



TAX BAILIFF ROLES POST ASSETS CONFISCATION ON SUSPECT OF TAX CRIME IN INDONESIA¹

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Article	Abstract
<p>Keywords: Assets Confiscation; Tax Bailiff; Tax Crime</p> <p>History of Article Received: September 8, 2022; Reviewed: September, 9 2022; Accepted: September 12, 2022; Published: September 26, 2022;</p> <p>DOI:</p>	<p>Empirical and juridical gaps in confiscating suspects' assets by tax investigators in Indonesia must be addressed immediately because they can potentially cause legal problems in the future. Two conclusions were produced based on the normative juridical method carried out through an inventory of primary, secondary, and tertiary legal materials. First, the confiscation of the suspect's assets in a criminal act in the taxation sector, as referred to in Article 44 paragraph (2) letter j of the KUP Law, still leaves a legal vacuum and, at the same time, ignores the checks and balances mechanism in the assessment, maintenance, management, and or auction after the tax investigators carry out the confiscation of assets. Second, the role of the tax bailiff after the confiscation of the suspect's assets carried out by tax investigators is more reflective of justice, legal certainty, and public benefits for the actors involved in confiscating and recovering losses in the state revenue. It is recommended to reform the Tax Collection Law in terms of adding the authority of the tax bailiff in Indonesia as well as the making of a Government Regulation or at least a Regulation of the Minister of Finance which regulates the number of legal vacancies after the confiscation of the suspect's assets is carried out by tax investigators.</p>

1. INTRODUCTION

Investigation of tax crime whose offenses involve losses (income) to the state is essentially not only aimed at punishing and deterring the perpetrators but primarily aims

¹ *Disclaimer: This article is a private scientific study of the researcher and does not reflect the institution's opinion/policy.

to recover financial losses (income) to the state suffered by the state (as victims) due to the occurrence of a crime in the field of taxation. The offenses that contain elements of losses (income) to the state in criminal acts in the field of taxation are Article 38, Article 39, Article 39A, and Article 43 paragraph (1) of Law Number 6 of 1983 concerning General Provisions and Tax Procedures, as amended several times, most recently by Law Number 7 of 2021 concerning Harmonization of Tax Regulations (KUP Law), Article 24 and Article 25 of Law Number 12 of 1985 concerning Land and Building Tax as amended by Law Number 12 of 1994 (PBB Law), and or Article 24, Article 25, and Article 26 of Law Number 10 of 2020 concerning Stamp Duty (BM Law).

There are empirical and juridical gaps in the confiscation of assets in criminal acts, including criminal acts in the taxation sector. The empirical gap can be seen in several court decisions related to confiscating and auctioning assets belonging to the suspect in the investigation stage. Civil Decision from the Supreme Court (MA) which rejected the application for judicial review submitted by the Corruption Eradication Commission (KPK) and upheld the Supreme Court Cassation Decision Number 2580 K/Pdt/2013, under Supreme Court Decision Number 597 PK/Pdt/2015.² The consideration of the decision confirms that even though it is within the scope of carrying out duties in the field of criminal law, the act of the Defendant/Applicant for Judicial Review to confiscate goods that are proven to have no connection at all with an act that is charged to a suspect/convict is still an act which is seen as an unlawful act as referred to in Article 1365 of the Civil Code (KUH Perdata), let alone not returning it to the appropriate party or to the party from which the goods were confiscated because the goods are the personal property of the person concerned".

Another empirical gap related to the confiscation of assets in criminal acts in the field of taxation is the amount of loss to the state (income) that was sentenced in 2016-2020, each of which was in the form of a tax principal of IDR 78 trillion and fines. IDR 1.56 trillion for 2016³, tax principal amounting to IDR 1.34 trillion and fines amounting to IDR 2.11 trillion for 2017⁴, tax principal of IDR 1.73 trillion and fines of IDR 3.51 trillion for

² Putusan Kasasi Mahkamah Agung Nomor 2580 K/Pdt/2013 tersebut membatalkan Putusan Pengadilan Tinggi Jakarta Nomor 366/PDT/2012/PT.DKI yang membatalkan Putusan Pengadilan Negeri Jakarta Selatan Nomor 469/Pdt.G/2011/PN.Jkt.Sel. Putusan Mahkamah Agung Nomor 2580 K/Pdt/2013 tersebut menyatakan Tergugat, Komisi Pemberantasan Korupsi, telah melakukan perbuatan melawan hukum dan menghukum tergugat untuk membayar kerugian immaterial sebesar Rp. 100 juta dan menghukum Tergugat untuk menyerahkan kembali beberapa barang Penggugat.

³ Direktorat Jenderal Pajak, Laporan Tahunan Tahun 2016, p. 59, available at https://www.pajak.go.id/sites/default/files/2019-03/Annual%20Report%20DJP%202016%20-%20INA_0.pdf, accessed on May 30, 2022.

⁴ Direktorat Jenderal Pajak, Laporan Tahunan Tahun 2017, p. 75, available at <https://www.pajak.go.id/sites/default/files/2019-03/DJP%20AR-2017%20Fullpages%20-%20Indonesia%20%28Lowres-Compressed%29.pdf>, accessed on May 30, 2022.

2018⁵, tax principal of IDR1.11 trillion and fines of IDR 3.77 trillion for 2019⁶, and tax principal of IDR 0.67 trillion and fines of IDR 1.34 trillion for 2020⁷.

The juridical gap can be seen from the urgency of recovering losses (income) to the state in criminal acts in the field of taxation in the order of applicable laws and regulations. Article 44 paragraph (2) letter j of the KUP Law stipulates that one of the authorities of the Civil Servant Investigator (PPNS) within the Directorate General of Taxes (DGT) is to block and or confiscate the assets of the suspect following the criminal law proceedings, including but not limited to the permission of the chairman of the local district court. However, the confiscation of assets belonging to the suspect in the investigation process raises pros and cons, especially if the confiscation process continues at the auction of confiscated objects as referred to in Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP). As for the legal arguments of the supporting parties, among others, affirming the need for efforts to recover losses (income) to the state in criminal acts before a court decision is handed down and with legal force, it is still possible at the investigation stage through the auction of objects confiscated by investigators, as regulated in Article 45 KUHAP. As for the opinions that are not supported regarding the absence of a court decision that has permanent legal force and is contrary to the presumption of innocence principle.

