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Tax Dispute Resolution Analysis On Promotional Cost Adjustments

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ABSTRACT
This study aims to analyze tax disputes related to promotional expenses in the calculation of Corporate Income Tax (PPh Badan), focusing on the causes of disputes and the treatment of promotional expenses that do not meet administrative requirements. A qualitative approach using case studies is employed, analyzing 94 tax court decisions related to promotional expenses in 2024. The research also includes interviews with officials from the Directorate General of Taxes (DJP) and taxpayers. The results show that the main factors causing disputes are differences in interpretation between the tax authorities and taxpayers regarding the substance of promotional expenses, as well as incomplete administrative documentation, such as nominative lists. Although the court prioritizes the substance of promotional expenses, administrative non-compliance remains a reason for fiscal correction. The study identifies the need for formalizing tax policies related to promotional expenses into stronger regulations to provide clearer legal certainty. Additionally, it is recommended that the DJP improve the tax administration system by allowing taxpayers to substantiate legitimate promotional expenses, even if administrative documents are incomplete. The study also suggests enhancing training for tax officials to better understand the characteristics of taxpayers' businesses and the importance of proper document management to reduce future tax disputes.

INTRODUCTION

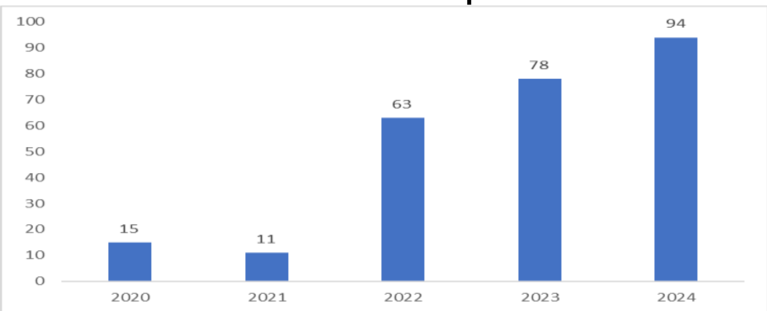
In 2024, taxes remain the main source of state revenue in the State Budget (APBN), contributing 82.4% of the total state revenue, which amounts to IDR 2,842.5 trillion (Amila, 2024). The tax revenue consists of Income Tax (PPh), Value Added Tax (PPN), Land and Building Tax

(PBB), and excise duties. Although tax revenues have been under pressure due to declining commodity prices and changes in the tax collection methods, the realization of tax revenue in 2024 amounted to IDR 1,932.4 trillion, or 100.5% of the target, with a growth of 3.5% compared to the previous year (www.kemenkeu.go.id, 2024). However, the tax-to-Gross Domestic Product (GDP) ratio in Indonesia for 2024 was recorded at 10.08%, slightly down from 10.31% in the previous year (Simanjuntak, 2024).

In Indonesia, tax disputes related to promotional costs remain an interesting issue, especially concerning dispute resolution involving court rulings. Promotional costs refer to expenses incurred by a company to boost sales, introduce products or services, and strengthen brand presence in the market. These expenses include advertising costs, sponsorships, events, exhibitions, and product or sample distributions to consumers. Promotional costs can be deducted from gross income if they meet the applicable tax regulations, but tax disputes often arise regarding the definition and substance of such costs. These disputes arise due to differing interpretations between tax authorities and taxpayers regarding whether an expenditure is truly a legitimate promotional cost or should be considered a non-deductible donation. This issue persists, as indicated by tax court rulings, with disputes reappearing each year, and even increasing in number over time.

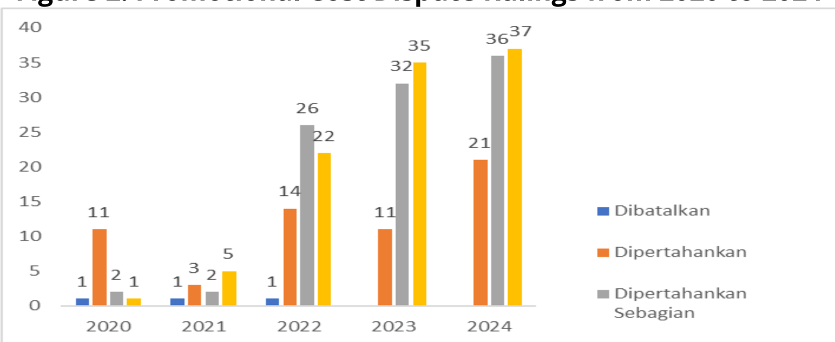
Based on the data collected, there were 326 tax dispute files related to promotional costs issued between 2020 and 2024. Figure 1.1 presents descriptive statistics regarding the number of promotional cost dispute cases processed by the tax court during this period, as shown in the figure below:

Figure 1. Number of Promotional Cost Dispute Cases from 2020 to 2024



From Figure 1, it can be observed that the number of tax dispute cases related to promotional costs shows an increasing trend each year. From 2020 to 2024, a total of 261 cases were found, with 2024 having the highest number of cases at 94, indicating a surge in promotional cost dispute cases processed by the tax court. This increasing trend suggests that promotional cost disputes are becoming a more prominent issue in Indonesia's taxation system. Additionally, based on the dispute rulings, fluctuations are also observed:

