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THE URGENCY OF REFORMULATING CORPORATE CRIMINAL LIABILITY IN TAX CRIMES IN INDONESIA

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Abstract. *This study examines the urgency of reformulating corporate criminal liability regulations in tax crimes, which have become increasingly complex and detrimental to state finances. Although corporations have been recognized as legal subjects in various regulations, the KUP Law has not explicitly regulated the criminal liability mechanism for corporations as perpetrators of tax crimes. As a result, criminal liability is more often imposed on corporate management, while legal entities, as the main beneficiaries, are not directly held accountable. This study uses a normative juridical approach by analyzing theoretical frameworks, comparative studies, and judicial practices, including the Asian Agri case and the West Jakarta District Court's decision. The findings show that the absence of an explicit criminal liability formulation for corporations in the KUP Law leads to weak legal certainty and reduces the effectiveness of tax law enforcement against legal entities. Therefore, it is necessary to reformulate norms that expressly establish a criminal liability mechanism for Corporate Taxpayers in the KUP Law, harmonize with the 2023 Criminal Code, and optimize the implementation of PERMA No. 13 of 2016. This reformulation is essential to build a tax system that is fair, effective, and responsive to corporate tax crime modes.*

Keywords: *Corporate Taxpayer; Criminal Liability; Legal Reform; Tax Crime; Tax Law.*

1. Introduction

Taxes constitute the principal sources of Indonesia's state revenue, accounting for more than 70% of total state revenue as reflected in the State Revenue and Expenditure Budget (APBN). Through taxes, the state obtains funds to finance development, public services, and reduce poverty (Rahayu, 2010). Under Indonesia's self-assessment system, the responsibility for reporting and paying taxes lies entirely with taxpayers, including corporate taxpayers (corporations) (Basir, 2024). However, in practice, many companies abuse this system to commit tax avoidance or evasion that is detrimental to the state. This condition illustrates the background of increasing corporate tax crimes and their impact on state revenue in Indonesia.

Tax crimes committed by corporations have been increasing, both in number and complexity. According to data from the Directorate General of Taxes for 2022, state losses resulting from corporate tax crimes amount to trillions of rupiah annually (Pajak.go.id, 2024). The methods employed are also increasingly sophisticated, such as the use of fictitious invoices, cross-border transactions through shell companies, and bookkeeping manipulation (Clinard & Yeager, 2011). These practices not only harm state revenue but also create an unfair business climate.

Despite the seriousness of these developments, Indonesia's legal framework has not provided a strong normative response. "Law No. 6 of 1983 concerning *Ketentuan Umum dan Tata Cara Perpajakan* (General Provisions and Tax Procedures, hereinafter referred to as the KUP Law, as last amended by Law No. 7 of 2021 concerning Harmonisasi Peraturan Perpajakan (Harmonization of Tax Regulations, hereinafter referred as the HPP Law", does not explicitly regulate the criminal liability of corporations. Article 32 (1) of the KUP Law places responsibility for tax crimes on corporate administrators through imprisonment and cumulative fines, without recognizing corporations themselves as criminal actors (*dader*). Furthermore, "Article 30 of the Criminal Code" allows fines to be substituted with imprisonment, which may eliminate the state's right to recover tax revenue when legal entities are not directly subject to financial sanctions (Nahak, 2014). This situation constitutes a clear legal problem arising from the absence of explicit corporate criminal liability provisions in Indonesian tax law.

Judicial practice further demonstrates these weaknesses. Several court decisions, including Supreme Court Number: 1517 K/Pid.Sus/2012, Number: 1340 K/PID. SUS/2018, Number: 3343 K/Pid.Sus/2019 and the "Bale Bandung District Court Decision" Number 148/Pid.Sus/2019/PN Blb dated June 17, 2019, imposed criminal sanctions solely on corporate administrators without prosecuting the legal entities that benefit from crimes. A similar pattern appeared in the Asian Agri case, where the corporation was initially not charged, until finally the Supreme Court eventually imposed a fine equivalent to double the tax loss through Decision Number 2239 K/Pid.Sus/2012. These judicial practices demonstrate the practical consequences of the existing legal gap in enforcing corporate criminal liability in tax crimes.