In addition, there is a gap in terms of the legal vacuum in the confiscation of the suspect's assets as a *lex specialist* from the tax law. Several law enforcement institutions in Indonesia have made implemented regulations related to the confiscation of assets in a criminal act, such as the Regulation of the Attorney General of the Republic of Indonesia Number 7 of 2020 concerning the Second Amendment to the Regulation of the Attorney General Number PER-027/A/JA/10 /2014 concerning Guidelines for Asset Recovery, and Regulation of the Supreme Court of the Republic of Indonesia Number 01 of 2013 concerning Procedures for Settlement of Applications for Handling Assets in the Crime of Money Laundering or Other Crimes. The *lex specialist* in terms of confiscation of the assets of suspects in tax crimes is critical in tax enforcement considering some basic things in tax law, including differences in the interpretation of the application of fines in the KUP Law causing legal problems that are very detrimental to the state because the DGT does not yet have a confiscation procedure for the assets of the suspect in a tax crime, the unfairness of the judge's determination even though the case is both a tax crime, and the legal uncertainty of criminal sanctions in the KUP Law which does not regulate a subsidiary substitute for confinement if the defendant is unable to pay and does not regulate the mechanism for paying criminal tax penalties, either voluntarily or through the confisca-

⁵ Direktorat Jenderal Pajak, Laporan Tahunan Tahun 2018, p. 84, available at <https://www.pajak.go.id/sites/default/files/2019-11/Laporan%20Tahunan%20DJP%202018%20-%20bahasa%20Indonesia.pdf>, accessed on May 30, 2022.

⁶ Direktorat Jenderal Pajak, Laporan Tahunan Tahun 2019, p. 76, available at <https://www.pajak.go.id/sites/default/files/2020-12/Laporan%20Tahunan%20DJP%202019%20-%20INDONESIA.pdf>, accessed on May 30, 2022.

⁷ Direktorat Jenderal Pajak, Laporan Tahunan Tahun 2020, p. 83, available at <https://www.pajak.go.id/sites/default/files/2021-10/Laporan%20Tahunan%20DJP%202020%20-%20Bahasa.pdf>, accessed on May 30, 2022.

tion of property.⁸ The success of the seizure of the suspect's assets is expected to be able to finance development as aspired in the Preamble to the 1945 Constitution of the Republic of Indonesia.⁹

The existence of empirical and juridical gaps in confiscating suspect assets in criminal acts in the taxation sector must be addressed immediately, considering that there is no shortage of state (income) in several criminal fields in the taxation sector. It is necessary to confiscate criminal acts in the field of taxation as an anticipatory measure aimed at saving or preventing the escape of assets if later it is decided by the court whether it should be taken as an effort to overcome losses (income) to the state or as an additional crime of seizing crime proceeds.¹⁰ Considering that the confiscation of the suspect's assets in a crime in the taxation sector is one of the coercive measures and considering that the tax bailiff is the executor of tax collection actions which include instant and simultaneous collection, notification of Forced Letters, confiscation, and hostage taking¹¹, Then it is necessary to answer the two formulations of the existing problems. First, how are the arrangements for the confiscation of the suspect's assets in criminal acts in the taxation sector. Second, what is the ideal role of a tax bailiff in the confiscation of the assets of a suspect in a tax crime.

2. METHODS

The aims of this study are to construct the prevailing law of confiscation of the suspect's assets in tax crime, and to generate the (legal) concept of tax bailiff in confiscation of the suspect's assets in Indonesian tax crime. Sehingga studi ini memadai menggunakan metode yuridis normative.

The normative juridical method is suitable for examining the symptoms, causes, and consequences that occur in the confiscation of the assets of suspects in criminal acts in the taxation sector, considering that the system is covered by laws and regulations and policies issued by the government¹² and tax authorities. The normative juridical method is carried out through secondary data collection, including library research. This normative juridical study is carried out through an inventory of primary legal materials, secondary legal materials, and tertiary legal materials, then benchmarking and analyzing¹³ to produce conclusions and prescriptions. Prescriptive discipline, as an essential part of norma-

⁸ Rudi Margono, I Nyoman Nurjaya, Tunggul Anshari Setia Negara, dan Heru Hadi, The Urgency of Asset Confiscation Sanction in Tax Crimes, *Research in Business & Social Science*, Vol. 9, No. 5, p. 292.

⁹ *Loc.cit.*

¹⁰ Anti-Corruption Clearing House, "Aset Koruptor, Mengapa Harus Disita", available at <https://acch.kpk.go.id/id/component/content/article?id=143:aset-koruptor-mengapa-harus-disita>, accessed on July 1, 2022.

¹¹ Pasal 1 butir 6 Undang-Undang Nomor 19 Tahun 2000 tentang Perubahan atas Undang-Undang Nomor 19 Tahun 1997 tentang Penagihan Pajak dengan Surat Paksa.

¹² Kusumaningtuti SS, *Peranan Hukum dalam Penyelesaian Krisis Perbankan di Indonesia*, Jakarta: Rajawali Pers, 2009, p. 29.

¹³ *Ibid.*, p. 31.

tive juridical studies, is a teaching system that determines what should or should be done in the face of certain realities.¹⁴

3. ANALYSIS AND DISCUSSION

A. Prevailing Law of Confiscation in Criminal Law and Private Law in Indonesia

The criminal procedure law has defined confiscation as referred to in Article 1 number 16 of the Criminal Procedure Code, namely "a series of actions by an investigator to take over and or keep under his control movable or immovable, tangible or intangible objects for proof in the investigation, prosecution and trial". This definition shows that every confiscation in the investigation process is carried out for the sake of evidence.

The complete regulation of confiscation in criminal acts is formulated in Article 38 – Article 46 of the Criminal Procedure Code. Article 38 of the Criminal Procedure Code stipulates that confiscation must be with the permission of the Head of the Court, except in essential and urgent circumstances, in which case confiscation can only be carried out on movable objects. Article 39 of the Criminal Procedure Code regulates the object of confiscation in a limitative manner, so it still raises debates and questions in practice. Article 40-Article 41 regulates the confiscation that can be carried out in the event of being caught red-handed. Article 42 regulates the authority of the investigator to order the person in control of the object intended for, or come initially from the suspect, to surrender the object under his control. Article 44 of the Criminal Procedure Code regulates the storage of confiscated objects and their responsibilities that remain with the competent authority according to the level of examination in the judicial process. Then, in the case of confiscated objects that are easily damaged and dangerous, as far as possible with the approval of the suspect, they can be sold at auction or secured, and the results of the auction can be used as evidence, with as much as possible a small part of the object is set aside for the sake of proof.¹⁵ Article 45 and Article 46 of the Criminal Procedure Code regulate the effectiveness of the management of confiscated objects and confiscated goods, the provisions of which are: a) in the event that the confiscated objects consist of objects that can be easily damaged and or which are dangerous and or whose storage costs are too high, so that it is impossible to store them until the court's decision on the case concerned has permanent legal force, or b) if the cost of storing the object will become too high, as far as possible with the approval of the suspect or his proxy, action can be taken in the form of an auction or can be secured by the investigator or public prosecutor in the presence of the suspect or his proxies. Alternatively, c) if the case is in the hands of the court, then the object can be secured or sold at auction by the public prosecutor with the permission of the judge who hears the case and is wit-

¹⁴ Purnadi Purbacaraka dan Soerjono Soekanto, *Perihal Kaedah Hukum*, Bandung: PT. Citra Aditya Bakti, 1993, p.1.

