



EFFECTIVENESS OF OBJECTION INSTITUTIONS IN RESOLVING TAX DISPUTES

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Abstract: Taxes have an important role in state revenue, but tax disputes often arise between taxpayers and the Direktorat Jendral Pajak (DJP). The dispute resolution mechanism through the objection institution regulated in the legislation faces challenges related to independence and effectiveness. This study uses a normative juridical method with a descriptive approach to analyze the mechanism and effectiveness of objection institutions in handling tax disputes. The results of the study show that although the objection procedure has been established, most of the objection applications are rejected, this raises doubts about the independence of the institution due to the inequality of position between the taxpayer and the DJP which affects the effectiveness of the objection institution. The conclusion of this study emphasizes the need for reforms to increase transparency and fairness in the objection process to be more effective in resolving tax disputes.

Keywords: effectiveness, objection institutions, tax disputes

INTRODUCTION

Taxes play a crucial role in state revenue, especially in supporting national development financing. Taxes have been part of the economic system since time immemorial, and are not classified as a new concept. In the past, the obligation of the people to pay tribute was a form of initial tax. The tribute is usually in the form of rice, livestock, or other crops, which are handed over to the authorities. This practice has the goal of ensuring order and compliance in society. (Sugiharti, Muttaqin, Singadimedja, & Cahyadi, 2021)

These rules regarding the giving of tribute are made by the rulers, and the people are expected to obey them. The system is designed to maintain balance and structure in the collection and use of resources. The regularity in tax regulation in the past reflects the importance of taxes as an instrument of economic management and development. Along with the times, the form and mechanism of taxes have changed, but the basic principles regarding tax obligations as people's contributions to the country remain consistent. Modern taxes, although more complex, still serve as the main

tool to ensure the smooth and sustainable development of the country.

The process of collecting taxes in the past showed that there was a transfer of wealth from the people, both those who gave and those who paid taxes, to the king or ruler as the tax recipient. In that era, taxes served as the main resource to support the needs and power of the rulers. This tax revenue is strictly regulated by the rules set by the authorities, aiming to ensure that the tax collection and management process takes place in an orderly and orderly manner.

Over time, the tax collection system underwent a significant transformation. Tax collection is no longer just a matter of individual rulers, but has developed into a collective authority held by a community organization known as the "state". In the modern state system, tax collection requires a strong legal basis to ensure the validity and regularity of its implementation. These regulations are essential to accommodate public participation, ensure that taxes are collected fairly, and ensure transparency in the management of public funds. An adequate legal basis also ensures that taxes are used for the common good and that their management is carried out with accountability, as well as creating public trust in the existing tax system.

The authority possessed by the state in terms of the implementation of tax collection is intended to fill the state treasury and other purposes, both indirectly and indirectly centered on filling the state treasury. The implementation of tax collection in Indonesia is based on Article 23 A of the Constitution of the Republic of Indonesia in 1945 that "Taxes and

other levies that are coercive for state purposes are regulated by law.". In terms of tax collection, Indonesia adheres to the theory of tax justification according to Pancasila.(Sugiharti et al., 2021) This theory means connecting Pancasila which is the foundation and basis of philosophy and is the ideology of the nation and state of Indonesia linked to tax collection. This tax is a form of transition from taxpayers to taxpayers, therefore every transition must get the approval of the people through the legislature which is then formulated in the form of a law that reflects Pancasila.(Dr KHALIMI Moch iqbal, 2020)

Indonesia has adhered to a system in collecting its taxes since 1984, namely Self Assessment System. This system gives the responsibility to taxpayers to be personally responsible for reporting their tax obligations.(Supriyadi, Setiawan, & Bintang, 2019) Each taxpayer will then fill out a Surat Pemberitahuan Tahunan (SPT) which is a form of personal reporting responsibility from taxpayers who have tax objects or non-tax objects for their obligations.(Komara, 2012)

According to the applicable tax system in Indonesia, taxpayers are expected to have awareness and responsibility to fulfill their tax obligations independently, without having to wait for a Surat Ketetapan Pajak (SKP) issued by the fiscal or government. However, in practice, there is often a significant difference between tax calculations carried out independently by taxpayers and the amount of tax listed in the SKP issued by the fiskus. These differences often arise from differences in calculation methods, interpretations of tax

provisions, or administrative errors on the part of both taxpayers and fiscus.(Hamdani, Haskar, & Farda, 2023)

