

Legal Protection For Taxpayers In The Tax

Examination Process

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ABSTRACT

Tax auditing is something that is avoided by many taxpayers. However, due to one reason or another, the Taxpayer cannot avoid the Tax Audit. Therefore, the taxpayer should understand the process of a tax audit. The purpose of this research is to provide an overview of the things that need to be considered by taxpayers in facing the examination through a review of the Minister of Finance Regulation Number 184 / PMK.03 / 2015 concerning Amendments to PMK Number 17 / PMK.03 / 2013 concerning Procedures Examination. Through this study, it is hoped that it can help the taxpayers in understanding the tax audit process so that they can avoid things that harm the taxpayers. For the Directorate General of Taxes, the review is expected to be an input to improve existing laws and regulations related to tax audits in order to provide legal protection to taxpayers.

Keywords: legal protection, tax audit

1. INTRODUCTION

The current tax system adopts the Self Assessment System where taxpayers are obliged to calculate their own taxes and report the amount of tax owed to the Directorate General of Taxes. Meanwhile, in the Self Assessment System, the tax authorities are tasked with supervising and examining the reporting made by taxpayers. In carrying out supervisory duties, the tax authorities in this case are carried out by officers with the position of Account Representatives (AR) to analyze the financial reports presented by taxpayers using various data they have, both internal data and external data (Tunçel, 2018). In addition, AR also performs a comparative analysis of the taxpayer's financial statements by looking at the comparison of taxpayers' financial statements from year to year. If it is found that the taxpayer's financial report is mismatched with the data owned by the tax authorities, or there are conditions that according to AR are questionable, then AR issues a letter requesting an explanation for the data and / or information known as SP2DK. If the taxpayer is unable to provide clarification on the AR question, then AR will advise the taxpayer to make corrections to the Tax Return (SPT) that he has reported (Hardiningsih & Yulianawati, 2011). If the taxpayer is not willing to make corrections to the SPT that has been reported, AR will make a suggestion that the taxpayer's Tax Return (SPT) is tested. The examination of the taxpayer's SPT can arise through the AR proposal or what is known as a Bottom Up. In addition, the examination of the taxpayer's SPT may also arise based on orders from the head office of the Directorate General of Taxes, known as Top Down.

In a testing process commonly known as a tax audit which aims to test compliance with taxation obligations, preceded by the issuance of an Audit Warrant (SP2) where the letter is an order to the tax authorities whose names are listed in the SP2, to conduct an inspection of the mandatory tax whose name is stated in the SP2 (Rudianto & Roesli, 2019). Subsequently, a Field Audit Notification Letter will be issued, namely a letter given to taxpayers as notification that the taxpayer whose name is stated in the Field Audit Notification Letter will be subject to an audit for the tax year as stated in the Tax Return. In the regulations for implementing tax audits, the Director General of Taxes issues a Regulation of the Director General of Taxes (PER Dirjen / PER) number PER 07 / PJ / 2017 concerning Guidelines for Field Inspections in the Context of Examinations to Test Compliance with Taxation Obligations (hereinafter referred to as PER 07/2017). In PER 07/2017, it is stated that the examination begins with the submission of a Field Audit Notification Letter which is submitted along with a summons to the taxpayer (Roesli et al., 2017). The summons contains the time, place and purpose for the meeting between the Tax Auditor and the Taxpayer, as well as books, records and documents that the taxpayer must carry. Apart from the Field Inspection, the tests carried out by the tax authorities can be in the form of Office Inspections (Tunçel, 2018) . In the event that the test is carried out by means of an office inspection, the tax authorities will issue a Summons for Office Audit. The Summons are accompanied by a request for data / documents required for the inspection of the office (Efendi et al., 2016).

In facing the audit process, taxpayers are generally worried that there will be significant corrections to the tax calculations they have done based on the financial statements attached to the tax returns. Researchers found that quite a number of taxpayers do not understand and do not know matters related to the rights and obligations of taxpayers in a tax audit process. This results in the taxpayer feeling that he must accept the results of the audit, and pay the tax shortfall as stated in. Therefore, this study aims to obtain answers to the following questions:

1. What is the form of legal protection for taxpayers in facing tax audits, especially tax audits on overpayment returns?
2. Does PMK 184 / PMK.03 / 2015 provide sufficient legal protection for taxpayers in facing tax audits?