¹⁵ Anti-Corruption Clearing House, "Tata Laksana Benda Sitaan dan Barang Rampasan", available at <https://acch.kpk.go.id/id/artikel/riset-publik/695-tata-laksana-benda-sitaan-dan-barang-rampasan>, accessed on July 1, 2022.

nessed by the defendant or his proxies. The results of the auction of the object in question in the form of money are used as evidence.¹⁶

In addition to the Criminal Procedure Code, several regulations are issued by several law enforcement institutions in handling the procedures for confiscating the assets of the suspect/defendant. The Attorney General's Office Regulation Number 7 of 2020, among other things, confirms that: a) the security of assets related to criminal acts and or other assets to be recovered is carried out since they were confiscated and or handed over to the prosecutor's responsibility by investigators; b) The Head of the District Attorney issues an order to appoint several employees in the work unit for the management of evidence and confiscated goods to carry out administrative and juridical security activities against confiscated goods and carry out activities for managing the confiscated goods as long as they are used for judicial or investigative purposes; c) When the prosecutor's office receives the submission of evidence from the investigator, the prosecutor as the investigator/public prosecutor together with the officer of the confiscated goods/evidence checks the physical suitability of the evidence/confiscation with the confiscation order, minutes of seizure, determination of confiscation, list evidence, as well as documents of ownership; d) confiscated goods in the form of land and buildings are secured by making a confiscation board and requesting a blockage to the local Land Agency office, or other authorities to prevent the confiscated goods from changing hands, as well as requesting assistance from the village/kelurahan/local security apparatus to safeguard so that the confiscated goods do not change hands; e) confiscated goods which are evidence used to commit criminal acts and based on regulations must be confiscated for the state (for example in cases of forestry, mining, environmental pollution, fisheries, etc.), may not be loaned to any party, before the case obtains a decision that has permanent legal force; f) for the purpose of asset recovery, since the perpetrator of a criminal act is determined as a suspect, the Prosecutor's Office must confiscate goods originating from a criminal act or used to commit a crime and if possible stored in a warehouse for confiscated/confiscated goods; g) in the event that the investigation is not carried out by the Prosecutor's Office, the prosecutor must give instructions to the investigator to confiscate the goods; h) Goods confiscated from the suspect/defendant are not allowed to be entrusted to the suspect/defendant or his family, except in cases of road traffic violations..

Then, Supreme Court Regulation Number 1 of 2013 regulates the scope of applications for handling assets submitted by Investigators if the alleged perpetrator of a criminal act is not found, as referred to in Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering (The Money Laundering Law). The application for the handling of such assets must be submitted in writing and signed by the investigator addressed to the Head of the District Court, which contains the name and type of assets, the number of assets, the place, day, and date of the confiscation, and a brief description containing the reasons of submission application for property management.

Furthermore, Law Number 31 of 1999 concerning Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001 regulates the confiscation of the assets of perpetrators of criminal acts of corruption so that the as-

¹⁶ *Loc.cit.*

sets of perpetrators of criminal acts of corruption do not change hands until a final decision is made permanent legal force (*inkracht*) ordering the payment of replacement money to the perpetrators of the corruption crime.¹⁷ Completing payment of replacement money through confiscating the assets of the perpetrators of corruption by using additional criminal penalties as stipulated in Article 18 of Law Number 31 of 1999 is expected to encourage the acceleration of eradication and create a deterrent effect.¹⁸ According to Danil and Kurniawan, the correlation of the phrase "replacement money" with losses or consequences arising from the commission of a criminal act of corruption is an attempt to obtain compensation, either financial or economic losses, as a result of corruption by the perpetrators.¹⁹ Then, Danil and Kurniawan emphasized that the correlation between state compensation and the punishment for confiscation and confiscation as regulated in Article 18 of Law Number 31 of 1999 can only be determined through expert testimony in the corruption case so that the exact amount of compensation to the country can be determined charged to the perpetrator.²⁰

In addition to criminal law, confiscation is also regulated in civil law in Indonesia. Article 1311 of the Civil Code (KUH Perdata) stipulates that all movable and immovable property belonging to the debtor, both existing and future, becomes a guarantee for the debtor's engagement. Then, *Herzien Inlandsch Reglement* (HIR), one of Indonesia's sources of civil procedural law, was adopted based on the principle of concordance because it is a legacy of the Dutch colonial government.²¹ It has regulated that the clerk of the district court carries out the confiscation. Article 197 paragraph (1) HIR confirms that against a person who loses in court who has not yet fulfilled the decision that has passed the specified time or has been appropriately summoned but does not appear before the court, the head of the district court because of his position gives an order to confiscate the goods which is not fixed and if it is not available, or it is not enough to confiscate the property of the defeated person until it is deemed sufficient to replace the amount of money stated in the decision plus all costs to carry out the decision. Confiscation must be witnessed by two witnesses 21 years of age and stated in the official report. After the confiscation, the sale of the confiscated goods through the auction office followed. However, the confiscation and sale of the confiscated can be contested if there are specific reasons, such as the judge's decision has been paid.

B. Confiscation and Tax Bailiff in Indonesian Tax Law

Tax confiscation is regulated in Article 20 and Article 23 of the KUP Law, Law Number 19 of 2000 concerning Amendments to Law Number 19 of 1997 concerning Collection of Taxes by Forced Letters (PPSP Law), and Government Regulation of the Republic of Indonesia Number 135 of 2000 concerning Procedure for

¹⁷ Anti-Corruption Clearing House, "Aset Koruptor, Mengapa Harus Disita", *Loc.cit.*

¹⁸ *Loc.cit.*

¹⁹ Elwi Danil dan Iwan Kurniawan, Optimizing Confiscation of Assets in Accelerating the Eradication of Corruption, *Hasanuddin Law Review*, Vol. 3, No. 1, 2017, p. 73.

²⁰ *Loc.cit.*

²¹ Dwi Agustine, Pembaharuan Sistem Hukum Acara Perdata, *Jurnal Rechtsvinding*, 2017, p. 2, available at https://rechtsvinding.bphn.go.id/jurnal_online/rechtsvinding_online_PEMBAHARUAN%20SISTEM%20HUKUM%20ACARA%20PERDATA.pdf, accessed on July 4, 2022.

Confiscation in the Context of Collection of Taxes by Forced Letter. Following Article 1 points 14 and 15 of the PPSP Law, tax confiscation, which is an act to control the goods of the Tax Bearer to be used as collateral for tax taxes according to the laws and regulations, must be based on the object of confiscation in the form of goods of the Tax Bearer which can be used as collateral for tax debts. Tax confiscation, as referred to in Article 20 and Article 23 of the KUP Law, PPSP Law, and Government Regulation 135 of 2000, is in the context of tax collection, namely a series of actions so that the Tax Insurer pays off the tax debt. Tax collection costs by reprimanding or warning, carrying out the instant collection, and at the same time, notifying the Forced Letter, propose prevention, carrying out confiscation, carrying out hostage-taking, sell goods that have been confiscated. As for the Tax Bearer, it is referred to in Article 1 Point 8 of the KUP Law, Article 1 Point 3 of the PPSP Law, and Article 1 Point 1 of Government Regulation Number 135 of 2000, which confirms that the Tax Bearer is an individual or entity who is responsible for tax payments, including representatives who exercise the rights and fulfill the obligations of the Taxpayer under the provisions of the tax laws and regulations.

