Refinement of Taxpayer Legal Subject provisions in the New Criminal Code against the Offence of Corporate Tax Avoidance in Indonesia

Daffa Ladro Kusworo  
Universitas Indonesia, Indonesia  
E-mail: daffa.ladro@ui.ac.id

Submitted: Aug 1, 2023; Reviewed: Sep 13, 2023; Accepted: Nov 8, 2023

Article’s Information

**keywords:** Corporation, Criminal, Tax.

**DOI:**
https://doi.org/10.25041/corruptio.v4i2.3128

**Abstract**

Law No. 16 of 2009 concerning General Provisions and Tax Procedures (UU KUP) focuses on corporate criminal liability and criminal sanctions related to criminal offenses in the field of taxation. This stems from criminal responsibility to corporations as a prerequisite for corporate punishment. Criminal acts in the field of taxation are regulated in the KUP Law in terms of legal subjects covered by the KUP Law and criminal sanctions in the event of a violation of the criminal act, but there are inconsistencies in criminal liability for corporations and criminal sanctions regulated in Articles 38, 39, and 39A UU KUP, thus creating uncertainty in law enforcement. In addition, corporate law enforcement has no basis for calculating the conversion of substitute imprisonment if the defendant is unable to fulfill the fine as stipulated in the decision. The research method used is normative juridical which refers to laws and regulations regarding taxation accompanied by literature studies in the form of books, journals, and others. Data analysis was carried out through a qualitative descriptive approach to describe legal phenomena that occur in order to find solutions to problems through a specific conclusion. The results of the study show that the formulation of offenses in the KUP Law is actually inconsistent with the theories of criminal responsibility in the context of criminal law, even though Articles 38, 39, 39A and 43 are intended to regulate criminal provisions in the field of taxation. The problems...
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A. Introduction

In line with developments in information technology, economics, social, politics, and to create clean governance, changes to the Tax Law have been made. These changes aim to provide more justice, improve services to taxpayers, provide more legal certainty, and anticipate progress in the field of information technology and changes in material provisions in the field of taxation.

In addition, these changes are also intended to increase the professionalism of the tax apparatus, increase the transparency of tax administration, and increase the voluntary compliance of taxpayers. A system of mechanisms and procedures for the implementation of simple taxation rights and obligations is a feature and pattern in the amendments to this Law while still adhering to a self-assessment system. These changes are specifically aimed at building a balance of rights and obligations between tax officials and taxpayers, maintaining a balance of tax revenues as the backbone of APBN revenues and building a better institutional image of the Directorate General of Taxes. The law is Law of the Republic of Indonesia Number 6 of 1983 concerning General Provisions and Procedures for Taxation as amended most recently by Law of the Republic of Indonesia Number 26 of 2007 which has been amended most recently by Law No 16 of 2009. Explanation of Article 38 which begins Chapter VIII of the Criminal Provisions states that a violation of a taxation obligation committed by a taxpayer, insofar as it relates to tax administration actions, is subject to administrative sanctions by issuing a Tax Assessment Letter or Tax Collection Letter, while those relating to criminal acts in the field of taxation are subject to sanctions criminal.

Thus, those who are threatened with criminal sanctions are actions or actions that are not administrative violations but are criminal acts in the field of taxation. All over the world, the problem of taxpayer compliance is included in the category of important problems, both for developed countries, let alone developing countries. If taxpayers do not comply, it will lead to unfavorable and detrimental actions for the state, such as: tax evasion, tax smuggling, and tax evasion. Actions like that will have an impact on reducing tax revenue for the country.

The tax law divides criminal acts committed by taxpayers into 2 (two) types, namely violations and crimes. The elucidation of Article 38 of the Taxation Law (UU No. 28 of 2007) states that the qualifications of the negligence itself are unintentional, negligent, careless, and ignoring their obligations so that their actions result in losses for the State. Regarding the criminal act of violation referred to in Article 38 paragraph (1) of KUP Law Number 6 of 1983 as amended by the third amendment to KUP Law Number 28 of 2007 namely; Whoever because of his negligence:

a. did not submit a notification letter; or

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b. submitting a notification but the contents of which are incorrect or incomplete, or attaching
incorrect information so that it can cause losses to the State, shall be punished with
imprisonment for a maximum of one year or a maximum fine of 2 (two) times the tax
owed.

