



Fakultas Hukum Universitas Riau, Jalan Pattimura Nomor 9 Gobah, Kel. Cinta Raja, Kec. Sail, Pekanbaru, Riau,
Kode Pos 28127. Telp: (+62761)-22539, Fax : (+62761)-21695
E-mail: melayunesialaw@lecturer.unri.ac.id
Website: <https://myl.ejournal.unri.ac.id>

Implementation of Criminal Sanctions in Falsification of Tax Returns that Harm the State

Mutiara Fadia Silalahi^a, Ismail Koto^b

^a Fakultas Hukum, Universitas Muhammadiyah Sumatera Utara, Indonesia, Email: mutiarafadiasilalahi55@gmail.com

^b Fakultas Hukum, Universitas Muhammadiyah Sumatera Utara, Indonesia, Email: ismailkoto@umsu.ac.id

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Abstract

Crime can occur in various aspects including tax administration which leads to tax crimes. The application of criminal sanctions against falsification of tax notification letters that harm the state must be optimised. This research raises issues related to how the application of criminal law arrangements regarding falsification of tax notification letters that harm the state? how the application of criminal law sanctions against falsification of tax notification letters that harm the state? how criminal law efforts in applying sanctions against falsification of tax notification letters that harm the state? The purpose of this research is to answer the problems that are the issue of this research discussion. The importance of this topic of discussion is to provide education to the public regarding the legal consequences of the crime of forgery of letters that harm the state. This research uses a normative juridical method that priority the study of laws and regulations (library research). This research has findings, namely this research recommends strengthening the legal substance sector through the issuance of tax counterfeiting laws with heavier sanctions accompanied by restitution to the state.

INTRODUCTION

Crime has always graced the journey of human life since the beginning of human civilization. Crime always focuses on something that harms the perpetrator and other people. Crime is an unlawful act that negatively affects others or society in general. This includes offenses such as theft, fraud, violence, murder, and document forgery. According to Pompe, a crime can be defined as an act that violates the law declared by the state and is punished with sanctions in the form of punishment (penalty) against the perpetrator (dader). Pompe also considers the elements of crime in the event of a crime and is connected to the violated legal norms along with sanctions that will ensnare the perpetrator of the crime (dader plagen), the person who ordered the crime (doen plagen), and other people who committed the crime (doen plagen).

One of the most common criminal acts is forgery. Forgery falls under the category of offenses that are referred to as crimes, i.e. as an act that is contrary to the interests of the law. Forgery is a type of offense that violates two main principles. First, violating the truth can fall under the category of fraud. Second, violating public order can fall under the category of crimes against the state or public order. Falsification of documents for profit, on the other hand, will be a consideration that will aggravate the punishment for those who commit this act.

The act of criminal forgery is categorized as an unlawful event that is contrary to the legal norms stipulated in the juridical provisions of the Criminal Code which has fulfilled the elements of a criminal act, which are regulated in the Criminal Code (*Wetboek van strafrecht*), Andi Hamzah mentions several elements of a criminal act, one of which is *Mens rea*, which means the intention of the legal subject or the existence of an element of intent to commit a criminal act. *Mens rea* is considered a subjective element because it is in the subject (perpetrator or *dader*). According to Andi Hamzah, the second element is *Actus reus*, which is a criminal act committed by the perpetrator that harms others, is contrary to the law, and disturbs public order.

The facts on the ground show that people are forced to commit mail forgery which can harm others and trigger mail forgery.¹ Law enforcement efforts are needed to prevent letter forgery. Basically, law enforcement efforts are involved in dealing with a number of letter forgery cases that occur. However, the results are still undervalued. Many things look the same in this discussion on mail forgery. However, mail forgery has social effects that cause others to be disturbed, disrupting public order. Forgery will definitely have a negative impact on society. Mail forgery is a formal criminal offense. As part of a formal but not material criminal offense, the elements of forging a letter and making a false letter are described in Article 263 of the Criminal Code. The act falls under the category of forging a letter or making a false letter as if it were true, even though it is not.²

A formal crime focuses more on the act that is prohibited by the criminal law. Including forgery is classified as a formal criminal offense because it makes a letter or document as if it were true and imitates a letter or document like the original which is certainly

¹ Dian Pratiwi Ahmad, Marnan A.T. Mokorimban, and Ronny Sepang, "Kajian Hukum Tentang Pemalsuan Surat Dalam Hukum Positif Di Indonesia," *Jurnal Lex Crimen* 11, no. (3) (2022): 1, <https://ejournal.unsrat.ac.id/index.php/lexcrimen/article/view/40798>.

