

CRIMINAL POLICIES IN TAX LAWS TO INCREASE TAX REVENUE IN THE FIELD OF INCOME TAX.

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ABSTRACT

In general, people are reluctant to pay taxes because taxes do not provide direct rewards (performance) such as buying and selling, exchanging, renting and so on. So with the increasing number of people who lack the awareness to pay taxes, it will directly or indirectly have an impact on the country's economy, on the other hand, if the public has a high awareness of paying tax understands the impact of taxes on society and understands the impact of taxes on individuals and with voluntary and disciplined to pay taxes, the authors are optimistic that the Indonesian nation will not depend on assistance from abroad such as the IMF, World Bank, Paris Club and others, which in the end it is they who determine the economic policy of the Indonesian nation. Hence the Government (Direktorat Jenderal Pajak) demanded to be more incessant in providing information to the public in order to instill tax consciousness. But besides that, there is still a need for sanctions and coercive tools that must be used to force taxpayers who do not comply with the provisions of the Law (Wajib Pajak Non Kooperatif) for the smooth running of the wheels of government, because according to records Direktorat Jenderal Pajak that 70% of state administration costs come from taxes. So the tax law and its implementing regulations do not contain the types of rewards for obedient taxpayers in carrying out tax obligations, either in the form of priorities for obtaining public services or award certificates. The purpose of this study is to determine the policies of Criminal Law in Taxation Law to Increase Income Taxes, and the method used in this research is normative juridical with qualitative data analysis.

Keywords : Policy, Taxation, Income Tax.

ABSTRAK

Pada umumnya masyarakat enggan membayar pajak karena pajak tidak memberikan imbalan (kinerja) langsung seperti jual beli, tukar menukar, sewa dan sebagainya. Sehingga dengan semakin banyaknya masyarakat yang kurang memiliki kesadaran untuk membayar pajak maka secara langsung maupun tidak langsung akan berdampak pada perekonomian negara, sebaliknya jika masyarakat memiliki kesadaran yang tinggi dalam membayar pajak memahami dampak pajak bagi masyarakat. dan memahami dampak pajak terhadap individu dan dengan sukarela dan disiplin membayar pajak, penulis optimis bangsa Indonesia tidak akan bergantung pada bantuan dari luar negeri seperti IMF, World Bank, Paris Club dan lain-lain yang pada akhirnya akan merugikan. merekalah yang menentukan kebijakan ekonomi bangsa Indonesia. Oleh karena itu Pemerintah (Direktorat Jenderal Pajak) dituntut untuk lebih gencar memberikan informasi kepada masyarakat guna menanamkan kesadaran pajak. Namun disamping itu masih diperlukan adanya sanksi dan alat paksa yang harus digunakan untuk memaksa Wajib Pajak yang tidak mematuhi ketentuan Undang-Undang (Wajib Pajak Non Kooperatif) demi kelancaran roda pemerintahan, karena menurut catatan Direktorat Jenderal Pajak bahwa 70% biaya penyelenggaraan negara berasal dari pajak. Sehingga undang-undang perpajakan dan peraturan pelaksanaannya tidak memuat jenis-jenis imbalan bagi Wajib Pajak yang patuh dalam menjalankan kewajiban perpajakan, baik berupa prioritas untuk memperoleh pelayanan publik maupun sertifikat penghargaan. Tujuan dari penelitian ini adalah untuk mengetahui Kebijakan Hukum Pidana dalam Undang-Undang Perpajakan untuk Menaikkan Pajak Penghasilan, dan metode yang digunakan dalam penelitian ini adalah yuridis normatif dengan analisis data kualitatif.

Kata Kunci : Kebijakan, Perpajakan, Pendapatan Pajak.

1. PRELIMINARY

The tax law and its implementing regulations do not contain the types of awards for taxpayers who comply in carrying out tax obligations, either in the form of priority to obtain public services or award certificates. The absence of such regulations may be reasonable considering that taxes are an obligation like a child to serve their parents.

