

Legal Certainty Of The Application Of The Systematic Lex Specialis Principle In Indonesian Criminal Tax Law

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ABSTRACT

This study examines legal certainty in applying the *lex specialis systematicis* principle within Indonesian criminal tax law. As a branch of special criminal law (*bijzonder strafrecht*), tax law faces enforcement issues due to overlap and potential conflict with general criminal provisions in the KUHP. The principle asserts that a rule is “special” if designated by the legislator or if it deviates from other specific norms, ensuring tax law is applied within clear legal boundaries. The research uses a juridical-normative method with statutory and conceptual approaches. It analyzes relevant legislation on taxation and general criminal law, alongside legal doctrines, expert opinions, and court decisions. Findings show that Indonesian criminal tax law possesses systematic specificity, meaning tax provisions should take precedence over general criminal rules in handling tax offenses. This applies to both substantive and procedural aspects, including offense classification, sanctions, and mechanisms such as limited reverse burden of proof. However, debate persists بشأن whether criminal tax law fully qualifies as special criminal law and whether the *lex specialis systematicis* principle applies absolutely. Legal certainty remains challenged by inconsistent interpretation and application. The study concludes that stronger legal harmonization and consistent jurisprudence are required to ensure clarity, fairness, and reliability in tax law enforcement.

Keywords : Legal certainty, *lex specialis systematicis*, criminal tax law.

INTRODUCTION

The realization of national development by the Government requires very large costs, so that if the availability of funds is insufficient, it will be difficult to implement national development which is the practice of Pancasila as the philosophical basis of everything that lives in Indonesian society, including all laws based on Pancasila, including strict tax laws, both for the state and for its citizens, so regarding taxes in a state of law, everything must be stipulated in the Law. This is regulated in the 1945 Constitution, article 23A after the third amendment stated that: "Taxes and other compulsory levies for state purposes

are regulated by law." Only the state can impose taxes and it is certain for the purposes of carrying out state activities.

Tax is the most important source of state revenue and is collected based on the provisions of applicable laws and regulations and to implement it, a Decree of the Minister of Finance is issued up to the Decree of the Directorate General of Taxes (Ditjen Pajak) as a government institution that assists in the task and responsibility of collecting domestic revenue from the tax sector to finance the budget for the implementation of government public services and national development.

Tax collection must be carried out in accordance with law, considering that taxes represent a transfer of wealth from the people to the government, for which there is no direct tangible reward. The transfer of wealth from one party to another can occur through proper means and with the owner's permission, or it can also occur without the owner's permission. The requirements for tax collection, which must be based on law, are intended to obtain the consent of the people. This is because the mechanism for establishing laws is always carried out through the consent of the people, namely through the approval of the House of Representatives as the people's representative.

A country's income comes from its citizens through taxes. Taxes are the most important source of revenue for the state. This income is used for public interests, which ultimately also encompass individual interests such as public health, education, welfare, and so on. Therefore, where there are public interests, there are taxes, because taxes are intertwined with the public interest.

Tax is a financial fee or burden imposed by the government on individuals, organizations, transactions, or property to generate public revenue. Philosophically, tax is considered a manifestation of public awareness and participation, and in Indonesia, this is realized through the implementation of the Self-Assessment system. This system gives taxpayers full trust in calculating, paying, and reporting their own taxes in accordance with applicable laws.

Discusses tax sanctions regulated in Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times, most recently by Law Number 16 of 2000 (hereinafter referred to as the 2000 KUP Law), and its changes with the enactment of Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures (hereinafter referred to as the 2007 KUP Law). Tax sanctions include administrative sanctions and criminal

sanctions. The form of administrative sanctions in question includes administrative sanctions in the form of interest, fines and increases. While regarding criminal sanctions include criminal violations and criminal crimes. The purpose of conveying the imposition of tax sanctions is so that it can be understood so that it will increase tax compliance and ultimately increase tax revenue.