² Jimmi Depari, Maidin Gultom, and Syawal Amry Siregar, "Peran Kepolisian Dalam Penanganan Tindakpidana Pemalsuan Surat Pasal 263 Kuhp (Studi Di Kepolisian Daerah Sumatera Utara)," *Jurnal Retentum* 3, no. 1 (2021): 99–107, <https://doi.org/10.46930/retentum.v3i1.907>.

contrary or against the law.³ Tax notification letter is a letter used by taxpayers to report the calculation and or payment of taxes, tax objects, or non-tax objects, and assets and liabilities in accordance with tax laws and regulations.⁴ In order to protect their interests or to make things happen the way they want them to happen, people who forge tax returns, whether they make them or use them, are considered plagiarists. Forgery is considered to be materially detrimental to another person.⁵

So that from the background description above, the author wants to discuss how the application of criminal sanctions against falsification of tax notification letters that harm the state. There fore, there are several problem formulations that will be discussed in this study. First, how does criminal law regulate the falsification of tax notification letters that harm the state? Second, how the implementation of criminal law against falsification of tax notification letters that harm the state can be applied? Third, how are criminal law efforts to apply sanctions against falsification of tax notification letters that harm the state? The problems mentioned above are the objectives of this research.

Previous studies have shown that Article 263 Paragraph 1 of the Criminal Code establishes mail forgery as a single criminal offense, which includes 2 (two) meanings: making false or falsifying a letter in the formal and material sense.⁶ Material review means that the letter contains information that is different from the truth. However, the formal part covers unlawful acts because the act is unlawful. Imitating another person's signature is not authorized or against the will of the person being imitated. In addition, another person who is not supposed to sign but still signs in a letter also has the same meaning.

Updates to this research include finding solutions in the form of ideas to illustrate that harsher penalties are given to those who commit the crime of falsifying tax payment notification letters. To ensure legal certainty for taxpayers, they must become law-abiding and disciplined in paying taxes as a form of love for the country with high legal awareness. In addition, forgery of tax payment notification letter is an offense that requires a law comparable to the law.

³ Indah Sari, "Unsur-Unsur Delik Materiel Dan Delik Formil Dalam Hukum Pidana Lingkungan," *Jurnal Ilmiah Hukum Dirgantara* 10, no. 1 (2019): 64–80, <https://journal.universitassuryadarma.ac.id/index.php/jihd/article/download/404/374>.

⁴ Dewita Abdullah, Treesje Runtu, and Hendrik Gamaliel, "Pemahaman Pegawai Tentang Pajak Penghasilan Pasal 21 Pada PT. Matahari Department Store, Tbk Manado Town Square," *Jurnal EMBA* 8, no. 4 (2020): 946–53.

⁵ Arief Agha Raflyansyah, "Kesalahan Penerapan Hukum Sebagai Alasan Kasasi Tindak Pidana Turut Serta Memalsukan Surat Secara Berlanjut", 11 (2023): 459–468.

⁶ Abdul Rahim and Muhammad Ibnu Fajar Rahim, "Pemalsuan Surat Dalam Arti Formil Dan Materil Beserta Akibat Hukumnya," *Pleno Jure* 10, no. 2 (2021): 68–80, <https://doi.org/10.37541/plenojure.v10i2.575>.

Falsification of tax payment notices may fall under the category of tax crimes that may jeopardize state finances. This is considered as a way to ensure nationality-minded legal certainty.

This research uses a normative legal research approach, which is a legal research approach that looks at the law from various points of view from various articles, customs, and certainties which include laws and language used. This research uses existing statutory and conceptual approaches. Normative legal research does not use social research methods because the object of research is normative law. Primary, secondary and tertiary legal materials form secondary data, which is defined as the data of this normative juridical research. Qualitative analysis was conducted on the three legal documents.⁷

The main legal materials used as sources of primary legal materials are the 1945 Constitution, the Criminal Code (KUHP), and the Law of the Republic of Indonesia. Law No. 48/2009 on Judicial Power, and several other laws and regulations relevant to the topic of discussion. Legal materials derived from books, articles, and relevant legal literature are considered secondary legal materials. To obtain primary and secondary legal materials, there is a need to read and record various relevant laws and regulations relating to real events in the field relating to the falsification of tax payment notification letters. Also, don't forget that there is literature that addresses the various issues observed. This research uses qualitative descriptive analysis to deepen the research. In addition, during the examination of legal materials.

CRIMINAL LAW REGULATION ON THE ACT OF FALSIFYING TAX NOTIFICATION LETTERS THAT HARM THE STATE

The Dutch Penal Code regarding forgery uses the term *faux en encritures*, "faux" means forgery, while *encritures* or writings, so forgery can only be committed in letters which are defined as any creation of thoughts written in words made in any way, and letters that can be the object are not all types of letters.⁸ Every event that occurs in society can be regulated by existing criminal law. Mail forgery is a criminal offense. It is a type of crime that involves creating or altering official documents with the intent to deceive or harm others. Mail forgery

⁷ Nur Solikhin, *Buku Pengantar Metodologi Penelitian Hukum*, (Pasuruan: Penerbit Qiara Media, 2021).

