



ASSESSING THE ROLE OF LEGAL PRINCIPLES IN TAX AUDIT SAMPLING METHODS: A DOCTRINAL STUDY ON FAIRNESS AND EQUITY IN INDONESIA

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Article	Abstract
<p>Keywords: audit sampling, equity, fairness, tax audit.</p> <p>History of Article Received: April 14, 2025; Reviewed: April 19, 2025; Accepted: April 21 2025; Published: April 29, 2025</p> <p>DOI: 10.56282/jtlp.v3i3.565</p>	<p>This doctrinal study analyzes the use of sampling methods in tax audits in Indonesia, particularly within the context of the principles of fairness and equity that underpin the national taxation system. Given that Indonesia employs a self-assessment tax system, tax audits serve as a vital instrument in ensuring taxpayer compliance. However, the lack of clear regulations concerning sampling methods in tax examinations poses risks of bias and injustice, which in turn erodes taxpayer trust in the tax system. Using a doctrinal legal approach, this research examines the existing legal basis, assesses the alignment of current sampling practices with the principles of fairness and equity, and proposes an ideal legal framework to ensure equitable audit sampling. The findings reveal that current legislation—such as the General Provisions and Tax Procedures Law (UU KUP) and Minister of Finance Regulations (PMK) on tax audits—does not explicitly regulate sampling methods, resulting in inconsistency and legal uncertainty. It is found that existing sampling practices do not fully align with fairness and equity principles due to the absence of clear legal standards. As a solution, this study proposes a legal framework that includes the codification of audit sampling procedures, implementation of risk-based audit approaches, establishment of an independent oversight body, and enhanced transparency and stakeholder participation in the audit process. With the application of this framework, the study aspires to establish a transparent, fair, and consistent audit sampling system, ultimately strengthening taxpayer trust and the effectiveness of Indonesia's tax system.</p>

A. INTRODUCTION

Indonesia's tax system is based on a self-assessment system, under which taxpayers are responsible for calculating, reporting, and paying their own taxes.¹ To ensure compliance within this framework, the Indonesian tax authority—the Directorate

¹ Henry Dianto P. Sinaga, "Loss (of Revenue) of State within Taxation", *Mimbar Hukum*, Vol. 30, No. 1, 2018, p. 148.

General of Taxes (DGT) must conduct compliance testing, one of which is through tax audits.²

Tax audits play a crucial role in ensuring compliance within Indonesia's self-assessment tax system.³ Given the large number of taxpayers and limited resources, the DGT is expected to frequently utilize sampling methods to select audit cases. These methods include statistical (random) sampling and judgmental (non-random) sampling, each with its own implications for fairness and equity.⁴ However, the absence of a clear legal framework regulating these sampling techniques raises concerns about their alignment with the principles of fairness and equity. This doctrinal study aims to examine the legal basis for tax audit sampling in Indonesia, assess whether current practices uphold fairness and equity, and propose a legal framework to support equitable audit selection. Accordingly, this study seeks to address the following three research questions: First, what is the current legal basis for sampling methods in Indonesia's tax audit system? Second, do the existing sampling practices align with the principles of fairness and equity? Third, what kind of legal framework can be proposed to ensure fair and equitable audit selection?

Previous studies have highlighted the need for legal certainty in tax audit sampling. Irawan (2022) emphasized the absence of binding legal provisions for both taxpayers and tax authorities regarding sampling in tax audits, which leads to uncertainty in audit practices.⁵ Furthermore, Putro et al. (2024) explored the application of OECD Pillar One in Indonesia, focusing on fairness and equity in international taxation.⁶ The exploration of a proposed legal framework to ensure fair and equitable audit selection within the domestic tax system remains limited. This doctrinal study introduces a novel approach by addressing the following key aspects: First, it analyzes the alignment of current practices with the principles of fairness and equity. Unlike previous research, this study critically examines whether existing audit sampling methods in Indonesia adhere to these principles, providing a comprehensive assessment of current practices. Second, it proposes a legal framework for equitable audit sampling selection. Based on identified gaps, the study offers a specific framework designed to ensure transparency, consistency, and fairness in audit sampling methods. Third, it integrates doctrinal legal analysis with practical implications. By employing a doctrinal legal approach to analyze existing laws and regulations, the study also considers the practical implications for both tax authorities and taxpayers, thus bridging the gap between theory and practice.⁷ By addressing these identified research gaps, the study aims to deliver a detailed analysis of the alignment between current audit sampling practices and the principles of fairness and

² Henry D. P. Sinaga dan Yuli T. Hidayat, LEGAL DECONSTRUCTION OF TAX AUDIT ON THE TAXPAYER'S REFUND APPLICATION FOR TAX OVERPAYMENT IN INDONESIA (PART 1 OF 2), *Journal of Tax Law and Policy*, Vol. 1, No. 2, 2022, p. 50.

