JLPH: Journal of Law, Politic and Humanities
E-ISSN: 2962-2816
P-ISSN: 2747-1985
https://dinastires.org/JLPH dinasti.info@gmail.com +62 811 7404 455
DOI: https://doi.org/10.38035/jlph.v6i5

Legal Responsibility of Taxpayers Upon the Absence of Agreement at the Notice of Tax Audit Result Stage Based on the Principle of Due Process of Law

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Abstract This study aims to analyze the alignment of the regulation on the Notice of Tax Audit Result (Surat Pemberitahuan Hasil Pemeriksaan / SPHP) with the principle of due process of law, and to reconstruct the legal responsibility of taxpayers in the event that an agreement is not reached during this stage. Thus far, the legal relationship between tax authorities (fiscus) and taxpayers at the SPHP stage has tended to be construed unilaterally. The absence of an agreement is frequently deemed an administrative failure on the taxpayer's part, resulting in the passive acceptance of a Tax Assessment Notice (Surat Ketetapan Pajak / SKP) or the necessity to pursue protracted tax litigation. Conversely, tax collection within a constitutional state (rechtsstaat) must be anchored in procedural justice, which guarantees the constitutional right of citizens to a fair hearing (audi alteram partem). The research method employed is normative legal research utilizing a statutory approach and a conceptual approach. The results indicate that, essentially, the SPHP serves as an instrument of preventive legal protection that transforms tax audits from unilateral coercion into an accountable space for legal dialectics. This study argues that legal responsibility for the absence of an agreement at the SPHP stage must not be borne unilaterally; rather, it should be understood as a reciprocal legal responsibility. Taxpayers are obligated to act in good faith by providing true and complete information supported by valid evidence, whereas tax auditors are legally bound to objectively consider all such arguments before issuing an SKP. The failure to reach an agreement does not constitute administrative non-compliance, but rather a legitimate legal dialectic arising from differences in legal interpretation or factual evaluation. Therefore, the lack of an agreement at the SPHP stage must be resolved through the optimization of mechanisms that safeguard procedural justice, such as strengthening the role of the Audit Quality Assurance Team, in order to achieve fair legal certainty.

Keywords: Legal Responsibility, Notice of Tax Audit Result (SPHP), Due Process of Law, Procedural Justice.

INTRODUCTION

Taxes constitute the primary source of state revenue, serving a strategic function in financing government operations, national development, and public services as the realization of state objectives mandated in the Preamble to the 1945 Constitution of the Republic of Indonesia. Within a welfare state, taxes are no longer viewed merely as a fiscal instrument to collect state revenue (*budgetair* function), but also as a regulatory instrument (*regulerend* function) utilized by the state to achieve social justice, economic equality, and public welfare. Consequently, the legal relationship between the state as the tax collector and the Taxpayer as the subject burdened with tax obligations cannot be positioned as a unilateral relationship of power. Rather, it must be constructed based on the principles of a constitutional state (*rechtsstaat*) that upholds the supremacy of law, legal certainty, justice, the protection of human rights, and due process of law.

The conception of a constitutional state, as posited by Friedrich Julius Stahl, places the protection of human rights, the separation of powers, government based on statutory laws, and an independent judiciary as the fundamental elements of a *rechtsstaat*. In a similar vein, A.V. Dicey advanced the concept of the rule of law, emphasizing that every government action must submit to the law, must not be exercised arbitrarily (absence of arbitrary power), and must provide equal protection to every citizen (equality before the law). In the context of tax law, these principles demand that the state's authority to levy taxes must not only be grounded in formal legality but must also be executed through a fair procedure as a manifestation of the principle of due process of law.

The principle of due process of law is inherently a guarantee that any state action with the potential to restrict or affect the rights of citizens must be conducted through a fair, transparent, and accountable procedure, while providing adequate opportunity for the affected party to be heard and to defend their interests. In modern administrative law doctrine, this principle aligns with the maxim *audi alteram partem*, which dictates that anyone facing an adverse decision must first be given the opportunity to present their opinions, objections, or supporting evidence. Philipus M. Hadjon asserts that preventive legal protection is realized by granting citizens the opportunity to lodge objections before the government renders a final decision, whereas repressive legal protection is provided through dispute resolution mechanisms after the decision has been issued. Thus, preventive legal protection holds a paramount position as it functions to forestall the birth of erroneous or detrimental administrative decisions.

