

Implementation of Tax Ownership to Taxpayers with the Principles of Justice

Steffi Yellow, Ahmad Feri Tanjung, Marolop Butar-butur, Kartina Pakpahan, Elvira Fitriyani
Pakpahan

Magister of Laws, Universitas Prima Indonesia, Jl. Sekip simpang Sikambing, Medan, Indonesia

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Abstract: Hostage-taking was an act of confiscation of the body against a taxpayer who does not carry out his obligations. It was necessary to pay attention to the regulation and the impact of the pressure that will arise from the hostage taking. Data collection techniques in the form of literature and interviews with government officials at the Directorate General of Taxes, KPP Pratama Binjai area. The data were analyzed qualitatively. Regulations for taking tax hostage against taxpayers with the principle of justice were regulated based on Law Number 19 of 2000. The mechanism for implementing tax hostage against taxpayers with the principle of justice at Binjai Pratama Tax Office was in accordance with existing regulations. KPP Pratama Binjai has provided leeway for tax bearers and passes the change of year. Efforts to increase compliance and awareness of taxpayers in carrying out tax obligations in the Binjai Pratama KPP area was to educate taxpayers at the time of administration, made NPWP.

1 INTRODUCTION

In line with the increasingly active development carried out, the greater the budget for financing state expenditures. For this reason, the government requires a large enough fund to finance development activities that take place continuously and sustainably. The funds are expected to be obtained from domestic revenues without having to rely on foreign aid or loans.

Development financing issued by the government was obtained from various sectors, in this case, namely tax revenue and non-tax revenue. Non-tax revenues include, among others, revenues from the use of natural resources, management of state assets and others. These revenues are very unstable because of the large dependence of these revenues on external factors. Therefore, the only mainstay of the government today was revenue from the taxation sector.

The tax sector plays a big role in state revenue. Taxes are a means by which the government obtains funds from the people. The proceeds from the tax revenue are used to fill the state budget and at the same time finance state spending needs. Apart from being a source of funds to fill the state budget, taxes

are also used as a source of monetary and investment policies which have an impact on increasing economic growth, so that people's welfare was getting better.

Based on the aforementioned provisions of Article 23 A, there are 2 (two) main elements contained in taxes and other levies that are compelling: first, they must be regulated by law and second, they are enforceable. Order to prevent the tax evasion, the tax law can be enforced by tax collection, tax assessment and tax investigation

Tax collection was a transfer of wealth from the people to the state, the results of which will be returned to the people. Therefore, tax collection must get approval from the people, especially regarding the types of taxes that will be collected and how much the tax was collected. Of course, the people's consent process can only be carried out by means of a law. The juridical basis for answering this question was by referring to Article 23A above. In the framework of National Taxation reform, the Government together with the House of Representatives (DPR) succeeded in reforming tax laws.

Based on the second element, namely the enforceable nature of tax collection, it can be explained that the funds collected from taxes will be

returned to the people in the form of development and services provided by the government. In order to create certainty in the process of collecting it and the progress of development in a sustainable manner, the nature of the coercion must exist because the people themselves have agreed to it through the provisions stipulated in law. The element of coercion means that if the taxpayer does not want to pay taxes, the government can take coercion, among others, by issuing a letter of force so that the taxpayer was willing to pay off his tax debt. That there was an influence between the attitude of the taxpayer and the application of land and building taxes. This affects that it will facilitate the future opportunities for the attitude of taxpayers (Ramdhani, 2017).

That the philosophical and the restorative justice principle has become the foundation for regulation and tax enforcement rather than repressive or retributive justice. Persuasive approach focused on tax payers and officers' consensus was the best mechanism for tax evasion, not only related on civil and criminal matters, but also for administrative. The implementation of restorative justice principle will be appropriate if the principle was accompanied by good governance principles (Sarwirini, 2014).

In this case, the focus will be on tax collection by the Directorate General of Taxes against taxpayers who have tax arrears. Tax collection was carried out based on Law No. 19 of 1997 as amended by Law no. 19 of 2000 concerning tax collection by compulsory letter. The forced letter has executorial power and was the same as a court decision which has permanent legal force. The coercive letter, among others, gives the Directorate General of Taxes the authority to take hostages against taxpayers who have tax arrears.

