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THE ROLE OF PROSECUTORS IN SETTLEMENT OF CORPORATE TAX CRIMINAL PROSECUTION THROUGH FINE PEACE BASED ON THE PRINCIPLE OF DOMINUS LITIS

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Abstract
This study aims to analyze the role of the Prosecutor as dominus litis in resolving corporate tax crimes through the mechanism of settlement fines (denda damai). The background of this research is based on the increasing number of corporate tax offenses, which has resulted in state revenue losses and potential disruptions to economic stability. On the other hand, the Indonesian legal system emphasizes the principle of ultimum remedium, whereby criminal prosecution is not the primary objective; instead, the restoration of state financial losses through more effective administrative mechanisms is prioritized. This study employs a normative juridical research method using statutory approaches, case studies, doctrinal analysis, and academic literature review. The findings indicate that Prosecutors possess strategic authority based on the dominus litis principle to terminate investigations and resolve tax crime cases through settlement fines as regulated in Article 44B of the Law on Harmonization of Tax Regulations (UU HPP) and Article 35 letter K of the Law on the Prosecutor's Office. This mechanism is considered more effective in restoring state losses, maintaining corporate continuity, and protecting the public interest. The study highlights the importance of clear guidelines for the implementation of settlement fines to prevent abuse of authority and to ensure legal certainty in the enforcement of tax crimes

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I. INTRODUCTION

Tax is a mandatory levy that serves as a source of state revenue, used for the sustainability and well-being of the community. The term "tax" comes from the Latin "taco," meaning a mandatory contribution from the people to support the interests of the government and society [1]. Taxes are mandatory contributions paid by individuals and businesses to the state. These contributions are levied under mandatory and coercive legal provisions, and the proceeds are used to finance the state, including national development.[2]

[1] Ramadhan, MC (2020). Providing Tax Relief During an Economic Recession Based on an Islamic Perspective. Scientific Journal of Law Enforcement, 7(2), 133.

[2] https://rumahpajak.web.id/2025/06/27/pengertian-pajak-fungsi-manfaat-jenis-dan-cara-membayar/ , accessed on Monday, October 13, 2025 at 13.25 WIB.

In Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures, Article 1 paragraph (1) states: "Tax is a mandatory contribution to the state owed by individuals or bodies which is mandatory based on the law without receiving direct compensation and is used for state needs for the greatest prosperity of the people."

Nowadays, among taxpayers, both individuals and legal entities, there has been a development stigma that obligation For depositing part of the welfare of taxpayers is seen as a burden that will reduce the economic benefits of taxpayers tax. Stigma the Which Then become the root of the problem in society, such as tax crimes in the name of corporations by committing embezzlement or manipulation tax with various mode operations For maximize the corporation's own income or profits [3]. Furthermore, in the collection process, it cannot be denied that various tax crimes arise, such as misusing NPWP, false documents and bookkeeping, fictitious tax deductions and collections, not reporting taxes and not paying taxes [4].

In the context of tax law, a tax crime is defined as an event or action that violates the law or tax laws carried out by a person whose actions can be accounted for and which has been declared a criminal act that can be punished by tax law. The Tax Law does not explain what is meant by a tax crime. Meanwhile, a clear definition of a tax crime can be seen in the explanation of Article 33 paragraph (3) of Law No. 25 of 2007 concerning Investment, which states as follows:

What is meant by "tax crime" is incorrect information regarding reports related to tax collection by submitting a notification letter, but the contents of which are incorrect or incomplete or attaching incorrect information so that it can cause losses to the state and other crimes regulated in the laws governing taxation.

Violations of tax criminal law often overlap with other criminal acts, whether these acts are a form of preparation, facilitating or expediting the occurrence of the crime. criminal taxation, and as an effort to save or maintain the proceeds (assets) from criminal acts in the taxation sector [5]. So that No No perhaps if tax crimes can also be committed by many legal entities or corporations to avoid the burden of obligation tax.

In Indonesia, nowadays there are quite a few corporations/legal entities that commit crimes in the field of taxation, one example is the Director of CV. Bumi Raya, who was proven to have committed violations in the field of taxation by issuing fictitious tax invoices and submitting periodic value added tax (VAT) notification letters (SPT) that did not correspond to the actual conditions and his party was sentenced to 7 months in prison and paid a fine of Rp. 11,740,000,000 [6]. Next is the case of UD. Pramono, a milk entrepreneur who did not pay tax arrears, the initial bill

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[3] I Komang Kusuma Yudha And A A Ngurah Oka Yudhisthira Darmadi “Accountability Corporate Crime in Tax Crimes Reviewed from the Perspective of Criminal Law Reform”, Faculty of Law, Udayana University, Kertha Desa Journal, Vol. 11 No. 1, pp. 1647-1658 .

