Jurnal Kajian Akuntansi, Vol. 5 No. 2 2021, 225-242
e2579-9991, p2579-9975
http://jurnal.ugj.ac.id/index.php/jka

MAIN ISSUES OF VALUE-ADDED TAX DISPUTE IN INDONESIA: A NOTE FROM 2019 TAX COURT DECREES

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Abstract
Due to the lengthy, complicated, and expensive process, tax disputes in Indonesia are often in the spotlight. Moreover, the frequently recurring disputes for similar cases add to the long list of the issues. To that end, this study has two objectives. The first is to analyze Value Added Tax (VAT) concepts in Indonesia's regulations. The second is to analyze the VAT dispute according to the sample generated from the 2019 Tax Court decree. Thus, it is qualitative research with inductive reasoning using data collection techniques through documentation and literature studies. This study elucidates concepts underlying VAT regulations that have received scant attention in the prior literature. The core of the VAT dispute issues stems from divergent perspectives on VAT provisions between the tax authority and taxable persons. The primary issues in VAT disputes generally involve disagreements over interpretation and inaccuracies in supporting evidence on both the input and output sides. Given that the 2019 Tax Court decree upholds only 32% of the tax authorities' corrections, knowledge of the VAT concept is critical for readers of laws and regulations to grasp the underlying concept of the regulation.
Keywords: *Tax dispute; Value-added tax; Tax court decree*

Abstrak
Sengketa pajak di Indonesia sering menjadi sorotan karena prosesnya yang panjang, rumit, dan memakan biaya. Selain itu, sengketa yang kerap kali berulang untuk kasus serupa menambah daftar panjang masalah. Untuk itu, kajian ini bertujuan untuk menganalisis penerapan konsep PPN di dalam ketentuan perundang-undangan perpajakan Indonesia. Kajian ini juga ditujukan untuk mensintesiskan sengketa PPN dengan sampel dari putusan Pengadilan Pajak tahun 2019. Studi ini menggunakan pendekatan kualitatif dengan penalaran induktif yang menggunakan teknik pengumpulan data berupa studi dokumentasi dan literatur. Kajian ini mengungkap konsep-konsep di balik peraturan PPN yang belum banyak dibahas literatur sebelumnya ketika inti permasalahan sengketa PPN justru berpangkal pada perbedaan sudut pandang atas ketentuan PPN tersebut di antara otoritas pajak dan pengusaha kena pajak (PKP). Isu utama dalam sengketa PPN secara umum meliputi perbedaan penafsiran dan ketidakakuratan bukti pendukung, baik di sisi input maupun output. Mengingat putusan Pengadilan Pajak 2019 hanya mempertahankan 32% koreksi otoritas pajak, tampak bahwa pengetahuan tentang konsep PPN sangat penting di dalam memberikan pemahaman akan konsep yang mendasari peraturan tersebut.
Katakunci: Sengketa pajak; Pajak pertambahan nilai; Putusan pengadilan pajak

Chronicle of Article: Received (June); Revised (September); and Published (December).

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***How to cite this article*:** Saptono. P. B., Khozen. I., & Ayudia. C. (2021). Main Issues of Value-Added Tax Dispute in Indonesia: A Note From 2019 Tax Court Decrees. Jurnal Kajian Akuntansi, 5(2), 225-242

INTRODUCTION

In Indonesia, tax dispute resolution is still problematic because having not realized the fast, simple, and inexpensive principle (Hidayah, 2018). Indonesia's tax system places the Tax Court to seek justice when a tax dispute arises between taxpayers and the tax authorities (central and local taxes). Central taxes become the responsibility of the minister of finance (MoF) as part of the central government. In contrast, local taxes are part of the responsibility of local governments (both provincial and city/district governments).

Specifically for central taxes, MoF assigns the Directorate General of Taxes (DGT) to handle income tax, value-added tax, land & building tax, and stamp duty. Meanwhile, MoF assigns the Directorate General of Customs and Excise to administer import duties, export duties, and excise.

As a professor elected as Chief Justice of the Indonesian Supreme Court for 2012-2017 and 2017-2022, Muhammad Hatta Ali says that tax disputes, including tax appeals and tax lawsuits through the Tax Court, are the "*ultimum remedium*" principle for justice seekers. Their seeking justice results from a conflict between different legal, accounting, and economic views in implementing the framework of thoughts (Djatmiko, 2016).

According to the Indonesian Tax Court through its official site (setpp.kemenkeu.go.id/risalah), accessed during April-May 2021, tax disputes between the DGT and taxpayers in the Tax Court increased significantly during 2017-2019. The total tax cases from 2017 to 2019, respectively are 5,553, 7,813, and 12,882. The case increase from 2017 to 2018 and from 2018 to 2019, respectively, equals 41% and 65%. Still based on the same official site, as described above, the latest data for 2019 tax disputes in the Tax Court reveals 12.882 cases received and 10.166 cases settled. Of the total, 67% of the Tax Court decrees favored taxpayers, with details of 4.937 fully approved and 1.903 partly approved.

The increase in the number of taxpayers and their understanding level of tax rights and obligations through a self-assessment system allows an increase in tax disputes between taxpayers and tax officers (Hidayah, 2018). Besides, law enforcement indecision regarding the imposition of tax sanctions encourages taxpayers to deviate from the law (Sundari, 2019), which requires tax auditors to perform additional duties. However, the number of disputes submitted to the tax court is not proportional to the availability of human resources within the tax administration (Rahayu, 2014). This imbalance is problematic concerning legal certainty and can take up to three years to resolve tax disputes.

Juridically, tax disputes stem from different views and interpretations of tax laws and regulations arising from tax audits (Djatmiko, 2016). Divergent perspectives on law, accounting, and economics lead to a conflict of interest for taxpayers as justice seekers and tax officers. Tax compliance is a social dilemma in which short-term personal interests to minimize tax payments conflict with long-term collective interests to provide sufficient tax funds for public goods (Gangl et al., 2015). In this case, the tax authorities seek to increase state revenues. However, the tax officer has limited scope and understanding of the taxpayer's business transactions, so interpretation depends heavily on a belief based on textually written within the law. Meanwhile, taxpayers tend to perform tax planning efforts to minimize their tax burden legally.

