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## Legal Certainty in Taxation Policy: A Literature Review on Administrative Sanctions in Value Added Tax Compensation Corrections

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### ABSTRACT

*Legal uncertainty in the implementation of tax policy poses a serious challenge to efforts aimed at improving compliance and the legitimacy of the tax system. One key issue arises in the application of administrative sanctions as stipulated in Article 13 paragraph (3) of the General Tax Provisions and Procedures Law (UU KUP), particularly in the context of corrections to overpaid Value Added Tax (VAT) compensation. This article presents a literature review to analyse how these administrative sanction policies are interpreted and applied, as well as their implications for the principle of legal certainty. Through a review of selected scholarly sources, this article finds that multiple interpretations of legal norms trigger recurring tax disputes, create litigation burdens, and erode taxpayer trust in the tax administration system. The evaluation shows that the automatic imposition of surcharge sanctions on corrections of overpaid VAT compensation, without actual fiscal loss, is often viewed as disproportionate. This article recommends the importance of regulatory harmonization, improved clarity of legal norms, and the adjustment of audit guidelines to align with the principle of legal certainty, in order to support a fairer and more effective tax governance.*

**KEYWORDS** legal certainty; tax policy; administrative sanctions; tax compensation; fiscal corrections; value added tax.



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### INTRODUCTION

The implementation of fair, transparent, and consistent tax policies is an important prerequisite for the realization of legal certainty and increased voluntary compliance of taxpayers (Bird & Zolt, 2008; Jenkins, Kuo, & Shukla, 2000). However, in many jurisdictions, including Indonesia, multi-interpreted interpretations of tax law norms often trigger protracted disputes that burden the tax administration system and undermine the legitimacy of tax authorities (Thuronyi, 2003; McKerchar, 2007).

One of the concrete examples appears in the application of administrative sanctions for increases as stipulated in Article 13 paragraph (3) letter c of the Law on General Provisions and Tax Procedures (UU KUP), especially in the context of corrections to overpaid Value Added Tax (VAT) compensation. The provision regulates a 75% increase in VAT that is "not or underpaid", including corrections to compensation that is considered "not supposed to be done" (Law No. 7 of 2021). In practice, differences in interpretation between fiscal and taxpayer regarding this phrase often trigger disputes in the Tax Court, especially when compensation corrections do not cause real fiscal losses to the state.

Data from the Tax Court shows an increasing trend in the number of appeals related to the correction of overpaid VAT compensation which led to the cancellation of the increase sanction by the panel of judges (Tax Court, 2017; 2018). Several decisions affirm that the sanction of an increase cannot be imposed automatically without evidence of substantive fiscal loss, prioritizing the principles of proportionality and legal certainty (Remaja, 2017). These decisions reflect a fundamental difference in the normative (formalistic) approach by the tax authorities and the substantive approach by the courts.

Legal uncertainty arising from multiple interpretations of norms not only triggers high litigation costs and prolongs dispute resolution, but also has the potential to lower the level of voluntary compliance (Smith & Stalans, 1994; Jenkins et al., 2000). Bird (1992) and Shome (1995) emphasize that in the context of developing countries, the failure of the tax system is caused not only by weak regulatory design, but also by weak implementation and inconsistent legal interpretation. Therefore, the evaluation of tax policy needs to consider not only the aspect of state revenue, but also its contribution to justice, predictability, and protection of taxpayer rights (Dunn, 2018; Knill & Tosun, 2020).

Various previous studies have highlighted the issue of tax audits, tax authority bias, and evidentiary weaknesses in tax disputes (Wahyudi, Ludigdo, & Djamhuri, 2017; Wijaya & Ilahi, 2022). Other research has identified that multi-interpreting audit regulations hinder the optimization of state revenue (Irawan & Budiono, 2015) and trigger unnecessary disputes (Ustadztama, 2020). However, special studies that examine in depth the policy of administrative sanctions for increases in the correction of overpaid VAT compensation, especially from the perspective of the principle of legal certainty, are still very limited.