This concept is also reflected in the conduct of tax audits. A tax audit is not merely an administrative activity to calculate the amount of tax due; rather, it is an integral part of the enforcement of administrative tax law that directly impinges upon the rights and obligations of the Taxpayer. For this reason, every stage of an audit must be conducted based on the principles of legality, professionalism, objectivity, proportionality, transparency, and accountability. In Roscoe Pound's perspective, law must function as a tool of social engineering—an instrument capable of balancing the state's interest in securing tax revenue with the individual's interest in obtaining protection for their rights. This equilibrium is a prerequisite for the tax system to gain social legitimacy and to foster voluntary tax compliance.

Normatively, the Indonesian taxation system adopts a self-assessment system, as regulated under Law Number 6 of 1983 concerning General Provisions and Tax Procedures, as amended several times, most recently by Law Number 6 of 2023 concerning the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. Under this system, Taxpayers are entrusted to calculate, compute, pay, and report their tax liabilities independently. However, this trust is counterbalanced by the administrative authority vested in the Director General of Taxes to conduct tax audits as an instrument to oversee Taxpayer compliance. A tax audit thus serves as a corrective mechanism for the implementation of the self-assessment system, and consequently, it must be performed under procedures that offer adequate legal protection to both parties.

One of the critical stages in the tax audit process is the delivery of the Notice of Tax Audit Result (*Surat Pemberitahuan Hasil Pemeriksaan* / SPHP). The existence of the SPHP is regulated under Minister of Finance Regulation Number 17/PMK.03/2013, as amended several times, most recently by Minister of Finance Regulation Number 18/PMK.03/2021 concerning the Implementation of the Law on General Provisions and Tax Procedures, as well as the technical regulations of the Director General of Taxes regarding tax audit procedures. The SPHP serves as the formal means for tax auditors to notify the Taxpayer of the provisional audit findings while simultaneously providing the Taxpayer with an opportunity to submit responses, explanations, and supporting evidence prior to the issuance of the Tax Audit Report (*Laporan Hasil Pemeriksaan* / LHP) and the Tax Assessment Notice (*Surat Ketetapan Pajak* / SKP). Thus, the SPHP is essentially a concrete implementation of the *audi alteram partem* principle within administrative tax law.

Conceptually, the mechanism of the SPHP demonstrates that lawmakers recognize the importance of ensuring Taxpayer participation in the formulation of administrative decisions that potentially entail legal consequences. From Lon L. Fuller's perspective, a sound legal system must fulfill the principle of procedural morality, meaning that the law must not only be substantively correct but must also be applied through fair procedures. Similarly, according to John Rawls, procedural justice is an absolute prerequisite for the attainment of substantive justice. Therefore, the SPHP should be understood not merely as an administrative formality, but as a mechanism of preventive legal protection that allows for corrections to the audit findings before the state exercises its authority to issue an SKP.

Nevertheless, in tax audit practices, situations frequently arise where the final closing conference fails to yield an agreement between the tax auditor and the Taxpayer. Despite the Taxpayer having submitted rebuttals, legal arguments, and supporting evidence, the auditor may still uphold the fiscal corrections, which are subsequently documented in the Tax Audit Report and form the basis for issuing a Tax Assessment Notice. In such circumstances, the lack of an agreement at the SPHP stage does not halt the audit process; instead, it propels the Taxpayer into successive stages of dispute resolution via objection, appeal, and ultimately, judicial review.

A legal issue arises because the prevailing statutory laws and regulations do not explicitly govern the legal consequences resulting from the failure to reach an agreement at the SPHP stage. The existing regulations focus heavily on the Taxpayer's procedural obligation to respond to the SPHP, yet they fail to provide normative parameters regarding the extent to which such responses must be considered by the auditor before finalizing the audit results. In other words, there is an absence of a norm explicitly determining whether the Taxpayer's opinion constitutes a mere administrative formality or carries binding legal weight in the formulation of administrative tax decisions. This regulatory vacuum potentially triggers an imbalance in the legal standing between the *fiscus* and the Taxpayer, as auditors wield dominant authority in determining audit outcomes, whereas the Taxpayer's avenue for participation is left without a guarantee that their arguments and evidence will be objectively considered.

