

## ***Self-Assessment System: Causes of Tax Evasion (Case Study of Supreme Court Decision No. 770/K/Pid.Sus/2016)***

**Alexander Samuel Paruhum**

Master of Law Student, University of Indonesia

---

### **Article Info**

#### **Article history:**

Received: 30 June 2023

Published: 02 November 2023

---

#### **Keywords:**

*Self-Assessment System*

*Tax Evasion*

*Case study*

---

### **Abstract**

Taxes are one of the largest sources of income for a country. Based on data obtained from the Central Statistics Agency website, tax revenues in Indonesia in 2021 will reach IDR. 1,375 trillion. This of course shows that as one of the largest sources of income, taxes have a very significant influence on the economic level of a country. In 1983, what is known as "Tax Reform" or tax reform began in Indonesia. One of the tax reforms is marked by the implementation of the Self-Assessment System in the tax collection system in Indonesia. Indonesia considers the crime of money laundering not only as a criminal act that poses a threat to economic stability and the integrity of the financial system, but can also endanger aspects of society, nation and state life. By implementing the Self-Assessment System as a tax collection system based on Article 12 paragraph (1) of the KUP Law, in this case Taxpayers carry out their own tax reporting to the tax authority, which in this case is the Directorate General of Taxes (Dirjen Tax). The Director General of Taxes carries out its assessment function after the Taxpayer reports.

---

### **Article Info**

#### **Article history:**

Accepted: June 30, 2023

Published: 02 November 2023

---

### **Abstrak**

Pajak merupakan salah satu sumber pendapatan terbesar bagi suatu negara. Berdasarkan data yang diperoleh dari situs Badan Pusat Statistik, penerimaan perpajakan di Indonesia pada tahun 2021 mencapai angka Rp. 1.375 Triliun. Hal ini tentu saja menunjukkan bahwa sebagai salah satu sumber pendapatan terbesar, pajak mempunyai pengaruh yang sangat signifikan pada tingkat perekonomian suatu negara. Pada tahun 1983, dimulai apa yang dikenal dengan istilah "Tax Reform" atau reformasi pajak di Indonesia. Adapun reformasi pajak tersebut salah satunya ditandai dengan diterapkannya Self-Assessment System dalam sistem pemungutan pajak di Indonesia. Indonesia menganggap Tindak Pidana Pencucian Uang tidak hanya sebagai tindak pidana yang memberi ancaman pada stabilitas ekonomi maupun keintegritasan sistem finansial, namun pula bisa membuat bahaya aspek hidup masyarakat, bangsa, hingga negara. Dengan diterapkannya Self-Assessment System sebagai sistem pemungutan pajak berdasarkan Pasal 12 ayat (1) UU KUP, maka Wajib Pajak dalam hal ini melakukan sendiri pelaporan pajaknya kepada otoritas pajak, yang dalam hal ini adalah Direktorat Jenderal Pajak (Dirjen Pajak). Dirjen Pajak melakukan fungsi assessmentnya setelah Wajib Pajak melakukan pelaporan.

*This is an open access article under the [Creative Commons Attribution-ShareAlike 4.0 International License](https://creativecommons.org/licenses/by-sa/4.0/)*



---

#### **Corresponding Author:**

**Alexander Samuel Paruhum**

Master of Law, University of Indonesia

E-mail: [Paruhum@gmail.com](mailto:Paruhum@gmail.com)

---

## **1. INTRODUCTION**

### **Background**

Taxes are one of the largest sources of income for a country. Based on data obtained from the Central Statistics Agency website, tax revenues in Indonesia in 2021 will reach IDR. 1,375 trillion. This of course shows that as one of the largest sources of income, taxes have a very significant influence on the economic level of a country. In 1983, what is known as "Tax Reform" or tax reform began in Indonesia. One of the tax reforms is marked by the implementation of the Self-Assessment System in the tax collection system in Indonesia.

In essence, in a tax collection system that adheres to the Self-Assessment System, taxpayers are given complete trust to calculate, calculate, pay/deposit, and report the amount of tax owed in accordance with the time period specified in the tax laws and regulations as stated in Notification Letter (SPT), and then deposit the tax obligations. The Self-Assessment System which requires

active participation from Taxpayers to fulfill tax obligations is basically an effort to increase tax compliance from Taxpayers.

In the laws and regulations regarding taxation that apply in Indonesia, regulations regarding the Self-Assessment System can be found specifically in Article 12 paragraph (1) of Law no. 6 of 1983 concerning General Provisions and Tax Procedures (UU KUP) as amended several times, most recently by Law no. 11 of 2020 concerning Job Creation (“UU No. 11/2020”) and then harmonized through Law no. 7 of 2021 concerning Harmonization of Tax Regulations (“UU No. 7/2021”). The sound of Article 12 paragraph (1) is as follows:

*Every Taxpayer is obliged to pay the tax owed in accordance with the provisions of tax laws and regulations, without relying on the existence of a tax assessment letter.*

From the sound of this article, it can be seen that taxpayers are required to pay their tax obligations in accordance with the Self-Assessment System adopted by the KUP Law. Based on Article 1 number 15 of the KUP Law, a Tax Assessment Letter (SKP) is:

*Assessment letters include Underpayment Tax Assessment Letters, Additional Underpayment Tax Assessment Letters, Nil Tax Assessment Letters, or Overpayment Tax Assessment Letters.*

Based on the information provided on the DDTC website, the functions of SKP include:

1. *Means for making fiscal corrections to Taxpayers who clearly or based on audit results do not fulfill their formal and/or material obligations in complying with tax regulations;*
2. *Means for imposing tax sanctions;*
3. *Administrative facilities for collecting taxes;*
4. *Means for refunding excess tax in case of overpayment;*
5. *Means to notify the amount of tax owed.*

Based on the definition and function of tax assessment letters as described above, it can be concluded that SKP is a letter issued by the government, in this case the Directorate General of Taxes (Dirjen Tax), limited to certain taxpayers due to incorrectness in filling out the tax return (SPT) or due to the discovery of tax data that was not reported by the taxpayer. This again shows that active participation is required from taxpayers to fulfill their tax obligations in the tax collection system.

