

## ON ONE CONTINUED ACT IN TAX CRIME IN INDONESIA

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### Article

### Abstract

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Delicts in criminal acts in the field of taxation comply with the *lex specialis derogate legi generali* principle of the Criminal Code (KUHP) and are included in complex criminal acts in their implementation. Given the violation of criminal acts and there are several offenses in criminal acts of taxation, it is necessary to consider the concept of renewal of a continuing action (one further action) in criminal acts in the field of taxation with the obligation of investigators and public prosecutors to produce case files and indictments that are accurate, clear, and right, which results in the amount or accumulation of imprisonment and fines against a suspect or taxpayer in a fair, legal and efficient manner. Based on the normative juridical method, this study produces two conclusions. First, one follow-up law that has not been regulated directly in criminal provisions in the field of taxation is still under general criminal offenses, namely Article 64 paragraph (1) of the Criminal Code. Second, the concept (law) of follow-up action is needed in criminal acts in the field of taxation in Indonesia to be fair to accusations or taxpayers who commit violations and provide legal certainty and legal effectiveness to tax investigators in handling tax crimes which are complex and required to deal with cases carefully, clearly and completely

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## 1. INTRODUCTION

Delicts in criminal acts in the field of taxation comply with the *lex specialis derogate legi generali* principle of the Criminal Code (KUHP) and are included in complex criminal acts in their implementation. One of them is always paying attention to the elements of legal certainty, justice, and expediency in law enforcement carried out by civil servant

investigators (PPNS) within the Directorate General of Taxes (DJP), Public Prosecutors, and Judges, including in the application of continuing offenses against suspects or defendant.

Matters of legal certainty, justice, and benefits in terms of law enforcement against suspects or defendants are related to the following critical issues, including protecting the community, providing a deterrent effect, socializing perpetrators of law violations so that they become better and more helpful in the society, as well as restoring and balancing losses that have arisen. The investigator is related to the accuracy in proving and imposing the offense that was violated by the suspect carefully so that it will not open loopholes for the defendant or his legal counsel. Then, the public prosecutor is related to his functions and duties to indict or prosecute the defendant in a careful, clear, and complete manner, as referred to in Article 143 paragraph (2) of the Criminal Procedure Code (KUHAP). Furthermore, the judge is related to his decision which is not only based on the law but also based on the judge's beliefs, legal values, and the sense of justice that lives in society, as referred to in Article 5 paragraph (1) of Law Number 48 of 2009 regarding Judicial Power. The primary considerations of law enforcers in enforcing criminal law in the field of taxation are taking into account the legal facts that are revealed starting from the investigation, prosecution, up to the trial so that judges have vital considerations in imposing sentences that can provide a deterrent effect on defendants. The basis for the judge's consideration consists of the basis of juridical and non-juridical considerations. Juridical considerations of judges are valid evidence in the form of witness statements, expert statements, documentary evidence, and statements of the accused, which were revealed at trial. Meanwhile, the primary considerations of non-juridical judges are aggravating and mitigating factors for the defendant. Whereas officials (Fiskus) authorized to enforce the law against taxpayers are always carried out sustainably, especially in enforcing taxpayer compliance to pay taxes because taxes are one of the sources of state revenue which is quite large for the development of the country.

One of the facts that there is an imbalance in legal certainty, justice, and benefits in handling criminal acts in the field of taxation can be seen from several study results and several judges' decisions regarding continuing actions in criminal acts in the field of taxation. The results of the Sinaga, Sinaga and Simangunsong studies conclude that the criminal responsibility of the Director of a Limited Liability Company for tax crimes that are carried out continuously must fulfill the actus reus that must be carried out within the scope of his power (still within the scope of duties or authority of the corporation). The act was committed by the perpetrator capable of soul or mind.

As for the handling of criminal acts in the field of taxation that have not balanced legal certainty, justice and benefits can be seen from the following decisions:

- a) The decision of the Central Java High Court of Appeal Number 57/Pid.Sus/2018/PT SMG (which amended the Decision of the Semarang District Court Number 789/Pid.Sus/2017/PN.Smg). The decision imposed a prison sentence of 3 (three) years and a fine of 2 (two) times the number of losses in state revenue incurred by Defendant JB for being proven to have violated Article 39 A letter a junto Article 43 paragraph (1) of the Law Number 6 of 1983 concerning General Provisions and Procedures for Taxation junto Law Number 28 of 2007 regarding the third amendment to Law Number 6 of 1983 as last amended by Law Number 16 of 2009 (UU KUP) in conjunction with Article 64 paragraph

(1) Criminal Code. Defendant JB together with Defendants AK, II, and Dals F (each separate case file) at least at other times from 2010 to 2014, ordered to do, who participated in doing, who advocated, or who assisted in intentionally issuing and or using tax invoices, proof of tax collection, proof of withholding taxes and or proof of tax payments that are not based on actual transactions, where if between several actions although each one is a crime or violation, there is a connection in such a way so that it must be seen as a continuous act, which the Defendant carried out.

