



JLPH: Journal of Law, Politic and Humanities

E-ISSN: 2962-2816
P-ISSN: 2747-1985<https://dinastires.org/JLPH> dinasti.info@gmail.com +62 811 7404 455DOI: <https://doi.org/10.38035/jlph.v6i5>
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Analysis of Mempawah District Court Decision Number 63/Pid.Sus/2025/Pn Mpw Regarding Payment of Tax Arrears in the Crime of Tax Evasion

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Abstract: Taxes are mandatory contributions by citizens as a source of state revenue. The Crime of Embezzlement is detrimental to state revenue. In law enforcement, tax crime payments accompanied by administrative sanctions can stop the investigation or be considered as a fine. In practice, not all taxpayers who commit criminal acts are able to pay off tax arrears and administrative sanctions. This study aims to examine the principles of certainty, justice, and legal utility for the payment of tax arrears paid with an amount that has not been met in the crime of tax evasion. The method used is a normative approach with a literature study of relevant laws and regulations and literature as well as a case study of tax evasion crimes by not submitting a notification letter and not paying taxes. The results of this study show that in the Mempawah District Court Decision Number 63/Pid.Sus/2025/Pn Mpw, the payment of tax arrears made by the corporate taxpayer defendant at the stage of the investigation of tax crimes is not counted as a payment of a fine as Article 44B paragraph (2c) of the HPP Law. It is concluded that the a quo decision has applied positive tax laws that reflect the principle of legal certainty, but this law enforcement ignores the principle of justice and the benefits of the payment, namely that the taxpayer does not get a reduction in the criminal fines imposed on him and the state does not get the recovery of state revenue losses as the purpose of law enforcement in the field of taxation.

Keywords: Court Decisions; Criminal Offenses; Tax Arrears Payments; Tax Embezzlement.

INTRODUCTION

In the framework of national development efforts, the Republic of Indonesia places taxation as one of the state obligations for every citizen. This is also done with the aim of realizing a just, prosperous, and prosperous Indonesian society based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Tax is a mandatory contribution of citizens to the state which is mandatory based on the Law, but citizens do not directly receive compensation for the contribution given, but the contribution is used for state needs for the greatest prosperity of the people.

This mandatory contribution is the transfer of wealth that was originally the personal property of citizens to become the property of the State due to a situation, event, and/or action that gives a certain status. Citizens as taxpayers are individuals or business entities. Every

citizen who is a taxpayer has obligations in their taxes, including registering themselves at the office of the Directorate General of Taxes (hereinafter referred to as DJP), submitting a tax return (SPT) correctly, completely, and clearly, and remitting the taxes that have been deducted or collected. However, in reality, quite a lot of corporate taxpayers are found who do not fulfill their obligations, in this case not submitting tax returns or not remitting the taxes that have been deducted or collected.

The actions of the corporate taxpayer are categorized as tax evasion due to the engineering of the subject (perpetrator) and/or object (transaction) of tax to obtain tax savings in an unlawful manner (*unlawfully*).¹ According to M. Zain, indicators of tax evasion include not submitting an SPT, submitting an SPT incorrectly, not registering or misusing a NPWP or PKP Confirmation, not depositing taxes that have been collected or deducted, or attempting to bribe.² Tax evasion is an act that violates the provisions of tax law and is therefore considered a crime. A crime is an unlawful act that violates a legal rule or statute and is punishable by criminal sanctions for those who commit it.

Criminal provisions that threaten tax evasion are regulated in Article 39 of the Republic of Indonesia Law No. 28 of 2007 concerning the Third Amendment to the Republic of Indonesia Law No. 6 of 1983 concerning General Provisions and Tax Procedures which regulates the types of deliberate acts of taxpayers that constitute criminal acts. Taxpayers who commit tax evasion cause the emergence of unpaid or underpaid taxes which result in losses to state revenue. In the event that a taxpayer commits an act that violates tax provisions, such as tax evasion by not submitting SPT and not paying taxes, law enforcement officers can carry out legal enforcement processes.