⁸ R.S. Agustin, "Pertanggungjawaban Pidana Pemalsuan Akta Otentik Yang Digunakan Sebagai Dasar Pengajuan Sertipikat Hak Milik Atas Tanah," *Jurnal Kajian Hukum & Keadilan* 4, no. 2 (2020): 254–271, <http://ejournal.unitomo.ac.id/index.php/hukum>.

can have a negative impact on many people and can be subject to severe legal sanctions. Therefore, it is very important to avoid such acts.⁹

According to S.R. Sianturi, mail forgery, which is defined in Article 263 of the Criminal Code, is considered as simple mail forgery, as well as several other types of mail forgery that carry lighter or heavier penalties.¹⁰ Chapter XII of the Criminal Code (KUHP), in particular Articles 263 to 267, regulates the Indonesian positive law on the crime of forgery of letters (*Valschheid in geschriften*), which can be used as a basis for punishment to punish the perpetrators of the crime. Types of mail forgery offenses are as follows :

1. Mail forgery in the standard or basic form or what is also known as mail forgery in general, the main form of mail forgery Article 263;
2. Forgery of documents aggravated as Article 264 of the Criminal Code;
3. Ordering the insertion of false information into an authentic deed is referred to in Article 266 of the Indonesian Penal Code;
4. Forgery of doctor's certificate as per Article 267 and Article 268 of the Penal Code;
5. Forgery of certain documents as described in Articles 269, 270 and 271 of the Penal Code;
6. Forgery of official certificate of property rights as described in Article 274 of the Indonesian Penal Code;
7. Keeping materials or objects for forgery of documents as described in Article 275 of the Penal Code;

Forgery of documents is usually an offense involving the forgery of documents in a standard form, as described in Article 263 of the Criminal Code :

- 1) Any person who forges or falsifies a document which may give rise to a right, an obligation or a release from debt, or who intends to give evidence of any matter with intent to use the document as if the contents were true and not forged, shall, if the use of the document may result in damage by reason of forgery of documents, be punished by a maximum imprisonment of six years.

⁹ Ahmad Fauzi and Ismail Koto, "Tanggung Jawab Pelaku Usaha Terhadap Konsumen Terkait Dengan Produk Cacat," *Journal of Education, Humaniora and Social Sciences (JEHSS)* 4, no. 3 (2022): 1493–1500, <https://doi.org/10.34007/jehss.v4i3.899>.

¹⁰ Eddy O.S. Hiariej, *Prinsip-Prinsip Hukum Pidana*, (Yogyakarta: Cahaya Atma Pustaka, 2016).

- 2) By the same punishment shall be punished any person who with deliberate intent makes use of forged or falsified documents as if they were genuine, if the use of said documents may cause damage.

In Article 263, mail forgery consists of two types of criminal offenses. Paragraph 1 discusses mail forgery as making a false document and forging a document, while Paragraph 2 explains that using a false or forged document is a crime. Although the two types of criminal offenses are interconnected, each of which has its own characteristics.¹¹ Tempus delicti (time, when the criminal offense occurred) and locus delicti (place, where the criminal offense occurred). Article 263 of the Criminal Code contains 2 crimes, each formulated in Paragraphs 1 and 2. The formulation in paragraph 1 consists of the following elements :

Objective elements

- a. His actions are as follows:
1. Make a fake;
 2. Fake
- b. The objects are as follows:
1. Letters that may give rise to rights;
 2. A letter that can give rise to an obligation;
 3. A letter that may give rise to a discharge of debt;
 4. A letter intended as evidence of something.

Forgery of letters in violation of Article 264 Paragraph 1 of the Criminal Code is punishable by a maximum imprisonment of 6 (six) years. so that this is a severe threat for everyone who does it.¹² Taxes as a source of state revenue that makes a significant contribution to state development, can be one of the tools that the government can use to measure public awareness to pay taxes or fund the administration of the state, as well as the value of income and real welfare of the community.

¹¹ Fahrizal S Siagian et al., "Kebijakan Pemberantasan Korupsi Berbasis Keadilan : Perbandingan Antara Indonesia Dan Denmark," *Integritas: Jurnal Antikorupsi* 10, no. 1 (2024): 29–52, <https://jurnal.kpk.go.id/index.php/integritas/article/view/1134/253>.

¹² Christellia G. N. Lamatenggo, "Kajian Yuridis Pemalsuan Surat Sederhana (Pasal 263 Kuhp) Dalam Kaitannya Dengan Pemalsuan Akta Otentik (Pasal 264 Ayat (1) Ke 1 KUHP)," *Lex Crimen* 71, no. 1 (2021): 63–71, file:///C:/Users/Asus/Downloads/jm_lexcrimen,+9.+Christellia+G.+N.+Lamatenggo_vrimen.pdf.

IMPLEMENTATION OF CRIMINAL LAW SANCTIONS FOR FALSIFICATION OF TAX NOTIFICATION LETTERS THAT HARM THE STATE

Notification letter is a letter used in the implementation of taxpayers that is useful for reporting the calculation and or payment of taxes related to the tax object. According to Tjahjono, it explains that every taxpayer fills in the notification letter correctly, completely, and clearly, in Indonesian using Latin letters, Arabic numerals, Rupiah currency units, and signs and submits it to the tax directorate general's office as explained in Article 3 Paragraph 1 of Law Number 28 of 2007.¹³ The income tax return (SPT) is used for the purpose of reporting and providing responsibility for the calculation of the actual tax payable.

