targets taken by the government in two regulations, both in Law No. 11 of 2016 and Law No. 7/2021 concerning Harmonization of Tax Regulations chapter V concerning the Voluntary Disclosure Program are ownership of property, property of taxpayers who have not fulfill their tax obligations, not on their income.

The definition of assets as contained in the General Chapter I of the Tax Amnesty Law and confirmed in the Implementation Regulations of the Voluntary Disclosure Program, namely the Regulation of the Minister of Finance of the Republic of Indonesia No. 196/PMK.03/2021: "Wealth is an additional accumulation of economic capability in the form of all assets, both tangible and intangible, both movable and immovable, whether used for business or not for business, located within and/or outside the territory of the Republic of Indonesia."

### **Legal protection for Participants of the Voluntary Disclosure Program who suffer losses in the Voluntary Disclosure Program based on the Law on Harmonization of Tax Regulations**

The Voluntary Disclosure Program, as a program that provides great benefits for Taxpayers who have not reported their tax obligations correctly, will provide benefits in the form of:

1. For participants of the Tax Amnesty Program who have not disclosed all of their assets at the time of joining the program, the rates offered to PPS are lower than PP 36 of 2017 and are not subject to administrative sanctions of a 200% increase.
2. For individual taxpayers who have not reported all income in the 2016-2020 Annual SPT, the taxpayer will pay a relatively lower tax than the Article 17 income tax rate which can reach the highest rate of 35% and no additional administrative sanctions.
3. No tax assessments have been issued for the 2016-2020 fiscal year, unless other data and/or information are found regarding assets acquired during 2016-2020 and have not been disclosed through PPS.
4. The disclosed assets, which are protected by the regulation, cannot be used as the basis for investigation or criminal prosecution against Taxpayers.

In the PPS provisions, there is a measuring instrument of truth for all the facilities and offers provided by the state that become the basis, whether the facilities to the taxpayer can be given, either partially or completely. The measuring instrument is listed in the provisions of the chapter on corrections and cancellations.

Taxpayers must disclose their assets between January 1 to June 30, 2022. The mechanism for disclosing assets through tax returns is carried out through electronic channels determined by the Directorate General of Taxes, carried out by the taxpayers themselves. This provisions for independence in the disclosure of assets provides an obligation for Taxpayers to understand all PPS provisions in both the calculation procedure, classification of net assets, as well as provisions on the ability to transfer net assets to the territory of the Republic of Indonesia.

### **Authority of the Director General of Taxes on Certificates**

Providing the authority to the Director General of Taxes to conduct research on net assets with the actual conditions as disclosed by the Taxpayer, then based on Article 9 and Article 13 of PMK 196/2021, it may be possible for the Director General of Taxes to take actions that may be in the form of: Issuance of Underpaid Tax Assessment, Correction, or Cancellation of Certificate.

### **Underpayment**

In the General Provisions of the KUP Law, the meaning of a tax assessment letter or SKPKB determines the amount of the tax principal, the amount of tax

credit, the amount of the underpayment of the tax principal, the amount of administrative sanctions, and the amount of tax still to be paid.

### **Correction**

The actions to correct the Certificate are carried out by the Director General of Taxes if there is a writing error and/or calculation error in the Certificate, as referred to in Article 13 paragraph (2) of PMK 196/2021.

Writing errors are mistakes made by Taxpayers when submitting electronic SPPH, which is reasonable in a reporting administration document, such as errors in writing the identity of the Taxpayers and writing the names of Assets and Debts disclosed in the PPS. The calculation error in the certificate occurs because, for example, there is an error in the multiplication during the application of the tariffs or other errors during the disclosure in the SPPH.

### **Cancellation**

The act of canceling the Declaration Letter is carried out by the Director General of Taxes if it is carried out in the event that the Taxpayer discloses net Assets that are not in accordance with the actual situation, not in accordance with the provisions as referred to in Article 13 paragraph (3) of PMK 196/2021:

1. Assets which is not obtained by the Taxpayer from January 1, 1985 to December 31, 2015, referring to Article 5 paragraph (4) of the PPS Law,
2. Net assets from individual taxpayers referring to Article 8 paragraph (1) of the PPS Law, which stated:
  - a. obtained not from January 1, 2016 to December 31, 2020;
  - b. not owned from December 31, 2020; and
  - c. has been reported in the Annual Individual Income Tax Return for Fiscal Year 2020

Until the decision in the form of Correction or Cancellation of the Certificate has been announced, the procedure begins with the examination of the Taxpayer's SPPH report. If there is a mismatch of net assets found in the research result, the Head of KPP on behalf of the Director General of Taxes may issue a letter of clarification to the Taxpayer.

