

SETTLEMENT OF TAX PAYABLE IN BANKRUPTCY CASE: A SYSTEMATIC REVIEW

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ABSTRACT

The purpose of taxation is to collect funds from the public which will be used for the benefit of government financing and state development. Tax debt arises from law and does not arise as a result of a legal relationship so that tax debt is included in public debt because it is regulated by public law. This article seeks to systematically investigate the application of the Bankruptcy Law and the Taxation Law in cases of bankruptcy decisions. In particular, this study focuses on the application of the bankruptcy and taxation law in the context of tax collection and payment, and tax debt settlement based on tax procedures and law. This paper originally offers a perspective of collecting or paying tax debt in a case of bankruptcy. The results showed that the fulfillment of the payment of the tax bill must take precedence over the payment of creditors in bankruptcy in order to meet the government's performance funding. The objections to the curator's decision are resolved by a judge in a commercial court. This procedure results in the tax debt being deemed to be subject to the related regulation. Because tax debt is debt arising from legislation, it has difference from civil debt that arises from a contract or agreement. Thus, tax debt has an element of forcing to be repaid so that the tax debt has its own mechanism or procedure in the settlement process and the process of paying off tax bills must be different from claims for civil debt.

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INTRODUCTION

In general, bankruptcy originates from unpaid debt. In an economic perspective, debt is something that is owed by someone to another, including money, goods, or services. The debt-receivable relationship gives birth to the debtor and creditor positions (Supriyadi, 2020). Basically, the position of debtors and creditors in civil law is not the same as that of debtors and creditors in tax law. In ordinary debt or debt that arises in connection with the scope of civil law, it cannot be separated from the legal relationship between debtors and creditors as a result of an agreement (Aprita et al., 2019). Debt that is due and should be fulfilled by the debtor must be done. If not, of course it will bring losses to creditors. In Indonesian Law, if the debtor still does not fulfill the above fulfillment, the creditor can undertake a bankruptcy attempt. Debt that is past due is an important element in relation to the bankruptcy issue. The Civil Code does not provide a formula regarding overdue debt, however it refers to the provisions of Article 1238 which states that: the debtor is negligent, if he, with a warrant, or with a similar deed has been declared negligent, or for the sake the agreement itself, is if it stipulates, that the debtor must be considered negligent by the expiration of the stipulated time (Pratama, 2019).

Hence, it can be seen that in an engagement to give or deliver something, the law distinguishes negligence based on the existence of a fixed time in the engagement. In the event that there is a time stipulation, then starting from the expiration of the period determined in the agreement, the debtor is deemed to have neglected to carry out his obligations. In the event that it is not determined in advance when the debtor is obliged to carry out his obligations, then the new debtor is considered negligent if he has been warned to fulfill or fulfill his obligations owed but still has not fulfilled his obligations. In such a case, written evidence in the form of a warning sent by the creditor to the debtor regarding the debtor's negligence to fulfill his obligations is the only evidence that the debtor has been negligent. In this legal construction, this means

that in the event of a stipulation of time, and then the time of maturity is the time or time that has been determined in the engagement, which is also the time of fulfillment of obligations by the debtor. Meanwhile, in the event that the debtor does not specify the time for the implementation of the obligation, the maturity date is the time when the debtor has been reprimanded by the creditor for fulfilling his obligations. Without this warning, the debtor's obligation or debt to the creditor cannot be considered due.

Thus, it means that for an agreement to deliver or give something in the form of cash, which has been determined at the time of delivery, then as of the expiration of this period, the debt is due by law and can be collected. In this context it means, if the creditor intends to advance bankruptcy on the debtor, the creditor no longer needs to submit other evidence, other than the agreement that stipulates the time of maturity, which has been passed. In the case of an agreement to deliver or give something in the form of cash, the time of delivery has not been determined, then to advance bankruptcy for the debtor who is obliged to deliver the money, it must be proven beforehand that the debtor has been reprimanded to make the delivery and has not submitted it within the period specified in the warning letter. The warning letter, which contains when the payment must have been fulfilled by the debtor, is proof of maturity and the debtor's debt can be collected.

