

The Mechanism of Law Enforcement for Taxation in Indonesia Court System

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Abstract: - *the purpose of criminal law policy in the field of taxation is not to look for mistakes or provide punishments as revenge, but to realize the level of public compliance as taxpayers so that in the end they can increase state revenues in the taxation sector. Efforts to against crime in the tax sector through the making of criminal law are essentially an integral part of the protection efforts for people who are social defenders, and efforts to achieve public welfare in the context of eradicating and reducing poverty (social welfare). The research method used a normative legal research. The data used are secondary data consists of primary legal materials, secondary law and tertiary legal materials. In addition, it is also used as the primary data, secondary data, and supporting legal materials. The result of this research is a taxpayer who violates the provisions of the applicable tax laws and regulations, he (the taxpayer) does not deposit the tax payable so in this case the taxation apparatus gives a warning letter that the taxpayer must fulfill tax obligations if it has three times received the warning letter but the taxpayer did not respond to the Directorate General of Taxation, in this case through the local tax authorities.*

Keywords: - *law enforcement, taxation, taxpayer*

I. Introduction

The purpose of criminal law policy in the field of taxation is basically not to look for mistakes or provide punishments as revenge, but to realize the level of public compliance as taxpayers so that in the end they can increase state revenues in the taxation sector.

Efforts to build consistent enforcement of the tax law is one way that the tax provisions can be adhered to and complied with by the taxpayer [1]. Consistency is expected to be a justification, so that tax compliance arising from the taxpayer is not on the basis of threats and coercion, but because compliance is voluntary full from the taxpayer, but on the other hand the government also requires a means of coercion and sanctions are deter and educate a consequence from public obligations to the state [2].

In addition to administrative law enforcement that uses administrative sanctions as an instrument, in the tax field it is also known as criminal law enforcement. Enforcement of criminal law in the field of tax certainly also has a specific purpose, namely so that the legal provisions in the field of tax

can be carried out properly so that it can realize justice, certainty and balance between the parties involved in it.

The main problem related to the tax crime is the need for an anticipatory movement in an effort to overcome the occurrence of these crimes. Why is that, because taxes are one of the most important items of state revenue so strong protection is needed? In the politics of Indonesian criminal law, interpreting tax crimes as an effort to try or make and formulate a criminal law in the field of taxation is appropriate and good.

Violations of taxation obligations carried out by taxpayers insofar as they are related to tax administration measures are subject to administrative sanctions [3], while those concerning criminal acts in the taxation sector are subject to criminal sanctions and to know that a criminal act has occurred in the field of taxation, manage data or other information to refer to compliance with the fulfillment of tax obligations and for other purposes in order to implement the provisions of tax laws and regulations.

According to Mulder, strafrechtspolitik or criminal law politics is a policy line to determine: 1) How far the applicable tax provisions need to be changed or renewed; 2) What can be done to prevent the occurrence of tax crime; and 3) How the investigation, prosecution, trial and implementation of taxation must be carried out [4]. According to Sampara, efforts to tax crime prevention to criminal law, in essence also part of the effort to enforce the law (especially criminal law enforcement). Often also said politics or criminal law policy is also part of law enforcement policy [5].

Efforts to against crime in the tax sector through the making of criminal law are essentially an integral part of the protection efforts for people who are social defenders, and efforts to achieve public welfare in the context of eradicating and reducing poverty (social welfare). Therefore, it is natural that policies or politics of criminal law include tools or instruments in an effort to protect against taxes which constitute the main source of state revenue.

II. Taxes in the Concept of the State Of Law

Goodin argue that, "social welfare is not intended to create equality of conditions from classes or groups in society or to regulate or direct economic activities, but is to provide goods and special services for people and families who entitled to service [6]. More fundamentally (the realization of social welfare is related to the fulfillment of human rights, according to Moon, a welfare state is closely related to the concept of human rights and morality of the state administrators [7].

Mustafa explained that Indonesia's human rights have been secured as defined in the Act of 1945, the fourth change in Chapter XA of Article 28 and Article 281. Thus, according to Mustofa, the failure to realize these human rights constitutes a violation with reference to Law No. 39 of 1999 concerning Human Rights [8].

In relation to the description, the Directorate General of Taxes, the Directorate General of Customs and Excise, the Regional Revenue Service that does not carry out its duties under the Taxation Law in collecting taxes, including in providing tax services so that taxpayer compliance according to tax revenues is not achieved so that conditions This will

hinder the realization of people's welfare in all fields, for example in the form of social security for the poor, health, education, healthy homes are people's human rights that must be fulfilled by the State or government. The tax officials led to non-compliance of Human Rights mentioned above so that tax officials can be categorized has been contributing to the human rights violations even if indirectly.

Mill said that the principle of "equality of taxation" which was interpreted as "equality of Sacrifice" [9]. Moon also quoted Musgrave, "... that people at different income levels should have an equal proportionate sacrifice"[10]. Mill argues, the tax scheme is in accordance with the basic principles of taxation which Mill called the principle of equality of tax where according to Mill's understanding is the same as the principle of equality of responsibility that must be borne by each individual [11].

Mill also argues that taxes must function as a means of equalizing people's income with the adoption of progressive tax rates [12]. With a high tax rate so that income is received in excess from a certain number of residents, the tax yield can be used for small-income residents or poor people through tax revenues which are domestic revenues and channeled as government subsidies or the provision of free services such as social security, health and education.

