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Reforming Tax Law Enforcement: The Role of Core Tax Administration System Digitalization and the Ultimum Remedium Principle

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Abstract

This study aims to analyze the impact of the digitalization of the Core Tax Administration System (CTAS) on tax law enforcement, with a particular focus on the application of the *ultimum remedium* principle. The research method employed is normative legal research, involving an in-depth analysis of tax law literature, relevant regulations, and case studies of CTAS implementation. The urgency of this research lies in addressing inefficiencies, inequities, and the lack of transparency in traditional tax law enforcement through the utilization of digital technology. The findings reveal that CTAS digitalization enhances

efficiency, transparency, and data management in tax administration while strengthening law enforce ment processes through improved oversight and compliance. However, this digitalization also presents challenges, including data security risks, privacy concerns, and compliance with applicable regulations. The novelty of this research lies in integrating the *ultimum remedium* principle within the digital framework, advocating for a proportional approach to tax violations by prioritizing voluntary compliance and corrective measures before escalating to more severe enforcement actions. This study provides strategic contributions to legal policy development, offering essential insights for policymakers, legal practitioners, and system developers in designing a tax law enforcement system that is fair, transparent, and responsive to the demands of the digital era.

Keywords *Legal Reform, CTAS; Tax Law, Ultimum Remedium, Law Enforcement*

Introduction

In the context of globalization and the advancement of information technology, tax administration systems in various countries are experiencing significant transformation. Digitalization of tax administration has become a global trend, especially in member countries of the Organization for Economic Cooperation and Development (OECD). OECD countries have long recognized the importance of modernizing tax systems to improve tax efficiency, transparency and compliance.

The history of tax digitalization in OECD countries began at the end of the 20th century, when computer technology began to be applied to manage tax data and automate administrative processes. Leading the way in digitalization are nations like the United States, the United Kingdom, and Australia, which are beginning to implement electronic systems for tax submission and data management. In the 1990s, OECD countries began to introduce e-filing, namely an electronic tax filing system that allows taxpayers to file their tax reports online. This innovation helps reduce administrative burden, speed up the archiving

process, and increase data accuracy. In the early 21st century, the focus shifted to the complete digitization of the tax administration system, which includes the integration of information technology in every aspect of the tax process, from taxpayer registration to law enforcement.

The emergence of the concept of digital taxation is a response to drastic changes in the way businesses operate in the digital era. Initiatives such as the OECD/ G20 Inclusive Framework on BEPS[1], These initiatives are crucial for guaranteeing that digital enterprises contribute their equitable portion of taxes. Digitalization of the Core Tax Administration System (CTAS) is the next step in this evolution. CTAS functions as an integrated system, enabling tax authorities to manage tax data efficiently, facilitating communication with tax payers, and increasing analytical capabilities to detect tax violations. The evidence from OECD nations indicates that the digital trans formation of Customs and *Tax Administration Systems* (CTAS) can result in considerable enhancements in both operational efficiency and the enforcement of tax legislation.

However, this digital transformation also raises new challenges. Data security and privacy are critical issues, given the large volumes of sensitive data managed by CTAS systems. Additionally, regulatory compliance and data protection must be ensured to maintain public trust.

In Indonesia, CTAS digitalization efforts were carried out as part of legal reform to increase the effectiveness of tax law enforcement. This digitalization is expected to optimize the tax administration system, increase transparency and strengthen law enforcement mechanisms. The principle of *ultimum remedium*, which emphasizes the importance of proportionality in handling tax violations, is an important basis for implementing CTAS digitalization in Indonesia. This principle aims to provide taxpayers with an opportunity to improve compliance[2] before

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[1] Deloitte. (2021). Global tax policy: Digital taxation. Retrieved from Deloitte Insights, BEPS is an abbreviation for Base Erosion and Profit Shifting. BEPS refers to a tax planning strategy used by multinational companies to shift profits from high-tax jurisdictions to low- or no-tax jurisdictions, thereby reducing a country's tax base. This practice can result in reduced tax revenues that would otherwise be received by the countries where the company operates and makes profits.

[2] Minister of Finance Regulation *No 197/PMK.03/2007* Article 1 explains what is meant by a Taxpayer with certain criteria, hereinafter referred to as a Compliant

harsher legal action is taken, thereby creating a balance between strict law enforcement and fair treatment.

However, in practice, the implementation of CTAS also raises various problems that require special attention. One of the main issues is how CTAS can contribute to tax criminal law enforcement, especially within the framework of the *ultimum remedium* principle. The principle of *ultimum remedium* emphasizes the use of sanctions

Criminal law should be the last resort after other efforts, such as administrative sanctions, have been unsuccessful. Furthermore, criminal acts are based on the principle of legality[3], while criminal[4] acts are acts that violate the law and must be punished according to the act. Consequently, it is crucial to comprehend how the digitalization of CTAS may facilitate or obstruct the application of this principle.

The digital transformation of the tax administration system serves as a fundamental component in upholding a nation's financial stability. The implementation of the Core Tax Administration System (CTAS) represents a pivotal advancement in tax administration, enabling the government to oversee and enhance the efficiency of tax collection

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Taxpayer, is a Taxpayer who meets the following requirements: On time in submitting the Tax Return; Have no tax arrears for all types of taxes, except for tax arrears that have obtained permission to pay in installments or postpone tax payments; Financial Reports audited by a Public Accountant or government financial supervision agency with an Unqualified opinion for 3 (three) consecutive years; and Never been convicted of committing a crime in the field of taxation based on a court decision that has permanent legal force within the last 5 (five) years.

[3] Eddy O.S. Hiariej, *Prinsip-Prinsip Hukum Pidana*, Edisi Adaptasi Kitab Undang-Undang Hukum Pidana Nasional, Depok, Sleman, Yogyakarta, PT. Raja grafindo Persada, 2024. The principle of legality" is a legal principle which states that an action can only be considered a criminal act if it has been previously determined in law. In the context of criminal law, the principle of legality ensures that no person can be punished for committing an act unless the act has been regulated and is declared a criminal act in the law before the act is committed. This principle includes several important elements: *Nullum crimen sine lege*: There is no crime without law; *lex scripta*: Laws must be written, not based on custom or practice; *Lex carta*: Laws must be clear and unambiguous*; Lex stricta*: Laws must not be applied by analogy to expand the scope of criminal acts by the authorities

[4] Moeljatno in Eddy O.S, Hiariej, *Prinsip-Prinsip Hukum Pidana, Edisi Adaptasi Kitab Undang-Undang Hukum Pidana Nasional*, Depok, Sleman, Jogjakarta, PT. Rajagrafindo Persada, 2024

processes. Through CTAS, authorities can better ensure compliance among taxpayers, reduce instances of tax evasion, and maximize tax revenue, all of which are essential for delivering public services and fostering economic growth.