- b) Supreme Court Cassation Decision Number 2486 K/Pid.Sus/2018 (which amended the West Java High Court Decision in Bandung Number 129/PID.SUS/2018/PT.BDG. which strengthened the Bandung District Court Decision Number 32/Pid.B/2018 /PN Bdg) regarding the qualifications of the crime and the formulation of the criminal fine so that it becomes "Declaring the Defendant YR proven legally and convincingly guilty of committing the crime of "USING A TAX INVOICE WHICH IS NOT BASED ON ACTUAL TRANSACTIONS CONTINUED." The decision imposes a prison sentence of 1 (one) year and 6 (six) months and a fine of 2 (two) times the amount of loss in state revenue to the Defendant.
- c) The decision of the Cianjur District Court Number 401/Pid.Sus/2020/PN Cjr imposed a prison sentence of 3 (three) years and 3 (three) months and a fine of 2 (two) times the loss in state revenue to the defendant. The defendant was proven legally and convincingly guilty of committing the crime of taxation on an ongoing basis as stipulated and subject to criminal sanctions Article 39 A letter a junto Article 43 paragraph (1) of the KUP Law in conjunction with Article 64 paragraph (1) of the Criminal Code in a Single Charge.
- d) Supreme Court Cassation Decision Number 689 K/Pid.Sus/2018 (which amended the DKI Jakarta High Court Decision Number 194/PID.SUS/2017/PT DKI, which amended the North Jakarta District Court Decision Number 268/Pid.Sus/2017/PN Jkt Utr.) imposed a prison sentence of 3 (three) years and 6 (six) months and a fine of 3 (three) times the amount of loss in state revenue. The defendant was proven to have violated Article 39 A letter a, in conjunction with Article 43 paragraph (1) of the KUP Law in conjunction with Article 65 Paragraph (1) of the Criminal Code, which issued a tax invoice that was not based on an actual transaction on behalf of PT. BLML and PT. JSMP for the period January 2009 to December 2011 and has been credited by its users.

It can be seen that several examples of these decisions relate to the crime of taxation by using and or issuing tax invoices that are not based on actual transactions as referred to in Article 39 A letter a of the KUP Law. However, considering that there are several offenses in tax crimes, offenses in tax crimes often need to be separated from concurrent offenses. Of course, the concurrent offense must be applied carefully, clearly, and correctly because it relates to the amount or accumulation of imprisonment and fines imposed on an offender. One of the concurrent offenses in Indonesia is the continuing act, as referred to in Article 64 paragraph (1) of the Criminal Code. It is necessary and urgent to answer the 2 (two) formulations of the problem contained in the case of continuing actions criminal acts in the field of taxation. First, what are the provisions for continuing actions that apply to criminal acts in the field of taxation? Second, how is the concept (law) of continuing actions in criminal acts in Indonesia's taxation field in the future?

## 2. METHODS

This study is library research, called legal research with juridical or normative methods, which is research conducted on laws unrelated to human behavior. This study uses secondary data, which

in legal research is carried out based on existing patterns or management systems, commonly known as library patterns. The legal materials used in this secondary data consist of primary, secondary, and tertiary legal materials. The primary legal material used in this study is in the form of laws and regulations; the secondary legal material in this study consists of books, articles, and the like, while the tertiary legal material consists of legal materials that can provide additional explanations to the primary legal materials and secondary legal law. The legal materials used are intended to provide as accurate data as possible about humans, conditions, or other phenomena so that conclusions and suggestions are produced to answer the formulation of the problems contained in this study.

### **3. ANALYSIS AND DISCUSSION**

#### **A. General introduction and Literature Review of One Continued Act**

One continued act has been regulated in the criminal provisions of several countries, including Indonesia. In the Netherlands, known as *voortgezette handeling*, and in Australia, known as a continuous offense. There is no direct definition of one continued act in criminal acts in the field of taxation. However, the general criminal provisions regulate one continued act, as stipulated in Article 64 paragraph (1) of the Criminal Code.

