
Criminal Tax Law Perspective on General Criminal Law in Indonesia

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ABSTRACT

Purpose: Taxes are income that is very important for the balance of state income. Currently, tax is the largest contributor to the Indonesian APBN. In tax obligations, taxpayers carry out their rights and obligations using the self-assessment method. Tax avoidance and even tax evasion are very likely to occur. Enforcement of criminal law in the field of taxation (tax enforcement) in order to increase taxpayer compliance. This research aims to look at the perspective of tax criminal law on general criminal law in Indonesia. This research uses a descriptive analytical method by collecting several literacy sources and discussing them in paragraph form.

Design/methodology/approach: The self-assessment method allows taxpayers to commit tax violations, tax violators as long as the perpetrator has committed an act or actus reus which is a prohibited act and knows that his actions cause losses to other parties, then it is sufficient for the perpetrator to be subject to criminal sanctions/punishments as stipulated in the provisions of ignoring the element of mens rea, as stipulated in the Tax Criminal Law (UU HPP).

Findings: Of the criminal acts contained in the Criminal Code, criminal acts in the field of taxation will always be related to and include the formulation of other criminal acts, whether general or specific.

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I. INTRODUCTION

In line with developments in information technology, economics, social, political, and to create clean governance, changes to the Taxation Law have been made. These changes aim to provide more justice, improve services to taxpayers, provide more legal certainty, and anticipate advances in the field of information technology and changes in material provisions in the taxation sector. Apart from that, these changes are also intended to increase the professionalism of the tax apparatus, increase the openness of tax administration, and increase voluntary taxpayer compliance.

A simple system of mechanisms and procedures for implementing tax rights and obligations are the characteristics and features of the changes to this Law while still adhering to the self-assessment system. These changes are specifically aimed at establishing a balance of rights and obligations between Tax Officials and Taxpayers, maintaining a balance in tax revenues. as the backbone of APBN revenues and building a better institutional image of the Directorate General of Taxes. This law is Law of the Republic of Indonesia Number 6 of 1983 concerning General Provisions and Tax Procedures as most recently amended by Law of the Republic of Indonesia Number 26 of 2007 which was most recently amended by Law No. 16 of 2009.

II. METHODS

This article only reviews the formulative policy regarding Tax Crimes contained in Law Number 28 of 2007, which was most recently amended by Law No. 16 of 2009. The scope reviewed in this paper includes policies in formulating Tax Crimes, Criminal Liability, and Criminal Sanctions against perpetrators of Tax Crimes.

III. RESULTS AND DISCUSSION

One way of managing taxes that can be done is through tax avoidance, where companies try to reduce their tax burden in a legal way that does not conflict with tax laws, or as an alternative take advantage of weaknesses in applicable tax laws. Of course, the increasingly complex financial transaction plans in the business world will also open up opportunities for companies to plan their taxes (SITANGGANG et al., 2011). Tax planning can be done to reduce the taxes the company must pay. However, the government's efforts to optimize tax revenues have encountered many obstacles, one of which is tax avoidance activities. Tax avoidance is an effort to reduce the tax burden by not violating existing laws and regulations (Suryani, 2022). Even though no laws were broken, all parties agree that tax avoidance is unacceptable. This is because tax avoidance has a direct impact on reducing state revenues.

Almost the same research was also conducted by Nurchalis with the title "Effectiveness of Criminal Sanctions in the Law on General Tax Provisions in Overcoming Corporate Tax Avoidance." COUP. However, it turns out that the KUP Law still adheres to criminalization of individuals as adhered to by the Criminal Code/KUHAP without any further explanation, so that it becomes a problem in its application to corporations. Previous research focused on the effectiveness of sanctions, whereas in this research, the discussion focuses more on the sanctions that apply to tax violators who are subject to criminal penalties and then what the penalties are, such as general criminal penalties. So the problem formulation is as follows.

1. Can all taxpayers who violate taxes (commit tax evasion) be subject to criminal sanctions?
2. Are the tax criminal sanctions imposed on taxpayers the same as those in general criminal law?

As Bachelor of Law students and taxpayers in general, it is necessary to study this matter, remembering their rights and obligations as good citizens and there is no need to fight against the law. This is important for taxpayers to understand so that their business can run smoothly and their activities are not disrupted.