Law enforcement is closely linked to achieving legal objectives. According to Gustav Radbruch, the objectives of law are to achieve justice, legal certainty, and legal utility.³ The objective of law enforcement concerns not only the victim, in this case the state, but also the perpetrator of the crime, the taxpayer. Imposing criminal penalties is one way to create order, security, justice, and legal certainty, enabling the individual to recognize their mistake, improve themselves, and refrain from repeating the crime. This explanation is stipulated in Law No. 1 of 2023 concerning the Criminal Code.

Consideration Considering Law No. 1 of 2023 concerning the Criminal Code, states that:

- a. In order to realize the national criminal law of the Unitary State of the Republic of Indonesia which is based on Pancasila and the 1945 Constitution of the Republic of Indonesia as well as general legal principles recognized by the community of nations, it is necessary to formulate a national criminal law to replace the Criminal Code inherited from the Dutch East Indies colonial government;
- b. The national criminal law must be aligned with the legal policy, conditions and developments in social, national and state life which aim to respect and uphold human rights, based on the One Almighty God, just and civilized humanity, the unity of Indonesia, democracy guided by the wisdom of deliberation/representation, and social justice for all Indonesian people;
- c. The material of national criminal law must also regulate the balance between the interests of the public or the state and the interests of individuals, between the protection of perpetrators of criminal acts and victims of criminal acts, between elements of actions and mental attitudes, between legal certainty and justice, between written law and laws that live

¹Yonani, "Modus Operandi of Tax Evasion Crimes in Indonesia", Journal of Discipline of the STIHPADA Academic Community Magazine, Vol. 29, No. 4, (2023), P. 170.

²*Ibid.*

³Fatma Affifah and Sri Warjiyanti, "Purpose, Function, and Legal Status", Wijaya Putra Journal of Legal Studies Vol. 2, No. 2 (2024), p. 144.

- in society, between national values and universal values, and between basic human rights and human rights;
- d. Based on the considerations referred to in letters a, b, and c, it is necessary to amend the Law on the Criminal Code;

Furthermore, in Chapter II Criminal Acts and Criminal Responsibility Part One Criminal Acts Paragraph 1 General Article 12 of Law No. 1 of 2023, it states that: (1) A Criminal Act is an act that is threatened with criminal sanctions and/or actions by statutory regulations. (2) To be declared a Criminal Act, an act that is threatened with criminal sanctions and/or actions by statutory regulations must be unlawful or contrary to the laws that exist in society. (3) Every Criminal Act is always unlawful, unless there is a justification. The explanation of this article is the "entry point" in law enforcement.

In law enforcement against taxpayers who commit tax evasion, taxpayers are still required to pay tax arrears and administrative sanctions at all stages of preliminary evidence examination, investigation, prosecution, and trial. This is because tax law enforcement is oriented towards recovering losses to state revenue. However, such payments do not automatically eliminate the unlawful act that has been committed. Payment of tax arrears and administrative sanctions can only halt the investigation process at the request of the Minister of Finance to the Attorney General or can only be calculated as payment of criminal fines.

In practice, not all corporate taxpayers who have committed tax evasion are able to pay their tax arrears and the administrative sanctions imposed for their actions, so that losses to state revenue have not been recovered and the law enforcement process continues. Such as the case of tax evasion in Mempawah Regency (Study of Mempawah District Court Decision Number 63/Pid.Sus/2025/Pn Mpw). In this case, AS, as the director of CV. BFS (Taxable Entrepreneur), did not submit a Periodic Value Added Tax (VAT) Notification Letter and did not deposit Value Added Tax (VAT), which constitutes an act of tax evasion.