To address this legal vacuum, the Indonesian Supreme Court issued *Peraturan Mahkamah Agung* (Supreme Court Regulation, hereinafter to as PERMA) No. 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations. However, as PERMA does not have the same hierarchical status as a statute, its binding force remains limited and inconsistently implemented by law enforcement authorities. Meanwhile, the development of modern criminal law, both at the national and international levels, shows an increasingly strong tendency to place corporations as the subject of criminal law. This is reinforced by the ratification of the new Criminal Code through "Law No. 1 of 2023, which explicitly places corporations as the subject of criminal law, as stated in Articles 45 and 46." Nevertheless, harmonization between the Criminal Code and the General Provisions and Taxation Law as a lex specialis in taxation has not yet been expressly achieved. Accordingly, there is an urgent need to reformulate corporate criminal liability norms in tax law to ensure legal certainty and fiscal justice.

From the perspective of the state of the art and research gap, previous studies also highlight the inadequacy of corporate criminal liability in tax crimes. Tri Basuki Raharjo (2009) concluded that although the KUP Law has recognized legal entities as tax subjects, there is no clear criminal formulation for corporations as perpetrators of crimes. Kadek Agus Suparaman (2016) emphasized the absence of direct sanctions against corporations and the need for an explicit mechanism for criminalizing legal entities. Meanwhile, Yoserwan (2023) examines that the dominance of criminal prosecution against individual administrators creates an imbalance of legal responsibility in corporate tax crimes. These studies reinforce the need for a reformulation of legal norms that explicitly regulate corporate punishment mechanisms from both juridical and practical perspectives.

Based on these considerations, this study aims to critically examine the urgency of reformulation corporate criminal liability regulations in tax crimes. The focus of the study includes normative analysis of existing provisions, judicial practices, and comparisons of legal systems in several jurisdictions, including the United Kingdom and the United States. Therefore, this study addresses two main research questions: "(1) How is corporate criminal liability conceptualized in Indonesian criminal law? and (2) How should corporate criminal liability in tax crimes be reformulated?"

In this regard, this research contributes novelty in two significant aspects. First, the study approach not only examines normative weaknesses in the structure of tax criminal law but also directly links them to the fiscal justice crisis and the state's failure to respond to systemic corporate crime. Second, this study offers an integrative model of corporate criminal liability reformulation by combining criminal law theory, judicial practice, and moral and social justice demands. This multidimensional approach is rarely found in previous studies that tend to focus solely on normative juridical analysis, without comprehensively linking them to state fiscal losses and the importance of strengthening public trust in the tax system. Thus, this research contributes both conceptual and practical contributions to the development of more equitable and effective tax criminal law in dealing with the phenomenon of corporate crime.

2. Research Methods

This research adopts a normative juridical approach, commonly known as doctrinal legal research. The study of relevant legal norms, including regulations, statutes, doctrines, and court decisions, is the primary focus of this type of research (Marzuki, 2017). The primary objective of this approach is to analyze positive legal norms related to corporate criminal liability in tax law and to evaluate the necessity of reformulating such norms. The nature of this study is prescriptive, providing normative arguments about how legal norms should be formulated or applied, especially in the context of the reformulation of tax law regulations on corporations (Wignjosoebroto, 2002). This study is not only descriptive of existing regulations, but also evaluative and recommendatory regarding the need to update legal norms in tax regulations in order to be able to accommodate corporate criminalization effectively and fairly.