Then, Article 20 of the KUP Law stipulates that on the amount of tax that must be paid, which is based on the Tax Collection Letter (STP), Underpaid Tax Assessment Letter (SKPKB), and Additional Underpaid Tax Assessment Letter (SKPKBT), and Decree Corrections, Decisions on Objections, Decisions on Appeals, and Decisions on Judicial Review which cause the amount of tax still to be paid to increase, which the Tax Insurer does not pay under the stipulated period, must be collected using a Forced Letter. Suppose the tax debt is not repaid within 2 (two) times 24 hours as of the notification of the Insured Tax to the relevant Tax Insurer. In that case, the Tax Insurer's property is confiscated by the Tax Bailiff.²² In detail, Article 5 paragraph (1) of the PPSP Law regulates the duties of a Tax Bailiff, namely carrying out an Immediate and Simultaneous Billing Order, notifying a Forced Letter, carrying out the confiscation of the Tax Bearer's goods based on an Order to Implement Confiscation, and carrying out hostage-taking based on a Hostage Order.

The confiscation is carried out on the goods belonging to the Tax Bearer until the value of the confiscated goods is estimated to be sufficient by the Tax Bailiff to pay off the tax debt and tax collection fees, as stipulated in Article 14 of the PPSP Law and Article 7 of Government Regulation Number 135 of 2000. Furthermore, additional confiscation can be carried out if the value of the confiscated goods is insufficient to pay off tax collection fees and tax debts or the auction proceeds of confiscated goods are insufficient to pay tax collection fees and tax debts. The tax bailiff can collect immediately, and at the same time, if the tax bearer will leave Indonesia for good or intends to do so, the tax guarantor transfers the goods owned or controlled in order to stop or minimize the company's activities or the work he does in Indonesia, there are signs that the Tax Insurer will dissolve the business entity or merge or expand the business, or transfer the company owned or controlled by him, or change onto another form, the state will dissolve the business entity, or there is confiscation of the Tax Bearer's goods by a third party, or there are signs of bankruptcy sign. Then, Article 23 of the KUP Law stipulates that the claim of the Taxpayer or the Tax Insurer against the implementation of

²² Article 2 of the Government Regulation Number 135 of 2000.

the Forced Letter, Order to Implement Confiscation, or Auction Announcement, preventive decisions in the context of tax collection, decisions related to the implementation of tax decisions, other than those stipulated in Article 25 paragraph (1) and Article 26 of the KUP Law, or the issuance of a tax assessment letter or a Decision on Objection which is not following the procedures or procedures stipulated in the provisions of the tax laws and regulations, can only be submitted to the tax court.

In addition to tax confiscation carried out based on tax debts, property confiscation is also one of the authorities of PPNS within DGT, as referred to in Article 44 paragraph (2) letter j of the KUP Law. The purpose of the confiscation is to recover losses in state income. The confiscation may be carried out on movable or immovable goods, including bank accounts, receivables, and securities belonging to the assessable, the Tax Insurer, and or other parties (the party ordering the execution, participating in the execution, advocating, or assisting the commit a crime in the field of taxation) which have been determined as a suspect. Based on the Elucidation of Article 44 paragraph (2) letter j of the KUP Law, it is confirmed that the confiscation of the suspect's assets carried out by PPNS within the DGT must comply with the provisions contained in the criminal procedural law, among others, must obtain permission from the chairman of the local district court or in circumstances if it is indispensable and urgent, the investigator may confiscate and immediately report to the head of the local district court to obtain his approval.

C. Literature and Critical Review of Tax Confiscation on the Suspect's Assets

In understanding the confiscation of the assets of a suspect in a crime in the field of taxation as part of tax enforcement, it is necessary to understand the meaning of confiscation.

There are several definitions of confiscation. The Big Indonesian Dictionary (KBBI) Online defines confiscation as the process, method, act of confiscation or taking private property by the government without compensation.²³ Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime defined confiscation as *"a penalty or a measure, ordered by a court following proceedings in relation to a criminal offence or criminal offences resulting in the final deprivation of property"*.²⁴ The convention issued by the Council of Europe stipulates that every act of confiscation must be based on legislation that allows that the results of confiscating the equipment or property are by the value confiscated.²⁵ Then, the Circular Letter of the Supreme Court (SEMA) Number 5 of 1975 stipulates that the value of the confiscated objects is estimated not to exceed the value of the lawsuit or the value of the money in dispute, by prioritizing the confiscation of movable objects and only forwarded to fixed objects if it is estimated that the value of these movable objects is insufficient.

Several definitions of confiscation indicate that confiscation is an action based on statutory regulations to control or take property belonging to a specific legal subject whose value does not exceed compensation and other related costs.

²³ Kamus Besar Bahasa Indonesia Daring, available at <https://kbbi.kemdikbud.go.id/entri/penyitaan>, accessed on May 30, 2022.

²⁴ Council of Europe, Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, Criminal Law Forum, Vol. 2, No. 1, 1991, p. 444.

²⁵ *Loc.cit.*

The definition of confiscation shows that during the confiscation process until the completion of the compensation issue, the party carrying out the confiscation should uphold the rights of the owner of the goods and ensure that the value of the goods does not decrease significantly. This is the problem, namely, legal problems in managing confiscated goods and their relation to the recovery of losses that have occurred.²⁶ Of course, the takeover and or storage of confiscated goods cannot be separated from the assessment and maintenance process so that the confiscated objects remain in good condition and functioned.

