



VOLUNTARY DISCLOSURE PROGRAM IN TAXATION AND ITS CETIFICATES: A PHILOSOPHICAL PERSPECTIVE

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Article	Abstract
<p>Keywords: Philosophy; Tax; Voluntary Disclosure; Program.</p> <p>History of Article Received: November 15, 2022; Reviewed: November 16, 2022; Accepted: November 20, 2022; Published: November 22, 2022;</p> <p>DOI:</p>	<p>The Voluntary Disclosure Program (VDP) for Individual Taxpayers has taken place from 1 January to 30 June 2022. One of the conditions for participating in the second VDP policy is that the Taxpayer revokes the filing of legal remedies (objections, appeals, and so forth), but Law Number 7 of 2021 and Minister of Finance Regulation (PMK) Number 196/PMK.03/2021 does not regulate requests for refunds of overpaid taxes, reduction or elimination of administrative sanctions, reduction or cancellation of incorrect notice of tax assessment, reduction or cancellation of incorrect notice of tax collection, objections, correction, appeal, lawsuit, and/or post-VDP review. It is necessary to carry out a philosophical study related to taxpayers who do not submit legal remedies at the time of submission of the Notification of Asset Disclosure. However, taxpayers will likely file legal remedies related to the 2016-2020 Fiscal Year after receiving a statement. It was concluded that the philosophical applicability of the Certificate of Disclosure of Net Assets had been embodied in legal certainty, a guarantee of justice, and legal effectiveness for taxpayers and the State in the form of completion and certainty of tax rights and obligations for the 2016-2020 tax year.</p>

*Disclaimer: This article is a private scientific study of the researcher and does not reflect the institution's opinion/policy.

1. INTRODUCTION

One of the legal policy programs in the taxation sector is the Voluntary Disclosure Program (VDP) for taxpayers who have not reported their assets in the 2016-2020 SPT. This program is based on Chapter V of Law Number 7 of 2021 concerning

Harmonization of Tax Regulations (UU HPP), and the policies are regulated in Minister of Finance Regulation (PMK) Number 196/PMK.03/2021 concerning Procedures for Implementing the Taxpayer Voluntary Disclosure Program. The law stipulates that individual taxpayers who can disclose their net assets must comply with the VDP provisions from 1 January to 30 June 2022.

VDP realizes that the total number of participants is 247,918 taxpayers (WP). They are divided into 82,456 certificates from the policy I and 225,603 certificates from policy II. The net asset value is calculated at IDR 594.82 trillion. The amount of income tax paid was IDR 61.01 trillion, consisting of IDR 32.91 trillion for policy I and IDR 28.1 trillion for policy II. The net asset value from domestic declarations is IDR 498.88 trillion. Meanwhile, the net asset value from the repatriation is IDR 13.70 trillion. The net asset value from foreign declarations is IDR 59.91 trillion. Net asset value with an investment commitment of IDR should be 22.34 trillion.¹

The VDP achievement is expected to increase voluntary taxpayer compliance to increase tax revenues in Indonesia. However, several potential cases require interpretation regarding the implementation of the VDP during and after the VDP process. One of the requirements for participating in VDP policy II is to require individual taxpayers to file a notification of assets disclosure (SPPH) to withdraw the filing of a legal remedy, such as a tax objection or tax appeal. This problem needs to be answered after the Taxpayer receives the certificate. For uinstance: a) considering after the appeal decision for the 2016-2020 tax year, what is the legal standing of the Certificate of Disclosure of Net Assets (SKPHB) if the Letter of Implementation of the Appeal Decision (SP2B) on the appeal decision is issued by the Head of the Tax Service Office (KPP) before or after SKPHB issued?; b) considering a report on the results of a tax audit for the 2016-2020 tax year, what is the legal standing of the SKPHB regarding the tax assessment on the report on the results of the tax audit before or after the SKPHB is issued? c) if the Taxpayer does not submit a legal remedy at the time of submission of the SPPH, but the Taxpayer submits a legal remedy related to the 2016-2020 tax year after obtaining the SKPHB? For example, a Taxpayer submits an objection before the 3 (three) month deadline for an objection, but after receiving a certificate, he follows the second VDP policy.