The income tax return must be sent correctly, completely, and clearly to the Directorate General of Taxes office where the taxpayer is registered or confirmed or to another office determined by the Directorate General of Taxes, among others :

1. Payment or repayment of taxes made by yourself or through deduction or collection of other parties in a tax year or part of a tax year.;
2. Income that is a tax object or not a tax object;
3. Assets and liabilities;
4. Payment from withholder or collector regarding withholding or collection period of tax of individual or other entity in 1 (one) tax period in accordance with the provisions of taxation legislation;

Article 263 Paragraph 1 of the Criminal Code emphasizes that forgery or the making of false documents can give rise to rights, and the rights in question are rights that are contrary to the law. In addition, the forgery or creation of a false letter can give rise to rights, and it is clear that the rights referred to here are rights that are contrary to the juridical aspect. An agreement or obligation can give rise to rights as well. Is there a possibility that a person can be held automatically liable if they intentionally falsify documents and/or create false documents. According to the elucidation of Article 263 of the Criminal Code Paragraph 1, the word "may" is not a necessity if its use can cause harm, but there is a high possibility that a person who deliberately falsifies a document and/or makes a false letter can be held accountable.

¹³ B. A. H Lestari and S Hendri, "Sistem E-Filing Sebagai Upaya Direktorat Jenderal Pajak Dalam Meningkatkan Kepatuhan Wajib Pajak," *Jurnal Aplikasi Akuntansi* 4, no. 1 (2019): 29–40.

Article 39A of Law Number 28 Year 2007 on the Third Amendment to Law Number 6 Year 1983 on General Provisions and Tax Procedures explains that every person who intentionally:

- a) Issuing and/or using tax invoices, tax collection receipts, tax withholding receipts, and/or tax deposit receipts that are not based on actual transactions;
- b) Issuing tax invoice but has not been confirmed as a taxable entrepreneur shall be punished 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 the amount of tax in the tax invoice, tax collection slip, tax withholding slip, and/or tax deposit slip and a maximum of 6 (six) times the amount of tax in the tax invoice, tax collection slip, tax withholding slip, and/or tax deposit slip.

According to Article 1 Paragraph 3 of the 1945 Constitution, Indonesia is a state of law (*Rechstaat*) so that in terms of the imposition of punishment and punishment must prioritize the applicable law. Indonesia has always maintained human rights as the essence of the rule of law. The government always ensures that every citizen is equal in position. As a state of law, Indonesia is supposed to organize a system of legal sovereignty or the rule of law, which means that it has high power. Indonesia thus relies heavily on the principle of the presumption of innocence, which is found in Law No. 8 of 1981 of the Criminal Procedure Code and is also found in Law No. 4 of 2004 which sets out the basic provisions of the judiciary.¹⁴

The implementation of criminal law sanctions against falsification of tax notification letters that harm the state is regulated in the Criminal Law as described above and accompanied by Special Laws stipulated in Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures. The implementation of criminal law is intended to achieve the essence of criminal law, namely achieving the objectives of General Prevention and Special Prevention. The purpose of general prevention is that criminal law aims to prevent many people from committing criminal acts of falsification of tax payment notification letters which certainly have the potential to cause state losses. Falsification of tax notification letters may be subject to punishment in the form of imprisonment and a heavy fine in accordance with applicable regulations.

¹⁴ Ade Mahmud, et al., "Kriteria Trading in Influence Sebagai Tindak Pidana Korupsi Dan Kebijakan Kriminalisasinya Criteria for Trading in Influence as a Corruption Crime and Criminal Policy Menjanjikan Pemberian Atau Penawaran Baik Langsung Maupun Tidak Langsung," *USM Law Review* 7, no. 1 (2024): 237–51.

CRIMINAL LAW EFFORTS IN APPLYING SANCTIONS AGAINST FALSIFICATION OF TAX NOTIFICATION LETTERS THAT HARM THE STATE

It is very important to carry out criminal law enforcement in the field of tax, especially the crime of falsification of tax returns, to avoid losing state money from the tax sector due to various violations of tax administration laws and criminal laws that result in tax crimes. An attempt to make a letter wholly or partially false in content is known as making a false letter.¹⁵ False means untrue or contrary to the truth. Making a false letter can include the following:

1. Making a letter that is partly or wholly inconsistent with or contrary to the truth. Making such a false document is called intellectual forgery;
2. Making a letter appear as if it came from someone other than the person making the letter. Making a false letter in this way is called material forgery. The falsity or untruthfulness of a letter lies in the article or the maker of the letter;

Criminal law efforts in applying sanctions against falsification of tax notification letters that harm the state can be carried out through the legal process in force in Indonesia.¹⁶ Some criminal law efforts that can be taken by parties who feel harmed by the act of forgery include reporting the case to the police for further investigation and investigation. If the suspect has been proven to have falsified a tax notification letter that is detrimental to the state, then the aggrieved party can take legal action by involving the prosecutor to prosecute the case in court. Regulations regarding criminal acts in the field of taxation are regulated in Law Number 28 of 2007 concerning General Provisions and Procedures for Taxation in conjunction with the general provisions stipulated in Articles 263 and 264 of the Criminal Code which regulate criminal acts that can be the basis for criminalizing taxation crimes. There are several terms to express an act that is prohibited by criminal rules criminal act, offense or *strafbaarfeit*. In the past, only human beings were recognized as the subject of criminal acts as stated in the Criminal Code.

