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Legal Liability of Corporate Transportation MSMEs as Non-Taxable Entrepreneurs Upon Exceeding the Statutory Turnover Threshold

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Abstract: This study aims to analyze the legal basis of liability and the legal consequences for non-Taxable Entrepreneur (Non-PKP) Corporate Micro, Small, and Medium Enterprises (MSMEs) in the transportation services sector whose business turnover has exceeded the PKP threshold. This study employs a normative juridical research method with statutory and conceptual approaches. The results indicate that the legal basis for the liability of Corporate MSMEs in transportation services whose turnover exceeds IDR 4.8 billion is rooted in the constitutional obligation of Article 23A of the 1945 Constitution of the Republic of Indonesia, hierarchically derived through the VAT Law jo. Harmonization of Tax Regulations Law (UU HPP), PMK Number 164 of 2023, and PER-7/PJ/2025. Doctrinally, this legal liability arises by law (ex lege) upon meeting the objective turnover requirement, whereas the PKP confirmation decision by the tax authority is merely declaratory (beschikking) rather than constitutive. The logical consequence of implementing the self-assessment system demands active compliance from taxpayers in reporting their business. The legal consequences of non-compliance or negligence in registering after exceeding the turnover limit include the automatic termination of its fiscal exemption facility as a non-PKP small entrepreneur under the tax regime, while fundamentally retaining its corporate status as an MSME entity pursuant to the capital and turnover criteria governed under Government Regulation Number 7 of 2021. Furthermore, the taxpayer faces the risk of official PKP confirmation ex officio by the Directorate General of Taxes, the obligation to collect, remit, and report VAT on Taxable Services, corrective actions through tax audits, assessments, and collections, as well as the imposition of tax administrative sanctions under the KUP Law as a reparatoir sanction to restore state revenue, up to potential criminal sanctions under certain conditions.

Keywords: Legal Liability, Legal Consequences, Transportation MSMEs, Taxable Entrepreneur.

INTRODUCTION

Taxation serves as the primary instrument for state financing, holding a strategic function in realizing national objectives as mandated in the Preamble to the 1945 Constitution of the

Republic of Indonesia. As the largest source of state revenue, taxation is viewed not merely as a citizen's constitutional obligation but as a profound manifestation of public participation in governance and national development. Consequently, the tax system must strike an optimal balance between the state's prerogative to secure fiscal revenue and the provision of legal protection for taxpayers as legal subjects. This equilibrium is a core characteristic of a state based on the rule of law (*Rechtsstaat*), wherein every tax obligation must possess a clear statutory basis, ensure legal certainty, and be executed based on the principle of justice. This doctrine is firmly embedded in Article 23A of the 1945 Constitution of the Republic of Indonesia, which explicitly reinforces the *principle of legality in taxation* by stipulating that taxes and other coercive levies for state purposes shall be regulated by law—thereby upholding the classic maxim of "*no taxation without representation*."

A prominent characteristic of the Indonesian taxation framework is the implementation of the *self-assessment system*, which vests absolute trust in taxpayers to independently calculate, compute, pay, and report their tax liabilities in accordance with statutory provisions. This system positions voluntary tax compliance as the ultimate cornerstone of tax administration. While it offers taxpayers the autonomy to manage their tax obligations independently, it simultaneously carries severe legal consequences in the form of heightened legal liability (*corporate liability*) to comprehend and fulfill tax obligations arising from their business growth. Consequently, changes in business dynamics that generate new tax obligations must be accompanied by appropriate legal actions to prevent non-compliance with tax regulations.

Among the fundamental obligations arising from business expansion is the requirement to be confirmed as a Taxable Entrepreneur (*Pengusaha Kena Pajak* or PKP) within the Value-Added Tax (VAT) regime. Under the VAT Law and its implementing regulations, entrepreneurs whose gross turnover reaches a specific statutory threshold are mandatory required to report their business for PKP confirmation. This confirmation is not a mere formalistic administrative procedure; rather, it constitutes the inception of new legal rights and obligations *inter alia*, the duties to collect VAT, issue tax invoices, remit the tax payable to the state treasury, and file monthly VAT returns. Thus, obtaining PKP status introduces significantly distinct legal consequences compared to operating as a non-confirmed entrepreneur.

