



# Legal Culture Obligation to Submit Tax Data and Information from Agencies, Institutions, Associations, and Other Parties\*

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## Abstract

Law Number 28 of 2007 and Government Regulation Number 31 of 2012 mandate the provision of tax data by government agencies, institutions, associations and other parties (ILAP) to the Directorate General of Taxes (DJP). Even though criminal sanctions have been regulated, implementing these obligations is not optimal. DJP adopted alternative methods, such as a Memorandum of Understanding/MoU, to obtain tax data from ILAP. This research uses a research method that focuses on positive law with the theory of legal certainty by Gustav Radbruch, the theory of authority by Max Weber, and the theory of taxation by Adam Smith. The research results show a discrepancy in the implementation of the obligation to submit tax data with positive law and the theory of legal certainty. Steps are needed to create a Memorandum of Understanding/Agreement/MoU up to a Cooperation Agreement by the DJP with ILAP to make the obligation to submit tax data and information from ILAP run smoothly following the study—theory of authority by Max Weber. To realize legal certainty in these regulations and to increase state revenues following the analysis of tax theory by Adam Smith, it is recommended that there be changes to norms in Law Number 28 of 2007 by adding an article regarding the making of a Memorandum of Understanding (MoU)/ Cooperation Agreement to increase legal certainty, contribution to state revenue.

**Keywords:** Reconstruction of Obligations; Data Submission; Tax Information; Legal certainty

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## Budaya Hukum Kewajiban Penyampaian Data dan Informasi Perpajakan Dari Instansi, Lembaga, Asosiasi, dan Pihak Lain

### Abstrak

Undang-Undang Nomor 28 Tahun 2007 dan Peraturan Pemerintah Nomor 31 Tahun 2012 mengamankan pemberian data perpajakan oleh instansi pemerintah, lembaga, asosiasi, dan pihak lain (ILAP) kepada Direktorat Jenderal Pajak (DJP). Meskipun sanksi pidana telah diatur, pelaksanaan kewajiban tersebut tidak optimal. DJP mengadopsi metode alternatif, seperti Nota Kesepahaman/MoU, untuk memperoleh data perpajakan dari ILAP. Penelitian ini menggunakan metode penelitian yang memfokuskan pada hukum positif dengan teori kepastian hukum oleh Gustav Radbruch, teori kewenangan oleh Max Weber, dan teori perpajakan oleh Adam Smith. Hasil penelitian menunjukkan ketidaksesuaian implementasi kewajiban penyampaian data perpajakan dengan hukum positif dan teori kepastian hukum, diperlukan langkah pembuatan Nota Kesepahaman/Kesepakatan/MoU hingga Perjanjian Kerja Sama oleh DJP dengan ILAP untuk membuat kewajiban penyampaian data dan informasi perpajakan dari ILAP berjalan dengan lancar sesuai dengan kajian teori kewenangan oleh Max Weber. Untuk mewujudkan kepastian hukum pada aturan tersebut dan untuk meningkatkan penerimaan negara sesuai dengan kajian teori perpajakan oleh Adam Smith sehingga disarankan adanya perubahan norma dalam Undang-Undang Nomor 28 Tahun 2007 dengan menambahkan Pasal mengenai pembuatan Nota Kesepahaman/MoU/Perjanjian Kerja Sama untuk meningkatkan kepastian hukum dan kontribusi terhadap penerimaan negara.

**Kata kunci** : Rekonstruksi Kewajiban; Penyampaian Data; Informasi Perpajakan; Kepastian Hukum

### Правовая культура Обязанность представлять налоговые данные и информацию от учреждений, ассоциаций и других сторон

#### Абстрактное

В соответствии с Законом No 28 от 2007 года и Правительственным постановлением No 31 от 2012 года правительственные учреждения, учреждения, ассоциации и другие стороны обязаны предоставлять Генеральному директору по налогам налоговые данные. (DJP). Несмотря на то, что уголовные санкции регулируются, выполнение этих обязательств не является оптимальным. ДИП приняла альтернативные методы, такие, как меморандум о взаимопонимании/модуль, для получения налоговых данных от ИЛАП. Это исследование использует метод исследования, который фокусируется на позитивном праве с теорией правовой определенности Густава Радбрука, теории авторитета Макса Вебера и теории налогообложения Адама Смита. Результаты исследования показывают, что существует расхождение в осуществлении обязательства представить налоговые данные с позитивным правом и теорией правовой определенности. Необходимы шаги по созданию Меморандума о взаимопонимании/Соглашения/Моу до Соглашения о сотрудничестве ДЖП с ИЛАП, с тем чтобы обеспечить плавное выполнение обязательства по представлению налоговых данных и информации от ИЛАПа в соответствии с исследованием. теория авторитета Макса Вебера. В целях обеспечения правовой определенности в этих положениях и увеличения государственных поступлений в соответствии с исследованием налоговой теории Адама Смита рекомендуется внести изменения в нормы Закона No 28 от 2007 года путем добавления статьи, касающейся составления Меморандума о взаимопонимании/Моу/Соглашения о сотрудничестве в целях повышения правовой уверенности. и вклад в государственные поступления.

**Ключевые слова:** восстановление обязательств; представление данных; налоговая информация; правовая определенность

## A. INTRODUCTION

Every nation globally requires a consistent and reliable source of financial support to achieve its economic and social progress. Tax revenue, encompassing direct and indirect taxes, is a primary source of development finance. In Indonesia, the tax sector contributes roughly 70-80% of the state's total revenues. The Indonesian Government recognizes the significant role of taxation in governing the State. As part of its responsibilities, the government is obligated to offer guidance, assistance, and oversight in ensuring that citizens pay their tax obligations in compliance with the laws and regulations.