If there is an underpayment from the issuance of clarification letter from Directorate General of Taxes that has been calculated, the Taxpayer will be given the opportunity to pay the underpaid Income Tax, or the Taxpayer will provide a response to the clarification letter no later than fourteen working days from the date of issuance of the clarification letter.

Based on the provisions in Article 13 paragraph (6) of PMK 196/2021, the action of the Director General of Taxes in issuing a Letter of Correction or Letter of Cancellation will be published if the Taxpayer:

- a. not paying the underpaid Income Tax according to the clarification letter;

- b. declare the overpayment of Income Tax which is final as submitted in the clarification letter;
- c. not responding to clarification letters; or
- d. provide clarification but not in accordance with the actual situation.

The basic difference between the issuance of the Correction Letter and the Cancellation Letter is explicitly stated in the attachment of PMK 196/2021 regarding the format for the decision of the Correction Letter and Cancellation Letter. In the attachment letter F, regarding the Sample Letter of Correction on the Certificate of Disclosure of Net Assets, it is stated that the correction is based on research, there is a discrepancy in the Net Assets with the actual situation in the form of writing errors and/or calculation errors, so the Correction Letter has been regulated about which part of the error occurred, what was written and what was corrected.

As for the Cancellation action, if there is a discrepancy between the Net Assets with the actual situation in the form of non-fulfillment of the requirements and provisions as referred to in the HPP Law concerning PPS, namely Article 5 paragraph 4, Article 8 paragraph (1), Article 8 paragraph (4) and/or Article 10 paragraph (2) letter d.

### **Legal Efforts for PPS Participant Taxpayers**

The Director General of Taxes, in implementing the HP Law on PPS in the form of the issuance of a Tax Underpayment Certificate, the issuance of a Correction Letter and Cancellation Letter, there is no regulation in the HPP Law concerning PPS, but it is stated in the PMK 196/2021 Article 28:

1. All disputes related to the implementation of the Taxpayer's voluntary disclosure program based on the Law, can only be resolved through filing a lawsuit to the tax court.
2. Legal efforts against disputes relating to the issuance of an underpaid tax assessment as referred to in Article 9 paragraph (1) and Article 19 paragraph (8) shall be carried out in accordance with the provisions of laws and regulations in the field of general provisions and taxation procedures.

Tax disputes arise due to a misperception between the Taxpayer and the DGT regarding the implementation of the Tax Law, then if the Taxpayer feels aggrieved by the issuance of the DGT decision, legal efforts can be taken by the Taxpayer participating in the PPS for the loss received from the DGT's actions during the PPS implementation. can be in the form of Submission of Application for Objection and Submission of Lawsuit.

### **Lawsuit Effort**

A lawsuit according to Article 1 of Law No. 14/2002 concerning the Tax Court, hereinafter referred to as the PP Law, is a legal action that can be taken by the Taxpayer or the Tax Insurer against the implementation of Tax collection or

against decisions that can be filed a lawsuit based on the tax laws and regulations that apply. In Article 31 of the PP Law, the chapter that regulates the Power of the Tax Court, it is described that the Tax Court in the case of a lawsuit examines and decides on disputes over the implementation of tax collection or rectification decisions or other decisions as referred to in Article 23 paragraph (2) of Law No. 6/1983 concerning General Provisions and Tax Procedures as amended several times, most recently by Law No. 16/2000 and the applicable tax laws and regulations.

From the description of the Powers of the Tax Court above, we can clearly state that the Letter of Correction or Letter of Cancellation issued in connection with the implementation of the PPS is an object that can become a Tax Dispute, for which a lawsuit can be filed.

### **Objection Legal Effort**

In Article 13 paragraph (7) PMK 196/2021 it is stated that the Correction Letter based on the unpaid Income Tax underpayment in accordance with the clarification letter contains an adjustment to the value of Assets and/or Debt. The definition of asset adjustment is defined in Article 9 PMK 196/2021, including the definition of Assets that have not been paid off or under-disclosed will be treated as final income in the 2022 tax year, which will be billed by the DGT with the issuance of SKPKB.

Article 28 paragraph (2) of PMK 196/2021 stipulates that SKPKB can be issued in connection with the provisions in Article 5 paragraph (1) of PMK 196/2021, regarding the periodization of property acquisition and has not been reported in the Annual SPT for Fiscal Year 2020, then regulates SKPKB on Mandatory assets. Less or no PPS participant taxes are invested. And including in this case, the issuance of SKPKB can also be based on the provisions of Article 9 PMK paragraph (2) letter b which regulates the issuance of SKPKB as a follow-up to the Correction Letter.