In practice, contemporary business trends demonstrate that Micro, Small, and Medium Enterprises (MSMEs), particularly those operating in transportation, cargo distribution, and logistics services, have experienced exponential growth driven by increasing public demand. Digital technology advancements have further accelerated various transportation business models, enabling rapid turnover inflation within a relatively short period. Consequently, a substantial number of corporate MSMEs that initially qualified as non-PKP small entrepreneurs have seen their gross turnovers scale rapidly until they exceed the statutory threshold required for mandatory PKP confirmation. This shift in economic circumstances legally imposes a new obligation on corporate taxpayers to actively file an application for PKP confirmation with the Directorate General of Taxes.

A profound legal issue emerges when corporate transportation MSMEs surpass the designated turnover threshold but continue to operate as non-PKP entities without seeking confirmation. This situation creates a legal paradox: while statutory provisions strictly mandate entrepreneurs meeting specific criteria to be confirmed as PKP, not all business entities voluntarily fulfill this obligation. Consequently, a fundamental legal question arises regarding the exact moment of the inception of the taxpayer's legal liability—whether it is triggered *ex lege* (by law) the moment the turnover surpasses the statutory threshold or only upon the issuance of the formal administrative decree (*beschikking*) of PKP confirmation by the tax authority. Resolving this issue is crucial, as it directly impacts legal certainty regarding the obligation to collect and remit VAT.

Normatively, the obligation to report a business for PKP confirmation is codified under the VAT Law and its subsidiary regulations. However, this regulatory framework leaves room for interpretation regarding the legal construct of liability for taxpayers who delay or fail to apply for confirmation after exceeding the threshold. If legal liability is construed to arise automatically upon exceeding the threshold, all associated VAT obligations attach immediately, notwithstanding the absence of a formal confirmation. Conversely, if liability is deemed contingent upon the issuance of the administrative confirmation decree, a legal vacuum arises, allowing taxpayers to defer compliance with VAT obligations without clear legal consequences. This divergence highlights an urgent need to scrutinize the legal basis of taxpayer liability under a robust tax law perspective.

Furthermore, this issue is inextricably linked to the principles of legal certainty (*kepastian hukum*) and tax fairness (*keadilan pajak*). From the standpoint of legal certainty, taxpayers must be able to foresee exactly when their tax rights and obligations commence. From a fairness perspective, entrepreneurs who have met the objective criteria of PKP should not derive an unfair economic advantage over compliant peers who have sought confirmation and executed their VAT obligations. Ambiguity regarding the legal consequences of delayed confirmation potentially disrupts horizontal equity among market participants, generating disparate tax burdens for taxpayers operating within identical economic conditions.

Additionally, the failure to seek PKP confirmation after exceeding the turnover threshold undermines the efficacy of the self-assessment system. In the absence of clarity regarding legal liability and the corresponding legal consequences of failing to apply for PKP confirmation, the supervisory function of tax administration is weakened, thereby eroding voluntary compliance. From a tax administrative law perspective, this state of affairs signifies a close nexus between administrative duties and legal accountability; a breach of administrative obligations cannot be written off as a mere formal infraction, as it bears substantial legal consequences that directly affect state revenues.

Based on the background outlined above, the research problems of this study are formulated as follows: 1) What is the legal basis for the liability of non-PKP corporate transportation MSMEs whose turnover exceeds the Taxable Entrepreneur (PKP) threshold? And 2) What are the legal consequences for corporate transportation MSMEs that fail to apply for confirmation as a Taxable Entrepreneur after exceeding the statutory turnover threshold?

These two issues are critically examined through normative legal research to establish a robust legal construction that guarantees certainty regarding the inception of tax liability and the attendant legal consequences for non-compliant taxpayers. Ultimately, the findings of this study are expected to contribute to the development of national tax law doctrine and serve as an evaluative framework for formulating tax policies that enhance legal certainty and secure taxpayer compliance.