Additionally, the influence of tax auditors themselves can contribute to an abundance in a Tax Court case. Tax auditors often handle the same case as previous cases, which the tax court judges have settled. Even though the judges' earlier ruling had won the appellant, tax auditors do not use the Tax Court case as an additional tax audit guide. Ultimately, such factors lead to the repetition of a tax dispute (Rahayu, 2014).

For this reason, the research conducted by Lubis and Yohanes (2020) specifically proposed that policymakers harmonize tax regulations by considering the Tax Court decrees. It does not mean to lead the Indonesian system to adhere to jurisprudence. The aim is to ensure that there will be no repetition of similar cases if the policymakers adapt lessons learned from former Tax Court decrees within the new regimes.

Tax auditors have to do procedures by referring to Law No. 6 of 1983 as amended several times before issuing tax assessments, and such tax assessments constitute the source of tax disputes. In addition, the law regulates procedural matters and is subject to several amendments, and the latest amendment up to 2020 refers to UU No. 11 of 2020 concerning Job Creation.

The elucidation of Article 29 paragraph (2) of UU KUP stipulates detailed guidelines on the proving method during tax audits. The provision specifies that the opinion and conclusion of tax auditors must refer to relevant and robust evidence and apply tax law provisions and their implementing regulations. Thus, in examining tax disputes in the Tax Court, judges have to put forward the principle of "*affirmanti incumbit probatio"* (Gangl et al., 2015). In other words, providing evidence is mandatory for those who submit, not those who deny (Fellmeth & Horwitz, 2009, p. 24). However, in practice, the proof is often more burdened to taxpayers.

Tax court judges attempt to determine the burden of proof from the procedural and substantive aspects based on their wisdom in examining and deciding tax disputes. They are required to prioritize the principle of equality before the law through the imposition of evidentiary balanced. A fair assessment of the parties and the validity of evidence from the facts revealed during the tax hearing are not limited to facts and matters raised by the parties. It aims to produce decrees that provide legal certainty and apply the values of justice.

Apart from interpretation disagreements in tax disputes in the Tax Court, Adlan and Tjen (2017) revealed the primary reason for recurrent tax disputes. In this case, tax auditors typically lack sufficient legal standing to modify and perpetuate the status quo by failing to adapt tax legislation to business advancements. As a result, improvements to the tax system are required but without distorting the revenue productivity (Khozen et al., 2021).

The question is why further analysis on value-added tax (VAT) disputes is necessary. Highlighting the lengthy list of tax court decrees, perhaps the 2017-2019 decree is the highest among tax disputes in the Tax Court since VAT disputes refer to monthly VAT returns, so that there may be 12 cases in a fiscal year. In addition, the value of VAT disputes is also very significant since referring to the 10% tax rate of the transaction value, both sales, and purchases.

In principle, VAT is a tax that has a relatively broad base (Iswahyudi, 2018). There are three primary issues concerning differences in interpreting VAT laws and their implementing regulations. They include tax subject, tax object, and the issuance of tax invoices.

The repetition of VAT dispute cases in the Court has triggered several previous studies, either through single case studies or a sample of several decrees. For example, Santoso et al. (2020) proposed a case study analyzing disputes caused by VAT payment errors from the ease of administration perspective. Previously, Adlan and Tjen (2017) analyzed VAT disputes faced by finance companies related to the provision of insurance discounts and withdrawals of the sale of goods. Unlike the two qualitative studies above, Dwiputri (2012) conducted a logistic regression analysis of 183 Supreme Court decrees regarding hidden actions in tax disputes. She found that the taxpayer's

chances of winning the case were more significant with the longer the time in the dispute process since the covert action to bribe tax officials became longer.

Although previous studies have enriched the debate in the literature on VAT dispute resolution, only a few discuss the fundamental aspects underlying the disputes themselves. Therefore, further studies are essential to fill the gap to adjust new and more adaptive regulations. This study aims to fill the gap by analyzing the application of VAT concepts in the tax provisions in Indonesia and the abstraction of VAT disputes

Based on VAT dispute data during 2017-2019 accessed from the Tax Court's official site, we consider that the Tax Court decrees issued in 2019 become the most updated publications from the Court, which the public can access. Besides, we find that VAT cases for the 2017-2018 Tax Court decrees have a similar pattern to the 2019 Tax Court decrees. It is because those cases refer to the monthly tax periods during fiscal years 2009 up to 2018.

This study is different from previous ones by presenting the VAT issue from a broader perspective. Its main contribution is from both a conceptual and practical standpoint. Conceptually, it contributed to the debate in the literature on the understanding of the internalization of the VAT concept in Indonesian tax laws. It also explained how interpretations developed in cases in which taxpayers and DGT disagreed. Those will be incorporated into the final contributions to serve as a practical guide for taxpayers in implementing tax obligations correctly and providing essential insights for tax regulation. Of course, they are all presented in the context of a future, more minor tax dispute.

LITERATURE REVIEW

As one of the largest tax revenue sources, the VAT issue often becomes the center of interest. However, when measuring VAT as a percentage of GDP, Iswahyudi (2018) identified that VAT revenue has declined for the past two decades. One of the causes is taxpayer non-compliance with tax laws. Other studies also highlighted the repetition of cases brought to the Tax Court due to the weakness of the tax auditor's correction mechanism and the lack of harmonization of regulations (Adlan & Tjen, 2017; Lubis & Yohanes, 2020).

Recent studies on VAT in a broader scope have grown beyond studies with taxpayer settings and tax authorities in opposite positions. In addition, VAT issues have been subject to the broad scope of system improvements. Setyowati et al. (2020), for example, propose the adaptation of blockchain technology into the VAT administration system. The introduction of this technology allows the DGT to directly monitor and track transactions with tax invoices that have adopted the technology.

