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The Substantive Impact of Circular Letter No. SE-26/PJ/2015 on Taxpayers' Rights

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Abstract

***Introduction**: Tax administration practices frequently utilize Circular Letters (SE) to establish substantive policies affecting Taxpayers. Conceptually, an SE functions merely as an internal guideline for government apparatus. However, in practice, it transcends its basic function by containing binding technical provisions, thereby giving rise to public law issues and legal uncertainty within governance.*

***Purposes of the Research**: This research aims to comprehensively examine the legal standing of tax Circular Letters that carry substantive impacts and to formulate an ideal oversight model within the framework of the Administrative Law system to protect the legal rights of Taxpayers*

***Methods of the Research**: This descriptive-analytical study applies a normative legal research method using a statute approach and a conceptual approach. Qualitative analysis is conducted on primary, secondary, and tertiary legal materials gathered through a literature review.*

***Results / Main Findings / Novelty/Originality of the Research**: Legally, a Circular Letter is excluded from the hierarchy of statutory legislation and is strictly prohibited from creating new public-binding legal norms. Utilizing a substantive SE constitutes an act of exceeding authority (ultra vires). The novelty of this study proposes an integrated oversight system: internally through the Directorate General of Taxes, the Tax Oversight Committee, and the Inspectorate General of the Ministry of Finance; and externally through the Ombudsman of the Republic of Indonesia. The Ombudsman's Final Examination Report can serve as a primary authentic piece of evidence for Taxpayers to strengthen their legal standing.*

***Conclusion**: Circular Letters must adhere to the principle of legality and are prohibited from containing substantive norms. The implication of this study emphasizes the significance of leveraging Ombudsman reports to file for a Judicial Review at the Supreme Court as well as lawsuits at the Tax Court to restore legal certainty and protection rights for Taxpayers*

Keywords: Circular Letter, Taxpayer Rights, Tax Administration

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INTRODUCTION

Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NKRI 1945) affirms that Indonesia is a state governed by the rule of law. This indicates that the entire exercise of state power, including the actions and decisions of government officials, must be based on the law as the highest norm in state affairs. The law serves as a guide, a constraint, and a check on power to ensure that the government does not act arbitrarily.[1]

[1]Jetty Erna Hilda Mokat, 2023, *Hukum Administrasi Negara*, Klaten, Tahta Media Group, hlm. 5-6.

Every policy, decision, or action taken by government officials must have a clear basis of legitimacy so that the administration of the state remains within the bounds of the Constitution, while also serving as a safeguard for citizens against potential abuse of authority. The implementation of this principle of the rule of law requires more technical regulations through Administrative Law—an instrument that governs the procedures for the administration of government, the relationship between government officials and the public, and the mechanisms for the exercise of authority by administrative bodies or officials. One manifestation of this is the establishment of public service standards as administrative norms that serve as guidelines for government officials.[2] The existence of public service standards is essential for creating clear procedures, improving bureaucratic effectiveness, and preventing slow, convoluted, and uncertain service delivery.

Public administration services in the taxation sector play a crucial role because taxes are one of the primary sources of government revenue used to fund government operations, national development, and public services. In addition to serving as a source of funding, taxes also function as a regulatory tool that the government can use to influence economic conditions and social life in accordance with the nation's needs.[3] Tax administration requires a well-organized administrative system, as it involves not only tax collection agencies and their enforcement personnel but also encompasses the collection process, which must be carried out efficiently in accordance with the legal framework established by laws and regulations. Clarity of regulations, simplicity of procedures, and institutional effectiveness are key elements in creating legal certainty for both the state and taxpayers.[4]

In line with the importance of tax administration in ensuring legal certainty and protection for taxpayers, the use of tax Circular Letters (SE) is a common administrative tool employed by tax authorities in government operations. Circular Letters are generally used to provide implementation instructions, operational guidelines, technical explanations, or interpretations of a policy so that the performance of duties can proceed in a more orderly and uniform manner. The use of this instrument usually arises when the provisions in laws and regulations do not yet address technical matters in detail, so that administrative officials require additional guidance in exercising their authority.[5] In the field of taxation, SE are frequently used to explain service procedures, administrative processes, and the interpretation of specific tax provisions for tax officials and the public. However, the use of SE must remain within the scope of the authority of the official issuing them, must not conflict with higher-level regulations, and must not create legal uncertainty for taxpayers.