METHOD

This study constitutes a normative juridical legal research (*legal research*), which critically examines black-letter law and written legal norms across various dimensions, including legal theory, philosophy, comparative law, statutory structures, composition, and a comprehensive, clause-by-clause analysis of the prevailing tax legislation. To address the formulated legal issues, a statutory approach (*statute approach*) is employed by meticulously analyzing the Law on General Provisions and Tax Procedures (UU KUP), the Value-Added Tax Law (UU PPN), the Law on Harmonization of Tax Regulations (UU HPP), and their relevant subsidiary Presidential or Ministerial Regulations. This is complemented by a conceptual approach (*conceptual approach*) to dissect and contextualize the fundamental legal doctrines of liability and fiscal administrative sanctions. The gathered legal materials are analyzed through a qualitative-descriptive method, utilizing deductive legal reasoning to derive logical, coherent, and objective conclusions regarding the legal issues under investigation.

RESULT AND DISCUSSION

The Legal Basis of Taxpayer Liability for Corporate Transportation MSMEs Exceeding the Taxable Entrepreneur (PKP) Threshold

The legal liability of a corporate taxpayer in fulfilling its tax obligations does not arise merely from an administrative relationship between the taxpayer and the Directorate General of Taxes; rather, it is deeply rooted in the constitutional obligations mandated under Article 23A of the 1945 Constitution of the Republic of Indonesia. This constitutional provision stipulates that taxes and other coercive levies for state purposes shall be regulated by law. This restriction implies that every tax obligation must possess statutory legitimacy, reflecting the *principle of legality in taxation*. Within tax law doctrine, this principle is recognized as "*no taxation without representation*," meaning that the state may only impose tax obligations under a clear and unambiguous legal basis. Consequently, once a business entity satisfies the normative conditions specified by statute, its legal liability ceases to depend on the subjective will of the taxpayer; instead, it arises directly by operation of law (*ex lege*).

This view aligns seamlessly with the *legal obligation theory* postulated by Hans Kelsen. According to Kelsen, a legal obligation is a consequence of a norm that commands a specific action, backed by the threat of a sanction if that obligation is not fulfilled. Accordingly, in tax law, the inception of a taxpayer's liability is determined solely by the fulfillment of the normative elements formulated within statutory provisions, rather than by the taxpayer's internal awareness or acknowledgement of such obligations.

The Indonesian taxation system adopts a *self-assessment system*, which has served as its core characteristic since the tax reform era. This system grants full trust to taxpayers to independently calculate, compute, pay, and report their tax payable. The logical consequence of this system is an increased legal liability for the taxpayer, as the state no longer determines the individual tax liability prior to its execution.

From a tax administrative law perspective, the self-assessment system does not merely grant taxpayers the right to calculate their own taxes; it also imposes a legal obligation to perform all administrative actions required by statute. Therefore, if a business entity experiences commercial growth that alters its legal tax status, such a transformation must be followed by compliance with new administrative obligations, including the duty to report its business to be confirmed as a Taxable Entrepreneur (*Pengusaha Kena Pajak* or PKP).

Peter Mahmud Marzuki explains that within a modern state based on the rule of law (*Rechtsstaat*), every statutory administrative duty constitutes a concrete manifestation of administrative legal accountability. Consequently, negligence in fulfilling administrative obligations cannot be regarded as a mere procedural infraction; rather, it represents a form of non-compliance with legal norms that triggers specific legal consequences.

The primary statutory basis governing the mandatory confirmation of PKP status is laid down in the Value-Added Tax (VAT) Law, as amended multiple times, most recently by Law Number 7 of 2021 on the Harmonization of Tax Regulations (UU HPP). The law explicitly reinforces that entrepreneurs who carry out the supply of Taxable Goods and/or Taxable Services are mandatory required to report their business for PKP confirmation, unless they fall under the category of small entrepreneurs as determined by the Minister of Finance.