[4] https://klikpajak.id/blog/tindak-pidana-perpajakan/ , accessed on Wednesday, October 1, 2025 at 11:01 WIB.

[5] Mudzakkir, “Legal Regulations Criminal in the field Taxation The relationship with criminal law General And Special”, Journal Legislation Indonesia Vol.8 No. 1 (April 2022), p. 56

[6] https://proconsult.id/kasus-pidana-pajak/ , accessed on Monday, October 13, 2025 at 10:30 WIB.

reached Rp. 2,000,000,000 (two billion rupiah), but then in October 2024 the Director General of Taxes gave tax relief so that the tax owed became Rp. 671,000,000 (six hundred and seventy-one million) and finally in March 2025 the Director General of Taxes again gave tax relief so that the tax that must be paid by UD. Pramono was Rp. 471,000,000 (four hundred and seventy-one million rupiah) but until now the tax debt has not been paid by UD. Pramono so that UD. Pramono's operations were stopped due to the freezing of UD. Pramono's finances by the Tax Service Office [7]. From the case example, the author realizes that tax crimes committed by legal entities/corporations have a continuous impact, legal entities/corporations that commit tax crimes can be subject to criminal fines or suspension of business permits and their directors/directors can also be subject to imprisonment but far from all that, how many employees of the legal entity/corporation are affected by the cessation of the activities of the legal entity/corporation.

Furthermore, in the Indonesian law enforcement system, the principle of dominus litis is recognized, which is the basis for the Indonesian Attorney General's Office as the sole institution capable of prosecuting, particularly in the field of criminal acts, based on statutory regulations and can dismiss cases by prioritizing the public interest (deponering). Along with the development of the times, it cannot be denied that this will give rise to type action new criminal law will impact on peace , interests society in general and even the integrity country , so that law enforcement in the field of criminal acts is very interesting to study regarding the extent to which the prosecutor's authority by the Indonesian Attorney General's Office can be implemented, especially in resolving tax crimes based on peaceful fines as mandated in Law Number 7 of 2021 concerning the Harmonization of Tax Regulations. (UU HPP) and Law Number 11 of 2021 concerning amendments to Law Number 16 of 2004 concerning the Indonesian Attorney General's Office.

II. RESEARCH METHODS

This research uses a normative juridical method that focuses on the analysis of written law and relevant legal principles. The approaches used include: (1) a statute approach by examining the provisions in the General Provisions and Tax Procedures Law, the Harmonization of Tax Regulations Law (UU HPP), the Attorney General's Law, and the new Criminal Code; (2) a conceptual approach through an analysis of doctrines related to corporate criminal liability, the *dominus litis principle, the opportunity principle, and the ultimum remedium* principle ; and (3) a case approach by examining decisions, investigative practices, and examples of the application of settlement fines in tax cases handled by the Attorney General's Office. Data were obtained through a literature study of laws and regulations, books, journal articles, legal documents, and official online sources. Data analysis was conducted qualitatively by interpreting legal norms , comparing legal principles with law enforcement practices, and drawing deductive conclusions to describe the role of the Attorney General in resolving corporate tax crimes through the settlement fine mechanism.

III. RESULTS OF RESEARCH AND DISCUSSION

The Role of Prosecutors in Resolving Corporate Tax Crimes Through Fine Peace Based on the Principle of Dominus Litis

[7] https://www.detik.com/jateng/berita/d-7833431/ud-pramono-boyolali-dapat-keringanan-pajak-rp-200-juta , accessed on Monday, October 13, 2025 at 16.55 WIB.

Tax crimes are incorrect information regarding reports related to tax collection by submitting a notification letter, but the contents of which are incorrect or incomplete or attaching incorrect information so that it can cause losses to the state and other crimes regulated in the laws governing taxation [8].

In Law No. 1 of 2023 concerning the Criminal Code (New Criminal Code), in Chapter II, Part 2, Paragraph 3 concerning corporate liability, namely in Articles 45 to 50, it has been regulated concretely. Furthermore, in chapter 46 Constitution No. 1 year 2023 regarding the criminal code, namely Criminal Acts by Corporations are Criminal Acts committed by managers who have a functional position in the organizational structure of the Corporation or people who, based on work relationships or other relationships, act for and on behalf of the Corporation or act for the sake of interest Corporation, in scope business or Corporate activities the, provision the If in connection by law No. 28 year 2007 about About Provision In general and tax procedures, criminal acts committed by corporations in the taxation sector implicitly tend to adhere to the strict liability principle, namely liability without fault. This means that criminal acts that done by organ (directors, (GMS) corporation specifically corporations that bodied law become not quite enough answer from corporation as taxpayer .

