

Legal Analysis of the Principle of Legal Certainty in Tax Collection and Settlement in Indonesia

Hendy¹, I Made Kanthika², Horadin Saragih³, Malemna Sura Anabertha Sembiring⁴

^{1,2,3,4}Universitas Esa Unggul Indonesia, Jakarta, Indonesia

Email: hendy.teh@student.esaunggul.ac.id

Abstract

Taxation is a fundamental source of state revenue and plays a crucial role in supporting national development. Consequently, tax collection must be based on legal principles that ensure justice, efficiency, and legal certainty. In practice, tax disputes frequently arise due to differences in the interpretation and application of tax regulations, as well as issues related to dispute resolution mechanisms. This study examines the implementation of the principle of legal certainty within Indonesia's tax collection system and tax dispute resolution framework, and evaluates the extent to which tax legislation provides legal protection for both taxpayers and tax authorities. The research focuses on a tax dispute between PT MSJ (Mitra Sinar Sejahtera) and the Directorate General of Taxes concerning the issuance of a Tax Collection Letter. Using a normative juridical research method, this study analyzes relevant tax laws and regulations, legal doctrines, and court decisions. The findings indicate that Indonesia's tax collection and dispute resolution systems are formally grounded in the principle of legal certainty. Practical challenges persist, particularly inconsistencies in legal interpretation and discrepancies between statutory provisions and administrative practices, which may lead to tax disputes and weaken taxpayer confidence in the national tax system. Strengthening legal certainty in taxation requires regulatory harmonization, improved transparency in tax governance, and consistent law enforcement to ensure a fair and predictable tax system.

Keywords: *Principle of Legal Certainty, Taxation, Dispute Resolution, Tax Collection.*



A. INTRODUCTION

Taxes are one form of state revenue and provide the largest contribution as the main source of state budget (APBN) revenue; therefore, the continuity of state revenue from the tax sector is necessary. To ensure this, tax compliance is one of the keys to the government's success in collecting taxes. Tax collection should not only emphasize coercive aspects, but also requires a set of clear rules, procedures, and administration that provide legal certainty in the collection of taxes (Arofah et al., 2025; Emirzon et al., 2022; Sembiring, 2024).

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia expressly states that "Indonesia is a state based on law," meaning that all aspects of life within the territory of the Unitary State of the Republic of Indonesia must be based on law and on all statutory products and their implementing regulations applicable in the territory of the Unitary State of the Republic of Indonesia (Nursyafitri & Sudiro, 2024).

Indonesia as a state based on law also implies legal stability. The law must be clear, accessible, and applied consistently. All citizens must know not only their rights and obligations, but also the legal consequences of their actions. Legal certainty provides a strong foundation for individual business activities, companies, and investment (Rizqiyanto et al., 2025; Tambunan, 2022; Yusuf & Indriawati, 2024). In order to guarantee legal certainty in tax collection in Indonesia, there must be a legal basis, namely Article 23A of the 1945 Constitution of the Republic of Indonesia, which states that "Taxes and other compulsory levies for state purposes shall be regulated by law." Without a legal basis, tax collection constitutes an illegal levy. Of course, in designing tax instruments, there is a close relationship with the principles of tax collection, which also include the principle of legal certainty. Rochmat Soemitro and Dewi Kania Sugiharti explain that "legal certainty is an objective that must be achieved by every law" (Santoso et al., 2022).

The principle of legal certainty in tax collection aims to ensure that tax collection remains on the right track and is free from fraud. The principle of legal certainty occupies a very important place in tax collection in Indonesia (Afiyati et al., 2022; Defi, 2024; Tiranda, 2020). According to this principle, all tax collection must be based on clear and firm laws, with a clear legal basis, fairness, and transparency in the implementation of tax collection.