For the actions of brother AS, a legal enforcement process was carried out up to the trial stage, but at the investigation stage brother AS had made partial payment of tax arrears amounting to Rp. 15,000,000,- (fifteen million rupiah) as stated in the Public Prosecutor's Indictment, however the payment has not been paid in full so that the loss of state revenue has not been recovered and the Mempawah District Court stated that brother AS has been legally and convincingly proven to have committed a crime in the field of taxation. Therefore, the Panel of Judges gave the law to brother AS by imposing a criminal sentence in the form of imprisonment for 2 (two) years and a fine of Rp. 172,020,228.00 (one hundred seventy-two million twenty thousand two hundred and twenty-eight rupiah) with the provision that if not paid it will be replaced with imprisonment for 6 (six) months.

However, seen in the decision *quo*, partial payment of tax arrears made by AS during the investigation stage is not counted as payment of criminal fines as stipulated in the tax law. Based on this description, the author will analyze how the principles of legal certainty, substantive justice, and legal benefits apply to the payment of tax arrears and administrative sanctions in the crime of tax evasion in the Mempawah District Court Decision Number 63/Pid.Sus/2025/Pn Mpw. Through the analysis and discussion in this paper, it is hoped that it can serve as a reference or at least become legal reference material in law enforcement in the field of taxation to achieve fair, certain, and beneficial legal objectives.

METHOD

This research uses a normative juridical research method (*legal research*). Normative legal research is a research method that examines law from the perspective of norms, rules, principles, doctrines, legal theories and other literature to answer the legal problems being

studied.⁴This research uses a case study approach (*case approach*) and legislative approach (*statute approach*). This research will use library materials or secondary data including primary legal materials including Legislation related to taxation and Mempawah District Court Decision Number 63/Pid.Sus/2025/Pn Mpw as well as secondary legal materials namely books, journals, theses, articles from newspapers, news from the internet, and so on.

DISCUSSION AND ANALYSIS

Taxes are regulated in Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times, most recently Law of the Republic of Indonesia Number 16 of 2009 concerning the Stipulation of Government Regulations in Lieu of Law Number 5 of 2008 concerning the Fourth Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures to Become a Law which was then harmonized in Law of the Republic of Indonesia Number 7 of 2021 concerning Harmonization of Tax Regulations and has been amended by Law of the Republic of Indonesia Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation to Become a Law.

The definition of tax has been explicitly regulated in Article 1 number 1 of the Republic of Indonesia Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures, namely a mandatory contribution owed by individuals or bodies to the state which is mandatory based on the Law, without receiving direct compensation and used for state needs for the greatest prosperity of the people. According to Andriani in Waluyo (2013:2), tax is a contribution owed by those who are obliged to pay it to the state which can be enforced according to regulations, without obtaining achievements, which can be directly designated, which will be used to finance general expenses related to the state's duties in organizing government.⁵

Meanwhile, according to Djajadiningrat in Resmi (2014:1), tax is said to be an obligation to hand over part of one's wealth to the state treasury due to a situation, event, or action that gives a certain position, but not as a punishment, which can be enforced according to regulations set by the government, but there is no direct reciprocal service from the state, but rather to maintain public welfare.⁶From several definitions of tax that have been explained above, the author concludes that tax is a mandatory contribution by transferring or giving part of the wealth that was originally owned by individuals or business entities to become state property in the form of contribution money, which can be enforced by the state through the government on citizens and used for the interests of the state in national development to achieve general welfare.

Taxes are one of the sources of government revenue and function as a tool to regulate or implement government policies in the social and economic fields, as well as achieve other goals outside the financial field.⁷In its implementation, taxes require awareness (*tax consciousness*), honesty (*good faith*), willingness to pay taxes (*tax mindedness*), compliance (*tax voluntary compliance*) citizens in carrying out their obligations.⁸In the theory of planned

⁴Riza Aldia Guslihan, Joelman Subaidi, Teuku Yudi Afrizal, "Analysis of Judges' Decisions Against Perpetrators of Corruption Crimes Carried Out by Law Enforcement Officials (Decision Study No: 10.Pid.Sus-Tpk/2021/Pt DKI), Student Scientific Journal (JIM-FH) Vol. VIII, No. 1, (2025), p. 18.

