Jurnal Ilmu Hukum Prima E-ISSN : 2614-2244
Vol. 9 No. 1 April 2026 ISSN: 2088-5288

Legal Protection For Bank Customers Regarding The Disclosure Of Financial Information By Tax Authorities Based On Law Number 9 Of 2017 And Law Number 27 Of 2022

Ewi Banjarnahor, Didik Suhariyanto, Puguh Aji Hari Setiawan
Bung Karno University, Jakarta, Indonesia.
ewikristin@gmail.com

ABSTRACT

This research examines the legal tension between the state's interest in tax collection and the protection of bank customers' privacy rights under two regimes: Law No. 9 of 2017 on Access to Financial Information for Tax Purposes and Law No. 27 of 2022 on Personal Data Protection, alongside bank secrecy provisions in Law No. 10 of 1998. The expanded authority of tax authorities to access financial data aims to enhance transparency and compliance but risks infringing privacy rights. Using a normative juridical method with statutory, conceptual, and case approaches, the study analyzes key legal sources, including the 1945 Constitution and Constitutional Court Decision No. 102/PUU-XV/2017. The analysis applies the principle of proportionality, as well as theories of legal protection (Philipus M. Hadjon) and legal certainty (Gustav Radbruch). Findings indicate that legal protection for bank customers remains largely formal and lacks substantive safeguards. Broad access by tax authorities is not matched by clear mechanisms of oversight, accountability, and legal responsibility. Normative overlap between tax disclosure rules and personal data protection obligations creates legal uncertainty for both financial institutions and customers. The study concludes that regulatory harmonization is necessary to resolve these conflicts. It recommends establishing an independent supervisory body and strengthening accountability frameworks to ensure a proportional balance between effective tax enforcement and the protection of citizens' privacy rights.

Keywords: Legal Protection, Financial Information, Privacy.

INTRODUCTION

In achieving the national development goals of realizing a just and prosperous society based on Pancasila and the 1945 Constitution, banking plays a crucial role. The development of the financial sector, both non-bank and banking financial institutions, has a significant positive impact on the national economy. The role of financial institutions,

particularly banks, is crucial for the national economy. The banking industry is highly regulated, as reflected in the policies issued by the government and monetary authorities regarding the banking industry.

Bank has a definition that can be seen in Article 1 paragraph 2 of Law Number 7 of 1992 concerning Banking as amended by Law Number 10 of 1998 which states that a bank is a business entity that collects funds from the public in the form of savings and distributes them to the public in the form of credit and/or other forms in order to improve the standard of living of the people.

The provisions surrounding bank secrecy in Indonesia are a complex issue, particularly when linked to state interests. On the one hand, banking institutions, which need to maintain public trust, have a responsibility to protect and safeguard the privacy of customer information and their deposits, provided that those customers behave honestly and honestly. One of the primary roles of bank secrecy is to protect customer interests and ensure the security of their data. Bank secrecy in Indonesia is regulated in Article 40 of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking, which states:

"Banks are obliged to keep confidential information regarding depositors and their deposits, except in cases as referred to in Article 41, Article 41 A, Article 42, Article 43, Article 44 and Article 44 A."

As part of a country's financial and payment system, the existence of banks must be maintained not only by the bank owners and their managers, but also by the national and global community. The public's interest in maintaining a bank's existence is crucial, especially considering that the collapse of one bank will have a chain effect, or domino effect, spreading to other banks, which in turn could significantly disrupt the financial and payment systems of the country in question.

The term "bank secrecy" refers to the confidentiality of the relationship between a bank and its customers. Other secrets, even if they are not "confidential," are not included in the term "bank secrecy." According to Munir Fuady, "the relationship between a bank and its customers is not a normal contractual relationship; rather, within this relationship, the bank is obligated not to disclose its customers' secrets to any other party unless otherwise stipulated by applicable law."

Along with the crucial role of banking in Indonesia's financial system, taxation also plays a central role in the development process and improving public welfare. Given the significant funding required to implement strategic national development projects, state revenue from taxes contributes significantly to supporting economic growth, and therefore, its significance cannot be underestimated. Therefore, to meet national economic needs, policies aimed at increasing the revenue generated from state assets derived from taxes are needed. This is where tax authorities need to facilitate increased tax revenue through broad access to customer personal data.

Following the issuance of PERPPU No. 1 of 2017 concerning Access to Financial Information for Tax Purposes, which has now been enacted as Law Number 9 of 2017, tax officials/tax officers can now easily access customer data without having to obtain permission from the head of Bank Indonesia through prior request from the Minister of Finance.