As stated in the sound of Article 39 of KUP Law Number 6 of 1983 which was amended by the
third amendment to KUP Law Number 28 of 2007 confirms that, (1) whoever intentionally:
a. Not registering or misusing or using or using without rights the Taxpayer Tax Number as
referred to in Article 2; or
b. Not submitting SPT; and or
c. Submit SPT or information whose contents are incorrect or incomplete; And
d. Showing fake or falsified books, records or other documents as if they were true; And
e. Not showing or lending books, records or other documents; And
f. Failure to deposit taxes that have been deducted or collected so that they can cause losses
to the State, shall be punished with imprisonment for a maximum of 3 (three) years .

The criminal threat as referred to in paragraph (1) is doubled if a person commits another
crime in the field of taxation before one year has passed, starting from the completion of part
or all of the prison sentence imposed. The element of action that matches the formulation of the
article as the first element in determining a crime, it is clear that the act of avoiding paying
taxes is included in article 38 and or article 39 of law number 28 of 2007. Meanwhile, the
element of against the law or unlawful nature is extended not only against formal law but also
against material law.

The main principle of tax avoidance (tax avoidance), can be divided into 3 (three) principles,
namely one of them is postponement of taxes. Basically, tax obligations must be carried out
according to applicable tax rules. Tax avoidance can only be justified as long as it is in the
provisions of taxation. Deferring tax payments based on company policy certainly cannot be
justified, unless there is a special strong legal basis for it, for example delays due to delays for
certain industries in the framework of investment. The application of criminal sanctions to cases
of tax evasion can thus be prosecuted by fines, imprisonment and revocation of certain rights
in the form of revocation of business licenses or announcement of a judge's decision regarding
the company's reputation.4

With reference to Article 10 of the Criminal Code, cases of tax evasion which have so far
only been resolved in the Tax Court as tax disputes, need to be prosecuted through the criminal
court as a tax crime. Actually the philosophy is not in the sanctions, but in compliance with
paying taxes so that there is an increase in state revenues. State revenue increases when there
is awareness from the public about taxes and the way to increase awareness is by means of
counseling and good services. So that when people understand and are aware of new taxes, the
sanctions in Articles 38, 39 of the KUP Law will only be applied.5

The research method used is normative juridical which refers to laws and regulations
regarding taxation accompanied by literature studies in the form of books, journals, and others.
Data analysis was carried out through a qualitative descriptive approach to describe legal
phenomena that occur in order to find solutions to problems through a specific conclusion.6

B. Discussion

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4 Rusito Rusito and Kaboel Suwardi, “Pertanggungjawaban Tindak Pidana Korporasi Dalam Bidang Perpajakan,”
5 I Made Walesa Putra, Marcus Priyo Gunarto, and Dahliana Hasan, “Penentuan Kesalahan Korporasi Pada Tindak
Pidana Perpajakan (Studi Putusan Pengadilan Negeri Jakarta Barat No.: 334/Pid. Sus/2020/PN Jkt. Brt),” Media
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6 Depri Liber Sonata, “Metode Penelitian Hukum Normatif Dan Empiris: Karakteristik Khas Dari Metode Meneliti
1. Implications of Tax Crime Arrangements Against Corporations as Taxpayer Legal Subjects

In the KUP Law, a criminal offense in the field of taxation that can be committed by a taxpayer is regulated in the formulation of offenses described in Articles 38, 39 paragraphs 1, 2, 3 and 39A. Article 38 regulates negligence or negligence, while Articles 39 and 39A regulate intentionality. Article 38 essentially regulates offenses committed due to negligence and is limited to SPT which is not submitted or submitted incomplete or incorrect. Negligence in the elucidation of this article is defined as unintentional, negligent, not careful, or not paying attention to their obligations so that these actions can cause losses to state revenues. Several important elements in Article 38 are: The offense was committed by a person; Because of his negligence; Causing losses to state revenues; and the deed is not the first deed or repeated deed. Based on this article, the penalty 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. The alternative punishment is imprisonment for a minimum of 3 (three) months or a maximum of 1 (one) year. Furthermore, Article 39 paragraphs 1 and 39A stipulates that offenses are committed with an element of intent. Article 39 paragraph 1 seems to focus more on people who neglect their tax obligations, so the important elements in this offense are: The offense was committed by a person; Because on purpose; Causing losses to state revenues. On the other hand, Article 39A is a deliberate offense which focuses on the obligations of the taxpayer as a withholding agent or tax collector (related to VAT and withholding or collection income tax). In addition, the offense as stipulated in Article 39A does not require proof of loss to state revenue. In line with the formulation of Article 39 paragraph 1, this in paragraph 2 of this article seems to be more towards repeating the offense or recidive which also carries a criminal sanction. On the other hand, Article 39 paragraph 3 is intended to regulate attempted offenses which are limited to an act of misusing or using without rights the NPWP and/or NPPKP.

