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Implementation of Money Laundering Investigation Policy with Tax Crimes as Predicate Offenses at the Directorate General of Taxes

(Implementasi Kebijakan Penyidikan Tindak Pidana Pencucian Uang dengan Pidana Asal Tindak Pidana dibidang Perpajakan di Direktorat Jenderal Pajak)

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ABSTRACT

The The widespread occurrence of tax-related criminal offenses committed by taxpayers has resulted in substantial losses to state revenue. In response, the The national tax authority (DGT) has adopted the policy of investigating money laundering offenses as an instrument to create deterrence and fear effects for non-compliant taxpayers, while simultaneously safeguarding state revenue losses arising from tax crimes. This study aims to examine and analyze the implementation of the money laundering investigation policy at the The national tax authority and to assess its impact on the recovery of losses to state revenue. This research employs a descriptive qualitative method using goal-oriented, source-based, and process-based approaches. Data were collected through literature review, in-depth interviews, observation, and documentation analysis. The findings reveal that the implementation of the money laundering investigation policy at the The national tax authority is consistent with policy implementation theory, as it demonstrates the presence of clear policy objectives, implementation activities, measurable outcomes, and post-implementation evaluation. However, from the perspective of the number of cases handled and the value of recovered state revenue, the impact of money laundering investigations has not yet been significant. This condition arises because perpetrators of tax crimes tend to prefer restorative justice settlement mechanisms by restoring state revenue losses along with administrative sanctions, thereby avoiding exposure to money laundering investigations. Nevertheless, money laundering investigations remain strategically important as a deterrence mechanism that encourages compliance and supports the recovery of state revenue.

Abstrak

Maraknya tindak pidana dibidang perpajakan yang dilakukan wajib pajak mengakibatkan kerugian negara yang sangat besar. Salah satu kebijakan yang dikeluarkan oleh Direktorat Jenderal Pajak untuk menimbulkan efek jera dan efek gentar kepada wajib pajak yang tidak patuh serta upaya menyelamatkan kerugian pada pendapatan negara akibat tindak pidana perpajakan adalah dengan melakukan penyidikan Tindak Pidana Pencucian Uang. Tujuan penelitian ini adalah untuk mengetahui dan menganalisa implementasi kebijakan penyidikan Tindak Pidana Pencucian Uang di Direktorat Jenderal Pajak serta dampaknya terhadap pengembalian kerugian pada pendapatan negara. Penelitian ini menggunakan metode kualitatif deskriptif dengan pendekatan sasaran, pendekatan sumber dan pendekatan proses melalui kegiatan studi kepustakaan, wawancara, observasi dan dokumentasi data. Hasil penelitian menunjukkan bahwa Implementasi Kebijakan Penyidikan Tindak Pidana Pencucian Uang di Direktorat Jenderal Pajak telah sesuai dengan dengan teori implementasi kebijakan yaitu adanya tujuan sasaran kebijakan, adanya aktivitas kegiatan, adanya hasil dari kegiatan dan adanya analisa kembali. Kebijakan Penyidikan Tindak Pidana Pencucian Uang di Direktorat Jenderal Pajak belum berdampak signifikan dari perspektif jumlah perkara yang ditangani dan nilai recovery kerugian negara karena pelaku tindak pidana di bidang perpajakan lebih memilih opsi penyelesaian restorative justice dengan mengembalikan kerugian negara berikut sanksinya agar terhindar dari penyidikan Penyidikan Tindak Pidana Pencucian Uang.

INTRODUCTION

While the The national tax authority continues to undertake institutional reforms and intensify efforts to strengthen public trust, improve taxpayer awareness and compliance, and meet the tax revenue targets set forth in the State Budget (APBN), instances of non-compliance persist. These include administrative infractions as well as criminal violations committed by business entities in their capacity as taxpayers.

The 2021 State Budget Financial Note identifies fair and equitable supervision and law enforcement as one of the key technical tax policy measures for that fiscal year. This policy direction is consistent with the mission of the The national tax authority to support a sovereign and financially independent state through revenue collection grounded in high levels of voluntary tax compliance and just law enforcement practices (Suharsono & Sinaga, 2019).

In the implementation of tax crime investigations, law enforcement officers frequently uncover patterns of conduct indicative of money laundering stemming from tax offenses. Such practices commonly involve channeling illicit tax proceeds into financial systems, employing nominee arrangements, and constructing multiple layers of transactions to obscure ownership and evade detection by tax authorities. These methods ultimately enable offenders to benefit from the illicit proceeds and, in some cases, to reinvest them in further tax-related criminal activities.

