The Evidence in Administrative Dispute to Settle Tax Disputes (Non-Litigation)

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ABSTRACT

The process of resolving State Administrative Disputes (after this referred to as SAD) can be resolved through 2 (two) ways; through an administrative dispute and a legal dispute to the court. Tax disputes as one of the state administrative disputes can also be done through both efforts. Tax dispute resolution through administrative procedures is examined and decided by the Directorate General of Taxes (DGT) as the agency authorized to issue tax assessments, while appeals are made to the Tax Court. Unlike the settlement of disputes through the court which is standardized because it is regulated in Law Number 14 of 2002 concerning the Tax Court, the settlement of tax disputes outside the court (non-litigation) until now still does not have a standardized settlement mechanism so it has the potential to cause legal uncertainty. This research is conducted to examine the provisions of evidence in the settlement of state administrative disputes in the field of taxation through administrative remedies based on the principle of legal certainty. This research uses normative juridical research methods, with an explorative nature to various provisions of procedural law, especially state administrative court procedural law and the principle of legal certainty. This research indicates that there is still a void of evidentiary provisions in the resolution of tax disputes as administrative disputes, to overcome this issue, one can refer to proof in litigation proceedings in the Administrative Court or Tax Court. Then in order to realize legal certainty, it is necessary to formulate regulations related to the provisions of evidence in the settlement of tax disputes as administrative disputes.

Keywords: Evidence, Tax Dispute, Administrative Efforts, Non-Litigation

INTRODUCTION

Taxes are official state collections imposed on people, goods, or services based on legal provisions to assist the government in actualizing the welfare of the public at large (Syahrani, 2015). Tax collection is an essential function in the administration of the state, which is necessary for the continuation and sustainability of the state (Jacobsen and Lipman, 1960). Paying taxes is not only an obligation, but it is the right of every citizen to participate in the funding of state and national development (Devano and Rahayu, 2006).

The relationship between taxpayers and tax collectors, in their activities, is very likely to experience differences in perception due to increased awareness and understanding of taxpayers of their rights and obligations based on tax laws and regulations. The difference in perception will eventually lead to disputes between taxpayers and state administrative officials (DGT). Tax disputes are disputes arising in the field of taxation between taxpayers and authorized officials as a result of the issuance of decisions that can be objected to, appealed, or sued to the tax court based on tax laws and regulations, including a lawsuit over the implementation of collection based on the Tax Collection Law with a Forced Letter.

Tax disputes that can be resolved through objection procedures include objections to tax underpayment assessment letters (known as SKPKB); additional tax underpayment assessment letters (known as SKPKBT); tax overpayment assessment letters (known as SKPLB); tax overpayment assessment letters (known as SKPLB); nil tax assessment letters (SKPN); and/or tax withholding or collection made by third parties based on applicable tax regulations. Meanwhile, a lawsuit to the court can be filed against:

a. Implementation of a letter of force, warrant of seizure, or announcement of auction;
b. Decision of prevention in the context of tax collection;
c. Decisions relating to the implementation of taxation decisions, other than those stipulated in Article 25 paragraph (1) and Article 26; or
d. Issuance of tax assessment letter or objection decision letter that is not in accordance with the procedures or procedures stipulated in the provisions of laws and regulations. Basically, the PMK referred to above, is not expressly stated regarding the provisions of evidence in the case of dispute resolution through objection, even though evidence in the objection procedure is very much needed in providing objection decisions Translated with DeepL.com (free version).

Before making an appeal, the taxpayer must first file an objection. This is because the object of appeal (appel) itself is an Objection Decision Letter. Submission of tax objections is addressed to the Directorate General of Taxes (DGT). The DGT is the one who is authorized to examine and provide a decision on the objection submitted within a maximum period of 12 months from the time the objection letter is received. This settlement is an opportunity for the DGT to justify its own decision so that the settlement through the court becomes the ultimum remidium (the last settlement).