In reality, the Self-Assessment System, which is a form of effort to increase tax compliance from taxpayers, does not work completely as expected. This can be seen from the Compliance Ratio of Indonesian Taxpayers for the 2016-2021 Period. Based on data sourced from the DDTC website (which in this case was obtained from the Director General of Taxes), although there has been an increase, the compliance ratio has not increased significantly since 2016. The ratio can be seen in the table below:

**Table 1.1**  
**Indonesian Taxpayer Compliance Ratio for the 2016-2021 Period**

<b>Year</b>	<b>Number of Annual SPT Reporting</b>	<b>Number of Taxpayers</b>	<b>Taxpayer Compliance Ratio</b>
<b>2016</b>	12.2 Million	20.1 Million	60.75%
<b>2017</b>	12.04 Million	16.6 Million	72.58%
<b>2018</b>	12.5 Million	17.6 Million	71.10%
<b>2019</b>	13.3 Million	18.3 Million	73.06%
<b>2020</b>	14.7 Million	19 Million	77.63%
<b>2021</b>	15.97 Million	19 Million	84%

Source: DDTC

From this table, it can be seen that although there has been an increase in the Taxpayer Compliance Ratio from year to year (except 2018), the number of Taxpayers who are obliged to report Annual Tax Returns has not increased, and in fact tends to decrease. Thus, based on the

data in the table above, it can be said that there are still many taxpayers who do not fulfill their obligations. The low This level of tax compliance is the reason for the government to repeat the tax amnesty policy or what is known as "tax amnesty" in order to increase taxpayer compliance.

In practice, the implementation of the Self-Assessment System as a tax collection system in Indonesia causes various problems. One of the main problems is the emergence of opportunities for taxpayers to commit deviant acts that violate tax provisions as regulated in the applicable regulations. This is because from the Taxpayer's perspective, the Self-Assessment System is not seen as an effort to increase tax compliance, but rather is seen as a gap for committing deviant acts in order to reduce/minimize tax debt. Through the Automatic Exchange of Information (AEOI), in 1988 the Organization for Economic Cooperation and Development (OECD) identified 2 forms of deviant acts, namely Tax Avoidance and Tax Evasion. Both Tax Avoidance and Tax Evasion have a negative impact on state revenues because they reduce state revenues and thus have the potential to harm the state in terms of providing infrastructure, public services and public utilities.

In connection with the main problem of implementing the Self-Assessment System as a form of Tax Reform in the tax collection system in Indonesia, Manotar Tampubolon and Poltak Siringoringo in their research which is written in journal form are of the opinion that:

*The consequences of reforms in tax administration that are only discussed to taxpayers without reform alongside the tax authority will lead to tax avoidance and tax evasion, by taxpayers because taxpayers never know what the tax is collected for. Tax avoidance and tax evasion are ways that are carried out by taxpayers to avoid the obligation to pay taxes due to distrust of taxpayers to the state / tax collector because taxes paid are felt to be not equivalent to the construction of facilities and infrastructure that can be enjoyed by the public.*

From this opinion, it can be seen the reason why Taxpayers carry out Tax Avoidance and/or Tax Evasion, namely because there is distrust of Taxpayers towards the state/collectors. This distrust arises because taxpayers feel that the taxes that have been paid and the benefits obtained from paying those taxes (one of which is through infrastructure development through the APBN which originates from taxes) are not comparable.

Regarding the definition of Tax Avoidance and Tax Evasion, various definitions can be found from various parties. The OECD in its Glossary of Tax Terms provides the following definition:

*Tax Avoidance: A term that is difficult to define but which is generally used to describe the arrangement of a taxpayer's affairs that is intended to reduce his tax liability and that although the arrangement could be strictly legal it is usually in contradiction with the intent of the law it purports to follow.*

*Tax Evasion: A term that is difficult to define but which is generally used to mean illegal arrangements where liability to tax is hidden or ignored, ie the taxpayer pays less tax than he is legally obligated to pay by hiding income or information from the tax authorities .*

Meanwhile, according to SI Chelvathurai, the definitions of Tax Avoidance and Tax Evasion are as follows:

*Tax avoidance is used to denote the reduction of tax liability through legal means. In an extended or pejorative sense, however, the term is also used to describe tax reductions achieved by artificial arrangements of personal or business affairs by taking advantage of loopholes and anomalies in the law.*

*Tax Evasion is usually defined as the reduction of tax by illegal means, including the omission of taxable income or transactions from tax declaration by fraudulent means.*

From the two definitions as stated above, it can be said that basically Tax Avoidance and Tax Evasion have the same characteristics, namely avoiding fulfilling tax obligations by carrying out tax management and/or reducing the amount of tax debt to as low as possible. This characteristic shows that there is a form of engineering of tax subjects and tax objects carried out by taxpayers in order to obtain tax savings. Tax avoidance activities can be said to be a "disease" inherent in the tax system in various countries.

Meanwhile, the difference between the two lies in the legal side. In Tax Avoidance, a series of efforts are made to minimize/reduce tax debt through legal means by exploiting loopholes in tax-related regulations. Meanwhile, Tax Evasion is carried out through illegal methods. This is further emphasized by the United States Internal Revenue Service (IRS) in the "Internal Revenue Manuals" which specifically states that:

*Avoidance of tax is not a criminal offence. Taxpayers have the right to reduce, avoid, or minimize their taxes by legitimate means. One who avoids tax does not conceal or misrepresent, but shapes and prepares events to reduce or eliminate tax liability within the parameters of the law.*

*Evasion involves some affirmative act to evade or defeat a tax, or payment of tax. Examples of affirmative acts are deceit, subterfuge, camouflage, concealment, attempts to color or obscure events, or make things seem other than they are.*

It can be seen that regarding Tax Avoidance, the IRS clearly states that this is not a criminal offense because it is still carried out within the limits set out in the tax provisions in force in the United States. Meanwhile, in Tax Evasion, the IRS outlines several types of actions that can be said to be illegal, so it can be said that Tax Evasion is a criminal act.

In Indonesia, the practice of Tax Evasion is known as "Tax Evasion" which is classified as a criminal act, specifically a tax crime. This is because Tax Evasion is carried out in an illegal way, namely by going against the applicable tax provisions as regulated in tax-related regulations. In the regulations relating to taxation that apply in Indonesia, there is no specific definition of Tax Evasion. In this case, the KUP Law as applicable tax-related legislation only regulates the classification of several acts that can be classified as Tax Evasion by formulating the elements of these acts in several articles.

