

## FULLFILLMENT OF TAX COMPLIANCE THROUGH AUDIT POLICY IN FISCAL SAFEGUARD MEASURES

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**Abstract:** This study focuses on administrative aspects, specifically audit policies as part of tax law enforcement in order to fulfill tax compliance that taxpayers must carry out. With increased tax compliance, it is expected that state revenues will rise as well, making the fiscal condition more secure. The study examines the audit process and the purpose of the audit, which, although it has been stated in the Law No. 6 of 1983 concerning General Provisions and Procedures for Taxation, as amended by Law No. 16 of 2009, the expected increase in compliance for almost three decades, has not yet yielded the tangible results that we all hope for. The study was conducted using a normative juridical method based on primary legal materials. The study's findings indicate that fiscal safeguards are highly dependent on audit policies carried out in accordance with a set of legal norms issued by the Government cq. The Directorate General of Taxes should conduct a review by taking into account the legal objectives (Laws) which are based on the nature and enforceability of laws that apply on three perspectives, namely sociological applicability, philosophical applicability, and juridical applicability. In this way, the hope of increasing compliance and fulfilling the sufficiency of state revenue funds as fiscal safeguards can be realized.

**Keywords:** Tax audit, compliance, state revenue, fiscal safeguards

### 1. INTRODUCTION

The imposition of taxes on everyone who has an income is an unavoidable certainty due to all of the community's interests cannot be fulfilled without taxes, so that taxes and society cannot be separated (Alink and Kommer, 2011). However, considering the tax revenue data for the last 5 years (2016-2020), it is clear that the government has fallen short of its revenue target, as shown in the table below.

**Table 1. Target and Realization of Tax Revenue Year 2016-2020 (in trillion rupiah)**

Description and Year	2016	2017	2018	2019	2020
1	2	3	4	5	6
<b>TARGET</b>	<b>1.348,3</b>	<b>1.298,7</b>	<b>1.414,2</b>	<b>1.568,8</b>	<b>1.634,5</b>
- Income Tax	757,2	787,7	855,1	894,4	929,9
- Value-Added Tax	571,7	493,8	541,8	655,3	685,8
- Land and Building Tax	19,4	17,2	17,3	19,1	18,8
<b>REALIZATION</b>	<b>1.085,8</b>	<b>1.140,8</b>	<b>1.289,6</b>	<b>1.324,9</b>	<b>1.191,3</b>
- Income Tax	630,9	645,6	685,2	772,2	670,3
- Value-Added Tax	410,5	478,4	520,3	531,5	507,5
- Land and Building Tax	19,4	16,8	19,4	21,1	123,4
<b>PERCENTAGE</b>	<b>80,53</b>	<b>87,84</b>	<b>91,18</b>	<b>84,45</b>	<b>72,88</b>

Source: Ministry of Finance Performance Report 2016-2020

When the need for funds continues to increase every year to meet all public needs such as road and bridge infrastructure, education, security, health, etc., public awareness and compliance are inevitably required to fulfill their obligations to pay taxes. Why? Because state revenue is derived from taxes, it accounts for approximately 75-80 percent of total state revenue, as opposed to two other sources of revenues, namely non-tax state revenues and grants receipts.

The non-achievement of the tax revenue target has implications for the country's fiscal security, considering that tax revenue is the main variable in the fiscal safeguard system. Even though the tax collection system based on the self-assessment system has been running for more than three decades, taxpayer compliance has not been as expected since the enactment of the Law No. 6 of 1983 concerning General Provisions and Procedures for Taxation (KUP Law). In April 2019, for example, out of 18.34 million taxpayers, only 11.3 million or 61 percent filed a tax return (SPT). Despite an increase of 6.6 percent from 2018 for as many as 10.6 million taxpayers, the increase in the number of compliances in 2019 was not as expected (Kontan, 2019). Tax non-compliance is frequently a serious issue that must be resolved in order for tax funds can be collected in accordance with applicable regulations. The issue of compliance can indeed be influenced by various factors. Although it is frequently stated that improving the tax administration system is the most dominant factor in increasing tax compliance, this is not always the case.

