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Prohibition of Taxpayer Recording During SP2DK Proceedings: Proportionality of Tax Confidentiality and Procedural Fairness

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Abstract: This study examines the proportionality of the prohibition on taxpayer recording during the Request for Explanation of Data and/or Information (SP2DK) process under Directorate General of Taxes Circular Letter No. SE-8/PJ/2026. In video-conference discussions, the Tax Office records the session while taxpayers and their representatives are prohibited from recording. Using normative legal research with statutory, case, and conceptual approaches, the study analyses tax secrecy, administrative-law legality, personal-data protection, access to information, and primary documents from Constitutional Court Case No. 211/PUU-XXIII/2025. The study finds that confidentiality and data protection are legitimate aims, but exclusive governmental control over the primary record without adequate guarantees of integrity, access, and verification may generate administrative record asymmetry and later evidentiary asymmetry. As a de lege ferenda proposal, the article develops a model of complete and continuous official recording, precise time-stamping, integrity safeguards, controlled Coretax access, and materiality-based procedural consequences. This model separates access from publication and seeks to preserve tax confidentiality while ensuring meaningful procedural fairness and verifiable administrative accountability.

Keywords: Administrative Record Asymmetry, Procedural Fairness, Proportionality, Recording, Tax Secrecy

INTRODUCTION

The Indonesian taxation system is based on the self-assessment principle, under which taxpayers are entrusted with the responsibility to calculate, determine, pay, and report their own tax obligations. Within the tax supervision framework, the Directorate General of Taxes (DGT) utilizes the Request for Explanation of Data and/or Information (Surat Permintaan Penjelasan atas Data dan/atau Keterangan/SP2DK) as an instrument to request clarification regarding data and/or information that requires further verification. SP2DK is not merely an administrative notification. During the response and discussion stage, taxpayers may submit

supporting documents, explain transactions, challenge the accuracy of data, conduct reconciliation processes, and provide legal arguments. Since statements made during such discussions may influence the conclusions of tax supervision, accurate documentation constitutes an essential element of procedural protection (Muzaki et al., 2020; R. D. U. Putri & Winarningsih, 2025; Ridhawati, 2023; Suryani, 2025).

The issue of documentation has gained a new dimension following the enactment of the Director General of Taxes Circular Letter Number SE-8/PJ/2026. In the delivery of explanations and discussions regarding SP2DK through video conferences, the Tax Office (Kantor Pelayanan Pajak/KPP) conducts recording, while taxpayers, their representatives, attorneys, or employees are prohibited from recording, storing, distributing, and/or broadcasting audio, images, videos, or similar forms of documentation. If taxpayers refuse to comply with such prohibition, the video conference discussion will not proceed. This arrangement places the primary documentation of the administrative process under the exclusive control of the tax authority. At the same time, the Circular Letter does not explicitly regulate taxpayers' rights to access recordings, retention standards, verification mechanisms for recording integrity, or remedial procedures when recordings are unavailable (Pajak, 2026).

This study does not assume that every restriction on recording is automatically inconsistent with legal principles. Tax confidentiality, personal data protection, third-party information protection, and trade secrets represent legitimate legal interests. The fundamental question is whether such restrictions remain proportionate when taxpayers are not provided with adequate alternative mechanisms to verify the course of administrative proceedings. Therefore, recording, storage, access, use, distribution, and publication must be distinguished as separate legal concepts. Confidentiality may restrict distribution or publication without necessarily eliminating all possibilities for taxpayers to access documentation relating to their own rights and obligations.

The constitutional dimension of this limitation must be examined through the relationship between several rights and obligations rather than through a single constitutional provision. Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia guarantees recognition, protection, and fair legal certainty; Article 28F guarantees the right to communicate and obtain, possess, store, process, and convey information; while Article 28J provides a basis for restrictions to respect the rights of others and satisfy the requirements of justice within a democratic society. On the other hand, privacy interests also possess constitutional protection and are strengthened through the Personal Data Protection Law.