In practice, tax administration does not always treat Circular Letters merely as internal guidelines; under certain circumstances, they have a direct impact on the legal status of taxpayers. This can be seen in an example related to the use of Tax Invoice Serial Numbers under SE-26/PJ/2015, which clarifies that the date on a Tax Invoice must not precede the date the Tax Invoice Serial Number (NSFP) was issued. This means that if a taxable business entity (PKP) issues an incomplete tax invoice—due to the invoice date preceding or occurring before the date of the tax office's letter assigning the Tax Invoice Serial

[2]Dahyar Daraba, 2019, *Reformasi Birokrasi & Pelayanan Publik*, Makassar, Leisyah, hlm. 198-199.

[3]Galih Wicaksono dkk., *Perpajakan*, Padang, PT Global Eksekutif Teknologi, hlm. 3.

[4]Benny Setiawan dan Yadhy Cahyady, 2020, *Upaya Hukum Pajak: Mengenal Upaya Hukum di Bidang Perpajakan dan Hukum Acaranya,* Tangerang Selatan, Politeknik Keuangan Negara STAN, hlm. 1-2.

[5]Cholida Hanum, *Analisis Yuridis Kedudukan Surat Edaran dalam Sistem Hukum Indonesia*, Humani (Hukum dan Masyarakat Madani), Volume 10, Nomor 2, November 2020 hlm. 142-143.

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Number—it will be subject to penalties. Consequently, the taxable business entity (PKP)/issuer may face administrative sanctions, and the purchaser may potentially be unable to claim a credit for the Input Tax. Provisions such as these indicate that the Circular Letter no longer serves merely as a means of internal communication but can determine specific tax treatments, impose additional administrative requirements, and even affect taxpayers' rights to claim tax credits. This situation raises legal issues because an instrument that is essentially administrative in nature can have substantive legal consequences for the public.

The lack of clarity regarding the status of the SE used in such tax practices may ultimately lead to legal uncertainty for taxpayers. Within the tax administration system, the law itself acknowledges the possibility of human error; therefore, Law of the Republic of Indonesia No. 7 of 2021 on the Harmonization of Tax Regulations has established a correction mechanism as a manifestation of good governance and sound administration.[6]

METHODS OF THE RESEARCH

This study employs a normative legal research method with a descriptive-analytical focus. The approaches used include the statutory approach and the conceptual approach. Data sources are based on primary legal materials (laws and regulations and circular letters related to taxation), secondary legal materials (legal literature, research findings, and scientific journals), and tertiary legal materials (legal dictionaries and encyclopedias). Legal materials were collected through library research. All collected legal materials were analyzed qualitatively using deductive legal reasoning to draw conclusions regarding the legal issues under study.

RESULTS AND DISCUSSION

In administrative practice, a Government Circular (SE) is an official document that provides notification regarding provisions in a piece of legislation deemed important and urgent for immediate implementation.[7] From the perspective of correspondence protocols, a circular is essentially a written communication tool used to convey information from one party to another—whether an individual or an organization—as noted by Indrawan W.S., who views a letter as a written medium for conveying specific information, whereas in the context of a circular (circulaires), it is defined as a letter sent to multiple parties with identical content.

Gerald Prambudi explained that a SE is an official letter issued by a government agency or official and addressed to subordinates to convey policies or guidelines regarding the performance of governmental duties.[8] An SE not only serves as a medium for administrative communication but also contains the substance of policies related to the execution of government functions. Although formally in the form of a letter, in practice,

[6]Rinaningsih, 2023, *Kupas Tuntas Upaya Hukum Pajak Kepada Direktur Jenderal Pajak* , Jakarta Selatan, Asosiasi Profesi Widyaiswara Indonesia, hlm. 41–42.

[7]Peraturan Kementrian Keuangan Republik Indonesia Nomor 164/PMK.01/2021 (*Pedoman Tata Naskah Dinas di Lingkungan Kementrian Keuangan)*, Pasal. 23 ayat (1).

[8]Rasji, 2022, *Pengujian Peraturan Kebijakan Indonesia,* Jakarta, Universitas Tarumanegara, hlm. 253-254.