According to Silvani (1992), "The effectiveness of the administration is not the only determinant of the level of voluntary compliance, but it is likely to be the key factor, especially in countries in which there is a high level of noncompliance." Tax noncompliance, avoiding or evading paying taxes, can also be influenced by the behavior or attitude of a person toward supporting the government in the economic policies that are carried out. On the other hand, "taxpayers will comply better if they believe that failure to do so will mean assuming a substantial risk of being penalized in a relatively severe fashion".

According to the description above, the purpose of the first study is to determine the audit policies that should be implemented in order to increase taxpayer compliance. Second, determine the need for government-led law enforcement in order to achieve optimal results in terms of compliance with the taxpayers' tax obligations as a fiscal safeguard.

## 2. LITERATURE REVIEW

This study is based on compliance theory, which explains how compliance becomes very important in the context of fulfilling tax obligations for successful tax revenue in relation to the audit process and non-audit.

Nurmantu (2005) divides two kinds of compliance, namely formal compliance and material compliance. Formal Compliance is a state in which the Taxpayer formally fulfills his tax obligations in accordance with the provisions of the tax law. For example, a report on the submission of an Annual Tax Return for individuals every year must be submitted no later than March 31 of each year, so if a taxpayer submits an SPT after March 31, the taxpayer is said to have not fulfilled formal compliance. Material compliance is a state in which the taxpayer substantially fulfills all material provisions of the tax law. Taxpayers who fulfill material compliance in filling out SPT are taxpayers who do so honestly, properly, and correctly in accordance with Article 4 of the KUP Law.

In order to improve taxpayer compliance in Indonesia, Nurmantu (2005) states: Empirically, the role of tax audits, reporting systems, including the use of information technology such as MP3 (Monitoring of Tax Payment Implementation) and tax cuts by third parties (withholding tax system) can improve obedience. The role of professional accountants and tax consultants, strict law enforcement and services to taxpayers can directly improve tax compliance in Indonesia.

In addition, the government must also provide services that are perceived to be faster and less complicated. Providing better service results in higher trust. The trust factor is one of the many important issues related to taxpayer compliance. Matthijs Alink (2011), citing the 2007 report of The National of Tax Professionals US, mentions seven things that cause taxpayers to be non-compliant, namely (i) complexity of the tax law; (ii) procedural difficulty with the IRS, including communication; (iii) burdensome reporting and tax filings; (iv) unreasonable penalty and interest assessments; (v) insufficient encouragement to file and pay on a timely basis; (vi) perceived lack of importance or priority; and (vii) miscellaneous factors (lack of trust in government). Compliance

with paying taxes is currently low. This is influenced by past conditions that put a heavy burden on the people. As stated by Rochmat Soemitro (1985), awareness of paying taxes is still low because people still remember the heavy tax pressures from their ancestors during the colonial era and the remnants have not completely disappeared. The low level of compliance with the fulfillment of the obligation to pay taxes requires strict sanctions in order for the tax law reach the target set by the legislators in order for state revenues through taxes can be fulfilled.

The tax law contains 26 administrative sanctions norms, 6 fines norms, 12 interest sanctions norms, and 8 increasing sanctions norms. Various types of administrative sanctions are the will of lawmakers which aim to increase taxpayer compliance in fulfilling tax payment obligations. Muchsin (2004) concluded that the state has the sovereignty to enact laws that must be followed by the general public, including tax laws.

### 3. RESEARCH METHODOLOGY

This study uses a qualitative approach, known in legal parlance as normative juridical research, as well as a philosophical component, to better understand why taxpayers frequently fail to pay their taxes. The study material used is primary legal material, particularly legislation pertaining to tax audit, which is primarily governed by Article 29 of Law No. 6/1983, as amended by Law No. 16/2009. Other legal materials, such as Tax Court and Supreme Court decisions and legal court decisions, as well as other journal materials, are also used to provide explanations in the form of books and other expert opinions, as well as theories related to compliance. The approach employs both the legal and case approaches.

