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Legal Liability For The Tax Debt of A Limited Liability Company That Loses In The Event That The Management or Shareholders Are Under The Supervision of The Management or Shareholders

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Abstract: A Limited Liability Company is a legal entity with a separate legal personality and assets distinct from its shareholders and directors. This separation gives rise to the principles of separate legal entity and limited liability, although limited liability cannot be used as a shield against legal obligations arising from abuse of the corporate form. The issue becomes more complex when a company incurs losses and tax debts while its director or shareholder is placed under guardianship. This study examines the legal liability of directors for tax debts of a loss-making company and the legal position of directors, shareholders, and guardians in the context of guardianship. The study employs normative legal research using statutory and conceptual approaches. Primary legal materials include Law Number 40 of 2007 on Limited Liability Companies, the General Provisions and Tax Procedures Law as amended, Law Number 7 of 2021 on the Harmonization of Tax Regulations, and Minister of Finance Regulation Number 61 of 2023. The study finds that corporate losses do not extinguish tax debts that have already arisen. The company remains the primary liable taxpayer. Directors are not personally liable merely because the company suffers losses; personal liability requires fault or negligence under Article 97 of the Company Law. Shareholders are likewise protected by limited liability unless the exceptions under Article 3 paragraph (2) are established. Guardianship does not extinguish tax obligations. A guardian performs the tax representation function and may be treated as a tax guarantor for collection purposes under applicable rules, but this does not automatically convert the company's entire tax debt into the guardian's personal debt. The novelty of this research lies in integrating separate legal entity, limited liability, piercing the corporate veil, business judgment rule, tax representation, and guardianship into one framework for determining liability for corporate tax debts.

Keywords: Tax Debt, Limited Liability Company, Guardianship, Directors, Limited Liability

INTRODUCTION

Limited Liability Companies have a strategic position in economic activities because this form of business entity provides a legal structure that allows capital to be collected and managed in an organized manner. The company's law not only provides a means for business activities, but also establishes a division of authority and responsibility among the General Meeting of Shareholders, the Board of Directors, and the Board of Commissioners. One of the main characteristics of the Company is its status as a separate legal entity from the people who are in it. The consequence of this status is the birth of separate legal entities, separation of assets, and limited liability. (Harahap, 2021; Nindyo Pramono, 2024).

The principle of separate legal entity means that the Company is an independent legal subject. The Company has its own rights and obligations, can own wealth, make an engagement, sue and be sued, and carry out public obligations on its own behalf. Because the Company is a subject of law, the obligations arising from its business activities are in principle the Company's liability, not the personal liability of the shareholders. This construction is an important basis for business certainty and investment protection. (Harahap, 2021; Nindyo Pramono, 2024).

However, the separation of legal entities does not mean that the Company can avoid all legal consequences from its business activities. The Company remains subject to laws and regulations, including tax laws. Article 23A of the 1945 Constitution of the Republic of Indonesia places taxes as a compulsory levy and must be regulated by law. Thus, tax obligations are public obligations that do not depend on the voluntary will of taxpayers. (Republic of Indonesia, 1945).

Companies that qualify as entities are corporate taxpayers. Tax obligations can be in the form of Income Tax, Value Added Tax, taxes deducted or collected from other parties, and administrative obligations that accompany the implementation of the tax system. In the self-assessment system, taxpayers gain trust to calculate, pay, and report their tax liabilities. Consequently, the Board of Directors as an organ of management must ensure that the Company has an administrative and bookkeeping system that allows tax obligations to be carried out correctly. (Ariyanti & Mutiah, 2023).

Problems arise when the Company suffers losses. From an economic perspective, losses indicate that income or the ability to generate profits does not adequately cover operating costs and expenses. However, the condition of loss is not identical to the elimination of all tax liabilities. The Company may suffer commercial losses but still have administrative obligations, withholding and collection obligations, VAT liabilities, or tax debts that have previously arisen. Therefore, the term Company loss-making must be distinguished from the term Company does not have tax obligations. (Official, 2022; Sutedi, 2022).

A more basic legal issue is who is responsible when the tax debt is not paid by the Company that suffers losses. The principle of limited liability tends to place risks on the Company. On the other hand, tax law recognizes the concept of tax administrators and bearers in the implementation of tax rights, obligations, and collection. The meeting of the two legal regimes requires an interpretation that not only looks at one provision separately, but also pays attention to the division of functions between legal entities and the organs that carry them out. (Sutedi, 2022).