One of the tax collection systems in Indonesia is the self-assessment system. Under this system, taxpayers are entrusted to calculate, pay, and report the amount of tax payable by themselves based on applicable tax laws and regulations. The granting of full trust in this system brings fairly heavy consequences for taxpayers, because they are required to understand the applicable tax laws and regulations so they can properly fulfill their tax obligations and avoid administrative or criminal sanctions in the taxation field (Karnori et al., 2023; Priyono & Nisa, 2024; Yunus et al., n.d.). In this system, tax officers, based on their official authority, may conduct reviews, verification, and audits to test the accuracy or reasonableness of the tax payable that has been calculated, paid, and reported by the taxpayer through the Annual Tax Return (SPT). If errors or irregularities are found, the tax officer may reassess the amount of tax payable and the administrative sanctions that must be paid by the taxpayer by issuing a Tax Assessment Letter (SKP) or a Tax Collection Letter (STP).

The implementation of these stages of review, verification, and audit often gives rise to tax disputes between tax officers and taxpayers (Akroma, n.d.; Permana et al., 2022; Prakoso & Idrus, 2025). Tax disputes occur due to differences in the application of legal bases, which sometimes creates the impression that the applicable tax laws and regulations are being forced, and tax officers also often use their official position to make assessments and corrections that result in tax underpayments and administrative sanctions that must be paid by taxpayers (Hutahayan et al., 2024; Mahayanthi & Susilo, 2025; Trawocoadji, 2023). This condition can occur during the processes of review, verification, audit, and the stages of resolving tax disputes through the objection procedure. This can happen because of the tax authority's interest in meeting revenue targets assigned to them. This will certainly create

uncertainty and reduce the level of taxpayer compliance in fulfilling tax obligations. Practices like this should not occur because, as explained earlier, tax collection in Indonesia has a clear legal basis and is governed by the principle of legal certainty in applicable tax laws and regulations (Marzuki, 2017; Risanto & Lubis, 2022; Sinaga, 2018).

Tax disputes as described above can be seen in the dispute case between PT Mitra Sinar Jaya Sejahtera and the Directorate General of Taxes, which began with a review process for the 2014 tax year, involving corrections based on the issuance of incomplete tax invoices. The Directorate General of Taxes made corrections using the legal basis of Circular Letter SE-26/PJ/2015 on the Confirmation of the Use of Tax Invoice Serial Numbers and Procedures for Making Tax Invoices. In Law Number 8 of 1983 on Value Added Tax and Sales Tax on Luxury Goods as amended by Law Number 42 of 2009, Article 13 paragraph (5) regulates and explains complete tax invoices. In this dispute, the tax authority, both at the audit stage and the objection stage, continued to maintain its correction, even though it was very clear that the legal basis applied was contradictory, creating the impression that it was being forced in order to obtain the correction value.

As a result of the actions taken by the tax authority in this tax dispute, uncertainty arises for taxpayers in carrying out their tax obligations. Based on the explanation above, the author raises this issue as a subject of study in preparing a thesis entitled "Juridical Analysis of the Principle of Legal Certainty in Tax Collection in Indonesia."

Based on the background described above, this study is directed at addressing two main issues: first, the extent to which the principle of legal certainty has binding force in tax collection in Indonesia; and second, how tax disputes are resolved when viewed through the application of the principle of legal certainty in tax collection. These two research questions serve as the foundation for the study, ensuring that the discussion remains focused and that the analysis is carried out in a structured manner in line with both academic and practical needs in taxation.

In line with these research questions, the study aims to examine and analyze the binding force of the principle of legal certainty in tax collection in Indonesia, as well as to examine and analyze the resolution of tax disputes based on that same principle. In doing so, the research not only evaluates the normative dimension of legal certainty as a guiding principle, but also assesses how it should be implemented in tax dispute resolution processes so as to prevent uncertainty for taxpayers.

The expected benefits of this research are twofold. Academically, it is expected to contribute ideas and enrich references concerning the binding force of the principle of legal certainty and the resolution of tax disputes grounded in that principle. Practically, it is expected to enhance knowledge and understanding of the importance of legal certainty in tax collection and tax dispute resolution, particularly for taxpayers in fulfilling their tax obligations correctly and with adequate legal protection.