B. Discussion

1. Can all taxpayers who violate taxes (commit tax evasion) be subject to criminal sanctions?

Tax law is an important part of regulating tax obligations. Tax law is the regulations that regulate the rights and obligations as well as the relationship between taxpayers and the government as tax collectors. The legal position of tax is part of public law. When studying the legal field, *Lex Specialis Derogat Lex Generalis* applies. This means that special regulations take precedence over general regulations. If a provision has not been or is not regulated in special regulations, the provisions regulated in general regulations will apply. This means that the special regulation is tax law. Meanwhile, general regulations are public laws or other laws that have previously existed. Tax law adheres to an imperative understanding whose implementation cannot be postponed.

Things that are regulated in tax law. In tax law, there are several things that are regulated, namely:

- a. Who are the tax subjects and taxpayers
- b. What objects are tax objects
- c. Tax obligations to the government
- d. The emergence and elimination of tax debt
- e. How to collect taxes
- f. How to submit objections and appeals

Legal basis for tax collection. There are eight laws that form the legal basis for tax collection in Indonesia, including:

- a. Law No.13 of 1985 concerning Stamp Duty
- b. Law No.12 of 1994 concerning Land and Building Tax
- c. Law No.16 of 2000 concerning General Provisions and Tax Procedures
- d. Law No.17 of 2000 concerning Income
- e. Law No.18 of 2000 concerning Value Added Tax on goods and services and sales of luxury goods
- f. Law No.19 of 2000 concerning Tax Collection by Force Letter
- g. Law No. 20 of 2000 concerning Fees for Acquisition of Land and Building Rights
- h. Law No.14 of 2002 concerning Tax Court.

In order to ensure the continuity of tax revenues as the main source of the APBN and provide fairness in business (level of playing field), the government needs to expand the tax base by increasing the number of registered taxpayers to have NPWPs and at the same time comply.

The government will continue to strive to explore tax potential (tax coverage) as optimally as possible and also increase taxpayer compliance (taxpayers compliance). To overcome the above problems, the government carried out what is called tax reform. In this case, the government made various efforts by issuing a series of laws to change existing laws.

This is done to provide a greater sense of justice and legal certainty. The aim of improving the tax law is to intensify and intensify the imposition and collection of taxes, which is also an effort to increase the fairness of the tax burden, eliminate tax facilities that have no legal basis which will harm the national economy and close opportunities for tax avoidance (loopholes).

For this reason, in accordance with the regular function, it can generally be stated that the tax system must be able to encourage national economic activity and growth by encouraging investment from outside and securing state revenues. Meanwhile, carrying out the budgetary function as the main pillar of state revenue is carried out by expanding the scope of tax subjects and objects, and minimizing the possibility of transfer pricing and restrictions on the imposition of final income tax. In the long term, all of these policies are expected to increase tax compliance, increase investment and state revenues towards independence in development financing.

Promote outreach in the field of taxation. This is done to increase the insight of taxpayers. With increasing knowledge, it is hoped that it will raise awareness about paying taxes. In this way, it is hoped that state revenue through the tax sector can increase. Improving legal culture for both taxpayers and tax officers.

The parties are expected to be able to carry out their respective obligations in accordance with applicable tax provisions. The government must carry out strict supervision of tax collection. If irregularities are found, strict sanctions must be given. This is necessary to provide a deterrent effect for taxpayers and tax officers.

Enforcement of criminal law in the field of taxation is part of law enforcement in the field of taxation (tax enforcement), which according to Barry Larking is a series of tax activities to ensure that taxpayers or potential taxpayers have exercised their rights and fulfilled their obligations in accordance with applicable regulations, for example reporting themselves to obtain status as a Taxable Entrepreneur, assessment of tax payable, filling out the Tax Return correctly, completely and clearly, and submitting actual tax data and information.

In general, efforts are made to reduce the tax burden through tax planning. Tax planning can be done in various ways, both tax compliant (legal) and tax violative (illegal). Tax evasion or resistance is an obstacle in tax collection and administration, which results in a decrease in state treasury revenues. Resistance to taxation includes active resistance and passive resistance. In Indonesian tax books, tax avoidance is always defined as a legal activity (for example minimizing the tax burden without violating tax regulations), while tax avoidance (tax fraud) is defined as an illegal activity (for example by manipulating bookkeeping to reduce taxes).