From the perspective of Philipus M. Hadjon's theory of legal protection, this condition signifies a potential weakening of the preventive legal protection function. If the SPHP is viewed merely as an administrative step to be checked off before the issuance of an SKP without exerting any real influence on the substance of the audit findings, then the underlying purpose of the SPHP as an instrument for dialogue and correction becomes meaningless. Consequently, legal protection can only be sought after the SKP has been issued through the mechanisms of objection, appeal, and judicial review, which are inherently forms of repressive legal protection. This shift carries implications for rising compliance costs, an increased burden on tax dispute resolution channels, and a decline in the efficacy of dispute resolution at the administrative level.

On the other hand, from the perspective of due process of law, this situation raises fundamental questions as to whether the SPHP mechanism truly satisfies the principles of a fair hearing, equality of arms, and a reasoned decision. If the Taxpayer's response bears no tangible legal consequence on the audit results, the SPHP process is at risk of degenerating into a mere procedural formality, failing to safeguard the Taxpayer's rights effectively. This directly contradicts the developments in modern administrative law, which position citizen participation as an essential element in executive decision-making.

Based on the foregoing context, the research questions of this study are formulated as follows: 1. Does the regulation concerning the Notice of Tax Audit Result (SPHP) in tax audits align with the principle of due process of law? 2. What is the legal responsibility of the Taxpayer when an agreement is not reached at the Notice of Tax Audit Result (SPHP) stage based on the principle of due process of law?

METHOD

This study constitutes a normative juridical legal research (*legal research*), which critically examines black-letter law and written legal norms across various dimensions, including legal theory, philosophy, comparative law, statutory structures, composition, and a comprehensive, clause-by-clause analysis of the prevailing tax legislation. To address the formulated legal issues, a statutory approach (*statute approach*) is employed by meticulously analyzing the Law on General Provisions and Tax Procedures (UU KUP), the Value-Added Tax Law (UU PPN), the Law on Harmonization of Tax Regulations (UU HPP), and their relevant subsidiary Presidential or Ministerial Regulations. This is complemented by a conceptual approach (*conceptual approach*) to dissect and contextualize the fundamental legal doctrines of liability and fiscal administrative sanctions. The gathered legal materials are analyzed through a qualitative-descriptive method, utilizing deductive legal reasoning to derive logical, coherent, and objective conclusions regarding the legal issues under investigation.

RESULT AND DISCUSSION

The Essence of the Notice of Tax Audit Result (SPHP) Regulation in Realizing the Principle of Due Process of Law within Tax Audits

The Notice of Tax Audit Result (*Surat Pemberitahuan Hasil Pemeriksaan* / SPHP) occupies a highly fundamental position within Indonesian tax procedural law. The SPHP is not merely an administrative document or a procedural form issued by tax auditors at the conclusion of a compliance testing process. Essentially, the regulation of the SPHP is the embodiment of the principle of due process of law—a core pillar of a constitutional state (*rechtsstaat*) which guarantees that any state action enforcing public obligations and restricting the rights of citizens by state authorities must be conducted through procedures that are fair, transparent, objective, and accountable.

When analyzed normatively based on the structure of Indonesian positive law, the essence of the SPHP is rooted in Article 31 paragraph (1) of Law Number 6 of 1983 concerning General Provisions and Tax Procedures (*Undang-Undang Ketentuan Umum dan Tata Cara Perpajakan* / UU KUP), as amended several times, most recently by Law Number 7 of 2021 concerning the Harmonization of Tax Regulations (*Undang-Undang Harmonisasi Peraturan Perpajakan* / UU HPP), which dictates that tax audit procedures shall be regulated by or based on a Minister of Finance Regulation. These technical provisions are rigidly elaborated in the Minister of Finance Regulation concerning Tax Audit Procedures, which obligates tax auditors to deliver the SPHP, accompanied by a list of audit findings outlining in detail the legal basis and mathematical calculations underlying the fiscal corrections made.

