

Legal Uncertainty in Transfer Pricing Audits: Analysis of AUPB through a Study of Tax Court Decisions

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ABSTRACT

Legal uncertainty in the examination transfer pricing remains a major challenge in the Indonesian tax system. Audits conducted without consistent standards and a substance-based approach often result in unilateral corrections from tax authorities, which results in a decline in taxpayer compliance and trust. This study aims to analyze whether audit practices transfer pricing has reflected the General Principles of Good Governance (AUPB), such as the principles of legal certainty, accuracy, professionalism, proportionality, and protection of rights. This study uses a normative juridical method with a qualitative approach through a study of four Tax Court decisions. The analysis results show that in many cases, corrections made by the Tax Authorities do not reflect a deep understanding of the characteristics of taxpayers' businesses or the principles of AUPB. Corrections made in a formalistic and unilateral manner tend to violate the principles of professionalism and proportionality, and ignore the protection of taxpayers' rights. Regulatory strengthening, auditor capacity building, and standardization of audit approaches are needed so that audit practices can be implemented effectively. transfer pricing can be monitored fairly, accountably, and in accordance with the principles of the rule of law.

INTRODUCTION

Taxes are a fundamental instrument in a country's economy. As the primary source of state revenue, taxes play a role in financing both routine and development expenditures. Tax revenues are used to finance infrastructure, education, health care, subsidies, and social programs that support economic growth and public welfare. Furthermore, taxes also serve as a tool for economic regulation, such as controlling the consumption of certain goods, protecting domestic industries, and distributing income through a progressive tax system.

However, the success of the tax system is largely determined by the level of taxpayer compliance. One important factor influencing this compliance is the existence of legal certainty within the tax system. Legal certainty provides taxpayers with a sense of security and clarity regarding their rights and obligations. In this context, the principle of legal certainty is a fundamental principle in state administration, requiring that every action by the tax authorities be carried out transparently, orderly, and predictably. Legal certainty is not only important for encouraging voluntary compliance, but also serves as an important foundation for creating a conducive investment climate, particularly for domestic and foreign businesses.

Unfortunately, in its implementation, the Indonesian tax system still faces significant challenges, particularly in terms of legal uncertainty in tax audits. Various reports and studies indicate that tax audits are often conducted without consistent standards. In some cases, the actions of the tax authorities are deemed to not reflect the principles of accuracy, proportionality, or professionalism. This has given rise to a negative perception among business actors that the tax authorities are acting arbitrarily, which ultimately results in a decline in trust and compliance.

One of the most prominent issues related to this uncertainty is the examination of transfer pricing transactions. Transfer pricing, the pricing of transactions between related companies, is a complex issue because it involves the potential for tax avoidance through the shifting of profits to jurisdictions with lower tax rates. In practice, this area often gives rise to disputes between tax authorities and businesses, particularly regarding the method of determining arm's length pricing and the documentation required. This is where it is crucial to ensure that in every audit, the principles of proportionality and protection of taxpayer rights are upheld, so that the audit does not create unfairness or undue burdens for businesses.

Thus, the problems in implementing tax audits, particularly in the transfer pricing aspect, are a real challenge that needs to be addressed immediately. Based on this background, the research problem is formulated as follows: "Do transfer pricing audit practices in tax disputes reflect the General Principles of Good Governance (AUPB)?"

LITERATURE REVIEW

Basic Concepts of Tax Law and State Administrative Law

Tax law is a branch of public law that regulates the legal relationship between the state as tax collector (Fiskus) and the public as taxpayers,

including tax obligations, collection procedures, the rights and obligations of the parties, and sanctions for violations. As part of the national legal system, tax law is based on a number of basic principles, namely: the principle of justice (equal and proportional treatment), legal certainty (clear and consistent rules), efficiency (collection costs do not exceed results), clarity and transparency (regulations are not open to multiple interpretations), non-discrimination (does not differentiate based on social background, religion, or race), and the principle of legality (taxes can only be collected based on laws as stipulated in Article 23A of the 1945 Constitution). These principles serve as guidelines not only in the preparation of tax regulations, but also in the implementation of fair and accountable tax administration and audits.