⁵Yunita Sari Rioni and Teuku Radhifan Syauqi, "Analysis of Increasing Taxpayer Compliance in Making NPWP for MSMEs in Pepper Plantations, Hinai District, Langkat Regency", Taxation Journal Vol. 1 No. 2, (2020), p. 29.

⁶*Ibid.*

⁷*Ibid.*, p. 30.

⁸Ariska Cesar Divian Candra Kusuma, Kartika Youri Widodo and Mustofa Ponco Wibowo, "Dualism in the Regulation of Sanctions Against Taxpayers Based on the Law on General Provisions and Procedures for Taxation", Rewang Rencang: Jurnal Hukum Lex Generalis 6, No. 8 (2025): p. 2

behavior by Ajzen, it is explained that the voluntary compliance attitude of taxpayers is determined by the intentions or interests within the taxpayer.⁹ Both individual taxpayers and corporate taxpayers have obligations in carrying out their taxes, including:¹⁰

1. Register or report your business;
2. Carrying out recording or bookkeeping;
3. Make a payment;
4. Make tax payments in accordance with tax regulations;
5. Carrying out taxes that have been paid and/or deducted or collected by third parties.

However, in reality, not all taxpayers, especially corporate taxpayers, fulfill their obligations in accordance with tax regulations. Common acts of non-compliance by corporate taxpayers include failing to report taxes and failing to deposit taxes in accordance with tax regulations. This is a method used by corporate taxpayers to avoid paying taxes. This non-compliance is categorized as tax evasion (*tax evasion*). Tax evasion is defined as an action taken by taxpayers to avoid paying taxes illegally, either through reporting inaccurate data, using fake documents, or hiding actual information.¹¹ According to M. Zain, the indicators of tax evasion are:¹²

1. Not registering or misusing NPWP or PKP Confirmation;
2. Not submitting SPT;
3. Submitting SPT incorrectly;
4. Not depositing taxes that have been collected or deducted;
5. Attempting to bribe.

The existence of tax evasion causes the Directorate General of Taxes or its subordinate agencies to carry out their supervisory function by conducting an initial examination or investigation called a preliminary evidence examination in order to trace the taxpayer's non-compliance which is indicated to be detrimental to state revenue. The Taxation Law provides a definition of Preliminary Evidence and Preliminary Evidence Examination. Preliminary Evidence is information, writing, or objects that can provide an indication of a strong suspicion that a criminal act in the field of taxation is or has occurred by anyone who can cause losses to state revenue, while Preliminary Evidence Examination is an examination carried out to obtain preliminary evidence regarding the suspicion that a criminal act in the field of taxation has occurred.

According to Moeljanto, a crime is an act that is prohibited by a legal regulation, a prohibition accompanied by a threat (sanction) in the form of a specific penalty for anyone who violates the prohibition.¹³ So it can be concluded that the act of not registering or misusing NPWP or PKP Confirmation, not submitting SPT, submitting SPT incorrectly, or not depositing taxes that have been collected or deducted by taxpayers is a criminal act of tax evasion. The criminal act of tax evasion is threatened with criminal sanctions as per Article 39 paragraph (1) of Law of the Republic of Indonesia Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures. In the provisions of this article, acts that are considered as a method or mode of tax evasion are threatened with imprisonment of at least 6 (six) months and a maximum of 6 (six) years and a fine of at least 2 (two) times the amount of tax owed that is not or underpaid and at most 4

⁹Rafika Surya Manullang and Andri Marfiana, "Analysis of the Influence Perception Of Fairness And Trust In government to Voluntary Tax Compliance With Religiosity Moderation", *Journal of Taxation and State Finance* Vol. 5 No. 2, (2024), p. 41.