Before considering the aspect of criminal liability, it is important to examine further, whether corporate taxpayers can become legal subjects for offenses related to taxation as referred to in this KUP Law. This is important to observe considering that the term used in the formulation of the offense is any person whose narrow meaning is an individual or individual and not a corporation or corporate taxpayer. Some of the supporting elements that can direct corporate taxpayers as legal subjects in the context of the offenses of Articles 38, 39 and 39A are as follows: First, the explanation of Article 38 that violations of tax obligations have been committed by taxpayers, in so far as it concerns tax administration actions, subject to administrative sanctions by issuing Tax Assessment Letters or Tax Collection Letters, while those involving criminal acts in the field of taxation are subject to criminal sanctions. Thus, in the elucidation of this article, it turns out that the term "everyone" is not used, but a "taxpayer" whose meaning is very broad, which includes individual taxpayers and corporate taxpayers. If this explanation is interpreted as the interpretation of the legislator, then it is very clear that what is meant by everyone here is a taxpayer, which means it can be a corporate taxpayer or an individual taxpayer. Second, logically, tax offenses as defined in the KUP Law can of course be carried out by corporate taxpayers as holders of rights and obligations in the field of taxation. Therefore, it is unreasonable if the formulation of the offense is interpreted that only individual taxpayers are included in the formulation of the offense. Third, the term person in the

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formulation of this offense can be equated with person (English) and the term person does not always mean an individual but also a corporation, unless there is the intention of a law or regulation to limit the term person to include only individuals.\(^{10}\)

Related to this, Article 1 UU KUP does not provide a definition of people at all. The term person in the context of criminal law adopted in countries with a common law system has the meaning of person in law which also includes corporations or legal entities (LaFave and Scott, 1986:258). Fourth, the absence of the term taxpayer in the elucidation of Articles 39 and 39A, as formulated in Article 38, does not mean that this offense does not cover corporate taxpayers. The meaning of the term everyone which includes a corporation or corporate taxpayer is also reflected in the formulation in Article 43 which states that the provisions in Article 39 and Article 39A also apply to representatives, proxies, employees of the taxpayer, or other parties who order to do so, participating in committing, advocating, or helping to commit the offense. If the offenses formulated in Articles 39 and 39A are said to also apply to employees of the taxpayer, then it can be concluded that the offenses as regulated in Articles 39 and 39A are indeed aimed at taxpayers in general which include corporate taxpayers and individual taxpayers.\(^{11}\) This can also be identified from the elucidation of Article 43 which states that those who can be punished for committing this offense are not limited to taxpayers, representatives of taxpayers, attorneys of taxpayers, employees of taxpayers, public accountants, tax consultants, or other parties, but also against those who ordered to commit, who took part in committing, who advocated, or who assisted in committing criminal acts in the field of taxation.\(^{12}\) Thus, it is clear that the term everyone used in the formulation of offenses in Articles 38, 39 and 39A has a broad meaning, namely taxpayers, because they are the ones who carry the rights and obligations according to tax law.\(^{13}\)

If one examines the formulation of the offense, it is clear that the concept of accountability used in this tax offense is a traditional concept, namely No Criminal Without Guilt. This can be concluded from the scope of intentional elements in the formulation in Articles 39 and 39A and negligence in the formulation of Article 38. Thus, it is clear that the concept of strict liability is not applied to offenses in the field of taxation in the context of this UU KUP. What needs to be studied further is whether this offense reflects the use of the concept of vicarious liability. Does the formulation of Article 43 that the formulations of Article 39 and Article 39A also apply to representatives, proxies, employees of the taxpayer, or from other parties who order to commit, those who participate in committing, who recommend, or who help commit offenses already shows the application of the concept of vicarious this liability. This is not indicated in the UU KUP at all.\(^{14}\)