Law Number 40 of 2007 provides two directions of protection at once. On the one hand, Article 3 paragraph (1) provides protection to shareholders through limited liability. On the other hand, Article 3 paragraph (2) provides an exception if there is an abuse of a legal entity. Similarly, Article 97 paragraph (3) allows the Board of Directors to be personally liable if the Board of Directors is guilty or negligent in carrying out management. Article 97 paragraph (5) also provides a defense space for the Board of Directors who can prove that the loss was not due to their fault and that the management has been carried out in good faith and prudence. (Harahap, 2021; Nindyo Pramono, 2024).

The doctrine of business judgment rule is relevant in that context. This doctrine provides a space for protection to the Board of Directors against rational business decisions and carried out in good faith. The latest legal literature shows that the BJR is an instrument to prevent any business decision that ends in loss automatically being treated as a mistake by the Board of Directors. However, such protections do not apply to fraud, conflicts of interest, abuse of authority, or actions contrary to the law. Prasetyo et al. (2023) and Silalahi and Dwijayanthi (2024) both point out the importance of a clear boundary between the protection of the Board of Directors and accountability for abuse of authority. (Prasetyo et al., 2023; Santiago, 2024).

The problem then develops when the Board of Directors or shareholders are under the supervision. An abortion is a civil law institution that limits a person's ability to carry out certain legal actions and places his or her interests under the protection of abortion. From the company's legal perspective, this situation can affect the ability of the person concerned to carry out the functions of the organ or exercise the rights as a shareholder. From the perspective of tax law, the repeal does not remove the taxpayer's status or tax debt. Tax law actually provides a representation mechanism so that obligations can still be implemented. (Soekanto, 2018).

Article 32 of the KUP Law as amended stipulates that taxpayers who are under the supervision of their taxpayers are represented by their taxpayers in exercising their rights and fulfilling tax obligations. This provision is important because it shows that tax law distinguishes between the existence of obligations and the capacity to carry them out. Persons under guardianship may lose or experience restrictions on their capacity to act, but innate tax liabilities do not automatically disappear. The implementation of obligations is transferred to a representative appointed according to the law. (Sutedi, 2022).

PMK Number 61 of 2023 clarifies the billing mechanism and the position of the supporters. The Directorate General of Taxes explained that Article 8 PMK 61/2023 includes guardianship for people who are in guardianship as one of the criteria for taxpayers for individual taxpayers. For corporate taxpayers, Article 9 regulates taxpayers based on the form of the entity and its management. This structure shows that the concept of taxpayer in collection law is not identical to the concept of a tax debtor or a debtor owner materially. (Directorate General of Taxes, 2023).

This distinction is essential to avoid the erroneous conclusion that everyone who receives the automatic representation function becomes a personal debtor for the entire tax debt. The guardian acts as a legal representation. Personal and/or joint liability must be read together with provisions regarding authority, error or negligence, as well as the relationship between the actions of the sponsor and the tax debt collected. Thus, there is a need to distinguish between the Company's responsibilities, the responsibilities of the Board of Directors, the responsibilities of shareholders, and the responsibilities of the sponsors. (Sutedi, 2022).

Previous research shows that there is a space that has not been studied much. Eko Yuliastuti (2023) discusses the Company's tax debt that has experienced bankruptcy with a focus on the state's position and the right of precedence. Ida Zuraida (2024) examines the position of the curator as a representative of a bankrupt Company in carrying out tax obligations. Verina Yuwono Setianto (2022) discusses the personal responsibility of the Board of Directors in a bankrupt Company. All three are relevant, but the object of the research does not specifically link the Company's losses, the support of the management or shareholders, and the tax collection mechanism against the supporters. (Yuliastuti, 2023; Zuraida, 2024; Setianto, 2022).

Cutting-edge corporate law research also confirms that the limits of responsibility of the Board of Directors are still an important issue. Fairuzia and Rahadiyan (2024) show that the application of piercing the corporate veil to the Board of Directors in Indonesia has not always been consistent and does not have clear enough guidelines for judges. Suari, Padmanegara, and Ranawijaya (2025) emphasized the importance of fiduciary duty and good corporate governance in determining the limits of the responsibility of the Board of Directors. The findings reinforce the need to establish more precise parameters when corporate doctrine is applied in the context of tax debt. (Fairuzia & Rahadiyan, 2024; Suari et al., 2026).

This research is therefore directed at two legal issues. First, how is the legal liability of the Board of Directors of the Limited Liability Company for the Company's tax debts that suffer losses based on the Company's laws and tax laws. Second, whether the management or shareholders under the supervision can be held accountable for the Company's tax debts, as well as the position of the supervisor in the implementation of tax obligations and collection. (Yuliastuti, 2023; Zuraida, 2024).