Some of the approaches employed in this study include the statutory approach, which involves examining laws and regulations such as the KUP Law, the HPP Law, the 2023 Criminal Code, and Supreme Court Regulation No. 13 of 2016; the conceptual approach, which is used to analyze legal doctrines and theories related to corporate criminal liability, particularly criminal liability theory, vicarious liability, and identification theory; the case approach, which analyzes judicial decisions relevant to corporate tax crimes, including Supreme Court Decision No. 2239 K/Pid.Sus/2012 and the West Jakarta District Court No. 334/Pid.Sus/2020/PN.Jkt.Brt; and the historical and comparative approach, which is used to trace the historical development of corporate recognition as a subject of criminal law and compare the regulation in Indonesia with those in other jurisdictions, particularly the United States and the United Kingdom.

The legal materials analyzed in this research are categorized into three types, "namely primary legal materials: consisting of laws and regulations (including the KUP LAW, the Criminal Code, and PERMA No. 13 of 2016), as well as court decisions; secondary legal materials, consisting of textbooks, scientific journal articles, and the results of previous research; and tertiary legal materials, comprising supporting references used to clarify legal concepts and terminology, including legal dictionaries and encyclopedias (Soekanto, 2006)."

The analysis was carried out qualitatively using legal interpretation techniques and normative reasoning. The interpretation process seeks to understand the intent of the norm and assess its conformity with the principles of corporate criminal law. Meanwhile, normative reasoning uses deductive and syllogistic approaches, namely by arranging legal arguments from general norms to concrete cases (Sidharta, 2009). Through this approach, the research is expected to formulate legal recommendations that contribute to the reform of corporate criminal liability regulations in the context of taxation.

3. Results and Discussion

3.1. The Concept of Corporate Criminal Liability in Indonesian Criminal Law

The concept of corporate criminal liability is part of the evolution of modern criminal law. The contemporary legal system increasingly recognizes that criminal acts can be committed not only by individuals but also by organizations or legal entities. As economic activities become complex, companies can play a significant role in a variety of crimes, including tax evasion and money laundering (Komang et al., 2023). Initially, classical criminal law recognized only natural persons as perpetrators of crimes, because they were considered the sole entities capable of intent (*mens rea*). However, changes in economic structure and the increasing role of corporations in various forms of modern crime, such as tax evasion and money laundering, have encouraged countries such as the UK, the Netherlands, and the US to apply criminal liability models to legal entities (Kristian, 2016; Made & Dewa, 2015).

In Indonesia, this transition began to be seen in various sectoral laws that explicitly listed corporations as perpetrators of criminal acts, including "Law No. 32 of 2009 on Environmental Protection and Management, Law No. 31 of 1999 on the Eradication of Corruption, and Law No. 8 of 1999 on Consumer Protection" (Made & Dewa, 2015). The culmination was the enactment of the new Criminal Code under Law No. 1 of 2023, which affirms in Article 45 paragraph (1) that *"Everyone, including corporations, can be criminally liable."* Furthermore, Article 46 expands corporate criminal sanctions to include fines as a principal crime as well as additional sanctions such as the suspension of business activities, confiscation of profits, or revocation of licenses. This provision marks full normative recognition of the corporation as a criminal offender independent of its management.

In addition, "Supreme Court Regulation (PERMA) No. 13 of 2016" also strengthens the implementation of corporate criminal liability. Article 3, paragraph (1) stipulates that "corporations can be designated as suspects or defendants in criminal cases".

Furthermore, Article 4 paragraph (2) states that "if an act is carried out by a management or employee with a strategic position for the purpose of benefiting the corporation, the corporation can be held criminally liable". This PERMA also provides technical guidelines for law enforcement officials (especially judges) in identifying corporations as perpetrators of criminal acts, drafting indictments, and imposing criminal penalties on the entity (Mulyadi, 2021).

This recognition is reinforced by several theories of corporate criminal liability. First, "under the doctrine of vicarious liability, the company can be held accountable for unlawful acts committed by its employees or managers within the scope of their duties. In this case, the corporation does not need to be proven to have malicious intentions (*mens rea*); it is enough to prove that the act was done for the benefit and on behalf of the corporation (Arief, 2011; Suhariyanto, 2017). Second, identification theory assumes that the actions and intentions of individuals who occupy strategic positions (controlling officers) in the organization (directors, managers) are identical to the will of the corporation itself (Gillies, 1980; Jaya & Serikat, 2018). Thus, the corporation is as responsible as the individual. Third, strict liability establishes responsibility without having to prove the existence of fault or malicious intent, as long as the unlawful act is carried out and benefits the corporation (Arief, 2002; Krismen, 2014)."