With the enactment of the 2007 General Tax Provisions Law (hereinafter referred to as the 2007 KUP Law), the provisions regarding criminal sanctions have undergone very fundamental changes, namely in the number of articles and paragraphs added, the amount of criminal sanctions and related fines also increased. The addition of articles, paragraphs and the more severe criminal sanctions in the 2007 KUP Law indicate that starting with the enactment of Law Number 28 of 2007, namely January 1, 2008, the implementation (enforcement) of the imposition of criminal sanctions will be carried out more seriously. The changes to the provisions regarding criminal sanctions from the provisions in the 2000 KUP Law compared to the provisions in the 2007 KUP Law are as follows:

- a. For any person who due to negligence does not submit an SPT, or submits an SPT whose contents are incorrect or incomplete, in the 2000 KUP Law "only" the following criminal sanctions will be imposed:
 1. Imprisonment for a maximum of 1 (one) year or a maximum fine of 2 (two) times the amount of tax not or underpaid, and in the 2007 KUP Law this was changed to a criminal offence;
 2. Imprisonment for a minimum of 3 (three) months and a maximum of 1 (one) year, or a fine of at least 1 (one) times the amount of tax not or underpaid and at most 2 (two) times the amount of tax owed that is not or underpaid.

In addition, in the 2007 KUP Law, the scope of violations that can be subject to criminal sanctions is supplemented by the provision that "the act is an act subsequent to the first act as referred to in Article 13A." Article 13A of the 2007 KUP Law stipulates that:

"Taxpayers who due to negligence do not submit a notification letter or submit a notification letter, but the contents are incorrect or incomplete so that it can cause losses to state revenue, will not be subject to criminal sanctions if the negligence is committed for the first time by the Taxpayer and the Taxpayer is obliged to pay off the underpayment of the amount of tax owed along with administrative sanctions in the form of an increase of 200% (two hundred percent) of the amount of tax underpaid which is determined through the issuance of a Tax Underpayment Assessment Letter."

- b. Against any person who intentionally does not register or misuses or uses without the right the NPWP or PKP, or does not submit an SPT, or submits an SPT and or information that is incorrect or incomplete, or refuses to be audited, or shows bookkeeping, records or other documents that are false or falsified as if they were true, or does not keep bookkeeping or records, does not show or does not lend books, records or other documents or does not deposit taxes that have been deducted or collected, so that it can cause losses to state revenue, based on the 2000 KUP Law:
- 1) shall be punished with a maximum prison sentence of 6 (six) years and a maximum fine of 4 (four) times the amount of tax owed that is not or is underpaid, and with the 2007 KUP Law this is amended to;
 - 2) shall be punished with imprisonment of at least 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 not or underpaid and at most 4 (four) times the amount of tax owed that is not or underpaid.
 - 3) The criminal penalty in Article 39 paragraph 1 is increased by 1 (one) time to 2 (two) times the criminal sanction if a person commits another crime in the taxation sector before 1 (one) year has passed since the completion of the prison sentence imposed.

In the 2000 KUP Law, it is stipulated that any person who attempts to commit a criminal act by misusing without the right to a NPWP or PKP confirmation, or submitting an SPT and/or information whose contents are incorrect or incomplete, in order to submit a request for restitution or to obtain tax compensation.

- 1) In the 2000 KUP Law, the penalty is a maximum prison sentence of 2 (two) years and a maximum fine of 4 (four) times the amount of restitution requested and/or compensation, and in
- 2) The 2007 KUP Law was amended by adding the phrase "tax crediting", while the criminal sanctions were changed to be punished with imprisonment for a minimum of 6 (six) months and a maximum of 2 (two) years and a fine of at least 2 (two) times the amount of restitution requested and/or compensation or crediting made and a maximum of 4 (four) times the amount of restitution requested and/or compensation or crediting made.

In the 2000 KUP Law and the 2007 KUP Law, several articles are regulated regarding criminal penalties for officials, these provisions are as follows.