For an agreement to deliver or give something that is not cash, it must be carefully observed that the agreement gave birth to an agreement to deliver or give something that is not cash. In relation to the agreement, to determine when it is due, several things are needed. If it has been determined, then as of the expiration of that period, the debtor has been deemed to be negligent, whereas if the time period for submission is not determined, the new debtor can be considered negligent if he has been reprimanded for this and does not fulfill his obligation. This article seeks to systematically investigate the application of the

bankruptcy law and the taxation law in cases of bankruptcy decisions. There have been quite a number of previous studies investigating the postponement of debt payment obligations in bankruptcy cases in Indonesia (Iriyani, 2018; Wahyudi, 2019; Nurudin, 2020; Nadirah & Nasution, 2018; Shubhan, 2020; Rumengan et al., 2020; Dirgantara, 2019; Ulina et al., 2012). However, this paper originally offers a perspective of collecting or paying tax debt in a case of bankruptcy. In particular, this study focuses on the application of the bankruptcy and taxation law in the context of tax collection and payment, and tax debt settlement based on Tax Procedures and Law.

APPLICATION OF THE BANKRUPTCY LAW AND TAXATION LAW

The bankruptcy decision that was pronounced in a court request for a bankruptcy statement brought legal consequences that had to be obeyed by all parties, several agendas that had to be implemented. First, the bankruptcy decision (first level). With the pronouncement of the bankruptcy decision, in accordance with Article 24 paragraph (1) of Law of the Bankruptcy and Suspension of Debt Payment Obligations, the Debtor has lost his right to control and manage his assets, which include bankruptcy assets. After the decision to declare bankruptcy, the suspension of the execution of the guarantee right will take effect. In accordance with article 86, after the decision to declare bankruptcy a Creditor Meeting will be held, within 90 days after the Court Decision, the stay period ends and the debtor is under insolvency. After two months since the insolvency, the separatist creditor is no longer authorized to carry out the execution, however, the following provisions apply (1) the Separatist Creditors are no longer authorized to execute their guarantee rights, this authority is taken by the Curator; and (2) Separatist Creditors, in the event that they will still receive all their rights but must wait for distribution of the bankruptcy assets.

The next level is when the bankruptcy decision has a permanent force (*inkracht*). Furthermore, this starts from the verification action (matching receivables). Pursuant to Article 113, after the bankruptcy decision has permanent legal force, within a period of 14 days, the Supervisory Judge shall determine the deadline for submission of fines, which is 14 days after the stipulation of the Supervisory Judge regarding the deadline for submitting claims. The time limit for tax levers to determine the amount of tax liability is in accordance with the provisions of laws and regulations in the field of taxation and the time limit for creditors for accounts. During the invoice filing period, based on Article 145 of Law of the Bankruptcy and Suspension of Debt Payment Obligations, the bankrupt debtor submits a peace plan and the list of accounts receivable begins to be placed in the curator's office. Within 14 days from the deadline for submission as referred to in Article 145. In the event that a debtor submits a peace plan, during this period a meeting is held to make a decision regarding the peace plan.

At the stage of achieving the composition (accord, peace), the Bankruptcy and Postponement of Debt Payment Obligation Act recognizes two types of reconciliation, first, is the peace offered by the debtor in the framework of Suspension of Payment of Debt (PKPU/*surseance van betaling*) before the debtor is declared bankruptcy by the Commercial Court. Second, the peace offered by the debtor after being declared

bankrupt by the Commercial Court. The court then gives homologation (legalizes peace). Pursuant to Article 160, for ratification of the conciliation through the decision of the Commercial Court, cassation can be made within 8 days after homologation or insolvency (debtor is unable to pay debts), settlement (including preparation of accounts receivable list and distribution), bankruptcy ends, and carried out rehabilitation.

Settlement of tax payable in bankruptcy begins with submitting a tax bill to the curator for verification of the tax bill. This verification stage is regulated in article 113 paragraph (1), which is no later than 14 days after the pronouncement of the bankruptcy declaration, the Supervisory Judge must determine the deadline for submitting invoices, the deadline for tax verification to determine the amount of tax liability in accordance with statutory regulations in the field of taxation and the day, date, time and place of the creditor meeting to carry out a checking of accounts receivable.