This article aims to fill this gap through a critical literature review on the application of administrative sanctions for increases in the context of correction of overpaid VAT compensation in Indonesia (Khodijah & Rosdiana, 2024). By analyzing relevant scientific and regulatory sources, this article evaluates the extent to which the policy is aligned with the principle of legal certainty, as well as offering a perspective for policy improvement and harmonization of the interpretation of tax norms. This approach is expected to make a theoretical and practical contribution in encouraging fairer, more effective, and trusted tax governance by taxpayers.

The implementation of fair and transparent tax policies is crucial for fostering legal certainty and enhancing taxpayer compliance, yet many jurisdictions, including Indonesia, face persistent challenges due to ambiguities in tax law interpretations. One critical issue lies in the application of administrative sanctions

under Article 13(3)(c) of the General Tax Provisions and Procedures Law (UU KUP), particularly concerning corrections to overpaid Value Added Tax (VAT) compensation. While existing studies have explored tax disputes and administrative biases, there remains a significant gap in the literature regarding how these sanctions align with the principle of legal certainty, especially when corrections do not result in actual fiscal losses. This gap highlights the need for a deeper examination of the policy's design and implementation to address inconsistencies in its application and their broader implications for tax governance.

The urgency of this research stems from the escalating number of tax disputes in Indonesia, as evidenced by the rising trend of appeals in the Tax Court, many of which involve the cancellation of sanctions due to disproportionate penalties. Such disputes not only burden the judicial system but also erode taxpayer trust and compliance, undermining the legitimacy of the tax administration. The current formalistic approach to imposing sanctions, which often disregards substantive fiscal losses, exacerbates legal uncertainty and creates inefficiencies in tax enforcement. Addressing these issues is critical to ensuring that tax policies achieve their intended goals of revenue optimization without compromising fairness or transparency, particularly in a developing economy where tax system credibility is paramount.

This study introduces novelty by focusing specifically on the intersection of administrative sanctions and legal certainty in the context of VAT compensation corrections, a topic that has received limited attention in prior research. Unlike broader studies on tax disputes or compliance, this research narrows its scope to evaluate the policy's alignment with proportionality and justice principles, drawing on a synthesis of legal documents, court rulings, and academic literature. By employing a qualitative literature review and thematic analysis, the study offers a nuanced understanding of the systemic weaknesses in the current sanction regime and proposes actionable recommendations for reform. This approach not only fills a theoretical gap but also provides a practical framework for policymakers to harmonize legal interpretations and improve tax governance.

The primary objective of this research is to critically evaluate the application of administrative sanctions in VAT compensation corrections and assess their consistency with the principle of legal certainty. By identifying the root causes of interpretive conflicts and their systemic impacts, the study aims to contribute to the development of clearer, fairer, and more effective tax policies. The anticipated benefits include enhanced regulatory clarity, reduced litigation burdens, and improved taxpayer compliance, ultimately supporting a more credible and efficient tax system. Furthermore, the findings are expected to inform future research on comparative tax sanction models and empirical studies on compliance behavior, offering valuable insights for both academic and policy audiences.

## **RESEARCH METHOD**

This study used a qualitative approach based on a literature review to evaluate the implementation of the policy increasing administrative sanctions in the context of correcting overpaid VAT compensation in Indonesia, with an emphasis on the

principle of *legal certainty*. This approach was chosen for its suitability in identifying, classifying, and analyzing legal arguments, public policies, and tax administration practices as reflected in regulations, court rulings, and scientific literature.

The research was conducted as desk research at the University of Indonesia, utilizing access to various sources including the accredited national journal database (SINTA), ResearchGate, the UI Library, the Tax Court of the Republic of Indonesia portal, and official legal documents from the Ministry of Finance's JDIH. The primary data sources comprised tax laws and regulations (notably the *UU KUP* and its amendments under Law No. 7 of 2021 concerning HPP), Tax Court decisions on disputes regarding VAT compensation corrections, relevant national and international scientific articles on tax policy, administrative sanctions, tax disputes, principles of *legal certainty*, as well as textbooks and literature on public policy theory, tax administration, and policy evaluation.