³ Vishnu Juwono, Lucas F. Sardjono, Lambang P. Nagoro, Esi S. Rini, dan Dodik Siswanto. (2022). Transformation Proposal for Tax Audit Policy in Indonesia: A Comparative Study on the Implementation of Tax Audit Policy in the Netherlands. *Jurnal Borneo Administrator*, 18 (1), 17-32. <https://doi.org/10.24258/jba.v18i1.886>

⁴ Hamid Ashtiani dan Wendy Rotz, *Managing Tax Audits Using Sampling Techniques*, 2023. Available at <https://www.thetaxadviser.com/issues/2023/jul/managing-tax-audits-using-sampling-techniques>.

⁵ Denny Irawan, (2022). *Sampling Audit of the Tax Audit in Indonesia: A Legal Certainty Perspective*. *Scientium Law Review*, 1(2), 13-21.

⁶ C. A. Putro, H. Rizal, dan S. Mayangsari, (2024). Fulfilling the Principles of Fairness and Equity in the Implementation of OECD Pillar One in Indonesia. *Indonesian Interdisciplinary Journal of Sharia Economics*, 7(1), 562-580.

⁷ Denny Irawan, *Ibid*.

equity in Indonesia. The proposed legal framework seeks to enhance transparency and consistency in audit selection, thereby strengthening taxpayer trust and compliance.

B. ANALYSIS AND DISCUSSION

1. Legal Framework for Sampling Methods in Tax Audits in Indonesia

The principal legislation governing tax procedures in Indonesia is Law No. 6 of 1983 concerning General Provisions and Tax Procedures, as amended by Law No. 7 of 2021 on the Harmonization of Tax Regulations (UU KUP). Although this law outlines the general procedures for tax audits, it does not provide specific guidance on the use of sampling methods during audits.

In practice, the procedures and mechanisms for conducting tax audits within the Directorate General of Taxes (DGT) are established through Minister of Finance Regulations (PMK), as delegated by Article 31 of the UU KUP. For example, PMK No. 17/PMK.03/2013 (PMK-17) and its subsequent amendments set out the general standards for tax audits, including audit planning and execution.⁸ However, the existing PMK regulations concerning tax audits do not explicitly address the legal basis for using sampling techniques during audits. This regulatory gap has led to uncertainties in audit practices and potential challenges in ensuring fairness and equity in audit selection.⁹

2. Sampling Consistent with the Principles of Fairness and Equity

Audit sampling is a technique in auditing where the auditor applies audit procedures to less than 100% of the population in order to assess certain characteristics of that population.¹⁰ The primary objective is to obtain sufficient and appropriate audit evidence to support the auditor's opinion without having to examine every item in the population, which is often impractical due to time and cost constraints.¹¹ While the theoretical framework of audit sampling is based on the principle that examining a portion of items can provide a reasonable basis for conclusions about the entire population, this approach inherently involves sampling risk. Sampling risk refers to the possibility that the selected sample may not accurately represent the population, potentially leading to incorrect conclusions. Additionally, non-sampling risks—such as errors in the execution of audit procedures or misinterpretation of audit results—can also affect audit outcomes.¹²

Although the main purpose of audit sampling is subject to these risks, they can be mitigated through a consistent and structured sampling process. The process begins with the definition of the audit objective, which involves establishing the purpose of the testing. The next step is to determine the population and sampling units, identifying the full set of relevant data and the individual units to be sampled. Subsequently, the auditor

⁸ Agung Darono dan Aldi Pratama, *Tax Audit in the Era of Big Data: The Case of Indonesia*, *Journal of Tax Administration*, Vol. 7, No. 2, 2022, p. 33.

⁹ Bandara Priya Jatmika dan Dwi Martani, *EVALUATION OF THE ADJUSTMENT OF TAX AUDIT PLAN AND AUDIT PROGRAM DURING THE COVID-19 PANDEMIC: (STUDY AT THE SMALL TAX OFFICE/KPP PRATAMA JAKARTA SETIABUDI TIGA)*, *Contemporary Accounting Case Studies*, Vol. 1, No. 1, 2022, pp. 66-80.

¹⁰ PCAOB, AS 2315: Audit Samplin. Available at <https://pcaobus.org/oversight/standards/auditing-standards/details/AS2315>.

¹¹ Sugi Priharto, *Audit Sampling: Pengertian, Manfaat, Tahapan dan Contohnya*. Available at <https://kledo.com/blog/audit-sampling/>.