As for the classification of Tax Evasion, the KUP Law is divided into violations and crimes. The classification of violations is regulated by the provisions contained in Article 38 of the KUP Law. In essence, article 38 mentions several types of tax crimes that occur due to negligence. Meanwhile, the classification of crimes is regulated in Articles 39 and 39 A of the KUP Law which emphasizes intent. Article 39 contains taxpayer efforts in the context of Tax Evasion which are carried out through Transaction Fraud in report engineering, Tax Shifting, Capitalization and Transfer Pricing. Article 39 A essentially contains Taxpayer efforts in the context of Tax Evasion which are carried out through the issuance and/or use of tax invoices, withholding receipts, collection receipts and tax deposit receipts that are not based on actual transactions.

In a study conducted by George Stack in 2015 in Ukraine, it was found that there were other issues related to Tax Evasion. Stack stated that there was an increase in money laundering criminal cases along with the occurrence of Tax Evasion. Stack took the case of 2 British companies which committed the crime of laundering with the predicate crime of Tax Evasion, which in this case is a tax crime.

*Two UK companies and one Cypriot company transferred a total of €172.5 million and \$332.2 million from bank accounts in a Latvian bank to their accounts in a Ukrainian bank to legalize their funds in the economy. As these funds were the product of tax evasion in the UK, the illegal money was then transferred to local people by creating some ordinary transactions, including payments in response to shareholding activities in three Ukrainian companies. On the other hand, a South African firm and a UK firm transferred from accounts at the same Latvian bank a total of \$548.2 million and €204.4 million to the*

*accounts of a Russian in a Ukrainian bank as an advance (loan) to the respective parties and the parties were then to legalize the money by spending it in the Ukrainian economy.*

From this case, it can be said that the crime of money laundering was carried out to "whiten" the proceeds from tax crimes, which in this case is Tax Evasion. In Indonesia, a similar case has also occurred, namely the case of tax evasion committed by Gaius Tambunan. Gaius was charged with multiple articles which included the Crime of Corruption, the Crime of Taxation and the Crime of Money Laundering. In an article entitled "Taxpayers Perception of Tax Evasion Studied from Tax Knowledge, Tax Fairness, and Tax Discrimination," it is stated that:

*Tax evasion often occurs in Indonesia at individual level. The most difficult case in the news is Gaius Tambunan (IIIA Civil Class, Directorate General of Tax under the Ministry of Finance). Gaius was involved in three layers of articles, namely corruption, money laundering and tax evasion. This case has a negative impact on some taxpayers in tax compliance. Tax fraud cases have recently occurred at corporate level, one of the cases of alleged bribery of tax elimination by PT EK Prima Export Indonesia is Rp. 6 million.*

From this article it can be said that there is a relationship between Tax Evasion as a tax crime and the crime of money laundering.

The crime of money laundering is an economic crime. Money laundering in English is called money laundering and in its etymology money laundering includes the terms money which means money and laundering which means laundering. In general, the crime of money laundering is an act of disguising or concealing the origin of funds or assets obtained or proceeds from criminal acts. The special characteristic of the crime of money laundering is that there is a predicate crime or predicate crime, namely a criminal act that initiates the emergence of the crime of money laundering. If the perpetrator of the crime has benefited from a predicate crime, the funds will be disbursed and appear as if they came from legitimate business activities. The main aim of laundering is always to disguise the origin of the funding or assets from the original criminal act and this is a new crime or can also be interpreted as the crime of money laundering as a following crime.

Several experts try to define the crime of money laundering. For example, Sutan Remy Sjahdeini defines the crime of money laundering as a series of activities as stages carried out by individuals or organizations with illicit money, namely funds originating from cruelty or crime, with the intention of concealing or disguising the origin of the money from the government or authorities. has the authority to take action against criminal acts through the special method of smuggling the money into the financial system so that the funds can then be disbursed from the financial system as lawful money.

Indonesia considers the crime of money laundering not only as a criminal act that poses a threat to economic stability and the integrity of the financial system, but can also endanger aspects of society, nation and state life. In order to prevent and eradicate the crime of money laundering, the Indonesian Government has issued regulations regarding the Prevention and Eradication of the Crime of Money Laundering as regulated in Law no. 8 of 2010. When carrying out money laundering, the perpetrator usually does not directly spend or use his assets. They first try to ensure that the assets obtained from the predicate crime enter the financial system through the stages of placement, layering and/or integration. These three steps can occur at the same time in one transaction or can also occur in various different transactional activities. This process is intended to position illegal funding into the financial system so that the authorities do not become suspicious.

In the Supreme Court decision no. 770/K/PID.SUS/2016, with the defendant on behalf of Rinaldus Andry Suseno als. Andry, as Director of PT Indopiranti Solusitama, explained that a tax crime had occurred which was a form of Tax Evasion. In this case, Andry has been proven guilty of committing the crime of "intentionally misusing or using without right the Taxpayer Identification Number or Confirmation of Taxable Entrepreneurs jointly and deliberately issuing tax invoices that are not based on actual transactions jointly and continuously" as regulated in

Article 39 paragraph (1) letter b in conjunction with Article 43 paragraph (1) of the KUP Law in conjunction with Article 64 paragraph (1) of the Criminal Code, which can cause a loss to State Revenue of IDR. 577,368,524,006, - (Five hundred seventy-seven billion three hundred sixty-eight million five hundred twenty four thousand six rupiah). Because of his actions, in this decision Andry was sentenced to be guilty of committing a tax crime as previously explained by the judge and was subject to sanctions in the form of imprisonment for 3 (three) years and a fine of Rp. 2,501,149,969, -. This also shows that the implementation of the Self-Assessment System has the impact of Tax Evasion.

Based on the points above, this research is devoted to making a juridical review which is outlined in the form of a thesis with the title Self-Assessment System: Causes of the Crime of Money Laundering with Crimes of Tax Evasion (Case Study of Supreme Court Decision No. 770/K/PID. SUS/2016).

### **Formulation of the problem**

Based on the background above, several main issues that will be discussed in this research can be formulated, namely:

1. What are the regulations regarding the Self-Assessment System adopted in laws and regulations related to taxation in Indonesia?
2. What are the regulations regarding tax crimes related to Tax Evasion in the laws and regulations related to taxation in Indonesia?
3. How the implementation of the Self-Assessment System as a tax collection system in Indonesia can be the cause of Tax Evasion in Supreme Court Decision No. 770/K/PID.SUS/2016?