In understanding one continued act or a continuous offense, it is necessary to know its meaning based on comparisons in several countries or several studies. David Ross QC defines a continuing offense as "one which takes more than one act to prove the charge." This definition looks like "conspiring," but David Ross QC believes that a continuing offense has developed in connection with new legislation that has regulated some ongoing severe violations, such as drug trafficking and or supplying. Alan Nissel describes a "continuing crime" as "a state of affairs where a crime has been committed and then maintained."

Then, Albert C. Lin argued that a continuing violation of law "consists of either a series of illegal acts united by a common mechanism or a continuing course of illegal conduct." The doctrine of continuous violations has been used in some areas of law to toll or extend an applicable statute of limitations or to tailor penalties to the seriousness of a particular violation of the law. Furthermore, Lin asserted that adopting this doctrine could enable courts to achieve fairer results. For example, environmental law has used it as a test of jurisdiction to determine whether a citizen's lawsuit can proceed. Lin gave an example of 2 (two) corporations that both committed environmental violations, namely Corporation A and Corporation B. Corporation A, without the necessary permits, secretly dumped several large trucks filled with highly toxic waste into landfills in one day. . The waste dissolves into the ground and pollutes the surrounding environment and contaminates groundwater supplies. Corporation B already has the necessary permits and routinely submits daily waste disposal reports to the relevant environmental agency. Corporation B dumped a moderate amount of waste into a nearby river but exceeded the permitted discharge level by a small amount. However, it did not threaten the health of residents. If there is no continuance

of criminal offenses, Corporation A can escape legal sanctions unless the waste can be traced back and proven. At the same time, Corporation B, which transparently commits violations, is more likely to be punished, even receiving more severe punishment than Corporation A. However, the results are that such injustice becomes reparable if the behavior of Corporation A is seen as a continual violation rather than a single offense, at which point Corporation A is held responsible and "violating" the law on an ongoing basis, whereby its illegally disposed waste is irreparable and will not be able to be recovered by which will need law enforcement to hold Corporation A accountable daily.

Based on the explanation above, it can be said that regulation of continuing actions in criminal acts in the field of taxation is justifiable protection against arbitrary actions of perpetrators of violations and provides justice between perpetrators who have violated the same offense, for example issuing tax invoices that are not based on actual transactions as referred to in Article 39A letter (a) of the KUP Law, but differ in terms of the *tempus delicti* and the number of losses arising from state revenues.

#### **B. Prevailing Law of One Continued Act in Tax Crime**

One continued act in criminal acts in the field of taxation has not been explicitly regulated in the KUP Law. So far, the imposition of one continued act has only been carried out by junction Article 64 paragraph (1) of the Criminal Code. The complete formulation of Article 64 paragraph (1) of the Criminal Code is:

*"If among more acts, even though each in itself forms a crime or misdemeanor, there is such a relationship that they must be considered as one continued act, only one penal provision shall apply whereby, in case of difference, the most severe penal provision shall be imposed."*

Regarding the one continued act in the Criminal Code, this has also raised differences of opinion among jurists. Pompe suggested that the two Articles be removed instead, as the gains were not outweighed by the trouble they caused. According to Pompe, it is better left to the judge to determine the type and severity of the crime. There is no objection to using the concurrent realist rule. Others argue that Article 64 is retained because the punishment for offenses under the pure cumulation system is very severe, even though the minimum sentence applied is still too severe. Then, according to van Hattum, direct actions can be applied to offenses that are not committed intentionally.

Furthermore, Kumendong interprets that one continued act is only threatened with one punishment, and if the punishment for those actions is different, then the heaviest punishment can be imposed. The punishment system adopted in this one continued act is an absorption system. By imposing just one punishment, the imposed punishment has already absorbed the threat of punishment for other actions. Thus, the act referred to in Article 64 of the Criminal Code is similar to the act referred to in Article 65 of the Criminal Code, which is referred to as the concurrence of several acts

or a combination of several acts (concurrent realist). The similarity is that the two perpetrators committed several (more than one) criminal acts.

Meanwhile, the difference is that in the case of one continued act, several actions that were carried out must be seen as one act only because of a relationship between one another. In contrast, in the case of several actions that were carried out simultaneously, each of them must be seen as standing alone. The difference in punishment between the two is that in continuing actions, only one punishment is imposed without any weighting (pure absorption). Meanwhile, in the concurrence of several acts (concurrent realist, even if only one punishment is the same as the continuing action, the maximum penalty can be added to one-third of the maximum punishment. In other words, the threat of punishment for concurrent realists heavier than the threat of punishment for continuing actions.