2. RESEARCH METHODS

This research uses legal research methods. The approach used in this legal research is the statute approach, by examining all laws and regulations related to the legal issue being researched. The results of this study are an argument to solve the issue at hand (Hasudungan, 2020)

3. RESULTS AND DISCUSSION

Based on research on several sources of law in the form of laws, regulations of the Minister of Finance, regulations of the Director General of Taxes and decisions of tax courts which constitute jurisprudence in analyzing the problems encountered. This research is mainly directed at reviewing the Minister of Finance Regulation Number 184 / PMK.03 / 2015 concerning Amendments to the Minister of Finance Regulation Number 17 / PMK.03 / 2013 concerning Audit Procedures (hereinafter referred to as PMK 184/2015). Researchers have reviewed PMK 184/2015 in relation to legal protection for taxpayers who are currently facing a tax audit. Below, the researchers present a discussion related to this matter.

Forms of Legal Protection for Taxpayers in Facing Tax Audits on Overpayment Tax Returns

In facing audits, according to the Minister of Finance Regulation Number 184 / PMK.03 / 2015 concerning Amendments to the Regulation of the Minister of Finance Number 17 / PMK.03 / 2013 concerning Audit Procedures outlines the rights and obligations of the taxpayer in facing the tax audit. The rights of taxpayers in the implementation of tax audits in order to test compliance with tax obligations are as follows:

- a. Requesting the tax auditor to show the Tax Auditor Identification and Audit Warrant in which the name of the taxpayer to be audited is written.
- b. Ask the tax inspector to issue a Field Audit Order in the event that the inspection is carried out by type of field inspection.
- c. Ask the tax auditor to show a letter containing the changes in the tax auditors team if the membership composition of the tax auditors changes.
- d. ask the tax auditor to provide an explanation of the reason and purpose of the audit.
- e. Receiving SPHP (Notification of Audit Results).
- f. Attend the Audit Result Final Discussion at the appointed time.
- g. Submit a request for discussion with the Audit Quality Assurance Team, in the event that there are still Audit results that are limited to the legal basis for corrections that have not been agreed between the Tax Auditor and the Taxpayer at the Audit Results Final Discussion, except for the Audit on other information in the form of concrete data that is carried out with the Office Inspection type.
- h. Provide opinion or assessment on the implementation of the Audit by the Tax Auditor through filling out the Audit Questionnaire.

If examined further, there are 2 things that are also included in the implementation of the Taxpayer's rights in facing the audit, which are part of the description above, namely

- a. Receiving an invitation to conduct the Audit Result Final Discussion.

- b. Receiving an invitation to hold discussions with the Quality Assurance Team, in the event that the Taxpayer submits an application for Discussion with the Quality Assurance Team.

In relation to the Tax Audit process, the Taxpayer's Obligations in the implementation of tax audits in order to test compliance with taxation obligations are:

- a. Show and / or lend books, records, and / or documents that are the basis of books or records, and other documents related to income earned, business activities, taxpayer free work, or objects that are subject to tax;
- b. Provide the opportunity to access and / or download electronically managed data;
- c. Provide the opportunity to enter and inspect a place or space, movable and / or immovable property that is suspected or reasonably suspected to be used to store books or records, documents that form the basis of bookkeeping or records, other documents, money, and / or items that can provide guidance concerning income earned, business activities, taxpayer free work, or onjek which owes tax and lent it to the Tax Auditor;
- d. Providing assistance for the smoothness of the Audit, dayng can be in the form of:
 - 1. Providing manpower and / or equipment at the expense of the Taxpayer if accessing electronically managed data requires special equipment and / or expertise;
 - 2. Providing assistance to the Tax Auditor to open movable and / or immovable property; and / or
 - 3. Providing a special room where the Field Audit is conducted in the event that the Audit is carried out at the Taxpayer's place;
- e. Deliver a written response to the SPHP; and
- f. Provide the necessary oral and / or written information.