### 4. RESULTS AND DISCUSSION

#### The Importance of Conducting Tax Audit

When the self-assessment system becomes an agreement in the tax levy process, other monitoring mechanisms, such as inspections, must be inevitably carried out, particularly for taxpayers who are known to be non-compliant in the process of fulfilling their tax obligations. According to the law, an audit is a series of activities to collect and process data, information, and/or evidence that are carried out objectively and professionally based on an audit standard to test compliance with tax obligations and/or for other purposes in order to implement the provisions of tax laws and regulations. Inspection agencies are frequently judged from two perspectives: first, from the standpoint of law enforcement and second, from the standpoint of service. Both can be judged correct depending on the perception of the problem (case) that is happening. Therefore, when you want to delete an identity named TIN (Taxpayer Identification Number) even public perception can state the two assessments in question. The logic of thinking that audits are not only in the context of generating tax money, but also administrative matters such as the abolition of the Taxpayer Identification Number (TIN) becomes part of the audit process as an understanding of audits for other purposes as explained in the explanation of Article 29 paragraph (1) of the KUP Law No. 6 of 1983, as amended by Law no. 16 of 2009.

A general understanding of tax law enforcement is more appropriate if the examination is increased to an initial evidence examination as a step in carrying out law enforcement aimed at taxpayers who are known to be non-compliant. Because the condition is already focused on the alleged occurrence of a tax crime involving a loss of state revenue. Even though several preliminary evidence examination cases have reached the stage of a final decision (inkrach) at the Supreme Court, the state of taxpayer compliance has remain unchanged to date. This can be seen in the example of a tax crime case from the Asian Agri Group (AAG) which was decided by the Supreme Court with Decision No. 2239 K/PID.SUS/2012 dated 18-12-2012.

Entering 2018, the Government cq. The Directorate General of Taxes (DGT) issues an audit policy as outlined in a formal Circular Letter No.15/PJ/2018 dated August 13, 2018. The Circular Letter emphasizes that there are 5 (five) purposes for issuing an audit policy, namely (i) improve the orderly administration of audits, (ii) provide uniformity of steps in the implementation of audit activities, (iii) improve the quality of the taxpayers selection to be audited, (iv) improve the quality of tax audits, and (v) increase tax revenues.

Of the five objectives, the fifth objective (increasing tax revenue), according to the researcher, is not in line with the objectives referred to in the Act, namely the purpose of testing compliance with tax obligations. The purpose of fulfilling tax obligations is not identical with the aim of increasing tax revenues. This is due to fact that the

examination to remove the TIN, or the confirmation and revocation of the Taxable Entrepreneur, or to determine that the taxpayer is located in a remote area does not seek to increase revenue.

An intriguing idea from the audit policy is the establishment of an Audit Planning Committee (Committee) at both the Central Office level and the Regional Office level (Kanwil), with 4 tasks, namely (i) determining audit priority targets based on risk analysis, (ii) conducting benchmarking, (iii) discussing the audit priority targets, and (iv) monitoring and evaluation. The working pattern of the Committee is not new because the essence of the examination is the same in principle but more integrated. According to the researcher's analysis, this policy has not shown any increase in compliance for two reasons. First, the inspection work pattern is still as usual for the examinations that have been carried out so far. Second, the audit process takes too long, interfering with the taxpayer's business activities. For example, Article 15 of the Regulation of the Minister of Finance (PMK) No. 17/PMK.03/2013 concerning Audit Procedures, as amended by PMK No. 184/PMK.03/2015, regulates the duration of field inspections for a maximum of 6 months and for Office Audits for 4 months.

The importance of conducting an audit is actually a counterbalance to the self-assessment system, which provides taxpayers with confidence in accordance with Article 12 of the KUP Law, which states that every taxpayer is required to pay taxes owed in accordance with the provisions of tax laws and regulations, without relying on the existence of a tax assessment letter. That is, if taxpayers do not properly implement the self-assessment system, audit steps can be taken for compliance purposes. Tax audits, including the imposition of sanctions on taxpayers, are not intended to force the state to collect tax money, but rather to increase compliance.