By *ratio legis*, the obligation to deliver the SPHP was established by lawmakers not for the interest of the fiscal bureaucracy, but rather as an instrument of preventive legal protection for taxpayers against the potential abuse of power (*abuse of power*) by tax authorities. Taxes are inherently coercive and unilateral. Consequently, the law balances this nature by creating the SPHP as a means to fulfill the constitutional right of citizens to a fair hearing (*right to be heard* or *audi alteram partem*). The foundational *ratio legis* of the SPHP is to provide a proper opportunity for the taxpayer to comprehend fully, clearly, and transparently all findings, evidence, and legal arguments utilized by tax auditors before a concrete legal product establishing a new tax debt liability (such as a Tax Assessment Notice / *Surat Ketetapan Pajak* / SKP) is issued. Through the SPHP, the taxpayer is no longer positioned as a passive object of an audit, but rather as an equal legal subject granted the right to submit a written response and to attend the Final Closing Conference (*Pembahasan Akhir Hasil Pemeriksaan*).

From a theoretical perspective, scholars of administrative law and tax law place the substance of the SPHP within the framework of reviewing the validity of governmental actions. Philipus M. Hadjon, in his theory of preventive legal protection, emphasizes that citizens must be afforded a space to submit objections or input before an administrative decision is signed, in order to prevent immaterial or material losses that would be difficult to remedy in the future. In this context, the SPHP functions as a form of such preventive legal protection. If a tax audit is conceptualized as a micro-administrative judicial process, the SPHP acts akin to an indictment or an initial audit summary report.

In alignment with this view, the legendary tax law scholar Rochmat Soemitro consistently reminded that tax collection must be grounded in substantive justice (*fair taxation*), not merely formal justice. This substantive justice can only be attained if the accuracy of the material tax issues within the SPHP is tested jointly with the taxpayer through an objective rebuttal mechanism. Without the delivery of the SPHP and a bona fide closing conference process, a unilateral tax assessment degenerates into an arbitrary act (*willekeur*).

Furthermore, the essence of the SPHP in realizing the principle of due process of law is reflected in its formal legal implications on the validity of the resulting tax assessment product. Based on jurisprudence and the consistent rulings of the Tax Court and the Supreme Court, a tax audit that generates a Tax Assessment Notice (SKP) without being preceded by the delivery of an SPHP, or without granting a proper right to a closing conference to the taxpayer, is declared absolutely procedurally flawed (*formele gebreken*). This procedural defect carries the legal consequence of rendering the tax assessment null and void by law (*nietig* / *null and void*), as accommodated under the lawsuit pathway of Article 36 paragraph (1) letter d of the UU KUP. The courts view the circumvention of the SPHP not merely as a minor administrative infraction, but as a grave violation of the fundamental principle of due process of law because it deprives the taxpayer of their defensive rights.

Thus, the essence of the SPHP regulation is to serve as a bridge of procedural justice that transforms a tax audit from a process of unilateral state revenue coercion into an accountable space for legal dialectics, where material fiscal truths are tested against objective legal parameters for the sake of upholding justice for taxpayers.

Legal Responsibility of Taxpayers Upon the Absence of Agreement at the Notice of Tax Audit Result (SPHP) Stage Based on the Principle of Due Process of Law

The legal responsibility of a Taxpayer upon the absence of an agreement at the Notice of Tax Audit Result (*Surat Pemberitahuan Hasil Pemeriksaan* / SPHP) stage cannot be construed merely as an administrative obligation to accept the tax auditor's adjustments or to pursue dispute resolution through objection and appeal mechanisms. Within the perspective of a constitutional state (*rechtsstaat*), such legal responsibility must be interpreted as a juridical consequence arising from the legal relationship between the state, as the custodian of tax collection authority, and the Taxpayer, as a legal subject possessing constitutionally guaranteed rights and obligations. This relationship is not subordinative—positioning the state as an invariably correct entity—but is a public legal relationship that must be administered based on the principles of legality, legal certainty, justice, proportionality, and the protection of human rights. Consequently, every administrative tax action, including tax audits and the discussion of audit results through the SPHP, must reflect the principle of due process of law; namely, a procedure that is fair, transparent, objective, and affords an equitable opportunity for the Taxpayer to defend their rights before the state issues a decision that entails legal consequences.