Implementing regulations related to Field Audit are regulated in the Director General of Taxes Regulation (PER Dirjen / PER) Number PER 07 / PJ / 2017 concerning Guidelines for Field Inspections in the Context of Examination to Test Compliance with Taxation Obligations (hereinafter referred to as PER 07/2017). In PER 07/2017, it is stated that the examination begins with the submission of a Field Audit Notification Letter which is submitted along with a summons to the taxpayer. The summons contains the time, place and purpose for the meeting between the Tax Auditor and the Taxpayer, as well as books, records and documents that the taxpayer must carry. In the event that the Taxpayer has not fulfilled the request for borrowing books, records and documents requested by the Tax Auditor, within 2 (two) weeks from the date of submission of the request for borrowing books, records and documents, the 1st Warning Letter may be issued. If within 3 (three) weeks from the date of submission of the 1st Warning Letter the Taxpayer has not

completed the lack of books, records and documents requested, a 2nd Warning Letter will be issued. And if within 1 (one) month from the submission of the 2nd Warning Letter the Taxpayer has still not fulfilled the request for data in the form of books, records or documents requested by the Tax Auditor, the Tax Auditor must make a Minutes of Not Fulfilling the Request for Borrowing Books, Notes. and Documents, enclosing a list of books, records and documents that must be lent but not yet submitted by the Taxpayer. The Tax Auditor has the authority to perform sealing in order to obtain or secure books, records and / or documents, including electronically managed data and other objects that can provide instructions regarding the business activities or work of the taxpayer exempt from being audited, so that they are not transferred, removed, destroyed. , altered, tampered with, exchanged or falsified. If within a period of 7 (seven) days from the date of sealing, the Taxpayer does not give the Tax Auditor permission to open or enter a place or room, movable or immovable property that is sealed, the Taxpayer is deemed to have refused the Audit. Taxpayers are required to sign the Audit Refusal Statement. If the Taxpayer refuses to sign the Audit Rejection Statement, the Tax Auditor makes and signs the Minutes of the Rejection. Based on the said Audit Refusal Statement, the Tax Auditor can make ex officio tax determination, or propose Preliminary Evidence Audit. Preliminary Evidence Audit is an examination which is carried out to obtain preliminary evidence of an alleged taxation crime.

In the event that the Taxpayer fulfills the request for borrowing books, records and / or documents to the Tax Auditor, the audit process will run. The result is the issuance of an Audit Result Notification Letter (SPHP). Together with the SPHP is attached a list of findings of the Tax Auditor's corrections. Taxpayers are given the opportunity to respond to the SPHP within 7 (seven) working days from the date the SPHP is received by the Taxpayer. The period of submitting responses to SPHP for 7 (seven) working days can be submitted for an extension of 3 (three) working days. If there is a finding of the Tax Auditor's correction that is not approved, the Taxpayer may state his disapproval along with reasons and data that support the reasons for his disapproval. After the Response Letter to the SPHP is submitted to the Tax Service Office, then within 3 (three) working days the Tax Auditor will send an Invitation Letter for the Audit Result Final Discussion. Furthermore, the Tax Auditor will discuss the Taxpayer's Response Letter and put it in the Minutes of Discussion. There are several possibilities that occur in the Audit Result Final Discussion, namely:

- a. The Tax Auditor agrees entirely on the Taxpayer's disapproval.
- b. The Tax Auditor partially agrees to the Taxpayer's disagreement, and the Taxpayer still disagrees with the Tax Auditor's opinion.
- c. The Tax Auditor partially agrees to the Taxpayer's disapproval, and the Taxpayer agrees with the Tax Auditor's opinion.

- d. The Tax Auditor maintains the correction / disagrees with the opinion of the Taxpayer and the Taxpayer agrees with the opinion of the Tax Auditor.
- e. The Tax Auditor maintains the correction / disagrees with the opinion of the Taxpayer and the Taxpayer does not partially agree with the opinion of the Tax Auditor.
- f. The Tax Auditor maintains the correction / disagrees with the opinion of the Taxpayer and the Taxpayer does not agree entirely with the opinion of the Tax Auditor.

In addition to the aforementioned possibilities, in the event that the Taxpayer agrees to the Tax Auditor's correction contained in the SPHP attachment, an invitation to conduct the Audit Result Final Discussion is still issued, in which the Discussion Minutes will contain the following sequence of discussion results:

- Correction According to SPHP, Taxpayer approves the Tax Auditor's correction, the Tax Auditor agrees with the Taxpayer's response, the Taxpayer agrees with the Tax Auditor's response.