Several studies also have been conducted to encourage the harmonization of the tax system with the implementation of accounting standards through IFRS (International Financial Reporting Standards). For the topic of leases under IFRS 16, several studies have detailed aspects of VAT that taxpayers should be aware of (Gunawan & Yuliani, 2018; Saptono & Khozen, 2021a). Regarding revenue recognition under IFRS 15, the study of Saptono and Khozen (2021b) emphasizes the necessity of clarifying the time of supply clause in the contract. The above studies contributed to the current VAT concept development, as discussed further in the subsection below. Its organization begins with literacy on fundamental VAT concepts, interpretation methods of legal provisions, and ends in tax disputes that arise.

VAT Basic Concepts

Tait (1988) stipulates that VAT is a modification of unsatisfactory sales tax because of tax on tax occurring when a taxed product passes from the manufacturer to wholesaler to retailer. Tait (1988) defines the basic concept of VAT arising from tax

on value-added, that is, a value producers add to raw materials or purchases (other than labor) before selling new products or developing goods and services. A producer can be a trader, distributor, manufacturer, advertising agent, farmer, hairdresser, circus owner, or racehorse trainer.

Tait (1988) defines value-added using the Input-Process-Output (IPO) model. The Inputs (I) consist of raw materials or other purchases the producer pays to other parties or vendors. The producer then pays salaries/wages to people working on these inputs until the processed inputs become finished goods or services available to sell to customers. The outputs (O) constitute finished goods sold to customers or services rendered to clients after the producer puts profit into the selling price. In this case, the Process (P) includes wages and profit.

The above description results in the five following equations:

E1. Input + Process = Output
E2. Output = Input + Process
E3. Output = Input + (Wages + Margin)
E4. Output – Input = Process = value-added
E5. Wages + Profit = Process = value-added

Based on the five equations above, value-added can be Output – Input, usually called "the subtractive method" (see E4). In addition, value-added can also be Wages + Profit, usually called "the additive method" (see E5).

According to equations E4 and E5 above, applying tax (*t*) on value-added or VAT can use the four following methods that produce the same result:

M1. VAT = *t*(Output + Input)
M2. VAT = *t*(Output) + *t*(Input)
M3. VAT = *t*(Wages + Profit)
M4. VAT = *t*(Wages) + *t*(Profit)

Tait (1988) stipulates that method M2 is the invoice or credit method and the only practical one. It is because VAT liability can be calculated week by week, monthly, quarterly, or annually. Besides, such a method allows the most up-to-date assessments and applies more than a single rate. However, some countries simplify VAT imposition by applying method M1 through determining Output – Input using a specific percentage (i.e., 10% or 20%). By this method, VAT regulation specifies value-added equal to a certain percentage for particular transactions.

Since the IPO model applies to all stages of the production and distribution chain, VAT also applies to the entire stages using method M2, usually called "the subtractive-indirect method. This method is the easiest way to calculate a VAT (Output minus input) and apply the tax rate to economic transactions.

Some authors sometimes mention method M2 as an indirect tax because of the "indirect" way of assessing VAT. In other words, tax on value-added applies by taxing Output or *t*(Output) and taxing Input or *t*(Input) separately. Thus, finally, VAT results from *t*(Output) minus *t*(Input).

Based on this indirect way, *t*(Output) on a trader's sale becomes *t*(Input) for other's purchase. In this case, an invoice becomes the crucial control document of the usual VAT and the crucial evidence for the transaction and the tax liability. It establishes the supplier's tax liability and the purchaser's entitlement to a deduction for the VAT charged. Therefore, invoices must be in carefully completed records. Such a scheme represents the invoice or credit method or the credit-invoice method (James, 2015).

Since VAT applies to economic transactions, the tax burden or incidence can refer to origin or destination principles. Under the origin principle, the seller has to bear VAT. In contrast, under the destination principle, the buyer or consumer has to bear VAT. However, in international trade, whose cross-border transactions occur, Tait (1988) stipulates that implementing the origin principle could arise an administrative nightmare. The reason is that under the origin principle, exporters have to bear VAT, whereas importers do not bear VAT. Such a condition is not reasonable for a country supporting exports. Therefore,

many countries implementing the VAT system adopt the destination principle (Schenk & Oldman, 2007) so that exporters do not need to bear VAT, whereas importers have to bear it.

Due to the above condition, a country with a VAT must define the jurisdictional reach of the tax. Therefore, almost every country adopting the VAT system relies on the destination principle to determine the jurisdictional limits of the tax (Schenk & Oldman, 2007). Tait (1988) mentions the jurisdictional reach of the tax as a "place of supply" rule in the context of international trade. Under the VAT system, it is crucial to determine the value of goods and services exported and when exporting them and identify the value of taxable imports and when they are taxable (Schenk & Oldman, 2007).

According to Tait (1988), the supply of goods and services must take place within the country to be taxable. Therefore, the definition of a country has to cover the continental shelf and territorial sea but does not include free zones. Due to the VAT imposition using the invoice method, as described above, determining the time of supply is crucial to identify when VAT is liable (Tait, 1988). In general, options related to the time of supply include (a) when having to issue the tax invoice, (b) when the goods are available to consumers or the supply of services, or (c) when making payments.

The next question is who has to impose and collect VAT. According to Tait (1988), since VAT is a tax on transactions in the form of sellers supplying goods and services to their buyers, the sellers have to be "taxable persons" who must register for VAT and account to the tax authority for VAT they collect. In addition, they must file VAT returns and account for tax on taxable sales (Schenk & Oldman, 2007).

The term "taxable person" is used in the VAT system to differentiate it from "person" in the sense of "taxpayer" for income tax purposes (Tait, 1988). According to Tait (1988), the definition of "taxable person" is essential since not all persons are liable for VAT. They are liable only if carrying on a business. Besides, a taxable person must be a legal entity and legal subject under the VAT law.

