



Contemporary Accounting Case Studies

Volume 3, Nomor 1, March 2024

Article 26

EVALUATION OF VALUE-ADDED TAX CREDIT ON OFFSHORE SERVICES IN THE TELECOMMUNICATION SERVICES INDUSTRY

Retno Ajeng Anissa Widiatri

Master of Accounting Program, Faculty of Economics and Business, Universitas Indonesia
retno.ajeng01@ui.ac.id

Dwi Martani

Master of Accounting Program, Faculty of Economics and Business, Universitas Indonesia
martani@ui.ac.id

EVALUATION OF VALUE-ADDED TAX CREDIT ON OFFSHORE SERVICES IN THE TELECOMMUNICATION SERVICES INDUSTRY

Retno Ajeng Anissa Widiatri, Dwi Martani*

Master of Accounting, Faculty of Economics and Business, Universitas
Indonesia

ABSTRACT

This study aims to evaluate an appeal decision from a tax dispute by PT TII concerning payment for offshore services in the telecommunications industry. The study uses descriptive qualitative analysis techniques based on literature studies, documentation, and interviews with expert interviewees. The results show that the decision in the PT TII tax dispute fell within the applicable tax laws and regulations. To avoid similar tax disputes in the future, the Directorate General of Taxes (DGT) requires confirmation regarding the formal and material requirements for documents that equate to a tax invoice. When determining the period when input tax can be credited per value-added tax (VAT) provisions, attention must be paid to business processes and agreements. It is recommended that PT TII establishes an agreement with the customer regarding the details of the transaction procedures to facilitate the tax examiner in determining the tax invoice date, the deadline for crediting input tax, and the documents that equate to a tax invoice.

Keywords: *Value Added Tax Input; Utilization of Offshore Services; Value Added Tax Input on Telecommunication Services; Tax Planning; Tax Disputes.*

* Corresponding Author's Email: retno.ajeng01@ui.ac.id

1. INTRODUCTION

Data reveal that 48% of disputed taxes have been classified as value-added tax (VAT) disputes (ortax.org, 2022). The data also show that most tax disputes do not end at the tax audit stage but continue to the level of appeal or judicial review. In contrast, the current VAT regulations are comprehensive, from Law No. 42 of 2009, the Third Amendment to Law No. 8 of 1983, regarding the Value Added Tax on Goods and Services and the Sales Tax on Luxury Goods (VAT Law), to various derivative regulations.

This research focuses on the tax disputes experienced by PT TII, where different interpretations exist regarding when VAT is payable and the deadline for input tax credit regarding the utilization of taxable services from outside the customs area within the customs area in FY 2014. The disputes arose after PT TII was obliged to pay a tax payment slip (SSP) for offshore VAT (PPN JLN) under Article 4 paragraph (1) e of the VAT Law. The SSP was then used as a tax credit in the VAT return period. When the VAT return showed overpayment, PT TII submitted a claim for refund or restitution, which had consequences for the tax audit.

During the audit process, the Directorate General of Taxes (DGT) ruled that when the VAT was payable, PT TII had failed to pay its offshore VAT in accordance with the relevant provisions. As such, PT TII was unable to credit the input tax as more than three months had passed since the end of the tax payment period. The DGT ultimately issued an Underpaid Tax Assessment Letter (SKPKB) and rejected PT TII's attempt to resolve the tax dispute through the objection stage. Using the objection decision letter, PT TII then submitted an appeal to the Tax Court, which the Panel of Judges fully upheld.

The Panel of Judges considered that PT TII's input tax credit did not violate the provisions. This demonstrates the existence of different interpretations concerning regulations. For example, similarities exist between the tax dispute cases experienced by PT TII and three other tax disputes, as shown in **Appendix 1**. The three appeal decisions were based on input tax corrections related to the utilization of services from outside the customs area within the customs area where the SSP was settled three months after its due date. Ultimately, the appellant was entitled to credit input tax on

offshore VAT during the tax period in which it became payable, even though this was a different tax period.

Separately, other telecommunication service companies have also experienced tax disputes. These include disputes on appeals over the VAT treatment of transactions for granting discounted usage of telecommunications services as examined by Rajendra (2013), where the legal basis for corrections by the DGT was found to be erroneous. The more appropriate VAT treatment for discounted usage transactions is the provision of free-of-charge taxable services (JKP) under Article 4 letter c of the VAT Law. Therefore, proper tax planning is required to prevent similar appeal cases. It is possible to increase tax savings through the application of tax planning in the form of an effective tax diagnostic and audit review (Parulian, 2020). Thus, companies are expected to conduct good tax planning based on tax management aimed at minimizing the tax burden and maximizing tax savings.

From the background above, it is evident that different interpretations of the application of regulations between taxpayers and the DGT concerning VAT regulation continue to result in many tax dispute problems. This is shown by the numerous appeal decisions involving such disputes. While these decisions are similar to the case at PT TII, they have never been studied before. This study also discusses the specifics and details of a tax dispute, notably regarding the utilization of offshore services by telecommunication service providers with unique characteristics in comparison to other industrial sectors. The PT TII tax dispute case attracted the interest of the author since no prior research has specifically analyzed disputes over offshore VAT crediting in the telecommunications services industry. The study aims to evaluate PT TII's VAT appeal decision on the utilization of offshore services with the provisions of the applicable tax laws and regulations, especially concerning the determination of the time when VAT was due, the crediting deadline, and the validity of the SSP. Based on the evaluation results, it also provides recommendations for the planning of VAT on payments for offshore services in the telecommunication service industry.