Hostage-taking (*gijzeling*) was a compulsion to carry out corporate confiscation of taxpayers who have neglected their obligations, resulting in substantial losses for the government. In this case the government must do it selectively and carefully because this concerns human rights. And the implementation can only be done after going through a series of other tax collection activities. There was a relationship between taxation and the application of the electronic filling system on taxpayer compliance. So it was very important for the application of taxpayers with the socialization of this understanding with a new system that affects how compliant taxpayers are with their obligations (Sugartini, 2020).

That in the statistical analysis there was a relationship between taxpayer understanding and tax

awareness which has a significant relationship with taxpayers, so it was very important for socialization training on this so that it adds guidance on taxes (Ida, 2019). A study was known to have a relationship with taxpayers' knowledge of a positive relationship with individual taxpayers (Ida, 2019).

The Regional Office of the Directorate General of Taxes (DJP) North Sumatra (Sumut) I took hostage on a tax arreater with the initials JH on January 19, 2017. JH is registered at the Pratama Binjai Tax Service Office (KPP) and was an entrepreneur in the field of chicken farming. The total tax arrears amounted to Rp 3.61 billion. JH was held hostage because he was judged to be uncooperative and ignored all the persuasive actions he had taken. The hostage-taking was carried out based on the Letter of the Minister of Finance of the Republic of Indonesia Number SR-986 / MK.03 / 2016 dated 30 December 2016 regarding the Granting of Permits to take hostages.

Based on the fact that there is an imbalance of bargaining position of the parties. Although the agreement has put forward the principle of freedom of contract. Freedom of contract is based on the assumption that the parties to the contract have a balanced bargaining position, but in reality the parties do not always have a balanced bargaining position (Pakpahan, 2017). This research was to look at the laws in Indonesia that regulate tax hostage, how the tax hostage implementation mechanism and the role in increasing taxpayer compliance and awareness. Based on the background explanation above, the researcher was interested in conducting research on hostage-taking which was compiled in this thesis with the title "The Application of Tax Hostage to Taxpayers with the Principle of Justice in the Binjai Primary Tax Office Area".

From the existing problems, there are questions, namely how positive law in Indonesia regulates the application of tax hostage to taxpayers with the principle of justice, how was the implementation mechanism for implementing tax hostage to taxpayers with the principle of justice in the area of the Binjai Pratama Tax Service Office, and how are efforts to improve taxpayer compliance in carrying out tax obligations in the area of the Binjai Pratama Tax Service Office. And difference than another paper are this have seems problem and how do from one city at North Sumatera.

2 RESEARCH METHODS

The research method in this research uses juridical empirical research which looks for material in the form of interviews to compare it with the right positive law. The study used interviews with the Directorate General of Taxes in the KPP Pratama Binjai area to obtain an explanation of the hostage cases that had occurred.

To analyze the data and draw from the research results, the data will be analyzed qualitatively by describing the data in the form of explanations or sentence descriptions that are arranged systematically from the results of data analysis. Then, an analysis of the incident at the taxpayer office in the Binjai area of North Sumatra was analyzed and the results of the interview are interesting.

3 RESEARCH RESULTS AND ANALYSIS

3.1 The Implementation Mechanism for the Application of Tax Hostage to Taxpayers with the Principle of Justice in the Area of the Binjai Primary Tax Office

The definition of tax according to Law Number 28 of 2007 concerning General Provisions and Tax Procedures (UU KUP) was an obligatory contribution to the state by an individual or entity that was compelling under the Law. Taxes are a state obligation which was clearly regulated in the 1945 Constitution. Article 23 (A) states that "taxes and other levies which are forcing for state purposes are regulated by law". In accordance with Article 27 paragraph (1).

Article 23 (A) of the 1945 Constitution (Amendment IV) was the legal basis for tax collection in Indonesia which reads: "Taxes and other levies of a compelling nature for state purposes are regulated by law". According to Machfud Sidik, compliance with voluntary taxation obligations was the backbone of the self-assessment system, where taxpayers are responsible for determining their own tax obligations and then accurately and timely pay and report the tax (Rahayu, 2010).

