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The urgency of asset confiscation sanction in tax crimes

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ABSTRACT

Law Number 16 of 2009 concerning General Provisions and Tax Procedures (UU KUP), regulates administrative sanctions and criminal sanctions. The KUP Law method does not yet regulate how to save the loss of state revenue because it does not regulate the implementation of criminal fines, the legal implications of different decisions that cause legal uncertainty, injustice and have not provided benefits, especially in an effort to collect taxes. The purpose of this paper is to find out, analyze, and find the urgency of regulating criminal sanctions for the deprivation of assets in tax crime. This study is normative legal research with a legislation approach, historical approach, comparative law approach, conceptual approach, and case approach. The legal materials used are primary and secondary legal materials. Analysis of legal material is done with a descriptive perspective. The results of this study indicate that the inclusion of fine sanctions in the KUP Act turns out to lead to different interpretations resulting in legal uncertainty and does not provide economic benefits for the state in law enforcement, because the sanctions for fines are not complemented by implementing sanctions in the form of additional criminal sanctions in the form of confiscation of assets belonging to the defendant or an act (maatregel) in the form of requiring improvement of corporate governance in accordance with good corporate governance or placement of a legal company, where an economic crime is committed under a certain period of time, so that in the future the KUP Act, additional sanctions or actions to strengthen / complete in the future criminal sanctions for fines. fines.

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Introduction

The existence of taxes as state revenue is very important for the life of the nation and state. Negara (2017) believes that taxes have a function as a budget (budgeter), which is to put as much money into the state treasury as possible for state expenditure. Taxes are more functioned as a tool to attract funds from the public to be put into the state treasury, even for Indonesia funds from taxes are considered to be excellent, because more than 80% of the government's budget is obtained from taxes.

The tax function is very important to finance the life of the state, but based on data from the Ministry of Finance that state revenue from the tax sector turns out to not meet the target each year, as the following data:

- i. The realization of tax revenue in 2015 reached Rp 1,055 trillion. This figure only reached 81.5% of the target in the 2015 Revised State Budget (APBN-P) of Rp 1,294.3 trillion (Mustami & Rafie, 2016).
- ii. Realization of state revenue from the overall tax sector as of December 31, 2016 reached Rp1,105 trillion or 81.54% of the 2016 Revised State Budget tax revenue target of Rp1,533 trillion (Saroh, 2017)
- iii. Realization of overall tax revenue in 2017 amounted to Rp 1,147.59 trillion or 89.7 percent of the target set in the 2017 APBNP of Rp 1283.6 trillion (Harjanto, 2018)
- iv. The realization of tax revenue in 2018 was Rp 1,315.9 trillion. The realization was only 92.4% of the target in the State Budget (APBN) of Rp. 1,424 trillion (Alika & Thertina, 2019).

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The Minister of Finance said, there were three causes of poor tax collection during the past dozen years. First, WP compliance is very low at only around 50 percent. Secondly, there are leakage of tax revenue mainly from restitution or tax refund, especially from Value Added Tax (VAT). Third, a small WP base (Ariyanti, 2015).

The revenue target from the tax sector has not been maximally met, because there are still many taxpayers who do not obey taxes and even commit tax crimes. Tax crimes are serious and extraordinary crimes, so they are categorized as white collar crimes. The responsibility of the entrepreneur contains an opportunity to commit a crime, for example embezzlement, violation of regulations regarding business activities, tax deviations (Ali, 2017). In addition, the value of this tax crime is very material, which is estimated to cost the state due to tax crime can reach tens or even hundreds of trillions of rupiah, a value that is very material for financing a country like Indonesia that is in dire need of funds for development (Sutedi, 2016).

Tax crime is a crime where the victim is the state, due to the actions of the perpetrators of tax crime is very influential on state income, but instead the perpetrators who violate their obligations have without the right to enjoy profits, because they should pay taxes but instead avoid or avoid taxes. This form of tax evasion is one form of crime in the field of taxation or often referred to as tax evasion (Khlif & Achek, 2015). Tax evasion occurs before the Tax Assessment Letter (SKP) is issued (Benk, Budak, Püren, & Erdem, 2015). This is a violation of the law with the intention of escaping from tax / reducing the basis of taxation by hiding part of the outcome (Sari, 2016). Law Number 6 of 1983, as amended several times, the latest by Law Number 16 of 2009 concerning General Provisions and Tax Procedures (hereinafter referred to as the KUP Law), regulates administrative and criminal sanctions. Criminal sanctions regulated in the KUP Law consist of administration and criminal which include criminal offenses and fines.