Then internally the Tax Auditor will make an Audit Result Report which will be used as the basis for issuing a tax assessment letter. Tax assessments that can be issued from the Audit can be in the form of Tax Underpayment Assessment Letter / Zero Tax Assessment Letter / Overpayment Tax Assessment Letter, and Tax Collection Letter.

In an Annual Income Tax Return which states overpayment, in accordance with Article 4 PMK 184 / PMK.03 / 2015 including the criteria for Tax Returns that must be checked to test compliance with the fulfillment of tax obligations. For a Tax Return which states that overpayment and overpayment are requested for a refund, in accordance with Article 17B paragraph (1) of Law Number 16 of 2009 concerning Stipulation of Government Regulations in Lieu of Law Number 5 of 2009 concerning the Fourth Amendment of Law Number 6 of 1983 concerning Provisions General Taxation and Procedures to become Law (Indonesia & Murtopo, 2009). (hereinafter referred to as UU KUP) states: The

Director General of Taxes after examining the request for tax overpayment refund, in addition to the request for refunding the overpayment of tax from the Taxpayer as referred to in Article 17C and the Taxpayer as referred to in Article 17C. referred to in Article 17D, must issue a tax assessment letter no later than 12 (twelve) months after receipt of the complete application.

Based on the article on the Tax Return which states overpayment and for the overpayment is requested for refund, there is a time limit for payment. examine until the issuance of a tax assessment, which is no later than 12 months after receipt of the complete application. In several cases, the Tax Auditor incorrectly calculates the audit time, which is in accordance with the above description of the sequence after the issuance of the SPHP. Sometimes the new Tax Auditor issues SPHP 7 (seven) days before the 12 (twelve) month deadline. To overcome this, sometimes the Tax Auditor has issued an invitation to discuss the day after the SPHP date. The invitation for

discussion invites the Taxpayer on the 4th day after the submission of the SPHP to conduct the Audit Result Final Discussion, while at that time the response letter to the SPHP has not been submitted by the Taxpayer. Thus, it is as if the Tax Auditor intends to direct the Taxpayer to immediately submit a response letter and immediately conduct the Audit Result Final Discussion. Thus, the 12 (twelve) month time limit is not exceeded. Taxpayers who understand their rights in facing the Tax Audit, will still declare that they cannot attend the Discussion Invitation because the Taxpayer has not submitted a response letter to the SPHP so that they cannot carry out the Audit Result Final Discussion.

In some cases, the Tax Auditor is found to remain adamant to the Discussion Invitation he has sent, even though the Taxpayer has not submitted a response letter to the SPHP. The Tax Auditor prepares an Minutes of Taxpayer Absence in the Audit Result Final Discussion, then the Auditor makes a Final Discussion Minutes and subsequently submits the LHP to be used as a reference for issuing a tax assessment. If this happens, the tax assessment letter issued includes a tax assessment letter that is incorrect, so that cancellation can be submitted based on Article 36 paragraph (1) letter D of the KUP Law (Santi et al., 2017), which reads:

- (4). *The Director General of Taxes because of his position or at the request of the Taxpayer can:*
- cancel the results of tax audits or tax assessments from the results of audits carried out without:*
1. *submitting notification of audit results; or the*
 2. *final discussion on the audit results with the taxpayer.*

Dalam handling process upon filing of the cancellation of the tax assessments were not properly pursuant to Article 36 paragraph (1) letter D UU KUP sometimes the result of the evaluation of staff DJP are dealing with issues request for cancellation of the tax assessments under Article 36 paragraph (1) letter D not observant. The staff of the DGT Regional Office only saw that the requirements for the cancellation of the tax assessment were possible if SPHP was not submitted during the Tax Audit or the Audit Result Final Discussion was not carried out. In the above problem, the SPHP has been submitted to the Taxpayer and an Invitation for Discussion has also been submitted to the Taxpayer, where the Taxpayer is not present so that in his absence an Minutes of Taxpayer's Absence have been made in the Audit Result Final Discussion and an Minutes of Final Discussion have been made so that according to the staff of the DGT Regional Office there is no reason to cancel the tax assessment that has been issued. Thus, the application for the cancellation of an incorrect tax assessment based on article 36 paragraph (1) letter D of the KUP Law submitted by the taxpayer is declared rejected. As a result of the rejection, the taxpayers can take legal action to file a lawsuit to the Tax Court. The legal basis for filing a lawsuit on the above problems is Article 40 of Law no. 14 of 2002 concerning the Tax Court (Pandoman, 2017). in conjunction with Article 23 of the KUP Law (Indonesia & Murtopo, 2009).

