

## LAW ENFORCEMENT IN TAX CRIMES

Pangiutan Tondi Lubis<sup>1\*</sup>, Adi Mansar<sup>2</sup>, Surya Perdana<sup>3</sup>

<sup>\*1, 2, 3</sup>Universitas Muhammadiyah Sumatera Utara, Indonesia

<sup>\*1</sup>email: [tondilubis974@gmail.com](mailto:tondilubis974@gmail.com)

**Abstract:** Although tax law is classified as state administrative law, it is strengthened by the regulation of criminal provisions in the Taxation Law. The placement of criminal provisions in tax law, gives birth to a criminalization process in the tax sector which is closely related to the politics of criminal law that determines the choice, direction and implementation of criminal law. Law enforcement that does not only include criminal penalties that are of a suffering nature but also actions. Dogmatically, criminal penalties are seen as retribution or retaliation for the perpetrator's mistakes while actions are intended to protect the community from crimes committed by the perpetrator. The imposition of criminal sanctions such as this is expected to build an early warning system for perpetrators of tax crimes, and can provide a deterrent effect with the severity of the sanctions given. To maintain state revenue, the formulation of criminal fines for perpetrators of tax crimes becomes the main witness (preum remedium), while imprisonment is formulated as a sanction that is ultimum remedium (ultimate weapon).

**Keywords:** Law Enforcement, Crime, Tax.

### Introduction

Tax is the main source in the State Budget. The highest legal basis for tax is Article 23A of the 1945 Constitution of the Republic of Indonesia which states that "taxes and other compulsory levies for state needs are regulated by law". Tax itself is a mandatory contribution from the people to the state that is owed. Tax is the largest state revenue used by the state to develop all regions in Indonesia. For this reason, citizen participation is needed by obediently paying taxes in order to participate and play a role in financing the state and national development. In carrying out their obligations, taxpayers are given the trust to calculate, account for and report their own tax obligations in accordance with the principle of the self-assessment system. Settlement of criminal tax law can also be resolved through administrative channels as referred to in Law Number 6 of 1983 concerning General Provisions and Tax Procedures Article 1 letter J. Tax Bill is a letter to make tax bills and/or sanctions in the form of interest and administrative fines; K. Tax Assessment Letter is a decision letter that determines the amount of tax owed, the amount of tax reduction, the amount of underpayment of principal tax, the amount of administrative sanctions, and the amount of tax still to be paid; L. Additional Tax Assessment Letter is a decision letter that increases the amount of tax that has been set; M. Tax Overpayment Decision Letter is a decision letter that determines the return of excess payment of the amount of tax that has been paid and/or withheld and/or collected, because the amount of tax that has been paid and/or withheld and/or collected is greater than the tax owed. Although tax law is classified as state administrative law, it is strengthened by the regulation of criminal provisions in the Taxation Law. The placement of criminal provisions in tax law gives rise to a criminalization process in the tax sector which is closely related to criminal law politics that determine the choice, direction and implementation of criminal law.

Two major things in criminal law policy using criminal law means according to Barda Nawawi Arief are first, what actions should be considered criminal acts and second what

sanctions should be used against violators. Second, criminalization will require law enforcement, namely through the Criminal Justice System (SPP) mechanism. With the potential for state losses in this sector, the government needs to seek administrative and criminal settlement mechanisms in resolving alleged tax crimes proportionally. Given that tax crimes are classified as organized crimes and are usually carried out through corporations (corporate crime), and can also involve tax officers, a different handling is needed from other general crimes.

## Literature Review

### 1. Tax Crime

Criminal acts are actions that are not only formulated by the Criminal Code as crimes or criminal acts. According to Andi Hamzah, criminal acts are human behavior formulated in law, against the law, which should be punished and done wrong. People who commit criminal acts will be held accountable for their actions with criminal penalties if they have made a mistake, someone has made a mistake if at the time of committing the act, seen from the perspective of society, it shows a normative view of the mistake made (Hamzah, 1986).

There are several types of criminal terms used in books written by Indonesian criminal law experts from ancient times to the present. Basically, all of these terms are translations of the Dutch "strafbaar feit" which means offense, criminal event, criminal act, acts that can be punished, things that are threatened by law, acts that are threatened by law and criminal acts.

The term criminal act is intended as in Indonesian for the Dutch term "Strafbaarfeit" or "Delict" for the translation in languages other than the term "Criminal Act" other terms are also used and circulated both in books and in written regulations, including the following:

- a. Punishable acts;
- b. Punishable acts;
- c. Criminal events;
- d. Criminal violations;
- e. Criminal acts.

## Method

A study cannot be said to be research if it does not have a research method (Koto & Faisal 2021). The research method is a process of collecting and analyzing data that is carried out systematically, to achieve certain goals. Data collection and analysis is carried out naturally, both quantitatively and qualitatively, experimentally and non-experimentally, interactively and non-interactively (Koto, 2020). The research method used is normative juridical research, namely legal research conducted by examining literature or secondary data (Koto & Zainuddin 2022). In qualitative research, the process of obtaining data is in accordance with the research objectives or problems, studied in depth and with a holistic approach (Rahimah & Koto, 2022).