Philosophically, criminal sanctions in the KUP Law have not fulfilled the essence of the formation of the KUP Law, which is aimed at collecting state revenue because there are vague norms, so that it has not been beneficial to the state. The purpose of law should be to ensure as much happiness as possible (utility theory) (Widijowati, 2018). Juridically, criminal sanctions in the KUP Law give rise to different interpretations, because the norms of criminal sanctions in the KUP Law have vague meanings especially related to efforts to save losses of state revenues. Sociologically, this obscure mankna besides causing different decisions in law enforcement, as well as many tax offenders, because criminal sanctions are only in the form of fines, especially in judicial practice there are cases if not paying a fine enough to be replaced with confinement, so that this criminal sanction has not had a deterrent effect on the community, especially for the perpetrators of tax crime.

One of the solutions offered in this study is through asset tracing efforts followed by the confiscation of assets against tax offenders, this instrument is an appropriate effort to maximize the recovery of state revenues, in addition to the addition of norms related to the confiscation of assets against assets owned by perpetrators criminal, the impact will be a deterrent effect, because at least it will think again if a tax crime is committed, then all assets will be confiscated, auctioned off for the state.

The regulation of criminal sanctions for fines in criminal provisions includes Article 39 and Article 39A of KUP which is still ineffective in collecting taxes, so there is still a lack of legal norms and emptiness that creates uncertainty in providing a sense of justice and does not yet provide benefits to efforts to save state revenues. , so it needs to be studied comprehensively in relation to the urgency of the regulation of criminal sanctions for the confiscation of assets in non-tax penalties.

There are several researchers who discuss specifically related to criminal sanctions in tax crimes, among others,

- i. *Soeparman (1993) who analyzed the Criminal Law Provisions in Law No. 8 of 1983 concerning General Provisions and Tax Procedures with a focus on the application of administrative sanctions, while this study explored in more detail the aspect of appropriation of assets to recover losses on state revenues, especially from criminal fines*
- ii. *Nahak (2013) who analyzed the politics of Criminal Law in Criminal Acts against the Actors of Taxation Crimes in Indonesia with a focus on the study of the Political Laws of Criminal Acts of Taxation, while the research in more detail studies and discusses the seizure of convicted assets to recover losses of state revenue in criminal acts. taxes especially from criminal fines.*
- iii. *Solihin (2018) who studies the Harmonization of Indonesian Taxation Sanctions with the Criminal Code in the Context of Developing Indonesian Tax Laws with a focus on the study of Criminal sanctions associated with sanctions in the Criminal Code, while this research discusses the deprivation of convicted assets to recover state revenue losses in criminal acts taxes especially from criminal fines.*

So the novelty in this study compared to previous research is to examine in depth the criminal sanctions of confiscation of assets in tax crimes as an effort to recover the loss of state income.

Conceptual Background

The concept of confiscation of assets proceeds of crime in Indonesia currently is confiscation of assets based on the criminal law system, namely confiscation of the proceeds of crime can only be carried out after the perpetrator of the crime has been proven legally in court and has convinced him to commit a criminal act based on a court decision that has obtained permanent legal force, such as which is applied in cases of criminal acts of corruption. . However, based on article 67 of Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering, State Gazette of 2010 Number 122, Supplement to State Gazette Number 5164, regulates the return of assets resulting from crimes through civil law, which is one of the confiscation of assets without through conviction (Ningrum, Ispiyasro, & Pujiono, 2016).

Then as a legal mechanism for the procedure, the Supreme Court issued Supreme Court Regulation (PERMA) Number 1 of 2013 concerning Procedures for Settlement of Requests for Assets in the Crime of Money Laundering was formed to fill the void in

"procedural law" in the implementation of Article 67 of Law Number 8 of 2010 concerning Prevention. and the Eradication of Money Laundering (hereinafter referred to as the TPPU Law). Article 67 of the TPPU Law gives ML investigators the authority to submit applications to the District Court to decide that assets which are known or reasonably suspected to be the proceeds of criminal acts become state assets or returned to those who have the right (Garnasih, 2010). Normatively, in relation to the confiscation of assets resulting from criminal acts, in particular for the purpose of recovering state losses, in Indonesia there are 2 (two) models, but what is adopted in Indonesia is to impose criminal first on the perpetrator as a basis for confiscating assets.