State Administrative Law (NA) is a branch of public law that regulates the authority, procedures, and responsibilities of government institutions in carrying out state administrative functions. NA serves to regulate the relationship between government officials and the public and ensures that all administrative actions are carried out in accordance with the principles of the rule of law.

The link between tax law and the National Accreditation System (HAN) is evident in the context of tax administration, particularly in the audit process. This is where the principles of HAN serve to ensure that the tax authorities are not abused and that their implementation is in line with the AUPB (General Principles of Good Governance). These principles are crucial for ensuring oversight of tax officials' discretion and protecting taxpayers' rights within a fair and balanced administrative legal framework. Within HAN, these principles are also known as the general principles of good governance (AUPB).

General Principles of Good Governance (AUPB) in Tax Law

The General Principles of Good Governance (AUPB), or in Dutch, Algemene Beginselen van Behoorlijk Bestuur (ABBB), are fundamental principles that must be used as guidelines by state officials in carrying out administrative functions. In the context of a modern rule of law, AUPB is not only a norm of bureaucratic ethics, but has become a legal benchmark for assessing the legitimacy of administrative actions.

The primary objective of the AUPB is to ensure fair, transparent, and accountable governance, oriented toward protecting citizens' rights. In the taxation sector, the urgency of the AUPB is particularly pronounced due to the potential for unequal relations between the tax authorities and taxpayers. The AUPB plays a crucial role in preventing arbitrary actions (such as revoking Taxpayer Identification Numbers without verification), protecting taxpayers' rights from discriminatory treatment, increasing accountability in fiscal policy, and ensuring efficient administrative procedures through a transparent and modern tax system.

A number of AUPB principles that are relevant in the context of tax and transfer pricing audits include the principle of legal certainty, the principle of accuracy, the principle of professionalism, the principle of proportionality, and the principle of protecting the rights of state citizens.

These five principles serve not only as normative guidelines but also as instruments for controlling tax discretion, ensuring that tax audits are conducted objectively and fairly. Their consistent application serves as the foundation for legal certainty and a healthy investment climate.

Tax Audit

An audit is a series of activities to collect and process data, information and/or evidence carried out objectively and professionally based on an audit standard to test compliance with tax obligations and/or for other purposes in order to implement the provisions of tax laws and regulations.

The Director General of Taxes is authorized to conduct audits aimed at testing compliance with tax obligations and for other purposes in order to implement the provisions of laws and regulations in the field of taxation.

The Concept of Transfer Pricing and the Arm's Length Principle

Transfer pricing is the practice of setting prices for transactions between related parties, both within multinational and domestic corporations. This practice creates the potential for tax avoidance if the prices set do not reflect the arm's length principle (ALP) of independent transactions. Therefore, the ALP principle is the primary basis for determining whether an affiliated transaction has been conducted in an arm's length manner and in accordance with business practice.

METHODOLOGY

This study uses a normative juridical method with a qualitative approach, aiming to evaluate transfer pricing audit practices from the perspective of general principles of good governance (AUPB). The data analyzed comprise tax laws and regulations, tax administration policy documents, and four relevant Tax Court decisions. The analysis is conducted using a deductive approach and case studies to identify the extent to which tax authorities' actions in transfer pricing audits reflect or contradict the principles of legal certainty, accuracy, professionalism, proportionality, and protection of taxpayer rights.

RESEARCH RESULT

Case Study Analysis of Tax Court Decisions

Tax Court Decision Case 1: PUT-015235.15/2020/PP/M.XXB Year 2023

This decision arose from a dispute arising from differences of opinion between the Tax Office and the Taxpayer regarding the fair value pricing method for affiliated transactions. The Tax Office argued that the Cost Plus Method (CPM) should have been used. This was based on the sale of semi-finished goods to affiliated parties and the existence of a joint facility use contract or long-term sales contract with the related party. The Taxpayer was also unable to prove the existence of its royalty fees. Based on this, the Tax Office corrected the Taxpayer's business turnover.