Taxes serve as a means for a country to achieve financial independence by harnessing its resources for growth. Taxation is a government tool and activity that is part of state financial management. It aims to enhance people's well-being by strengthening and expanding public services. Tax allocation serves taxpayers and the general public, including individuals who are not obligated to pay taxes. Taxes aim to narrow the disparity among people, attain equality, and enhance social welfare.

Article 35A of Law Number 16 of 2009, also known as the General Provisions and Tax Procedures Law (UU KUP), mandates that all government agencies, institutions, associations, and other parties (ILAP) must furnish tax data and information. If DJP's tax data is considered inadequate, DJP is entitled to gather data and information to safeguard state revenues. The KUP Law is subsequently governed by Government Regulation Number 31 of 2012, which pertains to the provision and collection of tax-related data and information. This regulation is further specified by Minister of Finance Regulation Number 228/PMK.03/2017, which outlines the specific details and procedures for submitting tax data and information. ([Nainggolan, 2023](#)), ([Joka, 2022](#)), ([Pambudi; Arief; Parinduri, & Hayati, 2023](#)), ([Sulastyawati, Aravik, & Yunus, 2019](#)), ([Yunus, & Nasution, 2021](#))

Currently, Article 35A of Law Number 16 of 2009, which deals with General Provisions and Procedures for Taxation (UU KUP), mandates that all government agencies, institutions, associations, and other parties (ILAP) must furnish tax data and information to the Directorate General Taxation (DGT). Nevertheless, numerous third parties, including governmental and private entities, have failed to comply with the obligation to submit tax data and information stipulated in the KUP Law, which Government Regulations and Minister of Finance Regulations further govern. In addition to overseeing the data provision process, Article 41C of the KUP Law also establishes repercussions for third parties who fail to supply data and information as

required. Nevertheless, implementing these penalties or fines does not guarantee that external entities, such as government agencies, fulfill their responsibilities by providing tax-related data and information to the DJP. This may impede tax authorities' ability to gather financial data on taxpayers and complicate the process of accurately establishing the appropriate tax amount to be levied on them. In addition, this can lead to inequity among taxpayers since specific individuals can exploit technological and financial means to evade the taxes they rightfully owe. ([OECD, 2000](#))

The DJP takes several measures to fulfill the data and information requirements of government agencies, institutions, associations, and other parties (ILAP). These measures involve engaging in outreach and communication with the relevant parties responsible for providing the necessary data and information. This outreach can be in general communication with groups or specific communication tailored to certain parties, mainly when there is an urgent need for particular data and information. Another endeavour is implementing high-level communication by DJP leadership with leaders from private and government agencies, such as leadership meetings. The primary objective of these meetings is to inform them about the mandatory requirement to provide data and information, along with the potential consequences of non-compliance.

Through the conducted outreach and communication initiatives, many significant insights were gathered and brought to the attention of the DGT regarding the underlying reasons and expectations that led to non-compliance among third parties. These include the requirements desired by the third party, which involve creating a Memorandum of Understanding (MoU) and/or Cooperation Agreement (PKS) between the third party and the DJP, before fulfilling the obligation of providing data and information to the DJP.

DJP commits to adhering to and coordinating the execution of the Memorandum of Understanding (MoU) and/or the Partnership Agreement (PKS). The author's data indicates that the MoU and/or PKS implementation between DJP and third parties commenced on June 3, 2002. This was done by signing an MoU between DJP and the Capital Market Supervisory Agency (Bapepam) through KEP-293/PJ/2002 and 02/PM/2002. The MoU pertained to the agreement between the Directorate General of Taxes, the Ministry of Finance of the Republic of Indonesia, and the Capital Market Supervisory Agency. A Memorandum of Understanding (MoU) was signed between the Indonesian Ministry of Finance and the Central Java Provincial Government, with the reference number PRJ-04/PJ/2023 and dated April 14, 2023. The MoU focuses on achieving synergy in

optimising central and regional taxes. This approach proved highly efficient, as other entities were willing to transmit data and information.

Based on the observed phenomena and facts, the author argues that it is crucial to thoroughly examine the perspectives and circumstances of third parties, particularly in the context of this research focused on Government Agencies. This examination will help understand the reasons behind their choices and decisions regarding the submission of tax data to the DJP. It is intriguing to discover that government agencies, including law enforcement institutions, who are expected to have a comprehensive understanding of legal frameworks and their implications, do not promptly fulfill their obligation to provide tax data and information to the DJP, as mandated by the KUP Law. In addition, these agencies require an MoU and PKS, the legal status of which is not precisely regulated or specified in the KUP Law.

According to Law Number 12 of 2011, it is evident that neither the Memorandum of Understanding (MoU) nor the Cooperation Agreement (PKS) are governed by the legal framework. Referring to practical observations, it has been found that the signing of the Memorandum of Understanding (MoU) and the Partnership and Cooperation Agreement (PKS) had a positive impact. Third parties were more willing to provide data and information to the Directorate General of Taxes (DJP). Based on this, the author suggests that cooperation through the MoU and/or PKS can be considered an effective alternative solution, which is the main focus of this research.

