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INSTITUTIONAL EFFECTIVENESS OF TAX DEBT COLLECTION IN INCREASING STATE REVENUE

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Abstract
Tax debt collection is an important element for optimizing state revenue, but until now it has not run optimally. The process of collecting tax debts in Indonesia is often long and complicated. Tax collection faces obstacles such as short billing expirations, regulatory complexity, and unwieldy sanctions. The solution to this challenge involves improving regulations, increasing taxpayer awareness, strengthening institutions, and mitigating external factors affecting tax payment. This research is expected to provide an evaluation of the effectiveness of institutional mechanisms in enhancing tax debt collection for state revenue in Indonesia and an analysis of the current institutional regulations governing tax debt collections, providing insights into potential areas for reform and improvement.

Keywords: institutional analysis, state revenue, tax debt

INTRODUCTION

Taxes are an important source of revenue for the state that is used for government funding and national development. The government places tax obligations as a means of state financing, which also reflects the state obligations of every citizen. According to the law, taxes are mandatory contributions that are coercive without direct reward and are used for the prosperity of the people (Sutedi, 2016).

The legality of tax collection is regulated in Article 23A of the Third Amendment to the Constitution of the Republic of Indonesia in 1945 (hereinafter referred to as the "Constitution of the Republic of Indonesia 1945") and Law Number 6 of 1983 as amended by Law Number 28 of 2007 concerning General Provisions and Tax Procedures (hereinafter referred to as the "KUP Law"). The KUP Law has undergone several changes to harmonize tax regulations, and digital transformation is implemented by the Directorate General of Taxes through systems such as e-Registration, e-Filing, e-SPT, and e-Billing (Sukiyaningsih, 2020).

Indonesia changed its tax collection system from an official assessment system to a self-assessment system, which empowers taxpayers to calculate, pay, and report their own taxes (Iswanto, 2023; Nasution, 2023; Tita et al., 2022). Although this system increases taxpayer independence, there is a risk of non-compliance affecting tax revenue. The tax bearer, including the company's management, is responsible for fulfilling tax obligations (Pudyatmoko, 2009). The law allows the confiscation of corporate or personal assets of administrators to collect unpaid taxes.

Tax collection is a series of actions to ensure that tax bearers pay off tax debts along with collection costs. This process involves several steps: reprimand, notification of Compulsory Letters, confiscation, hostage taking, to the sale of confiscated goods. Tax collection is important to optimize state revenue, although the realization is still low compared to overall tax revenue.

Tax Bailiffs play an important role in active tax collection and are equipped with official identification to show authority. Billing also involves assistance from various parties and is regulated in various regulations. Tax collection for bankrupt companies involves curators and supervisory judges. The state has preferential rights as creditors in bankruptcy proceedings, but its realization is often subordinated to separatist creditors due to the opacity of such privileges.

Challenges in tax collection on a bankrupt company include difficulty communicating with evasive taxpayers, the limited five-year expiration period for collection which can be problematic due to the lengthy bankruptcy process, restrictions on bailiffs' actions, the complexity and overlap of regulations, the possibility of tax debts not being fully paid off from the bankruptcy estate, and the issue of temporary tax debts that have not been included and therefore cannot be incorporated into the bankruptcy estate (Deandra & Wibowo, 2021). State revenue from tax collection has not been optimal because the collection system has not been effective. This is due to improper collection priorities, the quality of collection actions that have not been maximized, the administration that is not orderly, and the limited quantity and quality of bailiffs. Internal and external cooperation in tax collection has also not been maximized.

Tax collection continues even though the taxpayer is in this condition, and tax debts are only abolished if repayment is made. The Directorate General of Taxes respects the legal process in the Commercial Court by including tax debt bills in the list of bankrupt debtors. Tax debts have priority in bankruptcy, so curators must prioritize the repayment of tax debts over other creditors' debts. The state (*fiskus*) can confiscate the taxpayer's assets before being declared bankrupt and continue even though there is a bankruptcy decision. Curators can be held accountable for the payment of tax debts that are not paid off in bankruptcy. Even if the bankruptcy assets are insufficient, the taxpayer is still responsible for his tax debt, and the Directorate General of Taxes is authorized to continue collecting until the debt is paid off.