However, the out-of-court tax dispute resolution process is considered to have less power because there are doubts about whether the DGT can act fairly or not, given the unbalanced position between the DGT and taxpayers. This is then reinforced by statistical data showing that in tax disputes, the majority of taxpayers lose at the objection level but win at the appeal or lawsuit level (Suwiknyo, 2023). This has led to the perception that the existence of tax dispute resolution can only prolong the course of tax dispute resolution, instead of resolving the dispute itself based on justice.

Furthermore, until now the process of resolving taxFurthermore, the process of resolving tax disputes through objection procedures does not have standardized provisions. The settlement of tax objections is regulated in the Minister of Finance Regulation known as PMK No. 9/PMK.03/2013 concerning Procedures for Submission and Settlement of Objections as amended by PMK No. 202/PMK.03/2015 concerning Amendments to PMK Regulation No. 9/PMK.03/2013 concerning Procedures for Submission and Settlement of Objections (hereinafter referred to as PMK Objection Settlement). One of the important aspects of the dispute resolution process is proof, because, in law, proof is one thing that is needed to provide a fair settlement. In the PMK referred to above, it is not expressly stated regarding the provision of evidence in the case of dispute resolution through objection, even though evidence in the objection procedure is something that is needed in providing objection decisions. disputes through objection procedures do not have standardized provisions. The settlement of tax objections is regulated in PMK No. 9/PMK.03/2013 concerning Procedures for Submission and Settlement of Objections as amended by PMK No. 202/PMK.03/2015 concerning Amendments to PMK Regulation No. 9/PMK.03/2013 concerning Procedures for Submission and Settlement of Objections (hereinafter referred to as PMK Objection Settlement). One of the important aspects of the dispute resolution process is proof because, in law, proof is one thing that is needed to provide a fair settlement. In the PMK referred to above, it is not expressly stated regarding the provision of evidence in the case of dispute resolution through objection, even though evidence in the objection procedure is something that is needed in providing

objection decisions (Directorate General of Taxation, 2023). This certainly raises problems and differences regarding perceptions or views in the settlement of objections, especially for the field of taxation in terms of proof at the administrative effort stage. Based on the description above, the problem to be studied is how the provisions of evidence in the settlement of state administrative disputes in the field of taxation through administrative efforts are based on the principle of legal certainty.

This research is expected to provide renewal of thought in the field of state administrative dispute resolution, especially in the field of taxation, due to the legal vacuum regarding evidentiary arrangements for out-of-court dispute resolution. The provisions of procedural law applicable to the State Administrative Court, which include procedural law at the first level of examination and appellate level of examination, are regulated in the State Administrative Court Law and Law Number 30 of 2014 concerning Government Administration which has been amended by the Job Creation Law. Meanwhile, the provisions and procedures for out-of-court proceedings, including administrative remedies, until now there are no laws and regulations governing them. Procedural provisions in quasi-administrative courts (administrative remedies) are subject to the technical operational provisions of the body or agency where the official and/or superior of the PTUN official is located.

RESEARCH METODE

Researchers use research methods with a qualitative research approach, namely research that refers to legal norms contained in laws and regulations as well as norms that live and develop in society. The purpose of this qualitative research is to gain understanding, develop theory, and describe in a complex manner (Ali, 200). The analysis is presented in the form of descriptions, while if data is found and presented in the form of numbers, it is not intended to be tested statistically, but only to strengthen or sharpen the analysis.

Basically, legal research has normative juridical and empirical juridical types (Soekanto, 1986). Considering that the Electronic Transaction Tax instrument has been regulated in Indonesian legislation, this research was conducted using a normative juridical approach, because the object under study is the norms or rules formulated in the law without excluding the empirical facts contained in the field. The research specification used is descriptive analytical, which is research that describes and analyzes secondary data supported by primary data related to proof in administrative efforts to resolve tax disputes.