The definition of Asset recovery is a process that includes tracing, securing, maintaining, confiscating, returning and releasing assets of a criminal offense or state property controlled by another party to the victim or those entitled to at every stage of law enforcement. In general, one of the processes for asset recovery is asset smoothing. Article 1 number 13 Regulation of the Attorney General of the Republic of Indonesia Number Per-013 / AJA / 06/2014 regarding asset recovery defines Asset Tracking as a series of actions to seek, request, obtain, and analyze information to find out or reveal the origin of the proposed asset's existence. The focus of asset tracking activities is:

- i. *The priority is to pursue assets resulting from criminal acts*
- ii. *Return all proceeds of crime / other crimes*
- iii. *Identify assets that do not match the profile*

Asset activities can be carried out during the investigation stage which is then continued at the stage of investigation, prosecution, and implementation of court decisions.

At the investigation stage, asset tracing is intended to collect as much information and data as possible, including assets in order to find criminal events, perpetrators and potential Money Laundering (TPPU)..

At the investigation stage, asset tracing can be developed if new information is found related to the assets of the suspect and related parties related to his criminal offenses that have not been discovered at the investigation stage. If there is sufficient preliminary evidence, the investigator can terminate the transaction, block or confiscate the assets related to the alleged criminal act.

At the prosecution stage, asset tracing can be developed if other information is found that has not been found during the investigation and investigation stage, in relation to recovering state losses. At this stage the public prosecutor can submit a request to the judge to make additional confiscation of the proceeds of crime (Article 81 of Law No.8 of 2010 on TPPU).

At the implementation stage of the court decision, if the convict does not pay the replacement money as referred to in Article 18 paragraph (1) letter b of Law No. 31 of 1999, no later than 1 (one) month after the court's decision has obtained permanent legal force, then his property can be confiscated by the prosecutor and auctioned off to cover the money.

Normative Legal Research and a Legal Approach

The type of research chosen is normative legal research or doctrinal legal research, namely legal research that conceptualizes law as the norm (Wignyosoebroto, 2002). The approach used in legal research according to Marzuki (2011) is the statute approach, case approach, historical approach, comparative approach, and conceptual approach. The legal material from normative research can be divided into three namely,

- i. *Primary legal material, is the main legal material in this study, The 1945 Constitution of the Republic of Indonesia, Law No. 6/1983 concerning General Provisions, and the latest Tax Procedures amended by Law No.28 of 2007 (UU KUP), Asset of Appropriation Bill, PP No. 74/2011 concerning the Implementation of Taxpayer Rights and Obligations, Constitutional Court Regulation Number 239 / PMK.03 / 2014 concerning Procedures for Investigating Evidence of Preliminary Criminal Acts in the Field of Taxation, Circular of the Director General of Taxes and Judges' Decisions related to Tax Cases with a permanent legal force.*
- ii. *Secondary legal law, Text books, legal dictionaries, legal journals, and comments on court decisions, dissertations, taxation draft laws, draft assets grabbing laws, and draft laws of the criminal law (Hermansyah, 2009).*

The technique of searching primary and secondary legal materials is done by studying literature and internet searching (Rahardjo, 2006). The analysis technique in this study uses prescriptive analysis, which is a study that explains the state of the object to be examined through the lens of legal discipline (Marzuki, 2011). Legal materials obtained will be processed by systematizing legal materials, primarily primary legal materials based on the KUP Law and related laws and regulations, then analyzed qualitatively based on research and compiled and based on statutory regulations, then linked to theories, theories, principles, and legal norms so that answers are obtained for the problems that are formulated.

Enforcement of tax law that is fair and legal

One aspect to achieve legal objectives is the aspect of justice. Manan (2007), argues that judges are not the mouth of the law, nor are they the mouth of the law. Judges are the mouth of justice that is obliged to decide according to law. But ideally the judge's decision as much as possible should constitute justice, legal certainty, and expediency. Because all three aspects are legal objectives. Rahardjo (2006), states that talking about law is talking about relations between people. Talking about human relationships is about justice.