Tax collection faces obstacles such as collection expiry of only five years and overlapping regulatory complexity. Tax bailiffs must devise effective collection strategies before the expiration period expires and require synergy with curators and supervising judges. Suboptimal coordination between the Directorate General of Taxes, curators, and supervisory judges is also a major obstacle, coupled with differences in perception between the Directorate General of Taxes and other parties. Better cooperation and clear regulations regarding debt collection procedures are urgently needed. The Directorate General of Taxes, curators (IKAPI and AKPI), and supervisory judges (Supreme Court) must work together to optimize state revenue from corporate tax debts that do not or do not meet tax obligations.

Based on the background description mentioned above, the problem can be formulated as an analysis of the institutional effectiveness of tax debt collection in state revenue in Indonesia and the current institutional regulations for tax debt collection in Indonesia. This study highlights the responsibility of the company's management and authority holders for tax debts in situations of delay in debt payment obligations (PKPU) and bankruptcy. The research is expected to provide an evaluation of the effectiveness of institutional mechanisms in enhancing tax debt collection for state revenue in Indonesia and an analysis of the current institutional regulations governing tax debt collection, providing insights into potential areas for reform and improvement.

RESEARCH METHOD

This research is a normative-empirical juridical legal study, also known as doctrinal research. Doctrinal law research involves literature studies that focus on the analysis of primary and secondary legal materials (Ibrahim, 2006). The research focuses on tax collection practices, emphasizing that tax debts will not be abolished unless repayment is made. Bankruptcy and PKPU only change the legal status of taxpayers, and the Directorate General of Taxes respects these procedures by adhering to the applicable procedural law in the Commercial Court, including entering tax debt claims still held by the bankrupt debtor.

The Directorate General of Taxes can continue to carry out tax collection measures to protect state revenue by ensuring the conversion of taxpayers' tax debts into repayments.

The research data sources include primary legal materials such as statutes, regulations, and court decisions related to tax collection, bankruptcy, and PKPU procedures. Additionally, secondary legal materials such as legal commentaries, academic papers, and other literature studies focusing on these areas were also used. The research may also draw on procedural law documents and specific case studies from the Commercial Court involving tax debt claims.

The research data analysis involved examining the effectiveness of the current legal and procedural measures in protecting state revenue and ensuring the collection of tax debts from bankrupt taxpayers. This analysis focused on evaluating how well the Directorate General of Taxes implements these measures within the framework of the Commercial Court procedures, particularly regarding the conversion of tax debts into repayments during bankruptcy.

RESULT AND DISCUSSION

Institutional Analysis of Tax Debt Collection for Suboptimal State Revenue

Tax debt collection is an important element for optimizing state revenue, but until now it has not run optimally. There are several obstacles that cause this, including the problem of billing expiration that is only five years, the complexity of regulations that are often biased and give rise to various perceptions, as well as the lack of synergy and coordination between related parties. Taxes are achievements owed to the government through general norms, and which they can impose, in the absence of counter-merit that can be shown in individual cases, is intended to finance government expenditures (Brotodihardjo, 2013).

The most important elements of the state of law, according to Manan (2004), consist of:

a. There is a Constitution as a written regulation that regulates the relationship between the government and its citizens.
b. There is a division of power that specifically guarantees an independent judicial power.
c. There is a decentralization of power or government.
d. There are guarantees of human rights.
e. There is a guarantee of equality before the law and a guarantee of legal protection.
f. There is a principle of legality, the exercise of government power must be based on the law (Manan, 2004).

The meaning of tax in the Dutch-Indonesian full edition of the legal dictionary (Puspa, 2007) is the equivalent of the words *belasting* (Dutch), *burdening/taxation/rating* (English). In the Dutch-Indonesian legal dictionary, *ballasting* means (per)tax(an), fiscal. Synonyms for the word tax are *tax, taxation, duty, revenue, levy, excise, impost, contribution, lot, scot, gild, cess* (English), *stever* (Germany), *tax* (Latin), *Fiscales* (France), *Impuesto* (Spain) (Termorshuizen, 2002).