Accordingly, this study does not interpret Article 28F as establishing an unlimited right to record. Instead, it examines whether restrictions on documentation mechanisms continue to provide procedural conditions that enable taxpayers to obtain certainty regarding administrative processes affecting their legal position. This approach is important because the protection of information rights should not eliminate privacy protection, while privacy protection should not be used as a basis to completely prevent verification mechanisms against administrative actions involving the data subject themselves. By placing Articles 28D, 28F, and 28J within a proportionality framework, this study distinguishes between legitimate protection objectives and potentially excessive restrictive measures.

The distinction between access and publication also receives analytical support from Law Number 14 of 2008 concerning Public Information Disclosure (Public Information Disclosure Law). Article 2 paragraph (2) stipulates that exempt information is subject to strict and limited application, while Article 2 paragraph (4) requires consequence testing and balancing of interests before information is classified as confidential. Furthermore, Article 19 requires Information and Documentation Management Officers to conduct careful consequence testing before determining certain information as exempt. This study does not argue that SP2DK recordings automatically constitute public information that must be

disclosed to everyone. Instead, the Public Information Disclosure Law is used as a limited normative reference demonstrating that Indonesian law recognizes controlled access mechanisms, justified exemptions, and consequence testing. These principles are relevant in distinguishing taxpayer access to their own administrative process from public disclosure to society at large (Indonesia, 2008; Z. M. Putri et al., 2022).

The constitutional relevance of this issue can also be observed in Constitutional Court Case Number 211/PUU-XXIII/2025. In the initial petition, the applicant examined Article 34 paragraphs (1) and (2) of the General Provisions and Tax Procedures Law (UU KUP) and explicitly included SP2DK clarification, field examinations, preliminary evidence examinations, Final Discussion of Audit Results (Pembahasan Akhir Hasil Pemeriksaan/PAHP), objections, and other official tax meetings within the scope of recording issues. During the amended petition, the applicant narrowed the object of review to the phrases "every official," "other parties," and "everything" contained in Article 34 paragraph (1), while the prohibition on recording was no longer positioned as an independent petition but rather as a consequence of an interpretation considered overly broad by the applicant. Therefore, the case is relevant to SP2DK issues but should not be simplified merely as an "SP2DK case."

Previous studies concerning SP2DK have primarily focused on supervision effectiveness, taxpayer responses, the role of tax consultants, communication between tax authorities and taxpayers, and strategies for responding to tax clarification requests. Such studies provide important explanations regarding the administrative context of SP2DK; however, they have not specifically examined the relationship between restrictions on independent documentation, exclusive control of official recordings by authorities, taxpayers' access rights, and the consequences when primary records are unavailable.

Recent legal studies provide relevant but fragmented foundations. Research on proportionality in the Indonesian legal context emphasizes the importance of structured proportionality analysis, particularly regarding legitimate objectives, suitability, necessity, and balancing. Studies on tax administration in other jurisdictions demonstrate that the distribution of evidentiary burdens and the exercise of fiscal authority must remain subject to procedural fairness, legality, and corrective mechanisms. Meanwhile, research on personal data protection, tax information disclosure, electronic evidence, administrative circular letters, and digital tax governance highlights the importance of data security, evidentiary integrity, authority sources, and auditable administrative systems (Andrian & Rauta, 2026; Bruce, 2024; Budiartha et al., 2023; Casanova, 2022; de Lange & Tax, 2022; Fauzy & Shandy, 2022; Hanik, 2024; Lailam & Anggia, 2023; Nadeak & Devano, 2024; Z. M. Putri et al., 2022; Rivani & Cheisviyanny, 2023; Samonova, 2022; Taqwa, 2025).