Data collection itself is defined as a process of obtaining data using certain techniques (Silalahi, 2012). The data collection technique used in this research is a literature study. Data collection techniques in the form of literature studies aim to obtain research materials by collecting, examining, and tracing documents or literature such as legal theories, legal principles doctrines and legal rules obtained from primary legal materials, secondary legal materials, and tertiary legal materials that can provide information or information needed by researchers (Ishaq, 2017).

RESULT AND DISCUSSION

Existence of Administrative Remedies in Tax Disputes

State Administrative Officers and Institutions in carrying out the functions of government administration cannot be separated from the making of State Administrative Decisions (hereinafter referred to as KTUN). The KTUN issued by a body or official may be considered detrimental to individuals or civil legal entities affected by the KTUN, so this will lead to a State Administrative Dispute. To resolve conflicts of interest arising between state administrative agencies or officials and the public, settlements can be made through the courts, and there can also be an out-of-court dispute resolution process, namely through administrative remedies.

Administrative actions consist of objections and administrative appeals. An objection is a settlement of an adverse Administrative Decree by the Administrative Body or official who issued the Administrative Decree. Meanwhile, the administrative appeal is the settlement of state administrative disputes through the superior agency or other agency that issued the decision in question (Panjaitan, 2016). With an administrative appeal, the adjudicating state administrative body or official has the authority to reject or accept the administrative appeal. If the administrative body or official rejects the administrative appeal, the disputed KTUN is still

declared valid. Meanwhile, in the case of accepting an administrative appeal, the disputed KTUN may be revoked, or corrected, or a new KTUN may be issued.

Administrative action is actually a process of "dialog" within the government, between citizens and state administrative officials. Administrative remedy is a procedure that can be taken by a person or civil legal entity if they are dissatisfied with a KTUN that is considered detrimental carried out within the government administration. Administrative officers or institutions are authorized by laws and regulations to administratively settle administrative disputes and administrative courts are only authorized to examine, decide, and settle administrative disputes when all relevant administrative remedies have been exhausted.

Administrative action is classified as quasi-administrative justice. Pseudo-administrative justice is actually not a court in the true sense, because it does not fulfill the requirements of pure administrative justice. The characteristics of quasi-judicial proceedings in the theory of administrative law procedures include:

a. The deciding authority is a higher hierarchical authority (within a vertical level) other than the one that rendered the first decision.
b. Examining the "rechtsmatigheid" and "doelmatigheid" of the administrative decision, meaning that the test is not only carried out in terms of the application of the law but also from the wisdom of the deciding agency so that the test is carried out completely.
c. Can replace, amend, or nullify the original administrative decision.
d. Can take into account changes that occur during the procedure.
e. The deciding body may be under the influence of another body, even if it is a body outside the hierarchy.

The PTUN Law and the Government Administration Law are the basis for state administrators in exercising one of the rights based on their authority, namely to resolve administrative efforts submitted by the public for decisions or actions made. However, there are differences in the resolution of administrative disputes through administrative remedies before and after the enactment of the Government Administration Law, as follows:

Table 1 Differences in administrative actions before and after the enactment of the Government Administration Law.

Differentiator Indicator	PTUN Law	Public Administration Law
Legal Framework	1. Article 48 and Article 51 paragraph (3) PTUN Law. 2. Supreme Court Circular Number 2 of 1991 Section IV numbers 1 and 2	1. Article 75 - 78 Government Administration Law 2. Supreme Court Regulation Number 6 of 2018
Objection (*bezwaarstratie*)	1. Submitted to the official who issued the decision. 2. Administrative appeal procedures may be filed if the basic rules specify. 3. If the basic rules do not specify the administrative appeal procedure, a lawsuit may be filed with the State Administrative Court.	1. Submitted to the official who issued the decision or action. 2. Administrative appeal procedures are always specified. 3. It is not possible to file a lawsuit in court before conducting the administrative appeal procedure.
Administrative appeals (*administratief beroep*)	1. Submitted to the superior of the official who issued the decision, referring to the basic rules; or 2. Submitted to another official or agency if the basic rule is specified. 3. A lawsuit is filed with the High Administrative Court.	1. Submitted to the superior of the official who issued the decision or action. 2. It may not be filed with an official other than the superior of the official who issued the decision or action. 3. The lawsuit is filed with the High Administrative Court.