In its consideration, the Perppu is aimed at increasing tax revenue as the main source of development funding, this Perppu is a legal breakthrough to overcome the limited access of the Directorate General of Taxes to financial information and this Perppu is also a breakthrough to meet short-term needs because it revises laws, such as the Tax Law (Tax Law), Banking Law (Banking Law), Capital Market Law (Capital Market Law), Sharia Banking Law (Sharia Banking Law), and Commodity Futures Trading Law (Commodity Futures Trading Law) related to confidentiality rules.

The transparency of customer data is paramount for consideration and calculation of Income Tax (PPh) related to financial savings accounts, which includes interest on customer deposits. Deposits in question are deposits of any name and form, including time deposits, certificates of deposit, and call deposits, whether in rupiah or foreign currency, placed with or issued by banks. This includes interest received from deposits and savings placed abroad through banks established or domiciled in Indonesia or branches of foreign banks in Indonesia.

Legal certainty and protection of human rights are fundamental principles in a state based on the rule of law, including in the field of taxation. On the one hand, the state has an obligation to guarantee state revenue through tax instruments; on the other hand, the state is also obliged to protect the basic rights of citizens, including the right to privacy as

guaranteed in Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that;

"everyone has the right to protection of themselves, their families, their honor, their dignity and the property under their control, and has the right to a sense of security and protection from the threat of fear to do or not do something that is a basic human right."

The implementation of Law No. 9 of 2017 has raised practical issues related to the readiness of banks and tax authorities to implement information disclosure. Financial institutions are required to report customer data to the Directorate General of Taxes (DGT), but remain bound by the principle of bank confidentiality as stipulated in Article 40 of the Banking Law. This tension creates challenges in ensuring accurate and responsible disclosure while respecting the principle of customer confidentiality.

Problems arise when these legal norms are not balanced with adequate legal protection instruments against data misuse. In practice, legal loopholes remain due to the lack of derivative regulations that specifically regulate procedures, access restrictions, and accountability mechanisms in the event of violations. This risks creating an imbalance between the state's power to collect taxes and the protection of individuals' rights to their personal information. As emphasized by Jimly Asshiddiqie, every exercise of state power must be subject to the principles of constitutionalism and respect for human rights.

This research stems from the need to address these issues academically and comprehensively. Through a normative legal approach and analysis of court decisions such as Supreme Court Decision No. 1827/C/PK/PJK/2016 and Constitutional Court Decision No. 102/PUU-XV/2017, this research aims to review the principle of prudence in implementing access to financial information, as well as propose a model of balance between taxation interests and the protection of customer privacy rights that is in accordance with the values of the rule of law.

Based on the background of the problem above, the author is interested in conducting research in a scientific work in the form of a Thesis with the title, "Legal Protection for Bank Customers Regarding Disclosure of Financial Information by Tax Authorities Based on Law Number 9 of 2017 and Law Number 27 of 2022".

RESEARCH METHODS

The normative legal research method is a scientific research procedure to find the truth based on the logic of legal science from its normative side. This qualitative research analyzes a problem-solving issue by collecting data as research material. The legal sources used in the research can be data obtained through literature and/or directly from the community. Data obtained directly from the community is called primary data, while data obtained through literature and documentation is called secondary data.

RESULTS AND DISCUSSION

Analysis of Forms of Legal Protection for Bank Customers in the Implementation of Financial Information Disclosure by Tax Authorities

Analyzing the legal protection of bank customers in the context of financial information disclosure by tax authorities is a complex issue because it involves two major interests that must be balanced. On the one hand, the state has an interest in obtaining optimal tax revenue to finance national development. On the other hand, citizens have a constitutional right to privacy and confidentiality of their personal data. It is in this context that the selection of Philipus M. Hadjon's theory of legal protection and Gustav Radbruch's theory of legal certainty becomes highly relevant and complementary as analytical tools in this study.

The normative-juridical approach positions law as a system of norms that regulates societal behavior and the relationship between individuals and between citizens and the state. Law is not only interpreted as a set of positive, coercive rules, but also as a means of protecting human rights, including the right to personal data and the right to feel secure from abuse of state authority. These two aspects are crucial in examining the implementation of financial information disclosure by tax authorities under Law Number 9 of 2017.