The Asian Agri case (Supreme Court Decision No. 2239 K/Pid.Sus/2012) became an important jurisprudence, where the Supreme Court imposed criminal sanctions in the form of fines to corporations even though they were not charged in the first place. This is a form of legal discovery that refers to the principle of substantive justice and the application of identification theory*.* However, this practice has not been consistently applied.

In the context of taxation, Article 32, paragraph (1) of the KUP Law states that the management is responsible for violations committed by the corporation. However, no provision explicitly designates corporations as perpetrators of tax crimes. This normative gap creates ambiguity in legal practice.

Conceptually, the criminal liability of corporations in the context of taxation must consider three basic principles of criminal law, namely justice (*gerechtigheid*), utility (*zweckmassigkeit*), and legal certainty (*rechtzekerheid*) (Mulyadi, 2021). In this framework, criminal liability to corporations has a dual function: as a form of accountability of economic institutions and as a means of recovering state losses. Thus, the recognition of corporations as perpetrators of criminal acts is an absolute requirement for a fair and effective legal system. Beyond its doctrinal foundation, corporate criminal liability in tax crimes must also be examined from the perspective of fiscal and moral justice. These perspectives provide a normative basis for positioning corporations as criminally accountable actors based on constitutional obligations, distributive justice, and corporate social responsibility.

From the perspective of fiscal justice, taxation constitutes a fundamental instrument for financing state functions and ensuring the equitable distribution of public resources. In the Indonesian constitutional system, "Article 23A of the 1945 Constitution of the Republic of Indonesia states that Taxes and other levies that are coercive for state purposes shall be regulated by law.*"* This formulation means that tax collection is not only legal but also contains the principle of social justice as part of the basic mandate of the state (Ritonga, 2017). Corporations as business entities derive various benefits from the infrastructure and stability created by the state through public spending. Therefore, when corporations evade or manipulate their tax obligations through the fabrication of reports or the issuance of fictitious invoices, they not only violate the law but also deny their moral and social responsibilities to the wider community (Djuniarti, 2021).

Corporate tax crimes have systemic effects and create severe fiscal inequality. When large companies avoid tax burdens through schemes of tax avoidance or outright evasion, the burden of financing the state is indirectly shifted onto other groups, particularly micro-business actors and relatively compliant middle- and lower-income communities (Basir, 2023). The OECD has highlighted that corporate tax avoidance practices globally cause potential losses of USD 100–240 billion annually. In the context of Indonesia, this translates into the loss of fiscal opportunities to fund vital public sectors such as education, health, and social protection (OECD, 2025).

At the national level, the DGT's annual report shows that voluntary compliance tends to increase among individual taxpayers, but stagnates or even decreases in the corporate segment, especially medium and large companies. This creates a gap in fiscal justice, because those with financial and legal capacity are the ones who have the most potential to commit violations. Beyond the fiscal aspect, corporate tax crimes also undermine moral justice. From the perspective of public economics, taxation functions as the primary instrument for wealth redistribution and the realization of social justice (Brotodihardjo, 2013). Consequently, tax evasion by corporations diverts public resources into private hands and violates the principle of the social contract between the state and business actors (Musgrave et al., 1980).

The concept of moral justice in tax law refers to the willingness of legal subjects to fulfill their fiscal obligations voluntarily, without requiring repressive enforcement (Rudi Wahyudi, 2024). When corporations fail to meet this responsibility voluntarily, the moral justification for imposing criminal liability becomes even stronger (Mebratu, 2024). The combined fiscal and moral justice perspective reinforces the urgency of reformulating corporate criminal liability in tax law. Corporate tax crimes should not be regarded merely as administrative violations but as betrayals of collective solidarity in the welfare state system. Unlike mere accounting errors, their consequences undermine public trust, weaken development financing, and exacerbate economic inequality.