Source: data processing by the author

Tax Disputes are also considered state administrative disputes. This is if we look into some of the characteristics of administrative disputes as follows:

1. The disputing party.

The disputing party in an administrative dispute is a dispute between a person or civil legal entity and a State Administrative Agency or Official. The party that is always positioned as a plaintiff is a person or civil legal entity, while the defendant is a State Administrative Agency or Official (Sa'adah and Wibawa, 2023). Dalam sengketa pajak, pihak yang bersengketa adalah Wajib pajak yang dapat berupa Wajib pajak perorangan maupun Wajib pajak Badan, melawan Direktorat Jenderal Pajak (DJP) selaku pihak yang berwenang mengeluarkan Surat Ketetapan Pajak dan melakukan tindakan lainnya sesuai peraturan perundang-undangan perpajakan.

2. The object of dispute.

Objek sengketa dalam sengketa administrasi adalah KTUN sebagaimana dimaksud dalam Pasal 1 angka 3 Undang-Undang Pengadilan TUN yang berbunyi, "Keputusan Tata Usaha Negara adalah suatu penetapan tertulis yang dikeluarkan oleh Badan atau Pejabat Tata Usaha Negara yang berisi tindakan hukum Tata Usaha Negara yang berdasarkan peraturan perundang-undangan yang berlaku, yang bersifat konkret, individual, dan final, yang menimbulkan akibat hukum bagi seseorang atau badan hukum perdata. Objek sengketa pajak sebagaimana dimaksud pada Pasal 1 angka 5 Undang-Undang Nomor 14 Tahun 2002 adalah Surat Ketetapan Pajak Kurang Bayar (SKPKB), Surat Ketetapan Pajak Kurang Bayar Tambahan (SKPKBT), Surat Ketetapan Pajak Lebih Bayar (SKPLB), dan Surat Ketetapan Pajak Nihil (SKPN). Selain itu, objek sengketa pajak adalah keputusan sebagaimana dimaksud dalam Pasal 23 ayat (2) Undang-Undang Nomor 6 Tahun 1983 tentang Ketentuan Umum dan Tata Cara Perpajakan sebagaimana telah diubah beberapa kali terakhir dengan Undang-Undang Nomor 7 Tahun 2021 tentang Harmonisasi Perpajakan (selanjutnya disebut Undang-Undang KUP).

3. Tax Assessment Letter is issued by the Administrative Officer c.q. Tax Official who has the authority to collect taxes.

4. The actions taken by tax officials fall within the scope of government action in the field of public law.

based on this description, it is clear that tax disputes are included in administrative disputes so that the provisions in dispute resolution through administrative remedies also mutatis mutandis apply to tax disputes unless otherwise specified in the legislation.

Provisions regarding administrative remedies in the field of taxation are regulated more specifically in the Law on General Provisions and Procedures for Taxation and the Tax Court Law. A tax dispute is a dispute arising in the field of taxation between a taxpayer or taxpayer and an authorized official as a result of the issuance of a decision that can be appealed or sued to the tax court based on tax legislation, including a lawsuit over the implementation of collection based on the Tax Collection by Force Act. Tax disputes can be resolved through objection, appeal, lawsuit, and/or judicial review. Those that can be resolved through objection procedures include objections to tax underpayment assessment letters (SKPKB); additional tax underpayment assessment letters (SKPKBT); tax overpayment assessment letters (SKPLB); tax overpayment assessment letters (SKPLB); nil tax assessment letters (SKPN); and/or tax withholding or collection made by third parties based on applicable tax regulations. The objection is submitted to the Directorate General of Taxes (DGT). Meanwhile, appeals and lawsuits are legal remedies submitted to the Tax Court, and judicial review is submitted to the Supreme Court.