The complexity of these schemes significantly complicates efforts by investigators at the The national tax authority to gather adequate evidence for the seizure of assets originating from tax crimes, thereby posing challenges to the recovery of losses to state revenue. Tax crimes and money laundering are intrinsically interconnected. This linkage is expressly recognized in Article 2 paragraph (1)(v) of Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering. Furthermore, the criminal provisions set out in Articles 3, 4, and 5 of the same law characterize money laundering as a secondary or derivative offense, with the underlying unlawful acts—such as tax crimes—serving as predicate offenses.

By explicitly classifying tax crimes as predicate offenses under the anti–money laundering framework, Law No. 8 of 2010 underscores the importance and urgency of addressing money laundering arising from tax-related offenses. Consequently, the The national tax authority occupies a strategic position within Indonesia's anti–money laundering regime, particularly with respect to law enforcement in the taxation sector. In 2021, among 28 types of criminal offenses, tax-related crimes were identified as highly susceptible to money laundering, following corruption and narcotics offenses.

Table 1. Risk Categories of Predicate Crimes in 2021

No	Jenis Tindak Pidana Asal	Tingkat Ancaman TPPU	Tingkat Kerentanan TPPU	Tingkat Dampak TPPU	Tingkat Kecenderungan TPPU	Kategori Risiko
1	Korupsi	9,00	9,00	9,00	9,00	Tinggi
2	Narkotika	7,80	5,88	8,02	7,65	Tinggi
3	Di Bidang Perpajakan	6,92	3,90	8,28	6,73	Menengah
4	Di Bidang Perbankan	6,25	6,00	7,16	6,90	Menengah
5	Di Bidang Kehutanan	4,29	7,50	6,11	6,28	Menengah
6	Penipuan	6,37	5,59	5,51	6,86	Menengah
7	Di Bidang Lingkungan Hidup	4,46	7,03	6,01	6,26	Menengah
8	Penyuapan	5,51	6,58	5,11	6,68	Rendah
9	Penggelapan	5,41	3,73	5,29	5,93	Rendah
10	Perjudian	4,86	3,10	5,20	5,51	Rendah
11	Psikotropika	4,61	5,90	4,71	6,06	Rendah

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12	Di Bidang Perasuransian	3,75	4,85	4,94	5,37	Rendah
13	Di Bidang Kelautan Dan Perikanan	3,87	5,74	4,60	5,65	Rendah
14	Kepabeanan	4,43	3,52	4,70	5,39	Rendah
15	Di Bidang Pasar Modal	4,59	3,00	4,72	5,35	Rendah
16	Tp Lain Diancam Pidana 4 Tahun Atau Lebih (ITE)	3,72	5,13	4,56	5,43	Rendah
17	Perdagangan Senjata Gelap	3,86	4,44	4,63	5,33	Rendah
18	Perdagangan Orang	4,36	5,08	4,21	5,73	Rendah
19	Lainnya	4,06	3,34	4,50	5,17	Rendah
20	Pencurian	4,24	3,58	4,16	5,31	Rendah
21	TP Lain Diancam Pidana 4 Tahun Atau Lebih (Transfer Dana)	3,74	4,99	4,06	5,40	Rendah
22	TP Lain Diancam Pidana 4 Tahun Atau Lebih (Satwa Liar)	3,30	4,20	4,13	4,99	Rendah
23	Peyelundupan Imigran	3,54	4,93	3,79	5,29	Rendah
24	Penyelundupan Tenaga Kerja	3,30	4,86	3,68	5,15	Rendah
25	Pemalsuan Uang	3,51	3,37	3,70	4,90	Rendah
26	Prostitusi	3,43	4,41	3,48	5,11	Rendah
27	Cukai	3,93	5,74	4,63	3,00	Rendah
28	Penculikan	3,00	3,29	3,00	4,62	Rendah

sourcer: Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK)

The Indonesian government has articulated a policy position recognizing that money laundering constitutes a serious threat not only to macroeconomic stability and the soundness of the financial system, but also to the broader foundations of societal, national, and state order. Consequently, efforts to combat money laundering are required to rest upon a robust legal framework capable of ensuring legal certainty, strengthening the effectiveness of law enforcement, and facilitating the identification, tracing, and restitution of assets obtained through criminal conduct.

The Director General of Taxes has emphasized that tax-related offenses are particularly vulnerable to being exploited as channels for money laundering, rendering this issue a matter of significant concern that demands focused attention. In response, law enforcement in the taxation sector must adopt an integrated and far-reaching approach, including the application of more stringent criminal sanctions through the utilization of anti–money laundering legislation.

Viewed from the standpoint of public administration theory, the policy orientation of the The national tax authority toward money laundering offenses constitutes a form of public policy. Such policy may be understood as a sequence of deliberate actions and decisions undertaken by public authorities to pursue defined objectives, reflect institutional values, and produce tangible societal outcomes aimed at resolving public problems (Agustino, 2017).