The main challenges that may arise and require immediate attention are primarily related to ensuring the accessibility of tax data from various government agencies, institutions, associations, and other parties (ILAP). This is crucial for safeguarding state revenues in the taxation sector, as mandated by Article 35A of Law Number 16 of 2009 and Government Regulation Number 31 of 2012, which pertain to the provision and collection of tax-related data and information. In addition to endeavours to safeguard state resources derived from taxation, it is equally crucial to provide a means by which the state's authority and the supremacy of the law may be maintained. Failure to comply with legal requirements for submitting tax data and information by government agencies, institutions, associations, and other parties can be seen as a deliberate act that undermines the state's authority and the law. Studying the authority of power is crucial since it encompasses aspects of character and justice. Authority wields significant influence in various domains, encompassing both the realm of governance and the operations of organizations. Authority encompasses more

than just governmental power. Legal power necessitates the presence of authority.

Failure to comply with the requirement to submit tax data and information by Government Agencies, Institutions, Associations, and other Parties (ILAP) can result in sanctions or consequences, as outlined in Article 41C of the KUP Law, which governs the explanation above. Nevertheless, based on the researcher's observations, it is evident that the implementation and explanation of "law enforcement" have fallen significantly short of expectations. In fact, before this research, there has been a complete absence of any actual enforcement or penalties following the relevant article. According to section 41C of the KUP Law, government agencies, institutions, associations, and other parties must report tax data and information. Failure to do so would be a violation of their commitment. ([Arif, 2012](#)), ([Alfisyah, 2020](#)), ([Noch & Pattiasina, 2017](#))

Based on the context above, the author performed extensive study on the issue of non-compliance with legal directives by government agencies, institutions, associations, and other entities involved in submitting tax information reports to the Director General of Taxes. To provide legal certainty, academics will undertake a study titled "Reconstructing the Obligation to Submit Tax Data and Information from Agencies, Institutions, Associations, and Other Parties".

## **B. METHODS**

The employed approach is the Normative Juridical research method, a systematic and scientific strategy for uncovering the truth by applying logical reasoning from a normative perspective, with the law itself as the main focus. Normative legal study is a form of doctrinal research focusing exclusively on written regulations and other legal documents. Normative legal research, often known as library research or document study, mainly relies on secondary evidence found in libraries. The method employed to gather pertinent legal materials is a document or library study. This involves examining library resources that pertain to the specific research problem, such as books authored by legal authorities and statutory regulations. These materials are then utilized to analyze research-related issues. ([Ibrahim, 2011](#))

## C. RESULT AND DISCUSSION

### 1. Legal Culture Obligation to Submit Tax Data and Information from Agencies, Institutions, Associations and Other Parties

The Directorate General of Taxes (DJP) is empowered to solicit the requisite tax information from the Tax Administration Services Agency (ILAP). This aligns with Weber's theory of authority, which posits that authority derived from a legal framework is perceived as laws that are acknowledged and adhered to by society, and further reinforced by the State. The implementation of this DJP power has been in effect since the enactment of the Law (UU) number. 28 of 2007, the third modification to Law no. 6 of 1963 about General Provisions and Tax Procedures (UU KUP). Specifically, the regulations of the power to solicit this information are outlined in Article 35A of the KUP Law. Implementing these laws entails regulating the sources, categories, and protocols for reporting data and information to the DGT, as outlined in government regulations. Consequently, the Government enacted Government Regulation (PP) Number 31 of 2012 to govern the acquisition and compilation of tax-related data and information.

Government Regulation (PP) Number 31 of 2012 became enforceable on 27 February 2012. This presentation provides a comprehensive explanation of how to identify the parties that fall under the category of Government Agencies, Institutions, Associations, and other Parties (ILAP). It also outlines the specific forms of data and information that must be reported to the Directorate General of Taxes (DJP). As per the regulations stated in PP no. 31 of 2012, ILAP encompasses a range of government entities including ministries, non-ministerial government agencies, district or city government agencies, provincial government agencies, and other government agencies. Meanwhile, the ILAP area includes prestigious state institutions, district or city government institutions, provincial government institutions, other government institutions, and non-government organizations.

Following Article 35A of the KUP Law and the fundamental principles of statutory regulations, such as legal order and certainty, the DJP has the authority to use data obtained through the implementation of these Regulations to request tax reports and information from Government Agencies, Institutions, Associations, and other Parties.

In addition, the entities mentioned in this context encompass several organizations, such as the Indonesian Business Association, the association of state-owned banks, the Indonesian Public Accounting Association, the National

Commercial Banks Association, and the Chamber of commerce and Industry. In addition to that, other organizations have emerged as a result of the amalgamation of the Indonesian motor vehicle industry, the Indonesian tax consultant association, the association of Indonesian export entrepreneurs, Indonesian young entrepreneurs' Association, and the Indonesian retail entrepreneurs' association. (<https://www.pajakku.com>)

In addition, the process of determining ILAP's responsibility to furnish data and information to the DJP is outlined in further detail in the Minister of Finance Regulation (PMK), specifically PMK No. 228/PMK.03/2017. According to the PMK, 69 ILAPs are containing diverse forms of comprehensive data and information that need to be given to the DJP. ILAP is required to periodically send comprehensive statistics and information to the DJP, as specified in the submission timetable outlined in the PMK attachment.

According to Article 35A paragraph (1) of the KUP Law, the data and information mentioned below are specific details on individuals or entities that can describe their activities, commercial transactions, income, or wealth. The data and information mentioned encompass details about debtor clients, credit cards, financial transaction data, and foreign exchange traffic. Additionally, it includes reports on business operations that are filed by the relevant individual or institution to external agencies beyond the DJP.

