

DEVELOP A DECISION SUPPORT SYSTEM MODEL IN TAX DISPUTES AT TAX COURTS IN INDONESIA

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ABSTRACT

The tax collection system in Indonesia is the "Self-Assessment System", in this system taxpayers are given the freedom to calculate, pay, and report their tax calculations. The consequence of this tax collection system is the existence of a tax examination from the Directorate General of Taxes (DJP), to test the calculation of taxes that have been done by the taxpayer. Tax Examination is a series of activities to collect and process data, information, and / or evidence that is carried out objectively and professionally based on an examination standard. The purpose of the Examination is to test compliance with the fulfillment of tax obligations and for other purposes. On the results of the Tax Examination, Taxpayers can make Legal Efforts through the Tax Court, this Legal Effort is known as a tax dispute. A Decision Support System (DSS) is a computerized program used to model materials to support the determination, assessment, and action of selecting solutions in an organization or business (Lucas et al.; Asemi et al., 2011; Heru, Drs. Bayu Surarso and Drs. Eko Adi Sarwoko, 2013; Marimin, 2018). This research aims to find a model decision support system in tax disputes at the Tax Court in Indonesia. The results of the Discovery of The Decision Support System Model in Risk Mitigation in Appeals or lawsuits to tax courts in Indonesia, are expected to help taxpayers to decide whether to make legal efforts related to the existence of tax decrees and decrees from the Directorate General of Taxes. This model is expected to avoid greater tax penalties if the taxpayer makes legal efforts in the tax court which is 100 of the amounts of tax still to be paid.

Keywords: Self-Assessment, Decision Support System, Tax Dispute, Tax Court

INTRODUCTION

The tax collection system in Indonesia is the "Self-Assessment System", in this system taxpayers are given the freedom to calculate, pay, and report their tax calculations. The consequence of this tax collection system is the existence of a tax examination from the Directorate General of Taxes (DJP), to test the calculation of taxes that have been done by the taxpayer. Tax Examination is a series of activities to collect and process data, information, and / or evidence that is carried out objectively and professionally based on an examination standard. The purpose of the Examination is to test compliance with the fulfillment of tax obligations and for other purposes.

The legal products of tax checks are:[1] Underpayment Tax Decree (SKPKB),[2] Additional Underpayment Tax Decree (SKPKBT),[3] Nil Tax Decree (SKPN),and [4] Overpayment Tax Decree (SKPLB). The taxpayer can make legal efforts in the form of objections to the regional office where the taxpayer is registered through the taxpayer's tax service office if it concerns material matters or makes a lawsuit to the tax court, if related to procedural issues in the issuance of the tax decree from the results of the examination. In the event of taxpayer objections in the tolah by the Directorate General of Taxes (DJP) then the Taxpayer can make legal efforts, namely the appeal to the Tax Court.

Based on a search from researchers the number of tax disputes in tax courts in Indonesia has increased from year to year which can be seen in Table 1. The increase in the number of tax disputes in the period 2017-2020 is due to disagreements between taxpayers and tax inspectors regarding the application of tax regulations. The difference in interpretation will be resolved through the Appeal mechanism or lawsuit to the Tax Court. Tax Dispute Legal Efforts in tax courts are the first and last legal efforts in the Tax Court, extraordinary legal efforts that can be pursued after the Tax Court Decision is a Review to the Supreme Court. In making legal action against tax disputes in the Tax Court, taxpayers need to be careful in taking decisions for legal efforts to the tax court, this is because in accordance with article 27 paragraph 5(d) of Law No. 28 of 2007 as last amended by Law No. 11 of 2020 on copyright work which states " In the event that the appeal is rejected or partially granted, the Taxpayer is subject to administrative sanctions in the form of a fine of 100% of the amount of tax based on the Appeal Ruling minus the payment of taxes that have been paid before filing objections. "Administrative sanctions imposed on taxpayers if the appeal in the Tax Court is rejected by 100% is very burdensome for taxpayers, for that taxpayer needs to be careful in making such legal efforts. To mitigate the risk in the event of a defeat in the Tax Court, taxpayers urgently need a system that provides recommendations or choices to taxpayers whether to make legal efforts or not so that administrative sanctions of 100% can be avoided.

Table 1 Number of Tax Disputes in the Tax Court From 2017-2020

Year	Number of Disputes
2017	5.553
2018	7.813
2019	12.882
2020	14.660

Source: <http://www.setpp.kemenkeu.go.id/statistik>

Based on the background above, the formulation of the problems raised in this study is: How to Build a Decision Support System Model in tax disputes at the Tax Court in Indonesia?