However, it is consistent with the notion of vicarious liability, namely that the element of the act (delict) committed by the defendant is ignored in the sense that it is not needed, so Article 43 should not use this concept because the Criminal Code also recognizes the formulation of ordering to commit, who participates in committing, who advising, or helping to commit the offense.\(^{15}\) In other words, by ordering to do, recommending, or even helping to commit an offense in the context of the Criminal Code can be referred to as a criminal act. The equivalent of this provision is Article 55 paragraphs 1 and 56 of the Criminal Code which

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\(^{11}\) Muhammad Farouq, *Tax Law in Indonesia* (Jakarta: Prenada Media, 2018), page 23.


stipulates that those who commit, suggest, order, and take part in are punished as perpetrators of criminal acts, while those who intentionally provide assistance and or opportunities are seen as crime accomplice. Thus, the elements of this crime still exist or are relevant in the context of Article 43.\textsuperscript{17}

If indeed the formulation of offenses in the KUP Law uses the concept of No Crime Without Fault, it is clear that the KUP Law does not recognize crimes against corporations. This is indeed quite ironic, considering that the formulation of the offense used should be interpreted as a corporation even though the term used is everyone as previously explained.\textsuperscript{18} This conclusion should be supported by the following points: First, the theory of elements of guilt (intentional and negligent) can be attached to the mental attitude or mens rea of the offender. Because the corporation is intangible, it is clear that these two elements cannot possibly be found in the context of corporate or corporate taxpayers.\textsuperscript{19}

Second, in practice, the perpetrators of offenses in the field of taxation are individuals and it seems that this is the reason behind the use of the term everyone in the formulation of offenses in Articles 38, 39 and 39A, regardless of the possibility that these individuals act for and on behalf of a corporation. In this aspect, it is quite logical if the meaning of the term every person in the formulation of the offense can be interpreted to include corporate or corporate taxpayers. Even so, it is clear that this corporate criminal responsibility is not under any pressure in this UU KUP. Third, the formulation of sanctions used in Articles 39 and 39A is additional punishment (not subsidiary punishment) which is indicated by the conjunction and and accompanied.\textsuperscript{20}

This additional sentence grammatically means that the offender (ie individual) can be punished with a fine and imprisonment. This formulation of sanctions does not seem to mean that imprisonment can be imposed on the individual perpetrator, while fines are imposed on corporations as corporate taxpayers.\textsuperscript{21}

Thus, literally, criminal sanctions, both fines and imprisonment, can only be interpreted as being imposed on individuals as perpetrators of offenses. Indeed, this cannot be automatically interpreted that the individual is the only responsible party because the definition of a tax bearer in Article 1 number 28 of the KUP Law is an individual or entity responsible for paying taxes, including representatives who exercise rights and fulfill taxpayer obligations in accordance with the provisions of the tax laws and regulations.\textsuperscript{22} Thus, it is clear that if the offense committed is related to the fulfillment of the obligations of the corporate taxpayer, the taxpayer concerned can become the party obligated to pay the tax even if the tax is caused by another party committing the offense.\textsuperscript{23}

It is clear that the formulation of offenses in the KUP Law is not in harmony with the theories of criminal liability in the context of criminal law, even though Articles 38, 39, 39A and 43 are intended to regulate criminal provisions in the field of taxation. In essence, even though the context of the formulation of offenses Articles 38, 39, 39A seems to also include corporate or

\textsuperscript{17}Wibowo, “The Effectiveness of Tax Criminal Sanctions in Law Number 28 of 2007 Concerning General Provisions and Tax Procedures (Study at the Jakarta Tax Court).”

\textsuperscript{18}Andi Hamzah, Indonesian Criminal Law (Jakarta: Sinar Graphic, 2017), page 22.