The bankruptcy application process described previously shows how the tax debt seems to have submitted itself to the bankruptcy law. On Bankruptcy Decision Number 14 of 2007 from Central Jakarta Commercial Court dated April 30, 2008, the Panel of Judges in one of their legal considerations stated that the State was not a creditor as mentioned in Article 1 number 2 of the Bankruptcy and Suspension of Debt Payment Obligation Law, but if the State registers the bill with the Curator to be paid from the bankruptcy property, the State must be deemed to have submitted to the Bankruptcy and Suspension of Debt Payment Obligation so that if there is an objection or objection, the Commercial Court has the right to examine and try it. 221 The status of State claims which have preemptive rights over other claims is also recognized in the Bankruptcy and Suspension of Debt Payment Obligations Law, however, all claims registered with the curator in bankruptcy must go through debt verification and comply with the rules stipulated in the Bankruptcy Law Postponement of Debt Payment Obligations.

The same is also found in the Bankruptcy Decision Number 14 of 2007 from Central Jakarta Commercial Court dated April 30, 2008 where the Panel of Judges in one of their legal considerations said that by filing an objection by the Tax Service Office on the Bankruptcy Assets Distribution List, the State has submitted itself to the Bankruptcy and Postponement of Debt Payment Obligation Law so that if there is an objection or objection to the bill, The commercial court has the authority to examine and judge as long as it is related to the verification of claims and the determination of the amount of share that can be given from the amount of bankruptcy budgets obtained from the auction proceeds.

The judge's consideration was erroneous because government agencies, which are the state's representation, cannot be appointed as creditors based on Article 1 number 2,3,6 and 11 of the Bankruptcy and Suspension of Debt Payment Obligation on the grounds that the creditor is a person who has receivables due to an agreement or A law that can be collected in court, while a debtor is a person who has a debt due to an agreement or law whose payment can be collected in court.

According to this provision, debt is an obligation that is stated or can be expressed in an amount of money, either in Indonesian currency or in foreign currency, either directly or that will arise at a later date

or is contingent, which arises because of an agreement or law and which must be fulfilled by the debtor and if not fulfilled gives the creditor the right to get the fulfillment from the debtor's assets. The provisions further define everyone as an individual or a corporation, including corporations in the form of legal entities or non-legal entities in liquidation.

Based on the description above, it is determined that the creditor is a person, namely an individual or a corporation, including a corporation with legal entity or non-legal entity in liquidation, not including the state, in this case the Tax Service Office, because KPP only carries out formal provisions in the Bankruptcy Law and Postponement of Debt Payment Obligations. A debt or obligation or achievement that is requested for bankruptcy must be a certain debt, which in this case must be in a certain amount of money. In this case it is not absolute that the amount of money is fixed at the time the application is filed, but it must be calculated with certainty at the time the accounts receivable matching meeting is held for this.

Debt arising from a civil engagement is basically different from tax payable. The difference is that the tax debt is covered or controlled by the provisions of public law, while the debt is usually controlled by civil law. Debt collection is usually carried out based on civil law, while tax debt collection is based on public law as regulated in the Taxation Law. Both common debt collection and tax debt collection can be enforced, only differing in the collection procedure. The procedure for enforcing the collection of ordinary debt must go through a judge's decision, but the procedure for tax debt is shorter, namely direct by coercion based on a forced warrant.

Civil debt and tax debt is not the same thing. The difference between tax and ordinary debt can be seen in terms of the manner in which the debt arises and the nature of the debt. The emergence of debt in civil law (ordinary debt) is due to an agreement which is controlled by civil law. In an agreement, one party is obliged to comply with what is the right of the other party, for example a sale and purchase agreement occurs, the seller is obliged to deliver the goods he sells while the buyer is obliged to pay a predetermined price. Meanwhile, the only agreement that arises from law, for example, is a birth, that is, when a child is born, according to the law, the parents are obliged to take care and care for the child.