However, in its development, there is a trade association or corporation that can be equated with a human person who can commit a criminal offense. Various laws in Indonesia have included corporations as part of the subject of law or subject of criminal acts. In addition

¹⁵ Fatika Sari, Yeni Widowaty, and Leli Joko Suryono, "Penegakan Hukum Pemalsuan Surat Disebabkan Penyerobotan Hak Atas Tanah" 1, no. 3 (2020): 149–154, <https://doi.org/10.18196/ijclc.v1i3.11262>.

¹⁶ Dony; Tarmizi, "Kebijakan Penegakan Hukum Pidana Terhadap Perbarengan Perbuatan Pidana (Concursus Realis)," *Hango* 1, no. 1 (2022): 69–105, [https://hkr.unja.ac.id/index.php/hkr/article/download/3/3#:~:text=Perbarengan Perbuatan Pidana \(Concursus Realis\)%2C ketentuan mengenai perbarengan pada,diperiksa dan diputus oleh pengadilan.](https://hkr.unja.ac.id/index.php/hkr/article/download/3/3#:~:text=Perbarengan Perbuatan Pidana (Concursus Realis)%2C ketentuan mengenai perbarengan pada,diperiksa dan diputus oleh pengadilan.)

to the subject of law, there is also the object of law, namely actions that are prohibited or contrary to criminal law. The act in question is an unlawful act, namely an act that fulfills the elements of a criminal offense formulation as formulated in the Law. The contrary act as in Criminal Law can be in the form of punishment due to doing or not doing something that is contrary to the law and its obligations.

In addition to violating the law, these actions are also detrimental to society because they conflict with or hinder the implementation of community rules that are considered fair and good. Ruslan Saleh argues that a criminal offense is an anti-social act and is only considered a criminal offense if the law stipulates it.. The statutory formula is the best place to look for other terms to determine whether or not the conduct is prohibited. The Criminal Code (KUHP), as the mother of general rules and other special laws outside the Criminal Code, serves as a source of law in Indonesia to determine the existence of punishment.

The legislator has used the term "Straafbar feit" in the Dutch WvS (Dutch Criminal Code), to refer to what we know as criminal offenses in the Criminal Code, without explaining what is meant by that term.¹⁷ As a result, there is a difference of opinion within the doctrine on what exactly is meant by the term "strafbaar feit". Pompe says that a Strafbbaar feit is actually an act that has been established as a punishable act by the formulation of the law. In general, the purpose of using forged documents is to deceive someone. Document forgery can be defined as an attempt to alter a letter used as if it were genuine and not fake. In addition, the forgery of this letter will be subject to punishment under Article 263 of the Criminal Code for using it to cause harm. The act of forgery is a violation of truth and trust with the aim of gaining an advantage for oneself or others.¹⁸ He stated that falsification of intent is punishable if :

- a) The perpetrator has the intention or intent to use an untrue item by describing the condition of the untrue item as if it were genuine, so that other people believe that other people are deceived.;
- b) The element of intention or intent need not follow the element of benefiting oneself or others (as opposed to various types of fraud).;

¹⁷ Emilia Susanti dan Eko Rahardjo, *Hukum Dan Kriminologi* (Bandar Lampung: AURA CV Anugrah Utama Raharja, 2018), [https://jdih.situbondokab.go.id/barang/buku/Hukum dan Kriminologi Buku Ajar \(Emilia Susanti, S.H., M.H. Eko Rahardjo, S.H. etc.\) \(z-lib.org\).pdf](https://jdih.situbondokab.go.id/barang/buku/Hukum%20dan%20Kriminologi%20Buku%20Ajar%20(Emilia%20Susanti,%20S.H.,%20M.H.%20Eko%20Rahardjo,%20S.H.%20etc.)%20(z-lib.org).pdf).

¹⁸ Susie S. Rottie, "Analisa Hukum Terhadap Pemalsuan Surat Hasil Rapid Tes Pada Masa Pandemi Covid 19 Ditinjau Dari Kitab Undang-Undang Hukum Pidana," *Lex Privatum* 9, no. 12 (2021): 148–54.