Based on this research gap, this article introduces the concept of administrative record asymmetry as an analytical framework developed in this study, rather than as an established legal doctrine. This concept describes a situation in which an authority controls the primary documentation of an administrative interaction; the affected party does not possess an equivalent independent record; access and verification of official records depend on mechanisms controlled by the authority; and such imbalance may develop into evidentiary asymmetry when disputes arise regarding the accuracy or completeness of administrative processes.

This framework is based on the principle of procedural fairness, which requires meaningful opportunities for participation, the right to be heard, knowledge of the basis for governmental action, and the ability to examine administrative processes affecting an individual's legal position (Craig, 2021; Galligan, 1997). The novelty of this research operates at two analytical levels. First, this study examines the ius constitutum concerning the legal basis, objectives, source of authority, and proportionality of recording restrictions, including the position of SE-8/PJ/2026 as an administrative circular and the constitutional arguments

developed in Constitutional Court Case Number 211/PUU-XXIII/2025. Second, this study formulates an ius constituendum in the form of a complete, verifiable, controlled-access official recording system integrated with Coretax administration and accompanied by procedural consequences when documentation obligations are not fulfilled. Therefore, this research does not reduce the issue into a binary choice between recording freedom and tax confidentiality. Instead, it seeks to formulate a procedural design capable of protecting both confidentiality interests and taxpayers' rights to fair administrative processes.

METHODS

This study employs normative legal research or doctrinal legal research, which places legal norms, principles, doctrines, and legal arguments as the primary objects of analysis. Normative legal research is conducted to identify legal issues, examine the authority and relevance of legal materials, construct legal reasoning, and provide prescriptions regarding the appropriate legal framework for the issues under investigation. Therefore, this research does not apply validity and reliability measurements commonly used in empirical studies; instead, it emphasizes the authority of legal sources, coherence of legal reasoning, consistency of interpretation, and the relationship between analyzed legal norms and the legal prescriptions proposed (Marzuki, 2016; Muhaimin, 2020).

The approaches used in this research consist of the statutory approach, case approach, and conceptual approach. The statutory approach is applied to examine the 1945 Constitution of the Republic of Indonesia, the General Provisions and Tax Procedures Law (UU KUP), the Administrative Government Law, the Public Information Disclosure Law, Law Number 27 of 2022 concerning Personal Data Protection (Personal Data Protection Law), the Law on the Formation of Legislation, Government Regulation Number 50 of 2022, Minister of Finance Regulation Number 111 of 2025, and the Director General of Taxes Circular Letter Number SE-8/PJ/2026.

The case approach is used to analyze the initial petition, amended petition, Government's statement, expert statements, and hearing records related to Constitutional Court Case Number 211/PUU-XXIII/2025. The conceptual approach is applied to examine proportionality, procedural fairness, the right to be heard, legality of administrative actions, administrative policy regulations (*beleidsregel*), electronic evidence integrity, and the concept of administrative record asymmetry (Barak & Kalir, 2012; Craig, 2018; Galligan, 1997; Hadjon & Djatmayati, 2002).

The primary legal materials consist of statutory regulations, SE-8/PJ/2026, and official documents issued by the Constitutional Court. This research prioritizes the copy of the petition in Constitutional Court Case Number 211/PUU-XXIII/2025 dated 4 November 2025, as well as the hearing records dated 24 November 2025, 21 January 2026, 29 January 2026, and 11 February 2026 as primary legal sources.

Secondary legal materials include legal research methodology books, administrative law literature, procedural fairness theories, proportionality theory, and recent academic articles concerning taxpayer rights, personal data protection, information disclosure, electronic evidence, administrative circular letters, and digital tax governance. The collected materials are classified based on relevant legal issues, including confidentiality, authority sources, protected interests, access to recordings, documentation integrity, and legal consequences arising from inadequate documentation.

