



The Liability of Tax Officials for the Expiration of Tax Debt Billing

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ABSTRACT

Tax receivables are part of the Directorate General of Taxes' revenue sources therefore tax receivables are part of the state's rights that must be realized as an integral part of state revenue. Unable to realize state revenue from tax receivables due to expiration of tax debt collection, the case is considered as a state financial loss. If the expiration of tax debt collection is caused by maladministration by tax officials, it will become the personal responsibility of tax officials. 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. This research examines the liability of tax officials for the expiration of tax debt billing. The approach used in this research is a descriptive analysis, by describing the analysis of the regulation regarding the liability of tax officials for the expiration of tax debt billing. The process of collecting tax receivables is limited by the expiration of tax collection, which is 5 (five) years from the date of tax assessment or can be suspended if there are certain actions, one of which is the issuance of a coerce warrant. For tax receivables that have expired collection, Indonesian Audit Board has provided a recommendation in the form of an administrative warning to DJP, which means that Tax Officials have implemented all laws and regulations and procedures for collection actions that have been determined, so that the expiration of collection becomes a Official Liability.

Keywords: *Liability, Tax Officials, The Expiration of Tax Debt*

INTRODUCTION

Taxes are one of the most important elements of state financial revenue in the structure of state financing. In Indonesia, taxes make a very large contribution in terms of state budget revenue, with the rate of growth annually indicating a very significant rate for the realization of all programs set between the government and its citizens, in in this case is the People's Representative Council. The Directorate General of Taxes is assigned a state revenue target of IDR 1,485 trillion in 2022.¹ As compared to the total government revenue plan in the 2022 State Budget which is around IDR. 2,266 trillion as stated in the working meeting between the Budget Committee of the Indonesian Representative Council and the government on May 19, 2022, the tax revenue contributes around 65% to the state revenue.

In implementation, there are tax debts that cannot be disbursed. In 2011, the Corruption Eradication Commission (KPK) reminded the government about the management of tax debt billing. KPK assessed the potential state losses from uncollected tax debts to reach IDR 50 trillion.² In the latest article as revealed in the DDTCNews media on June 15, 2022, the results of the BPK audit found that tax debts in the stuck category amounted to IDR 21 trillion, because the Directorate General of Taxes' collection actions were not optimal. Based on this data, it is explained that there is potential state revenue that cannot be realized in state financing due to the uncollectibility of tax debts because of the expiration of tax debt billing.

According to previous background of this research, there are several problem statements of this research, such as (1) what kind of negligence by tax officials can lead to the expiration of tax debt billing; and (2) what are the liabilities of tax officials for negligence that may lead to the expiration of tax debt billing. Meanwhile, the objectives of this research, such as (1) to analyze the management of tax receivables by the Directorate General of Taxes (DJP) by understanding the process of the occurrence of tax debts to taxpayers, which then follow-up actions on the collection of tax receivables and determine the category of tax receivable conditions that can be included in the expiration of collection; (2) to find out whether tax collection actions are part of government actions protected by law.

RESEARCH METHODOLOGY

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. Normative research type is a research that has been conducted with

¹ Yusrizal and Refina Zulita, "Analysis of Income Tax Calculation Based on Fiscal Profit and Commercial Profit in PT. Siak Mining and Energy," *KURS* 3, no. 1 (2018): 44–55.

² Januardo S.P. Sihombing, "Penyelesaian Piutang Tak Tertagih Menurut Hukum Perpajakan," *BINUS Business Law* (2016).

reference to the legal norms contained in the applicable laws and regulations.³ Meanwhile, 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. The approaches used are legislation, conceptual, comparative, historical, philosophical, and document studies. Normative in legal research is a research that examines applicable legal norms, which in this research used three sources of legal materials used are primary, secondary, and tertiary legal materials.⁴ This research examines the liability of tax officials for the expiration of tax debt billing. The approach used in this research is a descriptive analysis, by describing the analysis of the regulation regarding the liability of tax officials for the expiration of tax debt billing.