On the other hand, criminal law enforcement in the tax context has an important role in ensuring that tax rules and regulations are strictly adhered to. Tax penalties aim to provide fair sanctions and provide incentives for taxpayers to comply with their obligations correctly and on time. A fundamental legal principle guiding the enforcement of tax criminal law is the "*ultimum remedium*" principle, which asserts that the application of criminal law should be considered only as a final recourse, following the exhaustion of alternative measures to address tax infractions. This principle indicates that before using criminal sanctions, the state must ensure that lighter or alternative legal measures have been attempted first

The legal basis for law enforcement against taxpayer non-compliance is Articles 38, 39, 43, 44 of Law No. 7 of 2021[5] regarding the alignment of tax regulations in relation to tax offenses. However, according to the author, the law is not strict in regulating the policy of the taxpayer criminal system, which can lead to ambiguity of norms, which is a normative legal issue in this research. From the description above, it will give rise to legal problems regarding what is the *ultimum remedium* in the Tax Crime Context? In what ways can the principle of *ultimum remedium* be understood and implemented within the framework of tax criminal law enforcement? Apart from that, are there any cases where criminal sanctions are deemed inconsistent with this principle?

The legal problems that will arise are: Is the digitalization of CTAS able to increase the ability to detect early tax violations? How is the accuracy of the data produced by CTAS compared to conventional methods? In what ways can CTAS facilitate the implementation of the *ultimum remedium* principle in the enforcement of tax criminal law; Can digitalization reduce dependence on criminal sanctions by increasing tax compliance; What are the challenges faced in implementing CTAS, especially related to technological infrastructure,

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[5] Law Number 7 of 2021 concerning Harmonization of Tax Regulations, Ministry of Finance, Directorate General of Taxes

human resource training, and organizational readiness? How can these issues affect the effectiveness of CTAS in enforcing criminal tax laws; How does CTAS address privacy and security issues of taxpayer data; Are there adequate mechanisms to protect data from misuse or cyber attacks; To what extent is there cooperation between tax authorities and law enforcement agencies and other related agencies in supporting the implementation of CTAS; How can this coordination be improved to increase the effectiveness of law enforcement; How can CTAS increase taxpayer compliance and build public trust in the tax system; Is this digitalization well received by the public and taxpayers; How can the implementation of the Digitalization of the CTAS be optimized to strengthen tax criminal law enforcement by considering the *ultimum remedium* principle; How Taxpayers are Responsible through the *Ultimum Remedium* principle for Tax Crimes in the Context of US CT Use.

Given the legal problems mentioned above in relation to the implementation of the digitalization of the Core Tax Administration System (CTAS) and the enforcement of tax criminal law based on *ultimum remedium*, we will carry out an analysis based on a Philosophical Perspective. Philosophically, the digitalization of CTAS can be seen as a manifest tation of technological progress in public administration. The principle of *ultimum remedium* which is the basis for enforcing tax criminal law reflects the idea that criminal sanctions are the last resort in achieving justice. It is hoped that the digitalization of CTAS can reduce reliance on criminal punishment by strengthening prevention through early detection and better data accuracy. This is in line with the concept of distributive justice where the main goal is to minimize violations through a fairer and more efficient system. Ontological Perspective: From an ontological perspective, the digitalization of

CTAS changes the reality of tax administration from a manual to a digital system. This change has major implications for entities and structures in tax administration. Digitalization creates data and information as new entities that must be managed and secured. The reality of taxation is no longer just about physical files and documents, but also about digital data that must be integrated and analyzed. This requires a change in the way tax authorities view tax administration and law enforcement.

Axiological perspective, Axiology, which is related to values, highlights how the digitalization of CTAS can influence values in tax law enforcement. The values of efficiency, transparency and fairness are at the center of attention. CTAS is expected to increase efficiency through process automation and reducing human error. Transparency increases with real-time access to tax data. On the other hand, there are data privacy and security values that must be maintained. Managing the balance between efficiency, transparency and privacy is a major axiological challenge in CTAS implementation.

Epistemological Perspective, from an epistemological perspective, the digitalization of CTAS changes the way knowledge about taxpayers is collected, analyzed and used. Digital systems enable broader and deeper data collection in real-time. The resulting knowledge is faster and more accurate, enabling tax authorities to make more informed decisions. However, it also demands a new understanding of information technology and data analytics. This knowledge must be possessed by tax officers so that they can utilize CTAS effectively. In addition, it is important to ensure that the knowledge gained is used in an ethical manner and in accordance with existing regulations.

The digitalization of CTAS brings profound changes in tax administration and tax criminal law enforcement. From a philosophical perspective, this digitalization reflects progress towards more efficient and preventive justice. Ontologically, digitalization changes the entity and structure of tax administration reality to become more focus on digital data. Axiological, values of efficiency, transparency and fairness are gaining encouragement, but must be balanced with attention to privacy and data security. Epistemologically, knowledge about taxation has become more sophisticated with digital technology, but requires new under-standing and ethical use.

Through this research, it is hoped that solutions and recommendation can be found to overcome existing problems, so that CTAS digitalization can run more effectively and support better tax criminal law enforcement, in accordance with the principle of *ultimum remedium*. In addition, with this analysis, it is hoped that the implementation of CTAS digitalization can be better understood and optimized to support better and fairer tax criminal law enforcement.

With CTAS, it will support legal certainty in the sense that laws or regulations after they are enacted can be implemented with certainty by the government. Legal certainty presupposes that legal regulations are clear and the commitment of law enforcement officials in implementing rules that can be implemented consistently. Legal certainty means that every-one can demand that the law be enforced and every violation of the law can be prosecuted and subject to legal sanctions as well[6]. Meanwhile, our research design can be described on Figure 1.

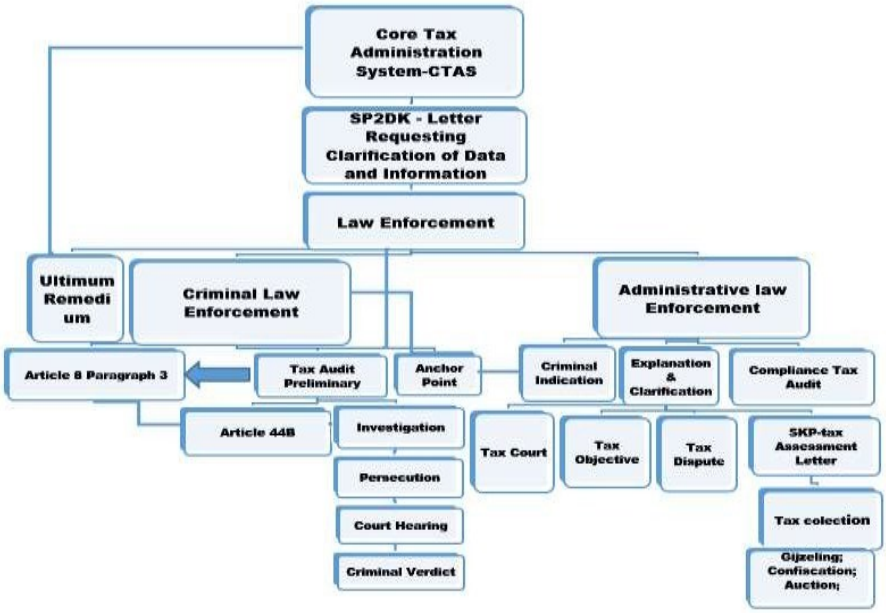

FIGURE 1. Tax law enforcement model

a. CTAS

The Core Tax Administration System (CTAS) is an important framework for managing tax activities in a country. The system encompasses various processes and protocols to ensure efficient tax collection and compliance. CTAS is designed to facilitate tax administration, assessment, and collection, providing a structured approach to handling taxpayer information, returns, payments, and audits. Additionally, the system incorporates various mechanisms