Discussing justice, as the Indonesian nation, the benchmark for justice is Pancasila, which is the ideology of the Indonesian state. The social justice contained in the 5th precepts of Pancasila contains values which are goals in the life of the nation and state. In the concept of justice, in its development the term substantive justice is often disputed with procedural justice. According to Atmadja (2013), the benchmarks of substantive justice are on the principle of "propriety", while procedural / formal justice is justice expressed in the application of dispute resolution procedures or taking legal decisions, the benchmarks of compliance with procedural law.

The law enforcement of tax crime must reflect Substantive justice other than procedural justice, so that it is truly in accordance with the tax function, namely the function of the budgeter. Prioritizing saving state revenues which are controlled by the perpetrators by means of violating the law. Besides substantive justice and procedural justice, constitutional justice is also known. Constitutional justice can only be achieved if all legal products are in harmony with the fundamental rules of the constitution. Fundamental constitutional rules cannot be separated from the main ideas contained in the Preamble of the 1945 Constitution of the Republic of Indonesia (Asshidigie, 2006).

Observing the essence of substantive justice, procedural justice and constitutive justice, if it is related to the concept of justice in enforcing tax criminal law, both the KUP Law and criminal sanctions that are threatened and imposed on tax offenders must at least reflect the values of justice as contained in the precepts of the Pancasila in particular the precepts of social justice for the whole of the Indonesian people as well as the principles of Fair and Civilized Humanity. UU KUP as a material law, then criminal sanctions in the form of asset confiscation are very important sanctions, because their essence is as an effort to recover losses on state income, which contains the intention as a reflection that the perpetrators of tax crimes are not entitled to enjoy personal benefits, and this is unfair, and is against the law and contrary to the value of social justice for all Indonesian people.

In addition to being fair, the tax enforcement must also fulfill the element of legal certainty. The legal certainty of a law will be created if the law is in written form which is a systematic regulation, fulfilling the hierarchy of laws and regulations mandated by Law of the Republic of Indonesia Number 12 of 2011 concerning Amendment to Law Number 10 of 2004 concerning Formation of Laws and Regulations (State Gazette of the Republic of Indonesia of 2011 Number 82 and Supplement to the State Gazette of the Republic of Indonesia Number 5234).

If there is a conflict between the value of justice and legal certainty then what must take precedence is the value of legal certainty, even though the contents of the law are unfair and do not provide benefits to the community, except at a certain level that cannot be tolerated anymore, the value of justice must take precedence, and the law the defective law must be abandoned. It is very difficult to distinguish which laws are not legal and which are still valid laws accepted as law even though they contain defects. This can happen, for example, when the principle of equality in a law has been deliberately removed, the law is no longer valid as a law. In any case, the existence of a law is still better than the absence of a single law because it creates legal certainty, but legal certainty is not the only value contained in a law, there is still a value of justice and value of expediency. Legal certainty as a characteristic of the existence of a legal system, is in the middle position between the value of justice and the value of benefits because legal certainty is needed not only to provide benefits to the community but also needed to realize justice (Radbruch, 2006).

Comparative study of the arrangement of tax crimes in several countries

Comparative studies of tax crime arrangements in some of these countries, will be limited related to similarities or differences in matters:

- i. *Arrangements for acts classified as tax crime.*
- ii. *Criminal arrangements*
- iii. *Sanction type regulation*

Arrangements for Acts Classified as Tax Crime

China

The Chinese Penal Code is a codification of several criminal acts, ranging from general offenses to specific criminal offenses, the Penal Code is a general criminal provision, whereas for non-crimes specifically regulated in separate laws. The regulation of taxation criminal acts in China is included in the Chapter of crimes disturbing socialist economic order. Based on the KHUP of China, regulating tax offenses is as follows (Putra, 2018):

- i. *Tax crimes in the form of failure to pay or reduce the amount of tax that must be paid by making, changing, hiding or destroying without the right book accounts or vouchers for accounts, or exaggerating costs or eliminating or reducing income in an account book, or refusing to file a refund after the tax authority tells you to do it or file a false tax return.*
- ii. *Criminal acts in the form of refusal to pay taxes*
- iii. *The tax crime is in the form of not paying the proper tax and using the method of transferring or hiding wealth so that the tax authority cannot determine the amount of tax that must be paid.*
- iv. *The tax crime is in the form of filing false export information or by other deceptive methods*
- v. *Tax acts in the form of falsifying special invoices for value added tax.*
- vi. *Tax crimes include falsifying or selling fake invoices specifically for value added tax.*