Figure 2. Promotional Cost Dispute Rulings from 2020 to 2024



Based on the data from the dispute rulings between 2020 and 2024, there is variation in the outcomes of tax court decisions related to promotional cost disputes. In 2020, the majority of rulings upheld the decisions, while in 2021 and 2022, there was an increase in disputes that were not upheld. In 2023 and 2024, similar trends are observed, with a higher number of disputes not upheld, along with fluctuations in the rulings, reflecting differences in the interpretation of the applicable regulations. The focus of this research is on tax disputes filed by corporate taxpayers concerning promotional costs, based on the 94 tax court rulings issued in 2024.

This research is motivated by the researcher's perception of tax disputes as being undesirable and best avoided. Previous studies related to tax disputes in Indonesia include research analyzing tax disputes from the perspective of tax auditors, such as Rosid & Yulianto (2023), who developed a prediction model for the outcome of tax disputes, and Komarasari et al. (2022), who studied the differences in the interpretation of promotional costs in tax disputes. Sari & Wibowo (2022) also discussed tax-saving strategies implemented by companies to reduce tax disputes.

The research gap lies in the lack of studies focusing on the analysis of the examination techniques used by tax authorities, such as number analysis, relevance testing, and equalization, which often cause prolonged tax disputes. Most previous research has focused more on external factors, such as unequal treatment or differences in the interpretation of tax regulations, without addressing how examination techniques can trigger long-lasting tax disputes and affect court outcomes in Indonesia's tax courts, as described in studies by Komarasari et al. (2022) and Gitacahyani et al. (2024), which highlight how administrative differences and interpretations in examinations lead to prolonged disputes.

This study aims to fill this gap by analyzing court rulings related to tax disputes over promotional costs in 2024, evaluating the examination techniques used by tax authorities, and testing their compliance with applicable regulations. The results of this study are expected to contribute to improving the resolution of tax disputes in Indonesia, particularly concerning examination techniques that often lead to prolonged disputes, burdening the taxation system.

LITERATURE REVIEW

Tax Planning, Tax Avoidance, and Tax Evasion

Tax Planning, Tax Avoidance, and Tax Evasion are three concepts that differ significantly, both in terms of legality and ethics, in tax practices. Tax Planning can be defined as a legitimate and strategic process aimed at minimizing tax liabilities. In this context, taxpayers plan transaction structures, investments, and other financial decisions to take advantage of tax incentives allowed under applicable tax regulations (Chaisse & Ji, 2023). Tax Planning involves the use of lawful methods to manage a company's tax affairs, such as selecting deductible expenses, choosing how income is taxed, and deferring tax payments allowed by law (Juanpere, 2020). Its goal is to reduce the taxes payable legally without violating tax rules. Furthermore, Tax Planning can also be understood as a strategy used by individuals or businesses to optimize their tax obligations by structuring their financial and business transactions in line with existing tax regulations (Dwiputri & Kusufi, 2019).

Examination and Handling of Disputes

Tax examination is the process of verification and evaluation carried out by tax authorities on the tax returns submitted by taxpayers to ensure the accuracy and truthfulness of the information provided in accordance with applicable tax regulations (Dwiputri & Kusufi, 2019). The aim of the examination is to assess the correct tax liability and ensure that the taxes paid by the taxpayer are in line with the income reported (DM et al., 2023).

Promotional Costs

More detailed regulations governing this issue are outlined in Article 6 paragraph (1) letter a number 7 of the Income Tax Law (UU PPh) and are further specified in the Minister of Finance Regulation No. 02/PMK.03/2010 concerning Promotional Costs Deductible from Gross Income. Following the issuance of PMK 02/PMK.03/2010, the Directorate General of Taxes (DJP) issued Director General of Taxes Circular Letter No. SE-9/PJ/2010, which provides further explanation on the implementation of this regulation.