[6] Magnis-Suseno, Franz., (1988), *Power and Morals*, Yogyakarta, Publisher: Kanisius, 1988.

designed to tackle noncompliance and to enforce tax regulations, thereby ensuring the integrity of the tax framework.

b. Violation
In the field of tax administration, another critical aspect is the management of violations. Violations may occur when taxpayers fail to adhere to tax regulations, whether intentionally or unintentionally. Authorities are responsible for identifying, investigating, and addressing these violations to ensure that all taxpayers fulfill their obligations. This process is essential for maintaining fairness and transparency within the tax system.

c. Letter of Request for Data and Information Clarification (SP2DK)
One of the tools utilized in the tax administration process is the Letter of Request for Data and Information Clarification (SP2DK). This document serves as an official request issued by the tax authority to taxpayers, seeking clarification and additional information regarding their tax submissions. The SP2DK is a crucial instrument during the initial examination phase, enabling authorities to gather the necessary data to assess the accuracy and completeness of tax filings.

d. Law Enforcement
The enforcement of tax law concerning individuals and corporations involves both administrative and criminal measures.

e. Enforcement of Administrative Law
Enforcement of Administrative Law involves the explanation of data and information, compliance testing, and issuance of tax assessments (Tax Assessment Letter or SKP). If taxes are not paid, collection actions will be taken, which can escalate to asset seizure (seizure) or auction (auction). Disputes may arise when taxpayers disagree with the assessment, which can then be appealed and examined through tax court.

f. The enforcement of criminal tax
The enforcement of criminal tax law involves the examination of preliminary evidence based on the principle of *ultimum remedium*, as stipulated in Article 8, paragraph 3. This principle underscores that criminal prosecution should be regarded as a last resort, contingent upon the settlement of the principal tax debt along with a penalty amounting to 100%. The process encompasses

investigations in accordance with Articles 38, 39, and 43, which serve as the foundation for prosecution, trial, and sentencing. Criminal law enforcement is applied in instances of serious noncompliance and fraud, ensuring that justice is upheld and further violations are deterred.

g. Ultimum Remedium

Nevertheless, adhering to the principle of *ultimum remedium*, as outlined in Article 44 B, which emphasizes that criminal prosecution is a final measure, defendants may avoid imprisonment by paying the principal tax along with penalties of 400% for cases involving tax invoices and 300% for other cases prior to a court ruling.

Overall, the core tax administration system, along with both administrative and criminal tax enforcement, plays a crucial role in maintaining the integrity and credibility of a nation's tax regime.

The problems in this research are: How can the implementation of the Digitalization of the CTAS be optimized to strengthen tax criminal law enforcement by considering the *Ultimum Remedium* principle; How Taxpayers are Responsible through the *Ultimum Remedium* principle for Tax Crimes in the Context of Using CTAS. Meanwhile, the most recent of our research is examining criminal law aspects regarding the Digitalization of the CTAS towards the Enforcement of Criminal Tax Law with the *Ultimum Remedium* principle, which is a new policy from the Directorate General of Taxes.

Tax Digital Concept

The concept of digital accounting emerged as a response to the rapid growth of the digital economy, which altered business operations and profit margins. Digital economy enables businesses to operate without significant physical constraints within a nation, resulting in the emergence of new challenges in the traditional tax regime. As we can see, the rise of the digital economy has affected many business activities made possible by digital technology, including e-commerce, digital services, and online platforms. Large technology companies like Google, Amazon, and Facebook have very different business models from

traditional companies. They are able to generate significant revenue in various countries without requiring significant physical labor.

The traditional international tax system faces challenges based on the principle of physical presence. This becomes less relevant in the context of digital businesses that can generate significant profits in a country without physical presence. As a result, many countries feel disadvantaged because they cannot tax the profits generated in their jurisdiction.

One global effort to address the challenges of digital taxation is through the OECD/G20 Inclusive Framework on BEPS[7]. BEPS practices exploit gaps and inconsistencies in international tax rules to legally reduce tax burdens. Examples include using transfer pricing, treaty shopping, or allocating profits to entities in jurisdictions with low taxes. In response to this issue, the OECD together with the G20 launched the BEPS Project in 2013. This project aims to develop solutions to address BEPS practices and strengthen the integrity of the international tax system.

The initiative aims to reform international tax rules to better align with the current digital economy landscape. In October 2021, the OECD announced an agreement on two main pillars: 1) Pillar One: Reallocation of some taxing rights to market countries where digital companies operate and generate income, even without significant physical presence; Pillar Two: Implementation of a global minimum tax of 15% to ensure that multinational corporations pay a fair share of taxes wherever they operate.

The European Union has also taken steps to address digital taxation by proposing the Digital Services Tax (DST)[8]. DST aims to tax income generated from certain digital services, such as online advertising and user data sales. The positive impacts include Increased Tax Revenue: Countries can boost their tax revenue from digital companies operating within their jurisdiction and Tax Fairness:

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[7] The OECD (2021) reported on a groundbreaking tax deal for the digital age. *Base Erosion and Profit Shifting* (BEPS) refers to tax planning strategies used by multinational companies to shift profits from jurisdictions with high taxes to jurisdictions with low or no taxes, thereby reducing a country's tax base. This practice can lead to a decrease in tax revenue that should be received by the countries where these companies operate and generate profits.

[8] European Commission. (2021). *Digital Services Tax*. Retrieved from ec.europa.eu

Creating a fairer tax system by ensuring digital companies pay taxes in the countries where they generate income. However, challenges include implementation and Enforcement: Implementing and enforcing new digital tax rules can be challenging, especially in terms of coordination among countries. Potential Disputes: Differences in opinions between countries regarding the implementation of digital tax rules can trigger international disputes.

Therefore, it can be concluded that the emergence of the concept of digital taxation is a response to drastic changes in the way businesses operate in the digital era. Initiatives such as the OECD/G20 Inclusive Framework on BEPS[9] and efforts by the European Union demonstrate progress in creating a tax system that is more equitable and in line with current economic conditions. Despite facing various challenges, these steps are crucial to ensure that digital companies pay their fair share of taxes.

The core tax administration system in Indonesia, known as the Core Tax

Administration System (CTAS) in Indonesia, is the central tax administration system used by the Directorate General of Taxes (DJP) in Indonesia to manage the tax processes and taxpayer compliance. This system is designed to support various aspects of tax administration, including tax collection, processing, and monitoring. CTAS encompasses various functions, such as collecting taxpayer data, managing tax payments, processing tax refunds, and reporting tax compliance. By utilizing information technology and automation systems, CTAS aims to enhance efficiency, transparency, and accuracy in tax administration. It also enables the DJP to monitor and supervise tax-payer compliance more effectively.

This is in line with the development of society, which always seeks new legal norms (*ius constituendum*) outside of existing legal norms (*ius constitutum*). This need has actually been anticipated by legal principles to accommodate new norms, including criminal law norms, with the

[9] Deloitte. (2021). Global tax policy: *Digital taxation*. Retrieved from Deloitte Insights

existence of legal principles. One of them is the principle of *lex specialis derogat legi generali*, or special laws override general laws[10]. With this principle, it means that the existence of specific (*usually new*) legal norms has been anticipated and positioned to override existing norms, which are already established and currently in force. In addition, there is also the principle of *lex posteriori derogat legi anteriori,* which means that new legal rules override existing rules or those currently in force[11].