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an SE embodies the will of the public administration and serves as a guideline for carrying out government duties.[9]

An understanding of SE can also be seen from the flexibility with which it is issued in government practice.[10] SE can be issued by government officials in accordance with their respective areas of responsibility and authority, and thus is not tied to any specific institution, as is the case with laws and regulations. This situation indicates that SE does not have a fixed rank or status within the legal hierarchy, but rather adapts to the needs of the bureaucracy that issues it. The content of a circular is not strictly limited but is tailored to the scope of duties and functions of the relevant official. A circular may contain various forms of administrative policies as long as they fall within the scope of a government official's authority, which ultimately underscores the nature of the circular as a flexible instrument in supporting the execution of governmental duties.

Provisions in various regulations on Official Document Formatting emphasize that an SE serves as a means of administrative communication used to provide guidance on policy implementation, not as a standalone legal norm. An SE places greater emphasis on operational aspects—namely, to facilitate coordination, ensure consistency in action, and provide clarity in policy implementation within the bureaucracy. This view aligns with the opinion of Bayu Dwi Anggono, who classifies SE as part of policy regulations (beleidsregel) or quasi-regulations, as well as that of Jimly Asshiddiqie, who classifies it as "quasi-legislation"—that is, an administrative policy product created in the course of carrying out governmental duties. SE exhibits the characteristics of a quasi-norm, meaning it contains regulatory substance that, in practice, can influence administrative actions. The function of SE lies in its role as a medium for practically guiding policy implementation within the government.[11]

1. Legal Consequences of Circular Letter No. SE-26/PJ/2015 on Taxpayers' Rights

The use of SE can also be seen in concrete terms through its role in providing technical clarification on provisions set forth in tax regulations. One example is the application of provisions regarding tax rate reduction facilities as stipulated in Law No. 42 of 2009, Article 13, paragraph (1a), of the Third Amendment to Law No. 8 of 1983 on Value-Added Tax (VAT) on Goods and Services, and Sales Tax on Luxury Goods (PPBM) (Law No. 42 of 2009). However, in administrative practice, this is further clarified through the Director General of Taxes' Circular Letter No. SE-26/PJ/2015 regarding the clarification of the use of tax invoice serial numbers and the procedures for issuing tax invoices.

The regulations regarding the use of Tax Invoice Serial Numbers, as clarified in Director General of Taxes Circular Letter No. SE-26/PJ/2015, demonstrate that technical provisions in tax administration can have substantive consequences for taxpayers. In practice, the obligation to use Tax Invoice Serial Numbers in accordance with the timeframe specified by the tax authority is a critical requirement for determining the validity of a Tax Invoice. Non-compliance in the use of Tax Invoice

[9] *Ibid*, hlm. 254 .
[10] *Ibid*, hlm, 259.
[11] Yohanes Pattinasarany, *Keabsahan Surat Edaran yang Muatan Materilnya Bersifat Pengaturan dan Sanksi,* Saniri, Volume 3, Nomor. 1, November 2022, hlm. 31-32.

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Serial Numbers—particularly if used prior to the designated date—results in the Tax Invoice being classified as an Incomplete Tax Invoice. Problems arise when the interpretations set forth in the Circular Letter no longer merely explain the law but tend to establish new meanings and policies that may differ from the intent of the legislature, thereby raising implications for legal certainty and the protection of taxpayers' rights.

This provision not only affects administrative aspects but also gives rise to legal consequences directly felt by taxpayers, including the imposition of an administrative penalty of 2% of the Tax Base as stipulated in the Tax Administration Law, as well as the inability to claim an input tax credit for the party receiving the tax invoice. Delays in issuing tax invoices may also potentially affect the right to claim input tax credits, although under certain conditions it remains possible provided the specified requirements are met. This situation demonstrates that the technical provisions in the Circular Letter actually have direct implications for the tax burden, tax rights, and the legal standing of taxpayers within the tax administration system.[12]

An analysis of the relationship between the provisions of Law No. 42 of 2009, specifically Article 13(1a), and Circular Letter of the Director General of Taxes No. SE-26/PJ/2015 reveals legal issues in its practical application. The provisions in the law essentially set forth exhaustive rules regarding the timing of the issuance of Tax Invoices, the implementation of which may be further regulated through a Minister of Finance Regulation. However, in tax administration practice, the Circular Letter serves not only as a means of technical clarification but also establishes legal consequences that directly impact taxpayers, particularly when such technical provisions are used as the basis for determining the validity of tax invoices and the imposition of administrative sanctions.