Research Framework

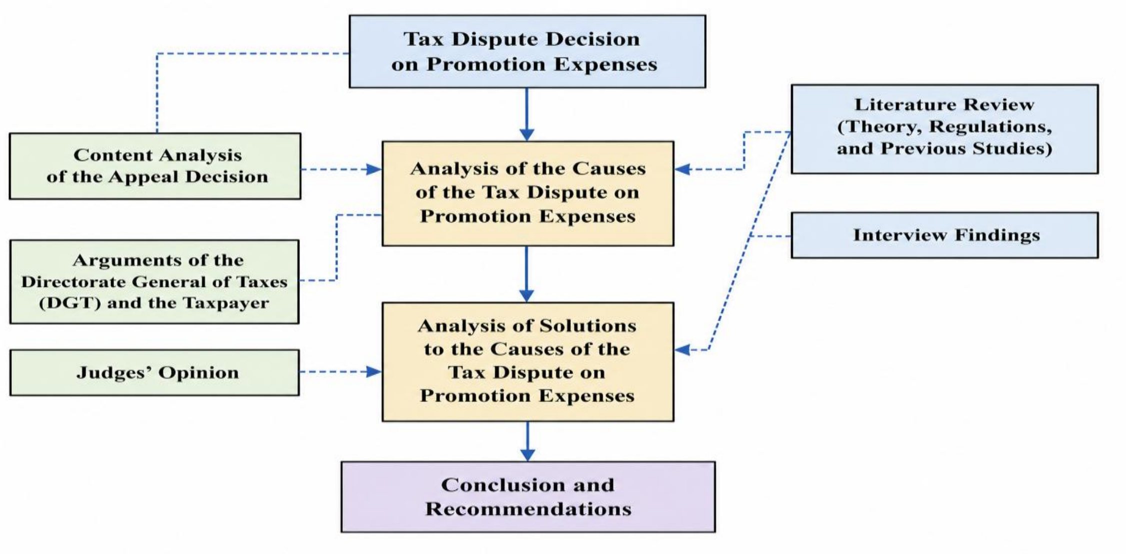
Based on the previous literature review, the issue in this research arises from the increasing trend in tax disputes, particularly those related to promotional costs as part of tax planning strategies for taxpayers (WP). This research aims to examine whether tax planning related to promotional costs has been in accordance with the applicable regulations through tax examinations. The results of these tax examinations have the potential to lead to tax disputes, which will be the focus of this analysis.

The analysis is conducted to identify the causes of tax disputes over promotional costs, with a focus on studying the case of appeals rulings issued in 2024. The causes of tax disputes are identified through content analysis of the appeal rulings, referring to the views of the Directorate General of Taxes (DJP) and the taxpayers involved in the tax court dispute. This approach aims to provide a clearer understanding of the underlying causes of disputes related to the recognition of promotional costs in tax reports.

The results of the content analysis of these appeal rulings are then confirmed with relevant literature and interviews from both the DJP and WP. This process is expected to provide a deeper understanding of the causes of tax disputes related to promotional costs and how the relevant tax regulations are interpreted by the parties involved in these disputes.

After the causes of the disputes are identified, the next analysis focuses on formulating solutions to address these causes. The analysis of solutions is carried out by studying the opinions of the judges who ruled on the tax disputes in three relevant appeal rulings. The results of the content analysis of these rulings are then combined with literature reviews and interviews to formulate more comprehensive recommendations, aiming to improve the application of tax regulations related to promotional costs. The conceptual framework of this research is illustrated in Figure 3.

Figure 3. Conceptual Framework



Previous studies provide insights into the causes of tax disputes related to promotional costs and also serve as the foundation for formulating appropriate recommendations to address these issues.

A study by Greggi & Miotto (2024) examines the tax dispute resolution system applied by the OECD in dealing with international tax controversies. This study highlights the effectiveness of the system in reducing double taxation and addressing issues in international tax agreements. The authors suggest improvements to enhance taxpayer participation in the dispute resolution process for better justice.

A study by Fata et al. (2023) reveals that tax dispute resolution through objections, appeals, and reviews takes a long time, and many cases accumulate in the Supreme Court. The study suggests the need for reforms in the mediation mechanism to expedite the tax dispute resolution process in Indonesia. This is important for increasing taxpayer trust in the tax legal system in the country.

Fadhlia's (2025) research analyzes the role of the Tax Court in resolving tax disputes in Indonesia. This study evaluates the effectiveness and transparency of the legal process applied by the tax court and identifies challenges faced in resolving tax disputes. The recommendations provided include improving policies, accessibility, and public education to enhance the transparency and effectiveness of the taxation system in Indonesia.

Pratama's (2024) study on the taxation of reinsurance commission costs shows that reinsurance commission costs are not subject to tax withholding under Article 23 of the Income Tax Law. This study provides insights into the challenges faced by tax authorities and companies in understanding the tax obligations related to reinsurance costs. This case highlights the importance of clarifying regulations to avoid similar disputes in the future.

A study by Komarasari et al. (2022) analyzes a tax dispute involving PT SAF related to promotional cost corrections. This study highlights issues related to incomplete nominative lists, which led to the rejection of promotional cost claims as deductions from income. However, the results of this study show that tax court decisions can favor PT SAF due to the application of the substance-over-form principle, which emphasizes the purpose of the transaction rather than administrative procedures.

METHODS

This study uses a qualitative approach with a case study method, aiming to gain an in-depth understanding of a program, event, activity, process, or individual. According to Stake (2015), case studies provide a more detailed description of the phenomenon under study. In this research, triangulation is employed to enhance the reliability of the findings. According to Bougie & Sekaran (2016), triangulation involves using various methods and data sources to produce more credible findings. This study adopts two types of triangulation: first, method triangulation, which includes content analysis, document analysis, and interviews, and second, data triangulation, which combines various data sources and different time periods.