The Core Tax Administration System[12] is an information technology system that provides integrated support for the implementation of the duties of the Directorate General of Taxes (DJP), including business process automation. The purpose of this business process automation includes process-sing notification letters, tax documents, tax payments, audit and collection support, taxpayer registration, and taxpayer accounting functions.

The implementation of the CTAS has been regulated in Presidential Regulation (Perpres) No. 40/2018. This regulation contains provisions on the development of the Core Tax System, which is part of the tax administration system reform. The legal basis for this is Law Number 7 of 2021 concerning Tax Regulation Harmonization, which came into effect in January 2022, serving as the foundation for creating the Core Tax Administration System (CTAS) or commonly known as the Core Tax System (SIAP).

Furthermore, this regulation also provides various informa tion regarding tax administration systems, such as how the Core Tax System

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[10] Andi Hamzah, *Terminologi Hukum Pidana*, Jakarta, Sinar Grafika, 2009, hlm. 19. Distinguishes the principle of lex specialis derogat legi generalis into two forms, namely: logical specificity (*logische specialiteit*) and systematic specificity (*systematische specialiteit*).

[11] PAF Lamintang, pp. 412-413. *The principle of lex specialis derogat legi generalis* in criminal law is enshrined in Article 103 of the Criminal Code, also known as the transitory intermediary article. This principle allows for deviations in special laws from the general criminal law provisions. Meanwhile, Sudikno Mertokusumo, *Memahami Hukum: Suatu Pengantar*, Yogyakarta, Liberty, 1999 hlm. 122. argues that *lex generalis* is the law that applies generally and serves as the foundation, while *lex specialis* is the specific law that deviates from *lex generalis*. In this context, *lex generalis* serves as the basis for *lex specialis. See also* Andi Hamzah, 1985, *Hukum Pidana Politik*, Jakarta, Pradnya Paramita, *See also* M.L. Hc. Hulsman, *Sistem Peradilan Pidana dalam Perspektif*, Jakarta, Rajawali, 1984.

[12] Ministry of Finance, Directorate General of Taxation, 2023.

is intended to assist in implementing tax administration procedures and governance. This is, of course, carried out in accordance with the provisions of the applicable laws and regulations.

Harmonization of the Core Tax Administration System (CTAS): *Ultimum Remedium* and Tax Crime

The relationship between the Core Tax Administration System (CTAS), *Ultimum Remedium*, and tax criminality is related to the way in which the CTAS interacts with the enforcement of tax criminal law, taking into account the principle of *Ultimum Remedium*. Therefore, if we narrate the relationship between these three variables, it is as follows:

> *When the government through the Directorate General of Taxes (DJP) has introduced the Core Tax Administration System (CTAS), which is an advanced tax administration system designed to monitor and process tax data with high efficiency. CTAS allows for automatic tax information collec tion, minimizing errors, and speeding up the tax audit process for compliant and non-compliant taxpayers. From the results of the audit process, non-compliant taxpayers will be advised through a request for information and explanation of data and/or information (SP2DK), and if errors are found, tax-payers are advised to correct their Tax Notification Letter, and if not done, Counseling will be conducted, and if still ignored, it will then proceed to the examination process or Preliminary Evidence.*

In practice, this means that the government and law enforcement agencies must ensure that the use of CTAS does not overlook or violate the rights of taxpayers. They must ensure that every tax criminal case pursued using data and information from CTAS has carefully considered whether criminal sanctions are the most appropriate and proportionate option.

By integrating CTAS with the principle of *Ultimum Remedium*, the government can achieve the right balance between tax administration efficiency and justice in the enforcement of criminal tax

law. This will ensure that strict tax policies and fair law enforcement can go hand in hand, protect ting taxpayers' rights while maintaining the integrity of the national tax system.

In order to achieve the goals of law, *Gustav Radbruch*[13] stated the necessity of using the principle of priority from three basic values that are the goals of law. This is because in reality, legal justice often clashes with utility and legal certainty, and vice versa. Among the three basic values of the goals of law, when conflicts arise, sacrifices must be made. Therefore, the priority principle used by *Gustav Radbruch* must be implemented in the following order: 1) Legal Justice; 2) Legal Utility; 3) Legal Certainty. The Theory of Legal Justice states that justice is the adhesive of a civilized society. Laws are created so that every individual member of society and state officials take necessary actions to maintain social bonds and achieve common life goals, or conversely, to prevent actions that could disrupt the order of justice. The Theory of Legal Utility, Utilitarianism Law was first developed by Jeremy Bentham[14] (1748-1831). The issue faced by *Bentham* at that time was how to morally evaluate the goodness or badness of a social, politi-cal, economic, and legal policy. In other words, how to assess a public policy that has moral implications for many people. The Theory of Legal Certainty, Legal certainty as one of the goals of law can be considered as part of the effort to achieve justice. A tangible form of legal certainty is the implementation or enforcement of the law against an action regardless of who committed it. With legal certainty, everyone can anticipate what will happen if they engage in a particular legal action. Certainty is needed to realize the principle of equality before the law without discrimination.

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[13] Gustav Radbruch, *Legal Philosophy*, in the Legal Philosophies of Lask, Radbruch and Dabin, translated by Kurt Wilk, Massachusetts: Harvard University Press, 1950 as quoted by Ahmadi Miru dan Sutarman Yodo, *Hukum Perlindungan Konsumen*, Jakarta: RajaGrafindo Persada, 2007.

[14] Bentham, Jeremy. *Principles of Morals and Legislation*. 1789. Reprint edition. London: T. Payne and Son.

The Principle of Preference in Law Enforcement

In the enforcement of law, alongside the principles of justice, utility, and legal certainty, there exist three fundamental principles of preference within legal dogmatics: *Lex superior derogate legi inferior* (a higher law supersedes a lower law); *Lex posterior derogat legi priori* (a later law supersedes an earlier law); and *Lex specialis derogate legi generali* (a specific law supersedes a general law). The significance of the principle Lex Specialis Derogate Legi Generali in law enforcement is parti cularly pronounced in countries adhering to the Continental European tradition, including Indonesia, where criminal acts are regulated through a codification system that encompasses all offenses within the Criminal Code, with the exception of military offenses and tax crimes, which are governed outside the Criminal Code. The principle of *lex specialis derogate legi generali* is crucial, especially in the context of law enfor cement[15].

In legal doctrine, military criminal law is referred to as ius special, as its application is based on the offender rather than the offense itself. This implies that military personnel, even when committing general offenses, are tried under military criminal law. Similarly, tax criminal law is recognized in doctrine as ius singular due to its unique characteristics and its close relation to economic aspects aimed at maximizing state revenue[16].

Essentially, law has coercive power because it contains an element of authority, but this authority is good when used to advance the welfare of society. Legal authority will show a positive image when it has a cultural dimension. Legal authority with a cultural dimension will stand strong when built on 3 legitimacies, namely: a) Juridical Legitimacy, b) Sociological, and c) Philosophical.