That in Law No. 28 of 2007 concerning the third amendment to Law No. 6 of 1983 concerning Provisions General And Tata Method Taxation as amended by Law Number 7 of 2021 concerning Harmonization of Tax Regulations (UU HPP) which including into the The elements of tax crimes are [9]:

a. Subjective elements, namely anyone who commits a tax crime, in this case the taxpayer and tax officials. As understanding in chapter 1 paragraph 2 Law No. 28 of 2007 concerning the Third Amendment to Law No. 6 of 1983 concerning Provisions General And Tata Method Taxation, taxpayers are individuals or bodies, including taxpayers, tax withholders and tax collectors, who have tax rights and obligations in accordance with the provisions of tax laws and regulations.

b. Objective elements, namely actions or deeds that violate tax regulations. Furthermore, tax crimes are classified as follows:

1) Tax crimes in the form of violations (culpa) are unintentional acts. Implicitly, tax crimes committed by taxpayers due to their negligence are explained in Article 38 of Law No. 28 of 2007 concerning the Third Amendment to Law No. 6 of 1983 concerning Tax Provisions. General And Tata Method Taxation, namely "Any person who due to negligence": does not submit a Tax Return; or submits a Tax Return, but the contents are incorrect or incomplete, or attaches information whose contents are No Correct so that can cause loss on state revenue.

2) Tax crimes in the form of crimes (*dolus*) as acts committed intentionally. Implicitly, tax crimes committed by taxpayers because they are intentional are explained in Article 39 paragraph (1) of Law No. 28 of 2007 concerning the Third Amendment to Law No. 6 of 1983 concerning Provisions General And Tata Method Taxation namely "Everyone who with on purpose": No register self For given a Taxpayer Identification Number or not reporting their

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[8] explanation of Article 33 paragraph (3) of Law no. 25 of 2007 concerning Capital Investment.

[9] https://www.pajak.go.id/id/mengenal-unsur-unsur-tindak-pidana-di-bidang-perpajakan , accessed on Wednesday, October 1, 2025 at 13.21 WIB

business to confirmed as Businessman Got it Tax; tax that has been cut or collected.

c. This can result in losses to state revenue. In the context of taxation, tax payments from taxpayers represent tax payments that have not yet been deposited into the state treasury, thus preventing the state from receiving tax revenue in the amount or value of the tax due to taxpayers as stipulated in tax laws and regulations.

From the description of the subjective elements of tax crimes above, then can seen that it is mandatory tax No only become not quite enough answer from individual but more broadly includes legal entities which in their development are seen as taxpayers who have the responsibility to pay tax deposits to the government at a value determined in the laws and regulations in the field of taxation. Furthermore agency responsibility law For pay tax on country If this is not done, it will result in sanctions against the legal entity. Sanctions are imposed based on on qualification actions from something body law which focuses on prohibited actions, the indicator is the action the is action oppose law Good in the sense of violating formal law or violating material law that is carried out Because No on purpose (Culpa) or with on purpose (Opzet) as arranged in Law No. 28 of 2007 concerning the Third Amendment to Law No. 6 of 1983 concerning Provisions General And Tata Method Taxation.

Based on the description of the offense above, the criminal act committed by the taxpayer was due to his negligence as stated in Article 38 of Law No. 28 of 2007 concerning the Third Amendment to Law No. 6 of 1983 concerning Provisions General And Tata Method Taxation is an unlawful act that is not subject to criminal sanctions if the conditions stipulated in Law No. 28 of 2007 concerning the third amendment to Law No. 6 of 1983 concerning Provisions are met. General And Tata Method Taxation fulfilled where the taxpayer pays the next cash deposit for unlawful acts carried out intentionally as stipulated in Article 39, Article 39A, chapter 40, chapter 41A, chapter 41B, chapter 41C Law No. 28 of 2007 concerning the Third Amendment to Law No. 6 of 1983 concerning Provisions General And Tata Method Taxation can be subject to criminal sanctions. Considering that the handling of criminal acts in the tax sector prioritizes the recovery of losses to state revenue rather than criminalization, in this case the Attorney General as the case controller (dominus litis principle) has the authority to stop prosecution which is part of the prosecutorial discretion which can be simply interpreted as the authority given to the Public Prosecutor in decide what is the act the crime is worthy of being submitted to advance court, even though there is evidence Which strong For prove his mistake And there is no obstacles based on law For do prosecution, especially for tax crimes committed by corporations, through amicable fines while taking into account the public interest (opportunity principle) [10].