The purpose of this study is to find a model decision support system in tax disputes at the Tax Court in Indonesia.

LITERATURE REVIEW

Soemitro (1988) says that: "Taxes are the transfer of wealth from the people to a government for which no reward can be directly appointed." According to Soemitro (1988) taxes are justified because there are laws governing where the law has been approved by the people through Dewan Perwakilan Rakyat. Adam Smith in Rosdiana (2014, p.159) explains the guidelines for tax collection to be fair there are four principles that must be met, namely:

1. Equality dan Equity
Equality means that taxes are imposed on people who have the same ability to pay. Equity or fairness means a legal provision in the law will be fair if it is felt to have been
They meet the same conditions and are treated in the same way.
2. Certainty
Certainty or legal certainty is the purpose of the creation of binding laws and regulations. Taxpayers and fissures must clearly know their rights and obligations and share the provisions of the tax collection must be clearly stated, express, and do not contain double meaning and have no opportunity to be interpreted otherwise. Legal certainty depends a lot on the arrangement of sentences, word arrangements, use of terms and the use of standard and correct Indonesian. Soemitro (1988) stated in the drafting of the law, it is necessary to note legal principles such as *lex specialist derogate lex generalis*, *lex posterior derogate lex anterior*, *pacta sunt servanda*, *lex locus contractus*, *nulla poena sine privilege lage*, non-discrimination, principle of domicile, source and nationality, principle of *keajegan*, principle of continuity, principle of justice and soon.
3. Convenience of Payment
This principle means that taxes are levied at times that the Taxpayer thinks make it easier. For example, income tax is levied when the new taxpayer receives income, so that the taxpayer does not feel objected to fulfilling his obligations.
4. Economic of Collection
This principle means that the cost of voting should be as efficient as possible. That is, in conducting the vote, the government must consider the minimum voting costs to get maximum tax money. So that the cash that goes into state revenue becomes greater.

Smith and Stalans (1994) revealed that the first stage of the emergence of a potential dispute is the identification of the possibility of errors or errors in the application of the law by the tax examiner to taxpayer reporting. This stage is called the naming stage. Then the next stage is the claiming stage. At this stage, the tax examiner will bring material issues to potential reporting errors by filing a tax correction. The tax examiner will ask for more detailed evidence or explanation of the issue. When the tax examiner has filed a correction, the Taxpayer may agree or disagree. If agreed, then the case is completed at the examination stage. But if the Taxpayer refuses the correction made by the tax examiner, then the issue will become a tax dispute.

The definition of taxes according to Article 1 paragraph (1) of Law No. 28 of 2007 on General Provisions and Procedures of Taxation is affirmed: "Taxes are mandatory contributions to the state owed by private persons or entities that are coercive under the Law, with no direct reward and used for state purposes for the greatest prosperity of the people". Meanwhile, the definition of taxes in Article 1 paragraph (2) of Law No. 14 of 2002 on Tax Courts is expanded: "Taxes are all types of taxes levied by the Central Government, including Customs and Excise, and taxes levied by local governments, based on applicable laws and regulations". There are two different opinions governing how tax debt arises in tax law, Ilyas & Burton (2008) mentions first material opinion stating that tax debt arises when it is enacted meaning that if a tax law is enacted by the government, then that's when the emergence of tax debt as long as what is regulated in the law - the law gives rise to an obligation for someone to become owed tax. Both opinions formal state that tax debt arises when the issuance of tax decrees by the government or the Directorate General of Taxes (*fiscus*), meaning that a person is only known to have debt when the *fiscus* issues a Tax Decree in his name and the amount of taxes owed. Since the issuance of tax debts caused obligations to be paid within 30 (thirty) days or a month from the issuance of the Tax Decree, and the wrong removal of tax debt according to Mardiasmo (2008) can be caused by several things, namely: (1) payment, namely the Taxpayer making payment of his tax debt to the state treasury or other place appointed by the Minister of Finance; (2) compensation, is a way of removing tax debts carried out through the transfer of excess taxes on a type of tax by closing the lack of tax debt on the same type of tax or other types of taxes; (3) the expiration of tax debt can occur because of the past time of tax determination or because of the past time of the tax collection process. The default of the tax debt is intended so that a legal certainty for the Taxpayer for a certain period determined by law no longer has a tax debt; (4) The elimination of tax debt can be caused by things, namely: Taxpayers die by leaving no inheritance and have no heirs or heirs cannot be found, taxpayers do not have any more property proven based on certificates from the local government, or other causes, for example taxpayers cannot be found again or documents cannot be found again due to unavoidable circumstances such as fires, natural disasters, and so on. Although our tax system provides trust in the public or taxpayers, so to ensure that they carry out their tax obligations properly in accordance with the provisions and tax laws, then under certain conditions the government or fissure can conduct tax checks. The legal basis of tax examination Article 29 paragraph (1) of Law No. 28 of 2007 on General Provisions and Procedures of Taxation affirms "The Director General of Taxation is authorized to conduct checks to test compliance with the fulfillment of taxpayer tax obligations and for other purposes in order to implement the provisions of tax laws an deregulation".