1. Officials who due to their negligence inform another party about anything or are informed to them by Taxpayers in the context of their position or work, based on the KUP Law, are subject to a maximum imprisonment of 1 (one) year and a maximum fine of Rp. 4,000,000.00 (four million rupiah), whereas in the 2007 KUP Law, the imprisonment remains unchanged, while the fine is changed to a maximum of Rp. 25,000,000.00 (twenty-five million rupiah).
2. Officials who intentionally do not fulfill the obligation to not inform other parties of anything that is notified or disclosed to them by the Taxpayer in the context of their position or work, based on the 2000 KUP Law, are subject to a maximum imprisonment of 2 (two) years and a maximum fine of Rp. 10,000,000.00 (ten million rupiah), while with the amendment to the 2007 KUP Law, the criminal sanction of imprisonment remains the same, and the fine sanction is changed to a maximum of Rp. 50,000,000.00 (fifty million rupiah).
- c. The provisions for imposing other criminal sanctions stipulate that; Any person who according to Article 35 of the KUP Law is obliged to provide information or evidence requested but intentionally does not provide or provide evidence, or provides information or evidence that is not true based on the 2000 KUP Law shall be punished with imprisonment for a maximum of 1 (one) year and a maximum fine of Rp. 10,000,000.00 (ten million rupiah), and with the changes in the 2007 KUP Law, the prison sentence remains unchanged while the fine is changed to a maximum of Rp. 25,000,000.00 (twenty five million rupiah).
- d. The imposition of criminal sanctions is also regulated as follows: Any person who intentionally obstructs or complicates the investigation of criminal acts in taxation, based on the 2000 KUP Law, shall be punished with a maximum imprisonment of 3 (three) years and a maximum fine of Rp. 10,000,000.00 (ten million rupiah) and changed to a fine of Rp. 75,000,000.00 (seventy five million rupiah) in the 2007 KUP Law, while the imprisonment remains unchanged.

Sanctions for violations of tax law (tax evasion) can also be imposed on third parties and tax officers who, in carrying out their duties, violate the provisions of tax regulations or other related provisions (in this case the Criminal Code and the Corruption Crime Law).

On the other hand, it must be remembered that criminal sanctions are essentially *ultimum remedium*. Regarding the concept of restorative justice, the primary goal of restorative justice is restoration, while the secondary goal is compensation. This concept can be interpreted as the process of law enforcement or handling criminal acts through a restorative approach is a process of resolving criminal acts that aims to restore the situation, including compensation through certain methods agreed upon by the parties involved. The main principle of resolving criminal acts through a restorative approach is a solution that is not merely a tool to support someone to reach a compromise towards an agreement. Rather, the approach in question must be able to penetrate the hearts and minds of the parties involved in the resolution process in order to understand the meaning and purpose of carrying out a recovery, and the form of sanctions applied must be restorative or preventative sanctions. Thus, the restorative approach can actually be applied not only in civil cases, but also in administrative and criminal cases, as can also occur in taxation cases. Every law student in the first semester is taught the three principles of preference in legal dogmatics.

1. *Lex superior derogat legi inferior*(higher rules override lower rules).
2. *Lex posteriori derogat legi priori*(the new rule overrides the previous rule).
3. *Lex specialis derogat legi generali*(special rules override general rules).

For countries that follow the Continental European tradition – including Indonesia – the regulation of criminal acts is carried out through a codification system, namely including all criminal acts in the Criminal Code except for military crimes and tax crimes that are regulated outside the Criminal Code. The principle of *lex specialis derogate legi generali* is very important, especially in the aspect of law enforcement. In doctrine, military criminal law is referred to as *ius speciale* because the imposition of law is based on the offender and not offenses. This means that if a member of the military, even if they commit a general violation, is still tried using military criminal law. Likewise, tax criminal law is known in the context of doctrine as *ius singular* because it has a more economic nature and characteristics in order to obtain the greatest possible state revenue.

This is explicitly regulated in Article 63 paragraph (2) of the Criminal Code which states that "If an act falls within a general criminal regulation, it is also regulated in a special criminal regulation, then the special one is the one that is applied." 4 However, if an act is regulated by more than one law that is a special criminal law, then the problem becomes complicated, especially in terms of law enforcement because there will be overlapping

authority from various law enforcement officers, especially the authority of the Police and Civil Servant Investigators (PPNS).

Legal challenges faced in the face of the growth of specialized criminal law outside of codification have given rise to the development of the principle of *lex specialis derogat legi generali* into *Lex Specialis Systematis*. In another case, Jolly Rusli, an employee of the Aceh Singkil branch of Bank Aceh Syariah (BAS), was legally and convincingly proven to have embezzled Rp 1.4 billion in regional tax funds. This corruption took place between 2017 and 2019 and was only uncovered in 2020.