The terminology and information of this matter are elucidated in Article 1, number 2, PP 31 of 2012, and Article 1, number 2, PMK 228 of 2017. Data and information encompass a compilation of numerical values, alphabetic characters, textual content, and visual representations. They can take the shape of various mediums such as documents, letters, books, or notes, as well as written declarations. These data and information sources can offer guidance of the financial resources, possessions, or assets of individuals and entities, including their business operations or self-employment endeavors.

The following are six types of data and information that need to be submitted by ILAP to the DJP in accordance with Article 2 paragraph (3) PP 31 of 2012, namely:

1. Financial data includes information pertaining to the assets and possessions of persons or organizations. This category of data and information encompasses data or information pertaining to structures, real estate, equipment, vehicles, heavy machinery, financial assets, and bank deposits.



2. Debt-related data and information pertaining to persons or corporations. This data and information can pertain to either bank debt or bond debt.
3. Financial data and information pertaining to the earnings acquired, obtained, or received by an individual or organization. The data and information can manifest as evidence of stock or bond sales, land sales, building sales, and automobile sales.
4. Data and information pertaining to expenses accrued or borne by persons or entities. This data encompasses several types of information, such as telephone bills, electricity bills, automobile purchase transactions, credit card payment transactions, or interest fee payment transactions.
5. Financial transaction data and information. The data and information can pertain to foreign exchange transactions conducted by individuals or entities through banking or financial service providers.
6. Economic data and information pertaining to the operations of the individual or company in question. This category of data encompasses information pertaining to licenses, investment details, export and import activity, demographic statistics, business establishment records, auction outcomes, and immigration data.

The provision of this essential data and information is required, specifying the specific type and nature of the data and information. The goal of the material presented here is to provide elucidation and pertinent facts regarding the data or information provided by ILAP. The data and information given by ILAP to DJP will then undergo processing by the Directorate of Tax Data and Information. Given the substantial volume of data that can be obtained from ILAP, it is imperative to establish an ILAP priority scale in conjunction with the requisite data. Hence, when working along with ILAP, the Directorate of Tax Data and Information would initially ascertain the priority ILAP and simultaneously carry out a comprehensive analysis of the data availability required for ILAP. The purpose of ILAP is to gather and analyze tax-related data and information to establish a foundation for monitoring public compliance with tax duties. By engaging in partnerships with external entities to gather data and information via ILAP, the aim is to enhance Taxpayer adherence, reduce direct interaction between tax authorities and Taxpayers (in an online context), and foster greater professionalism among tax officials and Taxpayers. ([Hanafi, 2023](#)), ([Larasati, 2022](#))

In addition to enhancing the tax database and augmenting the volume of tax-related data and information obtained from diverse agencies, government institutions, associations, and other entities, there are instances where, despite the issuance of a Tax Assessment Letter to the Taxpayer for a specific tax period, the Head of the Institution receives supplementary data or information indicating the existence of additional taxes that need to be settled. According to the KUP Draft Law, in situations like this, the Head of the Institution is empowered to issue a Tax Assessment Letter, which declares that there has been a tax underpayment based on newly acquired data and information. This differs from the regulations in the existing KUP Law, where in a similar case, the legal document produced is an Additional Underpayment Tax Assessment Letter (SKPKBT) that is susceptible to administrative penalties in the form of a 50% or 100% rate increase. Nevertheless, the KUP Draft Law specifies that the Head of the Institution will once again send a Tax Assessment Letter indicating the occurrence of a tax underpayment. The purpose of this arrangement is to address issues of the issuance of SKPKBT, including the challenge of verifying whether data is fresh or has already been revealed, which is a prerequisite for issuing SKPKBT. In 2017, the Taxpayer received a Corporate Income Tax Assessment Letter. The letter notified of a tax underpayment discovered during an audit of tax obligations for the 2016 Fiscal Year. However, in 2018, fresh tax data was obtained that uncovered extra revenue that had not been previously disclosed in the first Tax Return. As a result, this income was not included during the audit conducted to issue a Tax Assessment Letter in 2017.

The Head of the Institution has the authority to issue a second Tax Assessment Letter in response to the declaration of this new income. Under these circumstances, a punitive measure of 2% (two percent) of the unpaid tax amount is levied each month. Issuing subsequent Tax Assessment Letters, following the receipt of new data and information after a specific period, will not result in administrative consequences, provided that the information is provided in writing by the Taxpayer. However, the prerequisite is that there are no ongoing Tax Audit, Preliminary Evidence Audits, or Tax Investigation simultaneously. Furthermore, it is important to note that the duration for a Tax Assessment Letter indicating a shortfall in payment can be prolonged from 5 to 7 years. This extension applies if, within 5 years after the tax payment deadline or the conclusion of the Tax Period, Part of the Tax Year, or Tax Year, the Taxpayer fails to submit a Tax Return.

Researchers attribute the persisting challenges in the field to the prevailing mindset of taxpayers, who generally perceive mandated obligations as coercive. According to multiple tax law experts, the definition of tax includes

a "coercive" phrase that serves as the foundation for enforcing tax regulations. Noncompliant taxpayers may face administrative punishment and maybe criminal fines for violating tax rules. The inherent compulsion of this nature is deemed less tolerable by society, particularly by taxpayers who bear the responsibility of tax payments. There is an inclination for individuals to become less willing to pay taxes as they are increasingly coerced, despite the Government offering various tax benefits. Undoubtedly, a societal consensus necessitates a method that is more widely embraced. Creating conducive conditions is vital to foster a sense of voluntary compliance and even delight among Taxpayers while performing their obligations to supply the appropriate data and information as mandated by the Directorate General of Taxes. (<https://bppk.kemenkeu.go.id>)