The constitutional foundation regarding the Taxpayer's legal responsibility can be traced from Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (*Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* / UUD NRI 1945), which affirms that Indonesia is a constitutional state. Consequently, every governmental action, including administrative tax actions, must be executed under the law (*government under the law*) and must not be predicated upon arbitrary power (*arbitrary power*). Furthermore, Article 23A of the UUD NRI 1945 stipulates that taxes and other levies of a coercive nature for state purposes shall be regulated by law. This provision implies that tax collection only derives legitimacy when executed based on clear statutory law, encompassing the tax object, tax subject, collection procedures, and dispute resolution mechanisms. On the other hand, Article 28D paragraph (1) of the UUD NRI 1945 guarantees that everyone has the right to recognition, guarantees, protection, and fair legal certainty, as well as equal treatment before the law. This norm serves as the constitutional baseline that the Taxpayer is not merely burdened with fulfilling tax obligations, but is also entitled to a fair administrative procedure and an effective opportunity to defend their interests prior to the issuance of an administrative decision in the form of a Tax Assessment Notice (*Surat Ketetapan Pajak* / SKP).

Within the perspective of the theory of the constitutional state, A.V. Dicey positions the rule of law as a fundamental principle requiring the absence of arbitrary power from the government, equality before the law, and the supremacy of law. This concept was subsequently developed in modern administrative law through the principle of due process of law, which guarantees that any governmental action impacting an individual's rights must be conducted through a fair procedure. Philipus M. Hadjon explains that legal protection for citizens comprises preventive legal protection and repressive legal protection. Preventive legal protection is realized by granting citizens the opportunity to express their opinions before the government renders a decision, whereas repressive protection is provided through dispute resolution mechanisms after a decision has been issued. In the context of a tax audit, the SPHP is a manifestation of preventive legal protection because it provides the Taxpayer with an opportunity to offer explanations, submit evidence, and rebut the auditor's findings before the compilation of the Tax Audit Report (*Laporan Hasil Pemeriksaan* / LHP) and the issuance of the SKP.

Normatively, the Indonesian taxation system is structured under Law Number 6 of 1983 concerning General Provisions and Tax Procedures (*Undang-Undang Ketentuan Umum dan Tata Cara Perpajakan* / UU KUP), which was subsequently amended by Law Number 28 of 2007 and most recently refined through Law Number 7 of 2021 concerning the Harmonization of Tax Regulations (*Undang-Undang Harmonisasi Peraturan Perpajakan* / UU HPP). These amendments indicate a dynamic shift in the political orientation of tax law toward enhancing voluntary compliance through the strengthening of the self-assessment system. Under this system, the state entrusts the Taxpayer to independently calculate, compute, pay, and report their tax liabilities, as reflected in Article 3 of the UU KUP. However, this trust is counterbalanced by the administrative authority vested in the Director General of Taxes to conduct audits, as regulated under Article 29 of the UU KUP. Thus, a tax audit is an instrument to oversee the execution of the self-assessment system, rather than an instrument to replace it with an official assessment system. For this reason, audit authority must be exercised proportionally and must not abrogate the procedural rights of the Taxpayer.

During the audit process, a pivotal stage is the delivery of the Notice of Tax Audit Result (SPHP). Although the term SPHP is more elaborately regulated in implementing regulations, its existence is an embodiment of the Taxpayer's right to know the provisional audit findings and to submit responses to the fiscal corrections made by the auditor. Substantively, this mechanism is an implementation of the *audi alteram partem* maxim, which dictates that any party facing a decision must be granted an opportunity to be heard. This maxim is a universal principle in administrative law and constitutes an inseparable component of due process of law. According to Lon L. Fuller, a sound legal system is determined not only by the substance of its norms (*substantive justice*) but also by its procedural morality (*procedural morality*). This means that even a substantively correct decision can lose its legitimacy if it is obtained through an unfair procedure. Therefore, the existence of the SPHP must not be viewed as a mere administrative formality, but as an instrument that genuinely provides a space for dialogue between the auditor and the Taxpayer.