¹⁰*Ibid.*, p. 43

¹¹Tati Nurhayati and Taun, "Legal Analysis of Criminal Liability in Tax Evasion Cases Based on Tax Law in Indonesia", *Innovative: Journal of Social Science Research*, Vol. 5 No. 2, (2025), p. 3924.

¹²2008, p. 51

¹³Aryo Fadlian, "Criminal Responsibility in a Theoretical Framework," *Positum Law Journal* 5, No. 2 (2020): p. 11.

(four) times the amount of tax owed that is not or underpaid, this is because these acts cause losses to state revenue.

If an unlawful act is found that indicates a loss to state revenue, the initial evidence examiner at the Directorate General of Taxes will proceed to the tax investigation stage by the Civil Servant Investigator (PPNS) at the Directorate General of Taxes or its subordinate agencies. The Taxation Law provides a definition related to the investigation of criminal acts in the field of taxation, namely a series of actions carried out by investigators to search for and collect evidence that with that evidence makes clear the criminal acts in the field of taxation that have occurred and find the suspect.

The examination of preliminary evidence and investigation of tax crimes are efforts to improve taxpayer compliance in fulfilling their obligations. These legal actions can progress to prosecution and the transfer of cases to the courts for trial. This entire series of actions constitutes the law enforcement process. Law enforcement is a series of activities, efforts, and actions through the organization of various instruments to realize the aspirations of the drafters of laws or regulations.¹⁴

Law enforcement is closely related to the objectives of law so that it has a causal-functional relationship to achieve certainty justice, substantive justice, and legal benefits. Justice in relation to positive legal norms, namely legal certainty, legal certainty according to Michiel Otto is the availability of clear, consistent, easily obtained legislation, issued by and recognized by the state, and does not cause doubt due to multiple interpretations and does not conflict with norms.¹⁵ Substantive Justice focuses on the fundamental values embodied in the law, which focuses on just outcomes rather than simply complying with formal procedures.¹⁶ Substantive justice ensures that the decisions taken take into account the welfare and justice of both parties.¹⁷ Justice in relation to social norms is benefit, legal benefit means that perpetrators and victims expect benefits in law enforcement.¹⁸

In the field of taxation, the law enforcement process involves 3 (three) main elements, namely tax policy, tax regulations, and the tax administration system.¹⁹ Law enforcement in the taxation sector is oriented towards recovering losses to state revenues, not merely retaliation. This has been emphasized in positive tax law, namely Law of the Republic of Indonesia Number 7 of 2021 concerning the Harmonization of Tax Regulations (HPP Law), in the Explanation of Article 44B paragraph (2a) which emphasizes that the handling of criminal cases in the taxation sector prioritizes the recovery of losses to state revenues rather than criminalization, so that the opportunity for the defendant, in this case the taxpayer, to pay the amount of tax owed that is not or is underpaid plus administrative sanctions in the form of fines is extended up to the trial stage. This provision shows the certainty of law enforcement in the taxation sector.

¹⁴Shifa Rosmawati and Maman Darmansyah, 2023, "The Influence of Tax Socialization, Law Enforcement, and Tax Sanctions on Tax Evasion," *LITERA: Journal of Accounting Literacy* Vol. 3, No. 4, , p. 192

¹⁵Alifianissa Puspaningtyas Nugroho, "Restorative Justice: The Realization of the Principles of Justice and the Principles of Legal Certainty in Police Institutions", *Recidive Journal of Criminal Law and Crime Prevention* Vol 13, No. 2, (2023), p. 225.

¹⁶Patar Marojahan Sinurat and Janpatar Simamora, "The Role of Prosecutors in the Implementation of Restorative Justice: A Review of the Principles of Legality and Substantive Justice in Prosecutor's Regulation 15/2020", *Al-Zayn: Journal of Social Sciences & Law* Vol 3, No. 5 (2025), pp. 7614-7615.