¹² PCAOB, *Ibid*.

must determine the sample size, deciding how many items to test based on the level of risk and materiality.¹³ After setting the sample size, the auditor selects the sampling method, choosing either a statistical or non-statistical technique appropriate to the audit objectives.¹⁴ This is followed by performing the audit procedures on the selected sample.¹⁵ Finally, the auditor must evaluate the results, assessing the findings from the sample testing and drawing conclusions about the entire population.¹⁶ By understanding the theoretical framework and concepts of audit sampling, auditors can design and conduct efficient and effective audit procedures, thereby providing reliable opinions on the audited financial statements.

Sampling in tax audits plays a critical role in ensuring that the audit process is conducted fairly and equitably. The principles of fairness and equity form the foundation for selecting appropriate sampling methods to avoid bias and ensure representativeness. Furthermore, these principles, which are fundamental to a just tax system, can be undermined if audit selection is not based on a transparent and fair legal framework.

Fairness ensures that taxpayers are treated impartially, while equity requires that the tax burden is distributed based on the ability to pay. In the context of tax audits, these principles demand that selection criteria be transparent, consistent, and objective, rather than arbitrary. Theories such as John Rawls' "justice as fairness" emphasize the importance of equal treatment and the protection of individual rights within a legal framework. In the absence of explicit legal provisions governing sampling methods, there is a risk of perceived bias or discrimination in audit selection, which could erode taxpayer trust in the tax system.

Moreover, the lack of clear legal guidelines may lead to inconsistent audit practices across different tax offices, further exacerbating concerns about fairness and equity. To uphold these principles, it is essential to establish a legal framework that clearly defines the criteria and procedures for the use of sampling methods in tax audits.

3. The Ideal Legal Concept for Audit Sampling in Taxation in Indonesia

The use of sampling methods in tax audits without explicit legal guidelines raises critical concerns about compliance with the principles of fairness and equity in Indonesia's tax administration. The core issue lies in the absence of a clear legal basis for audit sampling methods, which may result in practices perceived as unfair or discriminatory. This lack of clarity not only undermines taxpayer trust but also challenges the integrity of the tax system.

An ideal legal concept for audit sampling in taxation is urgently needed to guarantee legal certainty, enhance audit efficiency, and protect taxpayer rights. Currently, no specific regulations explicitly govern audit sampling in tax examinations in Indonesia, creating legal uncertainty for both tax authorities and taxpayers. Although sampling techniques aim to improve efficiency, their use without a clear legal foundation risk

¹³ MBG (2024), Critical Factors of Audit Sampling. Available at <https://www.mbgcorp.com/in/insights/critical-factors-of-audit-sampling/>.

¹⁴ Binus University, Sampling dalam Audit. Available at <https://accounting.binus.ac.id/2018/11/26/sampling-dalam-audit/>.

¹⁵ *Loc.cit.*

¹⁶ *Loc.cit.*

causing disputes and legal uncertainty, as emphasized by Irawan, who highlighted the need for legal certainty regarding audit sampling in tax audits in Indonesia¹⁷.

In the context of tax audits, the ideal legal concept for audit sampling in Indonesia should encompass legal certainty, fairness and equity, transparency, and accountability. Legal certainty refers to the requirement that audit sampling must be regulated under formal legislation that provides clarity for all parties involved.¹⁸ The current lack of an explicit legal framework governing tax audit sampling in Indonesia poses significant challenges in ensuring fairness and equity in audit selection.

The concept of fairness and equity requires that sampling methods be applied in a fair and non-discriminatory manner toward taxpayers. These principles demand that all taxpayers be treated fairly, without discrimination. In the context of audits, this entails ensuring representativeness, transparency, and accuracy. Representativeness means that the sample selected must reflect the overall characteristics of the population, to avoid inappropriate generalizations. Transparency requires that the sampling selection process be clear and accountable, so that taxpayers can understand the basis for their selection in audits. Accuracy implies that the results derived from the sample must accurately portray the taxpayer's compliance, avoiding either overestimation or underestimation.¹⁹

Sampling consistent with the principles of fairness and equity is crucial in tax audits. By selecting the appropriate sampling methods and ensuring a transparent and accurate process, tax authorities can strengthen taxpayer trust and enhance the overall effectiveness of the tax system.