Further regulation regarding the threshold for small entrepreneurs is codified in the Minister of Finance Regulation (PMK) Number 164 of 2023. This regulation stipulates that entrepreneurs whose gross turnover exceeds IDR 4.8 billion within one fiscal year no longer qualify as small entrepreneurs and must, therefore, report their business for PKP confirmation.

Concurrently, this PMK delineates the administrative procedures for reporting a business once the turnover threshold has been surpassed.

Subsequently, the administrative procedures for PKP confirmation were updated through the Director General of Taxes Regulation Number PER-7/PJ/2025, which accommodates the *Coretax* administration system and reiterates that entrepreneurs exceeding the threshold must apply for PKP confirmation in compliance with the prevailing administrative protocols. A compelling juridical question arises: does legal liability commence upon the issuance of the administrative decree confirming PKP status, or does it attach from the moment the statutory turnover requirement is met?

In the perspective of administrative law theory, the decree confirming PKP status constitutes a *beschikking* (administrative decision) that is merely declaratory toward a legal state that has already arisen by operation of law. This implies that the administrative decision does not create a new obligation (*constitutive decision*); instead, it merely affirms a legal status that has already emerged due to the fulfillment of the objective criteria prescribed by the norm. Consequently, when a corporate transportation MSME surpasses the gross turnover threshold of IDR 4.8 billion as specified in PMK Number 164 of 2023, the business entity normatively ceases to meet the criteria of a small entrepreneur. From that exact moment, the legal obligation to report the business to secure PKP confirmation attaches to the entity. This obligation is born out of statutory norms, whereas the confirmation decree merely provides administrative certainty regarding the execution of that obligation.

This construction is consistent with the maxim *lex superior derogat legi inferiori*, as the source of the legal liability remains firmly rooted in the statute, while the implementing regulations merely govern the mechanisms of its execution. For MSMEs operating in transportation services, the characteristics of this legal liability must also be analyzed based on the specific type of services supplied. Not all transportation services are subject to VAT. Therefore, prior to determining the mandatory requirement for PKP confirmation, it must first be verified whether the transportation services provided constitute Taxable Services (*Jasa Kena Pajak* or JKP) under the VAT Law or fall within the scope of services excluded from VAT.

If the corporate entity supplies Taxable Services and the aggregate gross turnover from such taxable supplies exceeds the small entrepreneur threshold, the obligation to secure PKP confirmation becomes an unavoidable legal consequence. Conversely, if the transportation services provided are categorically excluded from the scope of VAT, the analysis regarding the mandatory PKP confirmation must adhere to the statutory exemptions provided in the VAT Law. Thus, the object of the business activity serves as the ultimate determining factor for the inception of the obligation to seek PKP confirmation.

From a normative legal perspective, the statutory basis for the liability of non-PKP corporate transportation MSMEs whose turnover has exceeded the small entrepreneur threshold is regulated hierarchically. This hierarchy extends from the 1945 Constitution of the Republic of Indonesia, the KUP Law, the VAT Law as amended by the HPP Law, Government Regulation Number 55 of 2022, PMK Number 164 of 2023, down to PER-7/PJ/2025. The primary legal issue does not stem from a void of norms, but rather from the interpretation regarding the precise moment this legal liability commences.

Doctrinally, this legal liability arises by operation of law (*ex lege*) upon the fulfillment of the objective criteria set by statute, whereas the PKP confirmation is an administrative act that is purely declaratory to provide certainty regarding the taxpayer's status. For this reason, a transportation MSME that has surpassed the turnover threshold cannot plead the absence of a formal confirmation decree as a defense to negate its statutory obligation to report its business and fulfill the inherent tax requirements. This interpretation is highly consistent with the principle of legality in taxation, the principle of legal certainty, the principle of tax fairness, and the ultimate objective of the self-assessment system, which establishes taxpayer compliance as the bedrock of the Indonesian tax administration system.