Referring to Ellet (2018), evaluation seeks to assess a previous performance, with recommendations in the form of follow-ups/action plans to improve the results of that performance. This study aims to evaluate the appropriateness of the basis for the considerations of the Panel of Judges in deciding the PT TII appeal case with the applicable tax laws and concepts. It

uses a case study strategy and qualitative approach with descriptive documentation analysis and in-depth interviews with several expert interviewees. It also provides recommendations on proper VAT planning for offshore services for the telecommunications industry so that similar tax disputes can be avoided in the future. Additionally, the study advises the DGT on the provision of regulatory confirmation to reduce the number of interpretational disagreements that can result in input VAT disputes.

2. LITERATURE REVIEW

2.1. TELECOMMUNICATIONS SERVICE IN INDONESIA

Eisenhardt, as cited in Nashiruddin (2018), stated that the telecommunications industry, characterized by rapid and unpredictable changes in technology, market, competition, and regulation and frequently referred to as a high-velocity industry, is well-known in a turbulent environment. Numerous nations, including Indonesia, rely heavily on telecommunications to drive their economic expansion.

However, compared to other Asian countries, Indonesia is lagging, especially in terms of the internet, mobile penetration, and download speeds due to its geographical constitution as a large archipelago. The telecommunications sector faces further challenges in the form of the low income of the population, which has hampered the penetration of higher electronic devices, as well as currency fluctuations that have significantly impacted the prices of imported equipment. Additionally, gray markets (such as software piracy, cybercrime, and label piracy) and a lack of spectrum have thus far limited the development of new 5G technologies. The latter poses a challenge for fixed broadband, pay TV, software services, and all other telecommunication segments (EMIS Insights, 2021).

2.2. REGULATION ON VALUE-ADDED TAX ON OFFSHORE SERVICES

Indonesia uses the invoice credit method with respect to VAT obligations, as regulated in Article 9 paragraph (3) – (4a) of the Value Added Tax Act No. 42 of 2009 (VAT Law). Invoice credit means that sellers charge output tax at a set rate at each sale stage and provide the buyer with an invoice indicating the tax amount charged. Buyers can also credit input tax on purchases against the output tax charged on sales provided they meet the formal and material requirements according to the VAT Law. Specifically, Article 4 paragraph (1) e VAT Law explains that the utilization within the customs area of taxable services from outside the customs area is a type of VAT object.

Furthermore, Government Regulation No. 1 of 2012 (PP-1) sets the following criteria for the payment of VAT for the utilization of these services: the party using the taxable services or intangible goods (JKP / BKP) declares the acquisition price

as debt, as evidenced by its recording as such in the books, a letter of acknowledgment of debt, or other evidence; the JKP / BKP provider takes the selling price, proven by written and unwritten billing evidence, from the JKP provider and applies it to the party using it; or parties using JKP / BKP pay all or part of the purchase price. Furthermore, if none of the three above points are known, the time at which VAT is payable follows the date of the contract or the signing of the agreement. Ministry of Finance Regulation No. 40/PMK.03/2010 (PMK-40) also stipulates the criteria for determining when offshore VAT becomes due, which is further described in DGT Circular Letter No. SE-147/PJ/2010 (SE-147).

The party using the taxable service is obliged to pay VAT using a particular type of document that equates to a tax invoice, specifically an SSP, as set out in Regulation of the Director General of Taxes No. PER-10/PJ/2010 (PER-10). If the SSP meets the formal and material requirements, it is considered a valid input tax.

2.3. VALUE-ADDED TAX INPUT

VAT is a sales tax collected based on the value added in all production and distribution channels (Rosdiana, 2018). The basic concept of VAT comprises four elements: an indirect tax; a tax on the consumption of goods and services; general and neutral; and proportional to the price of goods and services (Pato & Marques, 2014).

Clegg, in Reddy (2014), revealed that the delivery of services will be deemed to have occurred at the earliest between whenever a payment is due, received, or bills related to the payment are issued. According to Tait (1988), it is essential to determine the time of supply in VAT since specific rates apply at certain times. In this case, if there is a tendency for tariffs to increase, this will create substantial differences in tax obligations, especially for large purchases.

According to Santoso and Rahayu (2019), various types of VAT planning can be implemented, including optimizing permitted tax credits; postponing the payment of tax obligations; return claims (VAT refund); VAT reconciliation and equalization; and the application of a just-in-time scheme.

This concept serves as the main foundation of this research since the tax object in the appeal case studied is input VAT. The author defined the criteria in PT TII's appeal decision. The key points are determining when VAT was payable, the deadline for an input tax credit, and the validity of the SSP as proof of payment. The author subsequently analyzed the case using the input VAT concept. The VAT input regulations described in sub-chapter 2.2 were also used.

2.4. TAX DISPUTE

Referring to Tran-Nam and Walpole in Saptono, Khozen, and Ayudia (2021), tax disputes can occur due to disagreement on the part of the taxpayer over the views

or decisions given or determined by the tax authorities, relating to the obligations or rights of the taxpayer and related issues, as well as any action on this disagreement. Tax disputes can also include irrational tax violations, tax calculation errors, misinterpretation of regulations, unreasonable tax sanctions, unreasonable determination of tax debts, unclear tax regulations, and other errors arising from tax authorities (Mayanja, Mahazi, & Daniel, 2020). They can arise when the tax authorities undertake the tax audit process.