RESULT AND DISCUSSION

The Kind of Negligence by Tax Officials can lead to The Expiration of Tax Debt Billing

Collection Action

The definition of tax collection according to Soemitro, actions taken by the Directorate General of Taxes because taxpayers do not follow the provisions of the tax law, especially regarding payment of taxes owed.⁵ Tax collection is a series of steps to ensure that taxpayers pay off tax debts and tax collection costs by reprimanding or reminding, collecting immediately and simultaneously, notifying forced letters, proposing prevention, confiscating, carrying out hostage-taking, and selling confiscated goods. There are several types of collection, such as passive and active tax collection.

1. Passive Tax Collection

For passive tax collection, DJP acts based on the issuance of a tax assessment or the result of an appeal or judicial review process that leads to higher tax payable.

2. Active Tax Collection

In active collection, tax authorities and bailiffs have the right and play an active role in confiscation and auction actions.

The basis for tax collection is the Tax Collection Letter (STP), Tax Assessment Letter for Less Pay (SKPKB), Additional Tax Assessment Letter for Less Pay (SKPKBT), Objection Decision Letter, Appeal Decision Letter, Reconsideration Decision Letter, and Correction Letter which causes the amount of

³ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Penerbit Universitas Indonesia (UI-Press), 2015).

⁴ Shahrul Kresna Imansyah, "Trading in Influence as a Crime in Indonesia Criminal Law System: A Juridical Study," *YURIS, Journal of Court and Justice* 1, no. 2 (2022).

⁵ Anzala Sakinah, "Implementasi Kebijakan Sistem Pemungutan Pajak Self Assessment," *Jurnal Kebijakan Pemerintah* 1, no. 1 (2018).

tax that still has to be paid. If until the due date is not paid, tax collection action can be made.

The due date of repayment is the basis for billing in determining when the execution of the collection can and must be initiated, including when the collection interest begins. The due date for STP, SKPKB, SKPKBT, Objection Decision Letter, Appeal Decision Letter, and Reconsideration Decision Letter is 1 (one) month from the date of issuance. In more detailed terms, the definition and duration of tax debt collection actions can be described such following below:

1. The Reprimand Letter

The official issues a reprimand letter after 7 (seven) days have expired since the due date of the tax debt payment, in the case that the taxpayer does not pay off the tax debt.

2. Coerce Warrant

If after the lapse of 21 (twenty-one) days from the date of the reprimand letter, the taxpayer has not paid the tax debt, a coerce warrant is issued by the official and notified directly by the tax bailiff to the taxpayer.

3. Foreclosure Process

Confiscation is carried out if the tax debt is not paid within a minimum period of 2 times 24 hours from the date the coerce warrant is notified to the taxpayer.

4. Confiscated Goods Selling through Auction

If after the expiration of 14 days from the date of execution of the confiscation and the taxpayer has not paid the tax debt and tax collection costs, the official makes an announcement of the auction of the confiscated goods to be auctioned.

5. Preventive Action

Preventive action is a temporary prohibition on certain taxpayers to depart from the territory of the Republic of Indonesia based on certain reasons in accordance with the provisions of laws and regulations.

6. Hostage-taking

Hostage-taking is a temporary restraint of the taxpayer's freedom by placing them in a certain place. Hostage-taking can be carried out against taxpayers within a period of at least 30 days before the end of the prevention period or the end of the prevention extension period.

7. Instant and Immediate Billing

Instant and Immediate Billing is tax collection actions carried out by tax bailiffs to taxpayers without waiting for the due date of payment which includes all tax debts of all taxes, tax periods, and tax years.⁶

⁶ Hotmian Helena Samosir, "Perlakuan Perpajakan Atas Utang Pajak Yang Telah Daluwarsa Sehubungan Dengan Restitusi Pajak," *Simposium Nasional Keuangan Negara* (2018): 520–537.

Tax Collection Expiration

According to Article 41 Paragraph (1) of the Law on Tax Collection by Coerce Warrant (UUPPSP), tax collection is not implemented if it has expired as stipulated in the law and local regulations.