Even though the taxpayer does not receive an award for his compliance in carrying out his tax obligations, namely calculating, calculating, paying, depositing and self-reporting the taxes owed correctly, the taxpayer will be subject to many penalties if he is negligent or intentionally does not carry out his tax obligations. Taxpayers who make these mistakes, penalties or sanctions for taxpayers either in the form of administrative sanctions (the author deliberately does not describe because the author only emphasizes the criminal aspect) or criminal sanctions of confinement and imprisonment. Even though taxpayers have many threats of punishment, taxpayers cannot be treated arbitrarily, even tax laws and regulations provide automatic rights for taxpayers if the Fiscal Authority has not made a decision within a certain period of time.

Since the enactment of the self-assessment system in the Indonesian tax law, it has been regulated that the rights and obligations of taxpayers are regulated in balance with the rights and obligations of the tax authorities (officials of the Directorate General of Taxes) so that taxpayers and tax authorities can properly implement existing provisions. The following are the rights of taxpayers, namely:

a. Taxpayer Confidentiality

Taxpayers have the right to receive confidentially protection for all information that has been submitted to the Directorate. General of Taxes in order to implement tax provisions. Besides that, other parties who carry out tasks in the field of taxation are also prohibited from disclosing the confidentiality of taxpayers, including experts, such as linguists, accountants, lawyers appointed by the Director General of Taxes to assist the implementation of tax laws.

Taxpayer Confidentiality, among others:

- Tax Returns, financial statements and other documents reported by the Taxpayer;
- Data from third parties that are confidential;
- Other Taxpayer documents or secrets in accordance with applicable tax provisions.

b. However in order

Investigation, prosecution or in the context of cooperation with other government agencies, written statements or evidence from or about taxpayers can be given or shown to certain parties determined by the Minister of Finance.

In Law Number 28 of 2007 concerning General Provisions and Tax Procedures as a general provision, it has regulated criminal provisions for violations in the field of taxation related to Income Tax (Law No.36 of 2008 concerning Income Tax) regulates criminal provisions in the field of taxation as follows:

- Article 38 reads :

Everyone who unlawfully obstructs Witnesses and/or Victims so that Witnesses and/or Victims do not receive Protection or assistance, as referred to in Article 5 paragraph (1) letter a, letter i, letter j, letter k, letter l, letter p, Article 6 paragraph (1), Article 7 paragraph (1), or Article 7A paragraph (1), shall be subject to imprisonment for a maximum of 7 (seven) years and a maximum fine of Rp. 500,000,000.00 (five hundred million rupiah).

Imprisonment for a maximum of 1 (one) year and/or a fine of up to 2 (two) times the amount of unpaid or underpaid taxes for a person who due to his negligence:

- a. Not submitting a notification letter; or
- b. Delivering Tax Returns, but the contents are incorrect or incomplete, or attaching information whose contents are incorrect so that it can cause losses to State revenues.

- Article 39 reads:

(1) Imprisonment for a maximum of 6 (six) years and/or a fine of up to 4 (four) times the amount of tax payable that is not paid or is underpaid for a person who intentionally:

- a) Not registering to be given a Taxpayer Identification Number or failing to report their business to be confirmed as a Taxable Entrepreneur; or
- b) Misusing or using without rights the Taxpayer Identification Number or the Confirmation of a Taxable Entrepreneur; or
- c) Failure to submit a notification letter or
- d) Delivering notification letters and or information whose contents are incorrect or incomplete; or
- e) Refuse to be examined or
- f) Showing false or falsified books, records, or other documents; or
- g) Not keeping bookkeeping or record keeping, not paying attention to or not lending books, records, or other documents; or Do not keep books, records, or documents which form the basis of bookkeeping or recording and other documents including the results of data processing from bookkeeping; or
- h) Do not deposit taxes that have been deducted or collected so that they can cause losses to state revenues.

(2) Punishment of 2 (two) times the maximum imprisonment of 6 (six) years and a fine of 2 (two) times the fine of a maximum of 4 (four) times the amount of tax payable which is not paid or underpaid for those who commit Another criminal offense in the field of taxation before 1 (one) year has passed, starting from the completion of serving the prison sentence imposed.