Taxpayers can adopt various strategies with respect to dealing with the audit and arresting the dispute resolution process at this point. These include preparing all supporting documents for the tax object under examination; reviewing the tax situation; cooperating with the tax authorities, and, if at all possible, submitting quality assurance (Falcon Learning Centre, 2022). There are also various procedures for dealing with a tax dispute if it cannot be resolved during the audit phase. As quoted from Law No. 28 of 2007 concerning General Taxation Provisions (UU KUP), there are procedures for objections, appeals, lawsuits, and judicial review.

While the author identified no such research when considering this dispute case, previous studies have contained some related discussion. Rajendra (2013), for example, addressed tax dispute cases. The current study examines the decision of the tax court regarding the VAT treatment of discount usage transactions in telecommunications services. The specific consideration of VAT disputes distinguishes the current study from previous ones in that the latter have examined tax disputes from the perspective of output VAT related to a “free of charge” taxable service. In contrast, the author here examines input VAT, particularly on the use of offshore services within the customs area.

2.5. TAX PLANNING

Tax management is a comprehensive effort that taxpayers perform continuously so that all matters relating to tax affairs can be managed economically, effectively, efficiently, and adequately. In other words, tax management is expected to make the maximum possible contribution to the continuity of the taxpayer’s business without sacrificing state revenues (Ikatan Akuntan Indonesia, 2015). Tax management aims to optimize the tax burden, which can be achieved through various measures, one of which is tax planning. Tax planning is when the taxpayer collects and researches tax regulations to select the type of tax-saving action to pursue. It aims to minimize tax obligations (Suandy, 2017) and to achieve this efficiency without breaking any tax laws.

Various steps can be taken to improve the tax planning strategy: prevention and control of tax risks; invoice management, and planning a new network well (Qin, 2018). Specifically, in the telecommunications industry, the tax team must also focus on other taxation aspects, namely strengthening the management of the use of special

tax invoices; maintaining pace with modern developments and network features, and selecting the best marketing strategy (Liu, 2017).

Tax planning should be a priority and become a recommendation to prevent other tax disputes from occurring in the future. Several prior studies were referred to and can be cited in this area. First, Wiratama (2021), who aimed to evaluate income tax and VAT tax management. The author then used the graduate thesis by Wicaksono (2018) to gain insight into VAT recommendations by using tax planning for VAT refunds. Lastly, the author considered the findings of Parulian's (2020) study to assess the efficiency of the tax diagnostic review and the tax audit review in putting tax audits into action. In addition to recent studies, the author discusses three appeal disputes involving businesses that while operating in distinct industries, share similar goals and outcomes. As a result, this study differs significantly from previous research by specifically addressing a utilization-related input VAT dispute in the telecommunications service industry.

3. RESEARCH METHODS

A case study strategy is used in this research whereby the study in question helps in evaluating the result of the appeal decision experienced by PT TII. The research uses a qualitative approach. Referring to Creswell (2014), qualitative approaches explore and explain a phenomenon in a problem. The author thus employs a qualitative approach to examine and explain the phenomenon of input VAT disputes, specifically related to the use of offshore services by telecommunications companies. Neuman (2014) stated that there are many different ways to collect qualitative data, and this study used documentation and in-depth interviews. This research uses primary and secondary data as references for document review.

Regarding the primary data, the author used internal company documents such as international telecommunication service agreements, examples of invoices, and audited financial reports. VAT dispute documents including tax assessment letters, objection letters, objection decision letters, and tax court appeal decisions were also used. The secondary data include prior research (thesis) and tax court decisions for cases similar to PT TII. To comprehend the research topic from the perspectives of academics, practitioners, and regulators, in-depth interviews were conducted both online and offline. The interviewees comprised a tax manager and billing manager from PT TII; an independent tax consultant; a tax consultant who acted as an attorney for PT TII; a taxation academic from the University of Indonesia; a Tax Law academic from Gadjah Mada University; and the Head of the Appeal and Lawsuit Section at the DGT.

This study employs descriptive qualitative analysis, which generally aims to understand text and image data, involves data segmentation, and combines all data into a unified whole (Creswell, 2014). The author begins the analysis by studying

the tax provisions related to the VAT disputes on telecommunication services experienced by PT TII. This is followed by an analysis of the company's internal documents along with documents on appeal decisions and other related tax assessments. The interpretations drawn are then confirmed and validated through in-depth interviews with informants. The interview questions derive from various sources including previous research, tax laws and regulations (Ministry of Finance Regulation, DGT Circular Letter, General Provision of Tax Law, VAT Law, Tax Court Law), tax books, and seminar proceedings. The author aims to acquire a more in-depth understanding to focus on the suitability of the judges' considerations concerning the input tax credit regulations for utilizing offshore services from outside the customs area and recommendations for VAT planning. With sufficient data the author also aims to perform a triangulation analysis, combining data from various sources, including interviews, observation, and document analysis.

For this case, the author examined whether the SSP payments and VAT reporting for offshore services followed accounting records and related tax regulations, especially in terms of the input tax credit. The results of the in-depth interviews conducted from various perspectives were then analyzed. From the results of the evaluation of the appeal decision, recommendations will be made regarding VAT on offshore services that are appropriate for telecommunication service companies, to avoid similar tax dispute cases in the future.