The novelty of the research lies in the legal construction that distinguishes four layers of liability subjects: the Company as a corporate taxpayer, the Board of Directors as a management organ, shareholders as capital owners who obtain limited liability protection, and the supervisor as the legal representative of the party under the control. The research does not equate the four positions, but determines the legal conditions that cause responsibilities to shift or expand from the Company to individuals. (Fairuzia & Rahadiyan, 2024; Santiago, 2024).

METHODS

This research is a normative legal research. Normative legal research is used because the objects analyzed are legal norms, legal principles, legal concepts, doctrines, and relationships between the provisions of laws and regulations that regulate the liability of tax debts of Limited Liability Companies. The research does not aim to measure taxpayer behavior empirically, but rather to find legal constructions that can be used to answer the issue of accountability. (Soekanto, 2018).

The first approach is the statute approach. This approach is carried out by examining the provisions of the Constitution of the Republic of Indonesia in 1945, Law Number 40 of 2007 concerning Limited Liability Companies, Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended, Law Number 7 of 2021 concerning the Harmonization of Tax Regulations, the Law on Tax Collection by Compulsory Letter, and PMK Number 61 of 2023. (Soekanto, 2018).

The second approach is the conceptual approach. A conceptual approach is used to analyze the concepts of separate legal entity, limited liability, fiduciary duty, business judgment rule, piercing the corporate veil, tax insurer, taxpayer representative, tax debt, guardianship, and guardianship. These concepts are brought together to determine the relationship between legal entities as taxpayers and individuals who carry out management or representation functions. (Soekanto, 2018).

Primary legal materials include laws and regulations directly related to the Company, taxes, billing, and empower. Secondary legal materials include law books, journal articles, previous research, and relevant expert opinions. The research also uses cutting-edge journal articles for the 2022–2026 period to strengthen discussions about business judgment rules, fiduciary duties, piercing the corporate veil, and the development of the accountability of the Board of Directors. (Soekanto, 2018).

Legal materials are collected through literature studies, then inventoried and classified based on the formulation of the problem. The analysis is carried out prescriptively and qualitatively by placing legal norms as major premises, concepts and doctrines as interpretive tools, and legal conditions being studied as minor premises. The results are used to build legal arguments regarding when the responsibility stops with the Company and when it can be charged personally to the organ or its representative. (Soekanto, 2018).

The analysis also uses horizontal and vertical synchronization. Horizontal synchronization is used to see the relationship between the PT Law and the KUP/HPP Law, while vertical synchronization is used to ensure that the billing mechanism regulated in the PMK remains within the framework of the authority granted by law. With this approach, the research avoids interpretations that make implementing regulations the sole basis for expanding personal responsibility. (Soekanto, 2018).

RESULTS AND DISCUSSION

The Company's Position As A Taxpayer And The Principle Of Separate Legal Entity

The Company obtained the status of a legal entity after fulfilling the requirements specified by the Law of PT. The status of a legal entity means that the Company has a different legal identity from the person who founded it. In the doctrine of separate legal entity, the Company is not only a collection of shareholders, but is a legal subject that has its own wealth, rights, obligations, and interests. Therefore, the Company's debts are in principle not identical to the personal debts of shareholders. (Harahap, 2021; Nindyo Pramono, 2024).

Article 3 paragraph (1) of the PT Law is the main manifestation of limited liability. Shareholders are not personally responsible for the engagements made on behalf of the Company and are not responsible for the Company's losses in excess of the shares owned. The norm creates a separation between investment risk and shareholder personal wealth. In the context of taxation, this principle means that the Company's tax debt is first and foremost an obligation of the Company as a corporate taxpayer. (Harahap, 2021).

Separate legal entities also have implications for management. The Board of Directors is not the owner of the Company's assets. The Board of Directors only performs the management and representation functions provided by law. Therefore, the use of the Company's accounts, assets, and funds must be distinguished from the personal assets of the Board of Directors. Property mixing can be an important indicator in assessing whether the legal entity structure has been used appropriately. (Suari et al., 2026).

This principle is in line with the findings of recent research on the limits of the responsibility of the Board of Directors. Suari et al. (2025) explained that fiduciary duty is the basis for determining whether the actions of the Board of Directors are still within the corridor of proper management. Putra (2025) also shows that the actions of the Board of Directors that are outside the Company's goals or authority can have consequences for personal responsibility. Thus, the separation of legal entities must be followed by compliance with the limits of the organ's authority. (Suari et al., 2026; Putra, 2025).