Considering that in a tax crime, there is a loss in state income that must be recovered, the confiscation of the suspect's assets is a pro-legal tax enforcement effort that is still expected to balance the principles of justice, legal certainty, and public benefits, as its scope covers several functions, among others, as an embodiment of the spirit of the UU KUP, which is to collect as much tax as possible for the welfare of the people, and as a complementary sanction or as a reinforcement of the criminal fine that can be used as a guideline regarding the mechanism for settling the payment of fines if the fine is not paid.²⁷ However, the reality is that the confiscation of the suspect's assets is currently only under the order of Article 44 paragraph (2) letter j of the KUP Law, which still leaves a legal vacuum in its implementation. It is necessary to transform Article 44 paragraph (2) letter j of the KUP Law into the design of rules that are fair, certain, and beneficial to the public related to several basic matters of confiscation, such as the assessment, maintenance and or management of confiscated goods, and procedures for settlement of losses on state revenues. confiscate the suspect's property. Thus, the continued process of confiscation of the suspect's assets still has legitimacy²⁸ against any party involved in the confiscation. Several critical notes related to the not yet transformed Article 44 paragraph (2) letter j of the KUP Law, among others:

- a. Criminal procedural law, including those in the taxation sector, must be based on the principle of legality, which consists of *lex scripta* (based on written laws), *lex stricta* (based on strict formulations), and *lex certa* (based on detailed and careful formulations)²⁹. In this case, Article 44 paragraph (2) letter j of the KUP Law only regulates the authority of investigators to confiscate the assets of a suspect. Thus, although Article 45 of the Criminal Procedure Code authorizes investigators to conduct auctions of confiscated goods, Article 44 paragraph (2) letter j of the KUP Law does not regulate the authority of investigators to conduct auctions by investigators through the Directorate General of State Assets distributed throughout Indonesia.
- b. Elucidation of Article 44 paragraph (2) letter j of the KUP Law confirms that confiscating the suspect's assets (in the form of movable or immovable goods) is to recover losses in state income. However, there is a legal vacuum that can become a legal problem, including the procedure for confiscation of the suspect's assets, the rights and obligations of the suspect as the

²⁶ ²⁶ Anti-Corruption Clearing House, "Tata Laksana Benda Sitaan dan Barang Rampasan", *Loc.cit.*

²⁷ Rudi Margono, I Nyoman Nurjaya, Tunggul Anshari Setia Negara, dan Heru Hadi, *Loc.cit.*

²⁸ Yudha Pramana and Anis W. Hermawan, Corporate Taxation and Business Legitimacy in Indonesia, *Scientia Business Law Review*, Vol. 1, No. 1, pp. 1-6.

²⁹ Topo Santoso, *Hukum Pidana: Suatu Pengantar*, Depok: Rajawali Pers, 2021, p. 311.

owner of the goods as long as the goods are controlled by the investigator, maintenance and or management costs as long as the investigator confiscates the confiscated assets, the difference in the value of the assets between the time of being confiscated and at the time the auction is conducted, limits on the adequacy of the value of the confiscation of the suspect's assets, the follow-up to the confiscation of the suspect's assets who are in or will be in dispute with other parties (such as a bank in terms of credit, and or other law enforcement officers in the case of the confiscated goods are part of the proof of the other crime).

- c. There is a disregard for the principle of checks and balances if the entire process of confiscation of the suspect's assets (from confiscation to the use of auctions to recover losses in state income) is only carried out by tax investigators, which is limited to the number of human resources (HR), budget, and management expertise and maintain confiscated goods. It is necessary to apply the principle of division of authority between tax investigators and tax bailiffs in the case of confiscation of the suspect's assets so that one branch of authority does not accumulate a considerable authority due to the neglect of the principle of checks and balances.³⁰ Specific to criminal law, Epps asserts that the separation of powers in criminal law will protect the values that should be guaranteed, so the idea of checks and balances must be the principle of organizing the structure of an integrated criminal justice system in order to produce an excellent criminal policy and avoid various possible bad outcomes.³¹ The checks and balances perspective emphasizes the importance of checking the exercise of power between different actors and between different government agencies.³²

D. The Role of the Tax Bailiff on the Confiscation of the Suspect's Assets in the New Institutionalism Perspective

In connection with the principle of legality in criminal procedural law, including criminal acts in the field of taxation, the investigator's authority to confiscate the assets of a suspect as referred to in Article 44 paragraph (2) letter j of the KUP Law and connection with the existence of a bailiff position in tax collection, it is necessary arrangements that provide justice, legal certainty, and public benefits, both to suspects as owners of confiscated assets and the state as victims due to losses in state revenues in the tax sector.

Justice refers to any material content of laws and regulations that must reflect justice proportionally for every citizen, as referred to in the Elucidation of Article 6 paragraph (1) letter g of Law Number 12 of 2011 concerning the Establishment of Laws and Regulations as last amended with Law Number 13 of 2022. Then, what is meant by legal certainty is the principle in a rule of law that prioritizes the basis of legislation, propriety, and justice in every policy of state administrators, as referred to in Law Number 28 of 1999 concerning Implementation of a Clean and Free State from Corruption, Collusion, and Nepotism. Furthermore,

³⁰ Sharon B. Jacobs, *The Statutory Separation of Powers*, *The Yale Law Journal*, Vol. 129, 2019, p. 386.

³¹ Daniel Epps, *Checks and Balances in the Criminal Law*, *Vanderbilt Law Review*, Vol. 74, No. 1, 2021, pp. 21-22.

³² *Ibid.*, pp. 5-6.

what is meant by public benefit is "the principle of usability and result ability," as referred to in Article 5 letter e of Law Number 12 of 2011, namely, every statutory regulation is made because it is needed and valuable in regulating social life, nation and state. In this case, there is still no justice, legal certainty, and public benefits in several essential matters related to the confiscation of the suspect's assets, including in terms of the assessment, maintenance, and or management of confiscated goods and procedures for recovering losses in state income related to the suspect's wealth asset. Thus, it is sufficient to analyze it based on the perspective of new institutionalism.

The new institutionalism approach is an improvement of old institutionalism. The old institutionalism approach is considered too static and too focused on social institutions as solutions to the problems to which each respective discipline is deemed central.³³ Institutions arise and are important in society because it is realized and also in the common interest that every citizen has their own interests, so that institutions are expected to be stable by determining who are the legitimate actors, the number of actors, and who determines the legal actions.³⁴ Although the theme of new institutionalism appears in various forms in various disciplinary contexts, including new institutionalism in history, new institutionalism in sociology, new institutionalism in economics, new institutionalism in political science, and new institutionalism in social theory, Goodin formulates all variations on the theme of new institutionalism is in a complementary formulation, as the propositions are::

- a. Individual agents and groups perform each job in a collectively constrained context.
- b. Terms of the implementation of each of these jobs pose many forms of obstacles, and then these constraints are limited by: a) the patterns of norms and roles that are constructed in social life and b) behaviors that hold socially determined roles that are created and reinvented. continuously.
- c. Restrictions created to deal with obstacles still benefit individuals and groups in carrying out their respective jobs.
- d. The same contextual factors limit the actions of individuals and groups to shape these actor's desires, preferences, and motives.
- e. The restrictions created must: a) have historical roots, that is, as an artifactual remnant of past actions and choices, and b) embody, preserve, and provide different resources to different individuals and groups.
- f. In the end, the actions of individuals and groups, although contextually constrained and socially shaped, constitute the engineering that drives social life.³⁵

The existence of this new institutionalism will form institutions that can effectively gather as many preferences as possible from actors to determine collective interests.³⁶ This brief understanding of new institutionalism can explain institutional changes relevant to legal decisions and the regulatory process - in terms

³³ Rober E. Goodin, "Institutions and Their Design", in Robert E. Goodin (ed.), *The Theory of Institutional Design*, Cambridge: Cambridge University Press, 1998, p. 3.