The theory of legal protection put forward by Philipus M. Hadjon is rooted in the view that a state based on law demands not only the supremacy of law but also the protection of citizens' basic rights from arbitrary government action. In his landmark work, Legal Protection for the Indonesian People, published in 1987, Hadjon asserted that the primary

function of law is to protect the people from excessive power. This view aligns with the concept of a state based on law in Article 1, paragraph 3 of the 1945 Constitution, which explicitly states that Indonesia is a state based on law, not a state based on power.

According to Hadjon, legal protection is a concrete manifestation of the recognition and protection of human rights, particularly in the relationship between the government and citizens. The law serves as a shield that ensures that the exercise of state power does not violate individual rights. Therefore, the theory of legal protection emphasizes the importance of a balance between power and rights, as well as between public and private interests. This balance is key to realizing a democratic and just state based on the rule of law.

Philipus M. Hadjon distinguishes two main forms of legal protection, each with distinct functions and mechanisms. The first is preventive legal protection, which is a form of protection provided to citizens so they have the opportunity to raise objections, express opinions, or take legal action before a government decision is implemented. This preventive protection aims to prevent violations of citizens' rights from the outset. In the context of financial information disclosure, preventive legal protection can take the form of approval mechanisms, strict oversight, or restrictions on access to bank customer data by tax authorities, to prevent violations of the right to data confidentiality and privacy.

The second is repressive legal protection, which is protection provided after a violation of a citizen's rights occurs. This protection is implemented through dispute resolution mechanisms or the courts to restore violated rights. In this context, if a tax authority or financial institution misuses a customer's personal data, repressive legal protection can be implemented through civil, criminal, or administrative legal channels in accordance with applicable laws and regulations. Both forms of protection emphasize the state's obligation to provide legal mechanisms that not only prosecute violations but also prevent potential violations in the first place.

Hadjon believes that the function of law in Indonesia's constitutional state is to protect the people. The law must be a means to create justice, order, and prosperity. Legal protection must also be proactive, meaning the state does not wait for violations to occur, but systematically creates a regulatory and oversight system that guarantees citizens' rights. In the context of financial information disclosure, this legal protection function requires the

government, particularly the tax authorities, to focus not only on fiscal interests but also on protecting bank customers' personal data. Every act of data collection, processing, or exchange must have a clear legal basis, be proportional, and comply with the principle of prudence.

On the other hand, Gustav Radbruch's theory of legal certainty arose from a profound reflection on the legal situation in Germany in the early 20th century, particularly following the legal deviations experienced during the Nazi regime. Radbruch realized that the positive law in force at the time was actually a tool of power to oppress the people, rather than a means of justice. This tragic historical experience gave rise to a new awareness that law should not be viewed merely as a formally valid norm but must also contain fundamental values of justice and humanity.

Radbruch then formulated what is known as the Triad of Basic Legal Values, which consists of three essential elements. First is justice, the ideal of law to place all people equal before the law and guarantee the basic rights of every individual. Second is utility, the social function of law to create order, prosperity, and regularity in society. Third is legal certainty, the formal function of law that ensures that legal rules can be enforced consistently and predictably, and provide a sense of security for society.

According to Radbruch, these three values must be balanced. However, in practice, when there is a conflict between legal certainty and justice, justice must be given the highest priority. This is known as the Radbruch Formula, which states that positive law can be ignored if it clearly conflicts with fundamental principles of justice. In the Indonesian context, Radbruch's thinking is highly relevant to the constitutional spirit embodied in the Preamble to the 1945 Constitution, particularly the fourth paragraph, which affirms the state's goal of upholding social justice for all Indonesians.

The right to privacy, including the protection of personal data, is a constitutionally guaranteed human right. In the digital era and economic globalization, the protection of financial data has become a crucial issue that demands clear legal norms and procedures. Therefore, in the context of financial information disclosure, legal certainty has two important dimensions: first, ensuring that tax authorities can legally access financial data; and second, ensuring that bank customers' personal data will not be misused or accessed beyond their authorized limits.

These two dimensions often create tension in their implementation. On the one hand, the government is interested in increasing tax revenue through a comprehensive information disclosure system; on the other, customers have the right to protection of their personal data. This tension can only be balanced if the law provides clear certainty regarding the limits of tax authorities' authority, clear data protection mechanisms, and strict sanctions for misuse of information.

The relationship between Philipus M. Hadjon's theory of legal protection and Gustav Radbruch's theory of legal certainty can be understood as two complementary aspects of the modern legal system. Legal protection focuses on the substance of justice for individuals, while legal certainty emphasizes the order and formal legitimacy of the legal system itself. Hadjon emphasizes that the law must function to protect citizens from arbitrary government actions with two main dimensions: preventive and repressive. Meanwhile, Radbruch asserts that legal certainty can only be considered legitimate to the extent that it does not conflict with the values of justice. These two theories, when combined, provide a normative basis for the balance between the state's power to collect taxes and the individual's right to personal data confidentiality.

