

## **Juridical Review of The Amount of Administrative Sanctions in the Form of Interest and Interest Rewards PP No 35 of 2023**

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### **ABSTRACT**

This research is motivated by the tax collection system in Indonesia using the Self Assessment System. The Self Assessment System is a tax collection system in which the government gives full trust to taxpayers to calculate, deposit and report their own tax obligations. Taxpayers are considered capable of calculating taxes, able to understand the current tax regulations, and have high levels of honesty, and are aware of the importance of paying taxes. Thus, the success of tax collection depends a lot on the taxpayers themselves. The legal research method used in this research is normative juridical research which is research carried out or aimed only at written regulations with the nature of descriptive analysis research which is a method that functions to describe or provide an overview of the object being studied. The data source used is secondary data with quantitative data analysis. The results of this research are Article 113 of the Job Creation Law, taxpayers submit requests for interest compensation to the Head of the KPP where the Taxpayer is registered or where the PKP is confirmed. Submission of applications can be done electronically or in writing by including the Taxpayer's domestic account number. After the taxpayer submits a request for interest compensation to the KPP, no later than one month after the application for interest compensation is received in full, the KPP will process the Taxpayer's application. Interest compensation is paid by the Directorate General of Taxes by transferring it to the account of the Taxpayer who is entitled to receive the interest compensation, then the reporting of the receipt of the interest compensation is reported in the Annual SPT in the following tax year.

### **Keywords:**

Taxes; Rewards;  
Sanctions, Interest

### **INTRODUCTION**

The tax collection system in Indonesia uses the Self Assessment System. The Self Assessment System is a tax collection system in which the government gives full trust to taxpayers to calculate, deposit and report their own tax obligations. Taxpayers are considered capable of calculating taxes, able to understand the current tax regulations, and have high levels of honesty, and are aware of the importance of paying taxes. Thus, the success of tax collection depends a lot on the taxpayers themselves. The Self Assessment System allows for the potential for taxpayers not carrying out their tax obligations properly as a result of negligence, intentionality or perhaps taxpayers' ignorance of their tax obligations. Not all people are aware of the law about paying taxes. There are some people who are apathetic about the importance of paying taxes. The state sometimes has difficulty collecting taxes from taxpayers who are not compliant in paying taxes. Even though the government provides a period of time to pay off taxes by providing advance notification via a tax notification letter, they still don't want to pay taxes even though they can afford to pay them. Therefore, the government has formed laws so that there are regulations so that people can be more alert and aware of the importance of compliance in paying taxes.

Tax collection carried out by the government will not be legal if there is no governing law. In order to collect funds from the community collected through taxes, it must be based on the principle of legality. The aim and objective of applying the principle of legality in the field of taxation is so that government actions or actions to collect funds from the public through tax collection are not categorized as unlawful acts. Tax is an achievement owed to the government through general norms and which can be enforced, without any contra performance that can be shown in individual matters, the purpose of which is to finance government expenditure. In this situation it can be said to be coercive because if you do not carry out your obligations then you can be subject to legal action based on the law. In other words, if the tax debt is not paid, then the tax debt can be collected using a Letter of Force and Confiscation or taking the Taxpayer hostage. In addition, taxpayers who do not carry out or are negligent in fulfilling their tax payment obligations in accordance with applicable regulations, being late or not paying taxes will be subject to sanctions. Sanctions in taxation are imposed to provide control or supervision provided by the state to ensure that taxpayers comply with regulations so that violations in terms of fulfilling taxation obligations can be prevented or anticipated.

In Law No. 28 of 2007, tax sanctions in Indonesia consist of two types, namely administrative sanctions and criminal sanctions. Administrative sanctions are sanctions where taxpayers must pay a certain amount of money to the state for violating applicable regulations. Administrative sanctions consist of fines, interest sanctions, and increase sanctions. In fact, the regulation of administrative sanctions in the form of interest has existed since the KUP Law in 1983. Based on this arrangement, interest rewards are charged on a fixed basis (fixed rate), namely 2% per month. However, as time goes by, regulations regarding tax regulations, especially in terms of administrative sanctions in the form of interest and interest rewards, have undergone several changes. due to criticism that sanctions with fixed rates are considered inconsistent with the spirit of encouraging taxpayer compliance because different legal acts are treated in the same way and can be detrimental to the state.