The analytical technique applied in this study consists of grammatical, systematic, and teleological interpretation. Grammatical interpretation is used to examine the subjects, objects, and scope of Article 34 of the General Provisions and Tax Procedures Law and SE-8/PJ/2026. Systematic interpretation is applied by connecting taxation regulations with Article 28D paragraph (1), Article 28F, and Article 28J of the 1945 Constitution of the Republic of

Indonesia; the principle of legality and the General Principles of Good Governance (*Asas-Asas Umum Pemerintahan yang Baik*); Article 2 paragraphs (2) and (4) and Article 19 of the Public Information Disclosure Law; as well as Articles 19, 20, 35, 36, and 39 of the Personal Data Protection Law.

Teleological interpretation is used to evaluate whether the objective of maintaining confidentiality can be achieved through a more balanced regulatory mechanism. The proportionality test in this research follows four stages: legitimate aim, suitability or rational connection, necessity or the availability of less restrictive alternatives, and proportionality stricto sensu (Alfitri et al., 2024; Barak & Kalir, 2012; Indonesia, 2008; Lailam & Anggia, 2023; Taqwa, 2025).

The analysis explicitly distinguishes between ius constitutum and ius constituendum. The provisions of SE-8/PJ/2026 regarding video conference recording in SP2DK discussions are treated as currently applicable administrative policies within their regulatory scope. Meanwhile, the proposed obligations regarding comprehensive recording of substantive discussions, technical recording standards, integration of recording access into taxpayer accounts within the Coretax system, and procedural consequences formulated in this article represent normative proposals (*ius constituendum*) rather than descriptions of existing obligations or available features.

The legal materials used in this research were examined up to 31 August 2026. Until that date, this study does not rely on a final decision in Constitutional Court Case Number 211/PUU-XXIII/2025. The petition documents, statements of the parties, expert opinions, and hearing records are therefore treated as legal arguments and analytical materials rather than as the Constitutional Court's final legal reasoning (*ratio decidendi*).

RESULTS AND DISCUSSION

The normative analysis identifies three main findings. First, SE-8/PJ/2026 establishes an asymmetric documentation configuration in SP2DK discussions conducted through video conferences: the Tax Office (KPP) is authorized to record the meeting, while the Taxpayer and their representatives are prohibited from making independent recordings. At the same time, the Circular Letter does not explicitly regulate the Taxpayer's right to access such recordings, retention standards, mechanisms for verifying recording integrity, or procedures in circumstances where the recording is unavailable.

Second, Article 34 paragraph (1) of the General Taxation Provisions and Procedures Law (UU KUP) primarily imposes confidentiality obligations on tax officials and other parties performing specific functions in taxation. Therefore, the relationship between this provision and a universal prohibition imposed on Taxpayers from recording cannot be presumed without examining the scope of authority and the regulatory objectives underlying such restriction.

Third, the primary documents from Constitutional Court Case Number 211/PUU-XXIII/2025 demonstrate the possibility of a balanced approach: the protection of sensitive information can coexist with official recording mechanisms, consequence assessment, and controlled access arrangements.

Administrative Record Asymmetry as an Analytical Framework

The concept of administrative record asymmetry used in this study derives from the characteristics of modern administrative processes, which increasingly rely on digital records created, stored, and controlled by government institutions. This asymmetry does not merely arise because the government possesses more information. A more specific problem occurs when an interaction capable of affecting an individual's legal position has only one primary record, while the affected party is prohibited from creating independent documentation and is not provided with equivalent access rights or verification mechanisms. Under such

circumstances, the ability to reconstruct chronology, examine the context of statements, and assess the accuracy of administrative records depends entirely on record governance controlled by a single party.

The literature on procedural fairness recognizes the ability to understand and respond to the basis of administrative actions as an essential element of fair procedures. Meanwhile, taxation literature indicates that unequal control over evidentiary materials may raise rule of law concerns when the burden of effectively challenging administrative actions is placed upon parties who do not possess the primary sources of evidence. Administrative record asymmetry must be distinguished from the commonly used concept of information asymmetry in economics. Information asymmetry refers to an imbalance of knowledge or information between parties, whereas administrative record asymmetry focuses on institutional control over primary records generated through administrative processes.