In tax law, the Company as a body also has its own identity. Article 1 number 2 of the KUP Law defines taxpayers as individuals or entities that have tax rights and obligations. Thus, the Company's status as a taxpayer does not depend on who signs the tax documents. The management acts as a representative of the taxpayer body. (Ariyanti & Mutiah, 2023; Sutedi, 2022). The consequence of this construction is that when the Company suffers a loss, the first question is not whether the Board of Directors has to pay the tax debt, but whether the Company still exists as a legal entity and whether the tax debt has arisen. As long as the Company is still standing and the tax debt has not been written off according to the law, the obligation remains attached to the Company. (Harahap, 2021; Sutedi, 2022).

The Company's Losses Do Not Write Off Tax Debts

The Company's losses must be distinguished between commercial losses and the absence of tax objects. Commercial losses are financial conditions when expenses and expenses are greater than revenue. Not every type of tax relies on net profit. Taxes can arise from transactions, withholding or collection, consumption of goods and services, or other legal events. Therefore, the statement that the Company is loss-making is not sufficient to conclude that the Company does not have tax debts. (Official, 2022; Sutedi, 2022).

Losses also do not remove administrative liability. The Company must still maintain bookkeeping, submit tax returns, keep documents, and carry out withholding or collection obligations if they meet the requirements. This administrative obligation is part of tax compliance and does not disappear just because the company's profits are negative. (Ariyanti & Mutiah, 2023).

The concept of tax debt has a public legal character. According to the construction used in the thesis, tax debts are born based on events or circumstances determined by law. Rochmat Soemitro connects the occurrence of tax debts with the fulfillment of tatbefile, which is a circumstance or fact determined by law as the basis for the birth of tax obligations. Consequently, the inability to pay is not the same as the absence of debt. (Soemitro, 1990; Sutedi, 2022).

Companies that experience liquidity difficulties can take the administrative mechanisms available in tax law, such as installments or postponements if they meet the requirements. The mechanism is a form of setting payment timing, not debt cancellation. Thus, financial difficulties should encourage the Board of Directors to take legal and administrative steps, not ignore obligations. (Ariyanti & Mutiah, 2023).

If the loss is real and reflected in the correct books, the Board of Directors should not be considered guilty just because the Company is unable to pay taxes. On the other hand, if the losses are engineered to reduce tax liability, the situation changes the character of the problem from business risk to allegations of abuse of legal entities and tax violations.

Board Of Directors Liability: Fiduciary Duty And Business Judgment Rule

Article 92 paragraph (1) of the PT Law places the Board of Directors as an organ that carries out the management of the Company for the benefit of the Company and in accordance with the Company's intentions and objectives. Article 97 then regulates management and accountability standards. The Board of Directors is obliged to carry out management in good faith and full of responsibility. If the Board of Directors is guilty or negligent so as to cause losses to the Company, personal liability may arise. (Harahap, 2021; Suari et al., 2026).

Fiduciary duty in this context is not just an obligation to make a profit. The Board of Directors has a duty of care, duty of loyalty, duty of obedience, and an obligation to act in the interest of the Company. Compliance with tax laws is part of the duty of obedience. The Board of Directors cannot justify the decision to hide taxes simply on the grounds that the action is intended to save the company's cash flow. (Suari et al., 2026).

However, fiduciary duty should not be interpreted as an obligation to ensure that the Company is always profitable. The Board of Directors made decisions in conditions of uncertainty. Therefore, Article 97 paragraph (5) provides protection if the Board of Directors can prove that the loss was not due to its fault, the management was carried out in good faith and prudence, there was no conflict of interest, and efforts have been made to prevent or reduce losses. (Santiago, 2024).

The doctrine of the business judgment rule reinforces the rationality of the provision. The BJR prevents judges or other parties from judging business decisions based solely on the final outcome. A decision that turns out to fail is not automatically a legally wrong decision. What is assessed is the process and conditions when decisions are made. Prasetyo et al. (2023) stated that BJR functions as a legal protection for the Board of Directors against business decisions that cause losses as long as the conditions of good faith and prudence are met. (Prasetyo et al., 2023; Santiago, 2024).

Silalahi and Dwijayanthi (2024) show that there is a vagueness of norms in the implementation of BJR because the measure of good faith and prudence is not always easy to determine. Santiago (2024) through a comparative study also shows that BJR is related to good faith, prudence, expediency, and legal certainty. In the Indonesian context, this ambiguity can be overcome by directly linking the BJR to the evidence of the decision-making process. (Silalahi & Dwijayanthi, 2024; Santiago, 2024).