This study analyzes tax court rulings related to disputes over promotional costs as deductions from gross income that do not meet the regulatory requirements. The main issue concerns the absence of the taxpayer identification number (NPWP) of the recipient in the nominative list and the difference in interpretation between the Directorate General of Taxes (DJP) and taxpayers. The data used in this research are secondary data obtained from tax court rulings accessible via the Tax Court Secretariat website and the DJP's internal KMS Tax Dispute application. The rulings used include 94 cases relevant to promotional cost disputes, obtained through searches on the DJP website and application.

Data collection was carried out by searching for tax court rulings through the search feature on the Tax Court Secretariat website, specifically in the decision abstract section. Additionally, ruling data was also obtained from the Directorate of Objections and Appeals archives using the KMS Tax Dispute application. This search process was done manually to ensure that the data obtained were indeed related to promotional cost disputes and resulted in valid rulings. All relevant data were then analyzed to deepen the understanding of the tax dispute phenomenon being studied.

Data analysis was conducted in two stages. First, content and document analysis were performed on the tax court rulings obtained to provide a deeper understanding of the issues at hand. A conceptual framework for the study will be developed based on the analysis of rulings, tax regulations, and relevant literature. The content analysis will be presented in the form of simple descriptive statistics to provide an overview of the phenomenon being studied. The results of this content analysis will be further developed to formulate interview questions for relevant informants.

The next stage is the analysis of the data from interviews with selected informants. After the interviews are conducted, the transcripts will be analyzed to match the information obtained with the previously developed conceptual framework. Irrelevant data will be discarded, while still general data will be used to formulate subsequent interview questions. This process aims to ensure that the interview data provides a deep understanding of the issues being studied and supports further analysis.

The triangulation process in this research involves confirming the findings from the content analysis with the results of the interviews. The findings obtained from both methods will then be compared and related to regulations, theories, and previous research to confirm the validity of the findings. This triangulation aims to strengthen the research results and provide depth to the analysis, ensuring that the study's findings are more accurate and credible. By using both method and data triangulation, this research can offer a more comprehensive understanding of promotional cost disputes within the context of taxation.

RESULTS

Analysis of Promotional Costs

Promotional costs are one type of expense that can be deducted from gross income in accordance with Article 6, paragraph 1 of Law Number 36 of 2008 on Income Tax. Further provisions regarding promotional costs are regulated in Minister of Finance Regulation (PMK) Number 02/PMK.03/2010 and Director General of Taxes Circular Letter (SE DJP) Number 9 of 2010. Article 6 of PMK Number 02/PMK.03/2010 regulates the obligation to create a nominative list of promotional costs, which must include the recipient's information, such as name, Taxpayer Identification Number (NPWP), address, date, form and type of cost, amount of cost, tax withholding receipt number, and the amount of Income Tax withheld. All requirements in Article 6 of PMK Number 02/PMK.03/2010 are cumulative, meaning that all provisions must be fully met.

One of the issues raised in this research relates to the obligation to include the NPWP of the recipient in the nominative list of promotional costs. This has caused differences of opinion between taxpayers and the Directorate General of Taxes when a cost meets the material requirements but does not fulfill the formal requirements regarding the completeness of the nominative list. After 11 years of PMK No. 02/PMK.03/2010 being in effect, Circular Note No. ND-64/PJ/2020 was issued on February 19, 2020, which clarified the matter regarding promotional costs. Before the issuance of this Circular Note, there was confusion among taxpayers and the Directorate General of Taxes, leading to tax disputes related to promotional costs that did not include the recipient's NPWP in the nominative list.

Tax Disputes

The judiciary serves as a means of achieving justice for those in need. Regular courts handle civil and criminal cases, while specialized courts address specific groups, such as religious, military, and administrative courts. The Administrative Court is one of the places where individuals seek justice in disputes related to state policies or actions.

Tax disputes are resolved through the Tax Court, which is under the jurisdiction of the Administrative Court. If the Tax Court's appeal ruling meets the criteria for a Judicial Review (PK), the decision may be submitted to the Supreme Court. There has been an increase in appeal requests, where tax appeal decisions are submitted for Judicial Review, along with the number of such cases. This increase reflects significant disagreements between taxpayers and the Directorate General of Taxes, often arising because taxpayers feel they are not receiving justice. This situation has the potential to undermine public trust in the tax system and existing regulations.

The party that files an appeal is the taxpayer who disagrees with the objection decision or dispute raised by the Directorate General of Taxes. In this case, the Director General of Taxes may delegate the task to an official handling the appeal. The tax court process is then carried out by judges with competence in the field of taxation to resolve the dispute.

Tax Court Ruling

The core of the dispute in the appeal cases discussed in this research pertains to both material and formal issues. An analysis was conducted on 94 tax court rulings related to promotional costs in 2024, focusing on both formal and material factors.

Formal Factors

Formal factors involve disagreements by the appellant regarding the positive corrections applied by the respondent, specifically promotional costs that did not meet the requirements related to the creation of a nominative list, the completeness of information in the nominative list, and the reporting of the nominative list in the Annual Tax Return (SPT). The results of the appeal rulings analyzed indicate two differing views regarding the treatment of promotional costs. The first view holds that promotional costs can only be considered as a deduction from gross income if all requirements of the nominative list are met. The second view allows promotional costs to still be accepted as a deduction from gross income, even if the nominative list is incomplete, as long as the costs can be proven.