The method used was to exploit the password of another employee who had access to the Bank Aceh Pusat system. The perpetrators typically operated during work breaks. The collected regional taxes were deposited at the local Bank Aceh branch, and then the funds were transferred to the central office in Banda Aceh. It was during this process that Jolly committed embezzlement. While the perpetrator could have been charged with tax evasion, the judge preferred the criminal corruption charge.

RESEARCH METHODS

The normative legal research method (Normative Legal Research) is a scientific research procedure to find the truth based on the logic of legal science from its normative side. This qualitative research analyzes a problem-solving issue by collecting data as research material. The legal sources used in the research can be data obtained through literature and/or directly from the community. Data obtained directly from the community is called primary data, while data obtained through literature and documentation is called secondary data.

RESULTS AND DISCUSSION

The Implementation of Criminal Tax Law Meets the Criteria as *Lex Specialis Systematis*

Tax criminal law holds a unique position within the Indonesian legal system. On the one hand, tax crimes are part of criminal law and are subject to the general principles of the Criminal Code (KUHP). However, on the other hand, the criminal provisions in the Law on General Provisions and Tax Procedures (UU KUP) have specific characteristics that distinguish them from general criminal provisions. The question that arises is whether tax

criminal law can be categorized as *lex specialis systematici*, overriding the general criminal provisions in the KUHP.

Lex Specialis Systematis is a development of the classic principle of *lex specialis derogat legi generali*, which states that special rules override general rules. This development arises when there is a conflict between rules that are both special in nature, so that it is necessary to determine the systematic priority of their application. In the Indonesian legal system, this principle obtains normative legitimacy from Article 63 paragraph (2) and Article 103 of the Criminal Code, which provides a strong position for tax criminal law as *lex specialis*.

The uniqueness of tax criminal law lies in its orientation, which is not solely repressive, but also preventive and restitutive. Tax criminal law emphasizes compliance and the restitution of state losses rather than mere punishment. Historically, the development of this principle is inseparable from the complexity of modern society, which requires a more specific legal approach, particularly post-reform with the proliferation of sectoral laws. From a legal theory perspective, *Lex Specialis Systematis* embodies the principle of proportionality in law enforcement, which aligns with the constitutional mandate for fair and certain legal protection.

The application of *Lex Specialis Systematis* in tax law creates legal certainty in the tax criminal justice system. This is realized through the provisions of the General Provisions and Tax Procedures Law, which defines tax law as special provisions governing the relationship between the government and taxpayers. This specificity is reflected in the dispute resolution mechanism, which begins at the administrative level and continues through the Tax Court before being transferred to the general judicial system. The Supreme Court, through its various decisions, has consistently recognized the special status of tax criminal law, creating legal certainty for law enforcement officials and taxpayers.

Tax criminal law meets the criteria as *Lex Specialis Systematis* through several fundamental aspects. From a substantive perspective, there are specific provisions, such as Article 39 of the Tax Law, which regulates sanctions for taxpayers who fail to submit tax returns or submit false tax returns. Formally, tax law grants special authority to Tax Officials (PPNS) to conduct investigations. From a legal perspective, this provision applies only to taxpayers and tax officials, not to all citizens. The existence of the Tax

Court, a specialized court with judges with specialized expertise in taxation, further strengthens this position.

In law enforcement practice, the application of the principle of *Lex Specialis Systematis* shows complex dynamics, especially in relation to criminal law on corruption. Cases like *Gayus Tambunan's* demonstrate that when bribery is present, the case is more appropriately classified as a criminal act of corruption, even if it stems from tax jurisdiction. Conversely, the *Asian Agri* case and Supreme Court decision No. 3343 K/Pid.Sus/2019 demonstrate the courts' consistency in applying the General Provisions and Taxation Law as *lex specialis* despite indications of corruption.

Tax criminal law has a mechanism for expungement of criminal penalties not found in general criminal law. Under the provisions of the Tax Procedures Law, tax crimes can be expunged if the taxpayer voluntarily discloses the wrongdoing and pays the tax shortfall and administrative sanctions before an investigation is conducted.