Nevertheless, Indonesian positive law has not provided explicit regulation regarding the legal consequences in the event that an agreement is not reached at the SPHP stage. While statutory laws and regulations dictate that the results of the discussion shall be documented in the Tax Audit Report (LHP)—which subsequently serves as the basis for issuing the Tax Assessment Notice (SKP)—they do not explicitly govern the extent to which the auditor is obligated to consider the arguments or evidence presented by the Taxpayer. This statutory vacuum creates a juridical issue as it opens opportunities for practices that reduce the SPHP to a mere procedural formality without significant influence on the substance of the audit outcomes. If this condition is left unaddressed, the preventive legal protection intended through the SPHP loses its essence, and Taxpayers are forced to seek legal protection through the mechanisms of objection, appeal at the Tax Court, or even judicial review, all of which require substantial time, costs, and resources.

This condition must also be analyzed in connection with Law Number 8 of 1983 concerning Value Added Tax on Goods and Services and Sales Tax on Luxury Goods, as most recently amended by Law Number 42 of 2009, particularly regarding the mechanism for crediting Input Tax, the issuance of tax invoices, and fiscal corrections, which frequently become the objects of audits. It is not uncommon for disagreements at the SPHP stage to arise from differing interpretations of the provisions regarding creditable Input Tax, the validity of tax invoices, or the fulfillment of administrative requirements. In practice, auditors frequently emphasize the fulfillment of formal criteria, whereas Taxpayers base their arguments on the fulfillment of material criteria. This divergence in approach demonstrates that a tax audit does not merely concern numerical figures, but also involves legal interpretation that must be resolved through procedures that guarantee fairness and an equilibrium in the standing of the parties.

Similarly, Government Regulation Number 55 of 2022 concerning the Adjustment of Regulations in the Field of Income Tax reflects a fiscal policy direction that emphasizes enhancing voluntary compliance through legal certainty, transparency, and the simplification of tax administration. This policy demonstrates that the relationship between the *fiscus* and the Taxpayer is no longer solely based on a coercive approach, but rather on fostering trust-based compliance. Therefore, tax audit procedures, including the SPHP, should be directed toward building effective dialogue and administrative resolution, rather than serving as a mere perfunctory step prior to the issuance of a Tax Assessment Notice.

From the perspective of the theory of legal responsibility, Hans Kelsen explains that legal responsibility (*legal responsibility*) is a normative consequence arising from either a violation or the fulfillment of obligations prescribed by a legal norm. Responsibility is not merely a moral obligation, but a relationship between a norm, a legal subject, and a legal sanction that can be imposed if the norm is breached. Therefore, the legal responsibility of a Taxpayer when an agreement is not reached at the SPHP stage cannot be interpreted as an obligation to accept all of the auditor's corrections. Instead, it constitutes an obligation to remain compliant with the available legal procedures, namely by providing accurate responses to the SPHP, submitting relevant evidence, and utilizing the objection and appeal mechanisms if they remain in disagreement with the audit findings. Conversely, the *fiscus* also bears the legal responsibility to evaluate all evidence and arguments objectively and to provide rational legal reasoning for every upheld correction.

According to John Rawls, procedural justice can only be realized if the procedures utilized are capable of providing equal opportunities for each party to defend their interests. In the context of the SPHP, such an opportunity is insufficient if manifested solely through granting time to submit a response; it must also be materialized in the form of a legal obligation for the auditor to genuinely consider all evidence and arguments. If the outcome of the SPHP discussion has been predetermined, or if the Taxpayer's response exerts no influence on the substance of the decision, the mechanism loses its character as a fair hearing and degenerates into an administrative formality. This condition contradicts the principle of due process of law, because a fair procedure requires not only the opportunity to speak (*right to be heard*) but also the obligation of the decision-maker to genuinely hear and consider the opinions of the interested party.

Based on this comprehensive analysis, this study argues that the legal responsibility of the Taxpayer for the failure to reach an agreement at the SPHP stage must not be constructed unilaterally as an administrative obligation to accept the consequences of the issuance of a Tax Assessment Notice or to pursue further legal remedies. This legal responsibility must be understood as a reciprocal legal responsibility (*reciprocal legal responsibility*); that is, the Taxpayer is obligated to act in good faith by providing true and complete information supported by valid evidence, whereas the tax auditor is obligated to objectively consider all arguments and evidence presented before finalizing the audit results. Thus, the absence of an agreement at the SPHP stage does not automatically indicate that the Taxpayer has failed to meet their legal responsibility, but merely reflects a difference in legal interpretation or factual evaluation that must be resolved through mechanisms that safeguard procedural justice.