## **METHOD**

This research uses a normative juridical research type and the nature of this thesis research method is descriptive analysis, namely research that describes, examines, explains and analyzes a legal regulation, in this case related, Source of legal materials used in this research is secondary data, namely data obtained from official documents, books or all forms of research relating to research objects and research results in the form of reports, journals, theses, dissertations and statutory regulations relating to the Administrative Sanctions In The Form Of Interest And Interest Rewards PP No 35 Of 2023. The data analysis technique used is qualitative data analysis, namely a research procedure that produces analytical descriptive data, namely by collecting materials and data as well as applicable regulations and legislation which are then analyzed using logical legal thinking.

## RESULTS AND DISCUSSION

### 1. Results

The latest regime under the Job Creation Law divides the types of legal actions that are subject to interest sanctions into four categories. First, the imposition of sanctions with a reference interest rate without an additional factor (zero uplift factor). Interest sanctions in this category are imposed for legal acts regulated under Article 19 paragraph (1), paragraph (2), and paragraph (3) of the Law on General Provisions and Tax Procedures (UU KUP). These actions take the form of:

- a. The amount of tax that is not/underpaid as stated in the SKPKB (Determination of Underpaid Tax) or SKPKBT (Additional Underpaid Tax Decree), Rectification Decree, Objection Decree, Appeal Decree or Judicial Review Decree;
- b. Taxpayers are permitted to make installments/postponement of tax payments; And
- c. Taxpayers who are allowed to postpone the submission of their Annual SPT but it turns out that the status in the interim calculation carried out is Underpaid (KB).

Second, the imposition of interest sanctions based on the reference interest rate with the addition of a certain percentage of 5% (lowest uplift factor). Legal acts that are subject to this type of sanction are acts as regulated in the KUP Law Article 8 paragraphs (2) and (2a), Article 9 paragraphs (2a) and (2b), and Article 14 paragraph (3). Legal actions that are subject to this type of interest penalty are:

- a. Underpayment of tax caused by corrections to the Annual/Periodic SPT;
- b. Late payment/payment of tax, namely payment made after the due date of the Periodic/Annual SPT; And
- c. Issuance of a Tax Bill (STP) as a result of the current year's PPh being under/not paid, and the results of the SPT research showing the underpayment is due to a writing/calculation error.

Third, the basis for imposing interest sanctions is the reference interest rate with an additional factor of 10% (middle uplift factor). The legal action that is subject to this type of sanction is disclosure of incorrect SPT filling as regulated in Article 8 paragraph (5) of the KUP Law. Fourth, the basis for interest sanctions is determined based on the reference interest rate plus an increasing factor of 15% (highest uplift factor). This type of interest sanction is imposed on legal actions as regulated in Article 13 paragraph (2), namely in the form of a shortfall in tax payable in the SKPKB issued because

- a. the results of the audit show that the tax owed is not/underpaid, or
- b. issued NPWP and/or confirmed as a Taxable Entrepreneur (PKP) in office.

Apart from that, this type of sanction is also imposed for actions regulated in Article 13 paragraph (2a), namely in the event that an SKPKB is issued as a result of the PKP having received a refund of input tax (PM) while they have not delivered Taxable Goods and/or Taxable Services and/ or export of Taxable Goods and/or Taxable Services.

### 2. Discussion

Tax is a contribution to the state (which can be enforced) which is owed by taxpayers according to regulations, with no return, which can be directly appointed, and whose purpose is to finance general expenses related to the state's task of administering government. Regional Tax, hereinafter referred to as tax, is a

mandatory contribution to regions, both provinces and districts/cities, which is a mandatory obligation that must be paid by individuals or companies based on applicable regulations and legislation, without receiving direct compensation and is used for regional needs. for the greatest prosperity of the people in the area.

The Tax Law entrusts every taxpayer to carry out their own tax activities starting from calculating, paying and reporting their tax obligations to the tax service office (KPP). Taxes paid by taxpayers are intended to assist the government in financing state administration needs, namely national development, where the implementation of national development is regulated in laws and regulations for the purpose of the welfare of the nation and state. Tax Apparatus or Tax Officials are people or bodies who have the task of collecting taxes or contributions from Taxpayers. Taxes collected and managed by Tax Apparatus or Tax Officials will be used for routine expenditure or state spending and can help with national development, as well as administration of government. Tax officials who have the authority to collect and manage taxes in Indonesia are:

- a. Directorate General of Taxes
- b. Directorate General of Customs and Excise
- c. Governor/Regent/Mayor
- d. Officials who have been appointed to carry out or implement tax laws (UU).