This mechanism reflects the primary objective of tax law, which is to optimize state revenue rather than punish offenders. Criminal sanctions in taxation serve more as an *ultimum remedium*, or last resort after administrative efforts have been ineffective. This philosophy differs significantly from general criminal law, where the expungement of criminal penalties is only possible through very limited mechanisms such as the statute of limitations or abolition.

Tax crime investigations are conducted by Civil Servant Investigators (PPNS) within the Directorate General of Taxes, not by the police, as is the case for general crimes. Tax PPNS have specific powers stipulated in the Tax Procedures Law, including requesting information from taxpayers, conducting site inspections, and accessing banking data.

Furthermore, prosecution of tax crimes requires written permission from the Minister of Finance. This provision gives the government discretion to determine whether a case will be prosecuted criminally or resolved administratively. This mechanism is not found in general crimes, where the prosecutor's office can directly prosecute without permission from the executive branch.

The application of this principle has important implications, including preventing overlap between the General Taxation Law and the Corruption Law, providing legal protection and certainty for taxpayers, supporting the optimization of state revenues, and contributing to the development of the concept of restorative justice in tax law. However, clear guidelines are needed regarding the boundaries between pure tax crimes and tax-

related corruption, as well as increasing the capacity of law enforcement officials to understand the specific characteristics of tax criminal law to maintain consistency and legal certainty.

Legal Certainty Regarding the Application of the Purpose Principle in Tax Crimes in Indonesia

Legal certainty in Indonesian tax criminal law is firmly grounded in philosophical, juridical, and sociological perspectives. Philosophically, taxes are viewed as an embodiment of the principle of national mutual cooperation rooted in the values of Pancasila, and therefore their collection must be carried out fairly, transparently, and accountably. From a legal perspective, Article 23A of the 1945 Constitution stipulates that taxes and other compulsory levies for state purposes must be regulated by law, placing legal certainty as a fundamental pillar. Meanwhile, sociologically, legal certainty in taxes is crucial for maintaining public trust and encouraging voluntary compliance, which is the basis of the self-assessment system.

In legal theory, Gustav Radbruch stated that the objectives of law consist of justice, utility, and legal certainty which can interact with each other and even conflict. Legal certainty is seen as a minimum requirement for justice to be realized. Sudikno Mertokusumo added that legal certainty guarantees that the law is enforced consistently, non-discriminatorily, and predictably. Jan M. Otto offers six dimensions of legal certainty: clarity of rules, consistency between rules, government compliance, consistency of court decisions, public acceptance, and long-term predictability.

Tax criminal law has unique characteristics that distinguish it from general criminal law. First, it is positioned as *Lex Specialis Systematis*, standing as a separate legal system with specific characteristics and mechanisms. Second, it applies the principle of *ultimum remedium*, meaning criminal sanctions are only imposed when administrative instruments are no longer effective. Third, it is administrative-criminal in nature because it arises from a violation of administrative obligations but can result in criminal consequences if it results in losses to state revenues.

The relationship between the principle of objective (*doelmatigheid*) and the principle of legal certainty (*rechtmatigheid*) should be viewed as two complementary aspects. The principle of objective emphasizes effectiveness in achieving recovery of state losses, while the principle of legal certainty emphasizes consistent enforcement of regulations

without discrimination. Both must operate in balance to create an effective and fair tax criminal law system.

However, in practice, various legal certainty issues arise. The main issue is the regulatory disharmony between the General Provisions and Procedures Law and the Criminal Code (KUHP), the Corruption Law, the Banking Law, and the Money Laundering Law. This disharmony creates uncertainty when law enforcement officials must determine the appropriate legal basis. The lack of clear technical regulations distinguishing administrative and criminal boundaries exacerbates the situation, leaving authorities with too much room for interpretation.

Problem The next issue is the overlapping authority of law enforcement officials. Handling tax crimes involves civil servants from the Directorate General of Taxes, the police, the prosecutor's office, and the Corruption Eradication Commission (KPK). This difference in authority often leads to jurisdictional disputes, particularly in tax cases intersecting with corruption. Weak coordination between institutions leads to ineffective law enforcement and creates conflicts of interest.

The application of tax penalties faces a dilemma between two distinct functions. On the one hand, criminal sanctions must have a deterrent effect to prevent taxpayers from committing violations. On the other hand, in accordance with the principle of objective, sanctions must encourage optimal state revenue. These two functions are not always aligned and can even contradict each other in practice.