The tax debt arises because of the law, where between the state and the people there is absolutely no agreement that underlies the debt. The tax debt arises because of the government's justification to collect taxes from the people as mentioned in the previous chapter. The rights and obligations between the state and the people are not the same. The state can force the debt to be paid if a taxpayer owes the state debt.

Tax is a contribution or obligation to hand over part of the wealth (income) to the state. It can be said that the government draws part of the people's purchasing power for the country. Transfer or delivery of contributions is mandatory in nature, in the sense that if the obligation is not carried out then it can automatically be forced, meaning that the debt can be collected using force such as a forced letter. Transfers are based on generally accepted laws or regulations made by the government. If the tax collection is not based on law or regulation, then this is invalid and considered as a deprivation of rights.

In tax law, there is a relationship between the government and the people, where the government plays a role in its function as tax collector (discuss) while the people are in their position as tax subjects or taxpayers. Because of this kind of relationship, tax matters are categorized as public law. The tax payable arises because of the law on the condition that there is a *tatbestand*, namely a series of actions, circumstances and events that can give rise to the tax, such as (1) acts, such as an entrepreneur importing luxury goods or delivering goods. in the customs area within the company, Value Added Tax on Goods and Services and Sales Tax on Luxury Goods is imposed or payable; (2) conditions, such as owning movable and immovable property, are subject to or payable income tax as regulated in Law Number 7 of 1983, as amended by Law Number 17 of 2000; (3) events, such as the death of the heir. Since the time the heir dies, the undivided inheritance is subject to income tax and is subject to tax. If the inheritance has been divided among the heirs, it is no longer subject to tax.

Objects that can become tax targets are circumstances, actions, and events. A person's wealth can be subject to taxation at certain times, for example owning a motorized vehicle, owning land, or owning a house. Can also commit an act that is subject to tax, for example, building a house, holding a show. Events can also be subject to taxation, for example getting profits that were not used before.

As a debt that arises because of law, the position of tax debt is very important. Therefore, tax debt has a predecessor's nature in all respects including in relation to bankruptcy issues. In relation to the pre-emptive rights to sell all of the debtor's property in bankruptcy, theoretically, the pre-emptive rights can only occur for two reasons.

The first is settlement following the debtor's bankruptcy. This settlement follows the dissolution of the debtor (who is a legal entity). Thus, to the extent that it is specifically regulated in the Bankruptcy and Postponement of Debt Payment Obligation, this can also be applied to the settlement of the debtor (who is a legal entity). In connection with the settlement, it is necessary to pay attention to the provisions stipulated in Article 1137 of the Civil Code which states that the rights of the state treasury, auction offices and other public bodies established by the government, to take precedence, are to exercise these rights and the duration of these rights, is regulated in a special law regarding this matter. In relation to these provisions, one of the predecessor rights of the State to the general sale of assets belonging to the debtor is regarding Tax which is regulated in the provisions of Article 21 of Law Number 6 Year 1983 concerning General Provisions and Tax Procedures as has been amended several times and lastly amended by the issuance of Law Number 16 of 2000, then Article 19 paragraph 6 of Law Number 19 of 1997 concerning Tax Collection by Force Letter as amended by Law Number 19 of 2000.

Prior rights as regulated in Article 21 of the Law on General Provisions and Tax Procedures include in the case of the state having pre-emptive rights to tax debt on the property of a tax bearer. The provisions concerning the preceding rights include tax principal, administrative sanctions in the form of interest, fines, increases and tax collection fees. Prior rights to tax payable exceed all other pre-existing rights, except for the cost of the case which is only caused by a penalty for auctioning off movable and/or immovable property;

costs that have been incurred to save the goods in question; and/or; court fees that are only caused by the auction and settlement of an inheritance.