Given its nature as a public policy, this study seeks to explore and critically assess the implementation of investigative policies on money laundering offenses with tax crimes serving as predicate offenses within the The national tax authority, as well as to evaluate their implications for the recovery of losses to state revenue.

LITERATURE REVIEW

Criminal Acts

According to (Prodjodikoro 2018), a criminal act is human behavior that has been formulated in statutory regulations, is unlawful, deserves punishment, and is committed with culpability. Criminal responsibility arises when a person engages in unlawful conduct accompanied by a culpable mental state (mens rea)

Criminal Acts in the Field of Taxation

Dani (2018) defines tax-related criminal offenses as conduct that is punishable under the criminal sanction provisions prescribed by law. in Articles 38, 39, 39A, 41, 41A, 41B, 41C, and 43 of the Law on General Provisions and Tax Procedures; Articles 24 and 25 of the Law on Land and Building Tax; Articles 13 and 14 of the Stamp Duty Law; Article 41A of the Law on Tax Collection by Distress Warrant; and Article 7 of the Law on Financial Information Access for Taxation Purposes.

Money Laundering Crimes

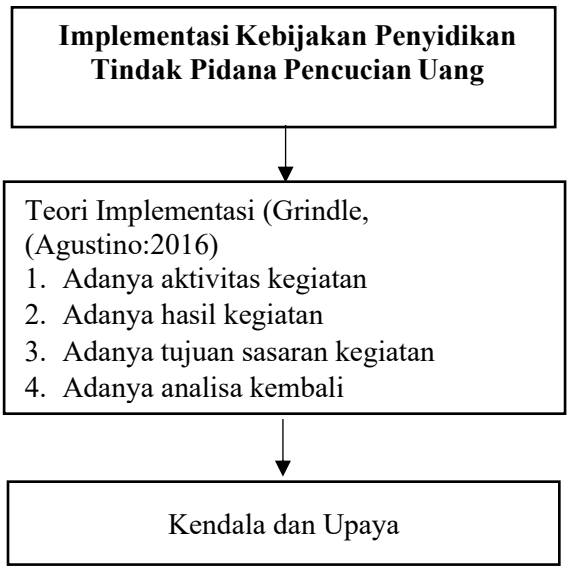
Sjahdeni (2004), as cited in (Nugroho 2016), defines money laundering as a series of activities conducted by an individual or organization to process illicit funds—funds derived from criminal activities—with the intention of concealing or disguising their origin from the government or competent authorities responsible for enforcing criminal law. This process mainly involves channeling unlawfully obtained funds into the financial system in order to later retrieve them in a form that appears lawful.

Public Policy

Dye, (2016) states that "Public policy is what governments do, why they do it, and what difference it makes." Furthermore, Dye explains that public policy encompasses anything the government chooses to do or not to do (Dye 2016).

Policy Implementation

Grindle, as cited by Agustino (2016), explains that the success of policy implementation can be measured through its process by asking whether program implementers operate in accordance with predetermined guidelines—namely, examining the action programs of individual projects—and secondly, whether the program's objectives are achieved.



Picture II.1. Frame Work
Source: Grinde, (Agustino:2016)

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METHOD

Type of Research

This study employs a descriptive qualitative research method using a goal-oriented approach, a source-based approach, and a process-based approach. The research was conducted through literature review, interviews, observation, and data documentation.

Research Focus

Based on Grindle's theory, the focus of this research addresses (at a minimum) four key aspects the articulation of policy aims or targets, along with the implementation of concrete actions or measures aimed at achieving those objectives; the outcomes of such activities; and post-implementation analysis of the policy, including the identification of obstacles encountered in the conduct of inquiries into money laundering offenses and the efforts undertaken to address them.

Selection of Informants

The author selected informants who are experts and competent in the business processes of law enforcement within the The national tax authority (DGT) and who are able to provide accountable, data-based information. These informants include:

1. The Head of the Investigation Sub-Directorate at the Law Enforcement Directorate, The central office of the The national tax authority;
2. The Head of Investigation Section I at the Law Enforcement Directorate, The central office of the The national tax authority;
3. A money laundering investigator at the Law Enforcement Directorate, The central office of the The national tax authority;
4. An academic and lecturer at the Tax Training and Education Center (Pusdiklat Pajak) in courses on tax law enforcement, as well as a contributor to the Indonesian Tax Review magazine; and
5. A tax consultant from Tax Partner RDTF Consulting.

Research Location

This research was conducted at the Law Enforcement Directorate, Head Office of the Directorate General of Taxes, located at Jalan Gatot Subroto No. 40–42, South Jakarta.