2. METHODS

This study adequately uses philosophical studies in answering the problem formulation. The foresight of this methodology in science is its ability to describe a situation according to the criteria of validity or truth.² In this case, philosophy is "the survey of science" serving as a critique of various forms of abstraction made by science.³ This philosophical study relies on legal material whose scientific knowledge is in line with legal dogmatics considering that legal dogmatics itself is a scientific activity to

¹ PajakOnline, "PPS Selesai, Ini Hasilnya", available at <https://www.pajakonline.com/pps-selesai-ini-hasilnya/>, accessed on July 1, 2022.

² Toeti Heraty Noerhadi, *Metodologi Penelitian Filsafat*, in Reza A. A. Wattimena (Ed.), *Metodologi Penelitian Filsafat*, Yogyakarta: Kanisius, 2011, p. 35.

³ J. Sudarminta, *Metode Penelitian Filsafat: Belajar dari Filsuf Alfred N. Whitehead*, in Reza A. A. Wattimena (Ed.), *Metodologi Penelitian Filsafat*, Yogyakarta: Kanisius, 2011, pp. 49-50.

process regulations or legal principles without using empirical knowledge but solely by covering construction, definition, and logical assistance.⁴

The data used in this study is secondary data or library research, which consists of 3 (three) legal materials, namely primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials are binding legal materials, such as the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia), the HPP Law, and PMK Number 196/PMK.03/2021. Secondary legal material is legal material that does not have binding power and is an explanatory nature of primary legal material, such as textbooks and articles or scientific journals. Tertiary legal materials can provide additional information regarding primary and secondary legal materials, such as dictionaries, encyclopedias and trusted websites.⁵

3. ANALYSIS AND DISCUSSION

A. Prevailing Law of Voluntary Disclosure Program

All matters of tax collection in Indonesia must be based on law, as mandated in Article 23A of the 1945 Constitution of the Republic of Indonesia. The constitutional mandate is the basis for the VDP as stipulated in Articles 5 to Article 12 of the HPP Law. Furthermore, VDP implementing regulations are issued in PMK Number 196/PMK.03/2021.

Article 11 Chapter V of the HPP Law stipulates that individual taxpayers who have obtained a certificate in VDP are not issued tax assessments on existing tax obligations. The unissued tax assessments include personal income tax (PPh), PPh on withholding and/or collection, and Value Added Tax (VAT) for the 2016-2020 Fiscal Year. However, the exemption from the issuance of tax assessments does not apply to taxes withheld or collected by taxpayers participating in PPS but not deposited and/or assets that have not been disclosed in the SPPH.

Furthermore, there are several provisions in PMK Number 196/PMK.03/2021 that regulate certificates, including:

- a) Article 20 paragraph (1) stipulates that for the application referred to in Article 7 paragraph (1) letter d PMK Number 196/PMK.03/2021, which the Taxpayers have revoked, and they have issued a Certificate, the Taxpayer cannot apply as referred to in Article 7 paragraph (1) letter d number 1 to number 9.
- b) Article 5, paragraph (4) number (1) stipulates that individual taxpayers who can disclose their net assets must comply with the conditions, one of which is not being audited, for the 2016-2020 tax year.
- c) Article 7 paragraph (1) letter d number 5 stipulates that individual taxpayers who disclose net assets must also meet the requirements to revoke objections relating to PPh, withholding and/or collection of PPh, and VAT on the individual concerned for the Year Tax 2016-2020, if the Taxpayer is applying and has not issued a decision or judgment.

⁴ Sudikno Mertokusumo, *Mengenal Hukum: Suatu Pengantar*, Yogyakarta: CV. Maha Karya Pustaka, 2019, p. 43.

⁵ Nitaria Angkasa et al., *Metode Penelitian Hukum Sebagai Suatu Pengantar*, Lampung: CV. Laduny Alifatama, 2019, p. 57.

- d) Article 20 paragraph (1) stipulates that if a Taxpayer declares to withdraw the application as referred to in Article 7 paragraph (1) letter d and has obtained a Certificate, but based on the data and/or information received or obtained by the Directorate General of Taxes it is known that the application is not revoked, the Head of KPP on behalf of the Directorate General of Taxes cancels the Certificate.