Inclusion criteria for literature selection required direct relevance to administrative sanctions, increases in VAT compensation correction, or the principle of *legal certainty* in taxation; academic credibility (e.g., publication in indexed journals or by official publishers); and verifiability (e.g., official legal documents and court rulings). Data collection involved systematic keyword searches—such as "tax disputes," "administrative sanctions," "VAT compensation," "legal certainty," and "tax audits"—across online catalogs, journal portals, and government agency websites.

The data were analyzed to identify main themes related to the interpretation of legal norms, tax administration practices, and policy implications for legal certainty. Additionally, the coherence of legal norms with principles of justice, effectiveness, efficiency, and legality was assessed. The procedure involved inventory and classification of documents by source type (regulations, court rulings, scientific articles, theory books), followed by extraction of relevant information to analyze the application of incremental administrative sanctions in correcting overpaid VAT compensation. The researcher identified issues in norm interpretation that triggered legal uncertainty, as well as patterns in policy enforcement. The conformity of practices with the principle of *legal certainty* was evaluated broadly. Analysis results were synthesized to support the research objectives.

This method was designed to provide an in-depth, contextual understanding of administrative sanction policies regarding corrections of overpaid VAT compensation and to assess their alignment with the principle of *legal certainty*, a pivotal element in a fair and effective tax system.

## RESULT AND DISCUSSION

This study aims to evaluate the application of the administrative sanction policy of increase in the correction of overpaid VAT compensation in Indonesia from the perspective of the principle of legal certainty, through a systematic literature review. The findings of this study are scientific in the form of a synthesis of the results of legal document studies, court decisions, and academic literature, which reveal legal uncertainty due to multiple interpretations of norms, tensions

between formalistic and substantive approaches, and counterproductive public policy implications.

### **Legal Uncertainty Due to Multiple Interpretations of Norms**

The main findings of the regulatory study show that Article 13 paragraph (3) letter c of the KUP Law regulates the sanction of a 75% increase in taxes that are "not or underpaid," including for compensation that "should not be done." This norm opens up a space for multiple interpretations because it does not clearly define the criteria for errors that cause actual fiscal losses. Tax authorities' interpretations tend to be formalistic—any correction of overpaid compensation is considered an error that is automatically sanctioned with an increase. However, Tax Court rulings such as Put-81067/PP/M.XVA/16/2017 show a substantive approach, where sanctions are only valid if there is evidence of real fiscal loss.

This phenomenon is in accordance with the concept of opaqueness in tax law (Jenkins et al., 2000), which emphasizes that the unclarity of legal norms opens up opportunities for different interpretations, creating legal uncertainty and triggering disputes. Bird (1992) emphasized that legal clarity is a prerequisite for supporting legal certainty and minimizing interpretive conflicts.

### **The Tension between the Formalistic Approach and the Principle of Legal Certainty**

Another scientific finding is that there is a fundamental tension between the principle of legality in tax law and the principle of proportionality. The principle of legality demands that all imposition of taxes and sanctions must be based on law, but its application must also take into account proportionality and substantive justice (Remaja, 2017). In the practice of tax administration in Indonesia, increased sanctions are often applied formalistically without considering the substance of the error or fiscal loss. Majka (2020) emphasized that tax sanctions that are imposed automatically without regard to the intention or consequences of real losses are unfair and violate the principle of proportionality.

A fiscal approach that is too textual results in rigid decisions and magnifies the potential for disputes. In contrast, Tax Court rulings demonstrate the application of a substantive approach that prioritizes case-by-case justice. This results in a disparity in law enforcement that weakens the legal certainty of taxpayers.