According to the provisions of Article 39 paragraph (1) letter i, criminal provisions are also aimed at tax collectors/collectors who do not deposit taxes that have been withheld or collected. Based on Article 21 paragraph (1) of the Tax Law

Income Number 36 of 2008 is :

- a) Provision of work that pays salaries, wages, honorarium, benefits, and other payments as compensation in connection with work performed by employees or non-employees;
- b) Government treasurers who pay salaries, wages, honorarium, allowances, and other payments in connection with work, services, or activities;
- c) Pension fund agencies that pay pensions;
- d) Agencies that pay honorarium as compensation in connection with services including the services of experts who do free work;
- e) Organizers of activities that make payments in connection with the implementation of an activity.

2. METHOD

This study uses a qualitative method, using secondary data sources, by revealing several theories and tax laws.

3. RESULTS AND DISCUSSIONS

The division of the nature of negligence and intentionality in the Tax Law is in principle the same as the division of the nature of crime in the Criminal Code. If the two articles above are addressed to taxpayers, then Article 41 of the KUP Law is addressed to tax officials (fiskus), which reads in full as follows:

- (a) An official who because of his negligence does not fulfill the obligation to keep secret everything that is known or notified to him by a taxpayer in the framework of his position or work to carry out the provisions of the tax laws and regulations, shall be punished with a maximum imprisonment of 1 (one) year and a maximum fine of Rp. 25,000,000.00 (twenty-five million rupiah).
- (b) An official who deliberately does ons or someone who causes an official's obligations to not be fulfilled, shall be punished with imprisonment for a maximum of 2 (two) years and a fine 50,000,000.00 (fifty million rupiah) at the most.
- (c) Prosecution of criminal acts as referred to in paragraphs (1) and (2) is only carried out on

complaints from people whose confidentiality has been violated.

Criminal sanctions or fines, various kinds of imprisonment or fines are as follows:

- a. Any person who deliberately does not fulfill the data on the obligations of agencies, institutions, associations and other parties who have tax data does not fulfill their obligations shall be subject to imprisonment for a maximum of 1 year or a fine of a maximum of Rp. 1,000,000,000.00. (Article 41c UU KUP paragraph (1).
- b. Any person who deliberately causes government agencies, institutions, associations and other parties who have tax data not to comply with the obligation to submit data to the directorate general of taxes, shall be subject to imprisonment for a maximum of 10 months or a fine of a maximum Rp. 800,000,000.00. (Article 41c UU KUP paragraph (2).
- c. Everyone in the banking sector, public accountants, notaries, tax consultants, or others related to taxpayers, intentionally not providing data and information requested by the Director General of Taxes, shall be subject to imprisonment for a maximum of 10 months or a fine of up to Rp. 800,000,000 ,00. (Article 41c UU KUP paragraph (3).
- d. Everyone who intentionally misuses data and info taxation resulting in losses to the State shall be subject to imprisonment for a maximum of 1 year or a fine of a maximum of Rp. 500,000,000.00. (Article 41c of the KUP Law paragraph (4).

From the three articles above, it appears that there is a balance (fairness) in the tax law, because whoever the person is, both a taxpayer and a tax authority, without exception, if they violate the provisions stipulated in the tax law, they will be prosecuted/punished according to the severity of the mistake. which is conducted. However, it should be kept in mind that officials who will be prosecuted criminally can be carried out as long as there are complaints from people who feel their confidentiality has been violated, which in legal science is called a complaint offense (klachtdelict).

The author needs to remind that, not all acts/crimes committed in the field of taxation are regulated in the tax law, but there are also criminal acts in the Criminal Code.

1. In the provisions of the Criminal Law (KUHP)

- a. The act of bribery committed by a taxpayer or other person is punishable by a criminal penalty in Article 209 of the Criminal Code for a maximum of two years and eight months or a maximum fine of four thousand five hundred rupiahs, that is, anyone who gives or promises something to an official with the intention of encouraging him to do or not do something in his position that is contrary to his obligations.