Material Factors

Material disputes arise due to differences in the tax liabilities resulting from disagreements over the applicable legal basis, different views on tax regulations, disputes over specific transactions, or in this case, the substance of the promotional costs that can be deducted. These differing treatments may lead taxpayers to feel they are not being treated fairly, which in turn has the potential to undermine taxpayer trust in the tax system.

Content Analysis of Tax Dispute over Promotional Cost Corrections in 2024 Court Rulings

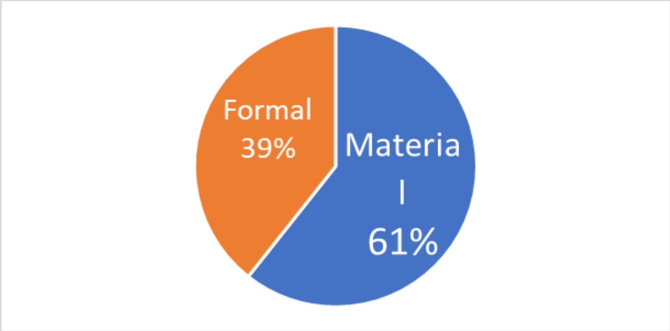
Promotional costs are categorized as deductible expenses under Article 6, paragraph (1), letter a of the Income Tax Law, which is further explained in the Minister of Finance Regulation. The explanation in Article 6, paragraph (1), letter a emphasizes that promotional expenditures must be differentiated between costs that are genuinely used for promotion and those that are essentially donations. Only promotional costs used for promotional purposes can be deducted from gross income.

Minister of Finance Regulation No. 02/PMK.03/2010 further regulates the promotional costs that can be deducted from gross income, including the obligation to create a nominative list. According to Article 6 of PMK No. 02/PMK.03/2010, the nominative list must include recipient data, such as the name, Taxpayer Identification Number (NPWP), address, date, form and type of expense, amount of expense, withholding receipt number, and the amount of Income Tax withheld. Regarding this, there is a difference in opinion between the taxpayer (WP) and the

Directorate General of Taxes (DJP). The DJP applies positive corrections for the absence or incompleteness of the nominative list submitted by the taxpayer. The taxpayer disagrees with the correction and may pursue legal remedies.

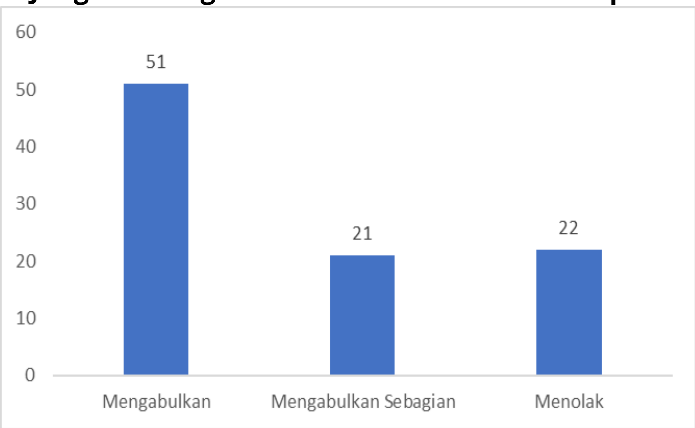
As the first step, the taxpayer can file an objection to the amount that was not approved. Filing the objection does not delay the taxpayer's obligation to pay the approved tax amount, and the approved tax or the tax amount that has not been objected to must still be paid first. If the taxpayer is still dissatisfied with the decision on the objection, they may proceed with filing an appeal to the Tax Court. The results of these appeal rulings show discrepancies in decisions related to the treatment of incomplete promotional costs, particularly those that do not include the NPWP of the recipient in the nominative list. The following is a content analysis based on 94 rulings in 2024 concerning the resolution of tax disputes over promotional cost corrections.

Figure 4. Types of Tax Disputes on Promotional Costs in 2024



Based on the available data, the types of promotional cost disputes in the 94 cases in 2024 fall into two main categories: Material with 57 cases and Formal with 37 cases. Material disputes are more frequent, as they relate to the substance of the promotional costs, such as the definition of the costs and proving that the costs are legitimate for deduction in taxation. On the other hand, formal disputes focus more on administrative issues, such as non-compliance in the creation of the nominative list and the completeness of the required documentation.

Figure 5. Judge's Rulings on Promotional Cost Tax Disputes in 2024



Based on the analysis of 94 tax dispute rulings related to promotional costs in 2024, the majority of disputes focus on both formal and material issues, leading to the judge's decision to grant the taxpayer's appeal in 51 disputes (54%) of the total 94 cases. The majority of the cases ended with a ruling to grant and cancel the correction, indicating that there were cases where taxpayers successfully demonstrated the eligibility of their promotional costs. The high number of disputes won by taxpayers shows that they were able to provide sufficient evidence that the promotional costs they incurred were expenses incurred to acquire, collect, and maintain income, as stipulated in Article 6, paragraph (1) of the Income Tax Law, and therefore could be deducted as a reduction from gross income.