Based on the previous statement, the law has provided an understanding of the expiration of tax collection, stated in Paragraph (1) of Article 22 of the Law on General Provisions and Tax Procedures (UUKUP), which states that the right to collect taxes including interest, fines, increases and tax collection costs expires after exceeding 5 (five) years from issuance:

1. The Tax Collection Letter (STP);
2. Underpayment Tax Assessment Letter (SKPKB);
3. Additional underpaid tax assessment letter (SKPKBT);
4. Correction Decree;
5. Objection Decision Letter;
6. Appeal Decision; and
7. Judgment of Judicial Review.

Tax collection expiration is suspended if:

1. Issuance of a Writ of Compulsion;
2. There is an acknowledgment of tax debt from the taxpayer either directly or indirectly;
3. An Underpaid Tax Assessment Letter as referred to in Article 13 paragraph (5), or an Additional Underpaid Tax Assessment Letter as referred to in Article 15 paragraph (4) is issued; or
4. Investigation of criminal offense in taxation is conducted.

The Directorate General of Taxes' Negligence Leads to the Expiration of Tax Debt Billing**Monitoring of Tax Receivables Management**

In general, the tax collection function in the Directorate General of Taxes is carried out by three work units in the organizational structure, such as the Head Office, Regional Offices (Kanwil), and Tax Service Offices (KPP). The collection function at the head office is related to the presentation of national tax receivables based on reports on the development of tax receivables from all regional offices throughout Indonesia. Meanwhile, the collection function carried out at the KPP is an operational function including tax receivable management, active collection actions, and administration of collection documents.

One of the implementations of the need for the presentation of national tax receivables that must be presented annually, a classification has been set in the form of receivable quality, which is an attachment to the collectability of tax receivables measured based on the age or condition of tax receivables at the date of the financial

statements.⁷ The determination of the quality of receivables is important because it will become an allowance for uncollectible tax receivables, which is a reserve that must be formed at a certain percentage of the tax receivable account which will become part of the ministry's financial statements as a form of government accountability for the implementation of the state revenue and expenditure budget in the form of the Budget Realization Report (LRA), Balance Sheet, Operational Report (LO), Statement of Changes in Equity (LPE), and Notes to Financial Statements.

According to Minister of Finance Regulation No. 207/PMK.06/2019 concerning Amendments to Minister of Finance Regulation No. 69/PMK.06/2014 concerning Determination of Receivables Quality and Establishment of Allowance for Non-Collectible Receivables at State Ministries/Institutions and State General Treasurers, receivables are classified into four groups, consisting of current, substandard, doubtful and bad debts.

1. Current quality if the receivables are not yet overdue;
2. Substandard quality if the receivables are not repaid at maturity up to 1 (one) year from maturity;
3. Doubtful quality if receivables are not repaid more than 1 (one) year to 3 (three) years after maturity; and
4. Bad debts if the receivables are not repaid more than 3 (three) years after maturity.

Regarding tax receivables, the further quality determination provisions are submitted to the DJP, based on the Director General of Taxes Regulation No. Per-01/PJ/2020 concerning the classification of the quality of tax receivables and the procedure for calculating the allowance for tax receivables. Based on the monitoring of the quality of tax receivables, the DJP can submit a proposal for the elimination of receivables for eligible receivables, by referring to the Minister of Finance Regulation No. 68/PMK.03/2012 concerning procedures for the Elimination of Receivables and Determination of the Amount of Receivables.

Tax Officials' Negligence Leads to the Expiration of Tax Debt Billing

Based on Indonesian Audit Board (BPK) Executive Summary Number: 50.a/LHP/XV/05/2022 dated May 31, 2022, BPK found 27 problems related to internal control weaknesses and non-compliance with statutory provisions, which are related to the Ministry of Finance tax receivables are listed in the following description:

1. Accounting policies have not regulated accrual reporting of tax transactions on the presentation of state rights of at least IDR 11.11

⁷ Asrulsani Muhamad and Trisacti Wahyuni, "Evaluation of Internal Control over Financial Reporting Designed on Tax Receivable Management: A Case Study on Tax Receivable Management Cycle at the Directorate General of Taxes," *Atlantis Press* 55 (2017): 212–217, <https://www.atlantis-press.com/article/25896812.pdf>.