\textsuperscript{23}Ramadhani, Widhiana, and Nugroho, “Analisis Pertimbangan Hakim Dalam Tindak Pidana Pajak (Studi Putusan No. 3839/Pid. Sus/2020/PN Mdn).”
corporate taxpayers as perpetrators of offenses, this is inconsistent because the formulation of criminal sanctions in these articles can be interpreted as not accommodating corporations as perpetrators of offenses or father.\textsuperscript{24} Apart from that, this inconsistency is also evident in the theory of criminal responsibility which is implicitly stated in the formulation of the offense. If indeed the formulation of offenses intends to include corporations as perpetrators of offenses which should also be punished, then the concept of criminal responsibility that can be applied is strict liability and/or vicarious liability and not the classic concept of no crime without fault. The formulation of a delict using the terms negligence or intention clearly shows the application of the traditional concept of no crime without fault, while on the other hand, elements of negligence and intention theoretically would never appear in corporate or corporate taxpayers. This should be in line with the general view that a corporation or corporate taxpayer is a non-corporate legal subject. Thus, the implications of special arrangements for corporate taxpayers as legal subjects require reformulation regarding in which case or when a criminal offense in the field of taxation is said to have been committed by a corporation.

2. Law Enforcement of Corporate Crime in Decision Number 82/Pid.Sus/2021/PN Kota Agung

In Decision Number 82/Pid.Sus/2021/PN Kota Agung at the Kota Agung District Court, the Defendant on behalf of Ida Laila bint Hi. Musripin has been proven legally and convincingly guilty of committing the crime of "intentionally failing to deposit taxes that have been withheld or collected, which can cause losses to state revenues. Taxes that are not paid are Value Added Tax on Goods and Services and Sales Tax on Luxury Goods, based on Article 7 paragraph (2) of Law Number 8 of 1983 as amended several times, most recently by Law Number 42 of 2009 (hereinafter referred to as " VAT Law "), what is meant by Value Added Tax is a tax on the consumption of goods and services in the Customs Area which is imposed in stages in each line of production and distribution . Article 8A paragraph (1) of the VAT Law states that the Value Added Tax payable is calculated by multiplying the rate as referred to in Article 7 by the Tax Imposition Basis which includes Selling Price, Replacement, Import Value, Export Value, or other values. So that the panel of judges multiplied by 2 (two) the total amount of the underpayment of value added tax (VAT) which became a loss to state revenue in the 2016 to 2018 tax period/period as based on the Report of the Expert for Calculating Losses on State Revenue dated November 16, 2020 with the total in the amount of IDR 10,067,042,188.00 ( ten billion sixty seven million forty two thousand one hundred eighty eight rupiah).

Accordingly, the judge sentenced the Defendant accordingly, with imprisonment for 1 (one) year 8 (eight) months, and a fine of Rp. 10,067,042,188.00 (ten billion sixty seven million forty two thousand one hundred eighty eight rupiah) x 2 (two) = IDR 20,134,084,376.00 (twenty billion one hundred thirty four million eighty four thousand three hundred seventy six rupiah) provided that if the Defendant does not pay a fine within 1 (one) month after this decision has obtained permanent legal force, the Prosecutor's property may be confiscated and auctioned off to cover the fine, in the event that the Defendant does not have sufficient assets to pay the fine, it will be replaced by imprisonment for 4 (four) months. Losses on state revenue are essentially a form of consequence of criminal acts as stipulated in the KUP Law, which in this case is specifically for the actions of taxpayers/taxable entrepreneurs who deliberately do not deposit the value added tax that has been deducted or collected into the treasury. Country;

Regarding the imposition of fines if the main punishment is not carried out, in fact this has been clearly stated in Article 10 of the Criminal Code regarding the types of criminal sanctions which classify crimes into main punishment and additional punishment. According to Article 10 of the Criminal Code, the order of crimes in Article 10 is made according to the severity of

\textsuperscript{24} Nikmah Rosidah, Asas-Asas Hukum Pidana (Semarang: Pustaka Magister, 2011).
the crime, where the heaviest is mentioned first. The types of death penalty and imprisonment as the main punishment in the Criminal Code, are no longer the types of sanctions that can be threatened in juvenile justice. Based on Article 30 of the Criminal Code, it can be interpreted that a person who has been sentenced to a fine can immediately serve imprisonment as a substitute for a fine, without having to wait for the expiration of time to pay the fine if he wants it, or because the convict feels that he will not be able to pay the fine. within the time period determined by the judge. The convict can at any time free himself from the obligation to carry out imprisonment by paying the amount of the fine determined by the judge in the verdict. If some of the fines are paid and some are not, then the imprisonment as a substitute for the fine is reduced in proportion.