¹⁷Muhammad Husni, et. all., "The Principle of Justice as One of the Basis for Judges in Making Divorce Decisions" *Al-Ahwal Al-Syakhsyiyah: Journal of Family Law and Islamic Justice*, Vol. 4, No. 2, (2023), p. 112.

¹⁸Imam Mukhlis Ash Shiddiq, et. al, "Analysis of the Principle of Legal Benefit Regarding the Imposition of Criminal Fines by Banking Corporations (Reviewed by Decision Number 4/Pid.B/2024/PN Bar)", *Das Sollen: Journal of Contemporary Studies of Law and Society* Vol. 2, No. 2, (2023) 02:02 p. 3.

¹⁹ Romi Hendra and Bambang Arwanto, Termination of Investigation in Tax Crime Cases Through the Implementation of Restorative Justice, *Journal of Social and Science (SOSAINS)*, Vol. 5, No. 8, 2025, p. 328

The Taxation Law also provides legal certainty regarding the payment or settlement of the amount of tax owed that is not or underpaid plus administrative sanctions in the form of fines imposed on taxpayers who commit tax evasion. Article 44B paragraph (2) of the HPP Law emphasizes that the settlement of losses to state revenue caused by one of them being tax arrears which is also accompanied by the settlement of administrative sanctions in the form of fines can stop the investigation of criminal acts in the tax sector. Meanwhile, the settlement of tax arrears and administrative sanctions in the form of fines carried out when the taxpayer's criminal case is transferred to the court, then the settlement is taken into consideration for prosecution without being accompanied by the imposition of a prison sentence.

In this case, the taxpayer is still found guilty but is only sentenced to a fine in the amount of the tax arrears and administrative sanctions that have been paid by the defendant and the amount of the payment is calculated as the settlement of the criminal fine imposed. In practice, not all taxpayers who commit tax evasion can pay off the amount of tax arrears and administrative sanctions at the initial evidence examination stage to the trial stage. Regarding this matter, the Taxation Law has also provided legal certainty as stated in Article 44B paragraph (2c) of the HPP Law. In the event that the payment of tax arrears and administrative sanctions by the taxpayer who is a suspect or defendant at the investigation stage or until the trial stage is not in accordance with the amount that should be or has not been paid, the payment can be calculated as payment of the criminal fine imposed on the defendant.

As in the case of Mempawah District Court Decision Number 63/Pid.Sus/2025/Pn Mpw. In this case, Mr. AS, as the director of CV. BFS (Taxable Entrepreneur), did not submit a Periodic Value Added Tax (VAT) Notification Letter and did not deposit the Value Added Tax (VAT) for February, May, November, and December 2018 that Mr. AS had collected from PT. SR for work services.*land clearing* and the construction of fertilizer development by CV. BFS to PT. SR, so that due to the actions of Mr. AS, a loss of Rp. 86,010,114,- (eighty-six million ten thousand one hundred and fourteen rupiah) was incurred in state revenue.

In the decision *quo*, Mr. AS as Director of CV. BFS as the Representative of the Corporate Taxpayer committed the act because Mr. BFS was experiencing financial difficulties and used the money not for CV. BFS's tax purposes. For Mr. AS's actions, the West Kalimantan Regional Office of the Directorate General of Taxes carried out its supervisory function by examining the initial evidence in which Mr. AS admitted his actions, but did not pay off the tax arrears and the administrative sanctions imposed on him, so that there was no recovery of losses to state revenue. Therefore, the PPNS of the West Kalimantan Regional Office of the Directorate General of Taxes conducted an investigation into Mr. AS's actions. In the decision *quo*, The Public Prosecutor stated in his indictment that during the investigation stage, AS had made partial payment of tax arrears amounting to Rp. 15,000,000 (fifteen million rupiah).