Understanding examination according to Law No. 28 of 2007 Article 1 number 25 on General Affairs and Taxation Procedures mentioned "Examination is a series of activities to collect and process data, information, and / or evidence that is carried out objectively and professionally based on an examination standard to test compliance with the fulfillment of tax obligations and / or for other purposes in order to implement the provisions of tax laws and regulations". According to Mardiasmo (2008) the target of examination and investigation is to look for: improper legal interpretation; miscalculation; particular embezzlement of income; improper deductions and deductions, which taxpayers make in carrying out their tax obligations.

Based on Article 25 paragraph (1) of the General Provisions and Procedures of Taxation Law No. 28 of 2007, "Taxpayers can object, by submitting a letter of objection, only to the Directorate General of Taxes on a: Underpayment Tax Decree.

The mechanism of appeal according to Mardiasmo (2008), taxpayers can appeal, by the Procedure of Settlement of Appeal: (1) Taxpayers apply only to the tax judicial body for a Decree of Objection; (2) The Tax Court's decision is a special court decision in the judicial environment of the state; (3) An appeal is filed within three months of the Objection Decision being received, by way of: written in the Indonesian, presenting obvious reasons, attaching a copy of the Objections Decree; (4) The amount of unpaid tax at the time of appeal does not constitute tax owed until the Appeal Ruling is issued; (5) If the appeal is rejected or partially granted, the Taxpayer is subject to administrative sanctions or a fine of 100% (one hundred percent) of the tax amount in accordance with the Appeal Decision minus the payment of taxes that have been paid before filing the objection (General Provisions and Taxation Procedures Law number 28 of 2007 article 27 paragraph (5) letter d; (6) If the filing of objections or appeals is granted in part or in whole, which causes excess tax payments, the overpayment is refunded plus interest rewards of 2% (two percent) per month maximum of 24 (twenty-four) months with the provision for: Underpayment Tax Decree and Additional Underpayment Tax Determination Letter calculated from the date of payment that causes excess tax payment up to the issuance of the Objection Decree.

A Decision Support System (DSS) is a computerized program used to model materials to support the determination, assessment, and action of selecting solutions in an organization or business (Lucas et al.; Asemi et al., 2011; Heru, Drs. Bayu Surarso and Drs. Eko Adi Sarwoko, 2013; Marimin, 2018). DSS filters and analyzes large amounts of data, gathering comprehensive information that can be used to solve problems and in decision making. At this time business organizations and government organizations have applied various computational-based information systems in various management processes so as to produce a data warehouse (Data Warehouse) this is called the Era of Big Data. (Developing and Product, no date) (Provost and Fawcett, 2013) Decision makers usually face existing situations that have various characteristics in deciding the best solution that is generally set against a problem that is unique, uncertain, complex, has many variables (long, medium, short), and multilevel structure. A decision support system is an information system used to support decision making in an organization or business. The benefits of a decision support system include providing mechanisms for making more informed decisions, timely resolution, and greater efficiency in addressing issues balanced with an organizational and social approach.

METHODOLOGY

The research method used in this study is this research using a type of descriptive research with qualitative approach and literature review related to the data of previous tax court rulings that will be used as data mining to predict tax disputes that have similarities in the types of tax corrections faced by taxpayers. The data obtained from the website of the <http://www.setpp.kemenkeu.go.id/risalah> in the form of a list of Tax Court rulings amounting to 34,132 rulings and types of decisions based on the Panel of Judges of the Tax Court that examines the case, in the form of granting the whole, granting some, rejecting the application, and is not acceptable. Data about the types of court decisions each judge is obtained from the <http://www.setpp.kemenkeu.go.id/ALL>. The data source will first be downloaded from the website to then be processed by the researcher.