4. ORGANIZATION PROFILE

PT TII is a company engaged in the telecommunications services industry. It purchases services from suppliers in various countries according to customer needs. Particularly for delivery to domestic customers, this is included as a VAT object, notably the utilization within the customs area of services from outside the customs area (offshore VAT). Figure 1 displays the transaction mechanism for the payment of foreign services.

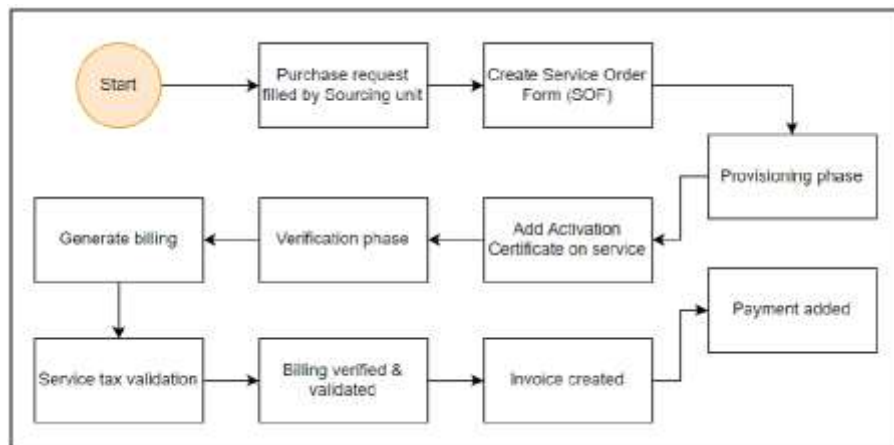


Figure 1. Telecommunications Service Fee Payment Mechanism

Source: processed by the author (2022)

Figure 1 demonstrates that PT TII must complete numerous tax-related phases when processing bill payments for interconnection services. In the “service tax validation” stage, the taxation aspect referred to relates to determining whether the use of a service is payable and when VAT is payable on that service.

In 2014, PT TII overpaid its VAT obligations and this was shown on its VAT return. Following the overpayment, PT TII filed for restitution, which prompted a tax audit. This was conducted by the DGT and resulted in an Underpaid Tax Assessment Letter (SKPKB) because the input tax credit did not satisfy VAT provisions. DGT focuses on input tax crediting from documents equating to tax invoices (SSP) for offshore VAT that do not comply with the regulations (i.e., time payable and tax crediting deadline). PT TII disputed the SKPKB and submitted an objection to the DGT.

DGT in turn disputed this because the input tax crediting period for offshore VAT exceeded the end of the payment period by three months. PT TII submitted an appeal to the Tax Court, which was fully upheld. The details regarding the DGT’s correction and the amount appealed are available in **Appendix 2**. Figure 2 contains a chronology of the tax dispute.

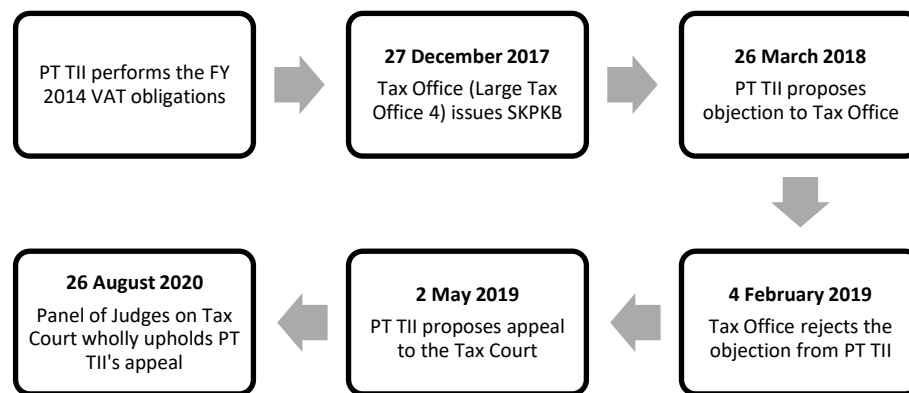


Figure 2. Chronology of PT TII Tax Dispute

Source: processed by the author (2022)

5. RESULT AND DISCUSSION

5.1 RESULTS

In analyzing the PT TII appeal case, the author gathered data in the form of internal company documents and VAT dispute decisions, where the internal documents pertained to the telecommunications service mechanism. The business processes mechanism consists of three parts: billing, payment, and offshore service

payment. This was discussed in depth in section 4. The final document used was the VAT dispute decision for PT TII. The tax dispute related to PT TII's tax obligations, notably the submission of overpaid VAT returns. The following documents were used in this research: tax assessment letters (SKPs); audit results warrants (SPHP); tax audit discussion minutes; objection letters; objection decision letters; and tax court appeal decisions.

After conducting a document analysis, the author confirmed and validated the interpretation via in-depth interviews with several expert interviewees. These included internal PT TII parties; an external tax consultant; PT TII's tax consultant; the Directorate of Objection and Appeal from DGT; a tax academician; and a legal academician. Having obtained sufficient information, the author conducted a triangulation analysis by combining data from various sources, including interviews, observations, and document analysis. Further analysis is provided in section 5.2.