RESULT AND DISCUSSION

Research Findings

In examining the implementation of investigative policies on money laundering offenses with tax crimes as predicate offenses, the researcher applies Grindle's theory, which identifies (at a minimum) four dimensions influencing policy implementation: policy goals and objectives; implementation activities; outcomes of the activities; and post-implementation analysis.

1. Policy Goals and Objectives

Each year, the The national tax authority issues policy directions and law enforcement strategies through the Director of Law Enforcement at the DGT Head Office to all law enforcement units across regional offices. These directions are communicated through an official memorandum concerning the Annual Law Enforcement Work Plan for Tax Crimes, which the management of money laundering cases within the national tax authority.

Table 2. Internal Memorandum on the Annual Policy Work Plan

Year	Policy Product
2018	Confidential Letter of the Director of Law Enforcement Number SR-207/PJ.05/2018 dated 12 March 2018, concerning the Submission of the 2017 Performance Evaluation and the Work Plan for Preliminary Evidence Examination and Investigation for Fiscal Year 2018
2019	Confidential Official Memorandum of the Director of Law Enforcement Number NDR-64/PJ.05/2019 dated 18 January 2019, concerning the Submission of the 2018 Performance Evaluation and the Work Plan for Preliminary Evidence Examination and Investigation for Fiscal Year 2019.
2020	Official Memorandum of the Director of Law Enforcement Number ND-446/PJ.05/2020 dated 25 February 2020, concerning the Submission of the 2019 Performance Evaluation and the Work Plan for Preliminary Evidence Examination and Investigation for Fiscal Year 2020.
2021	Official Memorandum of the Director of Law Enforcement Number NDR-538/PJ.05/2021 dated 23 February 2021, concerning the Submission of the 2020 Performance Evaluation and the Work Plan for Preliminary Evidence Examination and Investigation for Fiscal Year 2021.

Source: Directorate of Law Enforcement

2. Implementation Activities

Based on the annual law enforcement work plan as stipulated in the Official Memorandum of the Director of Law Enforcement, the Directorate General of Taxes (DGT) has undertaken strategic measures in carrying out law enforcement duties in the field of taxation, particularly with regard to the investigation of money laundering offenses. The implementation of money laundering case handling includes, among others, the following activities:

a. Strengthening of the Anti–Money Laundering Regulatory Framework

The DGT revised its investigation guidelines through Circular Letter of the Director General of Taxes Number SE-29/PJ/2021 on Guidelines for the Implementation of Criminal Investigations within the Directorate General of Taxes, issued on March 26, 2021. This updated guideline improves upon previous investigation guidelines, namely Circular Letters of the Director General of Taxes Number SE-06/PJ/2014 and SE-32/PJ/2017.

b. Enhancement of Human Resources for Money Laundering Investigators

Efforts undertaken by the DGT to enhance investigators' capacity in order to produce high-quality money laundering investigations include enrolling investigators in money laundering investigation training programs, both domestically and internationally. Between 2018 and 2021, there were at least 18 (eighteen) domestic activities and 7 (seven) international activities, consisting of technical anti–money laundering training, education and training programs, focus group discussions (FGDs), webinars, workshops, in-house training, and other capacity-building initiatives aimed at strengthening the competence of DGT investigators.

c. Budgetary Support

Regional Offices of the The national tax authority (DGT Regional Offices) designated as priority units and demonstrating substantial and consistent realization of P-21 documents (case files declared complete by the Public Prosecutor) were allocated a Standard Output Cost (SBK) equivalent to three case files. This additional investigation budget allocation constitutes a form of institutional support by the DGT for regional offices that consistently achieve completed investigation performance targets, which serve as key performance indicators for investigations within the The national tax authority.

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d. Support for Resources and Technology

To monitor law enforcement cases, the DGT has developed the Law Enforcement Information System (Sistem Informasi Penegakan Hukum – SIGAKUM), which oversees the administrative execution of criminal law enforcement duties within the DGT. In addition, the core tax system—an integrated information technology system designed to comprehensively support tax collection functions—is currently under development for broader tax administration scope. In the future, the law enforcement information system will be integrated into the core tax system.

e. Cooperation

To ensure effective law enforcement activities, the DGT has established cooperation with various institutions, both domestically and internationally.

1) Inter-Agency Cooperation at the National Level

To strengthen cooperation among law enforcement agencies, the Ministry of Finance (through the DGT) has entered into Cooperation Agreements (MoUs) with the Attorney General's Office of the Republic of Indonesia, the Criminal Investigation Agency of the National Police (Bareskrim), the Directorate General of Immigration under the Ministry of Law and Human Rights, and the Indonesian Financial Transaction Reports and Analysis Center (PPATK).