This discrepancy in tax calculations has the potential to cause tax disputes between taxpayers and fiscal parties. This tax dispute arises when taxpayers feel that the taxes set by the fiscal office are not in accordance with the actual tax obligations or when there are inaccuracies in the SKP. As a result, the tax dispute resolution process has become an important part of the tax system, to ensure that the rights and obligations of both parties—taxpayers and fiskus—can be fulfilled fairly and transparently. This system aims to resolve differences in tax calculations and avoid prolonged tax disputes, as well as ensure compliance and fairness in tax collection. (Sa'adah, 2018)

The definition of tax dispute is mentioned in Article 1 paragraph (5) of Undang-Undang Nomor 14 Tahun 2002 tentang Pengadilan Pajak which defines that "tax disputes arising in the field of taxation between taxpayers and authorized officials as a result of the issuance of decisions that can be appealed or lawsuits to the Tax Court based on tax legislation, including lawsuits over the implementation of collection based on the Law on Tax Collection with Compulsory Letters". Tax disputes experienced by taxpayers can be resolved, namely through the objection application process. This objection application is a form of dissatisfaction because there is a difference in the tax calculation figure between the tax return that is calculated independently by the taxpayer and the SKP issued by the fiscal (Ispiyarso, 2018). This objection application is submitted in writing by

stating the amount of loss according to the taxpayer's calculation along with the reasons that are the basis for the calculation, as well as attaching the evidence needed to strengthen the application. Then this application file is submitted to the tax objection institution, namely a unit / division at Kantor Pratama Pajak (KPP) under the Direktorat Jendral Pajak (DJP).(Ispiyarso, 2019)

The process of applying for tax objections raises doubts in the public about the independence of the objection institution, because the parties in this tax dispute are taxpayers and the government (DJP), but the one who conducts the examination and termination of this dispute is the DJP.(Ispiyarso, 2019) Based on data from the Direktorat Jendral Pajak regarding the results of objection decisions, it shows that the majority of objection settlements, namely objection applications, are rejected and accept some applications. The data shows that it is unlikely that taxpayers will win disputes through objections.(Supriyadi et al., 2019) Then if the objection is rejected, the taxpayer will appeal at the Tax Court level.

MAIN PROBLEM

Based on the problem mentioned above, the author then formulates main problem discussed in this research, that is:

1. What is the mechanism for resolving tax disputes through objection institutions?
2. How effective are objection institutions in resolving tax disputes?

METHOD OF RESEARCH

The research method used in this study is normative juridical, which is legal research based on reviewing and discussing legal norms, legal principles, legal rules and legal doctrines contained in laws and regulations. The research specification used is descriptive analysis, which is a study that describes the applicable laws and regulations related to legal theory and the practice of applying positive law as well as phenomena that occur in practice in the field of taxation. The data used is secondary data through literature research on primary, secondary and tertiary legal materials.

RESEARCH RESULT

A. Tax Dispute Resolution Mechanism Through Objection Institutions

Tax disputes are disputes that arise in the field of taxation between taxpayers and the government as tax collectors. Based on the definition of tax disputes contained in Article 1 number 5 of Undang-Undang Nomor 14 tahun 2022 tentang Pengadilan Pajak, the tax court is authorized to examine and decide on tax appeal applications from decisions that can be appealed, in this case, the decision of the objection institution on objections submitted by taxpayers. (Ispriyarso, 2019)

The definition of objection is the legal remedy taken by the taxpayer against a tax determination letter whose amount is not appropriate. Regarding this objection, the audit was carried out by Kantor Pratama Pajak (KPP) or the Tax Regional Office. This legal remedy for objections is regulated in Articles 25 and 25 of Law

Number 6 of Undang-Undang Nomor 6 tahun 1983 sebagaimana telah diubah dalam Undang-Undang Nomor 28 tahun 2007 tentang Ketentuan Umum dan Tatacara Perpajakan, as well as its implementing regulations in the Regulation of the Minister of Finance Number 202/PMK.03/2015 concerning procedures for Submission and Settlement of Objections.

Objections that can be submitted by this taxpayer include: Letter. Ordinances. Tax. Less. Pay, Letter. Ordinances. Tax. Less. Pay. Additional, Letter. Ordinances. Tax. More. Pay, Letter. Ordinances. Tax. Zero and tax withholding or collection carried out by third parties based on the provisions of the law. (Pudyatmoko, 2009)

To file an objection, taxpayers are required to meet several requirements, some of these requirements are as follows:

- a. This objection is mandatory for submission in writing using Indonesian and then addressed to the DJP through the local Kantow Regional KPP from the taxpayer.
- b. The taxpayer includes the amount of tax owed and the amount of tax deducted in accordance with the amount of losses from the taxpayer and is also accompanied by the reason for submitting this objection
- c. An objection must be filed for one type and within a period of one year
- d. For the submission of this objection, the warus is submitted in accordance with the period of three months from the issuance of the SKP

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Regarding some of these requirements, taxpayers must meet all of them in order for their objection submissions to be accepted. Then there are several ways to file an objection legal remedy, namely directly by submitting an objection letter to Kantor Pratama Pajak (KPP) where the taxpayer is registered, in addition to that it can also be through the post office and expedition services and other courier services with proof of mail delivery.