### **SELF-ASSESSMENT SYSTEM SETTING IN TAXATION LAWS**

Regulations regarding the Self-Assessment System as a tax collection system that applies in Indonesia are regulated in Law no. 6 of 1983 concerning General Provisions and Tax Procedures (UU KUP) as amended several times, most recently by Law no. 11 of 2020 concerning Job Creation ("UU No. 11/2020") and then harmonized through Law no. 7 of 2021 concerning Harmonization of Tax Regulations ("UU No. 7/2021"), specifically Article 12 paragraph (1). The sound of Article 12 paragraph (1) is as follows:

*Every Taxpayer is obliged to pay the tax owed in accordance with the provisions of tax laws and regulations, without relying on the existence of a tax assessment letter.*

From the sound of this article, it can be seen that taxpayers are required to pay their tax obligations in accordance with the Self-Assessment System adopted by the KUP Law.

However, the Directorate General of Taxes has the authority to issue Tax Underpayment Assessment Letters (SKPKB), which is done only in certain cases, including taxpayers who, based on audit results or other information, do not fulfil formal obligations and/ or material obligations. This is regulated in Article 13 paragraph (1) of the KUP Law where within a period of 5 years after the time the tax is due or the end of the tax period, part of the tax year, or tax year, the Director General of Taxes can issue SKPKB in the following cases:

- a. There are taxes that are not or underpaid;
- b. The Notification Letter is not submitted within the time period as intended in Article 3 paragraph (3) of the KUP Law and after being warned in writing is not submitted within the time period as specified in the Warning Letter;
- c. There is a Value Added Tax and Sales Tax on Luxury Goods which apparently should not be compensated for by the excess tax or should not be subject to a rate of 0% (zero percent);
- d. There are obligations as intended in Article 28 or Article 29 of the KUP Law that are not fulfilled so that the amount of tax payable cannot be known;
- e. Taxpayers are issued a Taxpayer Identification Number and/or confirmed as a Taxable Entrepreneur in office as intended in Article 2 paragraph (4a); or
- f. Taxable Entrepreneurs have not delivered Taxable Goods and/or Taxable Services and/or exported Taxable Goods and/or Taxable Services and have been given a refund of Input Tax

or have credited Input Tax as intended in Article 9 paragraph (6e) of the Law. Value Added Tax Law 1984 and its amendments.

Based on Article 1 number 15 of the KUP Law, a Tax Assessment Letter (SKP) is: *Assessment letters which include Underpayment Tax Assessment Letters, Additional Underpayment Tax Assessment Letters, Nil Tax Assessment Letters, or Overpayment Tax Assessment Letters.*

Based on the information provided on the DDTC website, the functions of SKP include:

1. *Means for making fiscal corrections to Taxpayers who clearly or based on audit results do not fulfill their formal and/or material obligations in complying with tax regulations;*
2. *Means for imposing tax sanctions;*
3. *Administrative facilities for collecting taxes;*
4. *Means for refunding excess tax in case of overpayment;*
5. *Means to notify the amount of tax owed.*

Based on the definition and function of tax assessment letters as described above, it can be concluded that SKP is a letter issued by the government, in this case the Directorate General of Taxes (Dirjen Tax), limited to certain taxpayers due to incorrectness in filling out the tax return (SPT) or due to the discovery of tax data that was not reported by the taxpayer. This again shows that active participation is required from taxpayers to fulfil their tax obligations in the tax collection system.

### **SETTINGS RELATED TO TAX EVASION IN TAXATION LAW**

In Indonesia, the practice of Tax Evasion is known as "Tax Evasion" which is classified as a criminal act, specifically a tax crime. This is because Tax Evasion is carried out in an illegal way, namely by going against the applicable tax provisions as regulated in tax-related regulations. In the regulations relating to taxation that apply in Indonesia, there is no specific definition of Tax Evasion. In this case, the KUP Law as applicable tax-related legislation only regulates the classification of several acts that can be classified as Tax Evasion by formulating the elements of these acts in several articles.

As for the classification of Tax Evasion, the KUP Law is divided into violations and crimes. Regarding the classification of violations, it is regulated by the provisions contained in Article 38 of the KUP Law which reads as follows:

Any person who, through negligence:

- a. not submitting a Notification Letter; or
- b. Submitting a Notification Letter, but the contents are incorrect or incomplete, or attaching information whose contents are incorrect so that it can cause losses to state revenue and this act is an act after the first act as intended in Article 13A, shall be fined at least 1 (one) times the amount of tax owed which is not or underpaid and a maximum of 2 (two) times the amount of tax owed which is not or underpaid, or shall be sentenced to imprisonment for a minimum of 3 (three) months or a maximum of 1 (one) year.

In essence, article 38 mentions several types of tax crimes that occur due to negligence.

Meanwhile, the classification of crimes is regulated in Articles 39 and 39 A of the KUP Law which emphasizes intent. Article 39 contains taxpayer efforts in the context of Tax Evasion which are carried out through Transaction Fraud in report engineering, Tax Shifting, Capitalization and Transfer Pricing. Article 39 A essentially contains Taxpayer efforts in the context of Tax Evasion which are carried out through the issuance and/or use of tax invoices, withholding receipts, collection receipts and tax deposit receipts that are not based on actual transactions.

The sound of each article is as follows:

*Article 39*

*(1) Any person who intentionally:*

- a. *not registering to be given a Taxpayer Identification Number or not reporting his business to be confirmed as a Taxable Entrepreneur;*