2) International Cooperation

As the competent authority in taxation, the DGT maintains international cooperation with tax authorities of other countries. Cooperation in the area of anti–money laundering enforcement is carried out through a range of international instruments, including Double Taxation Avoidance Agreements (DTAs), Tax Information Exchange Agreements (TIEAs), the Convention on Mutual Administrative Assistance in Tax Matters (MAC), and the Multilateral Competent Authority Agreement. (MCAA).

3) Establishment of Joint Task Forces with Other Agencies

In addressing tax-related money laundering offenses, a Joint Task Force has been established involving the DGT, the Attorney General's Office, the National Police, and PPATK. This Joint Task Force was formally established through a Minister of Finance Decree.

f. Preventive Activities

From a preventive perspective, the following activities have been conducted:

1) Enhancement of Tax Compliance: tax education through counseling and outreach programs; dissemination of tax regulations; provision of tax administration services (applications, call centers, websites); publicly accessible tax learning materials; and comprehensive improvements to the tax administration system (core tax).

2) Socialization and dissemination of money laundering risk assessment results within the framework of the Risk-Based Mentoring Program (Program Mentoring Berbasis Risiko – Promensisko).

g. Money Laundering Investigation Activities

Investigations of criminal acts in the field of taxation are conducted by teams of Civil Servant Investigators (PPNS) within the DGT, both at the Head Office and Regional Offices. When investigators handling predicate tax offenses identify indications of money laundering, they propose the initiation of an open investigation into money laundering offenses arising from tax crimes that have been or are currently under investigation.

3. Outcomes of Activities

a. Number of Money Laundering Investigations

Between 2018 and 2021, the DGT issued a total of 16 investigation warrants (Sprindik) for money laundering offenses. In 2018, which marked the initial year for setting money laundering investigation targets within the DGT, one money laundering investigation was conducted. A significant increase was observed in 2019, during which anti–money laundering enforcement efforts were intensified through the formation of a support task force to manage money laundering cases and asset tracing, as well as extensive capacity-building activities. These efforts effectively increased the number of money laundering investigations to nine cases. In 2020, amid the peak of the COVID-19 pandemic, case handling was less optimal; nevertheless, two money laundering investigations were conducted. In 2021, the number increased again, with four money laundering investigations carried out.

b. Number of Money Laundering Cases with Final Court Decisions

Of the 16 money laundering cases investigated, six cases have been adjudicated by the courts and have obtained final and binding legal force (inkracht), involving convicted individuals identified by the initials AH, MK, HAR, SM, LH, and IRW.

c. Value of Seized Assets in Money Laundering Cases

From the 16 money laundering cases investigated, the total value of seized assets, based on appraisal assessments, amounted to IDR 83,190,600,137. These assets consist of 6 two-wheeled vehicles, 18 four-wheeled vehicles, 12 cash and/or cash-equivalent assets, 6 items of jewelry, 12 electronic devices, 35 land and/or building assets, and 7 apartment units.

4. Post-Implementation Analysis

Evaluation and analysis of the performance achievements of money laundering investigations within the DGT are conducted annually and communicated through official memoranda to law enforcement units within the Directorate General of Taxes, both at the Head Office and regional levels.

Table 3. Evaluation of the Performance Achievements of Money Laundering Investigations at the Directorate General of Taxes

Year	Policy Product
2019	A confidential internal memorandum issued by the Director of Law Enforcement (Ref. No. NDR-64/PJ.05/2019, dated 18 January 2019) concerning the communication of the 2018 performance assessment and the work plan for preliminary evidence examination and investigative activities for the 2019 fiscal year.
2020	An official memorandum of the Director of Law Enforcement (Ref. No. ND-446/PJ.05/2020, dated 25 February 2020) addressing the submission of the 2019 performance evaluation and the planned activities for preliminary evidence review and investigations for the year 2020.
2021	An internal memorandum of the Director of Law Enforcement (Ref. No. NDR-538/PJ.05/2021, dated 23 February 2021) outlining the reporting of the 2020 performance results and the corresponding work plan for preliminary evidence examinations and investigations for 2021.
2022	An official memorandum issued by the Director of Law Enforcement (Ref. No. ND-799/PJ.05/2022, dated 1 April 2022) regarding the presentation of the 2021 performance evaluation and the formulation of the work plan for the 2022 fiscal year.