According to Gunadi, the definition of taxpayer compliance was: "In this case it means that taxpayers have the willingness to fulfill their tax obligations in accordance with applicable

regulations without the need for examination, careful investigation, warnings or threats and application of both legal and administrative sanctions" (Gunadi, 2013). Taxpayer compliance, namely guilt and shame, taxpayers' perceptions of the fairness and fairness of the tax burden they bear, and the effect of satisfaction on government services (Nasucha, 2004).

The predicate of obedient taxpayers in the sense of discipline and obedience, was not the same as taxpayers who are predicated as large taxpayers, there was no relationship between compliance with the nominal amount of tax deposits paid to the State treasury. Because, even the largest taxpayer does not necessarily meet the criteria as a compliant taxpayer, even though it makes a large contribution to the state, if it still has arrears or delays in tax payment, it cannot be given the title of obedient taxpayer (Rahayu, 2010).

The billing action was divided into two, namely passive billing and active billing. In passive billing there are several actions taken, namely by using a Tax Collection Letter (STP), Tax Underpayment Assessment Letter (SKPKB), Additional Underpaid Tax Assessment (SKPKBT), Correction Decree (SKP), Objection Decree, Decree Appeal. If within 30 days it has not been paid, then 7 days after the due date will be followed by active tax collection starting with issuing warning letters, compulsory warrants, confiscation orders, prevention, hostage taking (Suandy, 2005).

The purpose of the tax collection was for the tax bearer to pay off his tax debt. Thus, if the tax debt was paid off, the series of actions will not be continued. This collection action was one way of forcing taxpayers to fulfill their obligations. The collection function was as a law enforcement action for taxpayers or tax bearers to comply with statutory regulations and as a measure to safeguard tax revenue (Zuraida & L. Y. Hari Sih Advianto, 2011).

Article 32 paragraph (1) of the General Provisions of Taxation Law stipulates that in exercising rights and obligations in accordance with the provisions of taxation legislation, taxpayers are represented in terms of:

- a. agency by administrators
- b. the agency declared bankrupt by the curator
- c. body under dissolution by a person or body assigned to make settlement
- d. the agency was under liquidation by a liquidator
- e. an inheritance that has not been divided by one of the heirs, executor of his will or who manages the inheritance; or

- f. a child who was not an adult or someone who was under interception by a guardian or guardian.

Representatives as referred to in Article 32 paragraph (1) of the Law on General Provisions of Taxation are personally and / or jointly responsible for the payment of taxes owed, unless they can prove and convince the Directorate General of Taxes that they are in a truly impossible position. to be burdened with responsibility for the tax due.

Taxpayer awareness was the attitude of taxpayers who have understood and are willing to carry out their obligations to pay taxes and have reported all their income without being hidden in accordance with applicable regulations (Nasution, 2006).

Taxpayers on the implementation of state functions by the government will move people to comply with their obligations to pay taxes. Tax awareness grows because people feel they are involved in finding tax regulations (Safri Nurmantu, 2005).

The procedure for issuing tax assessments and tax bills has been regulated in the Minister of Finance Regulation which has undergone several changes, with the latest amendment, namely Regulation of the Minister of Finance Number 183 / PMK.03 / 2015 concerning Procedures for Issuance of Tax Assessment Letters and Tax Collection Letters. Previous regulations, namely Minister of Finance Regulation Number 145 / PMK.03 / 2012 concerning Procedures for Issuance of Tax Assessment Letters and Tax Collection Letters, Minister of Finance Regulation Number 84 / PMK.03 / 2010 concerning Procedures for Issuance of Tax Collection Letters, Minister of Finance Regulation Number 83 / PMK.03/2010 concerning Procedures for Issuance of Tax Assessment Letters, Minister of Finance Regulation Number 189 / PMK.03 / 2007 concerning Procedures for Issuance of Tax Collection Letters and Regulation of the Minister of Finance Number 23 / PMK.03 / 2008 concerning Procedures for Issuance of Assessment Letters Tax.