5.2 DISCUSSION

ANALYSIS OF CONFORMITY OF THE APPEAL DECISION WITH THE APPLICABLE TAX LAWS, REGULATIONS, AND CONCEPTS

A comprehensive description is required when conducting an analysis. This can begin with the definition and criteria for when VAT is payable on the use of offshore services according to laws and regulations, as well as the time limit and formal and material requirements related to crediting input tax on documents that are equated with tax invoices. The whole explanation is then associated with PT TII's use of services, as a telecommunications service provider, from outside the customs area. The analysis moves to the basis of the Panel of Judges' considerations regarding the assessment of the validity and legitimacy of the SSP paid by PT TII.

As a company engaged in telecommunication services, PT TII pays vendors for the interconnection services its customers need. In the objection letter and subsequent appeal, PT TII also explained the billing process from the vendor, which is illustrated in **Appendix 3**. (1) PT TII receives invoices from overseas parties; these are then verified internally in around 2–3 months to become the basis for payment by PT TII; (2) The internal verification process, as part of PT TII's wider business process line, seeks to validate every transaction made by PT TII; (3) When an invoice has been verified, PT TII pays the vendor, and the fee stated is used to determine the VAT base ("DPP PPN") for the tax period that corresponds with the invoice payment date.

Meanwhile, Tait (1988) explained that, in general, the most straightforward means of ascertaining the time of supply is to identify which of the following occurs first: a) the invoice is issued, b) the goods are available or the service is provided to the customer, or c) payment is made. This concept is adopted in Article 5, paragraph

(1) PMK-40, and Article 17, paragraph (6) PP-1, which also explains the determination of when to use services. Several interviewees supported this:

“When payable for intangible taxable goods or offshore service is regulated in PMK 40... But because there are words ‘comes first,’ we always use the invoice date.” (Interviewee C, 2022)

“So regarding when it is owed, the reference rules that we use are the same. There are three, on delivery, on contract, and on payment (which connects to invoice issuance).” (Interviewee B, 2022)

However, due to the authority in Article 78 of the Tax Tribunal Law, the Panel of Judges endeavored to examine all of the evidence and applicable regulations. When establishing the facts surrounding PT TII’s business processes, the panel saw that PT TII took 2–3 months to verify or process invoices from vendors. This was to prevent payment errors in relation to any potentially disputed invoices.

The Panel of Judges considered that in determining when an item is payable, the date of the invoice should be the reference. If an item is disputed, the date of a new, revised invoice should be used instead. Based on this explanation, the author considered the basis for the Panel of Judges’ considerations in determining whether the PT TII dispute was appropriate. The panel evaluated the matter in the round and considered the facts and existing business processes.

In terms of the deadline for crediting input VAT, referring to number 11 SE-147, any input tax credit for the utilization of intangible taxable goods or services from outside the customs area that is paid late can still be credited during the tax period in which the VAT becomes payable, or in a different tax period. In other words, despite the lateness of an SSP deposit for the use of JKP LN, the taxpayer remains entitled to credit the input tax in either the same or a different tax period.

The rules regarding the documents that equate to tax invoices are mentioned in Article 13, paragraph (6) of the VAT Law, which also authorizes DGT, through the Director General of Taxes Regulation (PER DGT), to stipulate them. An offshore VAT SSP serves as proof of tax payment by taxpayers who use intangible taxable services or intangible goods from outside the customs area. However, an SSP does not satisfy the general definition according to Article 1 point 21 of the VAT Law. Thus, although the terminology used in the VAT Law in reference to the SSP is for another document whose position is equated with a tax invoice, the provisions of the VAT Law provide treatment that is not “*mutatis mutandis*.”

“In the context of interpretation... If you want it to be the same as an invoice, there must be a mutatis mutandis clause. There are adjustments as needed. If it is not mutatis mutandis, terminologically it is already different and cannot be applied.” (Interviewee E, 2022)

Materially, the crediting of PT TII’s input tax is still permissible provided it relates to the delivery of services that are subject to VAT and is indeed related to

business operations. This decision corresponds to some of the appeal decision results contained in **Appendix 1**. In other words, the fact that the offshore VAT SSP is not credited during the tax period “when it is due” does not pose a problem. The Panel of Judges is more concerned with the validity and legitimacy of an SSP to be considered as a document equivalent to a tax invoice.

In this case, PT TII produced an SSP and made the offshore VAT payment under the provisions in PER-27, namely, fulfilling the requirements in Article 4 PER-27, which include providing the Tax ID Number and the name of the party utilizing taxable services from outside the customs area. Looking back at the determination of when the tax was payable, PT TII’s late payment of the SSP on offshore VAT resulted in an administrative sanction of 2% per month. This was issued according to Article 9 paragraph (2a) of KUP Law, which is contained in the Notice of Tax Collection (STP). However, despite incurring a fine, PT TII was still entitled to credit the SSP on offshore VAT as stipulated in SE-147; the most important aspect was that the SSP contained the necessary information.

Furthermore, the Panel of Judges considered that PT TII’s account checking and bookkeeping demonstrated that all invoices were paid within a certain period and no offshore VAT payments were made more than three months after the invoice disputes were settled. PT TII also proved to the panel that the SSP on VAT had been deposited in the state treasury so that the appellant could credit the SSP.

“... However, the judge has synthesized all the evidence brought before him by the parties. It is possible that the evidence finally shows that a fact cannot necessarily be qualified in the wording of the article.” (Interviewee E, 2022).