This concept is also not identical to evidentiary asymmetry**.** Evidentiary asymmetry emerges when control over records affects the ability to prove or challenge facts, for example when oral statements are disputed, BAP2DK documents are questioned, or subsequent administrative actions rely on conversations that can only be verified through inaccessible recordings. In the context of electronic evidence, the ability to establish the origin, integrity, and chain of custody of digital documents constitutes an important element of evidentiary reliability. Therefore, access issues cannot be separated from archival integrity issues.

This framework does not imply that every form of government control over administrative records automatically constitutes unlawful conduct. The government may have legitimate reasons to control records, particularly because taxation recordings may contain personal data, trade secrets, and third-party information. However, administrative record asymmetry becomes a legal concern when three conditions occur simultaneously:

1. Individuals are prohibited from creating their own primary records.
2. Authorities control the only recording capable of verifying the administrative process.
3. Adequate guarantees regarding integrity, retention, access, or recovery mechanisms are unavailable if the recording is lost.

In such circumstances, restrictions on independent documentation should be understood as strengthening the state's positive procedural obligations**.** In this study, positive procedural obligations refer to the state's responsibility not only to refrain from harmful actions but also to provide procedural safeguards necessary to ensure that restrictions on rights do not eliminate the Taxpayer's ability to verify administrative processes.

The greater the Taxpayer's dependence on state-controlled records, the stronger the normative justification for requiring the state to maintain such records in an authentic manner, preserve them for a reasonable retention period, ensure auditability, and provide controlled access for purposes of legal defense or administrative correction.

The Position of SE-8/PJ/2026 as a Circular Letter and the Problem of Restricting Taxpayer Rights

The issue concerning SE-8/PJ/2026 does not only concern the substance of the prohibition but also relates to the source and form of authority exercised through the instrument. Law Number 12 of 2011 on the Establishment of Laws and Regulations, as amended, distinguishes the types and hierarchy of regulations and recognizes other forms of regulations established based on the mandate of higher regulations or based on granted authority. A Circular Letter is not included as one of the categories within the hierarchy stipulated under Article 7. This condition does not automatically mean that every Circular Letter has no administrative consequences; however, it indicates that external binding force cannot be determined solely based on the name or form of the instrument.

Within administrative law, Circular Letters are generally understood as administrative instruments or policy rules (beleidsregels) designed to provide guidance, consistency, and uniformity in the implementation of governmental authority. Administrative law literature places policy rules within the boundaries of the rule of law, the principle of legality, authority allocation, and legal protection for citizens. Recent studies concerning Supreme Court Circular Letters (Surat Edaran Mahkamah Agung) also demonstrate that the use of circular letters as beleidsregels may create legal issues when administrative guidelines evolve into substantive restrictions affecting parties outside the internal organization. Although such studies focus on the judicial environment and cannot be directly applied to the Directorate General of Taxes (DGT), they remain relevant as a conceptual comparison regarding the limits of circular letters as administrative instruments (Andrian & Rauta, 2026; Hadjon et al., 2005).

In SE-8/PJ/2026**,** the prohibition on recording is addressed to Taxpayers, their representatives, authorized agents, and employees, while the obligation to record is imposed on the Tax Office (KPP). If non-compliance results in the termination of the video conference discussion, the prohibition produces actual consequences for the utilization of a specific administrative communication channel. Therefore, the analysis must examine whether such restriction has sufficient legal authority based on higher legal norms, particularly the General Taxation Provisions and Procedures Law (UU KUP) and relevant provisions governing tax supervision.