- b. *Misuse or unauthorized use of Taxpayer Identification Number or Taxable Entrepreneur Confirmation;*
  - c. *Not submitting a Notification Letter;*
  - d. *Submitting a Notification Letter and/or information whose contents are incorrect or incomplete;*
  - e. *Refuse to carry out an examination as intended in Article 29;*
  - f. *Displaying books, records or other documents that are false or falsified as if they were true, or do not reflect the actual situation;*
  - g. *Not carrying out bookkeeping or recording in Indonesia, not showing or not lending books, records or other documents;*
  - h. *Not keeping books, notes or documents which are the basis for bookkeeping or recording and other documents including the results of data processing from bookkeeping which is managed electronically or carried out using an on-line application program in Indonesia as intended in Article 28 paragraph (11); or*
  - i. *Do not deposit taxes that have been withheld or collected.*  
*So that it can cause losses to state revenues, he will be punished with imprisonment for a minimum of 6 (six) months and a maximum of 6 (six) years and a fine of at least 2 (two) times the amount of tax owed that is not or underpaid and a maximum of 4 (four) times the amount of tax owed that is not or underpaid.*
- (2) *The criminal sanctions as referred to in paragraph (1) are added 1 (one) time to 2 (two) times the criminal sanctions if a person commits another criminal act in the field of taxation before 1 (one) year has passed, starting from the completion of serving the prison sentence imposed.*
- (3) *Every person who attempts to commit a criminal act misuse or uses without right the Taxpayer Identification Number or Confirmation of Taxable Entrepreneur as intended in paragraph (1) letter b, or submits a Tax Return and/or information whose contents are incorrect or incorrect. complete, as intended in paragraph (1) letter d, in order to submit a request for restitution or carry out tax compensation or tax credit, shall be punished with imprisonment for a minimum of 6 (six) months and a maximum of 2 (two) years and a fine of at least 2 (two) times the amount of restitution requested and/or compensation or credit carried out and a maximum of 4 (four) times the amount of restitution requested and/or compensation or credit carried out Article 39A*

*Any person who intentionally:*

- a. *issuing and/or using tax invoices, proof of tax collection, proof of tax withholding, and/or proof of tax deposits that are not based on actual transactions; or*
- b. *issuing a tax invoice but not being confirmed as a Taxable Entrepreneur shall be punished with imprisonment for a minimum of 2 (two) years and a maximum of 6 (six) years as well as a fine of at least 2 (two) times the amount of tax in the tax invoice, proof of tax collection, proof of withholding tax, and/or proof of tax deposit and a maximum of 6 (six) times the amount of tax in the tax invoice, proof of tax collection, proof of tax withholding, and/or proof of tax payment.*

These two articles are the basis for the form of tax evasion in Indonesia.

## **DECISION ANALYSIS**

### **A. Position Case**

As for the position case in the case that occurred in Supreme Court Decision No. 770 K/PID.SUS/2016 is as follows:

Rinaldus Andry Suseno alias Andry (Defendant) as Director (Manager and Shareholder) of the company PT. Indopiranti Solusitama, PT. Indo Solusi International, PT. Quantum Indotama and 42 (forty-two) other companies that oversee the witnesses, namely Kasim Sutanto, Evie Meuthia, Dewi Anggraeni, Panggawani, Virane Marlina Matuankotta, Astriani, Helmi Prayitna alias Deni Ahmad Rivai alias Agus Sulaiman, Ki Bagus Fahmi Azhari and Syaifullah or Ipul alias Adi. Between January 1 2010 and May 31 2015 at the Mediterranean Garden Residence 1 Apartment Number A27CA, Central Park Residence



Apartment Tower C Floor 37 Units 1 and 9, and Ruko Jalan Daan Mogot KM 10 Number 38 Cengkareng, Andry and his subordinates abused or unauthorized use of a Taxpayer Identification Number or Confirmation of a Taxable Entrepreneur, which could cause a loss to State Revenue amounting to IDR 577,368,524,006.00 (five hundred seventy seven billion three hundred sixty eight million five hundred twenty four thousand six rupiah) .

that from 2010 to 2015 the Defendant established 42 (forty two) Limited Liability Companies which had no business activities, which were used by the Defendant as a means to create tax invoices that were not based on actual transactions. The Defendant did this because he wanted to increase his income and issued tax invoices that were not based on actual transactions.

Whereas in the 42 (forty two) Limited Liability Companies, according to the deed of establishment, the name of the Defendant is not the manager or owner, but rather the Defendant, management or owner listed in the 42 (forty two) Limited Liability Companies uses the names of employees or names of applicants who have submitted a job application to the Defendant's company as well as a photo of the employee but not their real name. Furthermore, the financing and control of the 42 (forty two) Limited Liability Companies was carried out by the Defendant's orders, carried out by the Defendant's employee, witness Ki Bagus Fahmi Azhari.

Whereas in the period 2010 to 2015 the Defendant registered the 42 (forty two) Limited Liability Companies at 22 (twenty two) Tax Service Offices (KPP) in the Jakarta area, the registration location was adjusted to the address of each company. The registration is to obtain a Taxpayer Identification Number (NPWP) and Taxable Entrepreneur Confirmation Number (NPPKP). The registration was carried out by the Defendant's employees, namely witness Helmi Prayitna alias Deni Ahmad Rivai alias Agus Sulaiman and witness Ki Bagus Fahmi Azhari, and the Defendant financed the entire establishment of the PT through a BCA account in the name of witness Ki Bagus Fahmi Azhari and the Defendant's BCA e-Banking account.

After obtaining the Taxpayer Identification Number and Taxable Entrepreneur Confirmation Number, the Defendant waited for an order to make a tax invoice that was not based on actual transactions from witnesses Kasim Sutanto and Helen, then if there was an order the Defendant told witness Evie Meuthia to make a tax invoice that was not based on actual transactions and their completeness such as invoices, travel documents, and Delivery Orders (D/O). The defendant determines which company will be listed on the tax invoice which is not based on the actual seller.

Consecutively, starting from 2010 to 2015, the Defendant ordered witness Helmi Prayitna alias Deni Ahmad Rivai alias Agus Sulaiman with routine tasks, namely: delivering tax documents to KPP Pademangan, KPP Tanah Abang 3, KPP Pal Merah, KPP Kebayoran Baru 1, KPP Kembangan and KPP Tebet, deliver and collect documents from witness Adi to be delivered to the address written on the envelope, pay taxes to the Daan Mogot Post Office or Grogol Post Office. the action of Helmi Prayitna alias Deni Ahmad Rivai alias Agus Sulaiman in submitting specific Value Added Tax (VAT) Notification Reports (SPT) on behalf of the company to each KPP. Furthermore, on the orders of the Defendant, witness Helmi Prayitna alias Deni Ahmad Rivai alias Agus Sulaiman reported the SPT every month.

Then witness Helmi Prayitna alias Deni Ahmad Rivai alias Agus Sulaiman asked witness Dewi Anggraeni, who is the Defendant's staff, for a stamp on the Mediterranean Apartment. The defendant also ordered everyone to report their SPT to the tax office and deliver the documents in a closed condition to witness Kasim Sutanto.