- c) But the act must give rise to a general danger which is specific in the forgery of writings or letters etc. formulated by requiring the possibility of harm and connected with the nature of the writing or letter;¹⁹

Efforts to handle criminal cases before the examination, which is carried out by investigators, the police act as investigators in the investigation process, as regulated in the Criminal Procedure Code based on article 1 point 1 of the Criminal Procedure Code. Investigators are officials of the Indonesian National Police or Civil Servants who are specifically authorized by law to conduct investigations.²⁰ According to Van Hamel, punishment is: a special suffering imposed by the party authorized to impose punishment on behalf of the state as responsible for public law order for an offender solely because the person has violated a legal regulation that must be determined by the state. Broadly speaking, the Criminal Procedure Code (KUHAP) stipulates four stages of examination of criminal cases, namely investigation, prosecution, and examination in court which are incorporated in the Integrated Criminal Justice System. The stages are as follows :

- a) Investigations conducted by State Police Officers

According to the Criminal Procedure Code, Article 1 Point 5, an investigation is a series of investigator actions to seek and find an event suspected of being a criminal offense to determine whether or not an investigation can be carried out in the manner regulated in this law. Investigations must be carried out carefully and follow Standard Operating Procedures (SOP). Law enforcement to resolve cases of criminal acts of falsification of tax notification letters is through efforts to report to the police for investigation and investigation. In addition, investigation and prosecution efforts that have sufficient evidence are submitted to the public prosecutor to make an indictment. The indictment is a guideline to find the truth. The judge will assess the proof of the prosecutor's charges in accordance with Article 184 of the Criminal Procedure Code regarding evidence, namely witness testimony, expert testimony, instructions, letters, and testimony of the defendant. Criminal law enforcement in the case of criminal acts of mail forgery is described in Article 263 Paragraph 1 and Paragraph 2 which include penalties or sanctions of up to six years imprisonment.

¹⁹ A. Djoko Sumaryanto, *Buku Ajar Hukum Pidana*, (Surabaya: Ubhara Press, 2019), 9.

²⁰ R & M. Karyadi Soesilo, *Kitab Undang-Undang Hukum Acara Pidana (KUHAP) Dengan Penjelasan Resmi Dan Komentar* (BOGOR: Politeia, 2015).

b) Prosecution conducted by the Public Prosecution Service of the Republic of Indonesia

According to Article 1 Point 7 of the Criminal Procedure Code, prosecution is an action taken by the public prosecutor to submit a criminal case to the competent district court in the case and in the manner provided for in this Law with a request that the case be examined and decided by a Judge at a court session. In 7 (seven) days prior to prosecution, the prosecutor shall assess the completeness of evidence. If the prosecutor finds that there is a lack of evidence at trial, the prosecutor returns the investigation to the investigators and gives them instructions to resolve it within 14 days of the submission of the case file (pre-prosecution). The public prosecutor submits a criminal case to the competent district court with a request that it be examined and decided by a judge (Article 1 Point 7 of Law Number 8 Year 1981).

Acting officials must act with caution during investigation and prosecution as errors may result in damages and rehabilitation of the suspect or interested party (investigator and public prosecutor) in pretrial proceedings. The judiciary has the authority to decide whether the arrest, detention, termination of investigation, and prosecution of rehabilitation and or legal compensation caused by the unlawful arrest, detention, prosecution, and trial. the validity of the delay in investigation or prosecution, and the consequences of errors caused by the person The crime of falsification of tax payment notification has been completed in the Public Prosecutor's Office, so the prosecution will be carried out. After that, the case file will be submitted to the District Court in accordance with the jurisdiction of the criminal offence (*locus delicti*).

CONCLUSIONS

First, Article 263 Paragraph 1 of the Criminal Code stipulates the criminal offence of falsification of tax declaration that causes loss to the state. Any person who forges or falsifies a document which may give rise to a right, an obligation or a release from debt or which is intended as evidence of any matter, with intent to use or to cause others to use the document as if the contents were genuine and unfalsified, shall be punished by imprisonment if the use of the document results in loss. Paragraph 2 confirms that the person who deliberately uses a false or forged document as if it were genuine and not forged shall be punished by the same punishment. The provisions and sanctions relating to the criminal offence of making and using fake letters must be enforced because this criminal offence is one of the acts that is considered

to be disturbing and detrimental to various parties, both the government and ordinary people. This is achieved in Article 263 Paragraphs 1 and 2, Article 264 Paragraphs 1 and 2, and Article 266 Paragraphs 1 and 2, all of which have the formulation and content that has been written by the Researcher. Forgery of a letter made against an original law, which is regulated in Article 264 Paragraph 1 of the Criminal Code, has a more severe criminal penalty. Article 266 Paragraph 1 explains that any person who causes false information to be inserted into an authentic deed concerning a matter the truth of which the deed must state, with intent to use or to cause others to use said deed as if the statement were in accordance with the truth, shall, if from said use an injury may result, be punished by a maximum imprisonment of seven years. The first suggestion is that it is hoped that the Regulations and Sanctions against the perpetrators of falsification of tax payment notification letters must be strengthened in order to achieve state financial stability that avoids state losses due to the actions of parties who do not comply with existing laws.

Specific juridical provisions other than in the Criminal Code are also explained in Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures. Article 39A explains that any person who intentionally issues and/or uses tax invoices, tax collection receipts, tax withholding receipts, and/or tax deposit receipts that are not based on actual transactions. Issuing tax invoice but not yet confirmed as a taxable entrepreneur shall be punished 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 the amount of tax in the tax invoice, tax collection slip, tax withholding slip, and/or tax deposit slip and a maximum of 6 (six) times the amount of tax in the tax invoice, tax collection slip, tax withholding slip, and/or tax deposit slip. In Indonesia, criminal juridical provisions strictly prohibit the criminal offence of falsifying tax returns, which will inevitably result in state losses.