RESULT

The data source that has been downloaded from the website, will be processed and compiled to become a Decision Support System that can help taxpayers in determining whether to do the stages in a tax dispute or not. The formation of the DSS model can be seen in figure 1 and 2.

Figure 1
Model Decision Support System in Tax Disputes (Data Summary)

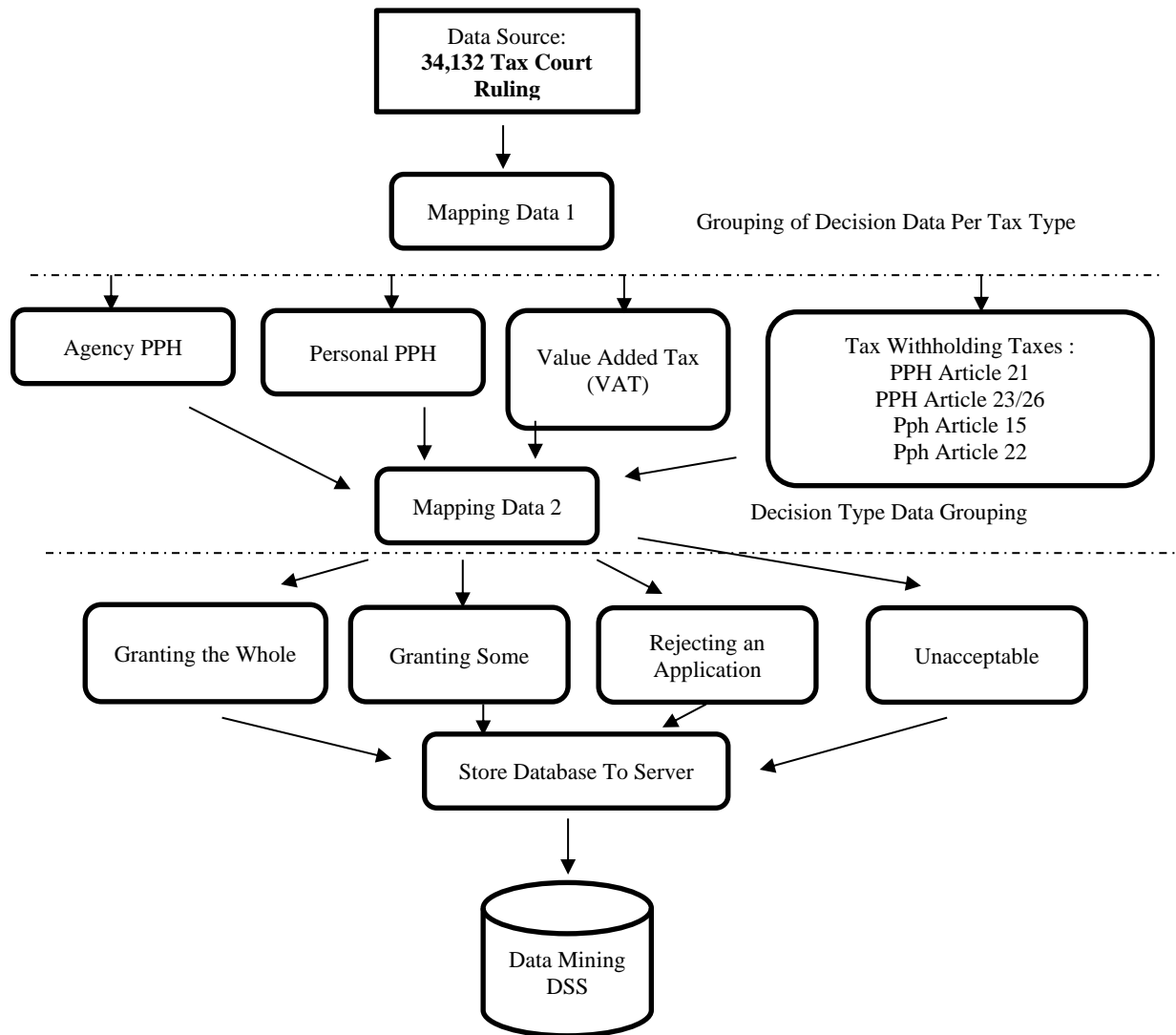
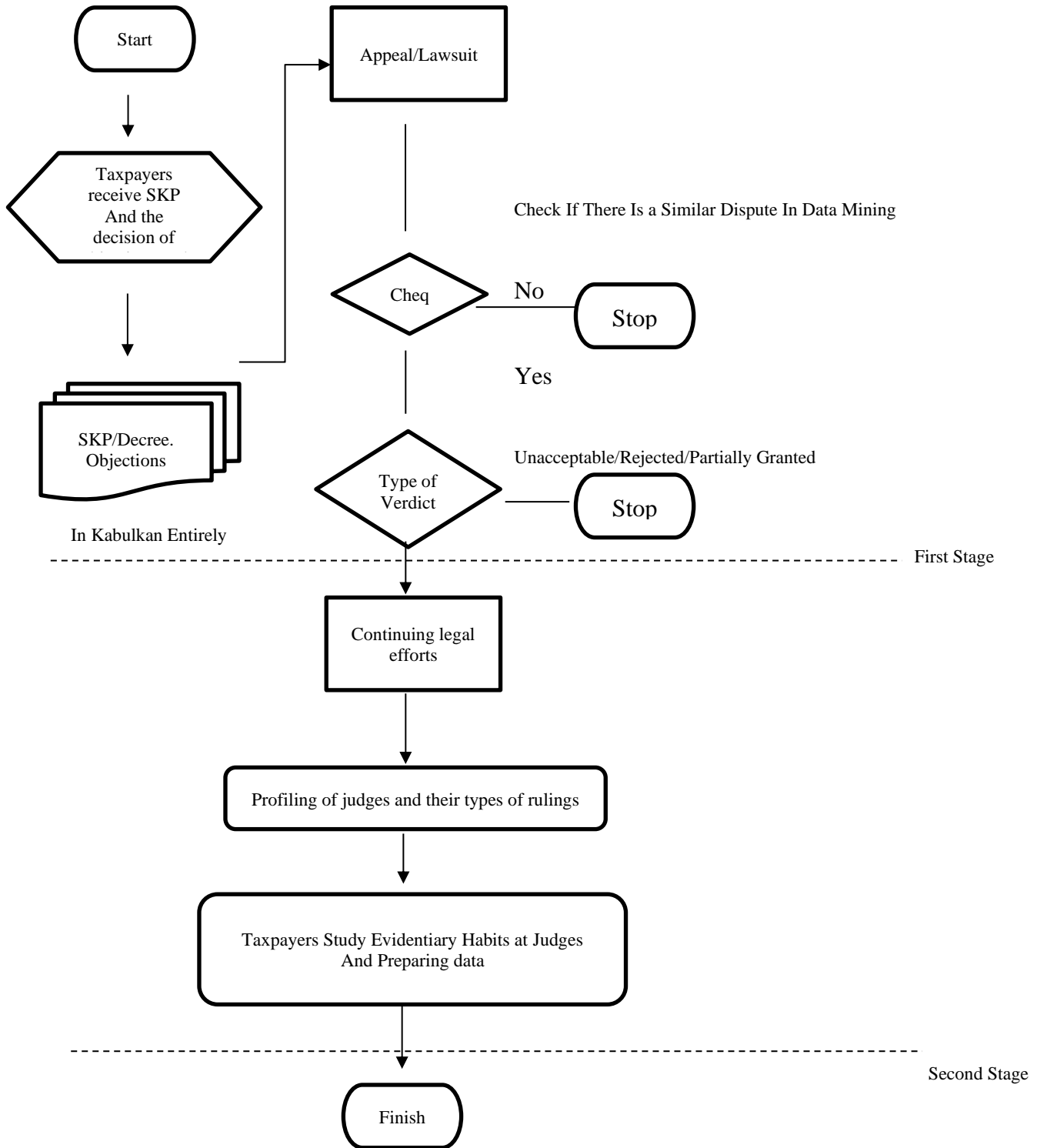


Figure 2
Model Decision Support System Dalam Sengketa Perpajakan (Application Of DSS)



CONCLUSION

The results of the Discovery of The Decision Support System Model in Risk Mitigation in Appeals or lawsuits to tax courts in Indonesia, are expected to help taxpayers to decide whether to make legal efforts related to the existence of tax decrees and decrees from the Directorate General of Taxes. This model is expected to avoid greater tax penalties if the taxpayer makes legal efforts in the tax court which is 100 of the amounts of tax still to be paid.

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