In addressing corporate tax crimes, the legal approach should not focus solely on criminal punishment (retributive), but must also emphasize distributive justice, deterrence, and the restorative recovery of state losses (Mulyadi, 2017). Reforms to the KUP Law and effective implementation of the 2023 Criminal Code must ensure that corporations can no longer hide behind the formal structures of private law. Criminal instruments should function as corrective and preventive tools, capable of curbing deviant behavior while fostering a credible and equitable tax system. Compliant corporations must be provided with incentives through legal certainty, while violators must face proportionate sanctions designed to produce deterrent effects both economically and reputationally.

3.2. Reformulating Corporate Criminal Liability in Tax Crimes

This subsection addresses the second research question by examining the weaknesses of current law enforcement practices and formulating an appropriate model of corporate criminal liability for tax crimes in Indonesia. It evaluates the effectiveness and consistency of enforcement, judicial approaches, normative gaps in the KUP Law, and the legal reforms required to establish corporate accountability. Law enforcement against tax crimes committed by corporations in Indonesia still faces various challenges, both in terms of legal substance, technical proof, and institutional coordination. Although a legal framework exists that allows the imposition of criminal liability on legal entities, implementation in practice has not been effective and consistent.

First, indictments against corporate entities are still rare. Law enforcement officials, particularly prosecutors, more often direct charges against individual administrators, such as directors or commissioners, who are considered directly responsible for criminal acts. This can be seen in several tax cases, such as "Supreme Court Decision No. 3343 K/Pid.Sus/2019, Supreme Court Decision Number: 1340 K/PID. SUS/2018, Supreme Court Decision Number: 1517 K/Pid.Sus/2012, and Bale Bandung District Court Decision Number 148/Pid.Sus/2019/PN Blb dated June 17, 2019." In most of these cases, legal entities were not designated as defendants, despite clear indications that the tax crimes were committed for corporate benefit (Tandiono & Tanudjaja, 2024).

Second, coordination between the "Directorate General of Taxes, the Prosecutor's Office, and the Court has not been optimal." The absence of cross-agency standard operating procedures (SOPs) has hampered law enforcement against corporations. On the other hand, tax data and documents prepared by tax authorities are often inadequate to be used as evidence in criminal proceedings. Third, there are differences in doctrinal views among law enforcement officials. There is still a perception that corporations as legal entities cannot be held criminally accountable and only human beings (people) can be punished (Yoserwan, 2023). This perception contradicts the development of modern criminal law and the existence of "PERMA No. 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations." However, the implementation of PERMA in the field is still very limited.

Fourth, the difficulty of proving the element of fault (*mens rea*) in corporations presents its own challenge. In a complex corporate structure, it is very difficult to identify the ultimate decision-maker or the party to whom the corporation's intent (*mens rea*) can be attributed (Made & Dewa, 2015). The identification theory is often difficult to apply because responsibilities are distributed across multiple units or positions. The lack of forensic audits linking management actions to corporate profits also hampers the evidentiary process.

Fifth, there are concerns among law enforcement officials that criminal penalties against corporations could trigger significant economic effects, such as bankruptcy or the cessation of business operations. This concern often leads authorities to adopt a more "cautious" approach, punishing only individuals without addressing the corporate entity itself. Yet, if the corporation has indeed benefited from tax crimes, criminal liability should also be imposed on the entity (Apriyandi & Prasetyo, 2022; Santhos Wachjoe P, 2016). In light of these challenges, it can be concluded that law enforcement against corporations in the context of tax crimes has not achieved the desired effectiveness. Therefore, strategic measures are necessary, including regulatory reform, intensive training for law enforcement officials, and enhanced institutional synergy in handling tax cases involving corporations.