The Letter for Notice of Disclosure of Assets (SPPH) submitted by the Taxpayer is the basis for the Directorate General of Taxes to issue an SKPHB, which is proof of the Taxpayer's participation in the VDP based on the Law. Individuals who follow the second policy must meet the requirements in the form of not being examined or examining preliminary evidence for the 2016–2020 Tax Year, not being investigated, currently in the judicial process, or not serving a criminal sentence for a crime in the field of taxation, having Taxpayer Identification Number (NPWP), paying final PPh, submitting 2020 tax returns (SPT), withdrawing requests for refunds of overpaid taxes, reduction/abolition of administrative sanctions, reduction/cancellation of incorrect tax assessments or notice of tax collection (STP), objection, appeal, lawsuit, and/or review.

B. Principles Applicable in the Voluntary Disclosure Program

Although the juridical basis of VDP has been stated in Article 5 and Article 12 of the HPP Law, as a legal rule, tax law must comply with the behavior that applies philosophically. Philosophically, this means that the VDP must comply with the ideals of law as the highest positive value, in this case, Pancasila, and a just and prosperous society.⁶ This philosophical practice is closely reflected in the VDP principles, which cannot be separated from the 6 (six) principles in Article 1, paragraph (1) of the HPP Law. First is the principle of justice: taxation regulation, which upholds the balance of rights and obligations of each party involved. Second is the principle of simplicity: tax arrangements must provide accessible service to the public in fulfilling their rights and obligations. Third is the principle of efficiency: tax arrangements must be oriented towards minimizing the use of resources to achieve the best work results. Fourth is the principle of legal certainty: tax arrangements must be able to create order in society through guaranteed legal certainty. Fifth is the principle of expediency: taxation regulation must create order in society through guarantees of legal certainty. Sixth is the principle of national interest: tax regulations must be able to create order in society through guarantees of legal certainty.

The six principles contained in the HPP Law must still be applied in the concrete events of VDP, as are the principles in law, even though they are generally basic thoughts embodied in statutory regulations and can be found through the general characteristics of these concrete regulations.⁷ However, it has the function of validating, regulating, explaining, and having a normative and binding influence on the parties.⁸ The meaning of VDP, which contains legal certainty, refers to legal certainty over taxpayers' tax rights and obligations for the 2016-2020 tax year, in

⁶ Purnadi Purbacaraka and Soerjono Soekanto, *Perihal Kaedah Hukum*, Bandung: Penerbit Alumni, 1982, p. 118.

⁷ Sudikno Mertokusumo, *Mengenal Hukum: Suatu Pengantar*, Yogyakarta: CV. Maha Karya Pustaka, 2019, p. 48.

⁸ *Loc.cit.*

which the state has guaranteed that the tax rights and obligations of taxpayers for the 2016-2020 tax year have been completed. Thus, taxpayers cannot submit the matters referred to in Article 7 paragraph (1) letter d number 1 to number 9 PMK Number 196/PMK.03/2021 and/or the state refuses submissions made by taxpayers who receive SKPHB against the matters referred to in Article 7 paragraph (1) letter d number 1 to number 9 PMK Number 196/PMK.03/2021.

C. A Critical Review of Voluntary Disclosure Program

Article 10 paragraph (2) letter d of the HPP Law has formulated that taxpayers who submit a notice of asset disclosure are required to revoke their application for refund of overpayment taxes, reduction or elimination of administrative sanctions, reduction or cancellation of incorrect tax assessments, reduction or cancellation of Notice of Tax Collection (STP), objections, corrections, appeals, lawsuits, and/or review if the Taxpayer is currently submitting the application and has not issued a decision or judgment.

An understanding of these provisions can be seen in Article 10, paragraph (4) letter f, paragraph (5), paragraph (6), and paragraph (7) PMK Number 196/PMK.03/2021. These provisions stipulate that in order to obtain an SKPHB, the Taxpayer must make a statement revoking matters related to the application in the form of returning tax overpayments, reducing or eliminating administrative sanctions, reducing or canceling incorrect notice of tax collection, reducing or canceling Notice of Tax Collection that are not correct, right, objection, correction, appeal, lawsuit, and/or reconsideration. Furthermore, for individual taxpayers who have issued an SKPHB, no tax assessments have been issued for tax obligations (including individual income tax, withholding and/or for the 2016 tax year up to the 2020 tax year, unless other data and/or information is found that has not been or less disclosed in the SPPH. Simultaneously, voluntary tax disclosure is one of the implementations of voluntary tax compliance, where one form of incentive provided by the Government is to provide lower tax rate facilities and the elimination of administrative sanctions for taxpayers who disclose assets that exist abroad as well as the amount of taxes that have been smuggled in voluntarily.