Source: Directorate of Law Enforcement

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a. Profile of the Most Common Modus Operandi of Tax Crimes Committed by Money Laundering Offenders

Of the 16 investigation warrants (Sprindik) for money laundering issued between 2018 and 2021, the modus operandi of tax crimes that were followed up with money laundering investigations was predominantly the use of fictitious tax invoices. The position of "incorrect tax returns" (incorrect tax filings) ranked second in terms of risk, followed by "withholding but failing to remit taxes." Nevertheless, all three remain priorities for enforcement due to their relatively high risk levels.

b. Profile of the Most Common Money Laundering Modus Operandi

Of the 16 money laundering investigation warrants issued, the most common money laundering modus operandi employed by offenders within the Directorate General of Taxes involved active perpetrators, as regulated under Article 3 of the Anti–Money Laundering Law.

c. Profile of Money Laundering Offenders

Based on the 16 money laundering investigation warrants issued, all offenders investigated by the Directorate General of Taxes were individuals, primarily entrepreneurs engaged in the trading of goods.

d. Profile of Regions Most Frequently Associated with Money Laundering Offenses

Of the 16 money laundering investigation warrants issued, the Special Capital Region of Jakarta (DKI Jakarta) was identified as the region with the highest risk for tax crimes and money laundering offenses. This is reasonable given that the highest circulation of money, goods, and services occurs within this region.

e. Profile of Money Laundering Categories

Of the 16 money laundering investigation warrants issued, all cases involved self-laundering activities.

f. Profile of Court Decisions Imposing Imprisonment

Of the 16 money laundering investigation warrants issued, court decisions imposing imprisonment ranged from three to seven years, excluding imprisonment sentences for the underlying tax crimes.

g. Profile of Court Decisions Imposing Fines and Asset Forfeiture to the State

Of the 16 money laundering investigation warrants issued, court decisions imposing fines and asset forfeiture amounted to IDR 42.9 billion. This value represents an estimated amount at the time of seizure, as court rulings did not specify the monetary value of the confiscated assets; therefore, appraisal values at the investigation stage were applied.

5. Obstacles in the Implementation of the Policy on Investigating Money Laundering Crimes with Tax Crimes as Predicate Offenses at the Directorate General of Taxes

The obstacles encountered in implementing the policy on money laundering investigations within the Directorate General of Taxes include the following:

a. Not all triggers (complaints, information, or reports—including Analysis Results from PPATK) indicating suspected money laundering in the taxation sector can be directly followed up through tax-related money laundering investigations. Pursuant to Article 43A of the Law on General Tax Provisions and internal business processes of the The national tax authority, Civil Servant Investigators must first identify indications of a tax crime. This is because DGT investigators are authorized to conduct money laundering investigations only when tax crime indications are present.

b. The tax enforcement regime prioritizes state revenue collection and recovery of state losses. Accordingly, at every stage of tax case handling, including law enforcement, taxpayers/offenders are

provided with opportunities to pay the principal tax liabilities along with penalties. Sanctions and fines at each stage are applied proportionally based on the degree of fault. Payment of penalties or fines by taxpayers/offenders may terminate the criminal tax enforcement process.

c. There is a lack of uniformity in perception among law enforcement agencies in handling tax crimes and/or tax-related money laundering cases.

d. Pandemic conditions have hindered investigators' access to taxpayer locations, increasing resistance, adding procedural steps to field examinations, and potentially delaying case handling.

e. Standard Operating Procedures (SOPs) for law enforcement require improvement. Under the existing SOPs, investigators are unable to independently initiate entirely new cases and tend to act passively by relying on case proposals submitted by other units.

f. Technical Constraints in Handling Money Laundering Cases at the DJP:

1) Limited data and information for asset tracing, particularly due to delays in responding to information requests, which may result in potential asset loss.
2) Inconsistent understanding among investigators in handling money laundering investigations.
3) Suboptimal utilization of data, including challenges in data matching due to multiple types of identification numbers in Indonesia, non–real-time data, and lack of system integration, which complicates analytical processes.
4) Absence of a dedicated asset tracing unit within the Directorate General of Taxes.
5) Significant budget cuts resulting from the pandemic and budget reallocations to other projects, necessitating cost reductions and savings.

6. Efforts to Overcome Obstacles in the Implementation of the Policy on Investigating Money Laundering Crimes with Tax Crimes as Predicate Offenses at the Directorate General of Taxes

Despite these obstacles, the Directorate General of Taxes remains committed to combating money laundering. The efforts undertaken to address these challenges include:

a. Consistently monitoring developments in the National Risk Assessment (NRA) and annually evaluating the Sectoral Risk Assessment (SRA), adopting these findings into internal annual tax law enforcement policies through the issuance of Official Memoranda by the Director of Law Enforcement, and periodically monitoring their implementation.

b. Optimizing previously implemented strategic measures through continuous improvement.

c. Enhancing collaboration and cooperation with other anti–money laundering stakeholders, strengthening inter-agency cooperation, and expanding asset tracing collaboration with other institutions to improve investigation quality.

d. Aligning perceptions among law enforcement agencies in handling tax-related money laundering investigations and conducting training programs for judges and other relevant law enforcement officials to achieve harmonization.

e. Proposing improvements to law enforcement business processes (SOPs) as part of the Directorate General of Taxes' reorganization agenda.

f. Proposing amendments to laws and implementing regulations concerning the authority of Civil Servant Investigators.

g. Encouraging the enhancement of information systems supporting law enforcement duties, including the formulation of regulations addressing unclear or unregulated provisions.

h. Enhancing the capacity of DGT investigators by organizing joint money laundering training programs with investigators from other law enforcement agencies to facilitate experience sharing and the exchange of investigative strategies.