In the case of tax debts, relevant process indicators include: whether the Board of Directors received correct financial statements, whether the Board of Directors obtained information regarding tax maturity, whether there was consultation with taxpayers, whether the Board of Directors took steps to settle installments or delays when experiencing liquidity difficulties, whether there were efforts to settle arrears, and whether there were actions to transfer assets to avoid collection. (Prasetyo et al., 2023; Suari et al., 2026).

If the evidence shows that the Board of Directors has taken reasonable steps but economic conditions still cause the Company to be unable to pay, the loss is more appropriately positioned as corporate risk. On the other hand, if the Board of Directors actively makes false books, conceals turnover, uses the Company's assets for personal gain, or obstructs collection, BJR's protection is irrelevant because the matter is no longer within the proper business judgment area. (Prasetyo et al., 2023).

The research of Mokoagow et al. (2025) and Arimurti (2025) also emphasized that losses or bankruptcy do not automatically prove the error of the Board of Directors. These findings can be applied analogously to companies that are loss-making and have tax debts. Loss-making status is a financial condition; The mistake of the Board of Directors is a matter of responsibility. The two concepts should not be equated. (Mokoagow et al., 2025; Arimurti, 2025).

Thus, the responsibility of the Board of Directors for tax debts must use two stages of analysis. The first stage determines whether the Company has a valid tax debt and has not been written off. The second stage determines whether there are actions or omissions of the Board of Directors that legally allow personal liability. This separation stage prevents a logical leap from 'Tax-debt-to-tax Company' to 'Tax-debt-to-Directors Board'. (Harahap, 2021; Prasetyo et al., 2023).

Piercing The Corporate Veil As A Limit Of Limited Liability

Limited liability is not absolute immunity. Article 3 paragraph (2) of the PT Law provides certain circumstances that cause shareholders to be held personally liable. These provisions include the use of the Company in bad faith for personal interests, involvement in unlawful acts, and unlawful use of the Company's assets so that the Company is not sufficient to pay off its debts. (Harahap, 2021).

The doctrine of piercing the corporate veil provides a conceptual basis for such an exception. In essence, legal entities should not be used as tools to create injustice. If an individual uses the Company as an instrument to hide assets, commit fraud, or evade liability, then the protection of legal entities can be penetrated in accordance with the applicable legal requirements. (Fairuzia & Rahadiyan, 2024).

Fairuzia and Rahadiyan (2024) found that the application of the doctrine of piercing the corporate veil to the Board of Directors in Indonesia has not been consistent and one of the reasons is the lack of clear guidelines. This finding is relevant for tax cases because the disclosure of liability should not be carried out solely based on the allegation that the Company did not pay taxes. (Fairuzia & Rahadiyan, 2024).

The proof parameters need to be made concrete. First, there must be identification of the personal actions of the shareholders or the Board of Directors. Second, the action must be related to the abuse of a legal entity or loss that is the basis of liability. Third, there must be a legal basis that allows personal accountability. Fourth, a distinction must be made between honest financial incapacity and actions that deliberately create incapacity. (Fairuzia & Rahadiyan, 2024).

For example, the Company suffered losses due to a decline in market demand and all of the Company's assets were still recorded and used for business. In such circumstances, there is no automatic reason to penetrate a legal entity. On the other hand, if before tax collection the Board of Directors or shareholders transfer the Company's assets to an affiliated company without a reasonable transaction so that the Company loses its ability to pay, this situation can be an indicator of abuse that must be tested based on Article 3 paragraph (2) of the PT Law and relevant tax provisions. (Fairuzia & Rahadiyan, 2024).

Piercing the corporate veil must also be distinguished from the liability of the Board of Directors under Article 97. Not all of the personal responsibilities of the Board of Directors are piercing the corporate veil in a technical sense. The Board of Directors may be liable for errors or omissions in its capacity as a Board of Directors. Meanwhile, the penetration of limited liability is mainly related to the exception to the protection of legal entities for shareholders or parties who abuse them. (Harahap, 2021; Fairuzia & Rahadiyan, 2024).