³⁴ Miriam Budiardjo, *Dasar-Dasar Ilmu Politik*, Jakarta: PT. Gramedia Pustaka Utama, 2008, pp. 97-98.

³⁵ Rober E. Goodin, *Op.cit.*, pp. 19-20.

³⁶ Miriam Budiardjo, *Op.cit.*, p. 99.

of institutions, and it has several difficulties.³⁷ Julia Black makes two suggestions for understanding the role of law in legal decision-making and regulatory processes. First, conducting an empirical analysis of specific problems, considering that empirical studies can structure processes on different elements and determine the interactions of all different influences. Second, the law can play an essential constitutive role in structuring or shaping action or in defining the basis for regulation or the relationship between actors.³⁸ This role of law is intended to significantly impact how regulatory systems operate and develop, on the form in which rules are created, how they are made, and the expectations of their application.³⁹

The propositions contained in the new institutionalism are adequately applied in dealing with problems that occur in the case of a legal vacuum related to the authority of investigators to confiscate the assets of suspects, as referred to in Article 44, paragraph (2) letter j of the KUP Law. The transformation of these propositions in the confiscation of the suspect's assets is:

- a. Limitation of investigation and tax investigator with tax confiscation and tax bailiff.

PPNS can only investigate criminal acts in the field of taxation within the DGT in order to seek and collect evidence with which evidence makes clear the crime in the field of taxation that occurred and finds the suspect. In general, confiscation in criminal investigations includes two forms of property, namely tools and proceeds of crime.⁴⁰ What is meant by "tools" of crime is the property used or intended to be used to commit a crime, while the "proceeds" of crime are any economic benefits obtained directly or indirectly from a crime.⁴¹ Meanwhile, tax confiscation can only be carried out by the tax bailiff to control the goods of the tax bearer to guarantee the payment of tax debts and costs related to tax collection. There are differences in the confiscation of assets carried out by tax investigators with confiscations carried out by tax bailiffs, namely in control and status of confiscated assets and treatment of those confiscated. In criminal acts in the field of taxation, the control and status of confiscated assets are within the framework of the investigation process. At the same time, the tax investigator directs the treatment to the suspect.⁴² As for administrative law in taxation, the control and status of confiscated assets are in the context of guaranteeing tax debts, while the tax bailiff directs the treatment to the tax insurer.

- b. Constraints on confiscating the suspect's assets are based on the social construction of norms and role patterns and the continuous improvement of social behavior.

³⁷ Julia Black, *New Institutionalism and Naturalism in Socio-Legal Analysis: Institutional Approaches to Regulatory Decision Making*, Law and Policy, Vol. 19, No. 1, 1997, p. 58.

³⁸ *Ibid.*, p. 82.

³⁹ *Loc.cit.*

⁴⁰ Michaël Fernandez-Bertier, *The confiscation and recovery of criminal property: a European Union state of the art*, ERA Forum, Vol. 17, 2016, pp. 323-342.

⁴¹ *Loc.cit.*

⁴² M. Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP: Penyidikan dan Penuntutan*, Jakarta: Sinar Grafika, 2021, pp. 264-265.

One of the investigators' powers based on the Criminal Procedure Code and Article 44 paragraph (2) letter j of the KUP Law is to confiscate the assets of a suspect while still having to obtain permission from the chairman of the local district court even if the confiscation is carried out in vital and urgent circumstances. However, after the investigator confiscates the suspect's assets, several legal obstacles and vacancies can lead to legal problems, including which assets of the suspect need to be returned or remain in control after being confiscated, who manages and maintains the assets of the suspect who are confiscated, what are the provisions for the confiscated assets (including the suspect's assets that are with other parties and or assets which according to the suspect's confession do not belong to him but are found at his residence, domicile, place of business, or other places,⁴³ which belongs to the suspect), how and who handles confiscating the suspect's assets that have rapid depreciation and or assets that are quickly damaged and or risky assets and or assets whose storage costs are pretty expensive, how and who judges whether or not they are adequate to the confiscation of the suspect's assets, whether or not a tax officer other than a tax investigator is necessary to process the confiscation of the suspect's assets until the state auction office carries out the auction stage. Another legal void in the case of Article 44 paragraph (2) letter j of the KUP Law is the liability of corporate assessable to suspects in the form of individuals in tax crimes committed by corporate or corporate assessable (for example, directors, management, managers, commissioners, or company staff), so that a more complete and comprehensive arrangement is needed in terms of the effectiveness of the management of confiscated objects⁴⁴ and there are no errors in terms of the legal subject of the confiscation of the said assets. It must be realized that the confiscation process up to the auction of the suspect's assets in the context of recovering losses in state income is not an easy thing and basically must be carried out based on laws and regulations that have binding power to internal parties and external parties of the DGT.

- c. Handling the efficient confiscation of the suspect's assets against the DGT. The tax investigator's authority over the suspect's assets based on the principle of legality only extends to confiscation. There is a legal vacuum that can become a legal problem for the DGT in the case of confiscation of the suspect's assets, which is very different from the confiscation of evidence as the seizure of the suspect's assets is to recover losses in state income in the tax sector, while the confiscation of evidence is for evidentiary purposes. Of course, the duties and follow-up actions after the confiscation of the suspect's assets in the context of recovering losses in state revenue in the tax sector require specific skills, abilities, and creativity that any tax employee does not necessarily own, considering that the owner of the goods is not necessarily happy to have the goods controlled and or auc-

⁴³ Sandra, "Serba Serbi Penyitaan dalam Penagihan Pajak", 2021, available at <https://www.pajakku.com/read/60d18dd058d6727b1651abe6/Serba-Serbi-Penyitaan-dalam-Penagihan-Pajak>, accessed on July 3, 2022.

⁴⁴ Anti-Corruption Clearing House, "Tata Laksana Benda Sitaan dan Barang Rampasan", *Loc.cit*.

tioned by the state⁴⁵. The KUP Law and the PPSP Law have stipulated that tax confiscation as a guarantee to pay off the tax debt. Tax Bearer is under the authority of the tax bailiff. However, there is no provision in the KUP Law and the PPSP Law which stipulates that the authority of the tax bailiff is to confiscate assets and auction the assets in order to recover losses in state income that have arisen (even though it has been based on at least two pieces of evidence appropriate), although, the follow-up process after the confiscation of the suspect's assets by the tax investigator is adequate to be carried out by the tax bailiff. This is reinforced by the existing legal structure at the DGT, where the Billing Section (which supervises the Tax Confiscation Officer) is in each Tax Service Office throughout Indonesia, while the PPNS within the DGT is only domiciled in the DGT Regional Office and the Capital City.