The Criminal Code (KUHP) itself has regulated the length of imprisonment in lieu of fines in Article 30 paragraph (3) of the Criminal Code, which is a minimum of one day and a maximum of six months. Imprisonment in lieu of fines is almost the same as imprisonment. Imprisonment in lieu of a fine is usually imposed by a judge together with a fine. The judge must clearly state the fine that must be paid by the defendant along with the length of confinement that must be served by the defendant, if he cannot pay the stipulated fine.

Imprisonment in lieu of fines is regulated in Article 30 paragraph (1) to paragraph (6) of the Criminal Code. Regarding how to determine the length of a substitute imprisonment sentence. If the fine is 50 (fifty) cents or less than 50 (fifty) cents, one day's confinement shall be counted.

If it is more than 50 (fifty) cents, then every 50 (fifty) cents will be calculated for a maximum of one day, the same is true if the remainder is not more or less 50 (fifty) cents. The visible difference between imprisonment and alternative imprisonment is in setting the minimum limit and maximum limit. Imprisonment in lieu of fines stipulates a minimum confinement limit of 1 (one) day and a maximum of 6 (six) months. This punishment can be aggravated to a maximum of 8 (eight) months if the crime is related to samenzloep van straflbare feiten, recidive or the crime referred to in Article 52 of the Criminal Code.

Determination of the length and amount of fines is considered on the impact arising from the actions and elements of the perpetrator's mistakes. Conceptually, the threat of punishment shows the reprehensibility of the act which is manifested in the form and amount of punishment threatened. High criminal threats indicate high disgrace from prohibited acts. On the other hand, a low criminal threat indicates low disgrace from a prohibited act. However, this conception must be supported by clear benchmarks regarding the measure of the reprehensibility of prohibited acts. This measure is actually not found in Indonesian criminal law.


The Preamble to the Indonesian Constitution is the basic principles underlying the state and is the source of all existing and future legal norms. Therefore, every word, punctuation mark and article in the 1945 Constitution of the Republic of Indonesia needs to be analyzed and used as a legal basis, so that the expansion of regulations originating from the constitution can become the basis for efforts to overcome white collar crimes committed by corporations, such as bribery, corruption and other criminal acts.

Law Number 1 of 2023 concerning the Criminal Code provides legal certainty regarding criminal regulations and actions that apply to corporations. Regulations regarding criminal penalties for corporations are mentioned in Book One, namely Article 45, which determines corporations as the subject of criminal acts. Furthermore, Article 118 explains that criminal penalties for corporations consist of basic penalties and additional penalties. Corporations, as explained in Article 45 paragraph (2) of the new Criminal Code Law, include legal entities such as limited liability companies, foundations, cooperatives, state-owned companies, regionally-owned companies, or similar entities, including associations both with legal status and those
without having legal status, a business entity in a form such as a firm, limited partnership, or equivalent, in accordance with applicable statutory provisions.

In a general explanation, criminal regulations for corporations are considered as a step to adjust economic conditions and globalization to legal developments. The aim is for the law to always be in line with current developments. Law makers realize that corporations can be used as a means to commit criminal acts and gain profits from these acts. Therefore, criminal liability as regulated in Article 45 of the 2023 Criminal Code Law is formulated alternatively/cumulatively. If we review the Old Criminal Code, the regulations do not clearly regulate corporations as legal subjects. Therefore, responsibility for corporate criminal acts was not explained in detail in the old Criminal Code. This is because in criminal law, the legal subject is the individual (Natuurlijk Persoon). Likewise, Professor Satochid Kartanegara explained that the formulation of criminal acts (strafbar feit) usually begins with the words "whoever," which is directed specifically at humans.

Previously, the Supreme Court had also issued regulations regarding corporate criminal acts through PERMA 13 of 2016. In this regulation, the Supreme Court regulates examination mechanisms, evidence, and other technical aspects that need to be considered in trials of criminal cases involving corporations as defendants. PERMA Corporations does not only apply to general criminal acts regulated in the Criminal Code, but also covers all types of criminal acts regulated outside the Criminal Code, including criminal acts of corruption.