2. The Ombudsman as a Supervisory Body and Legal Remedy in the Supreme Court.

As an institution free from interference by other authorities and having no ties to or influence from any government agency, the Ombudsman has full authority to oversee the delivery of public services. In carrying out its primary duties, the Ombudsman receives reports or complaints from any Indonesian citizen or resident regarding alleged maladministration by state officials.[13] The Ombudsman's primary focus is on addressing and investigating various allegations of maladministration. The crucial role of this institution is oriented toward protecting the public from rights violations, abuse of power, errors, negligence, unfair decisions, and administrative errors. The exercise of these oversight functions serves as a driving force in reforming the quality of public administration, promoting the principle of transparency, and building a bureaucratic system that is fully accountable to the public.[14]

Through its investigative functions, the Ombudsman has the authority to examine the internal procedures underlying the intent and purpose of the issuance of the SE, to

[12]Angga Dwijayanto,. 2024, *Ketentuan NSFP dan Faktur Pajak dalam SE-26/PJ/2015*, https://share.google/ViWgPCHSfxZG2fZIY, (Diakses pada 3 Mey 2026.)

[13] F K sari, *kedudukan ombusman sebagai lembaga pengawasan penyalengaran pelayanan publik dalam sistem ketatanegaraan republik indonesia*, jurnal ilmiah hukum, vol. 1, 2023, hlm. 49-50.

[14]M. I Patarai, 2015, *Ombusman dan Akuntabilitas Publik (Perspektif Daerah Istimewa Yogyakarta)*, Makasar, De La Macca, 37-38.

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establish whether there has been an abuse of authority by officials or an error in interpreting statutory provisions, and to issue a Final Investigation Report (LAHP).[15] This document will serve as authentic evidence that maladministration has indeed occurred, which has clearly harmed the taxpayer's position. This initial phase at the Ombudsman is crucial for addressing bureaucratic misconduct and swiftly mitigating the adverse effects of tax services in the field. If, in the final conclusion of the oversight and substantive investigation process, indications of maladministration are found regarding the implementation of a DGT Circular that has a substantive impact, the Ombudsman will authoritatively issue Recommendations in accordance with the provisions of Article 35 of the ORI Law.

This recommendation is not merely a routine reprimand, but rather a formal legal document that is legally binding, requiring the Director General of Taxes, as the Respondent, to take concrete corrective actions to restore the rights of the affected taxpayers.[16] When the reported agency is uncooperative or ignores the suggestions for improvement set forth in the LAHP, the Indonesian Ombudsman will elevate the status of the report's handling by issuing an Ombudsman Recommendation. As the highest and final legal instrument issued by the Ombudsman, this document contains concrete, mandatory orders to resolve the maladministration that has occurred, including orders to pay compensation, restore reputation, and amend regulations—such as revoking or revising problematic Circular Letters.[17] Both the respondent and the respondent's superior have an absolute legal obligation to implement the entire contents of the Ombudsman's Recommendation within a period of no later than 60 (sixty) days from the date the document is received, in accordance with the provisions of Article 38(1) of the ORI Law.

Since the Ombudsman's recommendations lack legally binding and enforceable power, filing a petition for judicial review with the Supreme Court is the legal avenue that can break the chain of administrative problems stemming from the DGT Circular, by using the LAHP as highly compelling evidence to support the petition for judicial review before the Supreme Court. The Ombudsman's LAHP is treated as an authentic legal document in the list of evidence to convince the Supreme Court Justices that the provisions in the DGT Circular are indeed substantively flawed, exceed the agency's authority, and result in maladministration that harms taxpayers. It should also be noted that in Indonesia, the highest judicial power is exercised by two main judicial institutions with a very specific division of duties regarding the authority to conduct judicial review: the Supreme Court (MA) and the Constitutional Court (MK).[18]

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[15]Dyah Swastika, Sri Nur Hari Susanto, Henny Julianti, *Peran Ombudsman Republik Indonesia Perwakilan Provinsi Jawa Tengah dalam Penyelesaian Pengaduan Pelayanan Publik Bidang Pendidikan*, Administrative Law & Govermance Jurnal, Volume 5, Nomor 1, Maret 2022, hlm. 21.

[16] J H Christin Nalle, Saryono Yohanes, H R Udjum, Kedudukan Ombudsman Republik Indonesia dan Implikasi Rekomendasinya dalam Penegakan Hukum di Indonesia: Perspektif Hukum Tata Negara, jurnal penelitian dan pengabdian masyarakat, vol. 3, 2023, hlm. 276.