Some rulings also partially granted the appeal, reflecting a reduction or adjustment of the costs that could be accepted, but still with deficiencies in proving some cost elements. Overall, this analysis shows that, despite some victories for the DJP, most promotional cost tax disputes ended in favor of the taxpayer.

Appeal rulings rejected 22 disputes (23%), meaning that the taxpayer failed to convince the judge that the promotional costs met the requirements of Article 6, paragraph (1) of the Income Tax Law, and therefore could not be deducted as a reduction from gross income.

Below is a summary of how judges ruled in the 94 promotional cost tax dispute cases in 2024.

Table 1. Judge's Ruling on Promotional Cost Tax Disputes

Judge's Decision	Reason	Number of Rulings	Percentage (%)
Granted	Sufficient valid evidence submitted in accordance with tax regulations.	51	54.26%
Granted in Part	Some legitimate promotional costs accepted, but corrections applied.	21	22.34%
Rejected	Insufficient valid supporting evidence.	22	23.40%

Table 1 shows that the majority of judge rulings on promotional cost tax disputes in 2024 tend to grant the taxpayer's appeal, with 54.26% of the total 94 rulings. The main reason for granting the appeal was the sufficient supporting evidence submitted by the appellant (taxpayer), which provided relevant or complete documentation to prove the promotional costs in question. Meanwhile, only 23.40% of the rulings rejected the appeal, due to insufficient evidence that complied with tax regulations. A similar percentage, 22.34%, granted the appeal partially, where some promotional costs were accepted, but with reductions or corrections applied. This indicates that while there were shared views between judges and taxpayers regarding the type of dispute, the judge’s decision was substantially based on the strength and completeness of the evidence presented in each case.

Formal Tax Disputes Related to Promotional Costs

In formal tax disputes related to promotional costs, there is a significant difference of opinion between the respondent (Directorate General of Taxes, DJP), the appellant (taxpayer), and the panel of judges. The respondent considers that all promotional costs must be supported by a complete nominative list, in accordance with Article 6 of Minister of Finance Regulation (PMK) 02/PMK.03/2010. The incompleteness of the nominative list is considered a reason for positive fiscal correction. Additionally, the completeness and format of the nominative list must comply with the Annex of Minister of Finance Regulation 02/PMK.03/2010. The nominative list must at least include the recipient’s data, such as name, Taxpayer Identification Number (NPWP), address, date, form and type of cost, amount of cost, withholding receipt number, and the amount of Income Tax withheld. If these cumulative requirements are not met, the promotional costs cannot be deducted from gross income.

On the other hand, the appellant argues that due to the large volume of transactions, it is impossible to meet the requirements as specified in PMK 02/PMK.03/2010. For example, the requirement to list NPWP for each transaction, especially when dealing with parties without an NPWP. The taxpayer argues that there is no law requiring transactions to be limited to those involving parties with an NPWP. The appellant claims that the promotional costs incurred are legitimate and in line with their operational needs.

The panel of judges tends to emphasize that promotional costs must indeed be included in a complete nominative list, as required by the regulations. However, generally, the panel is more flexible by considering the relevance and reasonableness of the costs incurred, and it cancels some corrections that were not sufficiently proven with evidence. This reflects the panel's tendency to be cautious in assessing the validity of evidence while still enforcing the existing regulations, particularly regarding the nominative list and the costs relevant to legitimate business activities.

Material Tax Disputes

Material tax disputes focus on differences in the definition of promotional costs, the proof of activities related to acquiring, collecting, and maintaining income (3M), and the reasonableness of the cost values in question.

Regarding the completeness of evidence and documentation, the DJP applies corrections to marketing/promotional costs due to the absence of competent and sufficient evidence, making it uncertain whether the costs were genuinely incurred by the taxpayer or if they were for the benefit of the owner or unrelated to the taxpayer's business activities. A primary issue remains when the taxpayer fails to provide documents during the examination or objection stages but only submits documents and evidence during the appeal hearing. Referring to the provisions of Article 76 of the Tax Court Law, the Tax Court holds that judges determine what needs to be proven, the burden of proof, and the assessment of proof, which is intended to determine the material truth, in accordance with the principles of taxation law. Therefore, the documents and evidence submitted by the appellant during the appeal hearing can still be considered.

Results of DJP Interviews

The following is a summary of the interviews conducted with LR (Objection Reviewer, South Jakarta I Tax Office), AR (Head of Tax Audit Team at DJP), and VNF (Tax Audit Team Member at DJP), who have experience in tax auditing, particularly in promotional cost disputes, which often become a point of contention between the tax authorities and taxpayers.

The interviews with LR, AR, and VNF from the Directorate General of Taxes (DJP) highlight the importance of considering two main perspectives—material and formal—in determining which promotional costs can be deducted from gross income. The tax authorities emphasize administrative completeness, such as the nominative list and tax withholding evidence, while taxpayers focus more on the substance of the promotional costs, i.e., the relevance of the costs to the company's operational activities, even when the administration is incomplete. This discrepancy in interpretation often leads to tax disputes.