Regulations that further regulate tax hostage are in the Director General of Taxes Regulation Number PER - 03 / PJ / 2018 concerning Guidelines for Implementing Hostage-Taking and Providing Rehabilitation of the Good Name of Tax Bearers Hosted. The previous regulation, namely the Decree of the Director General of Taxes Number KEP-218 / PJ / 2003 concerning Guidelines for the Implementation of Hostage-taking and Granting of Rehabilitation of the Good Name of Tax Bearers who are Hosted. Rules regarding hostage-taking are

also regulated by Government Regulation Number 137 of 2000 concerning Places and Procedures for Hostage Hostage, Rehabilitation of Tax Bearers' Good Name, and Providing Compensation in the Context of Collecting Tax with a Warrant. Technically also contained in the Joint Decree of the Minister of Finance and Minister of Justice and Human Rights No. M-02.UM.09.01 Year 2003, No. 294 / KMK.03 / 2003 concerning the Custodian of Tax Bearers Held in a Detention Center in the Context of Collecting Tax with a Warrant.

According to Law Number 19 of 1997 as lastly amended by Law Number 19 of 2000 concerning Tax Collection by Force Letter in Article 33 Paragraph 2, hostage-taking can only be carried out based on a Hostage Warrant issued by an official after obtaining written permission from the Minister Finance for central tax collection or from the Governor for local tax collection. However, if the official was unavailable and a replacement for the official has not been appointed, the superior officer can apply for a permit to take hostage.

Based on Law Number 19 of 1997 as lastly amended by Law Number 19 of 2000 concerning Tax Collection by Force Letter in Article 33 Paragraph 3, the period for holding tax bearers of hostage was a maximum of six months from the time the tax bearer was placed in place. hostage and can be extended for a maximum of six months.

Taxpayer awareness of taxation was needed to increase taxpayer compliance. The level of tax awareness shows how much a person's understanding of the meaning, function and role of taxes. The higher the level of taxpayer awareness, the better the understanding and implementation of tax obligations so that it can increase compliance.

This statement was also supported by the results of research conducted by Siti Musyarofah and Adi Purnomo whose research results show that taxpayer awareness has a positive effect on taxpayer compliance. The results of this study are supported by research results from Hangga Wicaksono, Murti, Jullie Sondakh, and Harijanto Sabijono which state that taxpayer awareness has a significant positive effect on taxpayer compliance.

This was also obtained from the research of Ni Ketut Muliari and Putu Ery Setiawan, which affects taxpayer compliance. This was due to the awareness of taxpayers due to understanding and implementing high voluntary taxation provisions regarding taxes, so that taxpayer compliance will increase.

Law Number 19 of 1997 as lastly amended by Law Number 19 of 2000 concerning Tax Collection by Force Letter in article 33 paragraph 5 stipulates

that hostage-taking may not be carried out if the tax bearer was in worship, was attending an official hearing, or was attending general election.

Based on Law Number 19 Year 1997 as last amended by Law Number 19 Year 2000 concerning Tax Collection by Force Letter article 34 paragraph 3, tax bearers who are held hostage can file a lawsuit against the implementation of hostage taking only to the district court. The right to file a lawsuit was to provide justice for tax bearers in the event of an error in the implementation of hostage taking which was of course detrimental to the tax bearer concerned.

Law Number 19 of 1997 as lastly amended by Law Number 19 of 2000 concerning Tax Collection by Force Letter article 34 paragraph 4 states that tax bearers can apply for rehabilitation of good name and compensation if the tax bearer's claim was granted by the District Court. and court decisions have permanent legal force.

The amount of compensation provided by an official to a taxpayer or a tax bearer was IDR 100,000.00 (one hundred thousand rupiah) per day during the period of detention he has served. This value was stated in Law Number 19 Year 1997 as last amended by Law Number 19 Year 2000 concerning Tax Collection by Force Letter article 34 paragraph 5 letter a. The amount of compensation for the tax bearer who was held hostage may change and was determined by a decree of the Minister of Finance.

In Law Number 19 Year 1997, as lastly amended by Law Number 19 Year 2000 concerning Tax Collection by Force Letter Article 35, it was stipulated that taking taxpayers hostage does not result in the elimination of tax debts and the cessation of tax collection. Thus, taking tax bearers as hostage does not result in the write-off of the tax debt. Therefore, even though the tax bearer has been taken hostage, the tax collection action does not stop and continues to be carried out.