Based on the overall analysis presented above, several important points arise in the PT TII appeal dispute case:

- a. In tracing “when VAT offshore is payable,” it is necessary to know the point in time when service utilization begins. Tax regulations accommodate the time at which these services are used and consider whichever time comes first. Payment of the SSP on offshore VAT was late because PT TII has a fairly lengthy business process for verifying invoice disputes. Through confirmation interviews, PT TII ultimately agreed with DGT that the SSP on offshore VAT was payable at the time of the billing/invoice date.
- b. In connection with the deadline for crediting input tax, the offshore VAT SSP, as a document equivalent to a tax invoice, is not clearly and specifically regulated in the VAT Law. Comparing similar appeal decisions and as confirmed in the interviews with several parties, it is known that the offshore VAT SSP can be credited for the same or a different tax period, where the tax period refers to that stated in the SSP. This differs from the DGT’s interpretation, which focuses only on textualism based on regulations without considering the *mutatis mutandis* clause.
- c. The SSP on offshore VAT paid by PT TII was declared valid, as proven by the meeting of formal and material requirements referring to laws and regulations.

Several parties were interviewed and an appeal decision in a similar case showed that the input tax credit right would be retained even though PT TII was deemed late in paying offshore VAT. This is because administrative sanctions contained in the STP were the only consequence of the delay and not the elimination of credit rights

RECOMMENDATIONS ON PLANNING AND ALTERNATIVE ADMINISTRATION OF VALUE-ADDED TAX ON PAYMENT FOR OFFSHORE SERVICES

Based on the results and the analysis in sub-chapter 5.1, the researchers consider that these VAT disputes could be prevented with the correct tax planning on the part of the company. As such, recommended tax planning must not violate applicable tax provisions and not involve smuggling/tax evasion (Suandy, 2017). Santoso and Rahayu (2019) identified the types of tax planning that can be applied, which include optimizing the tax credits allowed, and VAT reconciliation (equalization). Several recommendations relating to the crediting of input VAT for the use of telecommunication services are presented as follows:

A. Recommendations related to criteria for VAT payable

It is not possible to separate the determination of when a service is payable from the initial contract document agreed upon by the company and the vendor/seller. This is supported by the Civil Code, which provides flexibility for companies in terms of freedom of contract. To prevent delays in invoice and VAT processing for these services, almost all of the respondents emphasized that the tax clause must also be discussed from the start of the contract; for example, determining the invoice delivery clause and other mechanisms for use if the invoice amount charged is incorrect/disputed. Management should also consider related tax regulations (e.g., PP-1 and PMK-40) to determine key dates or events in the contract.

B. Recommendations related to the deadline for crediting offshore VAT

The time limit for crediting input VAT is regulated in the VAT Law, but it is not clear that certain documents can be equated with tax invoices. While the regulation contains no “mutatis mutandis” clause, companies must always remember the formal and material requirements in crediting the input tax. In terms of PT TII’s case, the company should not be late in depositing the SSP. Suppose that the SSP is settled on time and thus in line with the due date. The telecommunications service company must credit it to the SPT for the period in question or a different tax period (according to Article 13 paragraph (9) of the VAT Law). However, if the payment is missed or late, the company can still make corrections to the VAT return and then re-enter the SSP that was paid late.

C. Recommendations regarding the validity and legitimacy of SSPs on offshore VAT and tax invoices

Companies can request confirmation through the official DGT website, in addition to manually checking the NTPN on the SSP, including The House for Document

Confirmation (www.pajak.go.id). They can also consult SSP e-billing or the SSE portal, located at www.sse.pajak.go.id, and can currently use Prepopulated Input Tax (Prepopulated PM) to credit input tax on tax invoices and Goods Import Declarations (PIB) via the electronic tax invoice (eFaktur) application. They can also optimize input tax credit by remembering the concept of “matching cost against revenue.” In the context of VAT, input tax on the SSP is only permitted when delivery occurs within the customs area, is not capitalized, and is not a personal expense, along with other specific provisions.

In addition to VAT planning recommendations, the researcher recommends VAT strategies for use as a reference in dealing with tax disputes. Tax disputes that are gray areas or different interpretations (as experienced by PT TII) will require more effort to resolve. This is because tax disputes over differences in interpretation will not be resolved in the scope of objections but can lead to the Tax Court and even the Supreme Court. Several stages in strategy and tax planning can be followed to resolve tax disputes:

A. Stages before tax audit:

To avoid disputes, a common understanding is necessary between the intent and purpose of regulation and its relation to the company’s business processes. Suppose that certain things are not understood. The company can confirm where it is registered with the account representative at the Tax Office or request a ruling or confirmation regarding the regulation. In addition, companies must document all transactions and business process schemes accurately and neatly (Falcon Learning Centre, 2022). Periodic VAT equalization and reconciliation are also important as an anticipatory step if there is an indication that the company will be examined (e.g., testing compliance regarding refunds for an overpaid VAT return).

B. Initial stages of tax audit:

At the beginning of the tax audit, the company should conduct a tax review or summarize the tax obligations that have already been met (Parulian, 2020). This is to avoid or minimize any exposure/potential corrections that may arise during the audit (Falcon Learning Centre, 2022). The director or finance director is expected to appoint a Person In Charge (PIC) or, if necessary, a tax consultant to facilitate easier coordination with the tax auditor. If the coordination process is smooth, it is hoped that the company can easily provide all documents and data requested by the tax auditor.