Tax Evasion occurs before the SKP is issued. This is contrary to law and the aim is to avoid tax/reduce the basis for tax assessment by hiding part of the income. Tax evasion is a crime against Indonesian tax law. Because taxpayers try to reduce the tax owed by illegal means. Tax evasion is a violation of tax law, for example a taxpayer submitting a tax return on income that is lower than actual (underreporting income) or reporting costs that are higher than actual (overreporting income). reduction) on the other hand. A more serious form of tax avoidance is that taxpayers (WP) do not report their income at all (not reporting income). Taxpayers see taxes as a threat because they reduce income. Avoiding taxes by illegal means is tax evasion. In this case it can be shown that the Taxpayer is acting to his own detriment, and the Taxpayer often tries not to report the tax that has been paid properly. This action is a criminal offense because it violates applicable regulations, including intentionally incomplete and clear reporting of tax recipients.

Tax Avoidance is a legal act and can be said to be justified because it does not violate the law, and in this case it absolutely does not. The aim of tax avoidance is to suppress or reduce the amount of tax that must be paid (Darmawan & Sukartha, 2014). Tax avoidance by taxpayers, especially entities, in the form of tax avoidance is indeed possible, or in this case does not conflict with applicable laws or legal provisions, because it is believed that practices related to tax avoidance are more of an exploitation or loophole or perhaps a loophole in tax code. Tax avoidance is often associated with tax planning, either using legal means to reduce or even eliminate tax obligations. Tax planning is the taxpayer's ability to manage financial activities in order to obtain minimum tax expenditure (burden) (Rioni, 2019). Tax avoidance occurs before the SKP is issued. In this tax avoidance, taxpayers do not clearly violate the law, in fact sometimes the law is clearly interpreted as not being in accordance with the aims and objectives of the legislator. Tax evasion can be classified as legal activity or illegal activity (Inkiriwang, 2017). Tax evasion is illegal if the transaction is solely for the purpose of tax avoidance or if the transaction has no real business purpose. Therefore, to prevent tax avoidance by multinational companies, most countries have anti-tax avoidance regulations. (Lingga, 2012). Taxes are a burden for companies, so it is natural that not a single company (taxpayer) is happy and willing to pay taxes (Gula & Mulyani, 2020).

The laws and regulations governing criminal and administrative provisions related to corporate taxation are regulated and described as follows:

- 1) Law Number 28 of 2007
Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures. The KUP Law is the basis of tax law in Indonesia to determine whether a wrongful act by a Taxpayer will be subject to administrative sanctions or criminal sanctions. However, Prof. Eddy OS Hiarej is of the opinion that tax law enforcement does not have clear parameters regarding which are administrative cases and criminal acts. 10 The Asian Agri Group case is an example of law enforcement in tax cases with the imposition of criminal sanctions, the Supreme Court decided that the defendant was proven to have submitted a notification letter and /or information whose contents are continuously incorrect or incomplete. Subject to Article 39 paragraph (1) letter c of the 2000 KUP Law jo. Article 43 paragraph (1) of the 1983 KUP Law jo. Article 64 paragraph (1) of the Criminal Code. However, it is different from decision number 394/Pid.Sus/2015.PN.Plg
- 2) Law Number 36 of 2008
Law Number 36 of 2008 concerning the Fourth Amendment to Law Number 7 of 1983 concerning Income Tax (UU PPh). The provisions of Article 18 paragraph (3) do not mention the obligation to strictly organize transfer pricing documents. In practice, many tax inspectors find that there are taxpayers who do not provide transfer pricing documents, so the legal basis for conducting an audit of alleged transfer pricing is Article 18 paragraph 3 of the Income Tax Law. To prepare transfer pricing documents, a transfer price agreement is required between the taxpayer and the Director General of Taxes. The transfer price agreement is also called an Advance Pricing Agreement which is abbreviated as APA. The provisions related to APA are regulated in Article 18 paragraph 3a. The transfer pricing agreement aims to reduce the occurrence of abusive transfer pricing practices by multinational companies. With an agreement between the Taxpayer and the Director General of Taxes, an agreement will result that includes the product selling price, royalty amount, production and operational costs, loans and other things depending on the agreement.
- 3) Government Regulation Number 80 of 2007
Government Regulation (PP) Number 80 of 2007 concerning Procedures for Implementing Tax Rights and Obligations Based on Law Number 6 of 1983 concerning General Provisions and Tax Procedures as has been amended several times, the latest being Law Number 28 of 2007. Article 16 paragraph 2 Number 80 of 2007 stipulates that in the event that a taxpayer carries out transactions with parties who have a special relationship, the taxpayer is required to keep additional documents and/or information in addition to the books, notes and documents that are the basis for bookkeeping or recording. Storing these documents is needed to prove that taxpayers who have special relationships with other parties have applied the principles of fairness and business practice in every transfer pricing transaction. In line with Government Regulation Number 28 of 2007 (UU KUP), it has been indirectly interpreted that the obligation to prove the fairness of transactions that occur between parties who have a special relationship lies with the taxpayer. The following is the text of PP Number 80 of 2007 Article 16 paragraph 1. In the event that the Taxpayer carries out transactions with parties who have a special relationship with the Taxpayer, the obligation to keep other documents as intended in paragraph (1) includes additional documents and/or information to support that transactions carried out with parties who have special relationships are in accordance with the principles of fairness and business practice. However, PP Number 80 of 2007 does not fully discuss how to carry out transfer pricing documents, because it only provides an order or obligation that transfer pricing documents absolutely must be held for taxpayers who are included in the intended target. Meanwhile, the main point of article 16 paragraph 2 is to verify the similarity of the contents of transfer pricing documents with books, records and other documents as an obligation to be maintained as regulated in article 16 paragraph 1.
- 4) Minister of Finance Regulation Number 213/PMK.03/2016
The Indonesian government on December 30 2016 issued Minister of Finance Regulation Number 213/PMK.03/2016 concerning Types of Documents and/or Additional Information that must be kept by Taxpayers who Conduct Transactions with Parties in Special Relationships and Procedures for Managing Them.
- 5) Minister of Finance Regulation Number 22/PMK.03/2020
As a form of the Minister of Finance's seriousness in avoiding transfer pricing practices in Indonesia, procedures for implementing transfer pricing agreements (advance pricing agreements) were created. To correct problems in implementing rules related to transfer pricing, the Ministry of Finance issued PMK Number 22/PMK.03/2020 which regulates in detail the implementation of transfer pricing agreements between taxpayers and the Director and Director General of Taxes with government tax authorities of P3B partner countries. involving Indonesian taxpayers.
- 6) Regulation of the Director General of Taxes PER-43/PJ/2010

For the first time, Indonesia has regulated in detail how to implement transfer pricing documents in a broad, clear and detailed manner, regulated in the Director General of Tax Regulation PER-43/PJ/2010 concerning the application of the principles of fairness and business customs in transactions between taxpayers and parties who have special relationships. PER-43/PJ/2010 has regulated price determination methods, comparability analysis and transfer pricing documents. However, this regulation cannot be implemented effectively because the implementation provisions are not clear. So the government changed and improved it by issuing PER-32/PJ/2011 concerning Amendments to the Application of the Principles of Fairness and Business Practices in Transactions Between Taxpayers and Parties Who Have Special Relationships.

- 7) Regulation of the Director General of Taxes PER-32/PJ/2011
Still in the same realm as PER-43/PJ/2010, this regulation was issued to improve the previous regulation. Even though the rules regarding transfer pricing methods are still the same, the most important changes are removing hierarchical provisions for method use, explaining comparability analysis more fully, and also regulating obligations for implementing transfer pricing documents. PER32/PJ/2011 also introduces the scope of transfer pricing between foreign taxpayers and domestic taxpayers as well as transfer pricing between domestic taxpayers.
- 8) Circular Letter of the Director General of Taxes Number SE-04/PJ.7/1993
Circular Letter of the Director General of Taxes Number SE-04/PJ.7/1993 concerning Instructions for Handling transfer pricing cases (TP-1 Series). Issued for the purpose of assisting tax auditors in handling transfer pricing cases in terms of tax treatment.
- 9) Circular Letter of the Director General of Taxes Number: SE-50/PJ/2013
Circular Letter of the Director General of Taxes Number SE-50/PJ/2013 concerning Technical Instructions for Audits of Taxpayers Who Have Special Relationships. Established to support the ease and uniformity of tax auditors in examining taxpayers who have special relationships for quality audits, in addition to improving SE-04/PJ.7/199.