To address the identified issues in audit sampling, several legal framework reforms are necessary. First, the codification of audit sampling procedures is essential. Audit sampling is a vital tool for conducting efficient and effective tax examinations, as it allows for the evaluation of a subset of data (samples) to draw conclusions about the entire population. This approach is based on probability and statistical theories, enabling auditors to make reliable estimates and conclusions based on sampled data. Audit sampling is particularly important for maintaining efficiency and effectiveness in tax examinations when a full examination of all data is impractical. However, in Indonesia, there is currently no specific and binding legal framework governing the use of audit sampling in tax audits. This legal vacuum creates uncertainty and the potential for disputes between taxpayers and the tax authority. Therefore, the development of an ideal legal concept for audit sampling in Indonesia's taxation system is urgently needed to ensure legal certainty, fairness, and efficiency. A comprehensive legal provision should be developed to explicitly define audit sampling methods, including criteria for selection, procedures, and documentation requirements. Codifying these elements will provide clarity and consistency in audit practices. Specifically, the establishment of a special regulation in the tax sector regarding audit sampling methods, procedures, and limitations of use is necessary to standardize and strengthen tax audit processes.

Second, the adoption of risk-based audit selection. Theoretically, this approach is grounded in risk management theory, which emphasizes the importance of identifying, evaluating, and mitigating risks in decision-making processes. In the context of audits,

¹⁷ Denny Irawan, *Ibid*.

¹⁸ Pajakku, Glosarium Pajak: Pemeriksaan Pajak. Available at <https://artikel.pajakku.com/glosarium-pajak-pemeriksaan-pajak/>

¹⁹ Sugi Priharto, *Ibid*.

this theory is applied to determine areas with the highest risk of material misstatements or non-compliance, thus enabling the optimal allocation of audit resources. There is a need to adopt a risk-based approach in audit selection, focusing on taxpayers with higher-risk profiles.²⁰ This method enhances efficiency and ensures that audits are conducted where they are most needed. Implementing this approach requires the systematic identification and evaluation of risks, as well as the development of information systems that support risk-based decision-making. Furthermore, the success of a risk-based approach is inherently tied to enhancing auditor competencies in applying audit sampling techniques through training and certification programs.

Third, the establishment of oversight mechanisms. Effective oversight is based on internal control and good governance theories, which emphasize the importance of control systems that can detect and prevent irregularities, ensuring that organizations operate according to established objectives and regulations. There is a need to establish an independent supervisory body to monitor the audit selection process and ensure compliance with legal standards and the principles of fairness and equity. Periodic evaluations of audit sampling practices should also be conducted to verify their alignment with applicable legal principles. The creation of an effective oversight mechanism is crucial to ensuring that the selection and implementation of audits adhere to legal standards and fairness principles. This can be achieved through the establishment of an independent oversight institution tasked with monitoring audit processes and conducting regular evaluations of audit sampling practices. One possible avenue is the empowerment of the Tax Supervisory Committee (Komwasjak), which was established to enhance the effectiveness and efficiency of tax oversight operations.

Fourth, the importance of stakeholder engagement and transparency. Active involvement of stakeholders, including taxpayers and tax professionals, is essential in developing and reviewing audit procedures. This approach is grounded in stakeholder theory, which emphasizes the importance of considering the interests of all parties involved in or affected by organizational decisions. In the context of taxation, stakeholder engagement and transparency can enhance the legitimacy and accountability of tax authorities, while also encouraging voluntary compliance by taxpayers. Transparency in the criteria and processes for audit selection can build trust and increase compliance, whereas socializing audit sampling procedures to taxpayers can foster a better understanding of the audit process, thus enhancing transparency and public trust.

C. CONCLUSION

This study yields three main conclusions: First, the current legal framework regulating audit sampling in tax examinations in Indonesia is still inadequate, as it does not explicitly define the sampling methods used by the Directorate General of Taxes (DGT). Existing regulations, such as the General Provisions and Tax Procedures Law (UU KUP) and the Minister of Finance Regulations (PMK) on tax audits, do not provide clear and specific guidance on audit sampling procedures, resulting in legal uncertainty and inconsistency in tax audit practices. Second, current tax audit sampling practices do not fully align with the principles of fairness and equity. The absence of explicit legal standards for sampling techniques creates the potential for bias and discrimination in the

²⁰ Vishnu Juwono, Lucas F. Sardjono, Lambang P. Nagoro, Esi S. Rini, and Dodik Siswantoro, *Ibid.*

audit process. This situation risks eroding taxpayer trust in the integrity of the tax system, as the principles of fairness and equity require audit selection to be transparent, objective, and non-discriminatory. Third, to address these issues, the study proposes an ideal legal framework that encompasses four critical aspects: (1) The codification of clear and comprehensive audit sampling procedures within the tax legislation; (2) The application of a risk-based audit approach to enhance efficiency and accuracy in selecting taxpayers for audit; (3) The establishment of an independent supervisory body to ensure compliance with the principles of fairness and equity in audits; and (4) The enhancement of transparency and active stakeholder engagement in the tax audit process. The implementation of this legal framework is expected to create a transparent, consistent, and fair tax audit system, thereby strengthening taxpayer trust and enhancing the overall effectiveness of Indonesia's tax system.

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