Legal Consequences for Corporate Transportation MSMEs Failing to Apply for Taxable Entrepreneur (PKP) Confirmation After Exceeding the Turnover Threshold

In legal theory, legal consequences (*rechtsgevolgen*) are the repercussions prescribed by a norm in response to a specific legal event. According to Hans Kelsen, every legal norm invariably embodies a nexus between a specific legal condition and a corresponding legal consequence. Therefore, when a norm mandates that an entrepreneur whose gross turnover has scaled past a certain threshold must apply for PKP confirmation, any negligence in fulfilling such a duty automatically triggers the specific legal consequences codified within the taxation system. Consequently, the invocation of these legal consequences does not hinge upon the existence of actual state loss; rather, it arises solely from the non-fulfillment of a statutorily commanded duty.

Within the context of Indonesian tax law, these legal consequences must be understood through the defining characteristics of the *self-assessment system*. This framework entrusts taxpayers to independently execute their entire spectrum of tax obligations, including the administrative duty to report their business for PKP confirmation upon exceeding the designated turnover threshold. As a corollary, a failure to comply is not merely a superficial administrative infraction, but a fundamental breach of compliance within the tax system that governs the legal relationship between the state and the taxpayer. Barda Nawawi Arief posits that any violation of an administrative norm that serves as a prerequisite for executing a legal obligation can fundamentally generate legal accountability, provided that the statute has prescribed consequences for such a breach. In the realm of taxation, these repercussions are primarily channeled through the administrative law regime before escalating into criminal liability upon the satisfaction of specific statutory elements.

The first legal consequence is the revocation of the small entrepreneur status, which initially granted an exemption from mandatory PKP confirmation. Under the Value-Added Tax (VAT) Law, as amended most recently by Law Number 7 of 2021 on the Harmonization of Tax Regulations (UU HPP), small entrepreneurs are exempted from the obligation to report their business for PKP confirmation. However, this exemption is strictly contingent upon the gross turnover not exceeding the threshold determined by the Minister of Finance. Once the turnover surpasses IDR 4.8 billion within a single fiscal year, the entrepreneur automatically ceases to meet the qualifications of a small entrepreneur, thereby terminating the exemption by operation of law (*ipso jure*). PMK Number 164 of 2023 reinforces that entrepreneurs exceeding this threshold are mandatory required to report their business and apply for PKP confirmation at the latest by the end of the fiscal year.

The second legal consequence is the official PKP confirmation *ex officio* (secara jabatan) by the Directorate General of Taxes. PMK Number 164 of 2023 vests the authority in the Head of the Small Tax Office (*Kantor Pelayanan Pajak*) to officially confirm an entrepreneur as a PKP *ex officio* if an eligible entrepreneur fails to report their business. This authority constitutes an act of state administration (*bestuurshandeling*) aimed at safeguarding the efficacy of the tax system and preventing the erosion of potential state revenue. This *ex officio* confirmation demonstrates that tax law leaves no room for taxpayers to evade PKP status simply by withholding their application. In other words, administrative negligence does not absolve the legal obligations that have already arisen by virtue of the statute.

The third legal consequence pertains to the inception of tax obligations within the VAT regime. Upon being confirmed as a PKP—whether by voluntary application or *ex officio*—the taxpayer bears the statutory duties to collect VAT on every supply of Taxable Goods and/or Taxable Services, issue tax invoices, remit the VAT payable to the state treasury, and file monthly VAT returns in compliance with statutory regulations. PMK Number 164 of 2023 offers administrative relief by allowing the application for confirmation to be submitted at the latest by the end of the fiscal year, whereas the obligations as a PKP commence on the first tax period of the subsequent fiscal year after the turnover requirement is satisfied.

Nevertheless, in the context of corporate transportation MSMEs, the analysis of these legal consequences cannot be generalized. It must first be ascertained whether the specific transportation services provided constitute a Taxable Service under the VAT Law. If the services fall within the scope of statutory exemptions from VAT, the consequences regarding VAT collection must be analyzed strictly under the applicable tax exemption provisions, notwithstanding the turnover exceeding IDR 4.8 billion. Conversely, if the transportation services are indeed Taxable Services, the failure to secure PKP confirmation potentially leads to a fundamental breach of the legal obligations to collect and report VAT.