Based on Article 13 paragraph (1) of the Regulation of the Minister of Finance Number 09 of 2013, it is stated that the Director General of Taxes has several authorities, namely: a) borrowing books, data records and information related to the subject matter of the dispute; b) request information related to the disputed material; c) request data and information to third parties related to the disputed material; d) Review the taxpayer's place, conduct discussions and clarifications as well as examinations to obtain data and information related to the disputed material.

Objections submitted by taxpayers to the DJP are no later than 12 (twelve) months from the date of receipt of the objection letter, then the DJP must give a decision on the objection letter that has been submitted by the taxpayer. If within that period the DJP does not issue an Objection Decree, then the objection submitted by the taxpayer is considered to be granted by the DJP, this is contained in Article 26 paragraph (1) of the KUP Law. (Asmorowati, 2011)

The decision of the Director General of Taxes on objections can be in the form of granting in full, granting partially, refusing, and increasing the

amount of tax that still has to be paid. If in the objection decision letter, the taxpayer has not received justice, he can appeal the dispute to the tax court.

B. Effectiveness of Objection Institutions in Tax Dispute Resolution

Procedures in government administration are said to be appropriate procedures if they follow and are in accordance with the legal basis that regulates these procedures. In the field of taxation, the DJP has the duty to carry out in accordance with its work responsibilities, both legally and legally, including regarding tax provisions and procedures, must be in accordance with the legal basis that regulates its responsibilities. The procedure for legal objections is carried out by units under the DJP environment. This raises doubts about the independence of the objection institution, because the parties to the dispute in this tax dispute are between the taxpayer and the fiscal office as the party that collects the tax, in this case it is part of the DJP. Based on the theory of independence of judicial power by Jimly Asshiddiqie, the independence of an institution can be seen based on its institutional organizational structure. The organizational structure in legal remedies for tax objections is also under the DJP, so this causes the non-independence of tax objection institutions. (Ispriyarso, 2019)

There are also several reasons related to the non-independence of this objection body, namely the fiskus is also the jury that makes a decision, the fiskus is the party who raises objections to the decision it issued, the time given to the fiskus to resolve the dispute is more than the time given to

the taxpayer to file an objection to the results of the fiskus research and the objector examiner has the same goal, namely to increase revenue tax. (Supriyadi et al., 2019) In addition, the dissatisfaction felt by taxpayers with the outcome of an objection decision, where most decisions reject all or only partially approve the objection submitted, is often considered an indication that the objection process is unfair. (Supriyadi et al., 2019) Some opinions say that this is due to the fact that the examiner objected to his position in the DJP structurally, even though he has committed to implementing independence, but this structural linkage still gives rise to independence that cannot be fully implemented.

The result of this Objection Decree causes dissatisfaction from taxpayers due to the inequality of position as explained above. In addition, based on data that in the Objection Decree in 2016 there were 9042 objection files submitted to the DJP, there were 7019 applications rejected by the DJP or a percentage of 77.63% of applications. (Supriyadi et al., 2019)

This shows that there are several errors in the processing of tax objections at the DJP. The problem in the unfairness of objection processing is caused by several things, namely (Supriyadi et al., 2019):

- a. A psychological pressure felt by the physcot as a reviewer of objections
- b. There is a reluctance from the objector because the organizational structure of the objector is still an internal part of the DJP

When a tax objection application is granted by an objection reviewer, the

decision has the potential to result in financial losses for the state in an amount that is in accordance with the accepted decision. This situation can cause significant psychological pressure for objectors, given that the decision can directly affect state revenue. In addition, there is a presumption that a decision that could reduce the country's finances will trigger stricter scrutiny to prevent further losses.

In this context, supervision of the Direktorat Jendral Pajak (DJP) is carried out intensively to ensure that the objection application process is processed in accordance with applicable rules. This supervision is carried out through an audit conducted by the Financial Audit Agency (BPK) and the Inspectorate General. The audit process begins after the objection application has been reviewed by the objection examiner. The auditor will examine the decisions that have been taken and ensure that the process and results are in accordance with the applicable laws and regulations.