B. METHOD

This research was conducted using a normative legal research method. Normative legal research is also called doctrinal legal research, library research, or documentary studies. It is also called library or documentary research because this research is mostly conducted on secondary data available in libraries, such as books and official government documents (Santoso et al., 2022). The legal materials used in this research are primary legal materials, which are binding legal materials consisting of laws and regulations related to the research object (Ali, 2021). Secondary legal materials consist of documents or legal materials that provide explanations to the primary legal materials in the form of textbooks written by influential legal experts, legal journals, scholarly opinions, legal cases, jurisprudence, and the results of symposia related to the research object. Tertiary legal materials, supplementary legal materials that provide guidance or additional explanations to the primary and secondary legal materials, consist of legal dictionaries, newspapers, encyclopedias related to the research object.

C. RESULT AND DISCUSSION

1. The Binding Force of the Principle of Legal Certainty in Tax Collection

The principle of legal certainty has normative binding force because it forms part of the General Principles of Good Governance (*Asas-Asas Umum Pemerintahan yang Baik/AUPB*) and also constitutes a principle in the formation of statutory regulations as contained in Article 5 letter (a) of Law Number 12 of 2011 on the Formation of Laws and Regulations. Taxes are essentially compulsory levies imposed by the state on its citizens; therefore, their collection must be grounded in law to ensure legal certainty. The primary basis for the power to impose taxes is contained in a country's constitution, which functions to protect the rights of tax subjects.

A constitution may be understood as a document containing rules for administering the organization of the state (Asshiddiqie, 2015). As a form of organization, a state generally has a written text referred to as a constitution or basic law. The substance of a constitution is fundamentally based on a general agreement or consensus among the majority of the people regarding an idealized structure of the state. Indonesia's current constitution is the 1945 Constitution of the Republic of Indonesia (*UUD 1945*), which has undergone several amendments. This constitution is the highest legal foundation of the state and regulates fundamental state principles, the governmental system, citizens' rights, and the duties and responsibilities of state institutions. Article 1 paragraph (3) of the 1945 Constitution states that "Indonesia is a state based on law," meaning that government is exercised on the basis of law rather than power, and that all actions and decisions must comply with the applicable law, both for the government and for Indonesian citizens.

The 1945 Constitution also regulates taxation in Article 23A, which provides: "Taxes and other compulsory levies for state purposes shall be regulated by law." This phrase reflects the application of the legal certainty principle (*certainty*), enabling tax collection to be carried out firmly and clearly because it is supported by legal certainty

or legal guarantees. In addition to providing a foundation for tax collection, it also guarantees legal certainty for taxpayers in fulfilling their rights and obligations. With such legal certainty, arbitrary actions by tax institutions can be avoided. In Indonesia, pursuant to Article 23A of the 1945 Constitution, legislative authority (the House of Representatives/DPR) is granted the power to regulate taxation through tax laws. However, in practice, the government proposes tax bills to the legislative body (DPR) for joint discussion and approval. Tax collection is carried out based on laws and their implementing regulations, which must comply with Law Number 12 of 2011 on the Formation of Laws and Regulations and Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011.

Legal certainty may be interpreted as the clarity of norms such that the law can be applied clearly and firmly within society. In tax collection, the principle of legal certainty relates to four aspects: (1) who is required to pay tax (the tax subject), (2) what is taxed (the tax object), (3) how the tax payable is calculated (tax base and tax rate), and (4) how tax payment is made. These are commonly referred to as “material provisions,” while rules governing procedures are referred to as “formal provisions.” Broadly, tax law consists of material tax law and formal tax law. Material tax law contains a set of statutory rules governing tax subjects, tax objects, the tax base, and tax rates. These provisions must exist and be set out in legislation because taxes are essentially coercive contributions to the state, and therefore must be regulated by law to ensure legal certainty in their implementation. Material tax law thus includes norms explaining which acts, conditions, and legal events may be taxed, who is subject to taxation, and the amount of tax imposed (Darussalam & Yuki, 2023).