In addition to differences in interpretation between the tax authorities and taxpayers, the ambiguity in the application of tax regulations also fuels disputes. Although regulations on promotional costs exist, practices in the field often cause confusion, particularly when differentiating between genuine promotional costs and donations or gifts that are non-deductible. Taxpayers struggle to meet the required administrative standards, while the tax authorities continue to prioritize the completeness of administrative documents, such as NPWP and detailed cost breakdowns.

The importance of clear and relevant evidence in proving promotional costs is also emphasized by the DJP informants. Disputes often arise when taxpayers fail to submit the necessary documents during the audit stage, leading to difficulties during the objection or appeal process. Therefore, the DJP suggests that taxpayers always provide complete and relevant evidence and ensure it is submitted on time to avoid the risk of rejection by the court panel.

The DJP also proposes that internal policies such as Circular Notes and Circular Letters regulating promotional costs be formalized into more binding regulations, such as Minister of

Finance Regulations (PMK) or Directorate General of Taxes Regulations (PER DJP). Currently, these internal policies do not provide sufficient legal certainty in the field, often resulting in confusion and uncertainty in their application.

To reduce tax disputes related to promotional costs, the DJP recommends deepening tax authorities' understanding of the business characteristics of taxpayers and giving taxpayers more flexibility to complete missing documents during the audit stage. This would expedite the dispute resolution process without the need for tax court involvement and ensure that existing policies are applied consistently in practice.

Results of Taxpayer (WP) Interviews

From the taxpayer's side, the tax dispute regarding promotional costs is represented by RHW and SY, who work in Finance and Taxation at PT XYZ. Below is a summary of the interviews with two taxpayer informants, RHW and SY.

The interviews with RHW and SY from PT XYZ reveal that the main cause of tax disputes related to promotional costs is the difference in interpretation between the tax authorities and the taxpayer regarding the substance of the costs. Taxpayers consider expenses for advertising, branding, events, sponsorships, and product/sample distribution as part of a legitimate marketing strategy, while the tax authorities often regard these expenses as donations that cannot be deducted. Additionally, administrative issues, such as the nominative list not meeting the requirements, also worsen the situation, even though the business transactions are legitimate.

Although tax regulations regarding promotional costs are clear, their application in the field is often confusing. This is especially true when distinguishing between promotional costs and donations, which is a key point in tax disputes. Transactions involving parties without NPWP or in large volumes further exacerbate the administrative issues. RHW and SY emphasize that clear and complete evidence is crucial for resolving tax disputes, and evidence that is not submitted on time can be at risk of being rejected by the court.

RHW and SY also suggest that the DJP provide clearer guidelines on the evidence standards considered sufficient for promotional costs and prioritize the economic substance over administrative formalities. They seek more detailed guidance on deductible promotional costs so that taxpayers can better understand and comply with the administrative requirements, thus reducing the potential for disputes in the future.

Both informants agree that taxpayers must ensure that the evidence submitted is complete and relevant from the outset of the audit. Late submission of evidence risks non-acceptance by the court panel. This expedites the dispute resolution process and reduces the potential costs and time wasted in the objection or appeal process.

The application of tax policies related to promotional costs also needs to be evaluated. Internal policies, such as Circular Note No. ND-64/PJ/2020, which provides administrative flexibility, have not been effective enough because they are not legally binding. Therefore, these policies need to be elevated to formal regulations to ensure consistent application in practice and provide legal certainty for both taxpayers and the tax authorities.

DISCUSSION

Tax disputes related to promotional costs are often triggered by two main factors: differences in interpretation between tax authorities and taxpayers (WP) regarding the substance of promotional costs, and the incomplete evidence submitted by the taxpayer. Based on the analyzed court rulings, it is evident that differences in the interpretation of the substance of promotional costs are the main cause of disputes. Tax authorities often have a stricter view on the types of costs that can be deducted, while taxpayers tend to see promotional costs as part of legitimate operational expenses, in line with contractual agreements and business needs. In addition, difficulties in proving these costs become another factor contributing to the disputes. Taxpayers who are unable to provide relevant documents or do not meet administrative requirements, such as a complete nominative list, often face fiscal corrections that cannot be upheld in tax court.

In the cases analyzed, there were two differing approaches between tax authorities and taxpayers regarding the proof of promotional costs. Tax authorities demand clear evidence that meets administrative requirements, while taxpayers prioritize the economic substance of the costs, considering them legitimate if used for operational purposes. This creates a difference in the interpretation of what constitutes deductible promotional costs. In many cases, the tax court focuses on evaluating the substance of these costs, disregarding administrative non-compliance as long as there is evidence supporting the legitimacy of the costs. However, many costs are canceled or corrected due to the inability to provide valid documents, highlighting the importance of good administrative organization by taxpayers.