The issuance of SKPKB as stipulated in Article 9 PMK 196/2021 may be imposed on either PPS participant Taxpayers or PPS Taxpayers. For Taxpayers who are not PPS participants, if from the results of research in the DGT administration there is a data discrepancy between DGT data and Taxpayer data, or the assets have not been reported in the Annual Personal Income Tax Return and are known to be still owned as of December 31, 2020, then the assets unreported or under-reported is considered as additional income received or obtained by an Individual Taxpayer for the fiscal year 2020. For PPS participants if based on the results of the DGT's research and clarification request, the Taxpayer does not respond to the clarification letter or there is still a shortage of assets that has not been disclosed or the Taxpayer Taxes that transfer their assets from abroad or are invested in accordance with the provisions, then after a warning has been issued, the DGT has the authority to issue SKPKB.

The Objection Decision is not a final decision, hence the Taxpayer can take the next legal effort when the Taxpayer does not agree with the Objection Decision, which is called an appeal. The authority and review of the objection application is at the Regional Office of the Directorate General of Taxes in accordance with the place of registration of the Taxpayer.

Objection to the issuance of SKPKB on the findings of the DGT on assets that have not been disclosed in the Issuance of submitted SKPKB.

## **CONCLUSION**

The source of the tax dispute is the discovery of assets that have not been disclosed when participating in the Voluntary Disclosure Program, but the form of assets and the value of assets, there is no concrete limit, which makes it possible for all assets to become findings for the Directorate General of Taxes as assets that must be reported in the PPS and after PPS. Taxpayers participating in the Voluntary Disclosure Program can take legal efforts for all disputes related to the Tax Amnesty Program through an Objection Application when the Taxpayer receives an Underpaid Tax Assessment Letter (SKPKB). With the decision from the Director General of Taxes other than the issuance of SKPKB, it can only be resolved through a lawsuit to the Tax Court.



## REFERENCES

- A.A Gede Diotama, I Nyoman Putu Budiarta, and Ida Ayu Putu Widiati. "Perlindungan Hukum Bagi Wajib Pajak Dalam Sengketa Pajak Daerah Di Kabupaten Badung." *Jurnal Konstruksi Hukum* 3, no. 1 (January 24, 2022): 153–159.  
<https://ejournal.warmadewa.ac.id/index.php/jukonhum/article/view/4411>.
- Ali, Achmad. *Menguak Tabir Hukum*. 2nd ed. Jakarta: Prenada Media Group, 2015.
- Efendi, Jonaedi & Ibrahim, Johnny. *Metode Penelitian Hukum Normatif Dan Empiris*. 1st ed. Depok: Prenada Media Group, 2016.
- Hardi Munte. *Model Penyelesaian Sengketa Administrasi Pilkada*. Jakarta: Penerbit Pusantara, 2017.
- L.Y. Hari Sih Advianto. "Pengakuan Dan Perlindungan Hukum Hak-Hak Wajib Pajak Dalam Sistem Hukum Pajak Indonesia." *SNKN 2018 / Simposium Nasional Keuangan Negara* (2018): 398–416.  
<https://jurnal.bppk.kemenkeu.go.id/snkn/article/download/251/130/>.
- Larasati, Endang. "Reformasi Perpajakan Untuk Penciptaan Keadilan, Peningkatan Kepatuhan, Dan Penguatan Fiskal." Indonesia: Badan Kebijakan Fiskal, Kementerian Keuangan, 2021. [https://fiskal.kemenkeu.go.id/files/siaran-pers/file/1634008572\\_siara\\_n\\_pers\\_uu\\_hpp\\_keadilan\\_kepatuhan\\_kekuatan\\_fiskal.pdf](https://fiskal.kemenkeu.go.id/files/siaran-pers/file/1634008572_siara_n_pers_uu_hpp_keadilan_kepatuhan_kekuatan_fiskal.pdf).
- Putri, Dian Hasbiah, and Suparna Wijaya. "Pajak Pertambahan Nilai Final: Belajar Dari Ghana Dan China." *Jurnal Pajak dan Keuangan Negara (PKN)* 3, no. 2 (June 24, 2022): 360–374.  
<https://jurnal.pknstan.ac.id/index.php/pkn/article/view/1646>.
- Soerjono Soekanto. *Pengantar Penelitian Hukum*. Jakarta: Penerbit Universitas Indonesia (UI-Press), 2015.
- Soerjono Soekanto, Sri Mamudji. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Cetakan ke. Jakarta: Rajawali Pers, 2015.
- Suratman & Dillah. P. *Metode Penelitian Hukum*. Bandung: Alfabeta, 2015.
- Viswandro. *Kamus Istilah Hukum*. Cet. 1. Yogyakarta: Pustaka Yustisia, 2014.
- Zainal Asikin. *Pengantar Tata Hukum Indonesia*. Jakarta: Rajawali Pers, 2012.