Formal tax law contains provisions on procedures for tax assessment, supervision, tax administration, tax obligations for both tax subjects and third parties, and tax collection procedures. The purpose of formal tax law is to ensure that material tax law can be properly and correctly implemented in accordance with established procedures. Because tax laws are often general and abstract in nature (brief and flexible), their implementation typically requires regulations below the level of law, such as presidential regulations, government regulations, ministerial regulations (especially Minister of Finance Regulations/PMK), as well as Directorate General of Taxes regulations (PER) and circular letters (SE). These instruments provide more detailed explanations and guidance on implementation, including the boundaries intended by the tax laws.

Such implementing regulations are needed because the content of tax laws is generally abstract and cannot be directly applied to concrete and specific circumstances without interpretation. Therefore, to apply general statutory provisions to particular situations, the provisions must be explained or interpreted so they correspond to real-world conditions. Naturally, regulations below the level of law must comply with the governing framework, which in Indonesia is regulated under Law Number 12 of 2011. As noted, many implementing rules in taxation take the form of Minister of Finance Regulations, Directorate General regulations (PER), and Directorate General circular letters (SE).

A Directorate General of Taxes Circular Letter (SE) is categorized as a policy regulation rather than statutory legislation. The main distinction between policy regulations and legislation lies in their source of authority. Legislation is formed under legislative authority, while policy regulations arise from discretionary authority (*freies Ermessen*). *Freies Ermessen* is a mechanism that allows administrative bodies or officials to act without being fully bound by statutory provisions (Hanum, n.d.). In general, Indonesia's hierarchy of tax law referring to Law Number 12 of 2011, can be described as follows (Farouq, 2018):

- a. The 1945 Constitution as the constitutional foundation;
- b. Tax legislation (Tax Laws) as the juridical foundation;
- c. Tax implementing regulations such as Minister of Finance decisions/regulations (KMK/PMK) as the operational foundation;
- d. Tax policy regulations such as Directorate General decisions/regulations (KEP/PER), along with circular letters (SE), as the operational and technical-administrative foundation.

The above explanation illustrates the hierarchical order of legal foundations for tax collection in Indonesia. This legal foundation provides guarantees of legal certainty in tax collection. Legal certainty is one of the essential principles in tax collection. In the tax context, certainty is closely linked to what is taxed, how much tax must be paid, how payment is made, and when the tax must be paid. Generally, the principle of legal certainty may be understood as a condition in which the law is definite because it has concrete binding force. The existence of legal certainty serves as protection for *justiciables* (those seeking justice) against arbitrary actions, meaning that a person can obtain what is reasonably expected under certain circumstances (Julyano & Sulistyawan, 2019).

The issuance of Directorate General of Taxes Circular Letter Number 26/PJ/2015 on the Clarification of the Use of Tax Invoice Serial Numbers and Procedures for Issuing Tax Invoices introduced new norms concerning what constitutes a complete versus incomplete tax invoice (Syafiq, 2024). This circular was issued in the context of reforms to the taxation system, particularly the shift to electronic tax invoices, compared to the earlier period when invoices were issued manually or without computerized systems.

The substance of Circular Letter Number 26/PJ/2015 specifically regulates the use of Tax Invoice Serial Numbers for Taxable Entrepreneurs (*Pengusaha Kena Pajak/PKP*) who are required to issue tax invoices. The circular specifies that the serial number provided by the Directorate General of Taxes is used to create a tax invoice on the date of the Serial Number Grant Letter or on a later date within the same year corresponding to the year code stated in the serial number.

With the issuance of this circular, any tax invoice issued not in accordance with the stipulated provisions is deemed an incomplete tax invoice. For such violations, pursuant to Law Number 6 of 1983 as most recently amended by Law Number 6 of 2023 on General Provisions and Tax Procedures (*UU KUP*), Article 14 paragraph (1) letter (e) provides that the Director General of Taxes may issue a Tax Collection Letter

(STP) if a Taxable Entrepreneur does not complete the tax invoice as referred to in Article 13 paragraph (5) of the VAT Law and its amendments.