Hitherto, the paradigm of the Taxpayer's legal responsibility at the SPHP stage has remained dominated by a positivistic approach that views a tax audit solely as an administrative instrument to test Taxpayer compliance against tax provisions. Under such a construction, when the discussion of audit results fails to achieve an agreement between the tax auditor and the Taxpayer, the legal consequences appear to be borne exclusively by the Taxpayer. This disagreement is automatically positioned as the basis for the auditor to proceed with the audit process by drafting the Tax Audit Report (LHP) and issuing the Tax Assessment Notice (SKP), while the Taxpayer is directed to accept these administrative consequences or pursue the mechanisms of objection, appeal, and judicial review. This paradigm demonstrates that administrative tax law still places the relationship between the *fiscus* and the Taxpayer within a vertical and subordinative framework, where state authority is more dominant than the protection of the Taxpayer's procedural rights. Yet, as a constitutional state affirmed in Article 1 paragraph (3) of the UUD NRI 1945, any exercise of governmental authority must submit to the law, uphold the principles of justice, and prevent any arbitrary exercise of power (*arbitrary exercise of power*).

This unilateral construction is inherently not fully aligned with the developments in modern administrative law, which positions the relationship between the government and citizens as a legal relationship founded upon an equilibrium of rights and obligations. Philipus M. Hadjon explains that legal protection within a constitutional state is realized not only through dispute resolution mechanisms after a decision has been issued (*repressive*), but also through preventive legal protection that grants citizens the opportunity to submit objections, arguments, and evidence before an administrative decision is finalized. Therefore, the existence of the SPHP should be understood as an instrument of preventive legal protection that facilitates a legal dialogue between the auditor and the Taxpayer, rather than a mere administrative formality to be fulfilled prior to the issuance of an SKP. This view is in alignment with Article 28D paragraph (1) of the UUD NRI 1945, which guarantees everyone's right to recognition, guarantees, protection, and fair legal certainty. The right to fair legal certainty pertains not only to the substance of a decision but also to the procedure through which the decision is formulated. Accordingly, tax audit procedures must reflect the principle of due process of law, namely a procedure that guarantees participation, objectivity, openness, and an equilibrium in the standing of the parties.

In the context of tax law, this legal relationship must be understood through the characteristics of the self-assessment system adopted by Law Number 6 of 1983 concerning General Provisions and Tax Procedures, as most recently amended by Law Number 7 of 2021 concerning the Harmonization of Tax Regulations. The self-assessment system entrusts the Taxpayer to independently calculate, compute, pay, and report their tax liabilities, while the state exercises an oversight function through tax audits as regulated in Article 29 of the UU KUP. Since an audit constitutes a form of supervision over the execution of the self-assessment system, the auditor's authority must not be construed as an absolute power that places the entirety of the audit outcomes within the unilateral discretion of the tax authority. On the contrary, such authority must be exercised within the framework of the principles of legality, proportionality, and accountability, thereby preserving the essence of self-assessment as a system anchored in trust-based compliance. Consequently, the SPHP is not a legitimizing instrument to justify predetermined fiscal corrections, but rather a mutual corrective mechanism against potential errors committed by either the Taxpayer or the tax auditor.

Departing from the weaknesses of the current paradigm, this study offers a conceptual deconstruction through the doctrine of reciprocal legal responsibility. This doctrine rests on the premise that the legal relationship in a tax audit must not be positioned as a one-way relationship that solely burdens the Taxpayer. Instead, it must be viewed as a public legal relationship that engenders reciprocal procedural responsibilities between the Taxpayer and the tax authority. In the theory of legal responsibility, Hans Kelsen explains that legal responsibility is a normative consequence arising from the existence of a norm that regulates the rights, obligations, and legal consequences for every legal subject. Therefore, if a legal norm imposes an obligation upon the Taxpayer to provide true data, documents, and explanations during an audit, the same norm simultaneously and implicitly generates an obligation for the auditor to objectively utilize all such data and explanations in formulating administrative decisions. In other words, legal responsibility in a tax audit rests not only on the party being audited but also on the party exercising governmental authority.