In the event that a taxpayer is declared bankrupt, dissolves, or is liquidated, the curator, liquidator or person or entity assigned to settle the taxpayer is prohibited from sharing the taxpayer's assets in bankruptcy, dissolution or liquidation with shareholders or other creditors before using the assets to pay tax debts the taxpayer. Previous rights are lost after 5 years have passed from the date of issuance of a Tax Collection Letter, Underpayment Tax Assessment, Additional Underpayment Tax Assessment, Correction Decree, Decision on Objection, Decision on Appeal, or Judgment on Reconsideration which causes the amount of tax to be paid increase.

The calculation of the period of pre-emptive rights stipulates that in the event that a Coercive Letter to pay is officially notified, the 5 year period as referred to in paragraph (4) shall be calculated from the date of the notification of the Coercive Warrant; or in the event of a payment delay or installment payment approval, the 5 year period is calculated from the deadline for the delay. Meanwhile, in Article 19 paragraph (6) of Law Number 19 Year 1997 concerning Tax Collection by Force Letter, it is stated that the pre-emptive right to claim tax exceeds all other preceding rights, except for case fees which are solely due to a penalty for auctioning a movable property and/or immovable property; costs that have been incurred to save an item in question; court fees that are solely due to the auction and settlement of an inheritance.

In fact, the law basically stipulates that the tax bill is predatory. However, in practice, these tax claims are not always pre-emptive. Tax bills are often overridden by other bills. In facing court decisions, each party will defend their reasons or arguments and defend their rights. Basically, the creditor can strive to have all the assets of the debtor confiscated as collateral for payment if the commercial court decides a bankruptcy case.

In a legal process, both taxpayers and tax officials are basically entitled to justice. Both taxpayers and the state, in this case carried out by tax officials, have the right to take certain steps in relation to efforts to obtain justice. Mistakes in practice often arise in connection with tax challenges. In tax law, the relationship between government and the people is regulated, where the government plays a role in its function as tax collector (*fiscus*) while the people are in their position as tax subjects or taxpayers. Because of this relationship, tax law is categorized as public law.

Legal disputes between the people as taxpayers and the government as tax collectors must be resolved quickly and provide legal certainty. This is what led to the establishment of a tax court based on Law Number 14 of 2002. A tax dispute is a dispute that arises in the field of taxation between a taxpayer or tax bearer and an authorized official as a result of the issuance of a decision which can be appealed or sued to the tax court based on statutory regulations.

If the state is in a disadvantaged position, especially in relation to the bankruptcy decision, this will not close or hinder the state from collecting taxes. The state basically still has this debt, especially considering the verdict passed by the judiciary which is actually not authorized to examine and decide cases, in this case the Commercial Court, considering the end of the tax debt only through payment, compensation, expiration, exemption, write-off or postponement of

payment. The preceding rights in taxation will never be lost. Especially considering that tax debt is a debt that arises because of law.

TAX DEBT SETTLEMENT BASED ON GENERAL PROVISIONS AND TAX PROCEDURES AND LAW

Based on the self-assessment system adopted in Indonesia, taxpayers, namely individuals or entities, including taxpayers, tax cutters and tax collectors, have the right and obligation to register at the Directorate General of Taxes to be recorded as taxpayers and obtain a registration number Taxpayer. Entity referred to in the definition of taxpayers is a group of people and/or capital which is a unit either doing business or not doing business, which includes limited liability companies, limited liability companies, other companies, state-owned enterprises or region-owned enterprises with names and in any form, firm, joint venture, cooperative, pension fund, partnership, association, foundation, mass organization, socio-political organization, or other organization, institution and other forms of entity including collective investment contracts and permanent establishment.

In accordance with the material teaching which states that tax debt arises because of law, taxpayers without depending on a tax assessment are obliged to pay taxes owed. A tax assessment only functions as a decree that determines the amount of tax owed, the amount of tax credit, the amount of underpayment of tax principal, the amount of administrative sanctions, and the amount of tax payable. In principle, tax is payable at the time the taxable object arises, but for the purposes of tax administration, the tax is payable at a time, for income tax withheld by a third party; at the end of the period, for income tax withheld by the employer, or collected by other parties for business activities, or by the entrepreneur who is taxable on the collection of value added tax on goods and services and sales tax on luxury goods; or at the end of the tax year for income tax.