Based on this description, it can be seen that in the context of tax dispute resolution through administrative remedies (non-litigation), the discussion will refer to the objection resolution because only the objection mechanism is resolved by DGT

Tax Dispute Resolution Through Objection Mechanism

Article 26A paragraph (1) of the KUP Law states that the procedures for filing and resolving objections are regulated by or based on the Minister of Finance Regulation. Currently, the Minister of Finance Regulation

that further regulates the Procedures for Filing and Settling Objections is PMK Number 9/PMK.03/2013 concerning Procedures for Filing and Settling Objections as amended by PMK Number 202/PMK.03/2015 concerning Amendments to PMK Number 9/PMK.03/2013 concerning Procedures for Filing and Settling Objections (hereinafter referred to as PMK on Tax Objections).

The procedure for resolving tax disputes through the objection mechanism begins with the submission of an objection. The objection submission must fulfill the requirements as referred to in Article 4 paragraph (1) of the Tax Objection Regulation, as follows:

1. Submitted in writing in Indonesian language;
2. Disclose the amount of tax payable or the amount of tax withheld or collected or the amount of compensation according to the calculation of the taxpayer accompanied by the reasons on which the calculation is based;
3. 1 (one) objection shall be filed only for 1 (one) Tax Assessment Letter, for 1 (one) tax withholding, or for 1 (one) tax collection;
4. The taxpayer has paid the accrued tax at least the amount agreed by the taxpayer in the final discussion of the audit results or the final discussion of the verification results before the objection letter is submitted;
5. Submitted within a period of 3 (three) months from the date of the:
   - Tax Assessment Letter is delivered; or
   - Withholding or collection of tax by a third party, unless the taxpayer can show that the period cannot be met due to circumstances beyond the taxpayer's control;
6. Objection Letter signed by the taxpayer, and in the event that the Objection Letter is signed by a non-taxpayer, the Objection Letter must be attached with a special power of attorney; and
7. The taxpayer does not submit the application as referred to in Article 36 of the KUP Law.

If the objection letter submitted by the taxpayer does not meet the requirements as referred to above until the period of improvement of the objection letter without any explanation of force majeure, then the objection request will not be considered and DGT will not issue an objection decision letter. Conversely, if the objection letter submitted by the taxpayer has fulfilled all of these requirements, then the objection request can be directly processed by the DGT to decide whether the request will be granted in full, granted in part, rejected, or even increase the amount of tax accrued by the taxpayer. In the context of the objection settlement process, DGT is authorized to:

a. Borrowing books, records, data, and information in the form of hardcopy and/or softcopy to taxpayers related to the disputed material through the submission of a request letter for borrowing books, records, data, and information;
b. Requesting taxpayers to provide information related to the disputed material through the submission of a letter requesting information;
c. Requesting information or evidence related to the disputed material to third parties who have a relationship with taxpayers as referred to in article 54 of Government Regulation Number 74 of 2011 concerning Procedures for Implementing Rights and Fulfilling Tax Obligations through the submission of data and information request letters to third parties;
d. Reviewing the taxpayer's place, including other places needed;
e. Conduct discussion and clarification on matters required by summoning taxpayers through the submission of summons; and
f. Conducting examination for other purposes in the context of objection to obtain objective data and/or information that can be used as a basis in considering the objection decision.

The MoF Regulation on Tax Objection only regulates the procedures for filing objections, the requirements for filing objections, and the authority of the DGT in order to decide tax disputes so the regulation on objection resolution in the MoF Regulation on Tax Objection tends to focus more on the process of collecting evidence conducted by the DGT to taxpayers. The process of proving the evidence that has been submitted by the taxpayer is not regulated at all in the PMK, even though proof is an essential element in the basis for making a

decision letter. The objection decision letter itself is only regulated in 1 (one) article in the PMK on Tax Objection, namely in Article 17.