Essentially, individuals are generally unwilling to pay taxes, particularly because they do not directly receive any form of reimbursement for their payments. Nevertheless, in order to fund government spending, individuals are required to fulfill their tax responsibilities. Consequently, tax collection frequently necessitates the use of force. The state's capacity for coercion aligns with the definition of the state provided by Prof. Miriam Budiardjo: "The state is an entity within a specific territory that possesses the legal authority to exercise its power over all other power entities and to establish the collective objectives of society." ([Budiardjo, 2008](#))

Taxes serve as a mechanism employed by the government to gather financial resources for the purpose of advancement. Hence, the tax system incorporates an element of compulsion to ensure that residents comply with their tax duties. Historical records document instances where property owned by individuals who failed to pay taxes or tribute in a kingdom was seized or confiscated. Nevertheless, it is crucial to bear in mind that the imposition of taxes should adhere to established laws and regulations to prevent any misuse of power by tax authorities in the process of tax collection. The General Tax Provisions Law (KUP) and Law Number 19 of 2000, which amends Law Number 19 of 1997 on Tax Collection by Force Letter, establish the legal framework for the government to enforce tax collection and penalize those who violate tax regulations. Despite the presence of robust punishments and coercive measures, individuals remain hesitant to fulfill their tax obligations, as evidenced by the government's struggle to meet tax collection goals, instances of tax evasion, efforts to evade taxes through smuggling, demands for tax boycotts, and several related issues.

Accounts of the challenges faced by tax officers in obtaining books and documents from taxpayers, as well as the opposition encountered when issuing

Letters of Appeal or Audit Orders, indicate that taxes are still met with resistance from the public and various government agencies, institutions, associations, and other entities. They frequently disregard taxes, despite the presence of punitive measures for tax offenders. The establishment of a self-assessment-based tax system intends to minimize the use of force in tax collection, allowing taxpayers to fulfill their duties accurately. Nevertheless, in actuality, certain taxpayers exploit this system to remit taxes according to their preferences, with the expectation that tax authorities will remain unaware.

Taxes serve four primary functions: budgetary, stability, regulatory, and income redistribution. They are the primary source of revenue in Indonesia and many other governments worldwide. Taxes serve as a means of generating revenue for the state and play a crucial role in paying various governmental expenditures, including ordinary administrative activities and development initiatives. ([Nunu & Setyabudi, 2019](#)) The government can control economic growth by implementing tax policies as part of its regulatory role. Taxes serve as a regulatory mechanism to accomplish specific objectives. Taxes serve as a Stability Function by providing the government with cash to implement policies aimed at maintaining price stability and controlling inflation. This can be achieved by the implementation of monetary regulation, tax collection, and the efficient and effective utilization of tax revenues. Income redistribution is the utilization of taxes collected by the government to fund public initiatives, including development projects aimed at creating job possibilities and ultimately boosting individuals' income. ([Ginting & Irawan, 2022](#))

The state can utilize taxes paid by individual and corporate taxpayers for ordinary finance purposes, such as covering personnel expenses, purchasing commodities, and conducting maintenance activities. Regarding development funding, the costs might be sourced from government savings, specifically domestic revenues minus regular spending. Conversely, revenue collection entails engaging the populace in the advancement of the nation. ([Ditisrama; Sinaulan; & Ismail, 2022](#)) To meet the state's income target from taxes, the government is implementing a tax reform, which involves enhancing the existing tax structure and methods. This involves the implementation of a tax payment and reporting system, specifically a self-assessment system that grants taxpayers complete autonomy in determining the annual amount of tax they owe, in conformity with the rules of current tax laws.

The self-assessment system operates by relying on the taxpayers' trust in the authority granted to them, allowing them the freedom to fulfill their tax responsibilities. Taxpayers must comply with the adoption of the self-assessment

system. Taxpayer Compliance refers to the taxpayer's adherence to their tax duties as stipulated by relevant legislation. The taxpayer compliance framework is based on the trust between taxpayers and tax authorities. This pertains to the ethical principles surrounding taxation, adherence to tax regulations, understanding of tax laws, penalties, examinations of tax records, tax rates, attitudes, social standards, and fairness, all of which contribute to the effectiveness of the tax authority and the confidence of taxpayers.

The requirement to provide tax data and information from ILAP is governed by Article 35 paragraph (1) of Law Number 16 of 2009 on General Provisions and Tax Procedures. This article mandates that all government agencies, institutions, associations, and other entities must supply tax-related data and information to the Directorate General of Taxes. The regulations governing this obligation are specified in Government Regulations, which consider the provisions outlined in Article 35 paragraph (2) of Law Number 16 of 2009 regarding General Provisions and Tax Procedures. The Directorate General of Taxes requires data and information on taxation from various government agencies, institutions, associations, and other parties to effectively monitor compliance with tax obligations resulting from the implementation of the self-assessment system.

The data and information in question pertain to individuals or entities and encompass details about their activities, business operations, financial status, and related matters. This includes information about customers who owe debts, financial transactions, foreign exchange activities, credit card usage, financial reports, and business activity reports that are shared with other agencies apart from the Directorate General of Taxes. The implementation of this clause is governed by Government Regulation, which specifies the sources, types, and procedures for providing data and information to the Directorate General of Taxes. According to Article 35A paragraph (2) of the KUP Law, the Director General of Taxes is authorized to gather data and information for the purpose of state revenue if the existing data is inadequate. The specific regulations for this authority are determined by Government Regulations, which consider the provisions outlined in Article 35 paragraph (2) of the KUP Law. In cases where the data and information on taxation provided by government agencies, institutions, associations, and other parties are inadequate, the Directorate General of Taxes has the authority to gather data and information on taxation pertaining to transactions, events, and circumstances that are relevant to fulfilling tax obligations, in order to generate state revenue.