Judicial practice provides further evidence of these enforcement weaknesses. Selected court decisions demonstrate the inconsistent interpretation and application of corporate criminal liability in tax crime cases. Judicial practice in Indonesia reveals both promising and problematic dynamics regarding the criminalization of corporations in tax crimes. The Supreme Court's decision in the Asian Agri case (Decision No. 2239 K/Pid.Sus/2012) and the West Jakarta District Court Decision No. 334/Pid.Sus/2020/PN.Jkt.Brt are significant milestones, as the judiciary imposed criminal penalties on corporations as perpetrators of tax crimes in the form of fines (Prasetyo, 2022; Putra et al., 2022). These rulings affirmed the application of the principle of vicarious liability.

However, there are a number of other decisions, such as the Supreme Court Decision Number: 1517 K/Pid.Sus/2012, Number: 1340 K/PID. SUS/2018, Number: 3343 K/Pid.Sus/2019 and the Decision of the Bale Bandung District Court Number 148/Pid.Sus/2019/PN Blb imposed criminal sanctions primarily on corporate management, while the corporations themselves were not subjected to direct criminal penalties, despite being the primary beneficiaries of the tax crimes. In reality, the benefits of tax manipulation were fully enjoyed by the legal entities (Tandiono & Tanudjaja, 2024). This shows that law enforcement officials have not fully understood or systematically applied the corporate criminal liability paradigm.

The findings of the Audit Board of Indonesia (BPK) further reinforce this picture. Its Audit Report (LHP) for the first semester of 2022 identified potential state losses of IDR 1.84 trillion arising from the issuance and use of fictitious tax invoices by several large companies. These findings included manipulation of Value Added Tax (VAT) reporting and unlawful deductions of taxes owed (BPK RI, 2022). The Directorate General of Taxes (DGT) has also publicly revealed schemes involving transfer pricing, cross-border tax evasion (BEPS), and the establishment of fictitious companies to conceal profits. These facts highlight the scale of the threat posed by corporate tax crimes (Pajak.com, 2024).

Academic perspectives also reinforce criticism of judicial practices. Yoserwan (2023) argued that the Asian Agri case demonstrated progressive judicial courage, yet still exposed the problem of inconsistency. Putra et al. (2022) similarly emphasized that the Supreme Court lacks adequate technical guidelines for identifying the *actus reus* and *mens rea* of corporations in tax crimes. Consequently, many cases result only in convictions of individuals, even when evidence suggests structural involvement by the corporation.

Upon closer examination, these recurring patterns in judicial decisions reveal three fundamental distortions. First, "law enforcement continues to target only individual administrators, even when crimes are committed in the name and for the benefit of legal entities. Second, modern principles of corporate criminal liability, such as identification theory and vicarious liability, are not consistently applied. Third, coordination between the Directorate General of Taxes and the Prosecutor's Office in preparing indictments against corporations remains inadequate."

Thus, current judicial practice remains casuistic and lacks a solid juridical foundation. This has serious implications, as legal entities, the main perpetrators, often remain beyond the reach of criminal law, while liability is imposed solely on individuals who merely represent the will of the corporation. Therefore, this additional case study underscores the need to reformulate provisions in the KUP Law, while the capacity of law enforcement officials must also be strengthened. The position of corporations as subjects of criminal law must be strengthened, both in indictments and in judicial reasoning. Without such measures, corporations will continue to evade accountability, undermining the recovery of state losses and the deterrent effect of the national tax system.

These enforcement and judicial inconsistencies demonstrate the urgency of reformulating corporate criminal liability within the tax law framework. Tax crimes committed by corporations are a form of economic crime that directly harms state revenue. The involvement of corporations as perpetrators of such crimes poses unique challenges for law enforcement, given the abstract and non-physical nature of corporations, which act through their internal organs. Although corporations have been juridically recognized as legal subjects, Indonesia's tax regulatory framework has not fully adopted a model of criminal liability for corporations as entities Yoserwan (2023).