Furthermore, the Defendant gave the witness a monthly income of Rp. 2,050,000.00 (two million and fifty thousand rupiah) via BCA account transfer.

The defendant instructed witness Ki Bagus Fahmi Azhari with the assignment:

1. Prepare documents for registration of Taxable Entrepreneurs (PKP), in the form of: photocopy of deed of establishment, Judicial Decree, SIUP, TDP, KTP of company

management. Then the witness contacted Notary Zaini Zein, SH and Juanita Lesita Rini, SH, M. Kn to make a deed of establishment along with a Judicial Decree at a cost of IDR 5,000,000.00 (five million rupiah) per company. The SIUP and TDP were made by the Defendant, while the KTP for the management of the witness company was made at the Matraman printing house at a cost of Rp. 300,000.00 (three hundred thousand rupiah) for a fake KTP and Rp. 300,000.00 (three hundred thousand rupiah) for a fake ID card.

2. Registration of e-Invoices, in the form of: deed of establishment and amendments, Judicial Decree, Director's KTP, KK, Director's photo in softcopy (CD), all of which are original. Meanwhile for the KTP, the Director's photo is of witness Helmi, witness Dedi, witness Fahmi and witness Astri but his name is someone else's;
  - For e-Invoice registration, it is the same as PKP registration, if there is a deed of establishment that still uses someone else's KTP, the Defendant ordered the witness to change the board of directors by using the witness's photo according to the KTP made by the witness so that when registering the e-Invoice at the Tax Office you can succeed. The fee for transferring the names of directors to a notary is IDR 2,500,000.00 (two million five hundred thousand rupiah);
  - KTP with NIK 3171076606790001 in the name of Hanifa Suryani in order to manage PT e-Invoices. Sanjaya Ina Sakti and PT. Throne of Technology Ambassador;
3. Look for the location of the office domicile to be rented as the Defendant's company office address through newspapers and the internet. The defendant asked the witness to find his domicile address and the defendant gave Rp. 700,000.00 (seven hundred thousand rupiah) for the witness to arrange it at the Village Office.

Then the Defendant ordered witness Ki Bagus Fahmi Azhari to register an electronic invoice (e-Faktur) in the name of the company PT. Delta Inti Makmur where the Director's ID card is Ruslan Mansur, but there is a photo of the witness, which the Defendant then gave witness Ki Bagus Fahmi Azhari a bonus of Rp. 1,000,000.00 (one million rupiah) which was paid through the BCA Taman Angrek Mall Branch account Number 4671268029.

That the Defendant, between 2010 and 2015, ordered the witness Viranie Marlina Matuankotta to make Periodic Value Added Tax (VAT) Tax Returns (SPT), Periodic Income Tax SPT (PPH) Article 21, and Annual Corporate Income Tax Returns for companies owned by the Defendant. which is used to create tax invoices that are not based on actual transactions.

The defendant also assigned witness Syaifullah alias Adi as a courier and once delivered a large envelope, the contents of which the witness did not know, which was addressed to Kasim, Teguh (PT. Indovisual), Nixion (PT. Triasco), Dani (PT. Laserindo), PT Finance Department. Kurnia Mitra Selaras, Finance Department PT. Robicom Karya Utama, and the Finance Department of PT. Charisma.

The defendant ordered witness Astriani alias Astri to arrange an electronic invoice (e-Invoice) for PT. Sanjaya Ina Sakti at the Jakarta Cengkareng Pratama Tax Service Office and PT. Throne of Technology Ambassador at the Jakarta Primary Tax Service Office, Kebayoran Baru Satu.

Between 2010 and 2015, the defendant ordered witness Evie Meuthia to make invoices, tax invoices, travel documents, D/Os, and make Periodic VAT SPTs, Periodic Income Tax Returns Article 21, and Annual Corporate Income Tax SPTs. Then the order from the Defendant was followed up by witness Evie Meuthia by ordering witness Panggawani and witness Dewi Anggraeni to make invoices, tax invoices, travel documents, D/Os, and make Periodic VAT SPTs, Periodic PPh Article 21 SPTs, and Annual Corporate Income Tax SPTs, plus the task of inputting data in Excel form which contains merchandise data, employee data, PPh and VAT data which is entered into a form in softcopy form, the form after filling in the above data is then printed and the printed results are handed over by Witness Panggawani and Witness Dewi Anggraeni back to witness Evie Meuthia.

In June 2015 the Defendant ordered the witness Helmi Prayitna alias Deni Ahmad Rivai alias Agus Sulaiman to become a new shareholder and Director with another (fake)

identity name as Deni Ahmad Rivai using his photo affixed to his KTP with the aim of making the e-filing smoother. -Invoice in the name of PT. Lencana Karya Partners at KPP Pratama West Jakarta. Furthermore, the Defendant also ordered witness Helmi Prayitna alias Deni Ahmad Rivai alias Agus Sulaiman to become a manager or shareholder of PT. Surya Duta Andalan, registered at KPP Pratama Jakarta Kebayoran Baru, the Defendant assigned him to make an e-Invoice on behalf of PT. Surya Duta Andalan, then after getting an e-Invoice in the name of PT. Surya Duta Andalan, all documents were handed over to witness Ki Bagus Fahmi Azhari after which witness Ki Bagus Fahmi Azhari handed them over to the Defendant.

The defendant also ordered witness Helmi Prayitna alias Deni Ahmad Rivai alias Agus Sulaiman, witness Ki Bagus Fahmi Azhari and witness Viranie Marlina Matuankotta to open a bank account at BCA Bank Petamburan Branch using the original KTP and the witnesses' savings book, ATM and m-Banking. obtain then hand over the witnesses to the Defendant.

That Expert Arief Prasetyo explained that the Defendant's actions were to establish companies that had no real business activities and then register them with the Tax Service Office to obtain NPWP and NPPKP, after which these companies were misused by issuing tax invoices that were not based on actual transactions, which was actually an act that wrong and against the law. The company that is registered to obtain NPWP and NPPKP should be a real company that has business activities, and reports its business activities every month and/or every year in actual circumstances. One of the characteristics of Taxpayers abusing Taxpayer Identification Numbers or Taxable Entrepreneur Inauguration, usually the administrators are people with fake identities or other people who do not understand taxation who are deliberately placed as administrators by capital owners with the promise of monetary rewards. Meanwhile, if the publisher uses the Taxpayer Identification Number or Taxable Entrepreneur Confirmation without rights, its existence is often unknown, and there is no real business activity at all. Reporting values made by the Defendant because they intentionally misused or used without authorization the Taxpayer Identification Number or Taxable Entrepreneur Confirmation.