III. Methods

The research method used a normative legal research. This method is study by researching the library materials or secondary data which includes research legal principles and systematics of law, research synchronization of legislation in terms of vertical and horizontal, which is done in an effort to obtain the necessary data in relation with the problems. The study using normative legal research methods because the study of law is a process of finding the rule of law, principles of law and legal doctrines in order to answer the legal issues to be faced [13]. The data used are secondary data consists of primary legal materials, secondary law and tertiary legal materials. In addition, it is also used as the primary data, secondary data, and

supporting legal materials. For data analysis of data was conducted using qualitative juridical analysis.

IV. Discussion

Taxes have a considerable contribution in the non-oil revenues. Based on a fiscal perspective, taxes are state revenues that are used to improve people's welfare with the basic principle of raising funds obtained from and for the community through a mechanism that refers to legislation. Taxes are income funds that have potential through population growth and economic stability. In this regard, tax management is a priority for the government [14]. Taxes in Indonesia according to their authority are divided into Central and Regional taxes.

Criminal acts in the field of taxation or tax crimes are incorrect information regarding reports relating to tax collection, which submit a notification letter, but whose contents are incorrect or incomplete or attach incorrect information so as to cause state losses and other crimes which regulated in the tax law.

Law enforcement for taxpayers who violate and legal protection for those who have obeyed and those who should receive benefits from taxation [15]. It needs to be realized that law enforcement efforts are not always directly proportional to the aim, namely that the community obeys the law. It takes a process and awareness of all parties that the law enforcement process must be carried out in order to create order in society, nation and state. If there is no awareness of the need for law enforcement, the process of law enforcement carried out will be constrained.

Law enforcement is the administration of law by law enforcement officers and by everyone concerned in accordance with their respective authorities according to the applicable laws and regulations [16]. Enforcement of criminal law is essentially the application of laws and regulations and policies of officials in implementing regulations.

Thus, law enforcement is a system that involves harmonizing values with real rules and human behavior [17]. These rules then become guidelines or standards for behavior and actions that are deemed appropriate and appropriate. This behavior

or attitude that follow aim to create, maintain and sustain the life of peace, harmony, befit and balanced.

When connected with the results in this research it can be seen that law enforcement in the field of taxation has not been functioned or carried out as expected. This can be seen from the absence of cases of violations or crimes in the field of taxation which are in the forage table or resolved through examinations in court due to:

- a) The existence of a mental attitude of taxpayers who are oriented to solving tax problems by negotiating / compromising, the causes of the level of settlement of tax crimes are always resolved by means of non-criminal / outside the criminal justice system. Such a method if viewed in terms of law enforcement towards weakening practices in seeking legal certainty and justice.
- b) There is a taxation doctrine that gives the benefits of taxation that prioritizes the use of the state, so in the case of problems (in the withdrawal of taxes for example), the priority is the benefits and utilization of the state or government.
- c) The existence of community participation (taxpayers) who are lacking in completing tax criminal acts through the criminal justice system, this is due to the reluctance of taxpayers to settle tax cases to law enforcement officers.
- d) The existence of a policy in taking steps by the tax authorities (Civil Servant Investigators) prioritizes the need to optimize state revenues.
- e) In criminal acts in the field of taxation, it requires a relatively long time in the inspection process.
- f) Criminal acts in the field of taxation are complaints seconds (klacht delict).
- g) The firmness of the tax apparatus itself is still lacking to ensnare the perpetrators of tax crimes.
- h) Tax crime is somewhat more difficult in terms of proof.
- i) Cases of criminal offenses in the field of taxation are sought to be resolved administratively.

- j) The taxation apparatus themselves have established a policy that when a violation or crime occurs in the taxation field, it will be optimally pursued to complete by using non-criminal means (non-reasoning) and more important to be resolved administratively.

Whereas accountability can be requested for violations of tax criminal law and criminal penalties are subject to tax crime, i.e.:

- a) Taxpayers who commit criminal acts, including those who represent taxpayers in carrying out tax obligations (tax bearers).
- b) Tax administration officials and state administrators in tax collection.
- c) Third parties as other people, not taxpayers who according to the provisions of tax laws are required to provide information in the implementation of tax regulations in tax audits and tax investigations

From the description above we can see an example, if there is a taxpayer who violates the provisions of the applicable tax laws and regulations, he (the taxpayer) does not deposit the tax payable so in this case the taxation apparatus gives a warning letter that the taxpayer must fulfill tax obligations if it has three times received the warning letter but the taxpayer did not respond to the Directorate General of Taxation, in this case through the local tax authorities issued a decree stating that the property owned by the taxpayer is declared "sealed" and subsequently resolved through the local State Auction Affairs Office. Therefore, it is clear that the use of criminal facilities (penal) in resolving criminal acts in the field of taxation is still ruled out.

V. Conclusion

Based on the results of the study can be concluded that formulative policies that need to be implemented in supporting optimal law enforcement against criminal acts in the field of taxation, should need:

First, reformulation of the pattern of corporate criminal penalties which includes arrangements for when a corporation commits a crime and when the corporation can be accounted for. In other words, there is at least a separate criminal sanction

arrangement for corporate or corporate taxpayers, therefore criminal sanctions that can be applied are criminal penalties, or additional crimes such as revocation of certain rights or seizure of certain goods in the framework of impoverishment measures against the perpetrators.

Second, omission of intentionality or phenomena in the formulation of offenses. Regulations in the formulation of offenses that corporations and / or top management for corporate taxpayers can be considered as offenders who must be responsible for criminal acts committed by their employees. This arrangement should be more consistent with the terms of the Tax Insurer in Article 1 number 28 UU KUP, even though the tax bearer here is not always the same as the person in charge of the criminal. The tax insurer can relate to those who must be responsible for fulfilling tax payments or tax obligations in general, while those responsible for criminal acts are those who are considered to be convicted because of a criminal offense.

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