The taxpayer explained to the panel of judges that the nature of its business is as a licensed manufacturer with a significant functional structure and risks, making the use of the TNMM method reasonable and more in line with the

taxpayer's actual conduct. The taxpayer also successfully demonstrated that royalty payments were made based on the utilization of intangible assets that were economically and legally tangible. Ultimately, the panel of judges declared the taxpayer's arguments proven and all corrections made by the tax authorities were annulled.

This ruling emphasizes the importance of understanding the nature of a business and selecting a transfer pricing method that best suits the taxpayer's specific circumstances. Inaccuracies in determining the approach can lead to unjustified corrections.

Tax Court Decision Case 2: PUT-010374.13/2022/PP/M.VIB 2024

This decision relates to a dispute over the Tax Office's correction of the International Network Service Fee (INSF) amounting to IDR 2,300,732,270 paid by the Taxpayer to a foreign affiliated entity.

The tax authorities assessed that the payment did not have adequate evidence of service provision and because it was made to the parent company, it was considered a disguised dividend or constructive dividend in accordance with the provisions of Article 4 paragraph (1) of the HPP Law.

The Taxpayer rejected this view and explained that the INSF was part of a margin adjustment within the framework of the AT&T Intercompany Trading Agreement (AGITA), which aims to ensure that the Taxpayer, as a limited risk provider, receives a fixed profit rate of 6.5% in accordance with the company group's transfer pricing policy. The Taxpayer also explained that its business role is very limited, it only has two employees, and the entire network ownership used is owned by the group, not developed in-house.

During the appeal process, the Panel of Judges declared that the INSF transaction was proven to be a payment for service fees and not a dividend. The Panel of Judges accepted all arguments and evidence from the Taxpayer and decided to grant the appeal in full and overturn the corrections made by the Tax Office. This dispute demonstrates how misrepresenting the substance of a transaction can lead to errors in taxation. A comprehensive understanding of the business context is key to formulating appropriate corrections.

3rd Tax Court Decision Case: PUT-004258.13/2023/PP/M.VB Year 2024

This decision highlights a tax dispute related to the correction of Article 26 Income Tax for the July 2017 Tax Period. This dispute began with the Tax Office's correction of the commission fees paid by the Taxpayer to a Foreign Affiliate Party which was deemed not to comply with the Principles of Fairness and Customary Business Practice (PKKU), so that the commission was reclassified as a constructive dividend.

The Tax Court's ruling clearly demonstrates the existence of audit practices that create legal uncertainty. The tax authority was unable to prove the inaccuracy of the taxpayer's transfer pricing documents (TPDoc). The tax authority based its corrections solely on the assumption of a special relationship, without conducting a comprehensive examination of the reasonableness of the prices or commission amounts.

The Panel of Judges firmly stated that the correction solely due to a special relationship was wrong and baseless, because the Taxpayer had successfully proven the existence and economic benefits of commission services, supported by the transfer pricing analysis contained in the TPDoc - Local File.

The failure of the Tax Inspectorate's audit lies in its formalistic and less substantive approach, as evidenced by its inability to trace complex transaction flows or refute taxpayer evidence. This indicates a lack of standardization or in-depth understanding in the application of transfer pricing regulations, which leads to a misinterpretation of the authority of Article 18 paragraph (3) of the Income Tax Law.

4th Tax Court Decision Case: PUT-015018.15/2021/PP/M.VA 2024

The Tax Office corrected the Taxpayer's Cost of Goods Sold because it was deemed not to have met the PKKU (Limited Risk Distributor) requirements. The Tax Office categorized the Taxpayer as a limited risk distributor and stated that the Taxpayer's Operating Margin (OM) was below the interquartile range of the comparable company data. In addition, the Tax Office segmented the Taxpayer's business into "Proper" (goods procurement) and "Inden" (facilitator commission), then tested the "Proper" segment using the TNMM method with the Profit Level Indicator (PLI) Return on Sales (ROS). As a result, the Taxpayer's ROS (1.25%) was below the first quartile range of the Tax Office's comparable company (1.78%).