trillion and state liabilities of at least IDR 21.83 trillion and have not maximized collection actions until tax receivables expire by IDR 710.15 billion; and

2. Bad Tax Receivables amounting to IDR 20.84 Trillion have not been adequately collected.

The Executive Summary is then described in the Audit Report on the Ministry of Finance's Financial Statements for 2021 Number: 45.a/LHP/XV/05/2022 dated May 27, 2022 which consists of 20 report attachments, of which the 20th report attachment contains the audit results entitled Tax Receivables Details.

Based on the details of the Audit Report of the Supreme Audit Agency on bad tax receivables, it is possible that the state will lose revenue from tax receivables, because the tax collection rights expire due to the failure of tax collection actions, where the period of implementation of collection actions is only limited to June 30, 2022. If it is related to the authority of collection actions that should be carried out by tax officials, then according to researchers there will be potential actions of tax officials:

1. Non-enforceability of Coerce Warrant

The focus of the collection action on the finding that the Letter of Reprimand has not been issued and the coerce warrant has not been executed is on the tax subject. As long as the tax subject, in this case the taxpayer's domicile is known, then even if the taxpayer refuses, the implementation of the coerce warrant notification can still be carried out by making an Official Report. In the absence of the taxpayer's domicile, the coerce warrant may be deemed to be served by delivering a copy of the coerce warrant to the local government officials. Even if the taxpayer's domicile is unknown, the coerce warrant can still be delivered, by placing the coerce warrant on the notice board at the office of the official who issued the coerce warrant. Therefore, if the tax official is unable to execute the Letter of Reprimand and Coerce Warrant until the end of June 2022 due to this finding, then a judgment can be made that the tax official has not implemented the DJP's order to carry out collection actions.

2. Not Implementing Confiscation Optimally

In the finding number regarding the seizure has not been implemented and the results of the seizure are not optimal, factors outside the DJP, such as conditions that cannot be controlled by tax officials, are the points that determine whether the collection action can be carried out before the expiration date of June 30, 2022. In the implementation of confiscation actions, in addition to a tax bailiff being able to ascertain the whereabouts of the taxpayer, obtaining the object of confiscated goods is a very difficult thing.

When the tax collection action is already in the auction stage, it is very possible that the auctioned confiscated object is not as much as the value of the tax receivable of the taxpayer. Even if the value is sufficient to pay off tax receivables and collection costs, it is not easy to get special auction participants for certain goods, such as land. The description above can provide an overview, to determine whether tax officials have carried out their tax collection duties in accordance with existing regulations or not, then in addition we must measure exactly the collection action has been carried out optimally, there are other factors that affect the success or failure of the collection action.

The Liabilities of Tax Officials for Negligence that may lead to The Expiration of Tax Debt Billing

In general, the government is the implementing organ, but specifically it is about positions. According to S. Pramudji Atmosudirdjo, the government is the entirety of positions within a country that have the duties and authority of state politics and government. In other words, state administration is government which means positions. A position is a fixed work environment that contains certain functions as a whole that reflect the goals and work procedures of an organization. Meanwhile, an organization is a collection of positions or a fixed work environment with various functions. The government is a legal subject as a *dragger van de rechten en plichten* or supporter of rights and obligations that have 2 government actions, such following below:

1. Real actions are actions that have no relevance to the law and
2. Legal actions are actions that can create rights and obligations or by their character can lead to certain legal consequences.⁸

However, both actions must be based on the applicable laws and regulations in order not to deviate from the regulations, which may cause the legal consequences to be void (*neitig*) or voidable (*neitigbaar*).⁹

Government Actions under the Government Administration Law

In legislation, this government action is regulated in Law No. 30/2014, which in the chapter states that this law is the legal basis needed to justify the decisions and/or actions of government officials to meet the legal needs of the community in the administration of government. The scope of rights and obligations of command officials is regulated in Article 1 of UUAP which regulates government authority,

⁸ Achmad Subagyo, Saiful Abdullah, and Moh Saleh, "Legal Protection for Taxpayers Participants of Voluntary Disclosure Program in the Law on Harmonization of Tax Regulations," *IUS POSITUM (Journal of Law Theory and Law Enforcement)* 1, no. 4 (2022), <https://journal.jfpublisher.com/index.php/jlte/article/view/169>.