The issuance of Circular Letter Number 26/PJ/2015 resulted in overlap in defining the criteria of a complete tax invoice, even though the provisions regarding a complete tax invoice are already regulated under Law Number 8 of 1983 on Value Added Tax on Goods and Services and Luxury Goods Sales Tax, as amended, most recently by Law Number 6 of 2023, Article 13 paragraph (5). The circular thus created uncertainty for taxpayers in interpreting what constitutes a complete tax invoice. As noted, the circular emerged due to system changes in tax invoice issuance; accordingly, the Directorate General of Taxes should ideally have amended the relevant tax legislation, or ensured that new tax rules are prospective in nature—meaning the law applies forward, allowing regulation and prediction of future events (despite the limitations inherent in prediction).

Based on the explanation above, the legal basis for tax collection in Indonesia has generally fulfilled the required provisions and aligns with constitutional mandates, particularly concerning tax collection. The formation and implementation of legislation, especially in taxation, are regulated within existing laws. However, in practice, because tax laws are often brief and dense, delegation to lower-level regulations frequently occurs. Such delegation has binding legal force insofar as it is mandated by higher-level legislation or established under proper authority, in accordance with Article 7 paragraph (2) of Law Number 12 of 2011 on the Formation of Laws and Regulations.

2. Resolving Tax Disputes Based on the Principle of Legal Certainty

The principle of legal certainty is a fundamental principle in the entire legal system, including tax law. In tax disputes, this principle plays an important role in ensuring certainty that all actions by both tax authorities and taxpayers are conducted under clear legal rules. Legal certainty is not merely a guarantee of formal justice; it also forms the basis of public trust in the tax authority. If tax law is reliable and not frequently changing, voluntary taxpayer compliance will increase. Tax disputes arise due to differences in perspective between taxpayers and the tax authority in the implementation of tax rights and obligations. Under Article 1 point (5) of Law Number 14 of 2002 on the Tax Court, a tax dispute is defined as a dispute in the field of taxation between a taxpayer or tax bearer and a tax official as a result of the issuance of a decision that can be challenged through legal remedies in the form of an appeal or lawsuit to the Tax Court. Such disputes arise due to differences in interpretation of tax norms, administrative data discrepancies, or taxpayer dissatisfaction with decisions issued by tax authorities.

In general, tax dispute resolution in Indonesia consists of two main stages:

a. Administrative Stage (Objection)

The administrative stage is the initial phase in resolving tax disputes, undertaken by taxpayers against decisions or actions of the tax authority before proceeding to the tax judiciary. Decisions in the form of Tax Assessment Letters (SKP)

and other decisions issued by tax officials may be challenged through an objection process.

This administrative stage is an internal process within the Directorate General of Taxes intended to re-examine decisions deemed detrimental to the taxpayer. The legal basis for objections is Article 25 of Law Number 6 of 1983 on General Provisions and Tax Procedures (*UU KUP*), as most recently amended by Law Number 7 of 2021 on Harmonization of Tax Regulations.

b. Judicial Stage (Appeal and Lawsuit at the Tax Court)

The judicial stage is a follow-up phase pursued by taxpayers when the objection outcome (administrative stage) is unsatisfactory. At this stage, dispute resolution proceeds through judicial proceedings at the competent institution, namely the Tax Court. In other words, this stage is a formal judicial procedure providing taxpayers the opportunity to seek justice against tax authority decisions considered inconsistent with applicable laws or detrimental to taxpayer rights.

In the objection process, procedures and time limits are regulated, including deadlines for filing objections, time limits for the tax authority to respond, and consequences if no response is given. Because objections are decided by the Directorate General of Taxes, the same institution that issued the disputed assessment or collection letter, this process may create an impression of limited independence and potential conflict of interest, given the tax authority's role in achieving state revenue targets. Consequently, taxpayers often view objections as a formal prerequisite before proceeding to appeal.