Some of the thoughts above show that the one continued act formulated in article 64, paragraph (1) of the Criminal Code is several actions that must be considered as one action because one action and another action have a close relationship with each other.

### **C. A Critical Review of One Continued Act in Tax Crime**

The purpose of the law, which requires that every statutory regulation contains legal values in the form of justice, public benefit, and legal certainty, indicates that the notion of these legal values must become the basis for criminal policy, especially against perpetrators and victims (in this case the state) in the occurrence of criminal acts in the field of taxation. So that, to overcome it in Indonesia, every law enforcement action must continue to provide the most excellent sense of justice for the community through a fair allocation to the victims and the perpetrators. This is in line with the thoughts of Satjipto Rahardjo, who argued that government organs working through their public officials must continue to ask whether carrying out their authority, power, and obligations is good for the community and whether it has or will provide a sense of justice to the community.

In addition to justice, the public benefit remains the basis for criminal policy, especially against the state as a victim of the loss of state revenue. J. S. Mill has perceived justice in terms of the quantity of justice, where what is meant by being fair in a country or a society is not in terms of the quality of justice but if it produces happiness for the most significant number of people. In addition, Mill has also emphasized that even though justice stands higher on the scale of social utility, in the case of several other vital social tasks, the justice contained therein can be seen as not a virtue.

Matters of justice, public benefit, and legal certainty must also be contained in criminal provisions in the field of taxation related to one continued act whose investigation is the authority of PPNS within the DGT, such as several criminal offenses contained in the KUP Law, Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes (TPPU Law), Law Number 9 of 2017

concerning the Stipulation of Government Regulations instead of Law Number 1 of 2017 concerning Access to Financial Information for Taxation Purposes Becomes Law (UU AIK), Law Number 12 of 1985 concerning Land and Building Tax as amended by Law Number 12 of 1994 (UU PBB), Law Number 10 of 2020 concerning Stamp Duty (UU BM), and Law Number 19 of 1997 concerning Tax Collection with Forced Letter (UU PPSP).

The various tax criminal provisions in the tax law show a close relationship with the one continued to act that must be applied fairly, in a definite, efficient manner. For example, in the case of a taxpayer submitting an SPT, but the contents are incorrect or incomplete or attaching information whose contents are incorrect so that it can cause losses to state revenues, as referred to in Article 38 letter b of the KUP Law (in case of negligence) or Article 39 paragraph (1) letter d of the KUP Law (if it is intentional). The investigator must prove that the violation was committed for SPT of any tax and any tax period and or tax year as long as the prosecution has not expired before 10 (ten) years from the time the tax becomes payable, the end of the tax period, the end of part of the tax year, or the end of the relevant tax year as referred to in Article 40 UU KUP. Another example of the enactment of a one continued act in criminal acts in the field of taxation is Article 39A of the KUP Law against any person who deliberately issues and or uses tax invoices, proof of tax collection, proof of withholding taxes, and or proof of tax payments that are not based on transactions the actual tax invoice, or has not been confirmed as a Taxable Entrepreneur. As for the punishment for the act referred to in Article 38 letter b of the KUP Law, it is a fine of at least 1 (one) time the amount of unpaid or underpaid tax and a maximum of 2 (two) times the amount of unpaid or underpaid tax or is sentenced to imprisonment a minimum of 3 (three) months or a maximum of 1 (one) year. Then, the punishment for the act referred to in Article 39 paragraph (1) letter d of the KUP Law is 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 payable unpaid or underpaid and a maximum of 4 (four) times the amount of tax payable which is not paid or underpaid. Meanwhile, the punishment for the act referred to in Article 39A of the KUP Law is imprisonment for a minimum of 2 (two) years and a maximum of 6 (six) years and 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 payment 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.