In the context of taxation, the two doctrines can interact but should not be mixed. If the Board of Directors commits a tax violation due to its negligence in carrying out its management functions, the basis of responsibility can come from Article 97 and tax provisions. If shareholders use the Company to avoid paying taxes and meet the conditions of Article 3 paragraph (2), the basis of liability is closer to piercing the corporate veil. (Fairuzia & Rahadiyan, 2024; Prasetyo et al., 2023). This approach provides protection to the state while preventing overreach. The State can still collect tax debts from the Company and in qualified circumstances can pursue the responsible party. However, shareholders or the Board of Directors who do not commit abuse should not lose legal protection just because the Company suffers losses. (Fairuzia & Rahadiyan, 2024).

Tax Collection Mechanism And Position Of Management

The KUP Law and tax collection regulations establish a gradual mechanism to ensure that tax debts can be repaid. Billing is not just an administrative act, but an exercise of public authority to obtain payment for obligations that have become due. In the context of the Company, the collection is initially directed to the Company's corporate and wealth taxpayers. (Sutedi, 2022).

PMK Number 61 of 2023 provides guidelines regarding the implementation of collection of the amount of tax that still has to be paid. The Directorate General of Taxes explained that the regulation updates the previous mechanism and regulates the criteria for taxpayers, including corporate administrators and guardians for individual taxpayers. The taxpayer has an important position in the submission of the Compulsory Letter and the implementation of collection actions. (Directorate General of Taxes, 2023).

This approach is important because the Board of Directors has a representation function. When the Board of Directors signs a tax return or document on behalf of the Company, the action is essentially an action of the Company. The Board of Directors does not automatically become a personal debtor just because they are signatories. On the other hand, if the Board of Directors uses the representation function to manipulate or deliberately hinder the fulfillment of obligations, its status may change to a party that can be held accountable based on the relevant provisions. (Sutedi, 2022). Therefore, the collection mechanism must distinguish between 'who is notified or receives the action of collection' and 'who is materially the party responsible for the debt'. This distinction becomes very important when the state is dealing with a legal entity that has organs and representatives.

Guidance In Civil Law And Tax Law

Amplification in civil law is a protection mechanism. Adults who due to certain circumstances are unable to take care of their own interests can be placed under guardianship through court proceedings. The guardian then obtains the authority to represent and take care of the interests of the party being served in the space determined by law. (Soekanto, 2018).

Pardon is not the same as the removal of the status of a legal subject. Persons who are under guardianship still have legal rights and interests. What changes is the capacity to take certain legal actions. The difference between status as a legal subject and the ability to act is key to understanding the consequences of leniency on taxes. (Soekanto, 2018).

In tax law, obligations are born based on the law. Therefore, incompetence does not erase events that have given rise to tax debts. If a person or entity has fulfilled the elements that cause the tax to be payable, the debt remains. The law then appoints a representative so that the obligation can be carried out. (Soemitro, 1990; Sutedi, 2022).

Article 32 of the KUP Law states that the person who is in custody is represented by the guardian in exercising his rights and fulfilling tax obligations. This provision shows the existence of the principle of continuity of tax obligation. Liability does not cease due to personal incapacity; Its implementation is transferred to a legitimate representation. (Sutedi, 2022).

Differences in orientation also need to be emphasized. Civil amnesty is oriented mainly towards the protection of individuals and property of incompetent parties. Representation in tax law has an additional orientation, namely ensuring that public obligations can still be implemented. The two functions are not contradictory because the guardian is supposed to act in the interests of the party being supported while fulfilling the legal obligations attached to that party. (Soekanto, 2018; Sutedi, 2022).

Thus, the repeal cannot be used as an excuse to write off tax debts. However, the state should also not use the status of leniency as an excuse to ignore the principle of protection against incompetent parties. Tax actions must still be carried out through a legal guardian and in accordance with legal authority. (Soekanto, 2018; Sutedi, 2022).

Directors Under The Supervision of

If the Board of Directors is under supervision, the main issue is not the transfer of the Company's debt to the director, but how the Company's management function will continue to run. The Company as a legal entity does not lose its status just because one of the Board of Directors loses its ability to act. The Company still has tax obligations and must have an internal mechanism to ensure that these obligations are carried out. (Harahap, 2021; Nindyo Pramono, 2024).

The PT Law requires legal competence for persons who carry out the functions of the Company's organs. Therefore, the state of supervision can affect a person's ability to continue to carry out the functions of the Board of Directors. The Company must adjust the management structure in accordance with the mechanism determined by the law and the articles of association. The goal is to prevent a power vacuum that can interfere with tax administration and compliance. (Harahap, 2021).