Legal Interpretation

A rule never represents actual conditions or cannot regulate every possibility, causing the need for interpretation (Freedman & Macdonald, 2008). One of the most common methods of interpretation is a literal interpretation ("*textualism*") by interpreting what is written (Cunningham & Repetti, 2004).

Besides the textualism approach, Cunningham and Repetti (2004) describe three other methods of interpretation, namely intentionalism, *purposivism*, and the practical reason (dynamic) method. The intentionalism approach is an interpretation that refers to the "original intent" of drafting a regulation. It seeks to determine what the legislature intended the statute to mean. Thus, it is necessary to know the background and purpose of the rule-makers drawing up a regulation clause. Eskridge & Frickey (1990, p. 322) called it "the most popular grand theory is probably intentionalism."

In contrast, the objective approach or *purposivism* does not ask what the legislative body means in the law. Instead, it focuses on determining the meaning and purpose of the law after its enactment (Samaha, 2018). Purposivists will also examine legislative history to identify such goals (Cunningham & Repetti, 2004). Furthermore, through the dynamic method of regulation, readers will look at various textual, historical, and evolutionary evidence when interpreting regulations (Eskridge & Frickey, 1990).

Tax Dispute

Tran-Nam and Walpole (2016) state that disputes are a regular feature of any human society, regardless of space, time, social tradition, or level of development. In the context of taxation, tax disputes are also a

common feature of modern tax systems worldwide. A tax dispute occurs when a taxpayer disagrees with the view provided or determined by tax officers regarding the taxpayer's tax liability or entitlements and related issues and takes several actions regarding this disagreement (Tran-Nam & Walpole, 2016).

Many factors can affect the volume of disputes. Tax disputes arise from the complexity of tax statutory and administration (Tran-Nam & Walpole, 2016). Mayanja et al. (2020) state that tax disputes include irrational tax violations, tax calculation errors, tax law interpretation or interpretation errors, unjustified tax sanctions, unreasonable tax debt determination, the ambiguity of tax regulations, and other mistakes by the tax officer.

According to Thuronyi (1996), tax audits are the primary source of disputes in a self-assessment system. Many countries experience tax dispute problems. In some cases, the pile of severe tax cases threatens to delay the collection of tax revenue.

RESEARCH METHOD

This study adopts a qualitative method with inductive reasoning that focuses on the core problems of VAT disputes in Indonesia due to different legal interpretations. It describes social phenomena by prioritizing social realities found in the study (Wagner et al., 2016). Therefore, relevant theoretical studies or perspectives must follow a good research design that meets scientific standards to help understand and describe the social phenomenon that becomes the focus of the study (Creswell, 2013). The data collection technique used is a documentation study through the literature with qualitative data analysis. In a qualitative study, researchers do not aim to prove the theory as quantitative researchers do, so it seems that the quality is the research label itself (Ali & Yusof, 2011).

As a descriptive study, it describes the phenomenon in detail. In this case, this study describes how the Indonesian tax authorities have done tax audits on VAT based on the current regulations. The number of VAT cases brought to the Tax Court initiated us to assess how the tax auditor performed the VAT case examination. For this purpose, we collect data on Tax Court decrees related to VAT by taking samples from Tax Court decrees read at the 2019 hearings, the year of the latest one that we can access in April-May 2021.

We have made a brief observation of the decrees of the Tax Court in previous years before deciding to choose the 2019 data as a sample. Since we have discovered a similar pattern of problems in these observations, we decided to go with 2019 data because it is the most recent. That may also be an essential part of our limitation in selecting the sample for this study from year to year on a time series basis. However, the presentation in this study upholds our commitment to presenting to the best of our knowledge.

The data collection process follows the following steps:

1. We access the Tax Court database (setpp.kemenkeu.go.id/risalah) and separate VAT cases and non-VAT cases the Tax Court judges decided in hearing sessions during 2019. We obtained 60 cases of Tax Court decrees from this filtering process that can be analyzed further as a total sample.
2. After identifying VAT cases, we downloaded and grouped them based on the emphasis on the subject matter of each case, the reasons for the taxpayer's disagreement on the tax audit results, the point of view of both tax authorities and taxpayers, and how the judge decided on the case.
3. We classified the cases into fully approved, partially approved, and rejected.
4. We classify the reasons why the panel of judges decided to grant the taxpayer's appeal entirely, partially, or rejected.

5. We apply the conceptual framework obtained from the literature review to analyze cases assessed during court proceedings.
6. From the research process above, we abstract the findings.

RESULT AND DISCUSSION

The Implementation of VAT Concept in Indonesia

After the decrease of the oil boom during the 1970s, the Government of Indonesia (GoI) considered seeking other sources of state revenue. However, GoI finally decided to formulate a more modern tax system, and VAT was one of the state revenue replacing oil and gas.

At the end of 1983, GoI launched the second tax reform after the 1970 tax reform to optimize revenue from the tax sector. According to Bawazier (2011), the tax reform in Indonesia in 1983 introduced the principle of self-assessment in calculating by simplifying and lowering the rate of Income Tax and imposing Value Added Tax (VAT) as a substitute for Sales Tax. However, the emergence of a VAT system as a new one must result from the limitations of the existing system (Timmermans & Achten, 2018).

According to Tait (1988), the state imposes a VAT because of dissatisfaction with the existing tax structure. VAT replaces sales tax because it is no longer adequate due to the "cascade tax" (Alavuotunki et al., 2019). Cascade tax occurs because sales tax is imposed on sales transactions at every distribution stage, from manufacturers, wholesalers to retail traders. As a result, sales tax provision could no longer accommodate community economic activities that continue developing and have not achieved the desired development needs. The preamble part of the Law No. 8 of 1983 (from now on called "VAT law") implies that the replacement of this system aims to increase state revenues, encourage exports, and equal distribution of tax burdens.