When tax authorities choose the criminal route, lengthy legal proceedings can delay or even hinder the recovery of state losses. Conversely, if criminal sanctions are too easily waived with tax payments, the deterrent effect is reduced and can encourage moral hazard, where taxpayers believe they can easily avoid punishment by paying after being caught. Legal certainty requires clarity on how tax authorities decide between administrative and criminal channels. Objective parameters such as the amount of state losses, the severity of the offense, recidivism, and the taxpayer's cooperative intentions need to be clearly defined to avoid inconsistencies or discrimination in law enforcement.

Inconsistency in court decisions is also a serious problem. Many judges' decisions differ in their interpretation of criminal tax law as *Lex Specialis Systematis*. In some cases, judges classify taxes as merely administrative law, while in other cases, criminal penalties are imposed without prior consideration of administrative resolution. This lack of consistency reduces legal predictability and undermines taxpayer and investor confidence.

The risk of over-criminalization and the potential for impunity are also problematic. Over-criminalization occurs when administrative violations are immediately brought to the criminal court. Conversely, impunity arises from legal loopholes, such as investigations being stopped after arrears are paid without criminal liability. Both of these conditions undermine the function of tax criminal law.

The regulatory conflict between the Tax Crimes Law and the Corruption Eradication Law is a major source of uncertainty. The Tax Procedures Law stipulates that tax crimes be resolved through administrative mechanisms first, with criminal sanctions being *ultimum remedium*. However, the Corruption Eradication Law classifies crimes that cause losses to state finances as corruption, without distinguishing whether the losses arise from unfulfilled tax obligations. In some cases, authorities immediately classify late or manipulated tax reporting as corruption, when in fact, these should be resolved through correction mechanisms and administrative sanctions first.

Problems also arise when tax law intersects with the Banking Law. The Banking Law guarantees bank secrecy to protect customer rights, while the Tax Procedures and Tax Procedures Law authorizes the Directorate General of Taxes to obtain access to banking data for compliance audits. This conflict between the principle of bank secrecy and the need for transparency of tax data often presents an obstacle to proving evidence in tax crimes.

To achieve legal certainty, various efforts are necessary. Regulatory harmonization is a fundamental step to address overlapping and conflicting norms between various laws. Aligning the General Provisions and Procedures Law with the Criminal Code, the Corruption Law, the Banking Law, and the Money Laundering Law is crucial so that law enforcement officials have clear guidelines for determining the appropriate legal basis.

In criminal tax law, there is a reverse burden of proof, placing the burden on the taxpayer to prove the accuracy of the data they report. This differs from general criminal law, which adheres to the full presumption of innocence, requiring the public prosecutor to prove the defendant's guilt.

The application of the reverse burden of proof aligns with the objective principle, as taxpayers are in the position to best understand their own financial and business conditions. The self-assessment system in Indonesian taxation empowers taxpayers to calculate and report their own taxes, so it's only natural that taxpayers are also burdened with proving the accuracy of their reports.

However, from the perspective of legal certainty and human rights protection, the reverse burden of proof system must be implemented carefully. There must be clarity regarding what taxpayers must prove and the required standard of proof. Without this clarity, taxpayers can be placed in a very weak position and vulnerable to abuse of authority.

Synchronization of norms between the KUP Law and the Banking Law is urgent. A possible solution is to limit access to financial data to specific purposes, detailed in implementing regulations, for example, only if there is sufficient preliminary evidence of suspected tax crimes. Indonesia could also adopt an internationally standardized exchange of information mechanism to ensure more transparent access to banking data under strict oversight.

The development of clear technical regulations defining the boundaries between administrative violations and tax crimes is urgent. These regulations can be outlined in a Government Regulation or a Minister of Finance Regulation, explicitly defining the parameters for when an act is subject to only administrative sanctions and when it should proceed to the criminal realm. Differences in the amount of state losses, the degree of intent, and the frequency of violations can serve as indicators.