The importance of audits in the tax law does not end with administrative action processes, but can lead to a higher level investigation if it is known that the taxpayer has committed a tax crime, either intentionally or unintentionally (negligence), both of which, according to Gunadi (2003), are supervisory steps that must be carried out by the tax authorities (Directorate General of Taxes). Of course, this is done with the initial step of an appeal to correct the report that has been submitted by the taxpayer. When an investigation is about to be carried out, an initial step known as preliminary evidence examination must be taken, as regulated in Article 43 of the KUP Law in conjunction with the Regulation of the Minister of Finance Number 239/PMK.03/2014 concerning Procedures for Examination of Preliminary Evidence of Criminal Acts in the Taxation Sector.

### **Tax Law Enforcement**

When taxpayers fail to meet their tax obligations, law enforcement is required to ensure that tax laws are followed. However, there are always two options for law enforcement: first, administrative law enforcement, and second, criminal law enforcement. If administrative law enforcement is emphasized on actions, criminal law is aimed at the subject (Sri Pudyatmoko, 2007). If so, what choice of law enforcement should be made? This question is important in order to fulfill compliance, which is a common goal for tax law enforcement.

When the tax authorities conduct an examination, they are actually enforcing administrative law in order to bring the taxpayer's actions back into compliance with the legal norms that have been established by the law. For example, taxpayers may fail to report the actual amount of turnover or taxes collected from their counterparties. However, the two taxpayers' actions in principle can already be indicated as tax crimes as regulated in the provisions of Articles 38 and 39 of the KUP Law.

If so, which law should the tax authorities follow? When criminal law enforcement steps are taken, it is widely assumed that the purpose of tax law enforcement is not to convict taxpayers, but rather to collect the maximum amount of tax for the state. According to Gunadi (2004), the taxation process is part of the tax administration activities. However, if someone is proven to have committed a tax crime that was planned (having the intention to do so) from the start, he/she must be sentenced to criminal/imprisonment because the purpose of tax law is very different from criminal law, since tax law is not intended to punish someone who does not want to pay taxes.

Researchers understand Gunadi's explanation, arguing that the KUP Law itself essentially requires law enforcement in the administrative field. This is further demonstrated by the norm of Article 44B of the KUP Law, which states that for the interest of state revenues, at the request of the Minister of Finance, the Attorney General may halt the investigation of criminal acts in the taxation sector no later than 6 (six) months from the date of the request letter. However, the legal consequence of halting the investigation is to pay an administrative sanction of a

fine of 4 (four) times the amount of unpaid tax.

Philosophically, the essence of the meaning of the above norms is to state that the enforcement of tax law has always been aimed at collecting money for the state for the public interest rather than the punishing people. According to the researcher, this goal is consistent with the legal goals stated by the legal philosopher Radbruch, namely the purpose of expediency, in addition to the goals of justice and legal certainty (Theo Huijbers, 1982). Philosophically, the purpose of benefit is more clearly seen when taxes are used for the benefit of the larger community through the construction of various public facilities, as outlined in the State Revenue and Expenditure Budget Law (UU APBN) every year. The approach of benefiting as many people as possible is stated more explicitly by Jeremy Bentham in the utilitarian theory which supports the tax law, which was originally intended to provide happiness for as many people as possible, 'the greatest good for the greatest number'. (Bernard, et al, 2010). That is the goal of Bentham's proposed law (read: tax law), which is based on expediency as a general measure of happiness.

Even the case of Paulus Tumewu, which was investigated in 2005 for the 2004 fiscal year because it was alleged that he had submitted an Annual Tax Return whose contents were false, causing a state loss of IDR 7.99 billion because it was proven to have violated the criminal provisions of Article 39 paragraph (1) letter c of the KUP Law, was eventually terminated according to the norms of Article 44B of the KUP Law. The Tumewu case sparked an interesting debate at that time, drawing the attention of House of Representative members.

According to the analysis of the norms above, tax lawmakers appear to believe that tax collection was originally intended to take some of the people's wealth for the state for justice and the public interest (welfare). As a result, the policy for increasing compliance is nothing more than the examination context, which is interpreted within the context of the service and the objection institution.

When the legal audit mechanism is implemented according to audit norms, the audit results can normally result in an increase in tax revenue. However, taxpayers are often dissatisfied with the results of the audit until an objection or appeal is filed in accordance with the law. The problem is there is so much data on objections and appeals filed by taxpayers that the potential tax revenue from the audit cannot be met immediately.