⁹ Samosir, "Perlakuan Perpajakan Atas Utang Pajak Yang Telah Daluwarsa Sehubungan Dengan Restitusi Pajak."

administrative decisions and administrative actions, with a description in the following paragraphs:

1. Government Authority

Authority is the power of Government Agencies and/or Officials or other state administrators to act in the realm of public law. Government administrative decision which is also called a State Administrative Decision referred to as a written determination issued by government agencies and/or officials in the administration of government.

2. Government Administration

Government officials or other state administrators to conduct and/or not conduct concrete actions in the context of government administration.

Based on Chapter IV of the UUPA, which regulates the rights and obligations of government officials, Article 6 details the rights of government officials to use their authority to make decisions and/or take actions as follows:

1. Implementing the authority owned based on the provisions of laws and regulations and AUPB;
2. Organizing government activities based on the authority possessed;
3. Determine decisions in written or electronic form and/or determine actions;
4. Issuing or not issuing, changing, replacing, revoking, postponing, and/or canceling decisions and/or actions.¹⁰

On the other hand, Article 7 stipulates that government officials are obliged to organize government administration in accordance with the provisions of laws and regulations, government policies, and AUPB, with the following details:

1. Make decisions and/or actions in accordance with their authority;
2. Comply with AUPB and in accordance with the provisions of laws and regulations;
3. Comply with the requirements and procedures for making decisions and/or actions;
4. Develop standard operating procedures for making decisions and/or actions
5. Implement legal decisions and/or actions and decisions that have been declared invalid or canceled by the court, the official concerned, or the superior official.

The definition of General Principles of Good Governance contained in the 2014 Law on Civil Procedure is the principle used as a reference for the use of authority for government officials in issuing decisions and/or actions in the

¹⁰ Soekarno Presiden, *Undang-Undang No. 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria Presiden Republik Indonesia* (Jakarta, 1960).

administration of government. In Article 10, it is explained that what is meant by AUPB includes the principles of legal certainty; expediency; impartiality; accuracy; not abusing authority; transparency; public interest; and good service.

Tax Collection Official

In the implementation of tax receivable collection actions, related billing officials and collection actions are regulated in the Minister of Finance Regulation No. 189/PMK.03/2020 concerning Procedures for Implementing Tax Collection of Accrued Tax Amounts.¹¹ This regulation is concerning Procedures for Implementing Tax Collection of Accrued Tax Amounts which stipulates that the Minister of Finance has the authority to appoint several officials in central tax collection, including the following:

1. Director of Audit and Collection;
2. Head of Regional Office; and
3. Head of Tax Service Office.

The description of the main duties of each billing official is regulated in several other implementing regulations, including the following:

1. The Regulation of the Minister of Finance Number. 217/PMK.01/2018 states that the Directorate of Audit and Collection has the task of formulating and implementing policies and technical standardization in the field of tax audit and collection.
2. The Decision of the Minister of Finance No. 587/KMK.01/2003 states that the regional office has the task of implementing technical guidance, evaluation, and controlling the implementation of tasks in the field of taxation based on applicable laws and regulations.
3. The Tax Service Office is a vertical agency of the Directorate General of Taxes which is under and directly responsible to the Head of the Regional Office. One of its functions in implementing its duties is the administration of tax receivables and the implementation of tax collection.