One of the keys to achieving the tax revenue target is taxpayer compliance in paying taxes. If the taxpayer does not pay his tax obligations, then strict action needs to be taken to be able to force the taxpayer to pay off his tax debt. Tax debts arise automatically from the existence of subjective and objective tax obligations that must be fulfilled by taxpayers and are coercive, namely the repayment of tax debts can be forced directly by the state through the fiscal to confiscate and auction taxpayers' property for tax repayment.

Tax debts that in a material opinion occur at a different time, in a formal opinion occur at the same time. Adriani as a pioneer of material theory said that tax debt arises because it has met the requirements of *tatbestand* which consists of certain circumstances, events, and deeds so that it does not require the intervention of the tax authority to issue a tax determination letter. Even if the tax debt does not arise because of the tax determination letter, the tax determination letter still has a function according to this theory, namely as a basis for tax collection and determining the amount of tax debt. Sumitro said that when analyzed further, the material theory classifies that tax debts arise because of the tax law itself (Saidi, 2007).

Collection is: "A series of actions from the apparatus of the Directorate General of Taxes regarding the Taxpayer not paying off either part or all of the tax obligations owed according to the applicable Tax Law" (Hadi, 2001; Soemitro, 2001). According to Rochmat Soemitro, what is meant by collection is "Acts carried out by the Directorate General of Taxes because the Taxpayer does not comply with the provisions of the Tax Law, especially regarding tax payments."

The tax debt collection process in Indonesia is regulated in the Minister of Finance Regulation Number 61 of 2023 concerning Procedures for the Implementation of Tax Collection on the Amount of Tax Still to be Paid.

The following is the procedure for collecting tax debts in Indonesia:

1) Issuance of a Letter of Warning: The DGT issues a Letter of Warning (ST) to Taxpayers (WP) who have tax debts. The ST contains information about the amount of tax debt, the legal basis for collection, and the payment deadline.
2) Instant and Lump Sum Billing: If the taxpayer does not pay off its tax debt within the period specified in the ST, the DGT can conduct Instant and Lump Sum Billing (PSDS). PSDS is carried out by confiscating the taxpayer's assets that are sufficient to pay off their tax debts.
3) Notification of Compulsory Letter: If PSDS cannot be done, the DGT will issue a Compulsory Letter (SP) to the taxpayer. The SP contains information about the amount of tax debt, the legal basis for collection, and the penalty imposed if the taxpayer does not pay off his tax debt.
4) Implementation of Confiscation: If the taxpayer still has not paid off its tax debt after the SP is issued, the DGT can confiscate the taxpayer's assets. Confiscated property can be in the form of land, buildings, vehicles, machinery, and so on.
5) Sale of Confiscated Goods: The confiscated property can be sold by the DGT through an auction. The proceeds from the sale of confiscated goods are used to pay off taxpayers' tax debts, and the rest is returned to taxpayers.
6) Prevention Proposal: The DGT can propose prevention to the Directorate General of Immigration to prevent taxpayers from traveling abroad. Prevention can be done if the taxpayer does not show good faith to pay off his tax debt.
7) Implementation of Hostage Taking: The DGT can take hostages against taxpayers who have large tax debts and do not show good faith to pay off their tax debts. The hostage taking is carried out by confiscating and controlling the taxpayer's assets whose value is greater than the amount of tax debt.
8) Third-Party Billing: The DGT can appoint a third party to collect tax debts to taxpayers. The appointed third party must have adequate qualifications and experience in the field of tax collection.
9) Billing Through the Court: The DGT can file a lawsuit in court to force taxpayers to pay off their tax debts. The court can decide to confiscate the taxpayer's assets and sell them to pay off his tax debts.
10) Collection of Tax Debts That Have Expired: Tax debts that have expired cannot be collected by the DGT anymore. However, the DGT can still take security measures against taxpayers' assets to prevent taxpayers from escaping their obligation to pay taxes.