Second, the implementation of criminal law sanctions against falsification of tax notification letters that harm the state is carried out by prioritising the principles of justice, certainty, and legal benefits. The implementation of this legal sanction aims to create a deterrent effect on the perpetrators of criminal offences. Criminal law sanctions against falsification of tax returns that harm the state can vary according to the laws of each country. Falsification of tax notification letters in Indonesia can be subject to severe criminal sanctions based on the Criminal Code Articles 263, 264, and 266 as *lex generalist*. Meanwhile, *lex specialist* is regulated in Law Number 28 Year 2007 on the Third Amendment to Law Number 6 Year 1983

on General Provisions and Tax Procedures. Those who falsify tax returns are usually subject to criminal penalties in the form of imprisonment and/or heavy fines. So that the implementation of the law can have a deterrent effect on the perpetrators and prevent similar acts from occurring in the future. On the other hand, falsification of tax returns can also be considered a corruption offence so that the perpetrators can be subject to additional sanctions in accordance with the Law on the Eradication of Corruption. The second suggestion is that there should be an implementation of existing regulations accompanied by strict, precise, and accurate sanctions to keep state finances from the occurrence of state losses.

Third, criminal law efforts in applying sanctions against falsification of tax notification letters that harm the state, namely broadly speaking, the Criminal Procedure Code (KUHP) stipulates four stages of examining criminal cases, namely investigation, investigation, prosecution, and examination in court which are incorporated in an integrated criminal justice system (the Integrated Criminal Justice System). These stages begin with an investigation conducted by a State Police Officer who aims to follow up on a police report related to the alleged criminal offence of falsifying a tax payment notification letter. An investigation is conducted to trace whether an event is a criminal offence or not. After it is declared as a criminal event, the next stage is the investigation process carried out by Investigators who are given special authority by law to conduct investigations. This aims to determine who is the suspect of a criminal offence of falsification of tax payment notification letters that can cause state losses. Furthermore, the prosecution stage is carried out by the Prosecutor's Office before later submitting the case file to the court for examination, and deciding the case. and adjudicate a criminal case. The third suggestion is that it is hoped that the process or efforts to enforce the law against the perpetrators of criminal acts of falsification of tax payment notification letters must be carried out optimally and prioritise the principles of justice, certainty, and legal benefits. There should be no attempt to relax the legal process from investigation, prosecution, and investigation to the examination process in court.

Forgery is an act that violates the juridical provisions of criminal law legislation, because many aspects are harmed. Lack of supervision causes opportunities for perpetrators of criminal offences to get the opportunity to commit fraudulent acts that harm the state. So, in this case the author considers it very necessary to have a tighter supervision system and if necessary create a supervisory institution that is useful and controls every tax payment in order to reduce the losses suffered by the state.

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REFERENCES

- Abdullah, Dewita, Treesje Runtu, and Hendrik Gamaliel. “Pemahaman Pegawai Tentang Pajak Penghasilan Pasal 21 Pada PT. Matahari Department Store, Tbk Manado Town Square.” *Jurnal EMBA* 8, no. 4 (2020): 946–953.
- Agustin, R.S. “Pertanggungjawaban Pidana Pemalsuan Akta Otentik Yang Digunakan Sebagai Dasar Pengajuan Sertipikat Hak Milik Atas Tanah.” *Jurnal Kajian Hukum & Keadilan* 4, no. 2 (2020): 254–271. <http://ejournal.unitomo.ac.id/index.php/hukum>.
- Ahmad, Dian Pratiwi, Marnan A.T. Mokorimban, and Ronny Sepang. “Kajian Hukum Tentang Pemalsuan Surat Dalam Hukum Positif Di Indonesia.” *Jurnal Lex Crimen* 11, no. (3) (2022): 1. <https://ejournal.unsrat.ac.id/index.php/lexcrimen/article/view/40798>.
- Depari, Jimmi, Maidin Gultom, and Syawal Amry Siregar. “Peran Kepolisian Dalam Penanganan Tindakpidana Pemalsuan Surat Pasal 263 Kuhp (Studi Di Kepolisian Daerah Sumatera Utara).” *Jurnal Retentum* 3, no. 1 (2021): 99–107. <https://doi.org/10.46930/retentum.v3i1.907>.
- Fauzi, Ahmad, and Ismail Koto. “Tanggung Jawab Pelaku Usaha Terhadap Konsumen Terkait Dengan Produk Cacat.” *Journal of Education, Humaniora and Social Sciences (JEHSS)* 4, no. 3 (2022): 1493–1500. <https://doi.org/10.34007/jehss.v4i3.899>.
- Hiariej, Eddy O.S. *Prinsip-Prinsip Hukum Pidana*. Yogyakarta: Cahaya Atma Pustaka, 2016.
- Lamatenggo, Christellia G. N. “Kajian Yuridis Pemalsuan Surat Sederhana (Pasal 263 Kuhp) Dalam Kaitannya Dengan Pemalsuan Akta Otentik (Pasal 264 Ayat (1) Ke 1 KUHP).” *Lex Crimen* 71, no. 1 (2021): 63–71. file:///C:/Users/Asus/Downloads/jm_lexcrimen,+9.+Christellia+G.+N.+Lamatenggo_vri men.pdf.