In 2024, the analysis of tax disputes related to promotional costs shows two main categories of dispute: material disputes and formal disputes. Material disputes focus more on the substance of the promotional costs themselves, while formal disputes are more related to administrative completeness, such as the nominative list and supporting documents. Of the 94 cases analyzed, the majority (57 cases) were related to material disputes, indicating that the main issue lies in the insufficient evidence to prove that the costs claimed by the taxpayer are indeed legitimate for deduction from gross income in accordance with applicable tax regulations. This reflects the importance of proving the substance in every tax case involving promotional costs.

On the other hand, formal disputes (37 cases) focus more on administrative issues, such as the completeness of the nominative list. According to Minister of Finance Regulation (PMK) No. 02/PMK.03/2010, every promotional cost expenditure must be accompanied by a nominative list that includes the recipient's complete data, including NPWP, address, and type of cost. However, in some cases, taxpayers were unable to meet this requirement, which then became the main reason for fiscal correction by the Directorate General of Taxes (DJP). Taxpayers, however, argue that due to the large volume of transactions, it is not feasible to list the NPWP for each transaction, especially when dealing with parties that do not have an NPWP.

The majority of court rulings on promotional cost disputes in the Tax Court end with approval, at 54.26%, indicating that taxpayers can provide adequate evidence to support the promotional costs they have claimed. The primary reason for approval is the sufficiency of the documents submitted, which meet the requirements outlined in tax regulations. However, around 23.40% of rulings reject the taxpayer’s appeal, due to insufficient valid evidence that complies with the applicable regulations. This indicates that most disputes end in favor of the taxpayer.

Tax disputes related to promotional costs in Indonesia are often caused by differences in interpretation between taxpayers and tax authorities regarding what expenditures can be categorized as promotional costs. Taxpayers consider expenses for advertising, branding, and other promotions as legitimate expenses, while tax authorities often view them as donations that cannot be deducted. Administrative issues, such as incomplete nominative lists, also trigger disputes, even when the promotional costs are relevant. The ambiguity in the application of tax regulations and differences in the collection of evidence further exacerbates the situation, creating tension between taxpayers and tax authorities.

In tax disputes, the court often focuses on the substance of the costs rather than the formal requirements. However, the court still emphasizes the importance of administrative completeness in supporting promotional cost claims. The inability of taxpayers to provide valid and complete evidence often leads to the rejection of their appeal. Taxpayers need to be careful in organizing the necessary documents so that the costs they claim are legally accepted.

Formal disputes related to promotional costs often arise because taxpayers struggle to meet administrative requirements, especially in preparing a nominative list in accordance with PMK 02/PMK.03/2010. Taxpayers argue that listing the NPWP for each transaction is difficult, particularly when involving thousands of transactions. The court emphasizes that even though administrative requirements may not be fully met, if the substance of the cost can be proven with valid documents, the cost will still be considered.

The evaluation of tax policies highlights the need to clarify and strengthen the regulations governing promotional costs. Although the internal memorandum issued by the DJP provides administrative flexibility, it is not legally binding. Therefore, it is important to formalize this policy into a regulation, such as a Minister of Finance Regulation (PMK), to ensure consistent application in the field, reduce legal uncertainty, and ensure better compliance.

One solution is to establish clearer policies regarding the administrative completeness of promotional costs and more detailed procedures for verifying evidence. Increasing training for tax auditors on the characteristics of the taxpayer's business can reduce disputes arising from differences in understanding promotional costs. Additionally, improving the tax administration system and the submission of Annual Tax Return (SPT) will help reduce potential disputes in the future by ensuring document completeness from the start.

CONCLUSION

Based on the latest data analysis on tax disputes related to promotional costs in 2024, the main factors causing disputes are material factors, such as disputes over the definition of promotional costs and disputes concerning the proof of activities for acquiring, collecting, and maintaining income (3M), as well as formal disputes, such as disputes over nominative lists that do not comply with regulations or nominative lists that are not prepared and reported. In several cases, the tax court still considers promotional costs if the substance can be proven, even if the administrative documents are incomplete. Therefore, it is important for taxpayers to ensure that the promotional costs claimed can be substantively proven and are relevant to the company's operational activities.

The evaluation of the implementation of tax policies related to promotional costs shows that although there are internal policies from the Directorate General of Taxes (DJP) that provide flexibility regarding promotional costs that do not meet administrative requirements, this policy remains internal and not legally binding, creating legal uncertainty in practice. To reduce the potential for future tax disputes, it is important to formalize the policy in the form of a regulation, such as a Minister of Finance Regulation (PMK), so that the policy can be consistently accepted and provide stronger legal certainty.

LIMITATION

To reduce disputes related to promotional costs, the internal policy issued should be upgraded to a more formal regulation, such as a Minister of Finance Regulation. Tax examination policies should place more emphasis on economic substance rather than merely relying on administrative formalities. The DJP should allow taxpayers to prove that the promotional costs incurred are legitimate and relevant, even if the administrative documents are not perfect.

Taxpayers should be able to submit sufficient and relevant documents and evidence during the examination process, rather than waiting until the appeal stage, which can help reduce the number of disputes in the future.

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