The successful implementation of the Self-Assessment System by the Directorate General of Taxes heavily relies on the veracity and precision of data provided by Taxpayers. Currently, the major data and information source for the Tax Authority is the tax returns submitted by Taxpayers. A common challenge that frequently occurs is the veracity of data and information, which tends to be deficient or inaccurate. Validating the accuracy of SPT necessitates the use of comparable data obtained from external sources such as agencies, organizations, associations, or other entities.

According to Article 35A of Law Number 16 of 2009, all government agencies, institutions, associations, and other parties (ILAP) are required to furnish tax data and information. The process of providing and gathering tax data and information is governed by Government Regulation Number 31 of 2012, with the specific technicalities outlined in Minister of Finance Regulation Number 228/PMK.03/2017, which specifies the details and procedures for submitting tax data and information.

Law possesses the attribute of being forceful, in addition to being ideal and normative. Despite its coercive nature, the presence of law is expected to ensure the smooth and orderly functioning of social life. Consequently, each newly enacted legislation serves multiple purposes, with the overarching goals of the law being: ([www.gamedia.com](http://www.gamedia.com))

1. The regulations outlined in the legislation are designed to safeguard human interests. These interests serve as safeguards against potential hazards that may jeopardize human well-being.
2. The law will govern the interactions among individuals. The objective is to establish a sense of organization. By use of legislation, it is anticipated that disputes among individuals might be averted.
3. Legislation should safeguard the welfare of individuals. Both individual and collective interests are being discussed. This is due to the inherent nature of humans as beings that require safeguarding. In addition, people's own interests necessitate safeguarding from diverse hazards in their surroundings.
4. The law should also be designed to promote happiness. Optimal bliss for all individuals. Not only does it provide living expenses. However, it also offers a plentiful food supply, fostering a sense of unity and safeguarding.
5. The purpose of law is to establish and ensure the establishment of order.

Nevertheless, practical challenges persist in the industry due to the taxpayer's prevailing perception of mandated obligations as coercive. It is imperative to provide circumstances that can induce Taxpayers to willingly and even enthusiastically comply with their duties to furnish the data and information requested by the Directorate General of Taxes.

It has been observed by the author, in his capacity as Head of the Sub-directorate of Cooperation and Partnership, that there is a positive tendency among taxpayers, where the approach that taxpayers prefer is precisely when the Directorate General of Taxes positions itself as an equal partner and needs each other. This is in the sense that there are more direct benefits received by taxpayers by the Directorate General of Taxes. taxes by giving information and statistics of taxes. Specifically, the strategy that is being discussed is in the form of a Memorandum of Agreement/Understanding/Memorandum of Understanding (MoU) and/or Cooperation Agreement (PKS), in which both parties agree to fulfill their respective obligations and achieve their rights, for specific purposes and objectives, and within defined restrictions. the extent of something... According to the author's own experience and observations, the process of giving the necessary data and information is more effective and efficient after it has been bridged with a memorandum of understanding and/or a public key system.

The fact that alternative ways for collecting tax data and information through MoUs and/or PKS have not been accommodated in the hierarchy of statutory regulations is the primary impediment that is the primary problem that this research is attempting to address. As a result of this research, the author suggests that the MoU and/or PKS could be incorporated into the hierarchy of statutory rules, more specifically appended to the Law on General Provisions and Tax Procedures. It is also necessary to pay attention to solutions that ensure that the power of the state and the laws are not "undermined" and that they continue to be upheld. This is in addition to the fact that the Theory of Legal Certainty and the Theory of Authority, both of which were discussed in the chapter before this one, have been described.

It is the author's opinion that a concrete step that can be taken in this situation is to propose that the MoU and/or PKS prerequisites be added to Article 35A of the KUP Law, specifically as a separate paragraph (third paragraph). This is an alternative solution that is regulated by the state, and it can be a solution option that is agreed to bring more benefits to both parties by consensus. The Constitution (UUD) 1945/Tap MPR, Law (UU) or Government Regulations in Lieu of Law (Perppu), Government Regulations (PP), Presidential Regulations (Perpres), Provincial Regional Regulations (Perda), Regency or City Regulations

are the types of, and the hierarchy of, statutory regulations that are regulated by Law Number 12 of 2011 concerning the Formation of Legislative Regulations. The order of the hierarchy is as follows: Constitution (UUD) 1945/Tap MPR, Law (UU) or Government Regulations in Lieu of Law (Perppu), Government Regulations (PP), Presidential Regulations (Perpres), Provincial Regional Regulations (Perda), and regency or city regulations. It is therefore the logical choice that has the opportunity to be made to revise the Law on General Provisions and Tax Procedures, which are of a *Lex Specialis* nature, by adding one (1) paragraph under Article 35A to accommodate the MoU and/or PKS mechanism as an alternative for collecting tax data and information. This adjustment is permitted and can be accommodated by the applicable regulations. There is a possibility that this is a response to the idea that the MoU and/or PKS genuinely undermine the power of the government because it is not accommodated in the law.

The Directorate General of Taxes has delegated to the Directorate of Counseling, Services, and Public Relations (P2Humas) the right to interact with other third parties, including agencies, institutions, associations, and other third parties (ILAP). To be more specific, the author was given the mandate to become Head of the Subdirector of the unit in issue, and it was from the Subdirector of Cooperation and Partnerships that they acquired this mandate. There is a Domestic Cooperation Section inside the Cooperation and Partnership Sub-Directorate. This section is in addition to the Foreign Cooperation Section and the Taxpayer Partnership Section. The work unit that is responsible for handling cooperation through memorandums of understanding and/or PKS is known as the Domestic Cooperation Section.