The central question is whether the Circular Letter merely operationalizes restrictions already established by external legal norms or whether it creates a new limitation on rights. The principle of legality and the General Principles of Good Governance **(**Asas-Asas Umum Pemerintahan yang Baik/AUPB**)** require certainty regarding the source of authority as an essential element of procedural fairness. It is also important to distinguish between a prohibition and a sanction. SE-8/PJ/2026 refers to the possibility of sanctions in accordance with applicable laws and regulations. Therefore, academic analysis should not immediately conclude that the Circular Letter establishes a new type of sanction. The relevant questions are: which legal norm serves as the basis for the sanction, whether the elements of the violation are fulfilled, and whether the consequences of the restriction have been formulated with sufficient legal certainty.

If the prohibition on recording is intended to operate as a general obligation binding external parties, its legal construction would be stronger if the scope of prohibition, exceptions, access mechanisms to recordings, and legal consequences were explicitly regulated in legislation possessing external binding force. Meanwhile, the Circular Letter should primarily function as an instrument governing internal implementation procedures (Pajak, 2026).

Constitutional Court Case Number 211/PUU-XXIII/2025 and the Limits of Tax Confidentiality Interpretation

Constitutional Court Case Number 211/PUU-XXIII/2025 provides an important constitutional context because the original object of judicial review concerned Article 34 paragraphs (1) and (2) of the General Taxation Provisions and Procedures Law (UU KUP). The copy of the petition submitted to the Constitutional Court on 4 November 2025 indicates that the Petitioners requested that these provisions should not be interpreted as prohibiting audio-visual recording during stages of tax legal relations, including SP2DK clarification meetings, field examinations, preliminary evidence examinations, final audit result discussions (PAHP), objections, and other official communications.

This primary document directly demonstrates that SP2DK was included within the scope of the issues submitted by the Petitioners, although SP2DK was not the sole object of the case. During the amended petition hearing on 24 November 2025, the Petitioners revised and narrowed the focus of their application. They explained that the object of review was

directed at the phrases “every official,” “other parties,” and “everything” contained in Article 34 paragraph (1), while paragraph (2) was removed from the requested review.

In the same hearing, the Petitioners stated that their experience at KPP Jakarta Tamansari was presented as a concrete factual event and that, according to their argument, Article 34 paragraph (1) had been interpreted as a legal basis for prohibiting recording. This article treats such statements as arguments presented by the Petitioners as recorded in official hearing documents, rather than as final judicial findings. The amendment of the petition is significant. The Petitioners argued that the core issue was no longer merely the right to record as an independent constitutional claim, but rather the excessive interpretation of a provision considered unclear. They requested that the phrase “other parties” should not be interpreted as including Taxpayers and/or their representatives when exercising their own tax rights and obligations.

This shift changes the analytical focus from the freedom to use recording devices toward a more fundamental question concerning who has the right to access information regarding their own tax process and the limits of confidentiality obligations imposed on tax officials. The Government adopted a different position. During the hearing on 21 January 2026, the Government emphasized that the right to obtain information is not absolute and must be interpreted together with privacy protection and Article 28J of the 1945 Constitution of the Republic of Indonesia. The Government also argued that taxation information may contain corporate secrets, such as cost structures and major suppliers, meaning that uncontrolled recording and dissemination could increase the risk of information leakage.

On the other hand, the Petitioners’ expert during the hearing on 29 January 2026 emphasized the function of recordings as evidence when improper actions occur or when different versions of events emerge regarding a meeting. These two positions demonstrate a constitutional conflict that is suitable for examination through the proportionality test**:** confidentiality objectives may constitute legitimate aims, but the design of restrictions must still be assessed from the perspective of necessity and procedural burdens.

The statement of the President/Government’s expert during the hearing on 11 February 2026 offered a relevant middle ground. The expert stated that recording activities within the DGT may be restricted when they expose personal data or sensitive information. However, the expert also proposed a framework whereby the DGT, as a public institution, could be required to record direct examinations of Taxpayers and preserve such recordings as digital archives. Access to these archives could be granted after a consequence assessment, and Taxpayers could be provided with legal mechanisms to review recordings under supervision for accountability purposes, rather than for public dissemination or publication. This explanation strengthens the argument that confidentiality and access rights are not concepts that must necessarily contradict each other.