The juridical legitimacy means that the established legal rules have been carried out based on valid and correct procedures. Therefore, the legitimacy of the existence of Taxation is: The 1945 Constitution of the Republic of Indonesia Article 23A, The Fourth Amendment to the 1945 Constitution of the Republic of Indonesia, states that: "Taxes and

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15 Eddy O.S Hiariej, *Lex Specialis dalam Hukum Pidana*, KOMPAS, 12, Juni, 2018, p.7.

16 Hiariej.

other compulsory levies for the needs of the state are regulated by law"; Law Number 6 of 1983 concerning General Provisions and Taxation Procedures; Law Number 9 of 1994 concerning the First Amendment to Law Number 6 of 1983 concerning General Provisions and Taxation Procedures; as last amended by Law Number 20 of 2020, concerning Job Creation; Law Number 7 of 2021 concerning the Harmonization of Tax Regulations applicable in January 2022.

The sociological legitimacy of the legal rules can be accepted and supported by society, thus there is an internal obligation to comply with them. Sociological legitimacy is based on Pancasila[17], namely the third principle which states social justice for all Indonesian people and the 1945 Constitution, as stated in the preamble of the Constitution; as well as Article 23 paragraph (1) State revenue and expenditure budget as a form of state financial management is determined annually by law and implemented openly and responsibly for the greatest prosperity of the people and Article 23A Taxes and other compulsory levies for state purposes are regulated by law.

Philosophical legitimacy in the sense that what is regulated by law contains principles of goodness upheld by every civilized person. Philosophical comes from the word philosophy, which is the science of wisdom. Based on this, the understanding of philosophical is characteristics that lead to wisdom. Philosophical thus represents the way of life of a nation, namely moral values or ethics that contain good and bad values. Good and bad values are values that are highly upheld and are values of truth, justice, morality, humanity, religiosity, and various other values considered good.

Furthermore, Roesman Saleh[18] believes that a form of error can arise from two things, the first being an act that is objectively against the law as a reprehensible act. The second, the consequence of the reprehensible act is the maker as a reprehensible person (*subjecttive reproach*), or the reprehensibility of the act is attributed to its maker. Basically, there are 4 elements that must be fulfilled in determining the

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[17] The third amendment to the 1945 Constitution, Minutes of the 5th Plenary Meeting of the 2002 MPR Annual Session, as a supporting text and compilation without opinion.

[18] Roeslan Saleh, *Sifat Melawan Hukum Tindak Pidana*, Jakarta, Penerbit: Aksara Baru, 1987, hlm. 8-9.

Unlawful Act, namely: 1) Unlawful act, this element emphasizes the action of someone who is considered to violate the legal norms prevailing in society; 2) *Fault, Rutten*[19] states that any consequence of an unlawful act cannot be held accountable if there is no element of fault. The element of fault itself can be classified into 2 (two), namely fault committed intentionally and fault due to carelessness or negligence; 3) Loss, Loss in civil law can be divided into 2 (two) classifications, namely material loss and/or immaterial loss. Material loss is a loss that is actually suffered. As for what is meant by immaterial loss is the loss of benefits or profits that may be received in the future; 4) Causal relationship between the unlawful act by the perpetrator and the loss suffered by the victim, Causality in civil law is to examine the causal relationship between the unlawful act and the resulting loss, so that the perpetrator can be held accountable.

For this context, Ultimum Remedium is a Latin term which means: last resort. Therefore, it is some- thing that is used when all other options have been tried. In practice, the term is often used when talking about criminal law; it should only be used as a last resort. According to *Paul Scholten* (1954)[20], "The law is there, but it must be found, in the finding lies the new" which means: The law is there, but it must be found, in the finding lies (the law) that is new. From the above understanding, it is known that the term ultimate remedy indicates as a last effort, remedy, or means used to overcome a problem or issue faced. Thus, the term is not a specific legal term but a common term widely used in law, especially criminal law.

Wirjono Projodikoro[21] translates the ultimate effort as follows: "*Norms or rules in constitutional law and administrative law must be responded to solely with administrative sanctions, and the norms in civil law must first be responded to with civil sanctions. Only if these administrative and civil sanctions are insufficient to achieve the goal of rectifying the social balance, then criminal sanctions are also imposed as a last resort or ultimum remedium.*"

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[19] In Purwahid Patrik, Rutten, *Dasar Hukum Perikatan (Perikatan yang Lahir dari Perjanjian dan dari Undang-Undang),* Mandar Maju, Bandung, 1994

[20] Paul Scholten*, Structure of Legal Science*, Bandung: Alumni, 2003.

[21] Wirjono Prodjodikoro, *Prinsip-Prinsip Hukum Pidana di Indonesia*, Refika Aditama, Bandung, 2008.

Andi Zainal Abidin[22] Farid also translates the last-ditch effort for *ultimum remedium* by quoting *van Bemmelen's* opinion as follows: "In discussing criminal law sanctions and their differ rences from sanctions in other legal fields, it is said that criminal law sanctions involve the deliberate threat of suffering and often the imposition of suffering, even if there is no crime victim. Such differences are the reason for considering criminal law as an *ultimum remedium*, the last effort to improve human behavior, especially that of criminals, and to exert psychological pressure to prevent others from committing crimes. Because its sanctions involve special suffering, the application of criminal law should be limited as much as possible. In other words, it is used when other legal sanctions are inadequate.

The concept of *ultimum remedium* in criminal law refers to the principle that criminal law should be used, applied, or implemented as a last resort to address societal issues, especi ally those related to criminal acts that harm society. This term is used in law to denote the final action or effort taken by the government or legal authorities to resolve a problem before resorting to more drastic measures or restricting the freedom of individuals or parties involved. Generally, the principle of *ultimum remedium* emphasizes the importance of attempting more moderate or limited solutions or steps before taking more extreme actions or imposing heavier penalties.

In addition, the main characteristics of tax criminal law in the UU KUP that distinguish *primum remedium* from *ultimum remedium* are: Criminal sanctions in the UU KUP are cumulative in nature, except for Article 38 which is alternative in nature. In Article 39 Paragraph (1), Article 39A, and Article 43, imprisonment sanctions cannot be substituted with fines, but are threatened to be imposed simultaneously, as indicated by the use of the conjunction "and".

The use of the stelsel interdetermined sentence, which has been determined in detail as the characteristics of *primum remedium*. In *ultimum remedium*, an indefinite sentence should be used, namely the threat of maximum punishment only, so that the judge can have more leeway in deciding the punishment according to the idea of recht, especially justice and its benefits.

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[22] Andi Zainal Abidin Farid, *Ilmu Hukum Pidana*, Sinar Grafika: Jakarta, 2007

The broad discretion of the tax authorities in formal legal procedures to determine criminal or administrative settlements has the potential to violate the principles of criminal procedural law, which must uphold the protection of human rights for offenders and aim to protect the human rights of offenders from the abuse of power. In order to protect human rights, criminal procedural law (has principles) must be formulated in a written, strict, clear manner, in addition to the formal nature of procedural law.

Article 13A, Article 38, and Article 39 Paragraph (1) letters c and d of the Tax Court Law which regulate the same substance cannot be interpreted mutatis mutandis that the criminal sanctions of the law in question are *ultimum remedium*, but must be interpreted otherwise that administrative sanctions can be enforced together with criminal sanctions considering the development of tax criminal law which has the character as *primum remedium*. Therefore, the administrative sanctions that have been applied do not automatically eliminate criminal charges, administrative and criminal sanctions can run concurrently because they have different competencies[23].