What is more interesting is when looking into the format of the objection decision letter as stipulated in Appendix XII of the Tax Objection PMK, it can be seen that the format does not include considerations that are used as the basis by the DGT in deciding to accept or reject the taxpayer's objection based on the evidence that has been submitted previously. The content of the objection decision letter only consists of the letterhead which contains the objection decision letter number; the basis for the issuance of the Objection Decision Letter; the consideration which contains the legal basis for the issuance of the Objection Decision Letter; and the content of the decision which consists of the first dictum stating that the objection in the case a quo is accepted/partially accepted/rejected along with the amount of tax to be paid and the penalty, and the second dictum stating that the Director General's decision is effective from the date of its stipulation. There is absolutely no mention of DGT's consideration in deciding the dispute.In fact, a consideration in order to make a certain decision certainly has a basis. As with the description of considerations in a judge's decision, the considerations in making a decision should also be written so that the parties to the dispute, especially the plaintiff, can understand the line of thinking of the party deciding the case c.q. DGT. DGT. The objectivity of the case decision maker can be seen here. This objectivity is very important, especially considering that in the settlement of tax disputes through objections, the disputing party is also the decision maker of the case itself.

There is an interesting phenomenon in the settlement of tax disputes filed by taxpayers, where there is a tendency for taxpayers to experience defeat at the Objection level, but instead win at the Appeal level. The statistical data can be seen in the following table:

Table 2 Tax dispute resolution in 2019-2023

No.	Verdict Results	Year					Total
		2019	2020	2021	2022	2023	
1.	Revocation and Determination	204	141	232	507	339	1459
2.	Unacceptable	621	573	1381	959	1174	4708
3.	Refuse	2388	2507	3297	4634	4574	17400
4.	Increases Taxes to be Paid	1	6	9	1	2	19
5.	Partially Grant	1903	2282	2590	3004	2769	12548
6.	Granted in its entirety	4937	4598	5338	6374	7399	28646
7.	Canceled	76	21	112	82	21	312
	Total	10166	10128	12959	15561	16278	65092

Source: Tax Court Secretariat Ministry of Finance

If all tax disputes submitted to the Tax Court are taxpayers' "dissatisfaction" with the Objection Decision issued by the DGT, it can be seen that the presentation of taxpayers' victory at the Appeal level actually reaches 63% in 2023. This certainly raises the question, why taxpayers always lose at Objection but win at Appeal in the Tax Court.

The imbalance between the position of the taxpayer and the DGT as the party that decides the objection dispute is suspected to be the main cause of the taxpayer's defeat at the Objection level. For this reason, Husein Kartasasmita proposed that the settlement of tax disputes through objections be abolished, so that the settlement of tax disputes can be directly appealed to the court (Kartasasmita, 1985). The reasons cited include that in general, objection letters submitted to the DGT only result in rejection after the taxpayer has waited for 12 months. A similar opinion was also expressed in an article in Indonesia Tax Review Magazine that proposed to eliminate the objection process. They questioned the independence of the DGT as the party that resolves tax disputes as well as the disputing party, as well as the guarantee of legal protection of taxpayers' rights.

Both opinions are logically acceptable. If viewed from the involvement of the disputing parties in the objection resolution, the fairness of the objection decision will very likely be mixed with the interests of the tax apparatus. As a result, the resulting Objection Decision is not optimal because it does not consider all evidence

submitted by the taxpayer. Moreover, the format of the Objection Decision letter itself does not require the DGT to include the rationale or ratio legis of the decision. This Objection Decision is very vulnerable to become a mere formality, so it can actually lead to a futility.

However, in the author's view, the idea of eliminating the objection effort in resolving tax disputes as proposed by several parties previously is also inappropriate. The effort to resolve tax disputes through objections is a good thing to maintain because it can reduce the number of accumulation of cases at the Appeal level. The appeal itself is made to the Tax Court which, as is known, is currently only located in DKI Jakarta, Special Region of Yogyakarta, and Surabaya. If the entire dispute resolution process through objections is eliminated and goes directly to Appeals at the Tax Court, it can be imagined how the accumulation of cases that occur in the Tax Court will be. Therefore, the dispute resolution process through Objection must be optimized, one of which is by strengthening the process of evidence and dispute resolution so that the Objection Decision can be considered fairer for the parties, especially taxpayers.