C. Stages during the tax audit:

During the tax audit process, tax auditors tend to request information, documents, general ledgers, financial reports, and other documentation. If the equalization and reconciliation process has been completed at the previous stage, then at this stage, the company only needs to conduct a tax review and withdraw data collected

previously. In the scope of VAT, companies can review the validity and legitimacy of the SSP and re-check output and input tax invoices through the e-Faktur system.

D. Stages after tax audit:

After the tax audit process, if the company does not agree with the SKP issued, it can propose an objection in the form of a reduction or a cancellation of the SKP. Only one of these alternatives can be chosen. Finance directors or tax managers must consider the cost and benefit aspects due to the significant costs associated with the dispute resolution process. If a company proposes an objection, this may subsequently be rejected by the DGT, from where the next step would be an appeal to the tax court. Conversely, if a company applies for a reduction or cancellation of the SKP but the results are unsatisfactory, it must accept the consequences of not being able to file an objection or seek justice through an appeal to the tax court.

6. CONCLUSION AND RECOMMENDATION

The basis for considering the Panel of Judges is appropriate and follows the applicable tax concepts and regulations. The Panel of Judges saw that PT TII's business transactions were one-of-a-kind; when VAT was due, it was calculated based on the service use date, as shown on the revised invoice. In addition, the panel's basic considerations regarding the crediting deadline are appropriate. According to the principle of "lex superior derogat legi inferiori," Article 9 paragraph (9) of the VAT Law permits input tax credits to be credited no later than three months after the end of the tax period stated in the equivalent document. With an SSP, the basis for consideration is also appropriate because the SSP that has been paid is valid and legitimate; this is stated with reference to the applicable laws and regulations as well as various similar appeal decisions that essentially upheld the appellant's request in full.

As a recommendation, several planning steps are required, as well as alternative VAT strategies that can be implemented, particularly for the use of telecommunications services from outside the customs area. The steps comprise taking into account the tax clause in contracts and making the most of allowed tax credits. The company can also conduct a tax diagnostic review, provide documentation, and perform equalization and reconciliation as alternatives to tax disputes, which are measures that can be planned for in advance. If possible, the company can also consider additional administrative options such as reducing or eliminating tax assessment letters to prevent tax disputes from reaching the tax court.

Internal improvements are required from the DGT and taxpayer side to resolve differences in interpretation regarding the deadline for crediting input tax, especially for certain documents that are equated with tax invoices. The DGT should provide opportunities for taxpayers to request confirmation related to transactions that can attract different interpretations, for example, through an administrative ruling. In

addition, many appeal decisions related to SSP crediting should serve as input for the DGT to improve tax regulations and consider the business processes of taxpayers to enhance the quality of the basis for corrections. DGT should revise Article 13 paragraph (9) of the VAT Law to include a “mutatis mutandis” clause and to re-explain the clause on the material requirements for input tax credit in addition to the formal requirements provided in Article 5 PER-13.

ACKNOWLEDGEMENT

The author is grateful to Mrs. Dwi Martani as a supervisor, my parents, my husband, and my friends who have helped and supported me in writing this thesis. Appreciation is also extended to everyone who participated in the interviews. The interviewees provided the author with a comprehensive and in-depth perspective based on their expertise and knowledge.

REFERENCES

- Creswell, J. W. (2014). *Research design: Qualitative, quantitative and mixed methods approaches* (4th ed.). Sage.
- Ellet, W. (2018). *The case study handbook, revised edition: A student's guide*. Harvard Business Press.
- EMIS Insights (2021). *Indonesia ICT sector report 2021-2022*.
- Falcon Learning Centre (2022). *Tax webinar: Strategi efektif menangani pemeriksaan dan sengketa pajak*.
- Ikatan Akuntan Indonesia (2015). *Modul chartered accountant: Manajemen perpajakan*. Ikatan Akuntan Indonesia.
- Liu, M. (2017). Research on accounting treatment and tax planning of telecommunications bundling business. *2017 2nd International Seminar on Education Innovation and Economic Management (SEIEM 2017)*, 193–196.
- Mayanja, S. N., Mahazi, K., & Daniel, T. (2020). Effect of tax dispute resolution mechanism on taxpayer’s compliance: The case of Rwanda. *Science Journal of Business and Management*, 8(2), 74–82.
- Nashiruddin, M. I. (2018). Understanding the turbulence of business environment in telecom industry: Empirical evidence from Indonesia. *Buletin Pos Dan Telekomunikasi*, 16(2), 75–90.
- Neuman, W. L. (2014). *Social research methods: Qualitative and quantitative approaches* (7th ed.). Pearson Education Limited.
- ortax.org (2022, February 28). *Daftar putusan sengketa pajak*.
- Parulian, E. S. (2020). *Efektifitas tax diagnostic dan tax audit review dalam rangka pelaksanaan tax efficiency dan self-defence terhadap pemeriksaan pajak di perusahaan X*.