That Expert Wahyu Widodo Ak, SH, M.Sc. explained that the recapitulation of tax invoices which were not based on actual transactions and Tax Payment Letters related to 45 (forty five) companies managed by the Defendant Rinaldus Andry Suseno alias Andry from 2010 to 2015, the amount of loss to state income caused by the Defendant's actions was at least -a minimum of IDR 577,368,524,006.00 (five hundred seventy seven billion three hundred sixty eight million five hundred twenty four thousand six rupiah).

## **B. Analysis**

In this decision, tax evasion was carried out by Andry together with his employees. In this case, Andry has issued tax invoices that are not based on actual transactions through the companies he owns. The issuance of tax invoices is an obligation for taxpayers as a form of tax reporting which is regulated based on Article 12 paragraph (1) of Law no. 6 of 1983 concerning General Provisions and Tax Procedures (UU KUP) as amended several times, most recently by Law no. 11 of 2020 and then harmonized through Law no. 7 of 2021 concerning Harmonization of Tax Regulations.

Article 12 paragraph (1) of the KUP Law is a form of implementation of the Self-Assessment System which in this case gives complete trust to taxpayers to calculate, calculate, pay/deposit and report the amount of tax owed in accordance with the time period specified in tax laws and regulations as stated in the Tax Return (SPT), and then pay the tax obligations. The Self-Assessment System which demands active participation from Taxpayers to fulfill tax obligations is basically an effort to increase Taxpayers' tax compliance.

As for the classification of Tax Evasion, the KUP Law is divided into violations and crimes. The classification of violations is regulated by the provisions contained in Article 38 of the KUP Law. In essence, article 38 mentions several types of tax crimes that occur due to negligence. Meanwhile, the classification of crimes is regulated in Articles 39 and 39 A of the KUP Law which emphasizes intent.

In this case, the defendant's actions have violated both the provisions of Article 39 which essentially contains the taxpayer's efforts in the context of Tax Evasion carried out through Transaction Fraud in report engineering, Tax Shifting, Capitalization and Transfer Pricing and Article 39 A which In essence, it contains the Taxpayer's efforts in the context of Tax Evasion which are carried out through the issuance and/or use of tax invoices, withholding receipts, collection receipts and tax deposit receipts that are not based on actual transactions.

In the decision, the Public Prosecutor charged Andry with cumulative charges, namely Article 39 paragraph (1) in conjunction with Article 43 paragraph (1) in conjunction with Article 64 of the Criminal Code and Article 39 A letter a in conjunction with Article 43 paragraph (1) of the KUP Law in conjunction with Article 64 of the Criminal Code. The provisions in these articles cover the actions of the defendant, who in this case has committed tax evasion by falsifying his tax report in order to avoid the obligation to pay tax as stipulated in the KUP Law.

From 2010 to 2015 the Defendant established 45 (forty-two) Limited Liability Companies which had no business activities, which were used by the Defendant as a means to create tax invoices that were not based on actual transactions. The Defendant did this because he wanted to increase his income and issued tax invoices that were not based on actual transactions.

Tax invoices in this case are part of tax reporting activities for taxpayers in accordance with the provisions regulated in the KUP. In this case, the tax invoice is issued by the Taxpayer, specifically the Taxable Entrepreneur, in which case the defendant is the party who issued the invoice. With the implementation of the Self-Assessment System as a tax collection system that applies in Indonesia, based on Article 12 paragraph (1) of the KUP, the defendant in this case is the party who entered the data in the tax reporting independently. This made the defendant take advantage of this opportunity to issue fake tax invoices so that the defendant was charged less tax than he should have been.

The act of issuing tax invoices that are not based on actual transactions to obtain income is a violation of the provisions regulated in the KUP Law. In accordance with the prosecutor's indictment, the elements of the defendant's actions in this case fall into both sets of articles. This action can cause a loss to state revenue because state income through taxes, in this case, is reduced from what it should be. So it can be said that the defendant's actions were a result of the implementation of the Self-Assessment System which opened up opportunities for taxpayers to carry out tax evasion in the form of issuing fake tax invoices.

## 2. CONCLUSION

In the laws and regulations regarding taxation that apply in Indonesia, regulations regarding the Self-Assessment System can be found specifically in Article 12 paragraph (1) of Law no. 6 of 1983 concerning General Provisions and Tax Procedures (UU KUP) as amended several times, most recently by Law no. 11 of 2020 concerning Job Creation ("UU No. 11/2020") and then harmonized through Law no. 7 of 2021 concerning Harmonization of Tax Regulations ("UU No. 7/2021"). The sound of Article 12 paragraph (1) is as follows:

*Every Taxpayer is obliged to pay the tax owed in accordance with the provisions of tax laws and regulations, without relying on the existence of a tax assessment letter.*

As for the classification of Tax Evasion, the KUP Law is divided into violations and crimes. The classification of violations is regulated by the provisions contained in Article 38 of the KUP Law. In essence, article 38 mentions several types of tax crimes that occur due to negligence. Meanwhile, the classification of crimes is regulated in Articles 39 and 39 A of the KUP Law which emphasizes intent. Article 39 contains taxpayer efforts in the context of Tax Evasion which are carried out through Transaction Fraud in report engineering, Tax Shifting, Capitalization and Transfer Pricing. Article 39 A essentially contains Taxpayer efforts in the context of Tax Evasion which are carried out through the issuance and/or use of tax invoices,

withholding receipts, collection receipts and tax deposit receipts that are not based on actual transactions.