## Result and Discussion

The use of criminal law efforts in overcoming crime is included as one of the efforts to overcome social problems including in the field of law enforcement policy. Likewise in overcoming crimes in the field of taxation. Law enforcement is essentially useful for restoring public security and order that has been disturbed due to criminal sanctions, in order to create legal certainty. Law enforcement is a process to realize legal desires so that they become reality. If law enforcement, especially tax law, can run in accordance with legal provisions in taxation laws, then the three interests above are protected. If taxpayers commit tax crimes, then the three types of interests above are no longer protected. The interests of the state in the form of tax

revenues are not achieved, which then threatens the failure to implement national development as a public interest. Taxpayers themselves as personal interests also receive criminal sanctions. The results of taxes collected by the government from the public are not only used to finance routine expenses but are also intended for development in all fields. The implementation of national development in Indonesia which covers various sectors is expected to increase National Income while ensuring an even distribution of income for all Indonesian people. The close relationship between the government as a tax collector and the people as tax subjects creates a legal relationship between the government and the people. This legal relationship causes tax law to fall within the scope of public law. The use of criminal law efforts in overcoming crime is included as one of the efforts to overcome social problems including in the field of law enforcement policy.

Likewise in overcoming crimes in the field of taxation. Criminal provisions regulated in tax law can be treated in accordance with the provisions regulated in the first book of the Criminal Code unless the tax law determines otherwise. If the Criminal Code determines otherwise, then the applicable tax law is *lex specialis*. This means that if there are two legal regulations that regulate the same thing, then the last legal regulation applies based on the substance contained in the legal principle "*lex specialis derogat legi generali*". This shows that the aggravation of criminal sanctions regulated in tax law overrides the aggravation of criminal sanctions regulated in the Criminal Code. The override is made because a crime has occurred that meets the elements of a tax offense with the KUP Law being the *lex specialis* of the Criminal Code.

Efforts to overcome tax crimes against invalid tax invoices can also be carried out preventively and repressively. Preventive efforts to overcome them aim to take preventive measures against various violations of norms. In this case, preventive efforts to overcome tax crimes against invalid tax invoices can be carried out by increasing internal control which is carried out periodically and not only when conducting inspections. The Directorate General of Taxes is expected to continue to improve supervision both through improving internal information systems, external supervision, and coordinating with various parties to prevent tax crimes. Cases of invalid tax invoices must be handled with concrete actions, because the effects of this case can disrupt state revenues. The crime of fictitious or fake tax invoices which is difficult to trace is triggered by the ability of the perpetrators. In essence, the perpetrators of tax invoice crimes are intelligent people.

This means people who have knowledge or insight about taxes, and understand the ins and outs of taxes. Armed with the knowledge possessed by the perpetrators, the perpetrators can easily deceive tax officials. There are several series of processes that they really understand. There they take advantage of the weaknesses of tax officers (Huda, 2006). Law enforcement in the field of taxation is an action taken by relevant officials to ensure that taxpayers and prospective taxpayers comply with the provisions of tax laws. Such as in terms of submitting SPT, bookkeeping, and other relevant information and paying taxes on time. Means of law enforcement can include sanctions for negligence in submitting SPT, interest imposed on late payments, and criminal charges in the event of tax evasion. In legal doctrine, laws and regulations regarding taxes are included in the realm of state administrative law so that legal problems that arise related to violations of tax regulations and their enforcement are carried out through administrative law settlement mechanisms. Although included in administrative law, laws and regulations regarding taxes have different characteristics from other administrative laws, because the nature of tax law is to provide broad authority to the state to collect taxes from taxpayers. The state has the authority to determine taxpayers and force taxpayers to fulfill their obligations.

### **Conclusion**

Law enforcement that does not only include criminal penalties that are of a suffering nature but also actions. Dogmatically, criminal penalties are seen as retribution or retaliation for the perpetrator's mistakes while actions are intended to protect society from crimes committed by the perpetrator. The imposition of criminal sanctions such as this is expected to build an early warning system for perpetrators of tax crimes, and can provide a deterrent effect with the severity of the sanctions given. To maintain state revenue, the formulation of criminal fines for perpetrators of tax crimes becomes the main witness (*preum remedium*), while imprisonment is formulated as a sanction that is *ultimatum remedium* (ultimate weapon).

### **Bibliography**

- Andi Hamzah. 1986. *Bunga Rampai Hukum Pidana Dan Acara Pidana*, Ghalia Indonesia.
- Chairul Huda. 2006. *(Dan Tiada Pidana Tanpa Kesalahan Menuju Kepada Tiada Pertanggungjawaban Pidana Tanpa Kesalahan, Cetakan Kedua, (Jakarta: Kencana.*
- Koto, I., & Faisal, F. (2021). Penerapan Eksekusi Jaminan Fidusia Pada Benda Bergerak Terhadap Debitur Wanprestasi. *Journal of Education, Humaniora and Social Sciences (JEHSS)*, 4(2), 774-781.
- Rahimah, R., & Koto, I. (2022). Implications of Parenting Patterns in the Development of Early Childhood Social Attitudes. *International Journal Reglement & Society (IJRS)*, 3(2), 129-133.
- Simatupang, R. S. A. (2024). Pelaksanaan Sistem Peradilan Pidana Anak Di Indonesia Perspektif Nilai Keadilan. *Jurnal Yuridis*, 11(1), 54-63.
- Zainuddin, Z. (2022). Implementation Of The Change Of The Chairman Of The Labuhan Batu Selatan Regional People's Representative Council. *International Journal Reglement & Society (IJRS)*, 3(1), 11-18