Article 13 Paragraph (5) of Law Number 28 of 2007 which has been repealed by Law Number 11 of 2021 is an example of how the application of administrative sanctions can run parallel with the application of criminal sanctions, where Taxpayers who have been convicted based on a final and binding court decision can still be issued a Tax Assessment Letter plus an administrative penalty of 48% interest on the amount of tax underpaid. The use of the word "may" in Article 44B of the Tax Court Law is facultative rather than imperative, indicating the nature of the application of tax criminal law as *primum remedium*[24].

Meanwhile, Van Hamel (1927)[25] defines criminal law as a set of principles and rules that are adhered to by the state (or other legal communities) which serve to maintain public order by prohibiting acts that violate the law and linking violations of the rules with a specific

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[23] Edward Omar Sharif Hiariej, *Asas Lex Specialis Systematis dan Hukum Pidana Pajak,* Jurnal Penelitian Hukum De Jure, 2021

[24] Eddy O.S. Hiariej, *Prinsip Hukum Pidana*, Yogyakarta, Cahaya Atma Pustaka, 2018.

[25] Van Hamel, in P.D.F Lamintang, *Pengantar Hukum Pemasyarakatan Indonesia,* Jakarta, Sinar Grafika, 2010.

form of suffering in the form of punishment. Meanwhile, according to Moeljatno, it is a part of the overall law that applies in a country, establishing the foundations and regulating provisions regarding actions that must not be done, accompanied by criminal threats for anyone who commits them[26].

Edward OS Hiariej[27] defines criminal law as a set of legal rules from a sovereign state, containing prohibited actions or actions that are commanded, accompanied by criminal sanctions for those who violate or do not comply, when and in what circumstances the criminal sanctions are imposed, and how the implementation of the punishment, the enforcement of which can be enforced by the state[28]. Based on this definition, criminal law emerges as part of a set of legal systems created to maintain social order, as a logical consequence of the formation of a state that originates from a social agreement that subordinates some of its basic rights for the sake of peace, order, and achieving common goals[29].

Digitalization of the Core Tax Administration System (CTAS) to strengthen law enforcement by considering the *Ultimum Remedium* principle

The digitalization of the *Core Tax Administration System (CTAS*) has become the main focus in efforts to strengthen law enforcement in the field of taxation. However, in the process of its implementation, the legal principles underlying such actions need to be considered, including the principle of *Ultimum Remedium*, which is a legal principle stating that government intervention in individual human rights must be the last resort after all other alternatives have been tested and deemed inadequate. The implementation of *CTAS* digitalization aims to improve efficiency and effectiveness in tax collection, as well as to enhance transparency and accountability in the tax system. However, in

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[26] Moeljatno, *Hukum Pidana*, Jakarta, Rineka Cipta, 2000

[27] Eddie. O.S Hiariej, *Prinsip Hukum Pidana*, Yogyakarta, Cahaya Atma Pustaka, 2016.

[28] Hiariej.

[29] Hiariej.

implementing this system, the principle of *Ultimum Remedium* needs to be carefully integrated.

First and foremost, it is crucial to emphasize that the digitalization of *CTAS* should be the last resort in law enforcement efforts. Before using this technology, other alternatives to resolve tax violations should be explored, such as warnings, more traditional law enforcement, or rehabilitative approaches. Second, the digitalization of *CTAS* should be carried out with the principles of justice and proportionality. This means that the use of this techno-logy should not automatically lead to harsh measures, but should be tailored to the needs and context of individual cases. Third, in strengthening law enforcement through the digitalization of *CTAS*, the protection of individual rights must remain a top priority. This includes the protection of personal data, the right to privacy, and other civil liberties that may be affected by the use of this technology.

Finally, transparency and accountability in the use of digitalization of *CTAS* should also be considered. The public should have adequate access to information about how this technology is used, as well as mechanisms available to address objections or complaints regarding its use. Therefore, *CTAS* provides significant benefits in improving.

Furthermore, if the taxpayer responds to the request for data and clarification, they can make corrections to the Periodic or Annual Tax Returns according to the discovered data, concluding with the preparation of a report and SP3. However, if the taxpayer ignores the data clarification, the tax authorities will escalate the status by inviting the taxpayer for counseling, and if there is still no response, an examination will be conducted.

The purpose of the examination of taxpayers is to test compliance with tax obligations. Through this examination, violations by the taxpayer will be identified, including administrative tax law violations or the presence of criminal tax offenses. A criminal tax offense occurs when there is an element of financial loss to the state, which happens when there is misuse of tax invoices by conducting transactions that are not genuine transactions, commonly known as (TBTS). Enforcement of Criminal Tax Law is essentially carried out against taxpayers who do not comply with tax regulations, but enforcement goes through several stages: Examination of Evidence/Investigation;

Investigation; Prosecution; Trial, where efforts can be made to resolve the issue through legal approaches under Article 44B of the Taxation Law, as long as it is before a court decision. In order to stop the investigation as stipulated in Article 44B of the Taxation Law, the taxpayer must submit a written request to the Minister of Finance.

A. The regulation of criminal offenses within the tax domain that may be perpetrated by taxpayers is established

The offenses delineated in Articles 38, 39 paragraphs 1, 2, 3, and 39A of the UU KUP encompass various forms of wrongdoing. Article 38 specifically addresses acts of negligence or omission, whereas Articles 39 and 39A pertain to offenses committed with intent. In essence, Article 38 pertains to violations arising from negligence, particularly concerning tax returns that are either not filed, filed incompletely, or inaccurately. Negligence, as defined in this article, refers to actions that are unintentional, careless, or indicative of a failure to meet obligations, which ultimately leads to a detriment to state revenue. The principal components of Article 38 include: the offense being perpetrated by an individual; the occurrence of negligence; the resultant loss to state revenue; and the stipulation that the act is not a first-time offense or a repeated violation.

The article outlines that the criminal sanction for tax-related offenses consists of a monetary fine ranging from a minimum of one time to a maximum of two times the amount of tax that was either unpaid or underpaid. Alternatively, offenders may face imprisonment, which can last from a minimum of three months to a maximum of one year. Additionally, Articles 39 and 39A address offenses committed with intent. Specifically, Article 39 paragraph 1 appears to concentrate on individuals who fail to fulfill their tax responsibilities, identifying critical components of this offense as: the act being perpetrated by an individual; the presence of intent; and the resulting detriment to state revenue.

Conversely, Article 39A delineates a deliberate offense that emphasizes the responsibilities of taxpayers in their roles as tax deductors or collectors, particularly concerning Value Added Tax

(VAT) and Income Tax Withholding or Collection. Additionally, the offense outlined in Article 39A does not necessitate evidence of revenue loss for prosecution. In accordance with the provisions of Article 39, paragraph 1, the subsequent paragraph appears to focus more on the recurrence of the offense or recidivism, which is also subject to criminal penalties. Furthermore, Article 39, paragraph 3, specifies the regulation of attempted offenses, which are confined to acts involving the misuse or unauthorized use of the Taxpayer Identification Number (NPWP) and/or the Business Identification Number (NPPKP).

B. Legal Political Approach to Errors in Notification Letters Post Abolition of Article 13A of the Tax Law

Legal policy is the fundamental policy made by the government through legislative and executive processes to determine the direction, form, and content of the law applicable in a country. This reflects how the law is designed, implemented, and enforced to achieve certain goals considered important by the state, such as justice, welfare, and order[30].