- Lestari, B. A. H, and S Hendri. "Sistem E-Filing Sebagai Upaya Direktorat Jenderal Pajak Dalam Meningkatkan Kepatuhan Wajib Pajak." *Jurnal Aplikasi Akuntansi* 4, no. 1 (2019): 29–40.
- Mahmud, Ade, dkk. "Kriteria Trading in Influence Sebagai Tindak Pidana Korupsi Dan Kebijakan Kriminalisasinya Criteria for Trading in Influence as a Corruption Crime and Criminal Policy Menjanjikan Pemberian Atau Penawaran Baik Langsung Maupun Tidak Langsung." *USM Law Review* 7, no. 1 (2024): 237–51.
- Raflyansyah, Arief Agha. "Kesalahan Penerapan Hukum Sebagai Alasan Kasasi Tindak Pidana Turut Serta Memalsukan Surat Secara Berlanjut" 11 (2023): 459–68.
- Rahim, Abdul, and Muhammad Ibnu Fajar Rahim. "Pemalsuan Surat Dalam Arti Formil Dan Materil Beserta Akibat Hukumnya." *Pleno Jure* 10, no. 2 (2021): 68–80. <https://doi.org/10.37541/plenojure.v10i2.575>.
- Rottie, Susie S. "Analisa Hukum Terhadap Pemalsuan Surat Hasil Rapid Tes Pada Masa Pandemi Covid 19 Ditinjau Dari Kitab Undang-Undang Hukum Pidana." *Lex Privatum* 9, no. 12 (2021): 148–54.
- Sari, Fatika, Yeni Widowaty, and Leli Joko Suryono. "Penegakan Hukum Pemalsuan Surat Disebabkan Penyerobotan Hak Atas Tanah" 1, no. 3 (2020): 149–54. <https://doi.org/10.18196/ijclc.v1i3.11262>.
- Sari, Indah. "Unsur-Unsur Delik Materiel Dan Delik Formil Dalam Hukum Pidana Lingkungan." *Jurnal Ilmiah Hukum Dirgantara* 10, no. 1 (2019): 64–80. <https://journal.universitassuryadarma.ac.id/index.php/jihd/article/download/404/374>.
- Siagian, Fahrizal S, Andi Hakim Lubis, Nabila Afifah Salwa, and Saied Firouzfah. "Kebijakan Pemberantasan Korupsi Berbasis Keadilan: Perbandingan Antara Indonesia Dan Denmark." *Integritas: Jurnal Antikorupsi* 10, no. 1 (2024): 29–52. <https://jurnal.kpk.go.id/index.php/integritas/article/view/1134/253>.
- Soesilo, R & M. Karyadi. *Kitab Undang-Undang Hukum Acara Pidana (KUHP) Dengan Penjelasan Resmi Dan Komentar*. BOGOR: Politeia, 2015.
- Solikhin, Nur. *Buku Pengantar Metodologi Penelitian Hukum*. Pasuruan: Penerbit Qiara Media, 2021.

Sumaryanto, A. Djoko. *Buku Ajar Hukum Pidana*, Surabaya: Ubhara Press, 2019.

Susanti, Emilia, and Eko Rahardjo. *Hukum Dan Kriminologi*. Bandar Lampung: AURA CV Anugrah Utama Raharja, 2018. [https://jdih.situbondokab.go.id/barang/buku/Hukum dan Kriminologi Buku Ajar \(Emilia Susanti, S.H., M.H. Eko Rahadjo, S.H. etc.\) \(z-lib.org\).pdf](https://jdih.situbondokab.go.id/barang/buku/Hukum%20dan%20Kriminologi%20Buku%20Ajar%20(Emlia%20Susanti,%20S.H.,%20M.H.%20Eko%20Rahadjo,%20S.H.%20etc.)%20(z-lib.org).pdf).

Tarmizi, Dony. “Kebijakan Penegakan Hukum Pidana Terhadap Perbarengan Perbuatan Pidana (Concursus Realis).” *Hango* 1, no. 1 (2022): 69–105. [https://hlr.unja.ac.id/index.php/hlr/article/download/3/3#:~:text=Perbarengan Perbuatan Pidana \(Concursus Realis\)%2C ketentuan mengenai perbarengan pada,diperiksa dan diputus oleh pengadilan.](https://hlr.unja.ac.id/index.php/hlr/article/download/3/3#:~:text=Perbarengan%20Perbuatan%20Pidana%20(Concursus%20Realis)%2C%20ketentuan%20mengenai%20perbarengan%20pada,diperiksa%20dan%20diputus%20oleh%20pengadilan.)