Provisions of Proof in Administrative Efforts to Settle Tax Disputes Based on the Principle of Legal Certainty

Proof comes from the Dutch 'bewijs', which can be used in two meanings. Sometimes the proof is interpreted as an act by which a certainty is given, sometimes proof is interpreted as a result of the act, namely the existence of a certainty (Nasution, 1976). Furthermore, R. Subekti argues that proving is convincing the Judge of the truth of the arguments or arguments put forward in a dispute (Hiarieej, 2012).

Proof is an important part of the decision-making process because proof relates to events or events to become a fact that can be recognized as true (Wantu, 2014). Evidence is better known in dispute resolution through litigation because in essence the examination process in court is to find, prove, and/or choose a certain version of the truth, then declare it so that it is accepted by everyone, especially the parties to the litigation (Wibowo, 2016).

Evidence is less well known in dispute resolution through administrative remedies because until now there is no positive law in Indonesia that regulates evidence in the settlement of Administrative Disputes through administrative remedies, except in the field of Civil Service. In fact, although administrative remedies are quasi-judicial (quasi rechtspraak), the disputes that are decided must still follow certain rules in order to provide certainty in their implementation.

Legal certainty can be defined as a set of rules or guidelines for citizen action that are clearly structured, precise, and definitive so that citizens know what actions are prohibited and allowed and the legal consequences that can arise from these rules (Fadil, 2023). The consequence of uncertain law is the potential for state tyranny and arbitrariness, which can lead to violations of human rights. For example, in the context of objection resolution in taxation. When the basis of consideration in deciding objections is not normatively regulated, taxpayers cannot know what matters are the causes of their objections being partially granted/rejected. In fact, the consequence of an objection that is partially granted or rejected is that the taxpayer is subject to administrative sanctions in the form of a fine of 30% (thirty percent) of the amount of tax based on the objection decision minus the tax paid before filing the objection Instead of getting a resolution of the taxation problem submitted, the taxpayer actually feels more injustice from the issuance of the objection decision.

Therefore, to prevent legal uncertainty, it is necessary to regulate evidence in the settlement of state administrative disputes through administrative remedies, including in the process of resolving tax objections. The first step that can be taken is to regulate the evidence itself. This is in line with Gustav Radbruch's opinion that the main requirement for realizing legal certainty is that the law must be positivized. Gustav Radbruch stated, *" Legal certainty demands positivity, yet positive law claims be valid without regard to its justice or expediency*" (Fadil, 2023).

Evidence in the settlement of tax disputes through administrative remedies can refer to the principles and mechanisms of evidence in litigation, both regulated in the Law on Administrative Justice and the Law on Tax Court. The State Administrative Procedure Law stipulates 3 (three) aspects related to the evidentiary process,

namely evidence, burden of proof, and assessment of evidence (Johansyah, 2019). These three aspects support the evidentiary process carried out in the trial of administrative disputes.

a. Evidence

Article 100 of the Administrative Court Law stipulates the types of evidence used in the Administrative Court, namely:

1. Letters or Writings;
2. Expert Statement;
3. Witness Testimony;
4. Confessions of the Parties to the Dispute; and
5. Judge's Knowledge.

The five types of evidence are the same as the evidence used in Tax Court Evidence as stipulated in Article 69 paragraph (1) of Law Number 14 Year 2002 on Tax Court. Letters or writings as evidence are further divided into several levels, namely:

1. An authentic deed, which is a letter made by or before a public official, who according to the laws and regulations is authorized to make such a letter with the intention of being used as evidence of the events or legal events stated in it;
2. Deed underhand, namely a letter made and signed by the parties concerned with the intention to be used as evidence of the events or legal events listed therein;
3. A decision letter or decree issued by an authorized official; and
4. Other letters or writings that are not included in the three previous letters.