The Taxpayer disagreed with the correction and asserted that their business is characterized as a service provider facilitating trade, not a distributor. The Taxpayer has provided TPDoc with a TNMM analysis using the Berry Ratio as the PLI, the result of which (1.46%) is above the interquartile range of the comparison. The Taxpayer argued that the Tax Office had erred in understanding the Taxpayer's business activities and that the segmentation carried out by the Tax Office was inappropriate because the two business models (Proper and Inden) are closely interrelated and should be examined as a single entity.

The Panel of Judges agreed with the Taxpayer, affirming that the business's characteristics were "Service Providers" and stating that the Tax Office's segmentation and selection of comparators were inappropriate. This ruling highlighted the Tax Office's excessive use of discretion and lack of standardization in determining business characteristics and testing methods.

Evaluation of the Implementation of General Principles of Good Governance (AUPB)

The Principle of Legal Certainty and the Principle of Accuracy

a. Tax Court Decision Case 1:

The principles of legal certainty and due diligence are closely interrelated in the context of tax audits. Legal certainty requires that all authority actions be based on clear, consistent, and predictable regulations, while due diligence requires that audits be comprehensive, fact-based, and proportionate to the characteristics of the taxpayer's business.

In this case, the tax authority used the CPM and ignored the TNMM chosen by the taxpayer, without providing a clear and specific basis for why the

CPM was deemed more appropriate. This contradicts the principle of the most appropriate method as stipulated in the OECD Guidelines and PMK No. 172/PMK.03/2023. Furthermore, the Tax Office also failed to include a functional analysis showing that the TNMM used by the Taxpayer was unreliable and did not meet the principle of fairness.

This lack of technical argumentation creates legal uncertainty, as taxpayers lack a basis for guiding future transfer pricing policies. Furthermore, these corrections were made without adequate functional review, reflecting a violation of the principle of due diligence because they were not based on a comprehensive understanding of the taxpayer's business model.

b. Tax Court Decision Case 2:

Under the principle of legal certainty, taxpayers should be able to predict how the tax authority will treat a transaction if it is conducted in accordance with customary business practices and applicable regulations. In this case, the tax authority oversaw the International Network Service Fee (INSF) and qualified it as a constructive dividend simply because the recipient was a parent company and deemed not to have provided any proven services.

However, in its defense, the Taxpayer was able to show that INSF was part of the margin adjustment mechanism in the intra-group agreement (AGITA), where the payment was intended to adjust the fixed profit margin of 6.5% in accordance with the Taxpayer's role as a limited risk provider.

Furthermore, this transaction is not related to profit sharing but is part of a documented group pricing system. The tax authority's unilateral interpretation, without considering the economic substance of the transaction and the global transfer pricing structure, demonstrates analytical inaccuracy and violates legal certainty. This creates uncertainty for taxpayers who have fulfilled their tax obligations in accordance with the principles of arm's length and customary business practices.

c. 3rd Tax Court Decision Case:

The principles of legal certainty and accuracy require that every corrective action by the Tax Office be based on an objective, rational analysis, and be in accordance with the substance of the transaction. In this case, the correction was made solely because of a special relationship, without any concrete evidence that the transaction contained an intention to avoid tax. In fact, Article 18 paragraph (3) of the Income Tax Law provides the authority to make corrections only to prevent unfair practices, not to automatically treat affiliated transactions as inappropriate transactions.

In this case, the Taxpayer has prepared transfer pricing documentation (TPDoc) that explains in detail the function, benefits, and structure of the services provided, and demonstrates that the commissions paid have economic substance and do not constitute a disguised distribution of profits. The use of tax discretion that is not based on economic facts and functional analysis violates the principle of accuracy, and the determination of corrections without an objective basis creates legal uncertainty and the potential for arbitrary treatment of the Taxpayer.

d. 4th Tax Court Decision Case:

The principles of legal certainty and accuracy demand consistency between regulations, implementation, and interpretation by tax authorities. In this case, the tax authorities not only changed the taxpayer's business characterization from a service provider to a limited-risk distributor, but also segmented the business into "Proper" and "Indent" without a clear and documented basis.