The political aspect of law plays a crucial role in the formation and implementation of laws in a country. Government policies, orientations, legal objectives, as well as the execution and enforcement of laws are integral parts of legal politics[31]. Through decisions and policies made by the government, the values and fundamental principles that are intended to be realized can be reflected in the laws enacted[32]. Further-more, legal politics also determine how these laws will be carried out and enforced by law enforcement agencies[33]. Therefore, legal politics have a crucial role in ensuring that the law can function effectively, fairly, and in line with the needs of society as well as the social and economic goals to be achieved[34].

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30 Mahfud MD, *Politik Hukum di Indonesia*, Jakarta, Rajawali Pers, 2009

31 Satjipto Rahardjo, *Ilmu Hukum*, Bandung, PT Citra Aditya Bakti, 2006.

32 Bagir Manan, *Teori and Politik Hukum Konstitusi,* Yogyakarta, UII Press, 2011

33 Jimly Asshiddiqie, *Hukum Konstitusi dan Pilar Demokrasi*, Jakarta, Konstitusi Press, 2010

34 Barda Nawawi Arief, *Ontologi Kebijakan Hukum Pidana*, Bandung, Citra Aditya Bakti, 2002.

Article 38 of Law Number 28 of 2007, which pertains to the Third Amendment of Law Number 6 of 1983 regarding General Provisions and Tax Procedures, delineates that tax obligations breached by taxpayers, provided they pertain to tax administrative actions, will incur administrative penalties through the issuance of a tax assessment letter or a Tax Billing Letter. Conversely, violations that constitute criminal offenses within the realm of taxation will attract criminal penalties. The behaviors or actions described in the previously mentioned article do not fall under the category of administrative violations; rather, they are classified as criminal offenses related to taxation. The imposition of criminal penalties is intended to enhance tax-payers' awareness and encourage adherence to their tax responsibilities as outlined in the relevant tax laws and regulations. The term negligence, as used in this article, refers to actions that are unintentional, careless, or insufficiently attentive to obligations, resulting in potential detriment to state revenue.

Thus, Article 38 of the aforementioned law has qualified the act of not submitting or submitting an incorrect or incomplete Tax Return as a criminal act (violation). The wording of Article 38 states that

> *"Any person who, due to negligence:*
> 1. *Fails to submit a Notification Letter; or"*
> 2. *The delivery of a Notification Letter, but its contents are incorrect or incomplete, or attaching information that is incorrect, which may cause losses to state revenue, and such an act is committed after the first act as referred to in Article 13A, shall be fined at least 1 (one) time the amount of tax due that is not paid or underpaid and at most 2 (two) times the amount of tax due that is not paid or underpaid, or imprisoned for a minimum of 3 (three) months or a maximum of 1 (one) year."*

Article 13A of the Tax Law stipulates that tax payers who fail to submit a Notification Letter due to negligence, or who submit a Notification Letter containing incorrect or incomplete information, or who provide inaccurate attachments that result in a loss of state revenue, will not face criminal penalties if this negligence is their first offense. However, the taxpayer is required to rectify the underpayment of taxes owed, along with an administrative penalty amounting to a 200%

increase on the underpaid tax, as determined by the issuance of a Tax Under-payment Assessment Letter.

In my opinion, the construction of the offense in Article 38 in relation to Article 13A of the Tax Law can be analyzed that the fault (*schuld*) of negligence in failing to submit or submitting an incorrect or incomplete tax return is classified as a criminal act, but the imposition of sanctions is distinguished only by whether the act is committed for the first time or is a repeat offense (recidivism). The requirement for the possibility of an administrative way out under Article 13A cumulatively with the first offense is that the act constitutes negligence. Negligence in the explanation of the aforementioned article is defined as carelessness, unintentionality, lack of caution, or neglecting its obligations (*negligence*) resulting in loss of state revenue.

If the negligent act is repeated, a criminal sanction of a minimum fine of one time and a maximum of two times the underpaid tax or a subsidiary criminal imprisonment of a minimum of 3 (three) months and a maximum of 1 (one) year will be imposed. Therefore, the author concludes that: first, the act of not submitting or submitting an incorrect Notice of Tax Assessment is a criminal act under the Tax Law; second, if the act is due to negligence (alpha) for the first time, an administrative sanction in the form of the issuance of a Notice of Under-paid Tax Assessment (SKPKB) will be imposed; third, if the act is repeated, a criminal sanction in the form of a fine that can be replaced by imprisonment will be imposed, going through the criminal procedure process from Preliminary Evidence Examination, Investigation to Prosecution in Criminal Court.

According to the author, Article 13A is the only indication that criminal sanction norms in tax laws are the *ultimum remedium*, even though it is stated in the simplest grammatical manner in the formulation of Article 38 and Article 13A of the UU KUP, but unfortunately has been removed with the enactment of the Job Creation Law. The author concludes that: the act of not submitting the SPT or submitting an incorrect SPT or submitting incomplete information is qualified as a criminal act in accordance with *lex scripta*, *lex certa*, and *lex stricta* in the UU KUP; in order to be punished, the act must be a second time offense of negligence or omission; the intention (*fault*) of the act must be proven to be mere negligence so that the perpetrator can only be subject to administrative sanctions in accordance with Article

13A and not undergo criminal legal proceedings; and in order to be punished, the existence of a certain amount of loss to state revenue must be proven.

The significant difference with the previous Tax Law is the removal of the requirement for repeated actions as a sequential protocol to be subject to criminal sanctions. Therefore, the act of not submitting or submitting an incorrect tax return or incomplete information is a criminal act that must be punished without the need to prove that the act is repeated or first-time. The element of negligence is still defined as unintentional, negligent, careless, or less attentive to obligations. According to the author, this is one of the characteristics of the forward-looking criminal sanction norms in tax laws since the enactment of Law Number 11 of 2020 concerning Job Creation in conjunction with Law Number 7 of 2021 concerning Tax Regulation Harmonization as administrative law.

Criminal Liability through the *Ultimum Remedium* principle in the Context of CTAS Use

The initiation of the tax investigation process occurs upon the Directorate General of Taxes receiving various forms of Information, Data, Reports, and Complaints. This information is subsequently developed and scrutinized through intelligence activities or observations, leading to outcomes that may include Examination, Preliminary Evidence Examination, or the decision to take no further action. Following this, the Directorate General of Taxes is empowered, in accordance with the IDLP, to perform Preliminary Evidence Examinations prior to the commencement of criminal investigations related to taxation. It is important to note that the objectives of Preliminary Evidence Examinations align with those of formal Investigations, as stipulated in Government Regulation No. 74 of 2011. Furthermore, criminal investigations in the taxation domain are exclusively conducted by designated Civil Servant Officials within the Directorate General of Taxes, who possess specific authorization to act as criminal investigators in this field.

The principle of *ultimum remedium* is a legal approach that places criminal resolution as a last resort in the process of law enforcement

against tax violations. In the context of the use of CTAS, taxpayer accountability is reflected through the application of this principle. This means that before criminal action is taken, the government provides taxpayers with the opportunity to rectify errors or violations that have been committed, usually by paying outstanding taxes and administrative fines. In this case, the use of CTAS provides taxpayers with the opportunity to be accountable for their obligations proportionally, while avoiding criminal consequences if they are willing to rectify their mistakes or omissions in paying taxes.