However, because the payment made by Mr. AS was not in accordance with the actual situation, the law enforcement process was still carried out until the trial stage and the Mempawah District Court stated that Mr. AS had been legally and convincingly proven to have committed a crime by intentionally not submitting a VAT periodic notification letter and a crime by intentionally not depositing tax (VAT) that had been deducted or collected, resulting in losses to state revenue. Therefore, the panel of judges sentenced Mr. AS by imposing a criminal sentence in the form of imprisonment for 2 (two) years and a fine of Rp. 172,020,228.00 (one hundred seventy-two million twenty thousand two hundred and twenty-eight rupiah) with the provision that if not paid, it would be replaced with imprisonment for 6 (six) months.

In the decision *quo*, the payment of part of the tax arrears made by Mr. AS during the investigation stage was not calculated as payment of the criminal fine imposed on him as stipulated in Article 44B paragraph (2c) of the HPP Law, so that in its decision the panel of judges imposed a criminal fine of Rp. 172,020,228.00 (one hundred seventy-two million

twenty thousand two hundred and twenty-eight rupiah) calculated from 2 (two) times the amount of tax owed that was not or was underpaid (tax arrears). Viewed from the aspect of legal certainty, the tax law actually regulates that if the payment made by the taxpayer is not the amount that should be, then the payment can be calculated as payment of the criminal fine.

The provisions of this article use the phrase "*can*" which in the online version of the Big Indonesian Dictionary (KBBI) means *scan; may; perhaps*.²⁰ The provision does not use the phrase "*must*" which in the online version of KBBI means *must (cannot)*²¹ or the phrase "*must*" which mean *must be done; cannot be undone; it is necessary; must*.²² Therefore, in its ruling, the panel of judges could have excluded the payment from the criminal fine imposed on Mr. AS as a corporate taxpayer. This does not eliminate legal certainty in taxation, but rather because there is no requirement in the provisions that the payment cannot be excluded from the criminal fine.

The decision to impose a fine, viewed from the perspective of substantive justice regarding the partial payment of tax arrears that Mr. AS had made during the investigation stage, was deemed unfair to Mr. AS as a taxpayer accused of tax evasion. Substantive justice ensures that the final outcome of the law enforcement process truly reflects justice, not merely adhering to formal procedures as in positive law. Justice means placing something in its proper place. Justice does not mean having to be equal for all parties, but according to Aristotle, justice is defined as an action that gives everyone what is due according to their proportion.²³

Although there is no obligation or requirement contained in the phrase of the provisions of Article 44B paragraph (2c) of the HPP Law, the court's decision should consider the payment made by the defendant AS as payment of a criminal fine so that there is a reduction in the amount of the criminal fine imposed on him. In addition, if the payment made by the taxpayer that is not in accordance with the amount that should be considered as payment of a criminal fine, this has a positive impact on state revenue because there is a recovery from the consequences of the crime. This is in line with the objective of law enforcement in the field of taxation, namely the recovery of losses in state revenue.

Payment of tax arrears that are not calculated as payment of criminal fines imposed on the defendant based on a court decision that has permanent legal force can be requested back by the paying party concerned by submitting an application. This provision is stated in Article 124 paragraph (1) of the Regulation of the Minister of Finance (PMK) of the Republic of Indonesia Number 81 of 2024 concerning Tax Provisions in the Context of Implementing the Core Tax Administration System. By returning payment of tax arrears that are not calculated as payment of criminal fines, the objective of recovering losses to state revenue is not achieved.

The return of tax arrears that are not calculated as payment of criminal fines can also be said to result in the state experiencing losses for the second time, because the state must bear the costs for the defendant's life in prison while serving his sentence, but the state does not receive any payment for the actions that have been carried out by the taxpayer as the perpetrator of the crime of tax evasion. Of course, it is not only unfair to the state, but also unfair to the taxpayer, where the taxpayer has committed an act of tax evasion that causes losses to state revenue, but he does not carry out the punishment that is appropriate to his actions.