Further explanation chapter 35 paragraph (1) 1st letter k Prosecutor's Office Law The definition of a peace fine is explained as a process of terminating a case outside the court by paying a fine approved by the Attorney General for certain economic crimes such as customs, excise and taxation which cause losses to the state economy. Furthermore, the use of a peace fine instrument in terminating economic crimes, especially tax crimes, is one form of application of the Attorney General's opportunity principle, meaning that there is a settlement of tax crimes whether

[10] Henry Joseph Kindangan, "Discretion Prosecution In Indonesia And Comparison With European Countries", The Prosecutor Law Review Vol. 1 No. 1 (April 2023), p. 89.

committed intentionally or unintentionally by corporations as taxpayers whose criminal settlement process is carried out outside the court.

Furthermore, based on Article 44B paragraph (1) of Law Number 7 of 2021 concerning Harmonization of Tax Regulations (UU HPP) which reads "for the benefit of reception country, on request Minister Finance, the Attorney General can stop investigations into criminal acts in the tax sector at most long in the period of 6 (six) months since date letter request". Then on paragraph (2) It is explained that the termination of the investigation of a criminal act in the field is only carried out after the Taxpayer or suspect has paid in full:

1) Losses to state revenue as referred to in Article 38 shall be supplemented by administrative sanctions in the form of a fine of 1 (one) times the amount of the loss to state revenue;
2) Losses to state revenue as referred to in Article 39 shall be supplemented by administrative sanctions in the form of a fine of 3 (three) times the amount of the loss to state revenue;
3) The amount of tax in the tax invoice, proof of tax collection, proof of tax deduction, and/or proof of tax payment as referred to in Chapter 39A plus with sanctions administrative fines in the form of 4 (four) times the amount of tax in the tax invoice, proof collection tax, proof cutting tax, and/or proof of tax payment.

That in enforcing tax crimes, tax law Indonesia adopted the principle of *ultimum remedium* , which means criminal punishment. done as effort Which final in enforcement law, and that is the goal The main punishment for tax crimes is return loss income country as a result of a criminal act [11]. On this basis, corporations as taxpayers are given the opportunity to return loss economy country. So that to corporation as a perpetrator of a tax crime if he has return loss finance the state as referred to in Article 44B paragraph (1) of Law Number 7 of 2021 concerning Harmonization of Tax Regulations (UU HPP) at the stage investigation, then at the request of the Minister of Finance and based on public interest, the Attorney General may stop the investigation by imposing a peace fine as a form of implementation of the opportunity principle.

concrete example of the role of prosecutors in applying peace fines to tax crimes, namely the South Jakarta District Attorney's Office in November 2024 stopped/resolved the tax case carried out by suspect JHY with a peace fine in which suspect JHY paid a state revenue loss of IDR 2,355,000,000 (two billion three hundred and fifty million rupiah) and payment of administrative sanctions of 3 (three) times the amount of state revenue loss, namely IDR 7,073,000,000 (seven billion seventy-three million rupiah) [12]. From the case example presented by the author above, we understand the important role of the dominus litis principle held by the prosecutor in carrying out the mandate of Article 44B of Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures as last amended by Law Number 7 of 2021 concerning Harmonization of Tax Regulations , if the Corporation led by the suspect JHY is criminalized against AHY as a director or director, then the revocation of the business license or even the dissolution/prohibition of the corporation will result

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[11] https://ortax.org/mengenal-asas-ultimum-remedium-dan-implementasinya-pada-uu-hpp, accessed on Thursday, October 2, 2025 at 19.35 WIB

[12] https://www.pajak.go.id/id/siaran-pers/wajib-pajak-bayar-denda-Rp-7-miliar-kejati-jaksel-hentikan-penuntutan , accessed on Tuesday, October 14, 2025 at 09.05 WIB.

in termination of employment (PHK) which causes workers in the legal material/corporation to lose their livelihoods, this will indirectly harm the community, especially workers in the corporation. Therefore, based on the public interest (deponering), it would be wiser if the settlement of tax cases can be resolved by applying a peace fine, considering that the Attorney General's responsibility in exercising the authority of opportunity is to the president who in the event the president is also responsible to the people.