### **Tax Disputes as a Systemic Symptom**

Data from the Tax Court shows an increasing trend in the number of tax disputes in the last five years. The percentage of appeals that are partially or fully granted continues to increase, with the ratio of fiscal victories in appeals recorded at only around 36% in 2024 (Directorate General of Taxes, 2024). This phenomenon confirms the existence of systemic weaknesses in the quality of objections and fiscal rulings. Research by Wahyudi, Ludigdo, & Djamhuri (2017) describes tax audits as "unfinished negotiations" due to weak communication, multiinterpretation, and regulatory ambiguity. Irawan & Budiono (2015) show that multiple interpretations in tax regulations hinder the optimization of state revenue and trigger disputes that should not have occurred.

From the perspective of public policy evaluation (Dunn, 2018), this phenomenon shows failures in the dimensions of legal clarity, effectiveness, administrative efficiency, and equity. Regulations that are supposed to be instruments to increase compliance actually trigger resistance, increase the burden of litigation, and erode the legitimacy of the tax system.

### **Scientific Explanation of the Causes and Implications of Uncertainty**

Scientifically, the main cause of legal uncertainty in the application of increased sanctions on the correction of overpaid VAT compensation is the weak formulation of multi-interpreted legal norms and the lack of detailed technical guidelines. Such ambiguity provides broad interpretive space for the fiscal system, but it is also vulnerable to being broken by the court's substantive approach that prioritizes proportionality and evidence of fiscal loss. Within the framework of public policy theory, Knill & Tosun (2020) emphasize the importance of ex post evaluation to identify implementation failures and improve policy design. In Indonesia, the norm of increased sanctions that are multi-interpreted without considering actual fiscal losses requires reformulation to meet the principles of justice, legal clarity, and enforcement effectiveness.

These findings are also in line with the results of studies in the field of international taxation. Gordon (1996) points out that disproportionate or overly harsh tax sanctions without considering taxpayer intentions or actual fiscal consequences tend to lower voluntary compliance and increase enforcement costs.

### **Synthesis of Findings and Policy Implications**

This study confirms that the issue of the application of administrative sanctions for increases in the correction of overpaid VAT compensation is not just a legal-formal issue, but a complex public policy issue. The findings suggest that multi-interpreted norms, formalistic application without consideration of fiscal losses, and weak technical guidelines have created systemic legal uncertainty.

The implication is that the policy of increasing sanctions in the correction of VAT compensation needs to be reformulated to be clearer, fairer, and more consistent. Harmonization of interpretation between the fiscal and court, the preparation of more detailed technical guidelines, and the revision of regulations to reduce the space for multiple interpretations are important steps to support better tax governance. In the context of public policy evaluation, such reforms are needed to ensure that the goal of improving tax compliance is achieved without compromising the principles of justice and legal certainty that are the foundation of a civilized and credible tax system.

## **CONCLUSION**

The application of increased administrative sanctions under Article 13 paragraph (3) letter c of the *UU KUP* concerning corrections of overpaid VAT compensation in Indonesia remains plagued by legal uncertainty due to ambiguous wording like "should not be done," which fails to clearly differentiate substantive fiscal corrections from formal-administrative ones. The prevailing formalistic interpretation leads to automatic sanction imposition regardless of actual fiscal loss,



conflicting with the principles of legal certainty and proportionality, whereas Tax Court rulings favor a substantive, case-by-case fairness approach. This uncertainty has systemic consequences, including rising tax disputes, heavier litigation burdens, reduced quality of tax administration, and diminished taxpayer trust, with court data revealing more taxpayer appeals granted and a declining fiscal win ratio for the authorities. The study finds that the multi-interpreted and rigidly enforced sanction policy undermines compliance and the legitimacy of tax authorities, evidencing deficiencies in legal clarity, effectiveness, efficiency, and justice. Urgent reform is recommended, including norm harmonization between authorities and courts, clearer and proportionate audit guidelines, and regulatory revisions to limit ambiguous interpretations, thereby promoting fair, transparent sanctions that encourage voluntary compliance. Future research should focus on designing clearer and fairer tax administrative sanctions, comparative studies of proportionality-based sanction implementations internationally, empirical analyses of sanctions' impact on taxpayer behavior, and policy simulations to evaluate potential state revenue and administrative cost outcomes under reformed sanction frameworks.

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