Law No. 9 of 2017 concerning Access to Financial Information for Tax Purposes marks a major paradigm shift in Indonesia's tax legal system. Prior to this law's enactment, the confidentiality of banking customer data was strictly protected by Law No. 7 of 1992 concerning Banking, as amended by Law No. 10 of 1998, which stipulates that banks are required to maintain the confidentiality of customer data, except for tax purposes as mandated by law. However, after Law No. 9 of 2017 was passed, tax authorities' access to customer data became much broader and automated through the Automatic Exchange of Financial Account Information mechanism.

This law provides the legal basis for the Directorate General of Taxes to access financial information held by financial institutions, including banks, insurance companies, and investment entities. This authority stems from Indonesia's commitment to implementing the automatic exchange of financial information regulated by the Organization for Economic Co-operation and Development. Article 2 of Law Number 9 of 2017 states that financial institutions are required to submit financial information reports to the tax

authorities. This article affirms the state's authority to oversee tax compliance, but also raises the potential for conflict with the principle of bank secrecy.

From Philipus M. Hadjon's theoretical perspective, the granting of such broad authority must be balanced with preventative legal protection, namely the existence of clear limits on who can access the data, for what purposes, and how the data security mechanism is implemented. This provision is in line with the principle of checks and balances in a state based on the rule of law, where every public authority must be followed by a strict oversight and accountability mechanism. Meanwhile, from Gustav Radbruch's perspective, the implementation of Law Number 9 of 2017 must guarantee legal certainty through clear norms that are not open to multiple interpretations and can be predicted by the parties. Legal certainty is crucial to avoid instilling fear among the public or business actors regarding the potential for data misuse.

Although in principle the two laws have the same objective, in practice there is a disharmony in the norms that creates ambiguity in their application. First, Article 22 of Law Number 9 of 2017 grants the Directorate General of Taxes broad authority to access and obtain financial information without requiring the consent of the data owner. In contrast, Article 5 paragraph 1 of the Personal Data Protection Law stipulates that any processing of personal data must be carried out with the explicit consent of the data subject, except under certain limited conditions stipulated by law. This disharmony raises a fundamental legal question: to what extent customer consent is required when tax authorities access their financial data.

From Radbruch's perspective, this normative disharmony also disrupts the principle of legal certainty because it creates ambiguity for legal subjects regarding their rights and obligations. When two equally important legal norms provide different commands, legal interpretation becomes dependent on the interpreter, not on the text of the norm itself. This situation gives rise to what Radbruch calls a crisis of legal legitimacy, where positive law loses its clear moral direction and potentially fails to reflect substantive justice.

In practice, the implementation of financial information disclosure still faces various challenges related to the effectiveness of legal protection for bank customer data. First, there is no independent oversight mechanism specifically guaranteeing data integrity in the financial information exchange process. The Tax Authority acts as both the holder and user

of data, potentially giving rise to conflicts of interest. Second, the implementing regulations of Law Number 9 of 2017 still allow for broad interpretation regarding who has the right to access data and the protection mechanisms, potentially reducing legal certainty for the public. Third, in terms of personal data protection, the implementation of Law Number 27 of 2022 still faces structural obstacles due to the lack of a fully established personal data supervisory authority.

Based on Minister of Finance Regulation No. 19/PMK.03/2018, financial institutions are required to report financial account information to the Directorate General of Taxes. However, this regulation does not explicitly address data security standards, encryption mechanisms, or data retention time limits for tax authorities. This gap creates a legal loophole that could threaten customers' right to privacy. In Hadjon's view, this situation demonstrates the weakness of preventative legal protection, as the legal system does not provide adequate protection before potential violations occur.

In terms of repressive legal protection, Law Number 27 of 2022 provides a legal basis for data subjects to claim compensation in the event of misuse of personal data. Article 58 of the PDP Law stipulates that any individual harmed by a violation of their personal data has the right to file a civil lawsuit. However, in the context of financial information disclosure, this legal remedy faces obstacles because tax officials are protected by the immunity provisions in Article 23 of Law Number 9 of 2017, which state that tax officials cannot be prosecuted if they carry out their duties in accordance with the law. This provision has the potential to reduce the effectiveness of repressive legal protection, as it creates the impression that state officials are above the law.