In the field of taxation, Article 1(2) of KUP Law emphasizes that legal entities (corporations) are tax subjects obliged to comply with tax provisions (Nahak, 2014). Furthermore, Article 32(1) of the KUP Law stipulates that responsibility for tax violations committed by corporations is imposed on their management, while Articles 39 and 39A impose sanctions in the form of imprisonment and fines (cumulative) against individuals (Nurchalis, 2018). In practice, however, tax crimes such as the use of fictitious tax invoices, transfer pricing, and income concealment often involve structural decisions at the corporate level (Apriyandi & Prasetyo, 2022; Putra et al., 2022). This demonstrates an imbalance between the substance of the law and the complexity of the crimes committed. To safeguard the credibility and integrity of the tax system, law enforcement for violations committed by legal entities must be carried out strictly and fairly, targeting not only administrators as individuals but also corporations as legal subjects (Kristian, 2014; Santhos Wachjoe P, 2016; Suartha, 2017; Tandiono & Tanudjaja, 2024).

The absence of explicit regulation has led to divergent interpretations among law enforcement officials. Some cases hold management solely accountable without implicating the corporation, even though the acts were committed in the corporation's interest. Supreme Court Decisions No. 3343 K/Pid.Sus/2019, No. 1340 K/Pid.Sus/2018, No. 1517 K/Pid.Sus/2012, and the Bale Bandung District Court Decision No. 148/Pid.Sus/2019/PN Blb reflect the weak effectiveness of the law in prosecuting corporations as principal offenders. By contrast, the Supreme Court in Decision No. 2239 K/Pid.Sus/2012 recognized corporations as perpetrators even though they were not initially indicted, and the West Jakarta District Court Decision No. 334/Pid.Sus/2020/PN.Jkt.Brt imposed fines directly on the corporation. Such practices highlight inconsistencies in the application of the law.

From the perspective of a modern and responsive legal system, the absence of explicit provisions on corporate criminal liability in the KUP Law reflects a legal vacuum (*lacuna legis*) that must be urgently addressed. Ambiguous provisions not only create legal uncertainty but also open the door to impunity for corporations that abuse their authority (Chan et al., 2024; Komang et al., 2023; Putra et al., 2022; Suhariyanto, 2017). Normatively, PERMA No. 13 of 2016 regulates mechanisms for indictment, proof, and sentencing of corporations. However, as an administrative judicial product, its binding force is limited, and its application largely depends on the subjective interpretation of law enforcement officials. Consequently, this PERMA has not resolved the normative shortcomings of positive tax law.

From a penal policy perspective, the criminalization of corporations must pursue three main objectives (Muladi & Arief, 1998). First, a deterrent effect on perpetrators and other corporations. Second, more effective recovery of state losses (restorative), particularly when imposed on legal entities as beneficiaries. Third, the realization of substantive justice by placing responsibility on the entity that causes public harm. In the context of tax crimes, corporations are the primary beneficiaries of such offenses, while management merely represents the will of the entity (Suartha, 2017; Suhariyanto, 2017). Thus, reluctance to prosecute corporations is equivalent to ignoring the root of the problem in economic crime.

Comparative studies show that several legal systems have adopted more advanced approaches: First, "the United States applies the principle of Corporate Criminal Liability through the *Principles of Federal Prosecution of Business Organizations* (Justice, 2020). Corporations may be criminally prosecuted if they benefit from illegal actions by their management (Gillies, 1980). Second, the United Kingdom, through the *Criminal Finances Act 2017*, introduced the Corporate Criminal Offence, which punishes corporations that fail to prevent tax evasion by their agents or employees (Customs, 2017). Third, Australia and other OECD countries adopt due diligence and compliance programs as mechanisms of accountability (Commission, 2016)."

From these comparisons, it is evident that there is a global trend toward expanding the scope of corporate criminal liability, particularly in economic crimes, including taxation. This shift is driven by the recognition that organized crime cannot be curbed solely by prosecuting individual offenders. Therefore, reformulating corporate criminal liability provisions in the KUP Law is essential. Such reformulation should include: First, "The explicit recognition of corporations as criminal subjects in tax crimes. Second, the formulation of sanctions not only in the form of fines but also additional penalties such as suspension of business activities, asset confiscation, confiscation of profits, and revocation of licenses. Third, harmonization of norms between the KUP Law, the 2023 Criminal Code, and PERMA No. 13 of 2016 to avoid conflicting interpretations. Fourth, the provision of technical guidelines for law enforcement officials regarding indictments of corporations and the application of theories of liability."