Reconstruction of Official Recording, Coretax Integration, and Procedural Consequences

The reconstruction proposed in this section constitutes an ius constituendum**.** Currently, SE-8/PJ/2026 regulates recording mechanisms in SP2DK discussions conducted through video conferences. This article does not assume that all face-to-face meetings are currently required to be recorded, nor does it assume that Coretax has already provided video storage facilities and recording access mechanisms. The proposed reconstruction is directed toward expanding the administrative design: if the state maintains the prohibition on independent recording by Taxpayers, every substantive discussion concerning the Request for Explanation of Data and/or Information (Permintaan Penjelasan atas Data dan/atau Keterangan/P2DK)**,** whether conducted online or offline, should ideally be supported by official recordings with equivalent standards of integrity and access. This strengthening is consistent with the direction of digital

tax governance**,** which relies on system integration and Coretax; however, it must also address cybersecurity risks, data integration challenges, and digital system accountability (Rinawati et al., 2026).

The criterion of "substantive" discussion is necessary to prevent excessive recording obligations. Substantive discussions include explanations of transaction facts, calculations, recognition, objections, legal arguments, document discussions, and information that may affect the conclusion of the P2DK process. Communications limited to scheduling, delivery of correspondence, or technical administrative matters do not need to be treated in the same manner. Through this criterion, documentation obligations follow the legal significance and potential consequences of the process rather than merely distinguishing between online and offline channels.

This study proposes five documentation design principles as ius constituendum, rather than as currently applicable norms: Zero Unrecorded Substantive Seconds, No Off-Record Substantive Discussion, No Silent Gap, No Silent Editing, and No Record – No Adverse Use. The first four principles regulate process and archival integrity, while the fifth principle regulates evidentiary consequences when recording obligations are not fulfilled. Minimum standards include continuity from formal commencement until formal closure, accurate date and time recording including hours, minutes, and seconds, identification of participants, and documentation of every interruption. If technical disruptions occur, substantive discussions should be suspended, and any material statements delivered during the interruption period should be repeated after the recording system becomes active again.

Archival integrity requires the separation of master recordings and access copies**.** Master recordings must be preserved as archives that cannot be edited, shortened, merged, or modified after finalization. If third-party data requires protection, an access version may be provided in the form of a redacted copy. However, the master recording must remain preserved, and every redaction must include a timestamp reference and legal justification. Cryptographic hashes, electronic signatures, trusted timestamps, audit trails, and digital chain-of-custody mechanisms may be proposed as technical controls to demonstrate integrity. These mechanisms are not proposed because the Personal Data Protection Law (UU PDP) explicitly mandates such technologies, but because they operationalize security obligations and prevention of unauthorized access as regulated under Articles 35 and 39 of the UU PDP, while also supporting the reliability of electronic evidence in administrative proceedings (Budiartha et al., 2023; Samonova, 2022). Integration with Coretax is also positioned as a proposed expansion of administrative functionality. Each SP2DK should ideally have a single digital administrative file connecting:

- the SP2DK letter;
- Taxpayer responses;
- Supporting documents;
- Minutes of Implementation of Request for Explanation of Data and/or Information **(**BAP2DK**)**;
- official recordings; and
- Relevant metadata.

Minimum metadata should include:

- SP2DK number;
- Recording identification;
- Date;
- Start and end time;
- Duration;
- Interruptions;
- Responsible officers;

- Integrity status;
- Hash value; and
- Access logs.