Another systemic weakness that weakens legal certainty is the absence of a right-to-be-informed procedure for customers. In modern legal systems such as the European Union's General Data Protection Regulation, every data subject has the right to be notified when their data is accessed by public authorities. However, a similar mechanism has not been adopted in the Indonesian system. As a result, financial information disclosure tends to be unilateral, with tax authorities having full access to data, while customers have no right to know the extent of their data use. Within Hadjon's theoretical framework, this creates an asymmetry of power between the state and citizens, potentially leading to forms of administrative domination that contradict the principles of a democratic rule of law.

Legal protection for bank customers in implementing financial information disclosure can be classified into three main dimensions. First, normative legal protection, namely guarantees provided by the statutory regulatory system. Law No. 9 of 2017 and Law No. 27 of 2022 actually provide a legal basis that regulates the balance between the authority of tax authorities and the right to personal data protection. However, weak harmonization and overlapping authority between institutions have prevented this protection from being implemented effectively.

Second is administrative legal protection, namely oversight of data access implementation by tax authorities. Currently, the oversight mechanism remains internal, conducted through the Ministry of Finance. Ideally, an independent oversight body, such as a Data Protection Authority, should be established, as mandated by Article 58 of the Data Protection Law, to ensure independence and accountability in personal data management.

Thus, the theories of Philipus M. Hadjon and Gustav Radbruch provide philosophical and normative direction for the formation and implementation of laws that are not only formally certain but also substantively just. Both emphasize that good law is not simply enforceable, but rather one that provides a sense of security and protection for all citizens. Legal protection and legal certainty are not two conflicting values, but rather two pillars that must work hand in hand to ensure that financial information disclosure truly functions as an instrument of legally based fiscal justice, not simply a tool of state power.

Policy Analysis of the Balance between Tax Collection Interests and Bank Customer Privacy Rights

Tax collection is the main instrument of the state to finance public interests and realize the welfare of the people as mandated by Article 23A of the 1945 Constitution. This constitutional norm provides strong legitimacy for the state to regulate and collect taxes, including through the policy of financial information disclosure regulated in Law Number 9 of 2017 concerning Access to Financial Information for Tax Purposes.

Law Number 9 of 2017 grants the Directorate General of Taxes the authority to access financial information held by financial institutions upon request or automatically through periodic reporting. This authority represents a concrete implementation of the principle of pacta sunt servanda in international relations, where Indonesia is bound by the Automatic Exchange of Information standard agreed upon by the G20 and the OECD. However, at

the national level, the implementation of this authority must be subject to the principle of checks and balances, because without an external oversight mechanism, excessive data access could potentially violate the principle of proportionality and exceed the limits of administrative authority.

The Law on Access to Financial Information is considered inconsistent with the Principles of Consumer Protection as stated in Article 2 of the UUPK, which violates the principles of Balance and the Principles of Consumer Security and Safety. In the context of Philipus M. Hadjon's theory, legal protection for citizens can only be realized if there is an effective legal control mechanism for government actions, so that every data request by the DGT should be accompanied by a clear legal basis, legitimate purpose, and an audit mechanism to ensure that the data is used solely for tax purposes.

The right to privacy is part of the human rights guaranteed in Article 28G paragraph (1) and Article 28F of the 1945 Constitution, which is reflected in the principle of bank secrecy as regulated in Article 40 of Law Number 10 of 1998. The disclosure of financial information as regulated in Law Number 9 of 2017 is an exception to this principle, which is legally valid as long as it is carried out for legitimate purposes and based on law, but must still pay attention to the principle of limiting human rights as regulated in Article 28J paragraph (2) of the 1945 Constitution, namely for reasons of morality, public order and the interests of the nation.

Constitutional Court Decision No. 102/PUU-XV/2017 stems from a judicial review petition against Law No. 9 of 2017, in which the applicants argued that granting broad authority to the Directorate General of Taxes (DGT) to access bank customers' financial data without court approval or intermediary constitutes a violation of citizens' constitutional right to privacy. The applicants also considered that the provision contradicts the principle of bank confidentiality as stipulated in Article 40 of Law No. 10 of 1998, thus creating legal uncertainty and the potential for abuse of power by tax authorities.

The Constitutional Court's ruling formally strengthens the state's legitimacy in implementing financial information disclosure policies. However, from the perspective of Philipus M. Hadjon's legal protection theory, this ruling demonstrates a tendency to prioritize protecting state interests over protecting citizens' rights. Based on Gustav Radbruch's legal certainty theory, the Constitutional Court's ruling satisfies the legal

certainty aspect by providing a strong legal basis for the implementation of Law No. 9 of 2017. However, substantively, justice for bank customers as data subjects has not been fully achieved because it is not accompanied by an effective data protection guarantee system.