This supervision aims to ensure transparency and accountability in tax management and dispute resolution. With this audit, it is hoped that the objector will be more careful in making decisions and ensure that every decision taken is not only fair to taxpayers, but also does not harm the interests of the state. This process also helps maintain the integrity of the tax system and prevent potential abuse or negligence in handling objection requests.

A psychological pressure that may be felt by the objector to cause the decision issued can be subjective. The objector has a tendency to secure himself by rejecting the objection and

leaving the process to the appeal level so that the decision will be delegated to the tax court. This is because the audit conducted to the DJP is currently still focused on the results of objections that are granted related to objection requests, nor is there an examination of rejected applications and continued to the appeal level. In this case, there is also an injustice to the objector because the examination conducted by the auditor is only on the objection application file that is granted. In addition, other problems are related to legal protection for objectors. That in terms of granting the objection request, it will cause a financial loss for the state. In terms of carrying out their duties, the objector has a great responsibility because in the future the decision they make can be prosecuted and criminalized, but the objector does not get a guarantee of legal protection.

The next problem is related to the organizational structure of objection review that is not independent. This independent means that the facts are not biased against a particular individual. In relation to the object-examiner, namely that the object-examiner is an internal part of the DJP, as well as the fiscal that issued the SKP is also an internal part of the DJP, the object-examiner is conducting an examination of the work of his colleagues within the DJP. The DJP as the party that gave the decision on the objection application still supervises the party in dispute, namely the SKP issuer. Therefore, the objecting institution in this case will find it difficult to be able to apply the principles of justice and independence institutionally. (Dr KHALIMI Moch iqbal, 2020)

Currently, decisions on objection applications filed by taxpayers show that about 70% of such applications are rejected. This figure indicates a low probability of objections being granted. As a result of these refusals, taxpayers often appeal to the tax court. Interestingly, many appeal decisions are in favor of taxpayers, indicating ineffectiveness in screening tax disputes at the objection level. This phenomenon shows that there are problems in the dispute resolution process at the objection stage. Some of the factors that affect this situation are beyond the control of the objection examiner, which may include procedural issues or shortcomings in the assessment carried out at the initial level. This condition requires a re-evaluation of the dispute resolution mechanism to improve the effectiveness and fairness of the tax objection process. (Djatmiko, 2016)

The factors that affect the effectiveness of the objection process in tax disputes often stem from the differences in regulations used by objection examiners and Tax Court judges. Objection examiners follow the tax regulations issued by the government, which set the procedures and criteria for assessing objections. This regulation aims to ensure that objections are processed consistently with applicable rules. On the other hand, judges in the Tax Court have the authority to use tax law and other legal considerations in decision-making. The perception of justice also plays an important role. Objectors are considered to meet the principle of fairness if the decisions taken are in accordance with government regulations, whereas Tax Court judges are considered fair if their decisions reflect their beliefs and conscience.

These discrepancies often cause discrepancies in the results of decisions and can result in dissatisfaction for taxpayers. Despite a number of problems in the objection process, such as ineffectiveness in screening disputes and incompatibilities between the regulations applied, the objection body remains an integral part of the tax dispute resolution system in Indonesia. Therefore, evaluation and improvement of the objection mechanism is urgently needed to increase effectiveness and fairness in resolving tax disputes.

DISCUSSION

The tax dispute resolution mechanism through objection institutions in Indonesia faces several challenges that impact its effectiveness and fairness. According to the research findings, the objection process is a crucial step for taxpayers to contest tax assessments they believe to be incorrect. However, various underlying issues affect the performance of objection institutions and lead to dissatisfaction among taxpayers.

One major issue is the independence of the objection institutions. These institutions operate under the Directorate General of Taxes (DJP), which is also responsible for issuing tax assessments and collecting taxes. According to Jimly Asshiddiqie's theory of judicial independence, an institution's independence can be evaluated based on its organizational structure. In this case, since the objection institutions are part of the DJP, there are concerns about their complete independence and objectivity in handling objections. This issue is

exacerbated by the fact that the tax officials who issue tax assessments are also involved in the objection process as decision-makers.

Furthermore, data indicates that in 2016, approximately 77.63% of objection applications were rejected by the DJP, highlighting a low success rate for objections. This suggests potential errors or unfairness in the handling of objections. Key factors contributing to this perceived injustice include psychological pressure on objection reviewers and structural resistance due to the objection review being part of the DJP. The pressure to safeguard state revenue and the fear of financial loss lead decision-makers to be more inclined to reject objections to avoid financial risks.