In dealing with criminal offenses committed by corporations, the imposition of criminal liability and punishment on corporations is seen through two theories, namely vicarious liability and strict liability theories. The vicarious liability theory is a doctrine of corporate criminal liability adopted from civil law which is based on the existence of an employment relationship between the corporation and its management. When the management commits an offense that provides benefits to the company and there is no prevention effort by the corporation, then the offense can be held accountable by the corporation in which the management acts in the name of their actions. However, the imposition of responsibility is limited to the scope related to the management's work within the corporation.

Criminal liability is automatically imposed on the perpetrator if a mistake is made without looking at his inner attitude according to the theory of strict liability (absolute liability theory). As long as the perpetrator has committed an act or actus reus which is a prohibited act and knows that his action will cause harm to another party, then it is sufficient for the perpetrator to be subject to criminal sanctions by ignoring the element of mens rea. Mens rea is an inner attitude that includes malicious intent, deliberate intent, negligence or ignorance when a criminal offense is committed.

In the theory of vicarious liability, someone who has not done anything wrong can be held responsible for mistakes made by other people or what is often called "vicarious liability". Explanation in number 126 attachment 1 Law 12/2011 jo. Law 13/2022 determines that penalties for criminal acts committed by corporations are imposed on: a) Legal entities including Companies, Associations, Foundations, or Corporations, and/or b) Those who give orders to commit criminal acts or who act as leaders in committing acts. criminal.

It can be said that if there are employees who commit acts against tax law on behalf of the corporation, providing benefits to the corporation, and there is no prevention from the corporation, criminal liability will be borne by the corporation and/or management who have a high position and the authority to determine corporate policy (the directing mind and the will of the company). Criminal sanctions regulated in Articles 38, 39 and 39A of the KUP Law include criminal sanctions in the form of imprisonment, prison sentences and fines. In Article 39 and Article 39A, the perpetrator of the offense will be subject to imprisonment and a fine, so it is very possible to criminalize the corporation and its management at the same time.

Article 43 of the KUP Law also confirms that the punishment as referred to in Article 39 and Article 39A is not limited to taxpayers, taxpayer representatives, taxpayer proxies, taxpayer employees, public accountants, tax consultants, or other parties, but also to those who order the crime. , who participates in committing, advocates, or assists in committing criminal acts in the field of taxation.

Violators of the law in the field of taxation are given priority to be subject to administrative sanctions. This administrative sanction is an early warning for violators of tax law which aims to encourage tax payment compliance from the public. The state requires tax payments from the public as a source of revenue and the public has a legal obligation to pay taxes to the state so that legal issues in tax imposition are resolved persuasively

through law and administrative sanctions. Even so, it is necessary to regulate criminal sanctions so that they have a deterrent effect for perpetrators of tax offenses who do not show good faith in administrative settlements, especially for corporate taxpayers, so as not to cause greater state financial losses due to non-compliance with tax payments in the future.

Administrative sanctions are payments for losses caused by taxpayers to the state. Payment of these losses can be in the form of fines, interest and increases. The amount of sanctions imposed follows the type of violation or error committed by the taxpayer.

In the realm of taxation, not only administrative sanctions can be imposed on taxpayers who commit violations, but criminal sanctions can also be imposed. Criminal sanctions are applied if it is indicated that there has been a violation even though there is an element of unintentional action, or a crime that was intentionally committed in paying taxes. In addition, criminal sanctions are given if violations or serious mistakes are committed that can cause losses to the state. These violations and crimes can take the form of incorrect data, hiding data, falsifying data and not paying taxes. Criminal sanctions are the government's final step as an effort to enforce compliance with paying taxes.