Although the Court deemed the restrictions on privacy rights to be proportionate, in practice, there is no independent oversight mechanism, as stipulated in Law No. 27 of 2022 concerning Personal Data Protection, which was enacted after the ruling. Therefore, while the Constitutional Court's ruling is constitutionally valid, it requires adjustment and synchronization to align with the principles of personal data protection, which are now comprehensively regulated in the Personal Data Protection Law.

The principle of proportionality demands a balance between the objectives to be achieved and the degree of restrictions imposed on individual rights. In the context of financial information disclosure, restrictions on bank customers' privacy rights must be proportionate to the fiscal objectives being achieved. Ideally, every DGT action in obtaining or using financial data should be subject to transparent, measurable, and legally verifiable procedures. A judicial review mechanism for administrative policies should also be provided to provide customers with legal recourse if their privacy rights are violated.

In practice, there is a normative disharmony between the provisions of Law No. 9 of 2017 and Law No. 27 of 2022. Law 9/2017 grants the Directorate General of Taxes (DGT) broad authority to access financial information, while the Personal Data Protection Law imposes strict restrictions on the processing of personal data. This overlap creates legal uncertainty regarding the extent to which customer financial data can be accessed without violating the principles of personal data protection. The absence of derivative regulations integrating these two laws creates a grey area in their implementation, for example, the lack of explicit regulation on who is responsible for data leaks resulting from access by tax authorities.

From Gustav Radbruch's theoretical perspective, the balance between fiscal interests and privacy protection must be oriented toward substantive justice. Transparent tax collection without protection of personal rights cannot be considered fair, even if it has economic benefits for the state. Conversely, an overly rigid privacy protection system can also hinder the effectiveness of tax collection. Therefore, the law must be an instrument to balance these two interests rationally and proportionally.

Legal policy reform is needed to ensure that financial disclosure aligns with the principles of personal data protection. The government needs to draft a Government Regulation or Minister of Finance Regulation, a direct derivative of Law No. 9 of 2017, that explicitly regulates data security standards, audit mechanisms, and legal responsibilities between institutions. The ideal policy model should be based on three main principles: transparency and accountability, where every data access by the Directorate General of Taxes (DGT) must be auditable and accountable; proportionality and purpose limitation, where data access is only for tax purposes and not for other purposes; and participation and the right to information, where customers have the right to know and control the use of their data.

The legal disharmony is evident in the absence of derivative regulations clarifying the relationship between the Directorate General of Taxes (DGT) and the Financial Services Authority (OJK) regarding data exchange. When the DGT requests account data, financial institutions often find themselves in a dilemma between their obligation to comply with fiscal authorities and their obligation to maintain customer confidentiality under the Banking Law and the Financial Transactions and Transactions Act. According to Satjipto Rahardjo, the law should serve as a means of protecting and liberating individuals, not an instrument of power. Therefore, harmonization is essential both substantively and institutionally.

Legal reconstruction is needed to create a balance between state interests and citizen rights through several steps. First, a partial revision of Law No. 9 of 2017 is needed, particularly the article governing access authority without judicial oversight, by adding an external oversight mechanism through the role of the Information Commission or the Data Protection Agency. Second, the government needs to formulate integrated implementing regulations between the Ministry of Finance, the Financial Services Authority (OJK), and the Ministry of Communication and Information to avoid overlapping procedures. Third, a cybersecurity and data governance system must be established that meets the principles of accountability and transparency as stipulated in Article 35 of the Data Protection Law.

The ideal policy model should be based on an integrated legal framework that positions fiscal and privacy interests as two complementary pillars. The government could adopt a model like the European Union's General Data Protection Regulation, with limited exceptions for fiscal interests, where all data access must be accompanied by an audit and

legal justification. In Indonesia, a similar model could be implemented by establishing an Independent Data Oversight Board to oversee data utilization by the Directorate General of Taxes (DGT).

The policy of balancing fiscal interests and bank customers' privacy rights must be placed within a rule of law framework that ensures the integration of legal certainty, justice, and expediency. Disclosure of financial information should not be interpreted as an abolition of the principle of bank secrecy, but rather as a limited, measurable, and institutionally controlled legal exception. The state does have the right to collect taxes for the public interest, but this right cannot be exercised at the expense of citizens' constitutional right to privacy.