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i. Strengthening data and information exchange, improving facilities and infrastructure, ensuring adequate budget allocation, and fostering collaboration among all law enforcement agencies to enhance the effectiveness of money laundering case handling.

j. Advocating for broader asset tracing access for the Directorate General of Taxes, similar to the full access granted to the Australian Taxation Office (ATO) and the Australian Transaction Reports and Analysis Centre (AUSTRAC).

k. Collaborating with other units within the Directorate General of Taxes to assist investigators in asset tracing efforts.

l. Standardizing guidelines and preparing infrastructure for the seizure and management of confiscated assets.

m. Optimizing preventive measures prior to enforcement actions. Prevention serves as a key regulatory instrument, as it is fundamentally preferable to enforcement and aligns with the taxation principle adopted by many countries, namely ultimum remedium, whereby criminal punishment constitutes a last resort in law enforcement.

Discussion

In essence, criminal law enforcement within the The national tax authority (DGT) cannot be considered complete unless it is accompanied by the realization of recovery of losses to state revenue. Criminal law enforcement that concludes solely with custodial punishment (imprisonment or confinement) without the application of state revenue recovery is futile. Such an approach renders criminal law enforcement within the DGT both ideal and balanced. This concept is referred to as criminal law enforcement within the taxation sector with an emphasis on restoring losses to state revenue. The ideal and balanced condition described above is inseparable from inherent factors embedded in criminal law enforcement activities in the field of taxation. These inherent factors include:

a. The structure of the 2021 State Budget (APBN), in which approximately 82 percent of state revenue is supported by tax revenues;

b. The budgetary function of taxation, whereby taxes serve as an instrument for collecting as much revenue as possible into the state treasury to finance government expenditures; and

c. The mandate of the Directorate General of Taxes to collect tax revenues in order to ensure the financial independence of the state.

the enforcement of criminal law within the taxation sector at the The national tax authority (DGT) is inherently inseparable from the primary objective of the tax system, namely ensuring state revenue as the backbone of national financing. A number of criminal law studies emphasize that punishment which culminates solely in custodial sanctions, without the recovery of losses to state revenue, tends to be ineffective and disproportionate in the context of economic crimes (Muladi & Arief, 2010; Prodjodikoro, 2018). In tax crimes, losses to state revenue constitute a central element that must be restored, as they are directly linked to the budgetary function of taxation as a fiscal instrument of the state (Mardiasmo. 2019).

The restorative justice approach is implemented through the disclosure of incorrect acts (Article 8 paragraph (3)) at the investigation stage (preliminary evidence examination) or through applications for the termination of investigations (Article 44B of the Law on General Provisions and Tax Procedures in conjunction with the Law on the Harmonization of Tax Regulations), by means of full repayment of losses to state revenue along with administrative sanctions in the form of fines. Meanwhile, the asset recovery approach is implemented through the seizure of assets during the investigation stage. Consequently, the DGT, as the institution responsible for revenue collection, inherently bears the mandate to strike a balance between criminal law enforcement and the optimization of state revenue. In this regard, Suharsono and Sinaga (2019) argue that tax law enforcement should not be purely repressive, but should also be oriented toward compliance and the recovery of losses to state revenue.

The criminal justice process for tax offenders consists of several stages, namely: preliminary evidence examination (investigation), investigation, prosecution, and court adjudication. At each of these stages, in addition to the formal criminal justice mechanisms under the Criminal Procedure Code (KUHAP), Indonesian tax law (as lex specialis under the legislation governing general tax provisions and procedural rules) recognizes the principle of ultimum remedium. Under this principle, suspects or perpetrators of tax crimes are provided with mechanisms to restore losses to state revenue, accompanied by the statutory regime that regulates fundamental tax provisions and procedural mechanisms at each stage of the criminal process. the depletion of government revenue this context refer to the amount of tax unlawfully evaded by the suspect or offender, which constitutes the proceeds of crime derived from tax offenses.