- vii. *Tax crimes in the form of specifically illegitimate selling special invoices for value added tax*
- viii. *Tax crimes in the form of illegally buying a special invoice for value added tax or buying a special invoice forged for value added tax.*
- ix. *The criminal act of falsifying or making without authorization another tax invoice, which can be used to cheat tax returns for exports or offset the tax money or seller of the invoice.*
- x. *The crime in the form of theft of special invoices for value added tax or other invoices that can be used to cheat export tax returns or to offset tax money.*

The Chinese Penal Code also regulates criminal provisions for tax officials in the chapter on tax crime, while the provisions are regulated in Articles 404 and 405 namely:

- i. *Tax officials who violate personal benefits, fail to collect or reduce tax debt, resulting in large losses to state income.*
- ii. *Tax officials who violate statutory and administrative and regulatory laws, commit violations for personal gain in selling invoices, offset tax debts and make tax refunds on exports, which cause huge losses to the interests of the country.*

The KUP Law in Indonesia also regulates tax crimes involving tax officials as stipulated in Law of the Republic of Indonesia Number 28 Year 2007 Third Amendment to Law Number 6 of 1983 Concerning General Provisions and Tax Procedures Article 36A regulates:

- i. *Tax employees who for their negligence or deliberately calculate or determine taxes that are not in accordance with the provisions of the taxation law are subject to sanctions in accordance with statutory provisions.*
- ii. *Tax officials who carry out their duties intentionally outside their authority set out in the provisions of the taxation laws and regulations, can be reported to the internal unit of the Ministry of Finance which is authorized to conduct examinations and investigations and if proven to do so subject to sanctions in accordance with statutory provisions.*
- iii. *Tax officials who in carrying out their duties are proven to extort and threaten taxpayers to benefit themselves against the law, are threatened with criminal offenses as referred to in Article 368 of the Indonesian Criminal Code.*
- iv. *Tax employees who intend to benefit themselves illegally by abusing their power force someone to give something, pay or receive payment, or do something for themselves, threatened with crime as referred to in Article 12 of Law Number 31 of 1999 concerning Eradication Corruption and its changes.*
- v. *Tax employees cannot be prosecuted, both civil and criminal, if in carrying out their duties based on good faith and in accordance with the provisions of tax legislation.*

Netherlands

General Tax Act 1959 hereinafter referred to as GTA. GTA 1959 does not regulate tax crimes committed by employees of the Directorate General of Taxes. GTA 1959 only regulates criminal acts carried out by taxpayers. Some tax crimes regulated in the 1959 GTA can be grouped into several viz (Putra, 2018):

- i. *The criminal act does not carry out obligations related to taxation;*
- ii. *The criminal act intentionally did not submit a notice;*
- iii. *The criminal act intentionally submits incorrect tax returns;*
- iv. *Crimes against violations of general administrative provisions;*
- v. *The criminal offense is a violation of Ministerial regulations issued based on tax laws.*

GTA does not regulate the crime of forgery of tax invoices which is often as an *modus operandi* to avoid or embezzle taxes. The criminal sanctions used in the 1959 GTA are lighter when compared to the criminal threats contained in the KUP Law. The maximum imprisonment in the 1959 GTA is 6 (six) years for a criminal act that deliberately submits an incorrect tax notification. Imprisonment sanctions are also not used by all criminal acts but only for criminal offenses that do not carry out obligations relating to taxation, the criminal act of intentionally not submitting a tax notification is not true.