Taxpayers can file objections to the Directorate General of Taxes on the tax debt listed in the Tax Assessment Letter. A decision on objections submitted by a taxpayer must be given by the Director General of Taxes within 12 months from the date the letter is received. If the taxpayer does not agree and still has an objection to the Objection Decree, then he can submit an appeal to the tax court, namely the tax court according to Law Number 14 of 2002. The tax court is the first and final court in examining and deciding tax disputes. A tax dispute is a dispute arising in the field of taxation between a taxpayer or tax bearer and an authorized official as a result of the issuance of a decision which can be appealed or sued to the tax court based on taxation laws and regulations, including a lawsuit on the implementation of collection based on the Tax Collection Law with a warrant.

If the tax debt that should be paid by the taxpayer is not paid until maturity, a collection action will be carried out by issuing a Tax Collection Letter, namely a letter to collect tax and/or administrative sanctions in the form of interest and/or penalties. Collection action carried out in accordance with the Law on General Provisions and Tax Procedures and Law Number 19 Year 1997 includes collection; billing in real time and at once; and billing by warrants.

Collection in accordance with Article 1 number 1 of Law Number 19 Year 1997 is a series of actions for tax bearers to pay off tax debts and tax collection costs by reprimanding or warning, carrying out collection at

once and at the same time, notifying warrants, proposing prevention, carrying out confiscation, taking hostage, selling items that have been confiscated.

According to the Law on General Provisions and Tax Procedures, the tax precedence has expired after 5 years. However, the pre-emptive rights will also be lost if there is a procedural defect in it, for example, after one month has passed from the due date of the tax assessment, an action has been made to issue a warrant without preceded a warning letter. In carrying out tax collection by means of a warrant, the tax bailiff has the authority to confiscate the tax bearer's assets stored in the bank. The confiscation of the tax bearer's assets as referred to is carried out by blocking in advance. The blocking as referred to is submitted by the official to the head of the bank where the assets of the tax bearer are kept accompanied by a copy of a warrant or an order to carry out confiscation. The management or appointed bank official is obliged to block the assets of the tax bearer immediately after receiving the blocking order.

The expiration of the tax collection is deferred if a warrant is issued, there is recognition of tax debt from the taxpayer, either directly or indirectly, an underpaid tax assessment is issued as referred to in Article 13 paragraph (5), or an additional underpaid tax assessment as referred to in Article 15 paragraph (4); or an investigation into criminal offenses in the field of taxation is carried out.

The last attempt by the state to collect tax debt can be done by preventing and taking hostages. Prevention means a temporary prohibition against certain tax bearers to leave the territory of the Republic of Indonesia based on certain reasons in accordance with the prevailing laws and regulations. Prevention is aimed at tax bearers who have a total tax debt of at least Rp. 100,000,000.00 (one hundred million rupiah) and their good faith is doubtful in paying off the tax debt. This action was carried out strictly selectively and carefully and was based on a Decree of the Minister of Finance at the request of the official or superior of the officials concerned. The maximum period of prevention is 6 months and can be extended for duration of 6 months.

Taking hostage is the temporary restriction of tax bearers' freedom by placing them in a certain place. So that hostage-taking is not carried out arbitrarily and also does not conflict with a common sense of justice, certain requirements are given, both quantitative ones, namely having to meet a certain amount of tax debt, as well as qualitative requirements, namely that the tax bearer's good faith is doubtful in paying off tax debt and tax collection has been carried out up to a warrant. Hostage-taking is only carried out very selectively, carefully, and is a last resort.

The author is of the opinion that the settlement of tax debts must be resolved through a separate route, namely by means of a settlement mechanism in accordance with the Taxation Law, because in the event that tax is collected, it can be done with a warrant which can be followed up with confiscation as referred to in Law Number 19 of 2000 concerning Amendment. Second, on Law Number 19 Year 1997 concerning Tax Collection by Force Letter. Article 14 of Law Number 19 Year 1997 states that the confiscation is carried out on the property of a tax bearer who is in his residence, place of business, place, position, or other place including those whose control is in the hands of another party or which is guaranteed as payment of certain debts which can be in the form of

movable and immovable property. In the explanation of Article 14, it is stated that what is meant by control is in the hands of another party, for example leased or borrowed, while what is meant by being encumbered is as collateral for the payment of certain debts, for example goods that are mortgaged, pawned, or pledged as collateral.