D. Certificate of Disclosure of Net Assets during the Process and Post Voluntary Disclosure Program.

Issuance of SKPHB in the context of voluntary tax disclosure is a model of the direct relationship that connects direct behavioral perception control to taxpayer compliance behavior in order to increase tax transparency. By following voluntary tax disclosures that are in line with the mandate of Article 23A of the 1945 Constitution of the Republic of Indonesia, which is embodied in Article 5 and Article 12 of the HPP Law, taxpayers obtain justice, simplicity, efficiency, legal certainty, beneficial, and actively participate in carrying out their obligations for the national interest. The realization is getting a lower tax rate facility and eliminating administrative sanctions by disclosing assets inside and outside the country. The six principles of the HPP Law, which form the normative and binding basis for taxpayers in participating in the VDP, must be implemented or enforced by the Fiskus by always paying attention to legal certainty, public benefit, and fairness. In terms of enforcing VDP-related tax laws, legal certainty can be interpreted as justifiable

protection against arbitrary actions. In contrast, the public benefit can be interpreted as law enforcement or implementation that must provide benefits or uses for the nation and state.⁹ The existence of the principles of justice, simplicity, efficiency, legal certainty, benefit, and national interest is a function that is valid and has the character of regulating, explaining, and having a normative and binding influence on taxpayers and law enforcers during and after the VDP.

Upon receipt of the SKPHB by the individual taxpayer, in addition to not being able to issue tax assessments related to income tax, income tax withholding and/or collection, and value-added tax on the individual concerned for the 2016-2020 tax year, the individual taxpayer The individual also cannot return tax overpayments, reduce or eliminate administrative sanctions, reduce or cancel incorrect notice of tax collection, reduce or cancel incorrect notice of tax collection, objections, corrections, appeals, lawsuits, and/or review related to Income Tax, withholding and/or collection Income Tax, and Value Added Tax for the 2016-2020 Fiscal Year.

The issuance of SKPHB can also be interpreted as having legal certainty, the guarantee of justice, and legal effectiveness for taxpayers who have been issued and the state. So that the rights and obligations of the Taxpayer have been finalized and specific, such as Income Tax, Income Tax withholding and/or collection, and Value Added Tax for the 2016-2020 tax year. The emphasis on legal certainty from SKPHB has been achieved in connection with the legal task of guaranteeing legal certainty in relations contained in social relations in which two other tasks are concluded, namely, the law must guarantee justice and the law must remain helpful. Legal certainty that guarantees justice and legal effectiveness for the state and taxpayers who have received SKPHB refers to the certainty of the state's responsibility to actively prevent tax avoidance and tax evasion from obtaining consistent benefits rather than prioritizing punishment through the issuance of SKPHB in the VDP. Meanwhile, taxpayers who receive SKPHB have completed their tax rights and obligations for the 2016-2020 Fiscal Year through conscious, voluntary, and responsible efforts to provide solutions and support/active participation in recovering losses suffered by the state in the tax sector and at the same time show fairness to other taxpayers who so far have exercised their tax rights and obligations in a compliant and correct manner.

The brief explanation above can be used to answer several cases that might occur in the following cases:

- a) The legal standing of SKPHB in terms of the SP2B for the appeal decision for the 2016-2020 tax year was issued before or after the SKPHB was issued.

SP2B matters can be understood in the Directorate General of Taxes' Edrana Letter Number SE-41/PJ/2014 concerning Procedures for Handling and Implementation of Appeal Decisions, Lawsuit Decisions, and Judicial Review Decisions. SP2B is a letter issued by legal authorization as a basis for implementing an Appeal Decision from the Tax Court so that the decision can be recorded in the tax administration system. SP2B or Letter of Implementation of Lawsuit Decisions and/or other letters related to the implementation of Appeal Decisions and Lawsuit Decisions are issued based on the results of research on the Appeal Decision or Lawsuit Decisions outlined in the Report on the Implementation of Tax Court Decisions (LP2PP). The Tax

⁹ Sudikno Mertokusumo and Mr. A. Pitlo, *Bab-Bab Tentang Penemuan Hukum*, Bandung: PT. Citra Aditya Bakti, 2020, pp. 1-2.