As many objections are rejected, taxpayers frequently pursue judicial remedies through appeals and lawsuits at the Tax Court. This contributes to an increasing number of cases handled at the judicial stage, resulting in a backlog of tax disputes at the Tax Court. Contributing factors include a high volume of appeals, delays in resolving cases, and limited institutional capacity—such as an insufficient number of judges or inadequate specialized competence—leading to delayed hearings and potentially affecting decision quality. A high volume of disputes can create legal uncertainty for both taxpayers and the tax authority, reduce access to justice, and potentially undermine the rule of law.

High numbers of tax disputes may be influenced by several factors (Salim et al., 2024), including aggressive audits, conflicts of interest because the tax authority acts both as collector and decision-maker at the administrative stage, and complex tax regulations that are open to multiple interpretations. In some cases, disputes with similar issues can produce different outcomes, reducing legal certainty for taxpayers seeking justice. Therefore, efforts are needed to strengthen guarantees of legal certainty in Tax Court decisions and to reduce the time required and the accumulation of cases. Further legal remedies are available through judicial review (*peninjauan kembali*) to the Supreme Court, although restrictions exist to prevent case overload at that level.

This research includes a case study involving the issuance of a Tax Collection Letter (STP) to PT MSJ regarding a tax invoice deemed defective by the Directorate

General of Taxes. PT MSJ applied for cancellation, arguing that the provisions on complete tax invoices were clearly regulated in Article 14 paragraph (1) letter (e) of the *UU KUP* (as amended). The tax authority relied on SE-26/PJ/2015, which conflicted with the higher-level law (*lex superior derogat legi inferiori*). Despite PT MSJ's argument, the application was rejected. PT MSJ filed a lawsuit against the rejection. The process—from the rejection decision dated 31 December 2015 to the Tax Court ruling on 6 October 2016—took a long time, due to the volume of disputes and limited judicial capacity. This case illustrates that legal certainty concerns not only administrative procedures but also the clarity and hierarchy of legal norms. Violations of legal norms harm taxpayers, making judicial remedies an important mechanism to achieve legal certainty and justice.

D. CONCLUSION

The principle of legal certainty has binding force in tax collection in Indonesia. This binding force derives from Article 28D paragraph (1) and Article 23A of the 1945 Constitution, which are elaborated in the *UU KUP*, the Tax Court Law, and the Government Administration Law. The principle of legal certainty binds the government to collect taxes on a valid legal basis and protects taxpayers from arbitrary actions by tax officials, particularly in efforts to increase tax revenue for national development. The principle of legal certainty also serves to maintain the stability and credibility of Indonesia's tax system. If tax laws are applied consistently and predictably, tax compliance will increase. Implementation still faces technical obstacles, conflicts of interest (as tax officials pursue revenue targets), overlapping and interpretive tax regulations that create uncertainty for taxpayers, and frequent legal changes driven by economic adaptation. Legal uncertainty, in turn, can generate resistance and reduce public trust in the tax system.

Indonesia's tax dispute resolution system based on the principle of legal certainty is clearly regulated in statutory norms, both at the administrative (objection) and judicial levels. This is reflected in the existence of a complete legal framework under the *UU KUP*, the Tax Court Law, and their implementing regulations. The administrative objection stage, as well as judicial remedies such as appeals and lawsuits, and further remedies up to cassation and judicial review, contain clear stages, procedures, and deadlines grounded in the principle of legal certainty. In implementation there remain challenges, both at the administrative and judicial stages, such as inconsistent application of rules, a high litigation rate at the Tax Court that could have been resolved administratively, lack of transparency in determining the legal basis of tax decisions, limited taxpayer understanding of their rights and obligations in dispute resolution, and potential conflicts of interest, especially in objections, because the deciding authority is the same institution that issued the disputed Tax Collection Letter (STP) or Tax Assessment Letter (SKP).

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