Payment of tax arrears in the crime of tax evasion, calculated as payment of a criminal fine, is closely related to legal benefits, as both the taxpayer as the defendant and the state benefit from the payment. According to the online version of the KBBI (Big Indonesian Dictionary), "*benefit*" means *use; benefit; profit*, so that benefit means something that is

²⁰KBBI Online, s.v. "can", <https://kbbi.web.id/dapat>, accessed on April 22, 2026.

²¹KBBI Online, s.v. "must", <https://kbbi.web.id/harus>, accessed on April 22, 2026.

²² KBBI Online, s.v. "obligatory", <https://kbbi.web.id/wajib>, accessed on April 22, 2026.

²³Christopher Elia Julio, Irwan Triadi, 2025, "Analysis of Legal Philosophy on the Principle of Justice in Judges' Decisions in Indonesia", *Socius: Journal of Social Sciences Research* Vol. 3, No. 4, p. 171.

profitable or useful. Taxes are used as state revenue for national development, with the payment of tax arrears by the accused corporate taxpayer in the law enforcement process, both at the investigation level and up to trial, this is a benefit for the state even though the payment is not in accordance with the amount it should be because the tax arrears can be used as state revenue to support the government.

Partial payment of tax arrears which is then calculated as payment of criminal fines is something useful for the state, because if not, the party paying the tax arrears can submit a request for a refund of the payment as stipulated in PMK Number 81 of 2024 concerning Tax Provisions in the Context of Implementing the Core Tax Administration System. For defendants who are corporate taxpayers, payment of tax arrears which is calculated as payment of criminal fines reflects the principle of benefit because the criminal fines imposed on them are reduced so that this provides an advantage or something useful for the defendant taxpayer.

Certainly, the payment of tax arrears that has not been in accordance with the amount that should be calculated as payment of the criminal fine imposed on the accused taxpayer who committed the crime of embezzlement is something that reflects the principle of benefit in law enforcement. This is because both the state as the victim and the taxpayer as the perpetrator of the crime equally receive legal benefits in the law enforcement process. Legal provisions are not merely codified into written rules or positive law, but also emphasize the aspects of substantive justice and legal benefits in their application for anyone who comes into contact with these rules.

Likewise, payment of tax arrears in the criminal act of tax evasion also requires substantive justice and legal benefit in the application of tax provisions, in addition to the legal certainty stipulated in tax regulations. Therefore, in its enforcement, the application of the law brings about or achieves the legal objectives, as emphasized by Gustav Radbruch.

CONCLUSION

Based on the analysis, the principle of certainty requires clear and definite legal rules, substantive justice requires that something be in its place and not merely comply with formal procedures, and justice of legal benefits requires that something be useful for all parties. These three principles have not always been achieved in law enforcement of tax evasion crimes. In Mempawah District Court Decision Number 63/Pid.Sus/2025/Pn Mpw, payment of tax arrears in tax evasion crimes is not counted as payment of criminal fines because from the investigation stage to the trial stage the amount of the payment has not been in accordance with what it should be. The principle of legal certainty in decisions *a quo* has been fulfilled because in Article 44B paragraph (2c) of the Republic of Indonesia Law Number 7 of 2021 concerning Harmonization of Tax Regulations there is no requirement that the payment be calculated as payment of criminal fines.

However, the decision *a quo* which does not take into account the payment of tax arrears as payment of criminal fines has not achieved the principles of substantive justice and the principle of legal benefit. This is shown by the amount of criminal fines imposed on defendants not being reduced, on the other hand the state does not receive tax money as state revenue for the purpose of law enforcement in the taxation sector. The state does not obtain recovery of losses in state revenue and the state must incur costs for the implementation of criminal penalties by the defendant taxpayer so that the state as a victim does not receive benefits from law enforcement. Law enforcement, especially in the field of taxation, should accommodate all principles to be achieved in the objectives of the law so as not to create inequality. The application of positive law that is not solely contextual will give rise to justice and benefit in its law enforcement.

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