The existence of several different offenses that can be committed by someone in crime in the field of taxation shows the need for justice, legal certainty, and benefits in implementing the one continued to act. Justice relates to the application of one continued act as a basis for weighting or additional punishment or repetition of offenses (recidivism). The judge imposes the maximum sentence only if there are two or more offenses in the indictment because the indictment is the basis for examining a criminal case in court. The basis of the indictment is an investigation that is completed through a case file that has been declared complete (P-21) by the Prosecutor so that

investigators must apply the article carefully and carefully to the suspect. Meanwhile, recidivism in taxation crimes has been regulated in Article 39 paragraph (2) of the KUP Law, which states that the crime referred to in Article 39 paragraph (1) of the KUP Law is added 1 (one) time to 2 (two) times the criminal sanction if someone commits another crime in the field of taxation before the expiration of 1 (one) year, starting from the completion of serving the prison sentence imposed. This means that injustice will arise against suspects or taxpayers if they are only subject to certain offenses, for example, Article 39A letter a of the KUP Law, if only losses are calculated on state income for a specific tax period or tax year, for example only the tax period from January to December 2020 or only for the 2020 tax year, and or only for one issuing company, even though the actions have occurred in previous years, for example from the January 2017 tax period to December 2021 or from the 2017 tax year to the 2021 tax year, and or using multiple publishing companies. Thus, it would be unfair if later there were investigations into the same person and the same offense, for example, Article 39A letter a of the KUP Law, for a different tax period and or tax year, even though it was a crime with the same offense and the same person but for the tax period January to December 2020 or only the 2020 tax year has been sentenced by the judge. Except, if the violations committed by the same person and with the same offense are committed for the tax year and or tax period after a judge's verdict or commonly called recidive.

#### **D. Legal Concept of One Continued Act in in Addressing Tax Crime**

Criminal acts in the field of taxation tend to be inseparable from continuing actions in connection with the obligation of every Taxpayer to fill out a Tax Return (SPT) correctly, thoroughly, and clearly, and sign and submit it to the tax office where the Taxpayer is registered or confirmed or other places stipulated by the Director General of Taxes as referred to in Article 3 paragraph (1) and paragraph (1a) and Article 4 paragraph (1) of the KUP Law. What is meant by correct SPT is correct in the calculation, including correctly applying the provisions of the tax laws and regulations in writing and following the actual situation. Then, what is meant by a complete SPT contains all elements related to tax objects and other elements that must be reported in the SPT. Furthermore, what is meant by SPT is reporting the origin or source of the tax object and other elements that must be reported in the SPT.

Furthermore, the Elucidation of Article 3 paragraph (1) of the KUP Law explains that the SPT's function for taxpayers is to report and account for the calculation of the amount of tax (PPH and VAT) that is actually payable. In the SPT PPh itself, there is a report regarding the payment or settlement of taxes that have been carried out by themselves and or through deduction or collection by other parties in 1 (one) Tax Year or Part of the Tax Year, income which is a tax object and or not a tax object, assets and obligations, and or payments from the withholding agent or collector regarding the withholding or collection of individual or other corporate taxes within 1 (one) Tax Period under the provisions of the tax laws and regulations. Whereas in the Periodic



VAT SPT itself, there is a report regarding the crediting of Input Tax against Output Tax and payment or settlement of taxes that the Taxable Entrepreneur has carried out and or through other parties within one Tax Period, following the provisions of the tax laws and regulations.

The existence of several criminal offenses in the field of taxation and referring to the existence of an obligation for each Taxpayer to report their SPT and the obligation for each Taxable Entrepreneur to issue and or credit a tax invoice that meets the formal and material requirements indicates the need to prove whether one continued or not act in terms of law enforcement in the field of taxation, such as violations of Article 38 letter b, Article 39 paragraph (1) letter d, and Article 39A of the KUP Law. Law enforcers who handle tax crimes, which begin with criminal investigations in the field of taxation, must believe that every legal action contains criminal law values in the form of justice, public benefit, and legal certainty. One reflection of justice, public benefit, and legal certainty are to apply carefully and definitely to someone who is a one continued act if between several actions, each of which constitutes a crime or violation, there is a relationship in such a way that only one criminal provision is applied, but if different, the one that is applied is the one that contains the most severe principal punishment, as referred to in Article 64 paragraph (1) of the Criminal Code. This also refers to the basis of the existence of a criminal act which is the principle of legality, and the basis for the conviction of the maker is the principle of error and considering that the calculation of losses on state revenue is at least close to material truth, identical to the tax year and or tax period so that it is fair, certain law, it is more practical and more accurate if the PPNS of the DGT proves whether there was an ongoing act, for example, *tempus delicti* in calculating the total loss (in revenue) of the state for violating the offenses of Article 38 letter b, Article 39 paragraph (1) letter d, and Article 39A UU KUP.