The Binjai Pratama Tax Office has the following work areas:

1. Binjai Municipality includes the districts of East Binjai, Binjai Kota, Binjai Utara, Binjai Barat and Binjai Selatan
2. Langkat District includes, Pangkalan Susu, Gebang, Hinai, Secanggang, Sawit Seberang, Babalan, Sei Lapan, Stabat, Sirapit, Binjai, Besitang, Tanjung Pura, Wampu, Pematang Jaya, West Brandan, Kuala, Finish, Bahorok, Kutambaru districts , Sei Bingai, Batang Serangan and Wal Api

The Binjai Pratama Tax Service Office was located at Jalan Jambi number 1 Rambung Barat, Binjai Selatan. Based on the Regulation of the Minister of Finance of the Republic of Indonesia Number 210 / PMK.01 / 2017 concerning the Organization and Work Procedures of the Directorate General of Taxes Vertical Agency in article 58, KPP Pratama has the task of carrying out services, counseling, supervision and law enforcement for Taxpayers in the field of Income Tax, Taxes. Value Added, Sales Tax on Luxury Goods, Other Indirect Taxes, and Land and Building Tax within their jurisdiction based on laws and regulations.

The Directorate General of Taxes has carried out a series of investigations and reconnaissance assisted by the State Intelligence Agency (BIN) and tax intelligence. Based on these data, it is stated that the tax bearer does not have good intentions because he does not want to pay taxes, not because he was unable to pay taxes. That was the basis for the tax hostage decision to be implemented.

According to Mr. Ivon Indardi, the case of JH's tax bearer tax debt must be resolved immediately before March 31, 2017, given the tax amnesty program. By taking advantage of the tax amnesty program, taxpayers are only required to pay the principal tax owed. Interest penalties and tax penalties will be removed.

The Binjai Primary Tax Office has told JH tax bearers to take advantage of this tax amnesty program. However, JH's tax bearer was still not willing to pay his tax debt. This tax debt that has been incurred since 2008 was finally taken hostage. The hostage-taking was the last resort that had to be done.

Based on the interview conducted with Mr. Diyarto, the tax bailiff who was directly on duty at the time the implementation of the tax hostage against the JH tax bearer was carried out, the researcher was given a clear explanation of the stage of hostage being carried out up to the stage of releasing the hostages. The hostage-taking was carried out based on the Letter of the Minister of Finance of the Republic of Indonesia Number SR-986 / MK.03 / 2016 dated 30 December 2016 regarding the Granting of Permits to take hostages.

The hostage-taking was not immediately carried out at that time because surveillance was carried out first. Surveillance was carried out to determine the whereabouts of taxpayers. Reconnaissance was carried out by the State Intelligence Agency (BIN) and inteldik.

The tax hostage was carried out against JH on January 19, 2017 at his residence. The process of taking hostages was carried out by the tax bailiff and the police, namely the North Sumatra Regional Police. After that, the JH tax bearer was taken to the hospital for a health check in order to get a medical certificate from the hospital which states that the tax bearer was in good health. Furthermore, JH tax bearers are entrusted to the Class I State Detention Center (Rutan), Medan. JH tax bearers are placed in a separate room from other inmates.

The period of hostage taking can be carried out for a maximum of 6 (six) months and can be extended for a maximum of 6 (six) months. However, the taxpayer JH paid the tax debt and also joined the tax amnesty program on January 20, 2017, the day after the hostage taking was carried out. JH's tax bearer paid off all his tax payable amounting to Rp 2,444,436,937.

JH tax bearers are released from hostage on January 20, 2017 after fulfilling the provisions for cessation of hostages in accordance with KEP-218/PJ / 2003 concerning Implementation Guidelines for Hostage-taking and Granting Rehabilitation of the Good Name of Tax Bearers Who Are Hostaged. Tax bearers who have paid tax debt of 50% or more of the amount of tax debt / remaining tax debt, and the rest will be paid in installments released from the state detention center based on certain considerations from the Minister of Finance with a Letter of Recommendation / Notification of the Minister of Finance to the Director General of Taxes.

Decisions made on tax hostage against taxpayers need to go through various stages of collection. This action cannot be done immediately because it involves a person's psychological problems. Economic observer from Medan State University, M Ishak admitted that he did not agree with the steps taken by the Directorate General of Taxes hostage. This aspect will affect the taxpayer psychologically.

In the case of JH tax bearers, the Binjai Pratama Tax Service Office has given a very long period of time, namely since 2008 and only taking hostages in early 2017. During that time, the Binjai Pratama Tax Service Office was also not passive, but active in nature. in doing billing as regulated.