The Panel of Judges stated that the Taxpayer's approach was not in accordance with the economic facts carried out by the Taxpayer, and that the separation of the business segments was wrong and did not reflect the actual business model.

This is supported by the transfer pricing documentation (TPDoc) prepared by the taxpayer based on the Transactional Net Margin Method (TNMM) with the Berry Ratio, which is relevant for service providers. Furthermore, the analysis also shows reasonable margins with no indication of manipulation.

Mistakes in identifying business models and inconsistencies in selecting comparables demonstrate a lack of due diligence on the part of the tax authorities and create uncertainty in the fairness test. This threatens the fairness and predictability of the tax system and can create a disincentive to voluntary compliance.

Principles of Professionalism

a. Tax Court Decision Case 1:

The principle of professionalism requires that the Tax Office's actions be based on adequate technical expertise, integrity in assessing data, and objectivity in interpreting legal provisions. In this case, the Tax Office's professionalism is questionable because

1. The tax authorities did not demonstrate sufficient understanding of the concept of licensed vs. contract manufacturer, even though the characterization status of this business determines the appropriate transfer pricing method for the Taxpayer;
2. No adequate comparability analysis was conducted or comparative data presented to support the use of CPM;
3. The correction was made without proving that relevant comparative data for the CPM was indeed available and comparable.

The lack of a technical basis and substantial analysis of the Taxpayer's business conditions indicates that the corrections were made without adequate professional competence, contrary to the principles of integrity and objectivity which are at the core of the principle of professionalism.

b. Tax Court Decision Case 2:

In this case, the professionalism of the tax authorities was questioned because corrections were made to complex cross-border transactions without regard to customary international analysis standards. Some indicators of professionalism violations include:

1. Determination of the International Network Service Fee (INSF) as a constructive dividend without first evaluating the contents of the intercompany agreement and margin adjustment scheme;
2. Not considering the Taxpayer's position as a limited risk entity, even though this is a key element in the pricing structure of multinational groups;
3. Failure to understand the role of INSF in the context of global margin benchmarking, particularly the arm's length principle and the NCPM (Net Cost Plus Margin) method.

Corrections were made with a narrow approach and without mastery of the structure and documents of the cross-jurisdictional TP, which is an indicator of a lack of technical competence and a violation of the principle of professionalism in the audit.

c. 3rd Tax Court Decision Case:

Professionalism requires tax auditors to not only master formal legal provisions but also understand the business practices, affiliate structures, and transfer pricing documentation used by taxpayers. In this case:

1. The court stated that the Tax Office was unable to explain the technical basis for the correction, and even stated that it was "not sure" about the commission value, without conducting a price test;
2. Corrections are made solely because of a special relationship, without proof that the transaction was carried out outside the fairness principle;
3. There was no joint discussion of the interim findings, even though this is part of the inspection procedure which must be carried out with full responsibility.

Corrective actions taken without technical argumentation, open discussion, or a thorough review of the substance of the TP document reflect a low level of procedural integrity and a lack of professional expertise that should be upheld by the Tax Authorities.

d. 4th Tax Court Decision Case:

The principle of professionalism in this context requires the tax authorities to select methods and approaches appropriate to the taxpayer's business characteristics. However, in this case:

1. The tax authorities unilaterally changed the business characterization from a services provider to a limited risk distributor, without proper functional assessment;
2. Segmenting two business models (Proper and Inden) which actually run in an integrated manner, without technical justification;
3. Ignoring the results of the Taxpayer's TPDoc analysis with the Berry Ratio which is actually in accordance with the character of the service entity.

