

Tinjauan kepastian hukum perpajakan atas upaya hukum sengketa terkait pengampunan pajak (tax amnesty) = Legal tax certainty review on legal remedies concerning tax amnesty disputes

Intan Mahabab Nabila, author

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Abstrak

Masih banyak Wajib Pajak yang tidak patuh melaporkan dan membayar utang pajaknya, dengan diterapkannya sistem pemungutan pajak self assessment. Maka dari itu, lahirlah program pengampunan pajak 2016 dengan bentuk penghapusan pajak yang terutang, tidak dikenakan sanksi administrasi dan pidana bagi Wajib Pajak yang melaporkan harta yang belum dibayar pajaknya. Atas keringanan yang diberikan tersebut, sudah seyogianya pemerintah mengatur pelaksanaan pengampunan pajak dengan benar hingga pengaturan atas penyelesaian sengketa terkait yang timbul. Skripsi ini membahas pengaturan upaya hukum sengketa. Tax Amnesty di Indonesia yang tertuang dalam Undang-Undang Pengampunan Pajak dan Peraturan Menteri Keuangan sebagai peraturan pelaksana, ditinjau dari pemenuhan asas kepastian hukum. Penelitian penulis menggunakan metode yuridis-normatif dengan alat pengumpulan data berupa studi dokumen terdiri dari bahan hukum primer dan sekunder, diantaranya dilakukan wawancara dengan narasumber terkait. Permasalahan berupa tidak terciptanya kepastian hukum karena pengaturan upaya hukum dalam Peraturan Menteri Keuangan yang secara hierarki peraturan berada dibawah Undang-Undang, mengatur berlainan. Ketidaksinkronan pengaturan menimbulkan dualisme hukum terhadap Wajib Pajak selaku pihak yang mengajukan upaya hukum. Dalam Undang-Undang Pengampunan Pajak, segala sengketa terkait Tax Amnesty diselesaikan melalui upaya gugatan ke Pengadilan Pajak, sedangkan ketentuan tambahan dalam Peraturan Menteri Keuangan, atas sengketa SKPKB yang terbit dalam hal pelaksanaan pengampunan pajak, diselesaikan melalui upaya hukum sebagaimana dalam Undang-Undang Ketentuan Umum dan Tata Cara Perpajakan, yakni keberatan, kemudian banding, atau permohonan pembatalan/pengurangan atas Surat Ketetapan Pajak, disamping upaya gugatan langsung. Maka dari itu, penulis menyarankan adanya penyempunaan pengaturan berupa revisi Undang-undang Nomor 11 Tahun 2016 tentang Pengampunan Pajak (Tax Amnesty) khususnya pada bagian pengaturan upaya hukum.

.....There are a lot of taxpayers who are not compliant to report and pay their tax arrears with the applied tax collection system called self-assessment. Consequently, a tax amnesty program was made in 2016 in a form of the elimination of tax payable-it is not subject to administrative and criminal sanctions for taxpayers who report assets which taxes have not been paid. With the remission given, it is in the government`s part to control things from the implementation of tax amnesty properly to the arrangements for resolving related arising disputes. This research paper discusses the regulation of legal efforts regarding disputes related to the Tax Amnesty in Indonesia which is stated in the Tax Amnesty Law and the Minister of Finance Regulation as the implementing regulation in terms of fulfilling the principle of legal certainty.

This research uses juridical-normative method with data collection tools in the form of document studies consisting of primary and secondary legal materials, including interviews with related sources. The problem in the form of not creating legal certainty is because the regulation of legal efforts in the Minister of Finance Regulation, which is in the hierarchy of regulations under the Law, regulates differently. Irregularities in the regulation have led to legal dualism of taxpayers as those who submit legal remedies. In the Tax Amnesty

Law, all disputes related to Tax Amnesty are resolved through a lawsuit to the Tax Court, while additional provisions in the Minister of Finance Regulation regarding Notice of Tax Underpayment Assessment disputes issued in the case of tax amnesty implementation are settled through legal remedies as in the Law on General Provisions Act and Tax Procedures, namely objections, then appeals, or cancellation/reduction requests for Notice of Tax Assessment, in addition to direct claims. Therefore, author suggests that there should be a refinement regarding regulations in the form of revisions to Law No. 11 of 2016 concerning Tax Amnesty, especially in the regulation of legal efforts.