At the beginning of its implementation, VAT Law no. 8 of 1983 only regulates the first direct sale of Taxable Goods (BKP). The Government Regulation then governs the imposition of VAT for subsequent transactions, from distributors to sub-distributors, and continues to consumers and service delivery (Sastrohadikoesoemo, 2004). Within 35 years after enactment on December 31, 1983, the VAT Law no. 8 of 1983 has undergone four changes. The current VAT Law is Law No. 42 of 2009, lastly amended by Law No. 11 of 2020. The tax cluster is part of the regulatory package under omnibus law, where government regimes usually use such mechanisms to harmonize previously conflicting regulations (Khozen et al., 2021). However, the legislative process was still underway at the time of this study. Likely, the Harmonization of Tax Regulations Law (HPP Law) will soon take effect, amending several tax regulations, including VAT. In line with the very dynamic development of business and economic transactions, the basis for considering these changes is to enhance legal certainty further and justice, create a simple taxation system, and secure state revenues so that GoI can carry out national development independently.

The concepts of value-added underlying the VAT Law and its amendments refer to VAT = t(Output) + t(Input) (see method M2 under Subsection VAT Basic Concepts). Table 1 describes basic VAT concepts inside the law.

In the 1980s second tax reform, policymakers initially categorized Indonesia's tax laws into procedural and substantive laws. Thus, the income tax act and the VAT law represent substantive laws, whereas the general rule and taxation procedure law constitutes procedural law.

However, the subsequent tax reforms imprecisely differentiate the two types of laws. For example, Article 15A of the VAT Law regulates the deadline of tax payment and tax return submission at the end of the subsequent month. Such a policy refers to the convenience-to-pay principle.

Table 1. Fundamental Concepts under Indonesian VAT Law

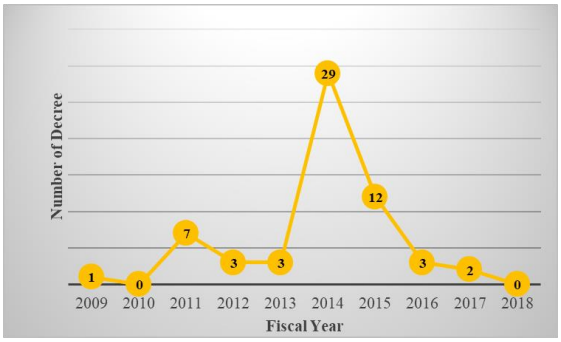
No.	Concept	Article	Description
1.	Taxable persons	Art. 3	• The use of taxable persons as VAT subjects differentiates it from taxpayers used in the income tax system. • As taxpayers in the income tax system, taxable persons constitute sellers of goods or services having an obligation to collect VAT, pay it to the state treasury, and report it using monthly VAT returns. • Although VAT subject is a person, not all persons are liable because they are liable only if carrying on a business. Therefore, the precise definition of a taxable person is essential because a private person selling something (e.g., furniture or clothing) should not be liable to VAT.
		Art. 16A	• Due to the ease of administration and revenue productivity principle, the VAT law authorizes GoI to appoint certain institutions to be VAT collectors by issuing Minister of Finance regulations. • The VAT collector appointment aims to secure state revenue arising from the VAT system.
2.	t(Output), Destination Principle, & Place of Supply	Art. 4	• Any output (transaction of goods or service) is subject to tax provided that the transaction occurs within the Customs Are (according to the place of supply concept) • Based on the destination principle, export is subject to the 0% tax. Besides, the importing of tangible goods and the utilization of intangible goods or services within the Customs Area are subject to tax.
		Art. 4A par. (2) & (3)	Under specific considerations, some outputs are not subject to tax.
		Art. 16B	Due to deviation from the principle of neutrality, the law provides VAT facilities in the form of a) Some outputs are taxable but have the facility of not-collected tax, or b) Some outputs are taxable but have the facility of exempted tax (no VAT).
		Art. 16C	Tax object includes output in the form of self-building activities to prevent tax avoidance, and this rule provides equal treatment for VAT imposed on house purchases
		Art. 16D	Tax object includes output in asset transfer whose original purpose is a non-for resale by the Taxable Entrepreneur (PKP). However, such a provision does not apply to the resale sedans and station wagons.
		Art. 16E	Overseas passport holders can reclaim their paid VAT according to the destination principle
		Art. 16F	Under the destination principle, the buyers of taxable goods or taxable services are responsible for bearing VAT provided that they cannot show evidence of their paying VAT.
3.	Crediting t(Input)	Art. 9	• Based on the model VAT = t(Output) + t(Input), input tax or t(input) is creditable against t(Output) provided that t(output) is existent and Input is directly related to Output. • Due to the legal certainty principle, Article 9 paragraph (8) of the law provides criteria for non-creditable input tax.
		Art. 16B	• Based on the model VAT = t(Output) + t(Input), t(Input) having not-collected facility is still creditable against t(Output) since t(Output) is still payalbe although not collected.

			• Based on the model VAT = t(Output) + t(Input), t(Input) having tax-exempted facility is not creditable against t(Output) since t(Output) is not liable and tax exemption is the same as "not-taxed'.
4.	Time of Supply	Art. 11	• Determining when transactions occur is essential since a taxable person transferring an output has to issue a tax invoice as proof of collected VAT on the output. So, this provision relates to Article 13 concerning when to issue tax invoices. • The above transactions include (a) transferring taxable goods or services, (b) importing tangible goods, (c) exporting tangible goods or services, and (d) utilizing intangible goods or services from outside the Customs Area to within the Customs Area.
5.	Invoice Method	Art. 13	• As stipulated under Article 11, this provision regulates when and how taxable persons (sellers) must collect t(Output) and issue a tax invoice as proof of tax collection. • Tax invoices issued by sellers are vital for buyers (of taxable goods or taxable services) since buyers may claim their tax input or t(Input) against tax output or t(Output) tax provided that buyers have valid tax invoices. The scheme of crediting input tax refers to Article 9. • Due to vital evidence and the legal tax certainty principle, tax invoice has to fulfill procedural and substantive requirements stipulated under this provision.