The ideal balance can only be achieved through harmonization and integration of norms between Law Number 9 of 2017 and Law Number 27 of 2022. This harmonization must be realized in the form of regulations that define the limits of the tax authority's authority, procedures for data processing and storage, and legal accountability mechanisms in the event of data violations or leaks. From the perspective of Philipus M. Hadjon's legal protection theory, the state is obliged to guarantee preventive protection through clear regulations and oversight mechanisms, as well as repressive protection through legal means accessible to citizens if their rights are violated.

It is crucial to establish an independent oversight mechanism involving non-governmental organizations in the audit process of data access by tax authorities as a concrete manifestation of the principles of public accountability and checks and balances in a state governed by the rule of law. With an independent oversight body like the Data Protection Authority, which coordinates with the Financial Services Authority (OJK) and the Directorate General of Taxes (DGT), all data access, processing, and exchange activities will be subject to legal oversight and public oversight.

The ideal legal policy direction is one that aligns state interests and individual rights within a unified, harmonious normative framework. Disclosure of financial information should not be viewed as a threat to privacy, but rather as a step toward a transparent, fair, and reliable tax system, provided the principles of proportionality, accountability, and legal protection are consistently applied. The balance between fiscal interests and privacy

protection are not contradictory, but rather two key pillars in realizing fair and legally certain tax governance in Indonesia.

The issue of balancing tax collection interests and protecting bank customers' privacy rights must be understood as part of the dialectic between state power and individual rights in a modern constitutional state. The state is granted constitutional legitimacy to collect taxes, but this legitimacy cannot be used as a justification to negate citizens' fundamental rights. Hadjon distinguishes legal protection into two main dimensions: preventive legal protection, which prevents violations by state officials through norms and oversight mechanisms, and repressive legal protection, which resolves disputes when rights violations have already occurred.

However, current practices show that legal protection for customers remains formalistic. Law No. 9 of 2017 grants the Directorate General of Taxes (DGT) broad authority to access financial information without adequate external control mechanisms, leaving access to financial data vulnerable to misuse or leakage without clear legal accountability. From the perspective of Gustav Radbruch's theory of legal certainty, fiscal policies that create uncertainty in their implementation ignore the fundamental values of law itself, as ideal law must fulfill three basic values: justice, certainty, and utility.

In AEOI reporting practices, many financial institutions face a legal dilemma between the obligation to submit data to the DGT under Law No. 9 of 2017 and the obligation to maintain confidentiality and obtain data subject consent under Law No. 27 of 2022. This situation creates a legal conflict of duties situation that has the potential to violate the lex certa principle as emphasized by Radbruch. In such situations, legal balance should be achieved through a proportionality approach, namely assessing whether the tax authority's restrictions on privacy rights are truly necessary, proportionate, and not excessive in relation to the objectives to be achieved.

Policy reconstruction is needed that affirms the limits of fiscal authority over customer personal data through several mechanisms. First, a data request and use audit mechanism must be in place, requiring that every request and use of financial data by the tax authority be recorded and audited by an independent institution. Second, qualitative and quantitative limits must be set on data access, for example, only for certain taxpayers with transaction

values above a certain threshold. Third, a redress system mechanism must be developed, providing individuals with the right to redress in the event of data misuse.

The balance between tax collection interests and customer privacy rights cannot be achieved through an administrative approach alone, but requires systemic synchronization between regulations and institutions. In the current positive legal system, there are no explicit regulations governing coordination between the Directorate General of Taxes (DGT), the Financial Services Authority (OJK), and the Ministry of Communication and Information Technology (Kominfo) in the management and protection of financial data, resulting in sectoral and inconsistent policy implementation. The ideal balance model is one that places privacy protection as an ethical and legal boundary for fiscal authority, where the state can oversee financial data but within a legal framework that guarantees accountability, transparency, and certainty.

It should be reiterated that legal protection for bank customers in the context of financial information disclosure is not intended to protect tax evaders, but rather to ensure that the state's efforts to increase tax revenue remain within the law and public ethics. Thus, tax justice and privacy justice can go hand in hand.

Constitutional Court Decision No. 102/PUU-XV/2017 has a significant impact on the construction of national law because it confirms that financial information disclosure is a legal instrument for the public interest. The direction of legal policy following this decision must shift from the paradigm of financial transparency to balanced transparency, namely a system in which fiscal transparency coexists with the protection of individual privacy rights. The application of the principle of checks and balances, the establishment of an independent supervisory body, and the implementation of strict data security standards are absolute requirements to ensure that the implementation of Law No. 9 of 2017 remains within the corridors of justice and legal certainty.