If the tax debt arose before the Board of Directors was under the levy, the assessment of liability should be directed to the actions taken before the determination of the levy. Confiscation does not remove the legal consequences of acts that have been done legally or against the law before. However, the assessment of capacity and error must take into account the timing, circumstances, and legal basis of each action. (Harahap, 2021).

If the tax debt arises after the Board of Directors is under the supervision, it is not appropriate to immediately impose payment failure on the Board of Directors who are no longer able to carry out the management function independently. The company must be seen from the actual management structure after the hijacking. The party that legally takes over the management and has the authority to fulfill the tax obligations becomes relevant in determining whether or not there is negligence. (Harahap, 2021).

The supervisor himself does not automatically become a Board of Directors. The function of the supervisor is to represent the interests of the person under the supervisor, while the management function of the Company has a source of authority from the Law of PT. Therefore, the sponsor cannot be considered as an organ of the Company just because he is a representative in the tax relationship. This separation is one of the important findings of the study. (Harahap, 2021; Sutedi, 2022).

Shareholders Who Are Under Protection

If those under the supervision are shareholders, the consequences for the Company's tax debt are clearer. Shareholders are not parties who generally carry out the Company's tax obligations. Shareholder status provides certain ownership rights and corporate rights, but does not make shareholders personal debtors for the Company's debts. (Harahap, 2021).

The pardon does not change the principle of limited liability. Shareholders who are under the supervision continue to enjoy the separation of assets as long as there are no circumstances that meet Article 3 paragraph (2) of the PT. In other words, the incompetent status does not expand the responsibilities of shareholders, but it also does not remove the liabilities that have arisen due to acts of abuse before or after the allotment. (Harahap, 2021).

If before the amnesty of the shareholders it is proven that they used the Company for personal interests, mixed assets, or were involved in illegal acts, then the amnesty should not be understood as a reprieve of legal consequences. On the other hand, if the shareholder only owns shares and is not involved in management or abuse, there is no basis to impose the Company's tax debt on his personal property just because he is under the control. (Harahap, 2021; Fairuzia & Rahadiyan, 2024).

Position And Responsibility of The Taxpayer As A Representative of The Taxpayer

Article 32 paragraph (1) of the KUP Law gives legitimacy to the caregiver to represent the party who is under the care. The function of such representation can include the implementation of tax administration and the actions necessary to fulfill the rights and obligations of taxpayers. With representation, the law avoids a void in the implementation of obligations. (Sutedi, 2022).

Article 32 paragraph (2) states that the representative can be personally and/or jointly responsible for the payment of taxes owed. This norm should be read carefully. The phrase does not mean that each representative automatically has to pay all debts from his personal property. Accountability must be linked to the position as a representative, authority, and actions or omissions that can be accounted for. (Sutedi, 2022).

PMK Number 61 of 2023 places taxpayers as taxpayers in certain categories. The DGT explained that Article 8 includes a guardian for a person who is in guardianship as one of the tax payers. Article 15 paragraph (1) also regulates the notification of Compulsory Letter to the Tax Insurer. Thus, the provider has an important practical position in the billing stage. (Directorate General of Taxes, 2023).

However, the concept of taxpayer in collection law must be distinguished from the concept of the owner of the debt materially. The taxpayer is a subject who according to law is the party responsible for the implementation of collection. Tax debts themselves can still be attached to the taxpayer. This difference prevents the equalization between representative status and taxpayer status. (Sutedi, 2022).

The liability of the guardian may arise if the guardian neglects to carry out obligations within his authority, for example ignoring administrative obligations without legal reasons, obstructing the examination or collection process, or misusing the assets of the guardian. However, if the sponsor has acted in accordance with his authority and faces the Company's objective economic inability, it is not appropriate to consider all debts automatically to be the personal liability of the sponsor. (Sutedi, 2022).

Thus, the standard of responsibility of the caregiver must be oriented to the legal representation duty. The guardian must be able to show that he has acted in the interests of the protected party, followed the tax provisions, maintained documents, and did not abuse his authority. This approach provides protection to the state while protecting the caregiver from disproportionate burdens. (Sutedi, 2022).

The Relationship Between Forgiveness And Piercing The Corporate Veil

If the shareholders are under the supervision, this status is not a reason to penetrate the legal entity. Penetration can only be done if there are circumstances that meet the provisions of Article 3 paragraph (2) of the PT. Likewise, if the Board of Directors is under supervision, this status does not automatically cause the supernatural to become a personal insurer of the Company's debts.

This framework shows the importance of the principle of causation. To impose personal liability, there must be a connection between the individual's actions and the liability or loss. Pardons are not just because of tax debts. Tax debts arise due to tax events; Empowerment only affects who carries out these obligations.