The fourth legal consequence is the exposure to tax audits, assessments, and collection actions by the tax authorities. Pursuant to the Law on General Provisions and Tax Procedures (UU KUP), as amended most recently by the UU HPP, the Directorate General of Taxes holds the statutory authority to conduct surveillance, audits, issue tax assessment letters, and initiate collection proceedings against non-compliant taxpayers. Consequently, if negligence in applying for PKP confirmation results in unfulfilled tax liabilities, the tax authority may invoke administrative actions according to the procedures prescribed by law. This consequence represents a concrete application of the state's supervisory function within the self-assessment system; the state grants trust to the taxpayer but retains corrective instruments to remedy non-compliance.

The fifth legal consequence is the imposition of tax administrative sanctions under the KUP Law if an audit reveals unfulfilled tax liabilities. In administrative law doctrine, administrative sanctions operate as a *reparatoir sanction*, the function of which is to restore compliance with the law rather than merely punish the infringer. Therefore, Indonesian tax law positions administrative sanctions as the primary mechanism for law enforcement, whereas criminal sanctions serve as an *ultimum remedium* (last resort), applicable only when there is evidence of criminal intent (*mens rea*) or specific circumstances regulated under tax criminal provisions. This approach reflects a philosophy of tax enforcement that prioritizes the restoration of state revenue over the punishment of the taxpayer.

From the perspective of Gustav Radbruch's theory of legal certainty, the codification of these legal consequences serves to provide predictability within the legal relationship between the state and the taxpayer. Taxpayers must be able to foresee that once the normative conditions are met, any failure to execute administrative duties will trigger specific statutorily defined legal consequences. Conversely, Philipus M. Hadjon's theory of legal protection demands that the application of these legal consequences must strictly adhere to the principles of legality, proportionality, and due process of law, ensuring that tax administrative actions are not exercised arbitrarily.

In light of the entire regulatory framework, it can be understood that the legal consequences for a corporate transportation MSME that fails to apply for PKP confirmation after exceeding the threshold extend far beyond the mere loss of its status as a small entrepreneur. It encompasses a chain of interconnected legal repercussions: the termination of the small entrepreneur exemption *ipso jure*, the potential for *ex officio* PKP confirmation by the Directorate General of Taxes, the inception of mandatory VAT statutory duties, the exposure to corrective tax audits and assessments, and the liability to tax administrative sanctions under the KUP Law. Thus, a failure to apply for PKP confirmation cannot be viewed as an isolated administrative infraction; it is a profound manifestation of non-compliance with the national tax system, which ultimately triggers administrative law consequences and, under specific circumstances, criminal liability under the prevailing laws.

CONCLUSION

1. The legal basis governing the liability of non-PKP corporate transportation MSMEs whose turnover exceeds the small entrepreneur threshold originates from Article 3A paragraph (1) of the VAT Law jo. the HPP Law, as well as PMK Number 197/PMK.03/2013 (as updated by PMK Number 164/2023). These provisions impose an absolute, mandatory requirement on any corporate entity with an aggregate gross turnover exceeding IDR 4.8 billion within a single fiscal year to actively register for Taxable Entrepreneur (PKP) confirmation at the latest by the end of the prescribed statutory timeline after the threshold has been surpassed.
2. The legal consequences arising for corporate MSMEs that neglect or intentionally fail to comply with the PKP confirmation mandate encompass the *ex officio* determination of PKP status with retroactive effect, the collection of back taxes through the issuance of a Tax Assessment Letter for Underpayment (SKPKB), compounded administrative interest penalties, the forfeiture of historical input tax credit rights, and the exposure to fiscal criminal sanctions—including imprisonment and multiplier fines—for corporate officers proven to have engaged in deliberate tax evasion.

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