This reformulation is expected to establish a tax legal system that is not only repressive but also preventive and restorative. In the long term, corporate criminal liability will enhance legal awareness in the business sector and strengthen the state's fiscal sovereignty. The reformulation of criminal law provisions against corporations, particularly in the context of tax crimes, is urgently needed to ensure legal certainty, effective law enforcement, and fiscal justice (Juli & Suharti, 2012; Ningrum et al., 2016; Rudi Wahyudi, 2024; Wijaksana, 2020). Thus far, loopholes in the KUP Law, which do not explicitly regulate the criminalization of legal entities, have been exploited by business actors to evade criminal liability by placing administrators as "legal shields."

First, it is necessary to introduce a new provision in the KUP Law that expressly states that a legal entity (corporate taxpayer) is a subject of criminal law. This provision can be adopted from the 2023 Criminal Code, which recognizes corporations as legal subjects (Article 45 (1)), and should be further elaborated as a lex specialis in taxation. With such a framework, law enforcement officials would have explicit legitimacy to prosecute corporate entities directly.

Second, the criminal system against corporations should apply a dual-track system, combining principal and additional sanctions (M. Sholehuddin, 2003). The principal sanction would be fines calculated proportionally, for instance, a minimum of twice and a maximum of four times the unpaid tax. Additional sanctions may include revocation of business licenses, freezing of accounts, prohibition from participating in government tenders, or confiscation of profit (Basir, 2022) . Such additional sanctions may refer to "Article 10 of the Criminal Code and be adapted to the tax context."

Third, if corporations are unable to pay fines, alternative mechanisms should be established to recover state losses, such as asset auctions, account blocking, and confiscation of the wealth of majority shareholders. This adopts the principle of restorative justice in a fiscal context, aiming not merely to punish but to restore state losses resulting from tax crimes. Fourth, the KUP Law should include provisions on cumulative-alternative criminal liability. This means that both legal entities and administrators may be prosecuted jointly or separately, depending on their role and contribution to the commission of tax crimes. This model aligns with the doctrines of vicarious liability and identification theory, which are flexibly applied in both common law and civil law systems.

Fifth, to ensure the effectiveness of this reformulation, a new Government Regulation or PERMA should be issued as a technical guideline for handling corporate tax cases. This should regulate the formal requirements for indicting legal entities, guidelines for proving corporate profits derived from tax crimes, and penalization schemes applicable to corporations without necessarily dissolving the entity. The reformulation of these provisions aims to establish a fair and balanced penal system—designed not only to provide a deterrent effect but also to ensure the recovery of state losses and maintain the sustainability of compliant businesses. Thus, criminal law will not function as an instrument of fiscal retaliation but as a corrective tool for economic behavior and a safeguard for the constitutional obligation to pay taxes.

4. Conclusion

Tax crimes committed by corporations constitute complex economic crimes that significantly affect state revenue. This study concludes that the concept of corporate criminal liability in Indonesian criminal law has not been consistently applied in the field of taxation, as the KUP Law still does not explicitly recognize corporations as criminal subjects, resulting in ambiguity and inconsistent law enforcement that predominantly targets individual administrators. In response to the first research question, corporate criminal liability in tax crimes is normatively recognized but not systematically regulated within the tax law framework. Addressing the second question, this study emphasizes the urgent need to reformulate the KUP Law by explicitly establishing corporations as criminally liable subjects, harmonizing tax law with the 2023 Criminal Code, and strengthening the operational application of PERMA No. 13 of 2016. The reformulation is essential to ensure fiscal justice, legal certainty, and effective recovery of state losses in line with the development of modern criminal law.

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