Within this framework, the Taxpayer's procedural responsibility is materialized through the obligation to act in good faith (*bona fides*), namely by submitting true and complete data, documents, books, and explanations in accordance with statutory laws and regulations. This obligation represents the execution of the compliance principle, which serves as the foundation of the self-assessment system. Nevertheless, the fulfillment of this obligation cannot be separated from the tax auditor's procedural responsibility to conduct the audit professionally, objectively, and impartially. It is insufficient for auditors to merely receive or read the Taxpayer's response as an administrative formality; rather, they must perform an in-depth examination of every piece of evidence, argument, and legal basis presented. This obligation embodies the *audi alteram partem* maxim, which dictates the duty to genuinely hear the other party before rendering a decision that potentially impairs their rights. From Lon L. Fuller's perspective, the procedural morality of a legal system lies not only in the availability of an opportunity to be heard but also in the decision-maker's commitment to rationally consider all information gathered during the process.

Furthermore, this study finds that the primary weakness in the SPHP regulation does not lie in the absence of a response mechanism, but rather in the lack of a norm explicitly obligating auditors to provide a reasoned consideration for every argument and piece of evidence submitted by the Taxpayer. Consequently, the SPHP is prone to losing its function as an instrument of preventive legal protection and shifting into a formalistic administrative step. Therefore, the ideal concept of the Taxpayer's legal responsibility must be counterbalanced by the tax authority's legal responsibility to conduct audits in a transparent, accountable, objective, and argumentative manner. The legal relationship between the *fiscus* and the Taxpayer must be positioned as one founded upon the principle of equality of arms, rather than a subordinative relationship that grants full dominance to the tax apparatus.

Ultimately, the ideal construction proposed by this study is that the principle of due process of law in tax audits must be interpreted as a principle that engenders reciprocal legal responsibility between the Taxpayer and the tax authority. The Taxpayer is responsible for fulfilling their material and procedural obligations honestly, cooperatively, and based on evidence, whereas the tax authority is responsible for ensuring that any fiscal correction can only be upheld if it has undergone an open and objective discussion process, accompanied by adequate legal reasoning, while respecting the Taxpayer's right to be heard. This construction not only strengthens legal protection for Taxpayers but also enhances the legitimacy of tax audits, bolsters public trust in tax administration, and encourages the realization of voluntary tax compliance as the primary goal of modern taxation systems.

CONCLUSION

1. The regulation concerning the Notice of Tax Audit Result (SPHP) has fundamentally accommodated the principle of due process of law by providing the Taxpayer with the opportunity to know the audit findings, submit responses, and present data, explanations, and evidence prior to the issuance of the Tax Audit Report (LHP) and the Tax Assessment Notice (SKP). This arrangement reflects the implementation of the *audi alteram partem* maxim as a form of preventive legal protection within tax audits. Normatively, however, the SPHP regulation does not yet fully satisfy the principle of due process of law because it lacks provisions explicitly obligating tax auditors to evaluate, assess, and provide a reasoned consideration for every objection, argument, and piece of evidence submitted by the Taxpayer. Consequently, the SPHP remains at risk of being practiced as a mere administrative formality prior to the issuance of an SKP, thereby failing to fully guarantee procedural justice, an equilibrium in the standing of the parties, and effective legal protection as guaranteed under Article 1 paragraph (3), Article 23A, and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia.
2. The legal responsibility of the Taxpayer when an agreement is not reached at the SPHP stage cannot be interpreted as an obligation to acquiesce to the tax auditor's corrections or as a form of non-compliance with tax provisions. Based on the principle of due process of law, the Taxpayer's legal responsibility is manifested through the obligation to maintain good faith by submitting responses, legal arguments, and evidence that are true, complete, and accountable, as well as utilizing available legal mechanisms should they remain in disagreement with the audit findings. On the other hand, this study finds that this responsibility must be reconstructed as a reciprocal legal responsibility. Consequently, tax auditors are also legally obligated to objectively evaluate all of the Taxpayer's evidence and arguments and to provide adequate legal reasoning before finalizing the audit results. Thus, the failure to reach an agreement at the SPHP stage constitutes a legitimate legal

dialectic within a constitutional state rather than administrative non-compliance; procedural justice and legal protection can only be achieved if legal responsibility is borne equitably by both the Taxpayer and the tax authority. This constitutes the new legal construction offered by this study to strengthen the principle of due process of law within the tax audit system in Indonesia.

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