The adoption of criminal provisions for corporations in the new Criminal Code is expected to be able to embrace and provide legal clarity regarding corporate criminal laws that previously existed and were spread across various regulations. The application of corporate criminal law to criminal law subjects that can be prosecuted criminally is expected to provide a more comprehensive legal basis for law enforcers, such as judges, to carry out legal discovery (rechtvinding) with the aim of producing decisions that reflect justice and legal clarity. This provides a new alternative for judges to determine the use of the legal basis of the new Criminal Code, where the panel of judges not only considers sectoral regulations relating to the criminal offense charged, but can also refer to general provisions relating to corporate crimes as regulated in the Criminal Code. the new one.

Regulations regarding corporations as legal subjects in criminal acts have a positive impact on the legal system in Indonesia. This is in line with the focus of the President's work program for the 2019-2024 period, namely bureaucratic reform that prioritizes adaptability, productivity, innovation and competitiveness. This is a positive legal development because the new Criminal Code not only aims to punish perpetrators of criminal acts, but also seeks to resolve conflicts arising from criminal acts, restore balance, and create a feeling of security and peace in society. Therefore, with sanctions in the form of fines and additional sanctions, it is hoped that criminal acts committed by corporations can be recovered and corrected.

It is stated that the reasons for corporate criminal liability include situations where the company's actions are carried out within the framework of business or activities in accordance with the provisions in the articles of association or other regulations that apply to the company, actions that benefit the company in violation of the law, actions that are recognized as company policy, non-implementation of steps necessary to prevent criminal acts and ensure compliance with applicable laws to avoid criminal acts, or when the company allows criminal acts to occur. The legal impact of the application of these provisions must be interpreted simultaneously and limited in a certain way.

The legal consequences expected from the implementation of the provisions regarding corporate criminal liability in Articles 45 to Article 50 of Law No. 1/2023 of the Criminal Code are provide legal certainty to company stakeholders that corporate criminal liability will no longer be considered equivalent to civil liability as regulated in Law No. 40/2007. It is stated that the grounds for upholding corporate criminal responsibility include actions carried out by
the company within the framework of business or activities that have been regulated in the articles of association or other regulations that apply to the company. This also includes actions that benefit the company unlawfully, actions that are accepted as company policy, non-implementation of steps necessary to prevent criminal acts and ensure compliance with applicable laws, as well as the company's non-interference in the occurrence of criminal acts. The legal implications of these provisions must be interpreted simultaneously and in a limited manner.

The expected legal impact of the enactment of provisions on corporate criminal responsibility, as regulated in Article 45 to Article 50 of Law No. 1/2023 of the Criminal Code, is to provide legal certainty to company stakeholders that corporate criminal responsibility will no longer be considered equivalent to civil responsibility, as regulated in Law No. 40/2007. In this way, the company as a legal entity has a strong legal position in facing corruption charges, including in protecting the company's assets and the assets of the individuals who manage them. Increasing the legal status of companies as legal entities in a criminal context will help create a business environment that is fairer and free from unfair business practices in Indonesia. This is in line with support for government efforts through Law No. 1/2023. The development and variety of criminal acts committed by corporations throughout the world are increasingly diverse. National laws in each country seem to have difficulty keeping up with changes in these white collar crimes. Therefore, countries such as Indonesia and the United States are trying to update and expand the scope of their criminal law in order to avoid legal loopholes.

C. Conclusion

The formulation of offenses in the KUP Law is actually inconsistent with theories of criminal responsibility in the context of criminal law, even though Articles 38, 39, 39A and 43 are intended to regulate criminal provisions in the field of taxation. In essence, even though the context of the formulation of offenses Articles 38, 39, 39A seems to also include corporate or corporate taxpayers as perpetrators of offenses, this is inconsistent because the formulation of criminal sanctions in these articles can be interpreted as not accommodating corporations as perpetrators of offenses or father. In addition, the punishment for imprisonment as a substitute for fines against corporations in decision Number 82/Pid.Sus/2021/PN.Kot refers to Article 30 of the Criminal Code by converting a substitute for imprisonment if the defendant is unable to fulfill the fine. The criminalization of criminal acts is often not accompanied by an adequate explanation of the reasons for the punishment or the amount of a particular sentence. Thus the government needs to formulate a policy formulation regarding the certainty of conversion of alternative imprisonment if the defendant is unable to pay a fine. The problems of the judge's decision above can be resolved when in the future the New Criminal Code is implemented, which substantially explains in detail legal subjects in classification by using cumulative punishment. seen from the articles that have corporate elements in Articles 45-50 Criminal code

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