- d. The same contextual factors that limit the process after the confiscation of assets are carried out by tax investigators and the urgency of the bailiff in fulfilling the wishes, preferences, and motives of these actors.
- e. The process of confiscating the suspect's assets by a tax investigator cannot be carried out arbitrarily and cannot be carried out without a legal basis. There is a need for procedures that must be regulated in tax laws, considering that all processes of confiscation of the suspect's assets until the completion of recovery of losses on state income from the tax sector must still be legally accounted for by the DGT. The authority of the tax bailiff in terms of tax confiscation up to auction has been regulated in the KUP Law and PPSP Law. Thus, it is adequate if there are provisions in the renewal of the PPSP Law in the form of the authority of the tax bailiff, which is not only in the context of tax debts but also in the context of losses to state income, considering that tax investigators have carried out the follow-up process after the confiscation of the suspect's assets is in dire need of a tax bailiff which already has the expertise, ability, and creativity in handling, maintaining, and managing confiscated goods as collateral to pay off tax debts. This is in line with Fontian's idea, which emphasizes that confiscation in the context of law enforcement in the field of taxation is strong enough to be applied so that the assessable fulfill their tax obligations.⁴⁶
- f. The idea of role of the tax bailiff after the confiscation of the suspect's assets is based on historical roots and in the context of realizing, preserving, and providing different resources to tax investigators. The bailiff has existed since the enactment of HIR in Indonesia, based on the transitional rules of the 1945 Constitution of the Republic of Indonesia. As for tax confiscation, there are similarities and differences with confiscation in HIR. The similarity lies in being a guarantee of payment to parties who have an interest in the object of confiscation, securing the object of confiscation, and control and ownership of the object of confiscation.⁴⁷

⁴⁵ Badan Pendidikan dan Pelatihan Keuangan Kementerian Keuangan, "Tugas Mulia Seorang Juru Sita", 2017, available at <https://bppk.kemenkeu.go.id/content/berita/pusdiklat-pajak-tugas-mulia-seorang-juru-sita-2019-11-05-70790640/#>, accessed on July 1, 2022.

⁴⁶ Fontian, Kapita Selektta Penyitaan Bidang Hukum Perpajakan Dikaitkan dengan Peraturan Perundang-Undangan Lainnya, *Media Justitia Nusantara*, Vol. 9, No. 1, 2015, p. 29.

⁴⁷ *Loc.cit.*

While the difference concerns legal subjects, who have the authority to confiscate and revocation/remove confiscated objects and purposes, whereas tax is the payment of taxes, and in HIR is a case victory based on a court decision.⁴⁸ The existence of these similarities and differences shows that basically, the confiscation of assets in the context of taxes (both as a guarantee for the settlement of tax debts and in the context of recovering losses on state income from the tax sector) must fulfill a sense of justice, legal certainty, and benefit to the state and the subject of confiscation. In order for the tax confiscation legal action to have a more substantial legal basis and legitimacy in its application, it is hoped that there will be a renewal of the PPSP Law regarding the role of the tax bailiff in recovering losses to state income in the case of confiscation of assets carried out by tax investigators, considering tax debts and losses. State revenue from the tax sector is the tax proceeds as the largest source of revenue in the State Revenue and Expenditure Budget and funds for sustainable national development. The role of the tax bailiff after confiscating the suspect's assets by the tax investigator will be in line with the principle of checks and balances.

4. CONCLUSION

This study produces two conclusions. First, the regulation on confiscating the assets of a suspect in a crime in the taxation sector is still regulated to the extent of the authority of the tax investigator as referred to in Article 44 paragraph (2) letter j of the KUP Law. This has created a legal vacuum, especially after the tax investigator confiscates the suspect's assets. Thus, it can cause legal problems in investigating until there is a clause to stop the investigation, as referred to in Article 44A and Article 44B of the KUP Law, as well as the ineffectiveness of the checks and balances mechanism in the assessment, maintenance, management, and or auction of the confiscated assets. Second, the role of the tax bailiff after the confiscation of the suspect's assets is carried out by tax investigators more reflecting justice, legal certainty, and public benefits for the state as a victim, suspects who are indeed responsible for causing losses to the state revenues, and other actors who are competent in confiscation and recovery of losses on the state's income. It is recommended that there be a renewal of the PPSP Law, one of the provisions which regulate the authority of the tax bailiff not only in the context of tax debts but also in the context of recovering losses on state income in the tax sector. Then, there are rules at the level of a Government Regulation, or at least a Regulation of the Minister of Finance which regulates the number of legal vacancies after the confiscation of suspect assets is carried out by tax investigators, such as a) how to return the assets of suspects that have been confiscated, b) actors who commit in managing and maintenance of the assets of the confiscated suspect, c) what are the provisions for the confiscated assets if the suspect's assets are in possession of other parties and or assets whose legality is not certain but are found in the residence, domicile, place of business, or other premises belonging to the suspect, d) how and who handles the confiscation of the suspect's assets which has rapid

⁴⁸ *Loc.cit.*

depreciation, are quickly damaged, dangerous, and whose storage costs are expensive, e) how and who judges whether or not the confiscation of the suspect's assets is sufficient, f) whether or not a tax officer other than a tax investigator is necessary to process the confiscation of the suspect's assets to the stage of recovering losses on state income through auction, and g) how is the liability of the corporate or corporate assessable assets or the liability of the corporate beneficial owner to the suspect in the form of an individual who is the obligatory representative corporate tax as referred to in Article 32 of the KUP Law.

REFERENCES

- Agustine, Dwi, Pembaharuan Sistem Hukum Acara Perdata, *Jurnal Rechtsvinding*, 2017, p. 2, available at https://rechtsvinding.bphn.go.id/jurnal_online/rechtsvinding_online_PEMBAHARUAN%20SISTEM%20HUKUM%20ACARA%20PERDATA.pdf, accessed on July 4, 2022.
- Anti-Corruption Clearing House, "Aset Koruptor, Mengapa Harus Disita", available at <https://acch.kpk.go.id/id/component/content/article?id=143:aset-koruptor-mengapa-harus-disita>, accessed on July 1, 2022.
- _____, "Tata Laksana Benda Sitaan dan Barang Rampasan", available at <https://acch.kpk.go.id/id/artikel/riset-publik/695-tata-laksana-benda-sitaan-dan-barang-rampasan>, accessed on July 1, 2022.
- Badan Pendidikan dan Pelatihan Keuangan Kementerian Keuangan, "Tugas Mulia Seorang Juru Sita", 2017, available at <https://bppk.kemenkeu.go.id/content/berita/pusdiklat-pajak-tugas-mulia-seorang-juru-sita-2019-11-05-70790640/#>, accessed on July 1, 2022.
- Black, Julia, *New Institutionalism and Naturalism in Socio-Legal Analysis: Institutional Approaches to Regulatory Decision Making*, Law and Policy, Vol. 19, No. 1, 1997.
- Budiardjo, Miriam, *Dasar-Dasar Ilmu Politik*, Jakarta: PT. Gramedia Pustaka Utama, 2008.
- Council of Europe, *Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime*, Criminal Law Forum, Vol. 2, No. 1, 1991.
- Danil, Elwi, dan Iwan Kurniawan, *Optimizing Confiscation of Assets in Accelerating the Eradication of Corruption*, Hasanuddin Law Review, Vol. 3, No. 1, 2017.
- Direktorat Jenderal Pajak, *Laporan Tahunan Tahun 2016*, p. 59, available at https://www.pajak.go.id/sites/default/files/2019-03/Annual%20Report%20DJP%202016%20-%20INA_0.pdf, accessed on May 30, 2022.
- Direktorat Jenderal Pajak, *Laporan Tahunan Tahun 2017*, p. 75, available at <https://www.pajak.go.id/sites/default/files/2019-03/DJP%20AR-2017%20Fullpages%20-%20Indonesia%20%28Lowres-Compressed%29.pdf>, accessed on May 30, 2022.
- Direktorat Jenderal Pajak, *Laporan Tahunan Tahun 2018*, p. 84, available at <https://www.pajak.go.id/sites/default/files/2019-11/Laporan%20Tahunan%20DJP%202018%20-%20bahasa%20Indonesia.pdf>, accessed on May 30, 2022.