The accountability of corporate taxpayers in the Taxation Law refers to the doctrine of strict liability, which in legal terms, refers to the principle that an individual or entity can be held responsible for an action or deed without having to prove the element of fault or malicious intent on the part of the individual, and vicarious liability, which refers to a form of legal responsibility where an individual or entity is considered responsible for the actions or omissions committed by others, even if they themselves are not directly involved in the act. These responsibilities are often associated with a special relationship between the responsible party and the party committing the act or omission. Both of these doctrines do not require mens rea or fault from the perpetrator.

Therefore, the principle of *ultimum remedium* in tax criminal law, in the context of the use of CTAS, provides a basis for fair and effective law enforcement in improving tax compliance while avoiding abuse or excessive law enforcement.

A. Transactions That Are Not Genuine Represent Tax Crimes

Transactions that are not genuine can be characterized as transactions that appear to exist but are, in fact, fictitious. This situation arises when a business entity engages in a transaction with a counterparty, where the counterparty only receives the goods without being issued a tax invoice for the transaction. Instead, the tax invoice for those goods is provided to a third party. Consequently, the second party (the counterparty) does not collect Value Added Tax (VAT) at the time of delivery, resulting in a loss to the state. Conversely, the third-party benefits from input VAT

based on the tax invoice received from the first party for the goods purchased by the second party. As a result of the advantages gained by the third party, the state incurs a loss equivalent to the amount of the tax invoice that has been credited.

In the case of PT. A engaging in a transaction with PT. B amounting to 1 billion, with a Value Added Tax (VAT) of 11%, it is noteworthy that PT. B only received the goods without being issued a tax invoice for this transaction. Instead, the tax invoice was provided to a third party, PT. C, which only claimed input tax amounting to 110 million (11% of 1 billion). This situation presents a detrimental aspect to the state, as PT. B did not collect VAT during the sale, while PT. C exploited the input tax invoice from PT. B, totalling 110 million. Assuming PT. B achieved a profit margin of 10%, the loss to the state attributable to PT. B would be calculated as 11% of (1.1 times 1 billion), resulting in a loss of 121 million. Consequently, the total loss to the state amounts to 231 million, excluding any penalties.

The presence of this detrimental element constitutes a violation of Articles 38, 39a, and 43. Article 38 of the relevant law categorizes the failure to submit or the submission of an inaccurate or incomplete Annual Tax Return (SPT) as a criminal offense. Additionally, there exists another form of error in criminal law known as intent or dolus, which indicates the nature of wrongdoing in the definition of an offense, influencing the severity of the penalties imposed. This is further elaborated in Article 39, Paragraph (1), letters c and d of the KUP Law, which addresses similar actions, namely the failure to submit or the submission of an incorrect or incomplete SPT. The most reprehensible actions are those fully recognized and intended by the perpetrator without external coercion, while actions that are not deemed criminal occur when the perpetrator is unaware of their conduct, especially if such actions are unintentional.

B. Criminal Sanctions against Taxpayers in the Context of the KUP Law

The application of the principle of No Crime Without Fault within the context of this Tax Law suggests that it does not impose penalties on corporations. This presents an ironic situation, as the definitions of

criminal acts appear to be applicable to corporate entities, despite the terminology employed, which refers to "every person" as previously noted. This assertion can be substantiated by various factors:

First, the theory of the elements of fault (intention and negligence) can be attached to the mental attitude or mens rea[35] of the perpetrator of the criminal act. Given that a corporation lacks physical form, it is evident that these two elements cannot be ascribed to a corporate taxpayer. Secondly, in practical scenarios, tax crimes are typically perpetrated by individuals, which likely explains the use of the term "every person" in Articles 38, 39, and 39A, irrespective of the fact that these individuals may act on behalf of a corporation. In this regard, it is reasonable to interpret "every person" in the context of the criminal act as potentially encompassing corporate taxpayers or corporations themselves. Nonetheless, it is apparent that the Tax Law does not place significant emphasis on corporate criminal liability. Lastly, the sanctions outlined in Articles 39 and 39A represent additional penalties (as opposed to subsidiary penalties), as indicated by the conjunction "and," which is paired with supplementary punishment. From a gramma- tical perspective, this additional punishment implies that the individual perpetrator of the crime may face both fines and imprisonment. This structure of sanctions suggests that while imprisonment may be applicable to the individual offender, fines are designated for the corporation as a corporate taxpayer.

Criminal sanctions, such as fines or imprisonment, are fundamentally directed at individuals who are identified as the offenders. Nevertheless, this does not imply that the individual is the sole entity accountable for the offense. According to Article 1, number 28 of the Taxation Law, a taxpayer is defined as either a natural person or a legal entity that bears the responsibility for tax payments. This definition extends to representatives who act on behalf of taxpayers, ensuring compliance with tax laws and regulations. Consequently, in instances where the offense pertains to the obligations of a corporate

[35] Black's Law Dictionary: Mens rea is a term in criminal law that means "malicious intent" or "awareness of guilt." This refers to the mental state of the perpetrator when committing an unlawful act. To prove that someone is guilty of a criminal offense, two elements are usually required: actus reus (unlawful action) and mens rea (intention or awareness of guilt). Mens rea shows that the perpetrator committed the act with malicious intent or awareness that his action was wrong.

taxpayer, the taxpayer may still be held liable for the tax, even if the infraction was committed by another party.

The final question that needs to be asked regarding the formulation of sanctions according to this Taxation Law is its effectiveness in preventing offenses and/or restoring the situation to its original state after the offense. This is quite reasonable considering that the criminal sanctions regulated in the Taxation Law are only formal sanctions. However, in some aspects, especially in achieving the goal of prosecuting corporations, informal or negative sanctions such as legal sanctions, occupational sanctions, and social sanctions can be considered[36]. In line with this idea, sanctions such as public announcements in the mass media about corporations committing specific tax offenses, social sanctions, or placing the corporation under temporary supervision, legal sanctions, or even dismissal of responsible officials, or occupational sanctions are worthy of consideration.

Conclusion

This study demonstrates that the digitalization of the Core Tax Administration System (CTAS) holds significant potential to enhance efficiency, transparency, and the enforcement of both administrative and criminal tax law. Through the application of digital technology, data collection and law enforcement can be executed more swiftly and accurately, strengthening a more trans-parent and responsive tax legal system. However, challenges related to data security, privacy, and regulatory compliance must be ad-dressed.

The implementation of the *ultimum remedium* principle within the CTAS framework is crucial for ensuring a fair and proportional tax law enforcement approach. This principle provides tax-payers the opportunity to voluntarily correct compliance issues before more severe legal actions are taken, creating a balance between stringent law enforcement and equitable treatment. The findings of this study offer valuable insights for policymakers and legal practitioners in formulating more effective, responsible, and digitally aligned enforcement strategies. Therefore, the digitalize tion of CTAS, grounded in the *ultimum*

[36] Muladi dan Priyatno, *Hukum Pidana: Teori dan Praktik*, Jakarta, Kencana, 2010, p. 238.

remedium principle, has the potential to strengthen tax law enforcement and foster a fairer, more efficient, and competitive tax system in the future.

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