For the management of tax data and information, the Directorate of Tax Information (DIP) has been appointed as the Data Guardian of the Directorate General of Taxes. The DIP is responsible for the interchange and integration of tax data and information, particularly with external parties that are not affiliated with the DJP. Every MoU or PKS must incorporate DIP as the DJP Data Guardian, according to the present policy of DJP, which states that this is a must. A prognosis or projection of the need for cooperation with ILAP is typically formulated at the beginning of the year by the P2Humas Directorate in coordination with the DIP Directorate. This prognosis or projection is considered strategic and has the potential to make a significant contribution to increasing revenue if the cooperation is carried out through a memorandum of understanding and/or a public-private partnership.



The DIP Directorate suggests the implementation of the following ILAP as a strategic alliance for the 2023 objective. 1). Ministry of Health; 2). Ministry of Communication and Information; 3). Directorate General of Immigration, Ministry of Home Affairs; 4). Directorate General of Mineral and Coal, Ministry of Energy and Mineral Resources; 5). Directorate General of Sea Relations, Ministry of Transportation; 6). BPJS Health; 7). Bank Indonesia; 8). Marine and Fisheries Ministry; 9). East Java Provincial Government (has signed a Memorandum of Understanding); 10). Central Java Provincial Government (has signed a Memorandum of Understanding). The DIP Directorate's selection of strategic partners closely resembles the selection made by the P2Humas Directorate. Nevertheless, there exist several exceptions, specifically in the areas of establishing priorities and urgency. These exceptions typically arise unexpectedly and without prior planning, such as when receiving strategic directives from high-ranking officials like the Director General of Taxes or the Minister of Finance. Additionally, exceptions may also occur when receiving requests for collaboration from external partners that are not part of the initial prognosis but possess strategic importance and have the potential to significantly enhance state revenues. Modifications can be made flexibly as long as they align with the requirements for data and information. A notable strategic partner that has made a substantial impact is the Department of Population and Civil Registration (Dukcapil). Through a Memorandum of Understanding (MoU) with the DJP, Dukcapil enabled the immediate correlation of the Population Identification Number (NIK) and Taxpayer Identification Number (NPWP), resulting in the creation of a Single Identity Number (SIN). This aligns with the requirements of the KUP Law, where NIK will replace NPWP starting from January 1, 2024. Without an agreement, the execution of the KUP Law will undoubtedly be challenging to achieve.

## **2. Reconstruction of the Legal Culture of the Obligation to Submit Tax Data and Information from Agencies, Institutions, Associations and Other Parties**

The requirement to provide tax data and information by various entities is governed by Law Number 28 of 2007, which is an amendment to Law Number 6 of 1983 on general provisions and procedures for taxation, as well as Government Regulation Number 31 of 2012 on the provision and collection of tax-related data and information. The purpose of these regulations is to establish legal certainty for both the government, represented by the Director General of Taxes, and taxpayers.

Gustav Radbruch put forward 4 (four) basic things related to the meaning of legal certainty, namely: ([Radbruch, 2010](#)), ([Radbruch & Dalbora, 2009](#)), ([Kristhy; Hamdani; Siamiko; & Sanjaya, 2023](#))

First, that law is positive, meaning that positive law is legislation. In this research, it is clear that the legislation in question is Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Procedures for Taxation and Government Regulation Number 31 of 2012 concerning Providing and Collecting Data and Information.

Second, that law is based on facts, meaning it is based on reality. The legal system is grounded on the premise that law is derived from objective facts and the actual state of affairs. Consequently, laws are formulated and enforced following the existing realities and factual circumstances prevailing in society and the legal framework. The significance of gathering precise data and information in the tax environment is governed by Law Number 28 of 2007 and Government Regulation Number 31 of 2012. This demonstrates the necessity of tax rules being grounded in verifiable data that can be acquired through the gathering of relevant information. Government Regulation Number 31 of 2012 governs the provision of accurate data and information about taxation. Business entities and individuals must furnish tax data and information that is precise and grounded in verifiable facts. The ideals of justice and legal clarity hold significant importance in tax law. Consequently, tax liabilities must be determined using precise and easily understandable information. This measure serves to mitigate inequity and ambiguity in the taxing process.

Third, that facts must be formulated clearly to avoid errors in meaning. Besides being easy to implement. What is meant by facts must be formulated in a clear way to avoid errors in meaning is a very important principle in the context of tax law, as regulated in Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Procedures. Tax Methods and Government Regulation Number 31 of 2012 concerning Providing and Collecting Data and Information.

Fourth, positive law must not be easily changed. Judicial stability and consistency is the concept that the legal system should have a steady and uniform approach. Consequently, it is necessary to meticulously modify or review laws, rules, and legal provisions, while considering their repercussions on affected communities and corporations. Gustav Radbruch's judgment aligns with the provisions stated in Law Number 28 of 2007, which pertains to the Third Amendment of Law Number 6 of 1983 regarding General Provisions and Tax Procedures, as well as Government Regulation Number 31 of 2012, which

addresses the provision and collection of data and information. According to his perspective, legal certainty refers to having a clear understanding of the law itself. Legal certainty arises from the application of laws, particularly legislation. According to Gustav Radbruch's viewpoint, it is necessary to constantly adhere to positive law, which governs societal interests, even if it is unjust. This is a situation where the regulations lack legal certainty since the entity is required to report and/or update data to the Director General of Taxes, but this requirement is not effectively enforced.