- Pato, A. C., & Marques, M. T. (2014). *Fundamentals of VAT*. CreateSpace Independent Publishing Platform.
- Qin, Y. (2018). Research on the strategy of tax planning management of power supply enterprises under the background of replacing business tax with VAT. *IOP Conference Series: Materials Science and Engineering*, 452(3), 032063.
- Rajendra, S. D. (2013). *Analisis perlakuan pajak pertambahan nilai atas transaksi pemberian discount usage oleh perusahaan jasa telekomunikasi kepada konsumen akhir*.
- Reddy, R. (2014). *Invoice date or cash receipt date: A critical analysis of the time of supply of value added tax*. University of Johannesburg (South Africa).
- Rosdiana, H. (2018). *Pengantar ilmu pajak: Kebijakan dan implementasi di Indonesia*.
- Santoso, I., & Rahayu, N. (2019). *Corporate tax management*. Ortax (Observation & Research of Taxation).
- Saptono, P. B., Khozen, I., & Ayudia, C. (2021). Main issues of value-added tax dispute in Indonesia: A note from 2019 tax court decrees. *Jurnal Kajian Akuntansi*, 5(2), 225–242.
- Suandy, E., & Masykur, M. (2017). *Perencanaan pajak edisi 6* (6th Ed.). Salemba Empat.
- Tait, M. A. A. (1988). *Value added tax: International practice and problems* (Vol. 24). International Monetary Fund.
- Wicaksono, A. (2018). *Perencanaan pajak atas restitusi PPN pada PT BAP-WASKITA-WIKA KSO*.
- Wiratama, I. R. (2021). *Evaluasi manajemen pajak atas kredit pajak PPH dan PPN bendaharawan: Studi kasus PT. X*.

APPENDIX

Appendix 1 – List of Appeal Decisions on Crediting Input Tax For Utilization of Offshore Services

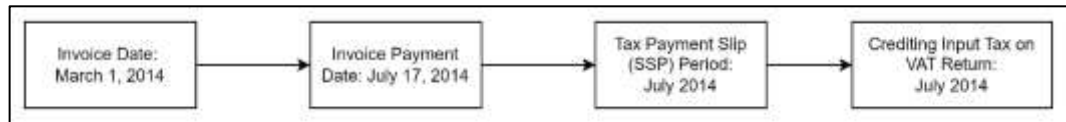
Appeal Decision Number	Regulatory Reference	The Panel of Judges' Arguments
PUT-098205.16/2012/PP/M.XVB Year of 2018	Number 11 SE-147/PJ/2010	The appeal decision of the entire dispute is wholly approved . The DGT has issued an STP in the form of an administrative sanction of 2% per month, and the Panel of Judges has determined that VAT
PUT-104995.16/2013/PP/M.XVB Year of 2018	Number 11 SE-147/PJ/2010	
PUT-104999.16/2013/PP/M.XVB Year of 2018	Number 11 SE-147/PJ/2010	

		paid offshore is considered late. So that the VAT Offshore that has been paid can still be credited in the Periodic VAT Return at the time, it becomes payable or a different tax period
--	--	--

Appendix 2 – Appeal Correction of Input VAT Credited by PT TII

No	FY	Type of Dispute	Correction Amount by the DGT	Administrative Sanctions (Article 13 (3) UU KUP)	No. Appeal Decision	Appeal Decision Date	Appeal Result	Total Refund According to Appeal Results
1	2014	VAT January	165.259.590	165.259.590	PUT-004000.16/2019/PP/MIB	26-Aug-20	Wholly Approved	330.519.180
2	2014	VAT February	4.415.363	4.415.363	PUT-004001.16/2019/PP/MIB	26-Aug-20	Wholly Approved	8.830.726
3	2014	VAT April	549.894.693	549.894.693	PUT-004002.16/2019/PP/MIB	26-Aug-20	Wholly Approved	1.099.789.386
4	2014	VAT May	352.316.735	352.316.735	PUT-004003.16/2019/PP/MIB	26-Aug-20	Wholly Approved	704.633.470
5	2014	VAT June	1.534.564.071	1.534.564.071	PUT-004004.16/2019/PP/MIB	26-Aug-20	Wholly Approved	119.966.552
6	2014	VAT July	2.615.292.762	2.615.292.762	PUT-004005.16/2019/PP/MIB	26-Aug-20	Wholly Approved	5.230.585.524
7	2014	VAT August	407.845.049	407.845.049	PUT-004006.16/2019/PP/MIB	26-Aug-20	Wholly Approved	815.690.098
8	2014	VAT September	58.881.648	58.881.648	PUT-004007.16/2019/PP/MIB	26-Aug-20	Wholly Approved	117.763.296
9	2014	VAT October	39.518.202	39.518.202	PUT-004008.16/2019/PP/MIB	26-Aug-20	Wholly Approved	79.036.404
10	2014	VAT November	392.120.785	392.120.785	PUT-004009.16/2019/PP/MIB	26-Aug-20	Wholly Approved	784.241.570
11	2014	VAT December	211.954.050		PUT-004010.16/2019/PP/MIB	26-Aug-20	Wholly Approved	211.954.050
Total			6.332.062.948	6.120.108.898				9.503.010.256

Appendix 3 – Illustration of Invoice Issuance Time and VAT Payment for Offshore Services



Notes:

- A. One invoice from X Pte., Ltd dated March 1, 2014.
- B. Due to the lengthy payment verification process of 2–3 months, the invoice was only paid on July 17, 2014.
- C. PT TII paid the tax payment slip (SSP) according to the tax period for the service invoice being paid.
- D. For the SSP that has been paid, PT TII credits and reports it on the VAT return in the same tax period according to the invoice payment.