An example of analysis and discussion is a decision relating to the use and or issuance of a tax invoice that is not based on an actual transaction as referred to in Article 39A letter a of the KUP Law. Several decisions regarding Article 39A letter a of the KUP Law are carried out continuously, as referred to in Article 64 paragraph (1) of the Criminal Code. Article 39A letter a UU KUP, which is a formal offense with imprisonment for a minimum of 2 (two) years and a maximum of 6 (six) years and a fine of at least 2 (two) times and a maximum of 6 (six) times the amount of tax in the tax invoice. For example, the Central Java High Court Appeal Decision Number 57/Pid.Sus/2018/PT SMG, Supreme Court Cassation Decision Number 2486 K/Pid.Sus/2018, and Cianjur District Court Decision Number 401/Pid.Sus/2020/PN Cjr , both imposed a fine of 2 (two) times the amount of loss in state revenue to the Defendant, although they differed in terms of the imposition of imprisonment. Even though there are several critical legal facts related to criminal acts that are revealed in each of these decisions. In the Appeal Decision of the Central Java High Court Number 57/Pid.Sus/2018/PT SMG, Defendant traded tax invoices that were not based on actual transactions from 33 issuing companies with a total loss on state revenue in the form

of a tax principal of Rp.4.38 billion. In the Supreme Court's Cassation Decision Number 2486 K/Pid.Sus/2018, the Defendant made tax invoices that were not based on actual transactions and sold them to several companies, with a total loss to state revenue in the form of a tax principal of Rp.4.32 billion. In the Cianjur District Court Decision Number 401/Pid.Sus/2020/PN Cjr, the Defendant traded tax invoices that were not based on actual transactions originating from 2 (two) issuing companies to 2 (two) user companies, with a total loss to state revenue in the form of a tax principal of IDR 5.35 billion. Based on several examples of these decisions, it can be said that the offense in a tax crime can be said to be a one-continued act if a person commits several acts, each of which constitutes a crime or violation, there is such a relationship, for example, someone who intentionally issues and or uses a tax invoice that is not based on actual transactions, in several tax periods and or several tax years and or issue tax invoices that are not based on actual transactions through several issuing companies to several user companies and or use tax invoices that are not based on actual transactions from several publishing companies. Suppose several criminal provisions are violated for the continued act. In that case, only one penal provision shall be applied, but if it is different, the one shall be applied shall contain the most severe principal punishment, as long as one of these acts has not yet been decided by a judge.

#### **4. CONCLUSION**

This study produces 2 (two) conclusions. First, continual acts have not been regulated directly in criminal provisions in the field of taxation. Indeed, this matter can still be addressed by applying Article 64 paragraph (1) of the Criminal Code on offenses that will be presumed in criminal acts in the field of taxation. However, there will be obstacles considering that Article 64 paragraph (1) of the Criminal Code is a general criminal offense, unlike the offenses in the tax law, which have their peculiarities, for example, the amount of loss in state revenue that should be settled in years that have not yet reached the expiration date of prosecution as referred to in Article 40 UU KUP. This is also in strengthening the integrated criminal justice system, which relates to legal certainty to apply offenses through the imposition of offenses in a careful, clear, and complete manner in order to align investigations with the prosecutor's charges at trial must comply with Article 143 paragraph (2) of the Criminal Procedure Code. Second, the concept of (legal) continuing actions in criminal acts in the field of taxation in Indonesia in the future should be regulated in formal tax law so that it is fair to suspects or taxpayers who commit these violations, bearing in mind that recidivists have become *lex specialis* in tax (criminal) law. H This is based on the following 3 (three) main considerations. First, the provisions on tax crimes that comply with the *lex specialis* principle and criminal offenses in the field of taxation that can be categorized as complex have not strictly applied the one continued act. Thus, tax investigators have legal certainty and implement legal effectiveness in dealing with tax crimes that meet the one continued act qualification through completing case files that

are carried out carefully, clearly and thoroughly. Second, the majority of delicts in criminal acts in the field of taxation relate to losses on state revenue, such as Article 38, Article 39 paragraph (1), and Article 39A of the KUP Law, so that Tax Investigators must carefully prove which locus delicti there is a loss in income the state for the alleged offenses. Third, to provide tax certainty, including uniformity in implementing continuing actions in tax crimes, it is recommended that there be provisions, at least in the order of the Minister of Finance Regulation, which regulate procedures for investigations. Thus, there are accurate, precise, and complete guidelines for applying concursus, whether it is a continuing action, idealistic concursus, or realist concursus.

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