By implementing the Self-Assessment System as a tax collection system based on Article 12 paragraph (1) of the KUP Law, in this case Taxpayers carry out their own tax reporting to the tax authority, which in this case is the Directorate General of Taxes (Dirjen Tax). The Director General of Taxes carries out its assessment function after the Taxpayer reports. This of course creates a gap for taxpayers to commit fraud in tax reporting in the form of tax evasion or tax avoidance because taxpayers are not directly supervised when reporting. In the case of the decision, the Defendant in this case committed tax evasion in the form of falsifying tax invoices through 45 companies he owned. The perpetrator in committing this violation was assisted by his employees. The perpetrator's motive is to increase his income because he has to pay less tax. In this case, the perpetrator has violated the provisions regulated in Article 39 paragraph (1) in conjunction with Article 43 paragraph (1) in conjunction with Article 64 of the Criminal Code, where this article regulates provisions regarding the scope of actions that fall into the tax evasion category. So it can be said that the implementation of the self-assessment system influences the occurrence of tax evasion.

### 3. BIBLIOGRAPHY

#### 1. BOOK

- Friedman, Lawrence M. *American Law*. New York: W. W. Norton and Co., 1984.
- Husein, Yunus dan Roberts K. *Tipologi dan Perkembangan Tindak Pidana Pencucian Uang*. Depok: PT RajaGrafindo Persada, 2019.
- Ikatan Akuntan Indonesia. *Modul Chartered Accountant: Manajemen Perpajakan*. Jakarta: Ikatan Akuntan Indonesia, 2015.
- Mamudji, Sri, et al. *Metode Penelitian dan Penulisan Hukum*. Jakarta: Badan Penerbit Fakultas Hukum Universitas Indonesia, 2005.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. Jakarta: Kencana, 2009.
- Pangaribuan, Luhut M.P. *Tindak Pidana Ekonomi dan Anti Korupsi: Pengantar, Ketentuan, dan Pertanyaan-Pertanyaan*. Jakarta: Papas Sinar Sinanti, 2019.
- Soekanto, Soerjono. *Pengantar Penelitian Hukum*. Cet. 3. Jakarta: Penerbit Universitas Indonesia, 1986.
- \_\_\_\_\_, Soerjono. *Pengantar Penelitian Hukum*. Jakarta: UI-Press, 2007.

#### 2. ARTICLES/JOURNALS

- Arifki, Nindi Achid dan Ilima Fitri Azmi. "Penghindaran Pajak dalam Diskursus Tindak Pidana Pencucian Uang." *Pandecta* Vol. 15, No. 2 (Desember 2020).
- Clark, Nicholas. "The Impact of Recent Money Laundering on Financial Intermediaries." *Dick J. Int'l.L.*, Vol. 14.
- Ibrahim, Jhonny. *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing, 2006.
- Nugaha, Bima Aditya dan Andrianatenaina Hajanirina. "Taxpayers Perception of Tax Evasion Studied from Tax Knowledge, Tax Fairness, and Tax Discrimination." *Research in Management and Accounting* Vol. 3, No. 1 (Juni 2020).
- Otusanya, Olatunde Julius. "The Role of Multinational Companies in Tax Evasion and Tax Avoidance: The Case of Nigeria." *Elsevier* Vol. 22 (Maret 2011).
- Pahlil, Mohd Rizal, Marlin Marissa Malek dan Abdul Rahim Jaguli. "Issues, Challenges and Problems with Tax Evasion: The Institutional Factors Approach." *Gajah Mada International Journal of Business* Vol. 18, No. 2 (Mei-Agustus 2016).
- Sjahdeini, Sutan Remy. "Pencucian Uang: Pengertian Sejarah, Faktor Faktor Penyebab, dan Dampaknya Bagi Masyarakat." *Jurnal Hukum Bisnis* (2003).

Tampubolon, Manotar dan Poltak Siringoringo. "Tax Evasion and Violation of Human Rights: The Case of Indonesia." *Journal of Arts & Humanities* Vol. 08, No. 09 (Agustus 2019).

Wahyuni, Made Arie. "Tax Evasion: Dampak dari Self-Assessment

### 3. LEGISLATION / COURT RULING

Indonesia, *Undang-Undang tentang Harmonisasi Peraturan Perpajakan*, UU No. 7 Tahun 2021, LN No. 246 Tahun 2021, TLN No. 6736.

Indonesia. *Undang-Undang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang*. UU No. 8 Tahun 2010. LN No. 122 Tahun 2010. TLN No. 5164.

Indonesia. *Undang-Undang tentang Perubahan Ketiga Atas Undang-Undang Nomor 6 Tahun 1983 Tentang Ketentuan Umum dan Tata Cara Perpajakan*. UU No. 28 Tahun 2007. LN No. 85 Tahun 2007. TLN No. 4740.

Indonesia. *Peraturan Pemerintah tentang Tata Cara Pelaksanaan Hak dan Pemenuhan Kewajiban Perpajakan*. Peraturan Pemerintah No. 74 Tahun 2011. LN No. 162 Tahun 2011. TLN No. 5268.

Mahkamah Agung Republik Indonesia. Putusan No. 770/K/Pid.Sus/2016.

### 4. INTERNET

Badan Pusat Statistik. "Realisasi Pendapatan Negara (Milyar Rupiah), 2020-2022," <https://www.bps.go.id/indicator/13/1070/1/realisasi-pendapatan-negara.html>. Diakses 1 Maret 2023.

DDTC. "Inilah Pengertian dari SKP," [https://news.ddtc.co.id/inilah-pengertian-dari-skp-6712?page\\_y=0](https://news.ddtc.co.id/inilah-pengertian-dari-skp-6712?page_y=0). Diakses 1 Maret 2023.

Internal Revenue Service (IRS). "Internal Revenue Manuals." [https://www.irs.gov/irm/part25/irm\\_25-001-001#idm140486824974640](https://www.irs.gov/irm/part25/irm_25-001-001#idm140486824974640). Diakses 3 Maret 2023.

Kejaksaan Republik Indonesia. "Kejari Jakarta Barat Mengeksekusi Direktur PT Indoperanti Solusitama." <https://www.kejaksaan.go.id/berita.php?idu=0&id=16868&hal=4>. Diakses 7 Maret 2023.

OECD. "Glossary of Tax Terms." <https://www.oecd.org/ctp/glossaryoftaxterms.htm#E>. Diakses 2 Maret 2023.

Wildan, Muhammad. "Rasio Kepatuhan Wajib Pajak Capai 84% Per Akhir 2021," <https://news.ddtc.co.id/rasio-kepatuhan-wajib-pajak-capai-84-per-akhir-2021-35875#:~:text=Ilustrasi.,2020%20mencapai%2015%2C97%20juta>. Diakses 1 Maret 2023.