In the PPSP Law, an official referred to an official authorized to appoint and dismiss tax bailiffs, issue immediate and simultaneous collection orders, forced letters, orders to conduct confiscation, seizure revocation letters, auction announcements, cancellation of auctions, hostage orders and other letters required for tax collection in connection with taxpayers not paying part or all of their tax debts according to applicable laws and regulations. In this case, as stipulated in Article 27 letter g of the Minister of Finance Decree No. 587/KMK.01/2003. 587/KMK.01/2003, then the official referred to Head of the Tax Office. Meanwhile,

¹¹ Sri Mulyani Menteri Keuangan Republik Indonesia, *Peraturan Menteri Keuangan Republik Indonesia Nomor 189/PMK.03/2020 Tentang Tata Cara Pelaksanaan Penagihan Pajak Atas Jumlah Pajak Yang Masih Harus Dibayar* (Jakarta, 2020).

the tax bailiff in the PPSP Law referred to the executor of tax collection actions which include immediate and simultaneous billing, notification of forced letters, confiscation and hostage-taking.

The Liability of Government Officials' Actions

In the concept of public law, the principle of *geen bevoegdheid (macht) zonder verrantwoordelijkheid* or commonly known as no authority or power without responsibility. Therefore, the responsibility of officials in implementing their functions is distinguished between official responsibility and personal responsibility.¹² In his paper, Sufriadi provides an explanation of the differences between official liability and personal liability¹³, including as follows:

1. Official Liability

Based on legal provisions, officials only carry out functions and authorities because officials do not have authority. In this regard, Logemann says that under Constitutional Law, it is the office that is burdened with obligations, which is authorized to perform legal acts. Rights and obligations continue regardless of the change of office. Because the authority is attached to the office, while the responsibility in the public sector is related to the authority, the burden of responsibility is basically also attached to the office. The responsibility of this position is concerned with the validity of government legal actions carried out by officials for and on behalf of the position (*ambtshalve*). According to F.R. Bothlingk, both the representative and the represented are perpetrators, but that does not mean that both have responsibility. A legal act is an expression of the will and the responsibility is specifically directed to the party whose will is expressed, namely the represented party. The representative does not express their own will because it puts the responsibility on them inappropriately. Although the authority is attached to the position which leads to the responsibility attached to the position concerned, it is possible that in the exercise of the authority the responsibility is imposed on the person (*in persoon*) or the official. Tatiek Sri Djanmiati stated that official responsibility is related to the legality of government actions. The principle of legality is divided into 2 types such the following below:

- a. The principle of formal legality relates to authority and procedure.
- b. The principle of substantial legality relates to objectives.¹⁴

¹² Samosir, "Perlakuan Perpajakan Atas Utang Pajak Yang Telah Daluwarsa Sehubungan Dengan Restitusi Pajak."

¹³ Sufriadi, "Tanggung Jawab Jabatan Dan Tanggung Jawab Pribadi Dalam Penyelenggaraan Pemerintahan Di Indonesia," *Jurnal Yuridis* 1, no. 1 (2014).

¹⁴ et al Philipus M Hadjon, *Pengantar Hukum Administrasi Indonesia* (Yogyakarta: Gadjah Mada University Press, 2019).

If these two things are not fulfilled, then the action is called a defect in government action.

2. Personal Liability

Personal liability relates to maladministration in the use of authority and public service. An official who exercises the duties and powers of office or makes policy will be personally liable if he commits an act of maladministration. F.R.Bothlingk states that officials and representatives are fully responsible when they abuse the situation by committing their own immoral acts against the interests of third parties. A person is personally liable to a third party when he has acted in a morally reprehensible manner, i.e. committed an act of maladministration.

Maladministration comes from the Latin *malum* (evil, bad, ugly) and *administrare* (to manage, administer, or serve), maladministration means bad or ugly service or management. Based on Article 1 point (3) of Law No. 37/2008 on the Ombudsman of the Republic of Indonesia, what is meant by maladministration is behavior or actions against the law, exceeding authority, using authority for purposes other than the purpose of that authority, including negligence or neglect of legal obligations in the implementation of public services carried out by state and government officials which cause material and/or immaterial losses to the public and individuals.