[17] Dinny Wirawan Pratiwie, *urgensi keberadaan ombudsman Republik Indonesia dalam rangka mewujudkan good governance (ditinjau dari undang-undang nomor 37 tahun 2008 tentang ombudsman Republik Indonesia),* jurnal ilmiah hukum, vol. 4, 2012, hlm. 71.

[18]Saldi Isra*, Titik Singgumg Wewenang Mahkamah Agung dengan Mahkamah Koonstitusi*, Jurnal Hukum dan Peradilan, Volume 4, Nomor 1, Maret 2015, hlm. 19.

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The Supreme Court plays a central role as the nation's highest court, responsible for adjudicating cases at the cassation level to uphold the unity of the law. In addition, the Supreme Court also has the authority to review the substance of legal regulations that rank below laws (such as Government Regulations, Regional Regulations, or regulations binding on the general public) to ensure they do not conflict with the laws above them, as well as to exercise other powers legally prescribed by the statutory system, as stipulated in Article 24A of the 1945 Constitution of the Republic of Indonesia..

The LAHP, which concludes that there were procedural irregularities or maladministration, abuse of authority, or that the content of the SE exceeded the agency's authority (ultra vires), is a product of an official and independent state institution. Supreme Court justices will view this LAHP as an authentic legal document that strengthens the claim that the DGT's SE is indeed legally flawed in terms of both substance and authority. Although legally, a Petition for Judicial Review (HUM) can actually be filed directly with the Supreme Court without having to go through a pre-trial institution, this is a tactical step to obtain legal certainty. The Ombudsman's recommendations and field findings can serve as very strong evidence to strengthen the petitioner's legal standing, while also convincing the Supreme Court Justices that the SE is indeed substantively flawed. This legal enforcement process culminates at the Supreme Court as a final effort to completely invalidate the content of the SE nationwide. Through a systematic combination of fact-finding at the Ombudsman and a final ruling at the Supreme Court, overlapping legal provisions can be rectified while safeguarding taxpayers' rights so they are not harmed by unilateral policies.

3. Legal Proceedings in Tax Court

Another legal recourse available to taxpayers is to bring a case before the Tax Court. The Tax Court is a specialized administrative court that exercises judicial authority on behalf of taxpayers or those liable for taxes in seeking justice regarding tax disputes.[19] Under the Indonesian legal system, the Tax Court serves as both the court of first instance and the court of last resort in examining and adjudicating tax disputes. The decisions rendered by the Tax Court are final and immediately enforceable; therefore, filing a dispute with this institution is a crucial legal step for taxpayers to protect their civil rights against tax authority rulings deemed unfair or burdensome.

The appropriate legal recourse regarding the issue raised in the Circular Letter above is to file a lawsuit with the tax court. A lawsuit is specifically filed against tax collection actions, such as the issuance of a Writ of Execution or a Seizure Order, or against administrative decisions in the field of taxation other than a Decision on Objection. Unlike an appeal, which challenges the material calculations, a lawsuit focuses more on examining formal and procedural aspects, as well as the authority of tax officials. In the context of the implementation of the problematic Circular Letter, a lawsuit serves as a strategic means of legal protection for taxpayers to expose procedural flaws or seek the annulment of administrative decisions arising from internal regulations that arbitrarily impose substantive effects. Fines for billing errors:

[19] Khalimi, Darma Prawira, 2022, *Hukum pajak dan kepabeanan di indonesia*, Jakarta: Kencana, hlm. 156.

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In the tax administration system, these are not assessed using a Tax Assessment Notice (SKP), but rather using a Tax Invoice (STP). According to the provisions of the Tax Administration Law (KUP), a Tax Invoice (STP) cannot be subject to an objection. Since an absolute requirement for filing an "appeal" with the Tax Court is the prior issuance of an "Objection Decision," the appeal process is automatically closed for cases involving STP fines.

If a Taxable Business Entity (PKP) receives a Tax Invoice (STP) imposing an administrative penalty of 2% of the Taxable Amount (DPP) for issuing an Incomplete Tax Invoice, the Taxable Business Entity (PKP) is subject to an STP for a penalty under E -Invoice resulting from SE-26/PJ/2015, once the Tax Invoice (STP) is received, the taxpayer may immediately bypass the internal authorities of the Directorate General of Taxes (DJP) to file a Statement of Claim with the Tax Court, using the STP itself as the subject of the dispute. Pursuant to Article 40(3) of Law of the Republic of Indonesia No. 14 of 2002 on Tax Courts, which states: "The time limit for filing a lawsuit against a decision, other than the lawsuit referred to in paragraph (2), is 30 (thirty) days from the date the contested decision is received." The Tax Court grants the taxpayer a deadline of 30 (thirty) days from the date the STP is received to prepare legal arguments and gather all formal evidence before the right to file a lawsuit is deemed to have expired and is legally forfeited.