The types of violations and criminal sanctions that apply in Indonesia are as follows:

- 1) Imprisonment for a minimum of 3 months and a maximum of 1 year with a fine of at least once and a maximum of twice the tax owed. This sanction is given to taxpayers who deliberately do not submit their SPT or submit their SPT but the contents are incorrect so that it can harm the state.
- 2) Imprisonment for a minimum of 6 years and a fine of at least 2 times and a maximum of 4 times the amount of tax owed. This is given for several violations, including: Not registering to be given a Taxpayer Identification Number (NPWP) or attempting to be confirmed as a PKP. Misusing NPWP/PKP without rights Not submitting SPT or submitting it incompletely Refusal to carry out an inspection Showing falsified books, records or other documents Not carrying out bookkeeping/recording in Indonesia Not keeping books, records or documents which are the basis for bookkeeping/recording Not making deposits taxes that have been withheld, resulting in state losses
- 3) Two criminal sanctions for a minimum of 6 years and a fine of at least 2 times and a maximum of 4 times the amount of tax owed. This is given if the taxpayer re-commits a criminal tax action before one year has passed since the completion of the criminal period.
- 4) Criminal sanctions for a minimum of 2 years and a maximum of 6 years as well as a fine of at least 2 times and a maximum of 6 times the amount of tax in the tax invoice/bupot/tax receipt. This sanction is given for several violations, including: Issuing or using tax invoices, bupot, tax busets that are not based on actual data Issuing tax invoices but they have not been confirmed as PKP
- 5) A maximum imprisonment of 1 year and a maximum fine of IDR 25 million, if the taxpayer intentionally provides false information during a tax audit.
- 6) Imprisonment for a maximum of 3 years or a fine of a maximum of IDR 75 million, if the taxpayer deliberately destroys the investigation or examination process.
- 7) Imprisonment for a maximum of 1 year with a fine of a maximum of IDR 1 billion, if the taxpayer deliberately keeps something secret during the investigation or inspection process.
- 8) Imprisonment for a maximum of 10 months and/or a fine of a maximum of IDR 800 million, if the taxpayer deliberately discloses secrets during the investigation or examination process.
- 9) The maximum penalty of imprisonment is 1 year with a maximum fine of IDR 500 million, if the taxpayer deliberately does not provide the requested data and information or misuses the data during the audit process.

Thus, tax violators, as long as the perpetrator has committed an act or actus reus which is an act that is prohibited and knows that his or her action causes harm to another party, then it is sufficient for the perpetrator to be subject to criminal sanctions/punishment as stated in the provisions above, ignoring the element of mens rea.

2. Are the tax criminal sanctions imposed on taxpayers the same as those in general criminal law?

In criminal law, there are two different types of crimes, namely general crimes and special crimes. In this article, we will discuss the differences between these two types of crime.

- a. General criminal definition is a type of criminal law that includes all criminal acts regulated in criminal law, such as murder, robbery and embezzlement. Meanwhile, special criminal law is a type of criminal law that only covers certain criminal acts, such as narcotics, corruption or terrorism.
- b. General criminal subjects apply to all persons regulated in the criminal law, while special crimes only apply to subjects who commit certain criminal acts regulated in the special criminal law.
- c. Penal sanctions in general crimes are more varied, including fines, imprisonment, or even the death penalty. Meanwhile, punitive sanctions in special crimes are usually more specific, such as revocation of business permits, revocation of political rights, or detention.

General criminal law is criminal law which has been deliberately established to apply to everyone in general, while special criminal law is criminal law which has been deliberately established to apply only to certain people, for example, to members of the Armed Forces, or is a criminal law that regulates certain criminal acts only, for example, fiscal crimes. Briefly, we can also see the division between general criminal law and special criminal law with existing regulations, namely that the criminal law regulated in the Criminal Code is general criminal law, because the provisions therein apply to everyone. Meanwhile, special criminal law can be seen from statutory regulations that regulate criminal provisions outside the Criminal Code, for example the Corruption Crime Law, the Money Laundering Crime Law, and others.