Singapore

Singapore tax law is regulated in The Statutes of the Republic of Singapore Goods and Services Tax Act Chapter 117A (Act 31 of 1993 Revised Edition 2005 hereinafter referred to as Singapore GSTA. Singapore GSTA regulates several groups of tax criminal acts regulated in Part IX Offenses and Penalties starting from Article 58 to Article 67 among others:

- i. *Made a mistake again by eliminating or minimizing the output tax Exaggerating the input tax he was required by law*
- ii. *provide inaccurate information in relation to any problems that affect one's own obligations for taxes or the obligations of others or partnerships,*
- iii. *Anyone who intentionally aims to avoid or to help others avoid taxes*
- iv. *Making false statements or entering into returns, claims or applications made under this law;*
- v. *provide incorrect answers, both verbally or in writing, for each question or request for information requested or made in accordance with the provisions of this Law;*
- vi. *make fake account books or other records or consummation or falsification of account books or notes; or*
- vii. *Destroy, damage, delete or manipulate data stored in, or used in connection with the computer for inspection*

- viii. *Violations in relation to goods and invoices ie if everyone obtains ownership or offers with goods or receives a supply of any service, has a reason that the tax on the supply of goods or services or on the importation of goods has or will avoid tax obligations.*

Criminal Arrangements

China

Penalties related to tax crimes as regulated in article 201 to Article 210 provisions on tax criminal acts in China are applied cumulatively, among others, criminal charges based on article 201 that if tax evasion is carried out after twice being subjected to administrative sanctions by the tax authority to avoid tax, it becomes sentenced to a fixed term imprisonment of not more than three years or criminal detention and must also be fined no less than once but not more than five times the amount of tax, if the tax amount avoids the account of more than 30 percent of the total tax debt or more than 100, 000 yuan, convicted with a fixed term imprisonment of not less than three years but no more than seven years and also must be fined no less than once but not more than five times the amount of tax avoided. The equation in Indonesia also applies cumulative penalties both imprisonment and fines, as stipulated in Article 39 of the KUP Law, applies cumulative penalties, namely imprisonment and fines: "..... be sentenced to a minimum of 6 (six) months and a maximum of 6 (six) years and a fine of at least 2 (two) times the amount of tax payable which is not or not fully paid and a maximum of 4 (four) times the amount of tax payable that is not or underpaid. Criminal sanctions in the form of a fine of at least 2 (two) times and a maximum of 4 (four) times the amount of tax payable that is not or not paid.

Based on the KUP Law, criminal law enforcement against taxpayers, as the last remedy or *Ultimum Remidium*, this is based on the Law of the Republic of Indonesia Number 28 of 2007 Third Amendment to Law Number 6 of 1983 concerning General Provisions and Procedures for Taxation, Article 44B set:

- i. *For the purpose of state revenue, at the request of the Minister of Finance, the Attorney General can stop investigating tax crime in the longest period of time within 6 (six) months from the date of the request letter.*
- ii. *Termination of investigation of criminal acts in the field of taxation as referred to in paragraph (1) shall only be carried out after the Taxpayer has paid tax debt that is not or not underpaid and is added with administrative sanctions in the form of a fine of 4 (four) times the amount of tax that is not or underpaid.*

Provisions to stop investigating criminal acts in the field of taxation on the grounds of having made payment of this tax do not apply in tax criminal acts in China. The application of criminal law by applying criminal sanctions in the field of Chinese taxation becomes the main alternative in law enforcement of Chinese taxation. In addition, the act of buying and selling a special tax invoice for value added in China is considered a criminal offense, whereas according to the KUP Law it does not regulate the sale and purchase of tax invoices. The KUP Law does not regulate weighting in tax crimes, whereas in China it regulates tax penalties on the grounds that the amount of tax owed due to criminal acts, tax crimes are carried out at very serious circumstances and tax crimes are committed by one group / unit.

The reason for the imposition of threat of tax criminal sanctions in the Chinese Penal Code is a legal breakthrough that can increase tax revenue, relating to the economy or state finances or the existence of an agreement in committing tax crimes is a relevant reason for aggravating the threat of criminal sanctions. The difference in criminal sanctions between the Chinese Criminal Code and the KUP Law are closely related to the spirit in enforcing tax laws. Indonesian tax law seeks to increase tax revenue through taxpayer awareness, because tax is the most important source of state revenue.

The KUP Law regulates a maximum imprisonment of 6 (six) years in prison, does not regulate weighting, in contrast to the Chinese Penal Code which regulates criminal sanctions in the form of imprisonment for a specified period of maximum 3 (three) years, life imprisonment and capital punishment. The threat of life imprisonment and capital punishment in the Chinese Penal Code is applied if the crime is carried out in a very serious condition and has an impact on the economy or state finances.