Tax debt collection in Indonesia is still not optimal due to several factors, including regulatory weaknesses, lack of taxpayer awareness, institutional weaknesses, and other factors. Regulatory weaknesses that are obstacles include overlapping and unclear provisions, less strict sanctions, and a long and convoluted collection process. This causes confusion for taxpayers and tax officers, as well as hinders the smooth tax collection process. The sanctions given to taxpayers who are in arrears of taxes are still not enough to deter them, so taxpayers are not encouraged to comply. The long and convoluted collection process leads to slow settlement of tax arrears and reduced potential state revenue.

Lack of taxpayer awareness is also an inhibiting factor. There are still many people who do not understand the importance of taxes and their benefits for state development. In addition, the lack of education and socialization about taxation and distrust of the government also contribute to low taxpayer compliance. Many people do not understand that taxes are their obligations as citizens and their benefits for the development of the country. The lack of education and socialization about taxation causes people to not know their rights and obligations as taxpayers, including how to calculate and report taxes. People doubt that the taxes they pay will be used effectively and efficiently by the government.

Institutional weakness is also a factor that needs to be considered. The Directorate General of Taxes still lacks adequate human resources and technology to support an effective and efficient tax collection process. The Directorate General of Taxes also still does not have an adequate technology system to support an effective and efficient tax collection process. In addition, the lack of coordination between the Directorate General of Taxes and other agencies, such as the Directorate General of Population and Civil Registration (Ditjen Dukcapil) and the National Police of the Republic of Indonesia (Polri), causes the Directorate General of Taxes to have difficulty tracking taxpayers who are in arrears of taxes.

Other factors such as economic conditions and natural disasters can also cause a decrease in the ability of taxpayers to pay taxes and result in a decrease in state revenue from the tax sector. Unstable economic conditions can lead to a decrease in taxpayers' ability to pay taxes. In addition, natural disasters can cause damage to taxpayers' infrastructure and assets, making it difficult for them to pay taxes.

Analysis of Current Tax Debt Collection Institutional Regulations

Institutional regulations on tax debt collection in Indonesia are currently regulated in several laws and regulations that are the legal basis for the Directorate General of Taxes (Directorate General of Taxes) and related parties in carrying out tax collection duties. Sudikno Mertokusumo likened it to: "The legal system is a mosaic image, which is an image that is cut into small parts and then reconnected, so that it looks as intact as the original image (Mertokusumo, 2010).

Suspension of Debt Payment Obligation is to provide an opportunity for debtors to restructure their debts, either which includes paying all debts or part of their debts to concurrent creditors. If this can be done well, then in the end the debtor can still continue his business (Muljadi, 2013).

PKPU is a period given by law through the decision of a commercial court judge where during that period the Creditor and Debtor are given the opportunity to negotiate the method of paying their debt in whole or in part, including to restructure the debt (Subhan, 2011). According to Sutan Remy Sjahdeini, PKPU is an effort made by the debtor to avoid bankruptcy or an effort to avoid liquidation of assets when the debtor has or will be in an insolvent state (Sjahdeini, 2016).

Some of the important regulations that govern this include:

1) Law Number 6 of 1983 concerning General Provisions and Tax Procedures (KUP Law): The KUP Law, which was last amended by Law Number 7 of 2021

concerning the Harmonization of Tax Regulations (HPP Law), regulates general provisions and tax procedures, including tax collection provisions. This law provides a basic framework for tax collection, determines the rights and obligations of taxpayers and tax officers, and establishes the procedures that must be followed in the collection process.

2) Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations: This Bankruptcy Law regulates the bankruptcy process and the postponement of debt payment obligations, including the rights and obligations of curators in handling bankruptcy assets. This law also touches on the obligation to pay off tax debts, which have priority in settling bankruptcy assets. This ensures that tax obligations remain prioritized in a bankruptcy situation.
3) Regulation of the Minister of Finance (PMK) Number 189/PMK.03/2020 concerning Procedures for the Implementation of Tax Collection with Compulsory Letters: This PMK regulates tax collection procedures using compulsory letters, including steps that must be taken by tax bailiffs in the implementation of collection. A compulsory letter is an important instrument in tax collection that authorizes tax officers to take firm action against delinquent taxpayers.
4) Regulation of the Minister of Finance (PMK) Number 61/PMK.03/2023 concerning Tax Collection: This PMK provides further guidance on the implementation of tax collection, detailing the actions that can be taken by tax bailiffs in the collection process. This PMK complements PMK 189/PMK.03/2020 by providing a clearer and more specific operational framework for various billing situations.
5) Regulation of the Director General of Taxes Number PER-03/PJ/2021 concerning Procedures for Tax Collection and Collection of Tax Collection Fees: This regulation regulates in detail the procedures for tax collection and the collection of tax collection fees by the Directorate General of Taxes (DGT). This regulation aims to ensure that the collection process is carried out in a transparent, accountable, and efficient manner, as well as provide clear guidelines for tax officers in carrying out their duties.

In practice, this regulation authorizes the Directorate General of Taxes to carry out various collection actions, including the confiscation and auction of taxpayers' assets that are in arrears of taxes. The Directorate General of Taxes also coordinates with other parties such as curators in the event that taxpayers experience bankruptcy. In the bankruptcy process, the Directorate General of Taxes still includes tax debt bills in the list of bills that must be paid by the bankrupt debtor and has the right to precede the tax bill.

The regulation still has many weaknesses, including the regulation that regulates the five-year billing deadline as one of the main obstacles. This deadline is often not enough to complete a complex collection process, especially if the taxpayer is fighting the law. The five-year expiration of the collection stipulated in the current regulations is one of the main obstacles. Five years is often not enough time to complete a complex and convoluted collection process, especially when taxpayers are fighting the law. This leads to many tax debts going uncollectible and eventually expiring, resulting in lost state revenue potential.

Frequently changing and overlapping rules cause confusion among tax officials and taxpayers. This ambiguity has the potential to cause a variety of different perceptions and make billing difficult. Tax rules that often change and overlap cause confusion for both tax officers and taxpayers. Inconsistent and often unclear regulations create a variety of different interpretations, which can create legal uncertainty and hinder the collection process. For example, differences in interpretation between tax officials and taxpayers regarding certain provisions can prolong tax disputes.

The Directorate General of Taxes still faces problems in terms of human resources and technology. The lack of skilled personnel and adequate technological infrastructure hinders an effective and efficient billing process. In addition, coordination between agencies such as with the Directorate General of Civil Registration and the National Police is still not optimal, making it difficult to track taxpayers.

The sanctions given to taxpayers who are in arrears are still not enough to detract. As a result, there is no strong incentive for taxpayers to pay taxes on time. The sanctions imposed on taxpayers who are in arrears of taxes are considered less decisive and do not provide a deterrent effect. Currently, administrative sanctions in the form of fines or late interest are still not enough to encourage taxpayers to immediately pay their debts. This is due to the amount of sanctions that are still considered light compared to the benefits of delaying tax payments.

The long and complicated collection process makes the settlement of tax arrears slow. This reduces the potential for state revenue and adds to the administrative burden for the DGT. The process of collecting tax debts in Indonesia is often long and complicated. Starting from notifications, issuance of warning letters, forced letters, to asset confiscation and auction, each stage requires time and convoluted procedures. This lengthy process not only hampers collection, but also increases the administrative burden for tax officers and lowers collection efficiency.

CONCLUSION

Tax debt collection in Indonesia faces numerous challenges, including short billing expirations, regulatory complexity, and unwieldy sanctions. The collection deadline is five years, and the regulations create various perceptions. There is also a lack of coordination between related parties. Regulatory weaknesses, lack of taxpayer awareness, institutional shortcomings, and external factors like unstable economic conditions and natural disasters also hinder the process. Institutional issues include inadequate human resources, inadequate technology, and lack of coordination between agencies. The government has made efforts to improve tax regulations, increase education and socialization about taxation, strengthen DGT institutions, utilize technology, and improve coordination between agencies. The solution to this challenge involves improving regulations, increasing taxpayer awareness, strengthening institutions, and mitigating external factors affecting tax payment. Cooperation from all parties is necessary for effective tax debt collection, which can support sustainable national development.

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