Law Number 19 Year 1997 has given executorial power to forced letters and has the same status as court decisions which have permanent legal force. A coercive letter can be enforced without the assistance of a court ruling again (*parate executie*) and cannot be appealed. In connection with the granting of executive power, a forced letter cannot be sued at the Commercial Court because Article 1 number 5 of Law Number 14 of 2002 concerning the Tax Court expressly states that disputes arising in the field of taxation between the taxpayer or tax bearer and the official has the authority as a result of the issuance of a decision which can be submitted for an appeal or lawsuit to the tax tribunal based on the taxation laws and regulations, including lawsuits on the implementation of collection based on the tax collection law with a warrant.

Article 37 paragraph (1) of Law Number 19 Year 1997 states that the implementation of Law Number 19 Year 1997 can only be filed a lawsuit against the Tax Court. This provision is strengthened by Article 2 of the Tax Court Law which states that the Tax Court is a judicial body exercising judicial power for taxpayers seeking justice for tax disputes. The non-uniform decisions of the Commercial Court and Supreme Court in bankruptcy cases involving the settlement of tax debts will set a precedent for taxpayers to avoid tax debt payment obligations by bringing the settlement to the Commercial Court. In solving bankruptcy cases dealing with tax debts, there is a need for synchronization and harmonization between related laws, namely the bankruptcy law and tax laws or state finance laws through the Harmonization Directorate of the Directorate General of Legislation of the Ministry of Law and Human Rights.

CONCLUSION

The purpose of taxation is to collect funds from the public which will be used for the benefit of government financing and state development. Tax debt arises from law and does not arise as a result of a legal relationship so that tax debt is included in public debt because it is regulated by public law. The state as the holder of tax debt has the pre-emptive right to pay off bankruptcy assets as regulated in the Law on General Provisions and Tax Procedures, the Tax Collection Law with a Warrant, and the Bankruptcy Law itself. Other countries also place taxes in the priority of paying debts on bankruptcy assets even though some countries have degraded tax debts due to the fulfillment of their tax revenues. Indonesia as a developing country is in dire need of tax revenue as a source of funding for development, but it is not supported by tax imposition and diversion of tax funds.

The findings of this study conclude that tax debt is not the same as other civil debt because the legal basis for the emergence of tax debt is Law Number 6 of 1983 as amended by Law Number 28 of 2007 concerning General Tax Provisions and Tax Procedures. Meanwhile, other civil debts arise because of an agreement. A taxpayer never receives anything from the state until the tax debt emerges which is different from the state of civil debt. Tax

disputes are settled according to the rules of the game in the Tax Court, not in the Commercial Court. Tax debt is a debt that is born from law, so the payment of tax debt can be forced directly in a way that is protected by law. Therefore, tax debt should not be equated with other civil debts because tax debt has special procedures for its settlement which are strictly regulated by law.

Therefore, the fulfillment of the payment of the tax bill must take precedence over the payment of other creditors in bankruptcy in order to meet the government's performance funding. Settlement of tax debt on bankruptcy assets is carried out through a debt matching process conducted by the curator. According to the Bankruptcy and Postponement of Debt Payment Obligation Law, objections to the curator's decision are resolved by a judge in a commercial court. This procedure results in the tax debt being deemed to be subject to the Bankruptcy and Postponement of Debt Payment Obligations so that the tax debt is equated with other commercial debts. Tax debt is debt arising from legislation so that it has a very deep difference from civil debt that arises from a contract or agreement. Thus, the process of paying off tax bills must be different from claims for civil debt. Tax debt has an element of forcing to be repaid so that the tax debt has its own mechanism or procedure in the settlement process as stipulated in the Law on General Tax Provisions and the Tax Collection Law with a Warrant.

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