Netherlands

The Dutch tax crime is regulated in the General Tax Act 1959 hereinafter referred to as GTA 1959. The penal system in the Netherlands especially against tax crimes still uses the threat of imprisonment for criminal acts in the field of taxation, but the Dutch Penal Code criminal penalties related to tax crime prioritizes the use of sanctions administration and fines. Law enforcement takes precedence over financial penalties rather than imprisoning perpetrators. According to the author's opinion, the actual KUP Law adheres to this system as regulated in the Law of the Republic of Indonesia Number 28 Year 2007 Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures, Article 44B. This method is an effort in the interest of state revenue, which means that law enforcement is in accordance with the legal objectives, namely the principle of expediency.

Singapore

Based on Part IX Offenses and Penalties, the types of criminal sanctions in Singapore use prison penalties and criminal penalties. For sanctions imprisonment there are several levels in accordance with criminal acts, namely imprisonment for 6 (six) months, 12 (twelve) months, 3 (three) years and 7 (seven) years. And for criminal sanctions, fines start from 5,000 (five thousand) Singapore dollars up to 10,000 Singapore dollars. Arrangement of termination of criminal prosecution in Singapore's GSTA limits to violations

that can be compromised while the KUP Law does not limit the termination of prosecution for tax crimes. The different arrangements for stopping the prosecution cannot be separated from the spirit that is the spirit of the Singapore GSTA and the KUP Law. Singapore uses criminal law instruments indeed for law enforcement in the framework of prevention and eradication of tax crimes, while criminal prosecution based on the KUP Law uses criminal legal instruments in order to optimize state revenue from the tax sector.

Sanction Type Regulation

China

The regulation of taxation criminal acts in China is included in the Chapter of crimes disturbing socialist economic order. Criminal sanctions in the Chinese Penal Code are divided into 2 (two) parts, namely the main criminal and additional criminal. The main criminal sanctions in the Chinese Penal Code based on Article 33 are Oversight, Detention, Criminal, Specific time imprisonment, life imprisonment, and capital punishment. The additional criminal sanctions in the Chinese Penal Code as referred to in Article 34 namely Fines, revocation of certain rights, confiscation of property.

The basic Criminal Equation in the Chinese Criminal Code with the main criminal in the Indonesian Criminal Code is to place a prison sentence, capital punishment, the Chinese Criminal Code in its main criminal code specifying a specific time prison and life imprisonment, the difference with the Indonesian Penal Code is listed in the formulation of each violated article. Criminal sanctions for fines in the Penal Code in Indonesia are included as principal crimes, whereas in the Chinese Penal Code, fines are additional crimes. Also in the Chinese Penal Code, the announcement of a judge's decision is not a criminal sanction, whereas in the Indonesian Penal Code as additional criminal sanctions. Related to the types of criminal sanctions in tax crimes in Indonesia in the form of imprisonment and fine. For example, based on article 39 of the KUP Law, namely imprisonment and fines, which are sentenced to a minimum of 6 (six) months and a maximum of 6 (six) years and a fine of at least 2 (two) times the amount of tax owed that is unpaid or underpaid and at most 4 (four) times the amount of tax payable that is not or not fully paid. Criminal sanctions in the form of a fine of at least 2 (two) times and a maximum of 4 (four) times the amount of tax payable which is not paid. The equation in China also applies imprisonment sanctions and fines against tax offenders by including criminal threats :’..... “with a fixed term imprisonment of not more than three years or criminal detention and must also be fined no less than once but not more than five times the amount he refuses to pay: if the situation is serious, he will be sentenced to a fixed term prison of not less than three years but not more than seven years and must also be fined not less than once but not more than five times the amount he refuses to pay ”

Netherlands

The Netherlands as the country of origin of the Criminal Code which is currently applied in Indonesia has changed the rules of his speech with the Criminal Code (*Wetboek van Strafrecht*), hereinafter referred to as the Dutch Penal Code. The development of the Dutch criminal law is very far from leaving the Indonesian criminal law, including aspects of the type of criminal sanctions. The Dutch Criminal Code regulates several criminal sanctions which are divided into basic criminal sanctions and additional criminal sanctions as referred to in Article 9 of the Dutch Criminal Code. The main criminal sanctions in the Dutch Penal Code consist of imprisonment, detention, community service, and fines. Capital punishment penalties in the Dutch Penal Code have been abolished temporarily for the Indonesian Penal Code still applying capital punishment sanctions. The additional criminal sanctions for the Dutch Penal Code are the cancellation or revocation of certain rights, confiscation, announcement of the judge's decision.