- Direktorat Jenderal Pajak, Laporan Tahunan Tahun 2019, p. 76, available at <https://www.pajak.go.id/sites/default/files/2020-12/Laporan%20Tahunan%20DJP%202019%20-%20INDONESIA.pdf>, accessed on May 30, 2022.
- Direktorat Jenderal Pajak, Laporan Tahunan Tahun 2020, p. 83, available at <https://www.pajak.go.id/sites/default/files/2021-10/Laporan%20Tahunan%20DJP%202020%20-%20Bahasa.pdf>, accessed on May 30, 2022.
- Epps, Daniel, Checks and Balances in the Criminal Law, *Vanderbilt Law Review*, Vol. 74, No. 1, 2021.
- Fernandez-Bertier, Michaël, The confiscation and recovery of criminal property: a European Union state of the art, *ERA Forum*, Vol. 17, 2016.
- Fontian, Kapita Selektia Penyitaan Bidang Hukum Perpajakan Dikaitkan dengan Peraturan Perundang-Undangan Lainnya, *Media Justitia Nusantara*, Vol. 9, No. 1, 2015.
- Goodin, Robert E., "Institutions and Their Design", in Robert E. Goodin (ed.), *The Theory of Institutional Design*, Cambridge: Cambridge University Press, 1998.
- Harahap, M. Yahya, *Pembahasan Permasalahan dan Penerapan KUHAP: Penyidikan dan Penuntutan*, Jakarta: Sinar Grafika, 2021.
- Jacobs, Sharon B., The Statutory Separation of Powers, *The Yale Law Journal*, Vol. 129, 2019.
- Kamus Besar Bahasa Indonesia Daring, available at <https://kbbi.kemdikbud.go.id/entri/penyitaan>, accessed on May 30, 2022.
- Kejaksaan Agung Republik Indonesia, Peraturan Kejaksaan Agung Nomor 7 Tahun 2020 tentang Perubahan Kedua atas Peraturan Jaksa Agung Nomor PER-027/A/JA/10/2014 tentang Pedoman Pemulihan Aset.
- Kusumaningtuti SS, *Peranan Hukum dalam Penyelesaian Krisis Perbankan di Indonesia*, Jakarta: Rajawali Pers, 2009.
- Mahkamah Agung Republik Indonesia, Putusan Peninjauan Kembali Nomor 597 PK/Pdt/2015.
- _____, Putusan Kasasi Nomor 2580 K/Pdt/2013.
- _____, Peraturan Mahkamah Agung Nomor 01 Tahun 2013 tentang Tata Cara Penyelesaian Permohonan Penanganan Harta Kekayaan dalam Tindak Pidana Pencucian Uang atau Tindak Pidana Lain.
- _____, Surat Edaran Mahkamah Agung (SEMA) Nomor 5 Tahun 1975.
- Margono, Rudi, I Nyoman Nurjaya, Tunggul Anshari Setia Negara, dan Heru Hadi, The Urgency of Asset Confiscation Sanction in Tax Crimes, *Research in Business & Social Science*, Vol. 9, No. 5.
- Pengadilan Tinggi Jakarta, Putusan Nomor 366/PDT/2012/PT.DKI.
- Pengadilan Negeri Jakarta Selatan, Putusan Nomor 469/Pdt.G/2011/PN.Jkt.Sel.
- Pramana, Yudha, and Anis W. Hermawan, Corporate Taxation and Business Legitimacy in Indonesia, *Scientia Business Law Review*, Vol. 1, No. 1, 2022.
- Purbacaraka, Purnadi, dan Soerjono Soekanto, *Perihal Kaedah Hukum*, Bandung: PT. Citra Aditya Bakti, 1993.
- Republik Indonesia, Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
- _____, *Kitab Undang-Undang Hukum Perdata*.
- _____, *Herzien Inlandsch Reglement (HIR)*.

- ____, Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana.
 - ____, Undang-Undang Nomor 6 Tahun 1983 tentang Ketentuan Umum dan Tata Cara Perpajakan sebagaimana telah beberapa kali diubah terakhir dengan Undang-Undang Nomor 7 Tahun 2021 tentang Harmonisasi Peraturan Perpajakan.
 - ____, Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan sebagaimana telah diubah terakhir dengan Undang-Undang Nomor 13 Tahun 2022.
 - ____, Undang-Undang Nomor 28 Tahun 1999 Tentang Penyelenggaraan Negara Yang Bersih dan Bebas dari Korupsi, Kolusi, dan Nepotisme.
 - ____, Undang-Undang Nomor 12 Tahun 1985 tentang Pajak Bumi dan Bangunan sebagaimana telah diubah dengan Undang-Undang Nomor 12 Tahun 1994.
 - ____, Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi sebagaimana telah diubah dengan Undang-Undang Nomor 20 Tahun 2001.
 - ____, Undang-Undang Nomor 19 Tahun 2000 tentang Perubahan atas Undang-Undang Nomor 19 Tahun 1997 tentang Penagihan Pajak dengan Surat Paksa.
 - ____, Peraturan Pemerintah Nomor 135 Tahun 2000 tentang Tata Cara Penyitaan dalam Rangka Penagihan Pajak dengan Surat Paksa.
 - ____, Undang-Undang Nomor 10 Tahun 2020 tentang Bea Meterai.
- Sandra, "Serba Serbi Penyitaan dalam Penagihan Pajak", 2021, available at <https://www.pajakku.com/read/60d18dd058d6727b1651abe6/Serba-Serbi-Penyitaan-dalam-Penagihan-Pajak>, accessed on July 3, 2022.
- Santoso, Topo, Hukum Pidana: Suatu Pengantar, Depok: Rajawali Pers, 2021.