In the process of a lawsuit submitted to the Tax Court, the Taxpayer has the opportunity to get justice for the problems they are experiencing. This is due to the fact that the lawsuit process at the Tax Court is outside the DGT area. In contrast to the process for the cancellation of an incorrect tax assessment based on Article 36 paragraph (1) letter D of the KUP Law which is still within the DGT area, where the process for the cancellation of an incorrect tax assessment is based on Article 36 paragraph (1) letter D The KUP Law is carried out by the DGT Regional Office where the Taxpayer is registered. Thus the lawsuit process at the Tax Court has a higher level of neutrality. Regarding the case described above, the Tax Court Judge Panel will ask the parties to describe the legal basis for the opinion of each party. In this case the Taxpayer states that based on Article 43 PMK 184/2015 it regulates the procedure for submitting an invitation to discuss audit results, namely 3 (three) days from the receipt of a written response to the SPHP or the expiration of the period as referred to in Article 42 paragraph (3) PMK 184/2015 . In the event that the Tax Auditor submits an invitation for discussion before receiving a written response to the SPHP or before the end of the period as referred to in Article 42 paragraph (3) PMK 184/2015, then the invitation to discuss the results of the audit submitted by the Tax Auditor is considered invalid and deemed not yet delivered. And therefore it is considered that the Audit Result Final Discussion was not carried out. Thus, it fulfills the criteria for the cancellation of a tax assessment letter as stated in Article 60 paragraph (1) PMK 184/2015 which reads:

- (1) Tax assessment letter from the results of the examination carried out without:
 - a. SPHP submission; or
 - b. Audit Result Final Discussion,

may be canceled in ex officio or based on the request of the Taxpayer by the Director General of Taxes as referred to in Article 36 paragraph (1) letter D of the KUP Law.

An example of a case related to a Taxpayer's lawsuit on the Decree of the Director General of Taxes regarding the Cancellation of Tax Assessment on Underpayment Tax Assessment based on Article 36 Paragraph (1) Letter D Because Taxpayer Applications can be seen in the Tax Court Decision Number PUT-009908.99 / 2019 / PP / M.IIIA 2020. In the Tax Court Decision Number PUT-009908.99 / 2019 / PP / M.IIIA 2020, it can be clearly identified in the decidendi ratio that underlies the Decision of the Tax Court Judge Council.

Does PMK 184 / PMK.03 / 2015 provide sufficient legal protection for taxpayers in facing tax audits?

Basically, the scope of the inspection covered in PMK 184 / PMK.03 / 2015 is as stated in article 2 concerning Audit Objectives, namely to test the compliance with taxation obligations and / or for other purposes in implementing the provisions of tax laws and regulations (Nasution, 2020). Structurally, PMK 184 / PMK.03 / 2015 is prepared in detail as follows:

Chapter I General Provisions

Chapter II Purpose of Audit

Chapter III Audit to Test Compliance with Taxation Obligations

Part One Scope, Criteria and Types of Examination

Part Two Examination Standards

Part Three Obligations and Authorities of the Tax Auditor

Part Four Rights and Obligations of Taxpayers

Part Five Audit Period

Part Six Examination Completion

Part Seven SP2 and Letter Containing Changes to the Tax Auditor Team

Part Eight Audit Notification and Summons, and Meeting with Taxpayers

Part Nine Document Borrowing

Tenth Part of the Sealing

Part Eleven Rejection of Audit

Part Twelve Explanation of Taxpayers and Request for Information from Third Parties

Part Thirteen Notification of Audit Results and Final Discussion of Audit Results

Part Fourteenth Reporting on the Results of Inspection and Returning Documents

Fifteenth Part Cancellation of Audit Results

Part Sixteenth Disclosure of Invalid Tax Completion During the Audit

Part Seventeenth Preliminary Evidence Audit Proposal and Audit Suspension

Part Eighteenth Re-examination

Chapter IV Examination for Other Purposes

Part One Scope, Criteria and Types of Examination

Part Two Examination Standards

Part Three Obligations and Authorities of the Examiner

Part Four Rights and Obligations of Taxpayers

Part Five Audit Period

Part Six	SP2 and a Letter Containing Changes to the Examining Team
Part Seven	Audit Notification and Summons
Part Eight	Lending Documents
Part Nine	Audit Refusal
Part Ten	Explanation of Taxpayers and Third Parties
Chapter V	Submission of Audit Questionnaires
Chapter VI	Other Provisions
Chapter VII	Transitional Provisions
Chapter VIII	Closing Provisions.