Failure to understand the structure of business activities and the insistence on irrelevant comparative methods reflects not only a lack of competence but also low professional standards in preparing corrections. Professionalism demands objectivity and expertise-based judgment, not a one-sided and formalistic approach.

Principle of Proportionality

a. Tax Court Decision Case 1:

The principle of proportionality requires that tax authorities' actions must consider the relevance and balance between the objectives of the correction and its impact on taxpayers.

In this case, the Tax Office's corrections to the business turnover of US\$5,264,311 and royalty costs of US\$2,339,382 did not proportionally consider the evidence presented, the business characteristics, or the justification for the transfer pricing method used by the Taxpayer in the TP Doc. The corrections were made solely based on the Tax Office's method preference, without demonstrating that the approach used was more economically and functionally appropriate.

The Taxpayer, through documentation and analysis, can demonstrate that if the CPM were applied, the results would be significantly above the reasonable range, indicating that the CPM method is irrelevant and risks producing unreasonable taxes.

Corrections that do not correspond to the actual conditions of the Taxpayer and have the potential to cause excessive tax burdens indicate that the Tax Office's actions are disproportionate and ignore the principles of justice and balanced treatment as mandated by the principle of proportionality.

b. Tax Court Decision Case 2:

This principle requires that the tax authorities' corrective decisions be proportionate to the taxpayer's capacity and business reality. In this case, a correction of Rp2.3 billion was imposed on an entity with only two employees and functioning as a limited risk provider, without taking into account:

1. Global margin adjustment scheme (AGITA),
2. The low risk structure inherent in the entity, and
3. The fact that INSF payments are aimed at adjusting the fixed margin of 6.5%, not profit distribution.

The corrections made failed to take into account the level of local function and contribution, and failed to link the impact of the corrections to the substance of the business being run. This resulted in overestimated operating margins that did not reflect business reality, resulting in a disproportionate tax burden.

c. 3rd Tax Court Decision Case:

The principle of proportionality demands that tax administration actions be balanced and not cause unreasonable losses to taxpayers. However, in this case, the tax authority clearly violated this principle. The Tax Court asserted, "The tax authority did not conduct a reasonableness test for the price or value of the commission, but instead made a correction to the entire amount." This indicates that the tax authority corrected the entire commission cost without conducting a fair value test.

The Tax Office's disregard for the Taxpayer's submitted TPDoc also reinforces this violation. The Tax Office should use the Taxpayer's TPDoc as the basis for its analysis and only make corrections to portions proven to be proportionally unreasonable.

The tax authorities' actions, which involved making a total correction without adequate testing and ignoring the taxpayer's evidence and circumstances, were highly unbalanced and excessive. This not only disregarded taxpayer compliance but also imposed unnecessary losses, which were undoubtedly detrimental to the taxpayer.

d. 4th Tax Court Decision Case:

The principle of proportionality requires that every state administrative action be balanced with the desired objectives, must not be excessive, and must not unduly harm other parties. In this case, the Tax Office clearly failed to meet the principle of proportionality. The Tax Office corrected the Taxpayer's Cost of Goods Sold by imposing a categorization as a "Limited Risk Distributor" and using an incorrect testing method, even though the Taxpayer had presented evidence that they were a "Service Provider."

This correction was made without a proper interpretation of business characteristics and ignored the transfer pricing analysis prepared by the taxpayer. As a result, the tax authorities disproportionately imposed an undue tax burden on the taxpayer. This action was not merely a technical correction, but rather an intervention that imbalanced the goal of securing state revenues with the taxpayer's right to be treated fairly based on the realities of their business.

Principles of Protection of Taxpayer Rights

a. Tax Court Decision Case 1:

From the AUPB perspective, protection of taxpayer rights should not be reactive after a dispute, but rather must be guaranteed proactively from the outset of the audit. The principle of protecting taxpayer rights requires that every audit action not only comply with formal law but also ensure that taxpayers receive fair, proportional, and transparent treatment from the outset of their interaction with the tax authorities.