According to the 2018 Annual Report of the Directorate General of Taxes of the Ministry of Finance, there were 152,494 applications for tax dispute resolution in 2018. In 2018, there was a 52.37 percent increase in dispute resolution compared to 2017, with a total of 100,081 applications for dispute resolution. On the other hand, there are 7,772 appeals and 1,885 lawsuits. If all appeals and lawsuits are combined, there are 9,657 applications. When compared to 2017, this figure increased by 74.53 percent to 5,533 applications. The data will show how less than optimal the results of tax authorities' examinations have led to an increase in the number of Tax Court appeals and lawsuits. In other words, the examination results are deemed to be of poor quality and not in accordance with applicable norms. It is possible that the examiner's competence has not been determined or is not qualified until the taxpayer files a lawsuit or appeal.

Taxpayers' dissatisfaction with the audit results is generally caused by (i) differences of opinion on objects that can be appealed, (ii) differences in the application of formal provisions, (iii) differences in interpretation of tax provisions, and (iv) issues of proof of the data and evidence documents submitted. Taxpayers' dissatisfaction with the audit results is reasonable as long as it can prove it. This is a very reasonable situation, because calculating taxes on various legal aspects and business processes run by taxpayers, including complicated and complicated businesses, is difficult.

Recognizing such conditions necessitates a review of the audit policy in order to better meet taxpayer compliance in the future. Solutions may be obtained by employing a variety of approaches with economic actors (taxpayers), including the parent organization of each taxpayer, in order to unite a common understanding for justice and welfare.

### **Benefit And Welfare.**

Looking at the issue of tax compliance, which cannot be seen in rigid or extreme terms, requires a pattern of law enforcement in option A or option B, but must be understood in the context of understanding the meaning of

'benefit' and 'welfare' of society. These two words are the key to understanding tax issues. Even according to the researcher's analysis, the Tax Court was the only institution that could achieve justice and welfare until now.

Tax levies based on the constitutional basis in accordance with Article 23A of the 1945 Constitution have become an agreement of the founders of the Indonesian nation, that only through taxation can the state realize prosperity and justice, which ultimately benefits all.

If this is the case, we should all address the meaning of taxes in state life. Fulfillment of tax compliance through the policy of establishing tax laws and regulations and law enforcement must be evaluated on a case-by-case basis. It is possible to increase compliance with criminal law enforcement actions, but this is not absolutely necessary because taxes were never intended to convict people, but rather to collect tax money for the state.

If this the case, the main issue that the government is considering is how to provide protection for the people who all require funds. Robert W. Mc.Gee (2004) gave the answer by stating, "the more things that government does, the more things that people must pay for". Modern society today requires a variety of needs in order to live properly, and these needs cannot be met without taxes. The need for security, health insurance, better education, and quick access to information are all part of the need for a decent life. All of this can be accomplished through the use of tax, which requires the compliance of all parties who are already required to pay taxes.

## 5. CONCLUSIONS AND IMPLICATIONS

From the description above, it can be concluded that increasing taxpayer compliance can be accomplished in two steps: first, developing an audit policy based on the law and its implementing regulations, with a focus on ease of administration and fast inspection times with high audit quality. Second, law enforcement measures are aimed at collecting tax funds, not for the purpose of criminalizing. Presumably, the two steps above become studies and steps that must be carefully carried out in accordance with applicable legal norms.

Based on the foregoing conclusions, the tax audit policy has received attention for further study in order to increase taxpayer compliance in fulfilling their tax obligations. The renewal of audit norms and faster procedures is highly expected by taxpayers for the benefit and function of the auditing agency owned by the Directorate General of Taxes.

Tax audit agencies are frequently still an act of tax authorities that taxpayers avoid, so tax audits with the goal of providing compliance in tax compliance have psychological implications that taxpayers are not prepared to undergo in general. Such implications have an adverse effect in the long term for compliance purposes. The culture of paying taxes is still poorly understood by taxpayers even though the self-assessment system has been implemented since 1983. This culture has not been internalized in every taxpayer. This limitation creates a space for other researchers to conduct research to complement the findings of the researchers' research so that they can respond to this research more comprehensively.

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