Provisions of Criminal Law in the Tax Sector. There are several criminal offenses related to the field of taxation which are listed in the provisions of the old Criminal Code which were still in effect at the time this article was published and Law 1/2023 which came into effect 3 years from the date of promulgation, namely in 2026, for example:

- a. Crime of providing false information under oath (Article 242 of the Criminal Code and Article 291 of Law 1/2023)
- b. Crime of stamp falsification (Article 253 of the Criminal Code and Article 382 of Law 1/2023)
- c. Crime of document forgery (Article 263 of the Criminal Code and Article 391 of Law 1/2023)
- d. Criminal act of disclosing secrets (Article 322 of the Criminal Code and Article 443 of Law 1/2023)
- e. Crime of embezzlement (Article 372 of the Criminal Code and Article 486 of Law 1/2023)
- f. The crime of committing deception/fraudulent acts (Article 378 of the Criminal Code and Articles 492 and 495 of Law 1/2023).

From the criminal acts contained in the Criminal Code, in our view, criminal acts in the field of taxation will always be related to and include the formulation of other criminal acts, whether general or specific in nature. However, the resolution of criminal acts in the field of taxation is carried out using the legal basis of Law 6/1983 and its amendments. Tax law often stands on several legs because of its highly administrative nature. In fact, tax law is often referred to as administrative law which carries criminal threats to enforce the administrative law contained therein. This includes the provisions of Article 43A of the HPP Law which regulates criminal provisions in the form of procedures for examining evidence of the beginning of a criminal act.

So the HPP Law, which contains provisions for criminal offenses in the field of taxation, meets the qualifications as a law that has systematic specificities. So that Minister of Finance Regulation Number 177/PMK/03/2022 as a delegation regulation which regulates the procedures for examining evidence of the beginning of criminal acts in the field of taxation, is in accordance with the nature of tax criminal law itself.

Tax crimes include:

- a. misuse or unauthorized use of Taxpayer Identification Number ("NPWP")
- b. refused to carry out an inspection
- c. showing fake bookkeeping or documents
- d. not remitting taxes that have been withheld or collected so that it can cause losses in state revenue
- e. issuing and/or using fake tax invoices, proof of tax collection, proof of tax withholding, and/or proof of fake tax deposits (not based on actual transactions)
- f. attaching information whose contents are incorrect, etc.

In a criminal act, clearly knowing the criminal act that occurred is a must. The meaning and definition of several criminal acts that occur must be known, including the crime of embezzlement. Embezzlement means having goods or something that belongs to someone else but the action is not a crime. In Article 372 of the Criminal Code (KUHP) it is stated:

"Any person who intentionally violates the law owns something or wholly or partly belonging to another person, but which is within his control not because of a crime, is threatened with embezzlement, with a maximum penalty of four years or a maximum fine of nine hundred rupiah."

Criminal acts as referred to in CHAPTER XXIV of the Criminal Code are more accurately referred to as "criminal acts of abuse of rights" or "abuse of trust". Because, the essence of the criminal act regulated in CHAPTER XXIV of the Criminal Code is "abuse of rights" or "abuse of trust". Because with this mention it will make it easier for everyone to know what actions are actually prohibited and punishable by crime in these provisions.

If an object is in someone's control not because of a criminal act, but because of a legal act, for example because of storage, an agreement to safekeeping goods, and so on. Then the person who is entrusted to store and so on controls the goods for themselves unlawfully, then that person is committing "embezzlement".

Various laws in Indonesia have included corporations as the subject of criminal acts, such as the Environmental Law, Draft Criminal Code, Corruption Crime Law. Formulative policies regarding Tax Crimes are regulated in Chapter VIII concerning Criminal Provisions" Articles 38, 39, 39A, 40,41, 41A, 41B, 41C, 43,

43A. The types of tax crimes are divided into tax crimes in the form of violations (*culpa*) as unintentional acts and tax crimes in the form of crimes (*dolus*) as acts carried out intentionally.

By definition, general criminal law can be interpreted as criminal legislation and general application, which is contained in the criminal law book (KHUP), as well as all legislation that amends and adds to the Criminal Code. General criminal law is criminal law that has been deliberately formed to apply to everyone (general),

The types of crimes according to the Criminal Code, as contained in Article 10 of the Criminal Code, are divided into two types:

- a. a. The main penalties, namely: 1) Death penalty, 2) Imprisonment penalty, 3) Imprisonment penalty, 4) Fine, 5) Cover-up penalty (added based on Law Number 20 of 1946)
- b. b. Additional penalties are: 1) Revocation of certain rights, 2) Confiscation of certain items, 3) Announcement of the judge's decision.