A just and legally sound balance can only be achieved with multi-layered legal safeguards, encompassing normative safeguards in the form of synchronized norms between Law No. 9 of 2017 and Law No. 27 of 2022; institutional safeguards in the form of the establishment of an independent fiscal data oversight body; and procedural safeguards in the form of oversight mechanisms and legal redress for data subjects. If these three layers are realized,

the implementation of financial information disclosure will not only be legally valid but also morally and socially legitimate.

Ultimately, a policy of balancing tax collection interests and bank customers' privacy rights must be directed toward achieving harmony between fiscal law and privacy law, grounded in Hadjon's principles of legal protection and Radbruch's principles of legal certainty. These two principles serve as the foundation for ensuring that the implementation of Law No. 9 of 2017 does not become an instrument of rights violations, but rather becomes a means of legal reform that ensures justice, certainty, and benefits in a balanced manner.

CONCLUSION

1. Based on the analysis, the legal protection provided to bank customers in implementing financial information disclosure under Law Number 9 of 2017, when compared to Law Number 27 of 2022, remains formal and insubstantial. While tax authorities' access to information is legally regulated for tax purposes, it is not yet supported by robust personal data protection mechanisms for customers. Based on Philipus M. Hadjon's legal protection theory, legal protection should ideally be both preventative and repressive. In practice, preventative protection for customers has not been effective due to the lack of an independent control mechanism for data use by tax authorities, while repressive protection is also weak due to the lack of clear legal channels for customers who suffer losses.

   In Gustav Radbruch's perspective, this situation creates an imbalance between the values of legal certainty and justice, where certainty for the state in tax collection is more important than fairness for customers in maintaining privacy. Therefore, strengthening norms and harmonizing the two laws is necessary to ensure that the implementation of financial information disclosure continues to guarantee the protection of citizens' constitutional rights.
2. Based on the analysis, the policy on financial information disclosure for tax purposes, as stipulated in Law No. 9 of 2017, does not fully reflect the balance between fiscal interests and bank customers' privacy rights. While the state has constitutional legitimacy to access financial data to ensure tax compliance, the implementation of

this policy still shows weaknesses in terms of legal protection and legal certainty. In practice, there is overlapping norms between Law No. 9 of 2017 and Law No. 27 of 2022 concerning Personal Data Protection, which creates uncertainty for financial institutions and customers. Based on Philipus M. Hadjon's theory of legal protection, data access should be balanced with preventive oversight mechanisms and effective repressive remedies for data subjects. Meanwhile, from Gustav Radbruch's perspective on legal certainty, fiscal policies that do not provide clear direction and equal protection for citizens cannot be categorized as just laws. Therefore, a balance between tax collection interests and privacy rights can only be achieved if the state upholds the principles of proportionality, accountability, and ensures certainty and fairness in the implementation of financial information disclosure.

BIBLIOGRAPHY

Book

Anita Christiani, Banking Law, (Yogykarta, 5th Edition, Publisher of Atma Jaya University Yogyakarta, 2014).

Asshiddiqie, Jimly. Constitutional Law and the Pillars of Democracy. (Jakarta, Constitution Press, 2006).

Halim, Abdul, Icuk Rangga Bawono, and Amin Dara, Taxation: Concepts, applications, examples, and case studies, (Jakarta, Salemba Empat, 2014).

Jhony Ibrahim, Normative Research Theory and Methods, (Malang: Banyumedia Publishing, 2007).

Mangasa Augustinus Sipahutar, Indonesian Banking Problems, (Jakarta, Gorga Media, 2007).

Munir Fuady, Modern Banking Law, (Bandung, Revised Edition, PT. Citra Aditya Bakti, 2009).

Ronny Hanitijo Soemitro, Legal Research Methodology and Jurimetrics (Jakarta: Ghalia Indonesia, 1990).

Yusuf Shofie, Selected Chapters on Consumer Protection Law in Indonesia, (Surakarta: Citra Aditya Bakti, 2008).

Journal

Suryani, Irma, Mohammad Ghufron AZ, and Dewi Astutty Mochtar. "A Legal Study of Bank Secrecy for Tax Purposes." Bhirawa Law Journal 2.1 (2021): 53-58.

Novera, Arfianna. "The Impact of Regulations Concerning Access to Financial Information for Tax Purposes on the Principle of Bank Secrecy." Simbur Cahaya (2018): 72-92.