Based on the description above, it appears that the examination referred to in PMK 184 / PMK.03 / 2015 is divided into 2 groups of examinations, namely Examination to Test Compliance with Taxation Obligations (Chapter III) and Examination for Other Purposes (Chapter IV). What is meant by audit for other purposes is an audit carried out for the purpose of providing an NPWP in an ex officio, eliminating NPWP, affirming or revoking the confirmation of a Taxable Entrepreneur, a Taxpayer submitting an objection and so on, in addition to an examination to Test Compliance with Taxation Obligations. Money audits generally carried out by tax auditors are audits to test taxpayer compliance with tax obligations.

In the Audit to Test Compliance with Taxation Obligations, as shown in the description above in Chapter III which contains eighteen sections, the Director General of Taxes has attempted to describe in detail the matters related to the Tax Audit, including the rights and obligations of the Tax Auditor as well as the Rights and Obligations of the Taxpayer. Tax. However, as in the description of the previous section in this paper, irregularities occurred by the Tax Auditor in responding to the existing field conditions. As in the case in the explanation of the first problem in this paper, the Tax Auditor simply does not follow the procedure for issuing the Audit Result Final Discussion invitation. The following will be discussed part by part of Chapter II:

Part One, contains 2 articles, namely article 4 and article 5, outlining the scope, criteria and types of examination. Related to Types of Inspection, it is divided into two, namely Field Inspection and Office Inspection.

Part Two, consisting of 5 articles, namely articles 6 to 10, describes the inspection standards regarding the Examiner Standards and the Examination Implementation Standards.

The third part, consisting of 2 articles, namely article 11 and article 12, describes the Tax Auditor's Obligations and Authorities.

The fourth part, consisting of 2 articles, namely article 13 and article 14, describes the rights and obligations of the taxpayer.

The fifth part consists of 5 articles, namely articles 15 to 19, outlining the Audit Period. The period of testing for this type of Field Audit is no longer than 6 months since the Field Inspection Notification Letter is submitted to the Taxpayer until the date the SPHP is submitted to the Taxpayer. This period can be extended for a maximum of 2 months If the Field Audit is related to the Cooperation Contract Contractor Taxpayer Oil and gas, taxpayers in one group or indicated to have conducted transfer pricing transactions or indicated that they have manipulated financial transactions can be extended for 6 months and can be extended for a maximum of 3 times. Whereas for the Office Audit type, the period of testing is no longer than 4 months, calculated from the date the Taxpayer arrives and fulfills the Summons for Office Audit until the date the SPHP is received by the Taxpayer. This period can be extended by 2 months. If the Extension of Testing Period for both Field Audit and Office Audit has ended, the SPHP must be submitted to the Taxpayer.

The sixth part, consisting of 4 articles starting from article 20 to article 23, describes the completion of the Audit by stopping the examination by making a Simur LHP or making KHL as the basis for issuing a tax assessment.

The seventh part, consists of 1 article, namely article 24, outlines the SP2 and the letter containing the changes to the Tax Auditor Team.

The eighth part, consisting of 3 articles starting from article 25 to article 27, describes the Notification and Summons for Audit, and Meeting with Taxpayers.

The Ninth Part, consisting of 4 articles starting from article 28 to article 31, describes the Borrowing of Documents. If after 2 weeks the documents requested to be loaned have not been submitted, a First Warning Letter will be issued and within 3 weeks from the first warning letter, if the documents are not loaned, a Second Warning Letter will be issued. And if after 1 month since the Warning Letter, the two documents are still not lent, an official report of not fulfilling the request for borrowing books, notes and documents will be made.

The tenth part, consisting of 4 articles starting from article 32 to article 35, describes the Sealing, which is the authority of the Tax Auditor in order to obtain or secure books, records and / or documents, including data that is managed electronically and other objects that can be provide instructions regarding the business activity or work of a taxpayer that is inspected so as not to be moved, removed, destroyed, altered, tampered with, exchanged or falsified.