The tax debt value must be paid by the tax bearer in accordance with existing regulations. However, with the opportunity to take advantage of the tax amnesty program, the nominal tax debt paid was only 70% of the initial nominal tax debt. The Binjai Primary Tax Office has a good role in taking action

by reducing the nominal tax debt to ease the burden on JH tax bearers.

In the process of holding the JH tax bearer hostage has been carried out in accordance with existing implementing regulations. All rights and obligations of tax hostages have been fulfilled. The Binjai Primary Tax Office has also provided leeway for tax bearers to go through the new year. The Hostage Permit Granting Letter was issued on 31 December 2016 and the implementation of the new hostage-taking took place on 19 January 2017.

3.3 Efforts to Improve Taxpayer Compliance in Carrying Out Tax Obligations in the Binjai Pratama Tax Office Area

The researcher conducted an interview with Mr. Sahrul Alam as the Head of the Extensification and Counseling Section of the Binjai Pratama Tax Office about the work program of the Binjai Pratama Tax Service Office. Based on the Director General of Taxes Regulation Number PER-21 / PJ / 2015 and last amended by Number PER-08 / PJ / 2018 concerning the Implementation of Duties and Functions of the Director General of Taxes Extension and Counseling Section 2, the duties and functions of the Extensification and Extension Section include:

- a. Implementation of Extensification;
- b. New Taxpayer Supervision;
- c. Implementation of Taxation Counseling; and
- d. Administration of PBB P3.

In line with the Directorate General of Taxes, the Extensification and Counseling Section of the Binjai Pratama Tax Office also carries out work programs to improve taxpayer compliance, namely:

1. Conduct initial education to taxpayers who have just applied for a taxpayer identification number (NPWP). Taxpayers will be given instructions on how to make tax payments to tax reporting.
2. Provide appeals to prospective taxpayers from field analysis data.
3. Provide regular counseling to taxpayers. The objectives of the extension are:
 - a. Future Taxpayers
Extension was carried out in tertiary institutions and vocational / high schools with the aim of providing an understanding of early tax awareness.
 - b. Potential Taxpayers
Counseling was provided to taxpayers on the type of business being run.

c. Government agencies

Counseling was given to state treasurers, which was usually done at the beginning of the year to provide information related to fulfilling the obligation to fill out the annual tax return.

4. Organizing Mobile Tax Unit (MTU) activities. The Mobile Tax Unit was a series of activities to test the effectiveness and efficiency of using a tax car as a vehicle that was used to serve as a means of tax education and services for the public and / or taxpayers in carrying out their tax obligations. MTU activities are held in two places, namely:

- a. Merdeka Binjai Field, held every Sunday.
- b. Jl. Commerce No. 124 Stabat (in front of Bank BRI Stabat Branch Office), held every Wednesday.

Mr. Sahrul Alam also emphasized that the Binjai Pratama Tax Service Office will also be happy to provide counseling based on the taxpayer's own request. For example, corporate taxpayers who want to provide counseling to employees.

4 CONCLUSIONS

The implementation mechanism for applying tax hostage to taxpayers with the principle of justice in the area of the Binjai Pratama Tax Service Office has been implemented in accordance with existing implementing regulations. All rights and obligations of tax hostages have been fulfilled. The Binjai Pratama Tax Office provides a solution for utilizing the tax amnesty program in reducing tax debt without violating existing regulations. The Binjai Primary Tax Office has also provided a leeway from the beginning of the active collection action until the time of taking hostage where the tax bearer was given time to pass through the new year. The Hostage Permit Granting Letter was issued on 31 December 2016 and the implementation of the new hostage-taking took place on 19 January 2017.

The Directorate General of Taxes actively seeks to increase taxpayer compliance. All aspects that affect the level of taxpayer compliance are the targets of the Directorate General of Taxes work program. Efforts to increase taxpayer compliance and awareness in carrying out tax obligations in the Binjai Pratama Tax Office area are in line with the work program of the Directorate General of Taxes. The Binjai Primary Tax Office conducts initial

education to new taxpayers, provides appeals to prospective taxpayers from field analysis data, provides periodic counseling to taxpayers and conducts Mobile Tax Unit (MTU) activities.

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