In the investigation guide for the Ombudsman of the Republic, it is mentioned that there are twenty kinds of maladministration, such as delays in service (protracted); not handling problems; neglecting obligations; conspiracy; collusion and nepotism; acting unfairly; siding with others; forgery; violation of the law; acting against the law; acting beyond competence; incompetence; intervention; procedural irregularities; acting arbitrarily; abuse of authority; acting improperly; requesting monetary rewards (corruption); possession without rights; and embezzlement of evidence. In summary, it can be asserted that any administration of government affairs in which there are elements of maladministration and harm to citizens, the responsibility and liability are imposed on the person who committed the maladministration action. Thus, maladministration is decisive in the conception of the separation of official responsibility and personal responsibility, especially in terms of criminal responsibility.

According to Article 8 of the UUAP, it is explicitly regulated regarding government authority, that every decision and/or action must be determined and/or carried out by authorized government agencies and/or officials with obligations based on two things as follow:

- a. Laws and Regulations; and

b. General principles of Good Governance (AUPB).

In implementing this government authority, government administration officials are prohibited from abusing their authority in determining and/or making decisions and/or actions. This is emphasized in Article 8 Paragraph (3) of UUAP. The difference between official responsibility and personal responsibility is described in the table provided below:

Table 1. The distinction between Personal and Official Liability

Official Liability	Personal Liability
The legality of actions focuses on three things such as following below: 1. Authority 2. Procedures 3. Substantiation	Focus: Maladministration of bad behavior of officials in the fulfillment of their duties, such as: (1) acting arbitrarily; and (2) misappropriation of authority.
Parameters in official liability, such as 1. Legislation 2. Procedure 3. Substantiation	The description of its parameters: (1) legislation; (2) general principles of good governance; and (3) code of good administrative behavior (European Union).
Legal inquiries concerning juridical defects, such as: 1. Authority 2. Procedures 3. Substantiation	The legal inquiry including whether there is a maladministration or not in those actions.
The principle of <i>praesumptio iuste causa</i> , every government action must be considered valid until there is a revocation or cancellation.	Related to criminal offenses is the presumption of innocence.
The principle of vicarious liability is applicable.	The principle of vicarious liability does not applicable.
Administrative and Civil Sanctions	Administrative, Civil, and Criminal Sanctions

Based on the following table, it can be known that maladministration elements are important as an act that will determine whether the official's actions are responsible in his position in office or the official is responsible as a personal liability. Tatiek Sri Djatmiati states that maladministration is not just one of the parameters of whether there is personal fault or official fault, but also to determine

whether maladministration in government actions is personal liability or official liability.¹⁵

The Liabilities of Tax Officials that may lead to The Expiration of Tax Debt Billing

The form of liability that must be accepted by tax officials for negligence caused by not implementing the issuance of reprimand letters, not implementing coerce warrant and not maximizing collection actions in the form of confiscation. There are two parameters that must be taken to determine whether this is personal responsibility or official responsibility is whether there is maladministration for the non-implementation of collection actions. Those parameters is described such following below:

1. No implementation the issuance of reprimand letters and coerce warrant

Collection action in the form of issuing a reprimand letter is an administrative action of tax officials that is sufficiently based on the database of tax receivables that are due for payment. The Head of the Tax Office as a tax official is sufficient to instruct the billing section to immediately issue a letter of reprimand and execute a letter of coercion.

If the Head of the Office does not implement the official memorandum or implement it but is late in issuing a letter of reprimand or implementing the submission of a letter of coercion after June 30, 2022, it is certain that the state will not get the right to its tax receivables due to the expiration of collection. If a tax official does not issue a reprimand letter or a coerce warrant in accordance with the stipulated time period, then the tax official has committed maladministration due to several things including the following:

- a. It has violated the principle of substantial legality, which is unable to realize the purpose of the PPSP Law, in which the PPSP Law has given authority to tax officials to carry out every collection action so that tax receivables can be disbursed as state revenue.
- b. It has violated one of the general principles of good governance, i.e. accuracy. Inaccurate actions can result in exceeding the tax collection period.

2. No confiscation action and confiscation is not implemented optimally

Confiscation action is an action that depends on the existence of the taxpayer's assets and requires the participation of parties outside the DJP, such as banks, local government officials, state auction offices, and even in some cases requires coordination with the security forces. In measuring the responsibility of tax officials at this stage requires

¹⁵ Ibid.

sufficient mapping of how far tax officials have made maximum efforts so that this confiscation action can be implemented.