In this case, the Taxpayer has fulfilled the documentation obligations through TPDoc which is prepared based on the arm's length principle, and has chosen the TNMM method by considering the functions and risks carried out as a licensed manufacturer.

However, the Tax Office continued to make significant corrections to business turnover and royalty costs without proper technical discussion and without providing objective methodological justification. The corrections were made unilaterally simply because the Tax Office preferred the CPM method, even though the taxpayer had demonstrated that the CPM was economically irrelevant.

Taxpayers' rights to receive clear reasons for corrections, participate in discussions of findings, and receive protection from unfounded corrective actions have been ignored. Legal protection only emerges during the appeals process, meaning there is a gap in protection during the audit phase, even though administrative fairness should begin at the initial interaction between the tax authorities and taxpayers.

b. Tax Court Decision Case 2:

Taxpayers have the right to fair treatment, a fair examination process, and an objective defense of their position within a global business structure. In this case, these rights can only be enforced after a lengthy dispute process. During the examination stage, the taxpayer's explanation of the global TP structure and intercompany agreement (AGITA) was ignored.

This demonstrates that taxpayers' rights were not optimally protected at the initial stage and were only recently recognized by the Panel of Judges. This ruling confirms that corrections that fail to consider the substance of the transaction and the global structure of the business, even if ultimately overturned by the Panel, continue to impose administrative and financial burdens, reflecting the absence of legal protection from the outset.

c. 3rd Tax Court Decision Case:

Violations of the principles of legal certainty, accuracy, professionalism, and proportionality collectively result in a violation of the principle of protecting citizens' rights, particularly the rights of corporate taxpayers. The Tax Office, as the tax authority, is supposed to guarantee taxpayers' rights to fair, transparent, and legal treatment. However, when tax corrections are made without a strong basis and adequate evidence, these fundamental rights are neglected. A total correction of commission fees solely due to a special relationship, without examining the fair value of the transaction and considering the economic substance of the services provided, clearly violates taxpayers' rights to an objective and transparent audit. As a result of this correction, taxpayers suffer both financial and administrative losses. Violations of the Tax Office's obligation to fulfill these rights have the potential to cause losses for taxpayers. This situation creates an unfavorable business environment and erodes taxpayer confidence in the tax system, which can ultimately hinder investment and economic growth.

d. 4th Tax Court Decision Case:

This principle requires that taxpayers be protected from unfair treatment, including interpretations and corrections that deviate from business reality. In this case, the tax authorities not only unilaterally changed the taxpayer's business characterization to a limited risk distributor but also improperly separated the business segments, without considering the taxpayer's evidence and analysis. Although the taxpayer had prepared a TPDoc demonstrating that they were a service provider and had used the Berry Ratio correctly, the correction was still implemented without a thorough analysis of the economic facts.

The corrections were made without open dialogue, without consideration of the actual business structure, and without substantiating the arguments and documentation presented. Taxpayers were denied the protection of their fundamental right to an objective, transparent, and rational audit. This protection only emerged after the panel of judges' decision, which overturned the corrections and declared the tax authorities' approach did not reflect economic facts.

This situation demonstrates that the mismatch between business realities and the audit approach can lead to unnecessary administrative and financial losses, and indicates that taxpayer rights have not been fully protected during the initial audit phase, as should be stipulated in the principles of good governance. This procedural unfairness not only results in financial losses but also creates reputational pressure and distrust in the national tax system.

CONCLUSION

Based on an analysis of four Tax Court decisions, it can be concluded that the practice of transfer pricing examinations in tax disputes does not fully reflect the General Principles of Good Governance (AUPB). In many cases, tax authorities' actions have been shown to fail to reflect the principles of legal certainty, accuracy, professionalism, proportionality, or protection of citizens' rights.

Audits were conducted without a thorough analysis of transfer pricing documentation and the taxpayer's business characteristics, resulting in unilateral corrections that lacked substance. Legal uncertainty emerged only in the form of corrections through court decisions, even though they should have been a fundamental principle from the outset of the administrative process. Therefore, consistent implementation of the AUPB by the tax authorities is crucial to ensuring fair tax administration, creating a conducive business climate, and ensuring sustainable tax compliance.