Singapore

Singapore is part of countries that adhere to the common law system, but the development of Singapore's law is not limited to criminal or business law provisions, but is also included in tax regulations. Singapore tax law is regulated in The Statutes of the Republic of Singapore Goods and Services Tax Act Chapter 117A (Act 31 of 1993 Revised Edition 2005 hereinafter referred to as Singapore GSTA. Singapore GSTA is a formal tax law such as the KUP Act. Singapore GSTA regulates criminal sanctions for criminal offense namely in the form:

- i. Criminal sanctions for fines, applied at levels ranging from 5000 (five) thousand Singapore dollars to 10,000 (ten thousand) Singapore dollars.
- ii. Imprisonment sanctions, applied in taxation crimes with several levels in accordance with the criminal act, namely imprisonment for 6 (six) months, 12 (twelve) months, 3 (three) years and 7 (seven) years.

Based on a comparative study of tax crime arrangements in the three countries, it can be concluded that:

- i. *The regulation of tax offenses, both China, the Netherlands and Singapore in principle regulates acts that are qualified as criminal acts including reporting improper tax obligations by falsifying invoices or documents, intentionally avoiding taxes so that the tax liability becomes small, as a result the country suffered losses. In the Netherlands it does not regulate tax criminal acts committed by tax officials, whereas in China and Singapore it regulates tax criminal acts committed by tax officials.*
- ii. *Criminal arrangements, in China do not adhere to the provisions of stopping the investigation of criminal acts in the field of taxation, the application of criminal law in the field of Chinese taxation is the main alternative, at. In Singapore Arrangement of termination of criminal prosecution in GSTA Singapore limits for violations that can be compromised,*

Singapore uses criminal legal instruments for law enforcement in the framework of preventing and eradicating tax crimes. In the Netherlands, penalties related to tax crimes prioritize the use of administrative sanctions and financial penalties. Law enforcement takes precedence over financial penalties rather than imprisoning perpetrators.

- iii. *The type of sanctions regulation, in China applies the main criminal sanctions in the form of a specific time imprisonment or life imprisonment or capital punishment is only applied if the tax crime is done very seriously, impacting on the economy or state finances. The additional criminal sanctions in the Chinese Criminal Code as referred to in Article 34 are: fines, revocation of certain rights, confiscation of property. In the Netherlands, the main penal sanctions consist of: imprisonment, detention, community service, fines, and additional criminal sanctions in the form of: cancellation or revocation of certain rights, confiscation, announcement of the judge's decision. In Singapore, imprisonment sanctions and fines are applied in stages according to the level of crime.*

Conclusions

The sanction for confiscation of assets in a tax crime is very important, especially in regards to recovering losses from state opinion, considering that tax crime is an economic crime that is very detrimental to the state. The essence of confiscation of assets in a tax crime in addition to recovering state losses, this sanction is an effort to enforce sanctions in tax crimes that are more pro-legal, namely benefit, because the success of confiscating assets results to finance development according to what is aspired as stated in the Preamble of the 1945 Constitution. Confiscation of assets serves as a complementary / strengthening sanction from criminal fines, which can be used as a guideline regarding the settlement mechanism for the payment of fines if the fines are not paid by taxpayers, this sanction for confiscation of assets is a manifestation of the spirit of the KUP Law, namely collecting taxes the maximum for the welfare of the people.

The urgency of regulating the sanctions of confiscation of assets in tax crimes is very basic and soon to be used as a basis for legality in law enforcement so there are similarities in the application of sanctions in tax crime. Criminal penalties in the KUP Law do not regulate subsidies to replace confinement if the defendant is indeed unable to pay, and does not regulate the mechanism of fine payment, whether voluntarily or through the confiscation of assets. Differences in interpretation of the application of financial penalties in the KUP Law create legal problems which are very detrimental to the state because the state cannot make efforts to seize the proceeds of crime, the injustice of ruling by the judge even though the case is the same, causing legal uncertainty. Given the fine sanctions in the UU KUP contain vague norms, so it is very urgent the need for sanctions of appropriation of assets as an effort to save losses of state revenue, so that justice is soon achieved as mandated in the Pancasila philosophy.

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