The arrangement of evidence in the objection examination into these five types of evidence can keep the process of borrowing documents, reviewing taxpayer premises, and requesting other information more definite and wide-ranging.

b. Burden of Proof

Article 76 of the Tax Court Law states that the Judge determines what must be proven, the burden of proof along with the assessment of proof, and for the validity of proof, at least 2 (two) pieces of evidence are required. This is in line with the Principle of Free Proof in the Procedural Law of the State Administrative Court which states that the judge can determine who must prove and what must be proven; which matters must be proven by the parties and which matters must be proven by the judge; the judge can determine which evidence must be added; and the judge can determine the strength of the evidence. This vital role of the judge implies that the judge can place the burden of proof on himself or herself on a fact found during the examination at the Court session (Indroharto, 1993).

The principle of free evidence adopted by judges in deciding tax disputes is considered capable of exploring the material truth from the basically unbalanced position of the parties. Therefore, the principle of free evidence should also be adopted in the settlement of disputes through administrative remedies that are clearly unequal in the position of the parties, coupled with one of the dispute decision makers coming from the same agency as the one that issued the object of dispute.

c. Assessment of Evidence

After the examination process takes place and all evidence relating to the tax dispute is obtained, the next process is the assessment of the evidence. Assessing evidence means assessing the weight that exists in the evidence and the evidentiary power provided by the evidence (Johansyah, 2019). This is the domain of the dispute resolver to consider the suitability of the evidence with the arguments stated in the objection request. In

assessing this evidence, it must be done in accordance with the principle of objectivity. Broadly speaking, the principle of objectivity has a broad meaning, including (Wantu, 2014):

1. Impartial;
2. Being honest or fair; and
3. Not be discriminatory, but place the litigants equally before the law.

The implementation of the principle of objectivity in evaluating evidence can make the quality of the decision better. If the quality of the decision is good and is felt to be able to provide justice, then it is a sign that dispute resolution has been able to achieve its goals.

The outcome of a decision in a tax dispute is something that is expected by the parties to the dispute, because the birth of a decision will create legal certainty that is used as a guide for the parties to act. Therefore, the judge as the center in this process must be very careful in the evidentiary process. Article 76 of the Tax Court Law states that "The judge determines what must be proven, the burden of proof, and the assessment of proof for the validity of the proof required at least 2 (two) evidence as referred to in Article 69 paragraph (1)." The explanation part of Article 76 of the Tax Court Law emphasizes that: "This article contains provisions in order to determine the material truth, in accordance with the principles adopted in the tax law. Therefore, the Judge seeks to determine what must be proven, the burden of proof, fair judgment for the parties, and the validity of evidence from the facts revealed in the trial, not limited to the facts and matters submitted by the parties.

At the hearing the parties may still raise new matters, which in the Appeal or Lawsuit, Appeal Brief, or rebuttal, or response, have not been disclosed. The appellant or plaintiff does not have to be present at the hearing, therefore new facts or matters raised by the appellant or defendant must be notified to the appellant or plaintiff for an answer. This process also needs to be implemented in administrative efforts in resolving tax disputes, where when issuing an objection decision letter, DGT needs to base it on considerations and evidence that appear during the administrative efforts.

CONCLUSION

Based on the description previously explained, it can be concluded that the regulation regarding evidence in administrative efforts to resolve tax disputes casu quo through objection efforts is still unclear, especially regarding what evidence is considered, then how the validity of the evidence, how considerations used by the dispute decision maker. This can certainly create a gap for legal uncertainty. Therefore, it is necessary to regulate the norms governing evidence in administrative efforts. Evidence can refer to the principles of evidence and the mechanism of evidence in litigation efforts at the State Administrative Court/Tax Court.

Suggestion

Since the resolution of tax disputes that lead to a decision to grant in full can have implications for state expenditure due to the interest that must be paid by the Government, the tax authorities need to be careful in issuing Tax Assessment Letters in order to minimize errors that can be detrimental.

Conflicts of Interest

There are no conflicts of interest between the authors who made this paper.

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