RECOMMENDATION

To ensure that transfer pricing audits are in line with the General Principles of Good Governance (AUPB), improvements need to be made in four main aspects:

1. **Strengthening Regulations and Audit Standardization.** The government needs to more strictly regulate the obligation of the Tax Office to first verify inaccuracies in TPDoc before making corrections. Detailed and publicly accessible technical guidelines are also needed regarding the stages of transfer pricing audits, methods for analyzing fairness, and protecting taxpayer rights from the outset.
2. **Improving the Capacity and Professionalism of Tax Authorities.** Tax auditors need ongoing training that emphasizes not only the technical aspects of transfer pricing but also an understanding of the economic substance of transactions and a risk-based approach. Instilling the values of integrity and objectivity is key to preventing formalistic and arbitrary corrections.
3. **Strengthening Objection and Appeal Mechanisms.** Dispute resolution mechanisms need to be designed to be faster, more independent, and more transparent. Court decisions must create consistent legal certainty and serve as a reference for subsequent audit practices. Audit quality monitoring is also necessary to ensure that corrections are not made solely for short-term revenue gains.
4. **Enhancing the Role of Tax Consultants and Taxpayer Education.** Taxpayers need to be encouraged to prepare accurate and substance-

oriented TPDocs. Meanwhile, tax consultants and professional associations must actively assist and strengthen taxpayers' positions during the audit process, as well as act as liaisons to foster healthy communication between the tax authorities and taxpayers.

ADVANCED RESEARCH

This study successfully analyzed legal uncertainty in transfer pricing audits through a study of Tax Court decisions and evaluated their relevance to the General Principles of Good Governance (AUPB). However, this study has limitations in the scope of the case study and the depth of empirical analysis of the impact of AUPB implementation in the field. Therefore, to enrich and complement this study, several further research directions can be proposed:

1. **Comparative Analysis of AUPB Implementation in Transfer Pricing Examination in Various Jurisdictions:** Future research could expand the scope by comparing the regulatory frameworks and transfer pricing audit practices in other countries, particularly those with similar economic dynamics and legal systems to Indonesia. This aims to identify best practices in AUPB enforcement that can be replicated to improve legal certainty and fairness in tax administration in Indonesia.
2. **Empirical Study of Taxpayer and Tax Authorities' Perceptions of the Implementation of AUPB:** Conduct quantitative and qualitative research involving surveys or in-depth interviews with taxpayers, tax consultants, and tax auditors. The primary objective is to gain a first-hand perspective on the extent to which principles such as legal certainty, professionalism, and rights protection are perceived and implemented in day-to-day transfer pricing audit practices.
3. **Quantitative Evaluation of the Impact of Tax Court Decisions on Changes in Taxpayer Behavior:** Further research could quantitatively analyze final and binding Tax Court decisions to determine whether there are any patterns of changes in the tax authorities' approaches or corrections after these decisions were issued. This could help measure the effectiveness of jurisprudence in creating legal certainty and encouraging compliance with the AUPB.
4. **Study of the Transfer Pricing Dispute Prevention Mechanism Based on AUPB:** Specifically, it examines the effectiveness of dispute prevention mechanisms such as Advance Pricing Agreements (APA) or Mutual Agreement Procedures (MAP) in ensuring legal certainty and complying with the principles of the AUPB. This research can identify barriers and opportunities in implementing these mechanisms to reduce initial uncertainty.
5. **The Role of Technology and Data Analytics in Increasing Transparency and Objectivity of Audits:** Exploring the potential of implementing technologies such as big data analytics or artificial intelligence to assist the Tax Office in conducting more objective, transparent, and AUPB-compliant transfer pricing audits. This may also include an analysis of the technical and regulatory challenges in adopting such technologies.

This further research direction is expected to provide a more comprehensive understanding, stronger empirical data, and more specific policy

recommendations to realize fair and integrity-based tax administration in Indonesia.

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