IV. CONCLUSION

That based on Law No. 28 of 2007 concerning the third amendment to Law No. 6 of 1983 concerning Provisions General And Tata Method Taxation As amended by Law Number 7 of 2021 concerning the Harmonization of Tax Regulations , the handling of criminal tax cases prioritizes the recovery of state economic losses rather than criminalization (*ultimum (remedium)* which means that criminalization is carried out as a last resort in law enforcement. Sanctions are imposed based on the qualifications of the acts committed by the corporation, the indicators of which are whether the act constitutes an unlawful act, either formal or material, committed by the corporation unintentionally (*Culpa*) as stipulated in Article 38 of Law No. 28 of 2007 concerning the Third Amendment to Law No. 6 of 1983 concerning Provisions General And Tata Method Taxation or intentionally (*Opzet*) as per Article 39, Article 39A, Article 40, Article 41A, Article 41B, Article 41C of Law No. 28 of 2007 concerning the Third Amendment to Law No. 6 of 1983 concerning Provisions General And Tata Method Taxation .

In relation to tax crimes as one of the scopes of crime economy Which done by corporations as taxpayers have paid off the state's economic losses as referred to in Article 44 B paragraph (2) of Law Number 7 of 2021 concerning Harmonization of Tax Regulations then at the request of the minister of finance and in the public interest, the attorney general as case controller (dominus litis) can terminate the tax case, as in article 35 Paragraph (1) letter K Constitution 11 Year 2021 Regarding the amendment to Law Number 16 of 2004 concerning the Prosecutor's Office RI and Article 44B paragraph (1) of Law Number 7 of 2021 concerning Harmonization of Tax Regulations which gives the attorney general the authority to resolve economic crimes by using a peace fine

BIBLIOGRAPHY

Undang-Undang

Undang-U ndang Nomor 1 Tahun 2023 Tentang Kitab Undang-undang Hukum Pidana.

Undang-Undang Nomor 11 tahun 2021 Tentang Perubahan atas Undang-undang Nomor 16 Tahun 2004 Tentang kejaksaan Republik Indonesia.

Undang-Undang Nomor 7 tahun 2021 tentang Harmonisasi Peraturan Perpajakan (UU HPP). Undang-Undang nomor 25 tahun 2007 Tentang Penanaman Modal.

Undang-Undang Nomor 28 Tahun 2007 Tentang Perubahan ketiga atas Undang-Undang Nomor 6 Tahun 1983 Tentang Ketentuan Umum Dan Tata Cara Perpajakan.

Jurnal

I Komang Kusuma Yudha dan A.A. Ngurah Oka Yudistira Darmadi "Pertanggungjawaan Pidana Korporasi Dalam Tindak Pidana Perpajakan Ditinjau Dari Perspektif Pemaharuan Hukum Pidana",Fakultas Hukum Universitas Udayana, Jurnal Kertha Desa, Vol. 11 No. 1, hlm. 1647-1658.

Ramadhan, M. C. (2020). Pemberian Keringanan Pajak Di Masa Resesi Ekonomi Berdasarkan Perspektif Islam. Jurnal Ilmiah Penegakan Hukum, 7(2), 133.

Henry Yoseph Kindangan, "Diskresi Penuntutan Di Indonesia Dan Perbandingan Dengan Negara-Negara Eropa", The Prosecutor Law Review Vol. 1 No.1 (April 2023).

Mudzakkir, "Pengaturan Hukum Pidana di Bidang Perpajakan Hubungannya dengan hukum PidanaUmum dan Khusus", Jurnal Legislasi Indonesia Vol.8 No.1 (April 2022).

Website

https://klikpajak.id/blog/tindak-pidana-perpajakan/, diakses pada hari Rabu tanggal 01 Oktober 2025 jam 11.01 Wib.

https://www.pajak.go.id/id/mengenal-unsur-unsur-tindak-pidana-di-bidang-perpajakan, diakses pada hari Rabu tanggal 01 Oktober 2025 pukul 13.21 wib

https://ortax.org/mengenal-asas-ultimum-remedium-dan-implementasinya-pada-uu-hpp, diakses pada hari Kamis tanggal 02 Oktober 2025 pukul 19.35 wib

https://rumahpajak.web.id/2025/06/27/pengertian-pajak-fungsi-manfaat-jenis-dan-cara-membayar/, diakses pada hari senin tanggal 13 Oktober 2025 Pukul 13.25 Wib

https://proconsult.id/kasus-pidana-pajak/, diakses pada hari senin tanggal 13 Oktober 2025 pukul 10.30 Wib.

https://www.detik.com/jateng/berita/d-7833431/ud-pramono-boyolali-dapat-keringanan-pajak-rp-200-juta, diakses pada hari senin tanggal 13 Oktober 2025 pukul 16.55 Wib.

https://www.pajak.go.id/id/siaran-pers/wajib-pajak-bayar-denda-Rp-7-miliar-kejati-jaksel-hentikan-penuntutan, diakses pada hari selasa tanggal 14 Oktober 2025 jam 09.05 Wib