The mechanisms available to offenders include: disclosure of incorrect acts at the preliminary evidence examination/investigation stage (Article 8 paragraph (3) of the Law on General Provisions and Tax Procedures) and termination of criminal proceedings at the investigation or prosecution stage (Article 44B). Through these mechanisms, suspects or offenders are granted the right to restore losses to state revenue (proceeds of crime) resulting from violations of tax laws, in addition to paying fines ranging from one to four times the amount of the loss to state revenue, depending on the stage at which the mechanism is exercised.

Upon payment of the losses to state revenue and the corresponding fines, the The national tax authority does not proceed with criminal prosecution, as the proceeds of crime have been recovered. To ensure a deterrent effect, the state imposes fines on the offenders. If the suspect does not utilize these mechanisms, the criminal process proceeds in accordance with applicable legal provisions, following the prescribed stages and culminating in a court decision, along with the availability of legal remedies as regulated under the Criminal Procedure Code.

According to information collected from the researcher from the The enforcement directorate at the The central office of the The national tax authority, during the period from 2018 to 2021, the total recovery of state revenue losses through the restorative justice approach—comprising payments resulting from disclosures of incorrect acts (Article 8 paragraph (3)) at the preliminary evidence examination stage and payments related to applications for the termination of investigations (Article 44B of the Law on General Provisions and Tax Procedures, as amended by the Law on the Harmonization of Tax Regulations)—amounted to IDR 7,437,540,807,770.

Table 4. Value of State Revenue Loss Recovery through Restorative Justice Activities

Nilai Pembayaran Pasal 8 ayat (3) dan Pasal 44B UU KUP (Rp)				
2018	2019	2020	2021	Total
1,977,617,485,541	2,117,414,792,781	2,004,120,058,981	1,338,388,470,467	7,437,540,807,770

Source: Directorate of Law Enforcement

This figure is relatively significant in terms of recovering losses to state revenue. It is likely that the amount of payments generated through the restorative justice approach is substantial because perpetrators of criminal acts seek to avoid the imposition of severe custodial sanctions—up to a maximum of 20 years' imprisonment—if they are investigated for money laundering offenses and have their assets confiscated by the state. Although the recovery of state losses resulting from money laundering investigations has not yet been significant, such investigations nonetheless create a deterrent effect for tax offenders, thereby encouraging them to make payments through the disclosure of incorrect acts (Article 8 paragraph (3)) at the preliminary evidence examination stage (investigation) and through payments related to applications for the termination of investigations (Article 44B of the Law on General Provisions and Tax Procedures in conjunction with the Law on the Harmonization of Tax Regulations).

CONCLUSIONS

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Based on the results of the study, the following conclusions are drawn

The implementation of the policy on investigating money laundering crimes with tax crimes as predicate offenses at the The national tax authority is consistent with policy implementation theory, as it demonstrates the existence of policy objectives, implementation activities, outcomes, and post-implementation analysis, as articulated in the theory proposed by Merilee S. Grindle.

The implementation of the policy on investigating money laundering crimes with tax crimes as predicate offenses at the The national tax authority has not yet had a significant impact from the perspective of the number of cases handled and the value of recovered state revenue. This is because perpetrators of tax crimes tend to prefer settlement mechanisms under Article 8(3) of the statute governing general tax provisions and procedures at the preliminary evidence examination (investigation) stage, or under Article 44B of the same law at the tax investigation stage, by restoring state losses (proceeds of crime) along with the applicable sanctions, in order to avoid money laundering investigations that carry a maximum penalty of 20 years' imprisonment and asset forfeiture.

Recommendations

Based on the conclusions above, the author offers the following recommendations:

Although money laundering investigations have not yet played a significant role in terms of the number of cases handled and the value of recovered state revenue when compared to recovery mechanisms under Article 8 paragraph (3) and Article 44B of the Law on General Provisions and Tax Procedures as amended by the Law on the Harmonization of Tax Regulations, money laundering investigations should remain a priority in tax law enforcement at the The national tax authority. This is because such investigations constitute the ultimate enforcement tool for recovering state revenue losses when tax offenders do not utilize settlement mechanisms under Article 8 paragraph (3) and Article 44B of the Law on General Provisions and Tax Procedures as amended by the Law on the Harmonization of Tax Regulations.

Based on the achievements of money laundering investigations conducted by the The national tax authority during the 2018–2021 period, the most common modus operandi of tax crimes committed by money laundering offenders involves the issuance of fictitious tax invoices related to Value Added Tax (VAT). However, international literature studies conducted by the Asia/Pacific Group on Money Laundering (APG) identify other money laundering typologies, including the use of shell companies and transfer pricing schemes, which are closely associated with Income Tax. Therefore, the The national tax authority should consider conducting money laundering investigations with income tax offenses as predicate crimes.

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