In the process of paying taxes by taxpayers, problems often arise between Tax Apparatus or Tax Officials and taxpayers regarding the Tax Assessment Letter. In implementing tax provisions in Indonesia, taxpayers have rights that must be fulfilled. Various provisions regarding rights and obligations are formally regulated in the Law on General Provisions and Tax Procedures. One of the rights that taxpayers have is the right to overpayment of tax, the right in the event that the taxpayer undergoes an audit, the right to submit legal action in a tax dispute, and other rights. Regarding these rights, if the Directorate General of Taxes as a Tax Apparatus or Tax Official is late or negligent in providing them to the Taxpayer, then a reply will be given to the Taxpayer. One of the replies is given in the form of interest rewards. To obtain interest compensation, taxpayers can file objections, appeals and reconsideration at the Tax Court. Interest and interest rewards will be given if part or all of the Tax Assessment Letter is granted after an audit is carried out. This interest reward arises as a form of the principle of tax justice, namely balance and reciprocity. Apart from that, interest sanctions await us if we are negligent in carrying out our obligations, and interest compensation is given if our rights are given too late. In Article 27 B paragraph (1) of the KUP Law, taxpayers are given interest compensation if their objection, appeal or review request is granted in part or in full, resulting in an overpayment of tax. This granting is carried out by the Director General of Taxes as the party reviewing the Taxpayer's application. Interest rewards are given for tax overpayments up to a maximum of the amount of the overpayment approved by the Taxpayer in the final discussion of the results of the audit of the SPT which states the overpayment and has been issued:

- a. Underpayment Tax Assessment Letter;
- b. Additional Tax Underpayment Assessment Letter;
- c. Tax Overpayment Assessment Letter; or
- d. Nil Tax Assessment Letter.

Apart from that, Article 27B paragraph (3) of the KUP Law states that Taxpayers can also be given interest compensation in the event of a request for correction, a

request for a reduction or cancellation of a tax assessment letter, or a request for a reduction or cancellation of a Tax Collection Letter which is granted in part or in whole, causing an overpayment of tax. . Interest rewards in Indonesia are given based on the monthly interest rate determined by the Minister of Finance based on the reference interest rate divided by 12 and given for a maximum of 24 months, and the full month is calculated as 1 month. The monthly interest rate used as the basis for calculating interest rewards is the monthly interest rate in effect on the start date of calculating interest rewards based on PP No. 35 of 2023 as follows:

No	Article	Information
1.	Article paragraph 7 59	In the event that the Taxpayer does not pay or remit on time as intended in paragraph (5) and paragraph (6), the Taxpayer is subject to administrative sanctions in the form of interest of 1% (one percent) per month of the unpaid or underpaid Tax payable or remitted, calculated from the payment due date until the payment date, for a maximum period of 24 (twenty four) months and part of the month is calculated as a full 1 (one) month and billed using STPD.
2.	Article paragraph 5 65	In the event that a certain Retribution Compulsory does not pay on time or does not pay enough, the Retribution Obligor is subject to administrative sanctions in the form of interest of 1% (one percent) per month on the outstanding Retribution that is not or is underpaid, calculated from the due date of payment until the date of payment, for a period of a maximum period of 24 (twenty four) months and billed using STRD.
3	Article paragraph 4 71	In the correction of SPTPD which states underpayment as referred to in paragraph (3) is subject to administrative sanctions in the form of interest of 1% (one percent) per month on the amount of underpaid Tax, calculated from the due date of payment until the date of payment for a maximum period of 24 (twenty-four) months and parts of a month are counted as full 1 (one) month.
4	Article paragraph 4 72	The STPD as intended in paragraph (3) includes the amount of the underpayment of Tax owed plus administrative sanctions in the form of interest of 1% (one percent) per month on the amount of underpaid Tax, calculated from the time the Tax is due or the end of the Tax period, part of the Tax Year, or Year Tax, for a maximum period of 24 (twenty four) months and part of the month is calculated as a full 1 (one) month.
5	Article paragraph 1 77	The amount of the shortfall in Tax payable in the SKPDKB as intended is subject to administrative sanctions in the form of interest of 1.8% (one point eight percent) per month on the underpaid or late paid Tax, calculated from the time the Tax is due or the end of the Tax period, part of the Tax Year, or Tax Year up to the issuance of the SKPDKB, for a maximum period of 24 (twenty four) months and part of the month is calculated as a full 1 (one) month.
6	Article paragraphs 4 and 5 78	<ul style="list-style-type: none"> <li>The amount of the bill in the STPD is in the form of underpaid Tax principal plus administrative sanctions in the form of interest of 1% (one percent) per month calculated on the underpaid Tax, calculated from the</li> </ul>