Source: Authors' work adapted from Tait (1988)

A Note from 2019 Tax Court Decrees

Based on tax court decrees during 2019 accessible from the official site of Tax Court, we have summarized 60 Tax Court decrees in Table 2. One decree includes one VAT dispute, but a VAT dispute may consist of one or more objects. Thus, tax court judges may agree with all tax dispute objects (fully approved), agree with one object but disagree with others (partially approved), and reject all dispute objects. All Tax Court decrees cover VAT disputes originating from tax audit results (tax assessment letters) for 2009 to 2017 fiscal year and comprise the details presented under Graphic 1. The lengthier the period between the fiscal year in dispute and the trial year, the longer the process might take. According to our analysis, subject matters of VAT disputes result from two primary items. The first is different legal interpretations, and the second is supporting evidence tax officers found their audit process. These two matters could arise together or separately in a VAT dispute case.



Graphic 1. Fiscal Year-Based Cases Processed under the 2019 Tax Court Decrees

The first item above generally emerges when tax auditors consider that transactions should have been subject to tax according to their interpreting related VAT provisions and related supporting contracts. However, taxable persons have not imposed the tax, so tax officers made audit adjustments arising from tax disputes. The second item emerges when supporting documents, which taxable persons provided, could not convince tax auditors, so tax auditors had to make audit adjustments resulting in tax disputes.

Table 2. Summary of VAT Disputes According to the 2019 Tax Court Decrees

Tax dispute subjects	Fully Approved	Partially Approved	Rejected
Number of tax appeal decrees (n=60)	29 (48%)	12 (20%)	19 (32%)
1. Output:			
a. Tax auditors treated taxable persons' transactions as tax objects	16	13	17
b. Tax auditors treated taxable persons' reimbursable costs as tax object	12	-	1
c. Reliability of supporting documents attesting to the transaction's incidence.	1	2	-
2. Input:			
a. Input tax invoices do not fulfill formal requirements (incomplete tax invoices)	2	6	-
b. Input tax invoices do not fulfill substantive requirements	8	1	-
c. Taxable persons as buyers should have borne tax on inputs or t(Input) according to the tax incidence concept and the destination principle	-	10	-
d. Input tax originates from transactions (with vendors) indirectly related to taxable persons' business activities	-	5	2
e. Tax auditors could not trace input tax invoices back to related goods movements and cashflow movements.	-	5	-

Source: Authors' analysis (2021)

In more detail, based on Table 2, tax officers' audit adjustments subject to tax dispute focus on two items: (1) outputs and (2) inputs. These two matters are relevant to the taxing method (see M2. discussed in subsection **VAT Basic Concepts**), that is, VAT = t(Output) – t(Input). The following paragraphs describe our further analysis of tax appeal cases according to Table 2. We divide our presentation based on Outputs and Inputs.

Audit adjustments on outputs relate to transactions, on which tax officers consider that taxable persons should have imposed taxes or t(Output). On the contrary, taxable persons consider that such transfers (goods or services) are not taxable. Such transactions include reimbursable costs, which taxable persons claim to their clients/customers. Taxable persons considered that such reimbursable costs were not subject to tax. On the contrary, tax auditors regarded such transactions as taxable transfers.

Different tax perspectives on transactions between tax officers and taxable persons, as mentioned above, arise from their divergent understanding of the value-added concept. As explained in subsection **VAT Basic Concepts**, the value-added concept originating from the Output–Process–Input model becomes the reference of Article 4 of VAT law. Therefore, Article 4 paragraph (1) of VAT law does not precisely mention tax objects in more detail. The law only notes that VAT is liable on any transfer of taxable goods or services performed by an entrepreneur within the Customs Area. This tax object becomes the first category of VAT objects.

The term "transfer" under Article 4 paragraph (1) of VAT law includes any sales of goods, professional service provision, donation, gift, or disposal of fixed asset to the client, customer, or other parties. The transfer consists of goods or service transfer and represents an output subject to VAT as t(Output). Based on this

rule, any transfer of goods or services is subject to VAT, and taxable persons as sellers or service providers have to collect tax on their transfers. Then, under the destination principle, buyers (taxable goods/services) have to bear the VAT and pay tax to sellers. As proof of VAT imposition, sellers (taxable goods/services) issue tax invoices (output tax). Buyers treat these sellers' output tax as input tax claimable against buyers' output tax.

The second category of tax objects includes exports of taxable goods or services from within to outside the Customs Area performed by taxable persons. Such a provision refers to the destination principle by taxing exports at a zero rate. According to this principle, buyers should have borne the VAT imposed by exporters. However, since buyers are outside the Customs Area, they are not under the scope of VAT law. Therefore, the VAT rate on export is zero.

The last category of VAT objects relates to the destination principle as well. According to this principle, buyers (taxable goods or services) must bear the VAT. However, exporters are outside the Customs Area in an international trade context, and buyers are within the Customs Area. Therefore, exporters cannot impose VAT according to the Indonesian VAT law. Consequently, buyers must pay input tax by self-imposition, or customs offices impose the VAT on imports. Phrases used in Article 4 paragraph (1) of VAT law consist of (1) imports of taxable goods, (2) utilization of taxable services from outside to within the Customs Area, and (3) utilization of taxable intangible goods from outside to within the Customs Area. The regulation also describes the legal character of VAT which is general in nature, in the sense that every single item of goods and services is subject to VAT (Rosdiana & Irianto, 2013).

In this output scope, our sample's appeal decree contains various interpretations of transactions as taxable or non-taxable VAT objects, including reimbursement cases and unreported transactions on VAT returns. Whether a taxable or non-taxable transaction, misinterpretation is the most common decree generated in dispute cases and is evenly distributed across decision types. The decrees in the form of "fully approved" did so based on tax auditors' suspicion that the taxable persons failed to report certain handover transactions. However, the Panel of Judges' examination of the evidence revealed that the vendors referred to by tax auditors had incorrectly included the taxable persons' names on their invoices. Fortunately, there is no evidence that the taxable persons used input tax credits to offset the alleged transaction.