In the management of tax receivables, the Director General of Taxes has continuously provided directives that are updated every few years on what should be done with tax receivables, the latest of which is contained in Circular Letter Number. SE-29/PJ/2012 on tax collection policy. This circular letter details the steps that must be implemented by the Head of the Tax Office.

In order to improve the effectiveness of implementation and monitoring of collection actions, the Tax Office is required to prepare a Collection Working Paper (KKP). One important part of the KKP that must be made is the Working Paper on Risk Analysis of Uncollectible Tax Receivables (KKARKPP). This working paper contains an analysis of the characteristics of tax receivables and the characteristics of taxpayers to assess the risk of uncollectible tax receivables. KKARKPP is made at least once a year and evaluated in the current year. In principle, it must be made for all taxpayers with significant tax debts, but for 2012 it was only made for the 100 taxpayers with the largest tax debts. For taxpayers whose debts will expire in the current year, the actions to be taken include the following:

1. The Tax Service Office (KPP) conducts an inventory of tax receivables that will expire in the current year and is outlined in the Working Paper on Monitoring Tax Receivables that will expire.
2. Based on the inventory results as mentioned in letter a, the Tax Office should immediately coordinate intensively with other parties, and take intensive and optimal collection actions.

Based on the procedures set by the DJP, it is possible to measure how far tax officials have implemented all provisions and guidelines in carrying out tax collection actions. If the tax official has carried out all the steps that must be carried out, in the form of making KKARKPP and has made a Working Paper for Monitoring Tax Receivables that will expire, and has made optimal collection efforts, then the tax official has not neglected the collection action procedure so that as long as the Tax Official has complied with all laws and regulations, and carried out all procedures set by the DGT and substantially all his actions in the interests of completing his duties, namely the implementation of tax collection actions then, if the tax receivable has exceeded the expiration of the collection for the failure to fulfill the task is part of the responsibility of the position.

However, if there is inaccuracy in the collection action on tax receivables until the collection expires, for example due to negligence in

entering the Tax Receivable Monitoring Working Paper that will expire, then the actions of tax officials can be categorized as having committed maladministration, which is a reprehensible act whose parameters are not implementing the laws and regulations and procedures that have been determined. Thus, the burden of responsibility for collection actions that become expired becomes Personal Responsibility on a Tax Official.

CONCLUSION AND SUGGESTION

Conclusion

Tax receivable collection actions are regulated in a separate regulation, namely the PPSP Law, and in its implementation the DJP has made tax receivable management procedures in the form of tax receivable KKP and routinely, every year BPK conducts a performance audit of tax receivable management. The process of collecting tax receivables is limited by the expiration of tax collection, which is 5 (five) years from the date of tax assessment or can be suspended if there are certain actions, one of which is the issuance of a coerce warrant. For tax receivables that have expired collection, Indonesian Audit Board (BPK) has provided a recommendation in the form of an administrative warning to DJP, which means that Tax Officials have implemented all laws and regulations and procedures for collection actions that have been determined, so that the expiration of collection becomes a Official Liability. Tax receivables are part of the source of revenue of the Directorate General of Taxes, so that tax receivables are part of the state's rights that must be realized as part of state revenue. Unable to realize state revenue from tax receivables due to expiration of collection, then this event is included in the definition of state financial losses. If the expiration of the tax collection is due to maladministration by the Tax Official, it will become the Personal Liability of the Tax Official.

Suggestion

The Directorate General of Taxes must have a tighter control system in managing tax receivables, one of which is monitoring the stages of collection. When the tax assessment is due for payment, tax officials must immediately carry out collection actions step by step in accordance with the maturity of each stage, so that there are no tax receivables that can expire due to minimal collection actions or even no collection actions. If active collection actions have been carried out to the maximum but it is estimated that there is no longer a possibility of realizing the payment of tax receivables, then tax officials can submit a proposal to write off tax receivables as stipulated in Article 24 of the KUP Law.

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