Taxpayer access may be provided through the Taxpayer Account with measured restrictions, such as view-only access, identity watermarking, download control, or procedures for obtaining copies when required for tax audits, objections, appeals, lawsuits, or other legal proceedings. Literature on digital tax administration indicates that Coretax integration may improve efficiency and transparency; however, it still requires strong data security governance and system auditability (Rinawati et al., 2026).

Recording is not intended to replace BAP2DK**.** BAP2DK remains the formal administrative representation, while recordings function as a primary verification layer. To ensure that both instruments reinforce each other, BAP2DK may refer to specific timestamps within the recording for material statements, and Taxpayers may provide notes or corrections by referring to relevant timestamps. This model reduces dependence on the memory of the parties involved and provides a verification pathway when differences arise concerning the contents of administrative records (Pajak, 2026).

Procedural consequences should be structured progressively and based on materiality. Technical disruptions identified immediately may be treated as curable defects through a recording failure report and repetition of the missing sections. If material substantive sections are not recorded or the integrity of the recording cannot be verified, finalization of the process should be postponed until the defect is corrected or the discussion is repeated. If the authority is required to record but does not possess a recording of disputed oral statements, the principle of No Record – No Adverse Use may be applied as an ius constituendum prescription**:** undocumented statements should not become the sole basis for imposing adverse consequences on Taxpayers. This principle does not mean that every statement without recording automatically becomes invalid. Its application is limited to circumstances where:

1. Recording is legally required;
2. The missing section is material;
3. The statement is disputed; and
4. The absence of recording reduces the Taxpayer's ability to verify facts or present a defense.

Under this construction, the risk of documentation failure is allocated to the party that controls and is obligated to maintain the records, rather than transferred to the party prohibited from creating independent records.

These consequences do not mean that every recording failure automatically invalidates an issued SP2DK. SP2DK precedes the discussion process, while documentation defects occur during the implementation stage of P2DK. Therefore, legal consequences must be assessed based on:

- The part of the process affected by the defect;
- The materiality of the missing information;
- Its impact on the conclusion;
- The procedural prejudice caused; and
- The possibility of remediation.

Subsequent actions that materially depend on unverifiable parts of the process may be challenged regarding their evidentiary weight or procedural validity, while intentional manipulation of recordings should trigger internal accountability mechanisms. This graduated model maintains balance: documentation requirements should not be used as a formalistic reason to invalidate the entire process, but the state also cannot transfer the risk of recording failure to Taxpayers who are prohibited from making independent recordings.

CONCLUSIONS AND RECOMMENDATIONS

This study concludes that tax confidentiality, personal data protection, third-party information protection, and trade secrets constitute legitimate legal objectives. However, these objectives do not automatically justify every design of recording restrictions. The proportionality test demonstrates that restrictions on independent recording have a rational relationship with the objective of reducing the proliferation of duplicate recordings. Nevertheless, such restrictions become problematic when the state simultaneously controls the primary records without providing adequate guarantees regarding integrity, retention, access, and verification mechanisms.

This issue also relates to the principle of legality, as restrictions imposed on external parties through a Circular Letter must be examined based on whether they are supported by sufficient legal authority. The primary documents of Constitutional Court Case Number 211/PUU-XXIII/2025 demonstrate that confidentiality, access, and publication are distinguishable concepts. Furthermore, the statement of the President/Government's expert provides a possible framework for official recording mechanisms accompanied by access after a consequence assessment. The theoretical contribution of this study is the concept of administrative record asymmetry, which explains how exclusive control over primary documentation may develop into evidentiary asymmetry.

The practical contribution of this study is the proposed ius constituendum, consisting of: official recording mechanisms for substantive discussions that are complete, continuous, authentic, secure, and verifiable; integration of recordings and metadata into Coretax digital administrative files with controlled access mechanisms; a verification relationship between recordings and BAP2DK; and graduated procedural consequences based on materiality, including the principle of No Record – No Adverse Use, ensuring that the risk of material documentation failure is not imposed on Taxpayers who are prohibited from making independent recordings.

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