- b. *Giving False Statements on Oath, Article 242 of the Criminal Code is punishable by imprisonment for a maximum of seven years.*
- c. *Forgery of Letters, Article 263 of the Criminal Code*

Regarding the formulation of the legal elements referred to in Article 263 paragraph 1 this is making fake letters and falsifying letters. Then the first element or offense is with the intention to use or order someone else

- 1. *Any person who makes a forged letter or falsifies a letter which can give rise to a right of engagement or release of debt or which is intended as evidence of something, with the intention of using or instructing other people to use the letter as if the contents were true and not fake, is threatened if such use can cause harm due to forgery of documents with a maximum imprisonment of six years*
- 2. *Will be punished with the same penalty, any person who deliberately uses a fake or forged letter, as if it were genuine, if the use of said letter can cause harm.*
- d. *Unlocking Secrets, Article 322 of the Criminal Code*

Based on Article 322 of the Criminal Code, divulging official secrets, in this case medical secrets, is a crime prosecuted for complaints (klachdelict), if the crime is directed at a particular person.

- 1. Any person who intentionally discloses a secret which he is obliged to keep because of his current or former position or pursuit, shall be punished by a maximum imprisonment of nine months or a maximum fine of nine thousand rupiahs.
- 2. If a crime is committed against a certain person, then that act can only be prosecuted on complaints from others.

- e. *Extortion and Threats, Article 368 of the Criminal Code*

Furthermore, the article explains that whoever, with the intention of unlawfully benefiting himself or another person, forces someone by force or threat of violence to give an object, which is wholly or partly owned by that person or another person, or to make a debt or writing off debts, is punishable by extortion, with a maximum imprisonment of nine months.

- 1. *Whoever with the intention to benefit himself or another person unlawfully, forcing a person by force or threat of violence to give something, which wholly or partly belongs to that person or another person or in order to make a debt or write off a debt, is threatened with extortion with a maximum imprisonment of nine years .*

f. Embezzlement, Article 372 of the Criminal Code

According to Andi Hamzah (2010:108) the core part of the crime of embezzlement as stipulated in the article of the Criminal Code is that the first is intentional, the second is against the law, the third is possessing an item, the fourth is wholly or belonging to another person, the fifth is that which is in his power not because of a crime.

Any person who with deliberate intent and unlawfully owns property which wholly or partly belongs to another person, but which is not under his control because of a crime, is threatened with embezzlement by a maximum imprisonment of four years or a maximum fine of nine hundred rupiahs. Criminal acts in the field of taxation expires so that it cannot be ten years from the time:

- Taxes payable.
- Expiration of Tax Period.
- Expiration of Part of Tax Year, or
- The end of the relevant Tax Year.

This seems to imply that taxpayers, especially those registered at KPP Pratama Medan Polonia, can have an open mind and understand the problems of this country through the implementation of their tax rights and obligations in accordance with applicable laws, while the tax authorities and staff are also open and understand that the Directorate General of Taxes is still must be fixed.

In other words, together, the tax authorities and taxpayers are inseparable partners. And we must realize such a paradigm somehow as a sense of our shared responsibility to the State.

As it has been agreed with the Directorate General of Taxes that the Sunset Policy is a special policy in the form of exemption from fines and interest for those who are late paying tax deficiencies, it is hoped that taxpayers will check again whether so far they have fulfilled their tax obligations properly and correctly. If not, of course there is still an agreement to repair it again according to the rules in force.

All of this is ready and will continue to be implemented by the Medan Polonia Primary Tax Service Office (KPP) until in the future this vision can be realized. So that in the end it can contribute to increasing tax revenues, especially in the field of income tax and voluntary taxpayer compliance.

4. CONCLUSION

The tax law and its implementing regulations do not contain types of awards for taxpayers who comply in carrying out tax obligations either in the form of priority to obtain public services or award certificates. The absence of such regulations may be reasonable considering that taxes are an obligation like a child to serve their parents.

Even though taxpayers are not rewarded for their compliance in carrying out tax obligations, namely calculating, calculating, paying, depositing and self-reporting taxes owed correctly Taxpayers will be subject to many penalties if they are negligent or deliberately do not carry out their tax obligations. Taxpayers who commit these mistakes, penalties or sanctions for taxpayers either in the form of administrative sanctions or criminal sanctions of confinement and imprisonment. Even though taxpayers have many threats of punishment, taxpayers cannot be treated arbitrarily, even tax laws and regulations provide automatic rights for taxpayers if the Fiscal Authority has not made a decision within a certain period of time.

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