The eleventh part, consisting of 3 articles starting from article 36 to article 38, contains the refusal of examination.

Part Twelfth, consisting of 2 articles, namely article 39 and article 40, describes the explanation of the taxpayer and requests for information from third parties.

Part Thirteen, consisting of 17 articles starting from article 41 to article 57 describes the Notification of Audit Results and Final Discussion on Audit Results, starting from the submission of the SPHP attached with a list of findings, Written Responses by the Taxpayer, Discussion with the Tax Auditor Team, Discussion with the Quality Team Assurance in case the Taxpayer wishes it, Preparation of Minutes of Final Audit Result Discussion.

Part Fourteenth, consisting of 2 articles, namely articles 58 and article 59, describes the Reporting of the Audit Results and Returning Documents.

The fifteenth part, consisting of 1 article, namely article 60, outlines the requirements for the cancellation of the audit result tax assessment.

The sixteenth part, consisting of 2 articles, namely articles 61 and article 62, discusses the Disclosure of Unauthorized Filing of Tax Returns during Audit. Taxpayers are given the right to make written disclosures if there is an incorrect filling of the Tax Return that has been submitted.

Part Seventeen, consisting of 5 articles, namely articles 63 to article 67, discusses the Proposal for Preliminary Evidence Examination and Suspension of Examination. In the event that the Tax Auditor proposes to conduct Preliminary Evidence Audit of the taxpayer being examined, the Tax Audit that is being carried out will be subject to Audit Suspension. In the event that no evidence is found of any tax crime, the Tax Audit will be continued.

The eighteenth part, consisting of 1 article, namely article 68, discusses the Re-Audit which can only be carried out based on the instruction or approval of the Director General of Taxes.

Based on the descriptions of parts one to eighteen, if observed there is an incomplete arrangement in the fifth section regarding the Audit Period. Even though it has been regulated in Article 19 paragraph (1) which states "If the period of extension of the Field Audit examination as referred to in Article 16 paragraph (1) or paragraph (3) or the extension of the Office Audit period as referred to in Article 17 paragraph (1) has ends, the SPHP must be submitted to the Taxpayer. In practice, there are a lot of audits that have exceeded the said time limit, either because the Tax Auditor has undergone several changes or the Tax Auditor is the same Tax Auditor, but when the time limit exceeds the time limit and does not immediately issue the SPHP, or after a period of 1 year has passed. or more still have not issued SPHP, there is no clear result that occurs. Or, if a tax audit has passed 18 months, the examiner has just issued SPHP, there is no clarity about what the taxpayer can do that is protected by clear taxation legislation. As if there would be a legal vacuum, where the time limit for examination had already existed, the consequences of having passed the stipulated time limit had also been regulated, but if these consequences were not met, there was no legal clarity. Legal vacuum according to the Dictionary of Legal Terms is defined as a state of emptiness or absence of statutory regulations (law) that govern (certain) order in society [6].

Thus it is clear that in PMK 184 / PMK.03 / 2015 there are still articles that do not protect the Taxpayers themselves when the Tax Auditor violates the contents of the article, namely in Part Five concerning Audit Period, in particular Article 19.

4. CONCLUSION

After elaborating at length the contents of Regulation of the Minister of Finance Number 184 / PMK.03 / 2015 concerning Amendments to PMK Number 17 / PMK.03 / 2013 concerning Audit Procedures in relation to Legal Protection for Taxpayers in Facing Tax Audit and several explanations In this regard, we submit the following conclusions:

The form of legal protection for taxpayers in facing tax audits, in particular the Tax Audit on Overpayment of Tax Returns is the certainty of the length of the audit period, namely 12 (twelve) months as regulated in article 17B paragraph (1) of the KUP Law. In addition, by understanding the order of the Tax Audit, the Taxpayer can determine the right choice of legal remedies when there is a difference of opinion with the Tax Auditor.

In PMK 184 / PMK.03 / 2015 there are still articles that do not protect the Taxpayers themselves at times, namely in Part Five concerning Audit Period, in particular Article 19.

There is no firmness in the form of a verdict or firm consequences when the Tax Auditor ignores the length of time limit. the time for the Tax Audit as stipulated in the said PMK 184 / PMK.03 / 2015.

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