For the cases that resulted in the "Partially Approved" cases, disagreements arise due to the tax auditors' testing method, for instance, evidenced by case number PUT-115558.16/2014/PP/M.XVA. However, the trial court could not accept tax auditors' business circulation testing technique (receivable flow test) because the indirect test only indicated the taxable person's non-compliance that needed to be further tested. Since tax auditors did not conduct additional testing to confirm material validity, the corrections originating from the receivable flow test were untenable and then canceled.

The cases that were determined to be "Rejected" were typically the correction for supply discrepancies between what taxable persons sent and the amount received by the buyer. Tax auditors believe that their sentence arose from conjecture that the supplies do not qualify for the VAT facility and thus are not collected as required by Article 16B (1) of the VAT Law. At the second-highest level, correction on the output cases "Rejected" is in insurance intermediary services requires taxable persons to collect VAT. Additionally, the absence of the obligation to collect VAT on non-exempt transactions and the tax base for supply to related parties, which should be based on fair value, enlivened these "Rejected" cases.

Tax base disputes involving output on "unreported transactions" consist of ten cases, six of which have been fully

approved and the remaining approved partially. All decrees that have been fully approved concern the application of the Article 22 income tax credit to cash inflows that tax auditors believe them as unreported income. The taxable person could not establish the substance of cash flows payables through persuasive data during the examination and inquiry of objections (quasi-judicial level). Similarly, this appears to resolve the conflict in a manner consistent with pure justice (tax court). On the other hand, the taxable person can demonstrate to the Judges that the Cash, Bank, and Receivable flows at issue are generated by sources of income other than sales, such as cash deposits, book-entry, and interest income. When the Appeal Court canceled all of tax auditors' corrections, they stated that they did so because "Tax auditors' corrections are based on the results of an inaccurate and misleading analysis of cash, bank, and receivables flow and were not backed up by strong and relevant evidence."

The remaining four partially approved decrees dealt with a wider variety of transaction types. In essence, the judges' partial authorization is based on their assessment of the strength of the evidence presented by the two disputing parties. The taxable persons' case was dismissed due to insufficient evidence supporting the tax auditors' correction. Likewise, tax auditors were frequently unable to conduct additional tests to establish the material truth of their corrections.

Concerning disputes on reimbursement, there are twelve cases in which taxable persons prospered and only one in which tax auditors prevailed. The "fully approved" cases entirely focus on the tax base's positive correction, the supply of which –according to tax auditors– the taxable person must bear the VAT. The taxable person's primary business activity is the service management of BBNKB (transfer tax on motor vehicles), which also includes user fees for STNK and BPKB. Its role is limited to paying BBNKB deposit money obtained from consumers to the individual service bureau, with any excess over the deposit recognized as other income.

However, the dispute with tax auditors is over the service bureau's management fees, which are unsupported by evidence. Indeed, the management of the BBNKB based on receipt data constitutes the buyer's relationship with the service bureau. As a result, tax auditors treat all such expenses (except notice fees) as other income. Due to the argument insufficiency, the judges were unable to defend tax auditors' correction. On the other hand, the tax auditor had successfully defended a case involving reimbursing VAT for overseas services. In this case, the taxable person perceives that the obligation mechanism has not yet been regulated. The taxable person's argument was inappropriate and unfounded at trial because the Minister of Finance had regulated the procedure, which applies to domestic and foreign transactions.

The above case shows that complete reading of regulatory texts is necessary, even though that alone is not enough. According to Siegel (2009), the fundamental problem of textualism is that it is too simple to assert that legal texts are laws. Over the centuries, limited judicial powers in judicial practice deviated from the text of the law in appropriate cases. Therefore, interpretation with an intentionalism approach is needed to see the initial intentions of regulators. One example presented earlier may be sufficient to demonstrate how knowing the spirit intended by policymakers is preferable to simply understanding the text's wording.

In practice, some parties frequently substitute the concept of reimbursement for the phrase "all costs requested or should be requested," which is essentially the definition of replacement. As a result, reimbursement claims from the second party (the party who advances the first

party's money) to the first party (the service recipient) are considered VAT payable. However, from the perspective of textual interpretation, the phrase should be related to the cause of the request for the fee, namely due to the delivery of taxable services, export of taxable services, or export of intangible taxable goods. Thus, reimbursement transactions that are "advanced other party's money" should not be subject to VAT if the party collecting the reimbursement does not supply the taxable goods or services.

Frequently, taxable persons lost their cases due to a lack of evidence evading the correction of tax auditors. Similarly, tax auditors cannot readily conduct additional tests to ensure that their corrections are materially accurate. This argument is bolstered further by a recent case involving the correction of transaction objects in the output type, more precisely, the availability of supporting documents attesting to transaction incidence. Due to the judge's convictions, evidence plays a significant role in the courtroom dispute resolution process because evidence testing is influential. Two of the three cases in which there was an explicit dispute about proof favored taxable persons, while the remaining two defended the correction on the basis of insufficient supporting evidence.

Meanwhile, audit adjustments on inputs relate to tax officers' consideration that taxable persons should not have claimed their input tax against output tax. It is because of invalid input tax invoices due to substantive or formal requirements not being fulfilled. Occasionally, input tax adjustments are necessary due to the negligence of vendors in issuing tax invoices. Because the consumer bear the tax, the taxable person, identified as the party who purchases or uses taxable goods/services, is also liable for the mistake, a concept known in Indonesian as "*tanggung renteng*." Such audit adjustments also arose because tax auditors deemed that taxable persons' input tax was not directly related to taxable outputs. Therefore, according to their interpretation of Article 9 paragraph (8) of VAT law, input taxes should not have been creditable. Our data indicates eight cases involving disagreements over incomplete tax invoices have been approved for appeal, with two fully approved and the remaining six partially approved. The fully approved decree begins with the filing of various tax invoices between taxable persons and vendors. The evidence at trial established that the difference results from the correction of VAT periodic returns by vendors that the taxable persons failed to identify. The Panel of Judges then cancels the correction because the input tax invoice complies with Article 13 (5) and 13 (9) of the VAT Law. Meanwhile, all partially approved cases are corrections to the same taxable person for various tax periods within a fiscal year. Those all decree maintained the tax auditors' corrections since the taxable person in question could not substantiate the corrected tax invoices. Additionally, the taxable person cannot establish the supply of the abovementioned goods or services and the VAT payment on a substantive basis.