Court decision is final and has permanent legal force as referred to in Article 77 of Law Number 14 of 2002 concerning the Tax Court (Tax Court Law). Tax court decisions can no longer be filed for lawsuits, appeals, or cassation and can be carried out by no longer requiring decisions of competent authorities unless laws and regulations stipulate otherwise, as referred to in Article 80 and Article 86 of the Tax Court Law.

Concerning the VDP, the provisions in the Tax Court Law indicate that each decision of the Tax Court has permanent legal force so that the issued decision is valid before and after the SKPHB is issued. However, in the case of filing an SKPHB and the Taxpayer is filing a tax lawsuit or appeal to the tax court, the Taxpayer must revoke the claim or tax appeal. Regarding the proposing SKPHB or after an SKPHB has been issued, the Taxpayer may wait to submit a Review of the appeal decision for the 2016-2020 tax year.

The legal standing of SKPHB also applies in terms of the Taxpayer may not submit a legal action at the time of submission of SPPH. Likewise, the Taxpayer may not file legal remedies related to the 2016-2020 tax year after obtaining an SKPHB. Taxpayers may only file an objection after the 3 (three) month deadline for objections but after obtaining a certificate of participation in the second VDP policy.

- b) The legal standing of SKPHB in terms of tax assessments on the tax audit report (LHP) for the 2016-2020 tax year was issued before or after the SKPHB was issued.

Article 8 paragraph (4) of the HPP Law stipulates that Individual Taxpayers who can disclose Net Assets must not be undergoing an examination and/or examination of initial evidence for the 2016-2020 Fiscal Year, are not being investigated, or are not in the process of being a court of law for acts crime in the field of taxation, and/or is not serving a criminal sentence for a crime in the field of taxation. Specifically, for individual taxpayers who are being audited for the 2016-2020 tax year during the VDP period from 1 January to 30 June 2022, an SKPHB will not be issued against these taxpayers. However, taxpayers who, based on the LHP, have approved the audit results for the 2016-2020 Fiscal Year can participate in the VDP so that an SKPHB can be issued. As for tax assessments issued on LHP that the Taxpayer has approved, objections cannot be filed after the SKPHB is issued. This is in line with Article 11 paragraph (1) of the HPP Law, which stipulates that individual taxpayers who have obtained an SKPHB do not issue tax assessments for tax obligations (which include personal income tax, income tax withholding and/or collection, and VAT) for the 2016-2020 Fiscal Year unless data and/or other information is found regarding assets that have not been or are not disclosed in the notification of asset disclosure, and/or taxes that have been withheld or collected but not remitted.

Some of the case study examples above show that SKPHB's philosophical considerations can be considered valid as binding legal norms that apply to the legal subjects to whom they are bound,¹⁰ in this case, an individual taxpayer obtains an SKPHB, Fiskus, and the Tax Court concerning a dispute over the VDP.

¹⁰ Jimly Asshiddiqie, *Perihal Undang-Undang*, Depok: PT. RajaGrafindo Persada, 2020, p. 166.

4. CONCLUSION

The philosophical application of SKPHB is recorded by legal certainty, justice guarantees, and legal effectiveness for taxpayers and the state in the form of expiration and provision of tax rights and obligations for the 2016-2020 tax year. Then taxpayers who have received SKPHB may not submit objections or lawsuits or tax appeals, or review of all fulfillment of their tax rights and obligations for the 2016-2020 tax year that have been issued and for the State: a) through the authority of the tax authorities not to issue tax assessments for 2016-2020 (unless data and/or other information is found that has not been reported or is underreported and/or there is the tax that has been withheld or collected but not remitted, and b) through the judicial authority must reject objections or lawsuits or tax appeals or reconsiderations that filed by the Taxpayer who has received the SKPHB that has been issued.

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