Strengthening the tax criminal justice system is also crucial. Emphasizing the role of the Tax Officials (PPNS) as the frontline in handling tax crimes is crucial, with limited coordination with the Police and the Prosecutor's Office. A clear coordination mechanism, such as a permanent coordination forum between the Directorate General of Taxes (DGT), the Police, the Prosecutor's Office, the Financial Services Authority (OJK), and the Financial Transaction Reports and Analysis Center (PPATK), is needed to prevent sectoral egos and strengthen the integration of the criminal justice system.

At the prosecution stage, a special tax prosecutor with expertise in taxation and forensic accounting is needed to ensure a more consistent prosecution process and align with tax law. The Supreme Court also needs to develop specific guidelines for handling tax cases to ensure consistency in judicial decisions.

Institutional reform is essential to ensure effective tax law enforcement while ensuring legal certainty. One option is the establishment of a tax criminal court or a special tax chamber within the general judicial system, in line with the practice in several countries that already have specialized tax courts. The establishment of a special chamber would facilitate consistency in decisions because judges would have specialized training in taxation.

Legal certainty in the application of the objective principle is also influenced by how the tax criminal system interacts with the general criminal justice system. Although the KUP Law provides specific provisions for investigation and prosecution, the trial process still follows general criminal procedure law (KUHAP). This can create tension between the logic of the objective principle in tax law and the logic of punishment in general criminal law.

Judges examining criminal tax cases do not always have a thorough understanding of the specific characteristics of tax law and the underlying objective principles. As a result, in some cases, court decisions are inconsistent with the goal of optimizing state revenue. For example, decisions focus on retribution without considering the recovery of state losses. To achieve legal certainty, it is necessary to increase the capacity of law enforcement officials, particularly judges, regarding the specific characteristics of tax crimes. Furthermore, the establishment of special courts or special tribunals to handle tax crime cases could be considered, so that decisions are more consistent and in line with the principles and objectives of taxation.

Institutional reform also includes enhancing the capacity of law enforcement officers through ongoing training in tax law, accounting, and financial crimes. Integrating information technology into the digitalization of audit, investigation, and judicial processes can expedite case resolution and increase transparency. An independent oversight body is also needed to ensure that tax officials do not abuse their authority.

Ultimately, certainty in tax criminal law will not be achieved through regulation alone, but requires institutional synergy, apparatus capacity, technology, and integrity. Thus, tax law can function optimally as *Lex Specialis Systematis*, protecting the state's fiscal interests while ensuring fairness for taxpayers, maintaining a balance between fiscal effectiveness and human rights protection.

CONCLUSION

- A. DecisionThe Criminal Tax Law has met the criteria of *Lex Specialis Systematis*, a special law that forms a separate system to resolve conflicts between specific criminal law provisions. As a special law, the Criminal Tax Law has unique characteristics not regulated in the Criminal Code. Its specificity lies in the object of protecting the state's fiscal interests and the application of the *ultimum remedium*

principle, where criminal sanctions are a last resort after administrative sanctions are not complied with. The systematic nature of the Criminal Tax Law is evident from its provisions that form a complete unity in the KUP Law. Criminal provisions are closely linked to material and formal tax provisions through a clear hierarchical mechanism, starting from audits and issuing tax assessments to criminal proceedings. With a complete and closed system, the Criminal Tax Law in its application overrides the general provisions of the Criminal Code and other special criminal laws such as the Corruption Crime Law and the Banking Law.

- B. The application of the objective principle in tax crimes in Indonesia creates legal uncertainty due to the tension between legal certainty guaranteed by the principle of legality and justice and expediency. The main problem arises from regulatory disharmony, where the General Prosecution Law, which should be *lex specialis*, often overlaps with the Criminal Code, the Corruption Law, and the Banking Law. This is compounded by the lack of clear technical regulations that distinguish administrative and criminal boundaries. This creates excessive room for interpretation for law enforcement officials. The problem is exacerbated by overlapping authority between the Directorate General of Taxes' Civil Servants (PPNS), the Police, the Prosecutor's Office, and the Corruption Eradication Commission (KPK) in handling tax crimes, particularly in cases intersecting with corruption. Weak inter-agency coordination leads to ineffective law enforcement and creates a conflict between the state's fiscal interests and criminal law enforcement. Furthermore, inconsistent court decisions in interpreting the status of tax crimes as *lex specialis systematica* further exacerbates legal uncertainty in Indonesia's integrated criminal justice system.

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