Regarding the failure of Government Agencies, Institutions, Associations, and other Parties (ILAP) to provide tax data and information, there may be sanctions or repercussions imposed, as outlined in the previous explanation, which are governed by Article 41C of the KUP Law. Nevertheless, the researcher's observations indicate that the actual implementation of "law enforcement" does not align with the initial expectations. In fact, it can be stated with certainty that no law enforcement or sanctions have ever been executed, as mandated by Article 41C of the KUP Law, against Government Agencies, Institutions, Associations, and other Parties who fail to fulfill their obligation of submitting tax data and information (ILAP).

ILAP, particularly multiple government agencies, are widely believed to openly disregard the provisions outlined in Article 35A of the KUP Law. This situation arises due to conflicting regulations within these agencies concerning the sharing or exchange of information with the Director General of Taxes. For instance, the National Police refuse to provide vehicle ownership data to the DJP. In addition, PPATK exclusively discloses data about tax offenses alone to the DJP. While there are penalties in place for any party who refuses to furnish data and information to the DGT, these penalties are not enforced in practice. Hence, the World Bank concludes that for the exchange of data and information between DJP and ILAP to occur, it is necessary to establish a standardized Memorandum of Understanding (MoU) or collaboration agreement. This agreement should include a transparent incentive structure that can motivate ILAP to willingly share data with DJP. (<https://news.ddtc.co.id>)

Although it refers to Law Number 12 of 2011, it is evident that neither the MoU nor the PKS are governed by the legislative order. However, in reality, it is observed that the Director General of Taxes is responsible for initiating the creation of a Memorandum of Understanding (MoU) and/or Cooperation Agreement (PKS). These agreements are made between two parties who agree to fulfill their obligations and rights, with specific aims and objectives, and within certain limitations. According to the author's firsthand experience and

observations, once an MoU and/or PKS is established, the entity will be able to furnish the necessary data and information.

The Author's intention is for the Ministry of Finance, specifically the Directorate General of Taxes, to consider the proposal of amending the Law on General Provisions and Tax Procedures. This amendment would involve the addition of Article 35A paragraph (3), which would allow for the collection of data and/or information through the signing of a Memorandum of Understanding (MoU) with or without a subsequent Cooperation Agreement. The aim is to enhance state revenues to a greater extent.

#### D. CONCLUSIONS

The implementation of the Obligation to Submit Tax Data and Information from Government Agencies, Institutions, Associations, and Other Parties (ILAP) is crucial for enhancing the efficacy of tax revenue in Indonesia. Through this relationship, the potential for tax evasion and tax avoidance can be mitigated. The data and information provided by ILAP and third parties can be utilized to assist the Directorate General of Taxes in resolving tax disputes. According to Gustav Radbruch's theory of legal certainty and Max Weber's theory of authority, the ILAP (Law on General Provisions and Tax Procedures) is supposed to enforce Article 35A and Article 41C, which include penalties for intentionally disregarding Article 35A. However, in practice, ILAP has failed to fulfill its responsibilities as outlined in these provisions. Currently, ILAP fulfills its responsibility of providing tax data and information to DJP by entering into a Memorandum of Understanding/Agreement/MoU and subsequently a Cooperation Agreement with DJP. This is a requirement imposed on ILAP, as it is obligated to send tax data and information to DJP. Therefore, the desired level of legal certainty, as stipulated in Law Number 28 of 2007, which pertains to the Third Amendment to Law Number 6 of 1983 regarding General Provisions and Procedures for Taxation, and Government Regulation Number 31 of 2012 regarding the Provision and Collection of Tax Data and Information, has not been achieved.

To achieve legal clarity, it is imperative to revamp the requirement for government agencies, institutions, associations, and other parties (ILAP) to provide tax data and information. According to Gustav Radbruch's study on the idea of legal certainty, it is not currently possible to establish legal certainty with the application of Article 35A of the Law on General Provisions and Tax Procedures. This is because ILAP's requirements are still not being fulfilled.

However, legal proceedings are currently executed through the establishment of collaboration agreements and/or Memorandums of Understanding (MoUs), which are not yet legally feasible. This research proposes the addition of a mechanism for signing a Memorandum of Understanding/Memorandum of Understanding (MoU)/Cooperation Agreement (PKS) as an alternate solution to Article 35A, number (3) reconstruction. Gathering data and information to provide legal certainty and enhance the impact and contribution to the growth of state revenues, as per Adam Smith's work on taxation theory.

### **Recommendations**

The authority of the Directorate General of Taxes should be reinforced through the enhancement of regulations to facilitate the establishment of Memorandums of Understanding (MoU) or Cooperation Agreements (PKS) with Government Agencies, Institutions, Associations, and Other Parties (ILAP). This will enhance the effectiveness and efficiency of sharing tax-related data and information. The government, represented by the Minister of Finance and the Directorate General of Taxes (DJP), has suggested to the House of Representatives (DPR) the inclusion of an additional paragraph in Article 35A. This proposal aims to enhance legal certainty by incorporating a Memorandum of Understanding/Memorandum of Understanding (MoU)/Cooperation Agreement (PKS) with ILAP as an alternative method for transmitting tax data and information. The objective is to make a substantial contribution towards augmenting state revenue. To ensure a smooth implementation of the requirement to send tax data and information from ILAP to the DJP, it is crucial that the government, specifically the DJP, effectively enforces Article 41C of the Law on General Provisions and Tax Procedures.

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