No	Article	Information
		<p>payment due date until the payment date, for a maximum period of 24 (twenty four) months from the time the Tax is due and part of the month is calculated as a full 1 (one) month.</p> <ul style="list-style-type: none"> <li>The amount billed in STPD, is subject to administrative sanctions in the form of interest of 0.6% (zero point six percent) per month on taxes that are not or underpaid, calculated from the due date of payment until the date of payment, for a maximum period of 24 (twenty-four) months from the time the Tax becomes due and part of the month is calculated as full 1 (one) month</li> </ul>
7	Article paragraph 1 91	In the event that the Tax objection application is granted in part or in full, the excess Tax payment is returned plus interest compensation of 0.6% (zero point six percent) per month calculated from the overpaid Tax for a maximum period of 24 (twenty four) months and the portion of the full month is calculated as 1 (one) month.
8	Article paragraph 1 94	If the objection application is accepted in part or in full, the excess payment of Retribution is returned plus interest compensation of 0.6% (zero point six percent) per month calculated from the overpaid Retribution for a maximum of 12 (twelve) months and part of the month calculated in full 1 (one) month.
9	Article paragraph 1 96	In the event that the appeal request is granted in part or in full, the excess tax payment is returned plus interest compensation of 0.6% (zero point six percent) per month calculated from the overpaid tax for a maximum period of 24 (twenty four) months and the portion of the full month is calculated as 1 (one) month.
10	Article paragraph 9 103	Installment payments each installment period and postponed Tax payments are accompanied by interest of 0.6% (zero point six percent) per month of the amount of Tax still to be paid, for a maximum period of 24 (twenty four) months and the part of the month calculated full 1 (one) month.
11	Article paragraph 7 105	Refund of overpayment of Tax or Retribution is made after 2 (two) months have passed, the Regional Head or appointed Official provides interest compensation of 0.60% (zero point six percent) per month for late payment of excess payment of Tax or Retribution.

The administrative sanctions regime in the form of interest and interest rewards has been prepared according to the characteristics of each violation. In this case, actions categorized as violating the law are subject to fines, while for the use of tax money that should have been paid to the state treasury by taxpayers, tax payers are subject to sanctions in the form of interest. With regard to interest sanctions, the time basis for interest imposition has not changed, namely interest is calculated per month so that in the basis of calculation the numerator (12) is used which is an indication of the number of months in a year. Apart from that, the basis for determining interest rates is the BI reference interest rate with the addition of a certain percentage to the reference interest rate (uplift factor). The magnitude of the uplift factor represents the magnitude of the loss of time value of money borne by the

government so that various imposition bases are expected to result in commensurate compensation.

### CONCLUSION

Law No. 6 of 2023 does not regulate transition rules and also does not regulate how to provide interest compensation for certain Tax Periods and Tax Years, because the regulations regarding the procedure for providing interest compensation are regulated in a separate PP and Ministerial Regulation. However, in Article 27B paragraph (1) of the KUP Law jo. The Job Creation Law states that taxpayers are given interest compensation if they submit an objection, appeal or request for review which is granted in part or in full, resulting in an overpayment of tax. Based on Article 113 of the Job Creation Law, the taxpayer submits a request for interest compensation to the Head of the KPP where Registered Taxpayer or where PKP is confirmed. Submission of applications can be done electronically or in writing by including the Taxpayer's domestic account number. After the taxpayer submits a request for interest compensation to the KPP, no later than one month after the application for interest compensation is received in full, the KPP will process the Taxpayer's application. Interest compensation is paid by the Directorate General of Taxes by transferring it to the account of the Taxpayer who is entitled to receive interest compensation, then the reporting of the receipt of interest compensation is reported in the Annual SPT in the following tax year

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