The second type of input tax credit correction is the nature of the substantive dispute. It is regardless of whether the issuance is before the date of the NSFP (Tax Invoice Serial Number) notification letter or outside the allotted period. These are five and four cases, respectively, in which the appeals court reversed all tax auditors' adjustments and determined that the taxable person was correct in crediting input tax. The decree is inseparable from the taxable persons' compliance with the obligation to pay VAT on purchases of goods or services, in the sense that the taxable persons have met the substantive requirements. However, the decrees available with the subject matter of NSFP in our records are for cases in the 2014 fiscal year where SE-26/PJ/2015, which affirms the NSFP rules have not yet been

applied. The Panel of Judges' decision on a similar case following the current ruling is worth keeping an eye on.

The next point of contention is the crediting of unreported tax invoices by vendors, which could eventually result in the assignment of the destination principle. These included ten cases, each of which was partially approved. The case's central argument indicates that the vendors fail to report the Tax Invoice. The tax auditors requested confirmation from the tax offices where the vendors registered to clarify the transaction in question. However, the tax offices responded that the data were unavailable. In this case, a requirement for the taxable person to demonstrate the truthfulness of the transaction arises. Five of the cases defended tax auditors' correction, either because taxable persons could not demonstrate compliance with the VAT requirement or because they eventually agreed with the correction. The taxable persons successfully opposed the other corrective cases due to their ability to present pertinent evidence.

Input tax credits with exposure indirectly linked to business activities are divided into five partially approved and two rejected cases. The tax auditors took the adjustment initiative solely to accommodate the VAT concept of "supply," which includes "supply" for own use in further production, given freely, and delivery between branches in addition to being imposed on buying and selling transactions. Although tax auditors may not actually or always correct the transactions indirectly related to the taxable person's business activities, they can also target transactions that lack evidence. As a result, the taxable person must present relevant transactional data and documents.

It also corresponds to the type of credit correction described in the final line of our findings –could not trace input tax invoices back to related goods movements and cash flow movements– which, once again, boils down to proof. In these instances, as long as the taxable persons can demonstrate that the input tax they credited met their VAT payment obligations, they have a good chance of winning. The taxable persons are required to show supporting documents for corrections during the evidence testing process, the majority of which are in the form of purchase orders, commercial invoices, tax invoices, delivery orders, and proof of payment in the form of checking accounts. On the other hand, if the data and evidentiary documents cannot be presented before the court, the correction sign would remain in place.

Our concluding emphasis, since the tax dispute involves not only one of the two parties but also has implications for both taxable persons and tax authorities, it is clear that improvement is not only on one side. To accomplish the least amount of ambiguity, they must redesign their respective systems and documentation. The discussion in this study has presented the conceptual basis and differences in interpretation which often end up in disputes in the Tax Court. For this reason, relevant stakeholders can take the relevant points that we present here to minimize recurring disputes. Those measures seem simple conceptually but require adequate commitment in their implementation.

CONCLUSION AND SUGGESTION

Conclusion

Five concepts underlie the VAT regulation in Indonesia, namely (1) the concept of output, the destination principle, and the place of supply; (2) input and credit method; (3) invoice method; (4) time of supply; and (5) taxable person. Furthermore, the essence of tax disputes is the difference in perspective and interpretation of the implementation of laws and regulations in taxation. The primary issues that arise in VAT disputes resulting from legal interpretations divergent are tax objects and the issuance of tax invoices. On both the input and output sides of VAT disputes, disagreements over

interpretation and erroneous supporting evidence are common subjet to the tax court appeal challenge.

In practice, there are interpretational conflicts between the law's literal language and the regulation's original intent. When interpreting a statutory regulation, the law reader can employ intentionalism to ascertain the regulator's original intent. Readers need to grasp the fundamental concepts that underpin the development of related regulations. The VAT dispute case that was read out in the 2019 hearing trial by only fully defending 32% of the corrections by the tax auditors conveyed a message about the need for prudence in interpreting regulations accurately. Thus, knowledge of the concept of taxation is vital to be able to implement rules correctly.

Suggestion

With the large proportion of VAT disputes with the subject matter of the interpretation of VAT objects or non-objects in economic transactions, whether fully or separately approved or rejected, it appears that this area needs to get better consent. As a result, we suggest that tax auditors do not disregard the legal certainty principle to achieve performance targets solely. On the other hand, taxpayers are urged to anticipate potential disputes by conducting a preliminary analysis of VAT aspects on possible business transactions. Our findings indicating the high number of disputes arising from a lack of transaction evidence bolster our argument that taxpayers should prepare better transaction documentation. For certain technical activities that fulfill substantive requirements, tax auditors should not bring this issue up as part of the correction, as they will have fewer opportunities to defend the case in Tax Court. Of course, the recommendation applies only if the taxable person in question has met their VAT obligations.

Given the significant changes to several regulations, including the adoption of the electronic invoice system, it is appropriate to monitor further developments in the way the Panel of Judges decides cases. However, this study's limitations stem from using the few samples of Tax Court decrees read out at the 2019 trial. We had access to cases during the data collection period for this study, which was April-May 2021. It is limited to references from the literature, with no attempt to delve deeper into the findings through interviews with subject matter experts or focus group discussions. As a result, future research should focus on extended cases, such as the last five years. Furthermore, we recommend a quantitative approach for drawing more general conclusions.

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