Apart from the types of sanctions in the form of criminal law, positive criminal law also includes types of action, for example:

- a. a. Placement in a mental hospital for people who cannot be accounted for because their souls are disabled in their development or disturbed by disease. (See and as regulated in Article 44 paragraph (2) of the Criminal Code).
- b. b. For children who commit criminal acts before the age of 16. Judges can impose measures in the form of (See Article 45 of the Criminal Code but this has been revoked since Law Number 3 of 1997 concerning Juvenile Justice): 1) Returning them to their parents, guardians or custodians; or, 2) Order that the child be handed over to the government. In case (2), the child is placed in a state educational home whose administration is regulated in the Forced Education Regulations.
- c. c. Placement in state workplaces for unemployed people who are lazy to work and have no means of livelihood and disturb public order by begging, vagrancy or asocial acts.
- d. d. Disciplinary measures in the case of Economic Crimes (Article 8 of Law Number 7 Drt/1995) can take the form of: 1) Placing the convicted person's company under guardianship for a certain period of time (3 years for TPE crimes and 2 years for TPE violations). 2) Payment of security deposit for a certain time. 3) Payment of a sum of money as disgorgement of profits according to the estimates obtained. 4) The obligation to do what was neglected without right, to cancel what was done without right and to perform services to repair the consequences for each other, all at the expense of the condemned but the judge does not determine otherwise.

IV. CONCLUSION

In order to ensure the continuity of tax revenues as the main source of the APBN and provide fairness in business (level of playing field), the government needs to expand the tax base by increasing the number of registered taxpayers to have NPWPs and at the same time comply.

The government will continue to strive to explore tax potential (tax coverage) as optimally as possible and also increase taxpayer compliance (taxpayers' compliance). To overcome the above problems, the government carried out what is called tax reform. In this case, the government made various efforts by issuing a series of laws to change existing laws.

This is done to provide a greater sense of justice and legal certainty. The aim of improving the tax law is to extensively and intensify the imposition and collection of taxes, which is also an effort to increase the fairness of the tax burden, eliminate tax facilities that have no legal basis which will harm the national economy and close opportunities for tax avoidance (loopholes). There are still many who do not understand taxation in Indonesia.

Tax avoidance or resistance is an obstacle in tax collection, resulting in a decrease in state treasury revenues. Resistance to taxation includes active resistance and passive resistance. In Indonesian tax accounting, tax avoidance is always defined as a legal activity (for example minimizing the tax burden without violating tax avoidance tax regulations), while tax avoidance (tax fraud) is defined as an illegal activity (for example through book manipulation to reduce tax on expense accounts). The Criminal Law Against the Crime of Tax Evasion is contained in; Law Number 28 of 2007, Law Number 36 of 2008, PP Number 80 of 2007, Minister of Finance Regulation Number 213/PMK.03/2016, Minister of Finance Regulation Number 22/PMK.03/2020, Regulation of the Director General of Taxes PER-43/PJ/2010, Regulation of the Director General of Taxes PER-32/PJ/2011, Regulation of the Director General of Taxes PER-32/PJ/2011, Circular Letter of the Director General of Taxes Number SE-04/PJ.7/1993, Circular Letter of the Director General of Taxes Number : SE-50/PJ/2013.

Thus, tax violators, as long as the perpetrator has committed an act or actus reus which is an act that is prohibited and knows that his or her action causes harm to another party, then it is sufficient for the perpetrator to be subject to criminal sanctions/punishment as stated in the provisions above, ignoring the element of mens rea.

Of the criminal acts contained in the Criminal Code, criminal acts in the field of taxation will always be related to and include the formulation of other criminal acts, whether general or specific. However, the resolution of criminal acts in the field of taxation is carried out using the legal basis of Law 6/1983 and its amendments. Tax law often stands on several legs because of its highly administrative nature. In fact, tax law is often referred to as administrative law which carries criminal threats to enforce the administrative law contained therein. This includes the provisions of Article 43A of the HPP Law which regulates criminal provisions in the form of procedures for examining evidence of the beginning of a criminal act.

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