In addition, taxpayers may first pursue a non-litigation route by submitting a Request for Reduction or Waiver of Administrative Penalties to the Director General of Taxes through the local Regional Office (Kanwil) of the DGT, pursuant to Article 36(1)(a) of the Tax Administration Law in conjunction with Minister of Finance Regulation No. 8/PMK.03/2013, on the grounds that the e-Invoice error arose due to an oversight related to system synchronization following the issuance of SE-26/PJ/2015. Article 36(1) of the Tax Administration Law states:

The Director General of Taxes, either ex officio or upon the taxpayer's request, may:

a. reduce or waive administrative penalties in the form of interest, fines, and surcharges owed in accordance with the provisions of tax laws and regulations, in cases where such penalties were imposed due to the taxpayer's oversight or were not the result of the taxpayer's fault;
b. reduce or revoke an incorrect tax assessment notice;
c. reduce or revoke an incorrect Tax Bill as referred to in Article 14; or
d. revoke the results of a tax audit or a tax assessment notice resulting from an audit conducted without:
    1. the issuance of a notice of audit results; or
    2. a final discussion of the audit results with the taxpayer.

The main advantage of this strategy is its cost- and time-efficiency; if the Taxable Entity's (PKP) legal arguments are deemed strong and the Regional Office of the Directorate General of Taxes (DJP) agrees that the error is purely administrative in nature and does not result in a loss of state revenue, then the 2% fine based on the Tax Base (DPP) can be waived immediately at the internal level. If the Regional Office of

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the Directorate General of Taxes (DJP) rejects the request and issues a Decision Letter (SK) of Rejection, the taxpayer may then file a lawsuit with the Tax Court, making the Decision Letter of Rejection the subject of the new dispute, with a filing deadline of 30 (thirty) days from the date the Decision Letter of Rejection is received.

CONCLUSION

From a normative legal perspective, a Circular Letter (SE) within the system of Administrative Law is classified as a policy regulation (beleidsregel) or pseudo-legislation (pseudo-wetgeving) that is effective only within the bureaucracy and does not form part of the hierarchy of laws and regulations. Therefore, the use of a Circular Letter—such as Circular Letter No. 26/PJ/2015 regarding Tax Invoice Serial Numbers—which establishes technical requirements resulting in administrative fines and deprives taxpayers of their right to input tax credits, constitutes an act exceeding authority (ultra vires). This practice of transforming internal instructions into binding public norms has been shown to deviate from the principle of legality, threaten the principle of legal certainty, and distort the justice and legal protection that the law is supposed to guarantee for taxpayers.

To address the impact of problematic SE, oversight must be conducted through an integrated control ecosystem that spans both internal and external domains. Internally, tiered oversight by the immediate superiors within the Directorate General of Taxes, evaluations by the Tax Oversight Committee, and compliance audits by the Inspector General's Office of the Ministry of Finance serve as preventive measures to preempt the potential emergence of hidden tax liabilities. Meanwhile, on the external front, the Ombudsman of the Republic of Indonesia acts as the primary channel for addressing allegations of maladministration. The Ombudsman's Final Audit Report (LAHP) holds strategic significance as a very strong piece of authentic evidence to strengthen taxpayers' legal standing when filing a petition for judicial review with the Supreme Court to overturn the Circular Letter in its entirety, as well as to serve as the basis for filing a lawsuit with the Tax Court.

Based on these findings, it is recommended that tax authorities consistently restore the function of Circular Letters to that of internal administrative guidelines, and that they be required to codify any policy that results in the imposition of penalties or restrictions on taxpayers' rights into legally valid regulations within the regulatory hierarchy (at a minimum, at the level of a Minister of Finance Regulation). In addition, regulatory reforms are needed to establish a pre-audit oversight mechanism for draft Circular Letters prior to their issuance, as well as to strengthen institutional synergy so that recommendations and findings of maladministration from external oversight agencies can be absolutely recognized as grounds for the annulment of policy norms in court..

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