Oversight of the DJP is conducted intensively by the Financial Audit Agency (BPK) and the Inspectorate General to ensure compliance with regulations. While this oversight aims for transparency and accountability, there are complaints that it does not adequately cover all aspects, including potentially unjust rejections of objections. Additionally, there are gaps in legal protection for the objection reviewers, which can lead to biased or unfair decisions.

Finally, discrepancies between the regulations used by objection reviewers and Tax Court judges often lead to inconsistent decision outcomes. Objection reviewers adhere to government tax regulations, while Tax Court judges have the authority to apply tax law and other legal considerations. These differences can cause dissatisfaction among taxpayers and highlight the need for a reevaluation and improvement of the tax dispute resolution mechanism to enhance effectiveness and fairness in

the objection process. Therefore, a comprehensive reform of the tax objection mechanism is needed to ensure that the process is more equitable, transparent, and capable of meeting taxpayer expectations.

CONCLUSION

1. Tax collection in Indonesia is based on the principles of Pancasila, which emphasize justice and social welfare, ensuring that taxpayers are protected from potential losses. If there is a discrepancy between the taxpayer's report and the Tax Determination Letter (SKP), the taxpayer has the right to file an objection. This objection process is regulated by law and must follow the applicable procedures, providing taxpayers with the opportunity to request a reassessment of tax decisions deemed inappropriate. This mechanism is part of the tax law system that ensures transparency, accountability, and protection of taxpayer rights in resolving tax disputes.
2. The processing of objection requests in Indonesia adheres to established legal procedures, but several issues impact its effectiveness. Psychological stress faced by reviewers, insufficient legal protection for objectors, and potential conflicts of interest are challenges in the review process. Nonetheless, objection institutions play a crucial role in resolving tax disputes and ensuring taxpayers receive fair and objective decisions. Addressing these issues is essential for maintaining transparency and accountability in the taxation process.

REFERENCES

- [1] Asmorowati, M. (2011). Objection disputes are compared to tax court disputes based on applicable regulations. *Journal of Legal Insights*, 25(02), 369–380.
- [2] Djatmiko, D. H. M. H. (2016). Problematic Tax Disputes in the Tax Justice Mechanism in Indonesia. *Legal and Public Relations Bureau of the Administrative Affairs Agency of the Supreme Court of the Republic of Indonesia*. Retrieved from <http://www.komisiyudisial.go.id/assets/uploads/files/bunga-rampai-2013-putih-hitam-pengadilan-khusus.pdf>
- [3] Asmorowati, M. (2011). Objection disputes are compared to tax court disputes based on applicable regulations. *Journal of Legal Insights*, 25(02), 369–380.
- [4] Djatmiko, D. H. M. H. (2016). Problematic Tax Disputes in the Tax Justice Mechanism in Indonesia. *Legal and Public Relations Bureau of the Administrative Affairs Agency of the Supreme Court of the Republic of Indonesia*. Retrieved from <http://www.komisiyudisial.go.id/assets/uploads/files/bunga-rampai-2013-putih-hitam-pengadilan-khusus.pdf>
- [5] Dr KHALIMI Moch iqbal. (2020). *Tax Law Theory and Practice* (Vol. 1).
- [6] Hamdani, A., Haskar, E., & Farda,

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- N. F. (2023). Amnesty: Legal Journal of Tax Dispute Resolution through Tax Objections. *Amnesty: Law Journal*, 5(2), 191–206.
- [7] Ispiyarso, B. (2018). Legal remedies in tax disputes. *Administrative Law & Governance Journal*, 1(2), 9–14.
- [8] Ispriyarso, B. (2019). Weaknesses of Tax Objection Institutions. *Administrative Law and Governance Journal*, 2(2), 248–258.
doi:10.14710/alj.v2i2.248-258
- [9] Komara, A. (2012). *Easy Ways to Understand KUP (General Provisions and Taxation Procedures)*. Jakarta: Bee Media Indonesia Publisher.
- [10] Pudyatmoko, Y. S. (2009). *Introduction to Tax Law*. Yogyakarta: ANDI OFFSET.
- [11] Sa'adah, N. (2018). Review of Tax Dispute Resolution through Objection Institutions. *Administrative Law and Governance Journal*, 1(3), 268–279.
- [12] Sugiharti, D. K., Muttaqin, Z., Singadimedja, H. N., & Cahyadi, A. (2021). *Tax Law (Pe Print)*. Bandung: PT Remaja Rosdakarya.
- [13] Supriyadi, Setiawan, B., & Bintang, R. M. (2019). Evaluation of objection institutions in fair tax dispute resolution at the Direktorat Jendral Pajak. *INDONESIAN TAX JOURNAL (Indonesian Tax Review)*, 2(2), 6–19. doi:10.31092/jpi.v2i2.640