Critical Analysis: A Four-Tier Model Of Accountability

This research resulted in a four-layer model of accountability. The first layer is the Company as a corporate taxpayer. The Company is the main subject that has tax debts and the Company's wealth is the first source of payment. The second layer is the Board of Directors as a management organ. The Board of Directors is responsible for ensuring that the Company's obligations are carried out, but personal responsibility only arises if there is an error or omission that meets the legal requirements. (Harahap, 2021; Sutedi, 2022).

The third layer is the shareholders. Shareholders enjoy limited liability and cannot be asked to pay the Company's tax debt solely based on share ownership. However, protection can be penetrated if there is abuse of a legal entity as per Article 3 paragraph (2). The fourth layer is the supporter. The trustee is not the owner of the Company's debt, but is a representative who can have tax obligations and a position in collection if representing the party under the trustee.

The four-layer model shows that accountability does not move automatically from the Company to individuals. Transfer of responsibility requires a legal trigger. For the Board of Directors, the trigger is in the form of mistakes or omissions. For shareholders, the trigger is in the form of Article 3 paragraph (2). For the caregiver, the trigger is related to the function of representation and obligations that are not carried out. Thus, the position alone is not enough to create personal accountability. (Harahap, 2021; Fairuzia & Rahadiyan, 2024).

If the tax law is interpreted without paying attention to the PT Law, the risk that arises is the loss of the principle of separate legal entity. On the other hand, if the PT Law is applied absolutely, without paying attention to tax law, the state will lose the effectiveness of collection against acts of abuse. Harmonization of the two legal regimes is needed to achieve certainty, justice, and utility. (Sutedi, 2022; Harahap, 2021).

The next critical analysis has to do with proof. In the case of tax debts, the existence of debts can be proven through tax documents and determination or collection mechanisms. But for the personal liability of the Board of Directors or shareholders, additional proof of personal acts, mistakes, omissions, or abuses is required. Therefore, the existence of SKP or

Compulsory Letter does not automatically prove the mistake of the Board of Directors. (Fairuzia & Rahadiyan, 2024).

The same applies to caregivers. A Compulsory Letter can be submitted to the taxpayer in accordance with PMK 61/2023, but the notification is not identical to a decision that the taxpayer has a personal debt. Billing must still follow applicable policies and procedures. This interpretation is important to guarantee due process and prevent the expansion of responsibilities that have no legal basis.

Suggested parameters include: first, the subject's status and authority; second, the time of the act; third, the form of tax liability that arises; fourth, concrete actions taken; fifth, the presence of errors or omissions; sixth, the abuse of legal entities; seventh, the causal relationship between action and loss; and eighth, evidence that the subject has the ability and authority to prevent or reduce losses. (Prasetyo et al., 2023; Fairuzia & Rahadiyan, 2024; Suari et al., 2026).

These parameters result in the principle that 'loss is not the same as error'. This principle is important for the protection of the Board of Directors. At the same time, 'limited liability is not the same as immunity'. This principle is important to protect the interests of the state and creditors. Meanwhile, 'forgiveness is not the same as the elimination of obligations'. Empowerment only changes the mechanism of carrying out obligations through representation. (Prasetyo et al., 2023; Fairuzia & Rahadiyan, 2024).

Theoretically, this research strengthens the integrative approach between corporate law and tax law. Tax debts are in public law, but the subject who carries out the obligation is often an organ determined by the company's law. Therefore, resolving the issue of responsibility must use a cross-regime approach, not a sectoral approach. (Sutedi, 2022; Harahap, 2021).

Synthesis of The Answer To The Problem Formulation

Regarding the formulation of the first problem, the legal liability for the Company's loss-making tax debt is in principle with the Company as a corporate taxpayer. Losses do not erase tax debts that have arisen. The Board of Directors is responsible for the management and compliance of the Company, but personal liability does not arise only because the company loses money. Personal responsibility requires mistakes or omissions and relationships that can be accounted for according to Article 97 of the PT Law and tax provisions. (Harahap, 2021; Sutedi, 2022).

Shareholders are also in principle not personally responsible for the Company's tax debts due to limited liability. However, if there is abuse of a legal entity that meets Article 3 paragraph (2), the protection can be violated. Thus, Indonesian law provides a balance between investment protection and law enforcement. (Harahap, 2021; Fairuzia & Rahadiyan, 2024).

Regarding the formulation of the second problem, the management or shareholders who are under the supervision do not cause the Company's tax debt to be wiped off. The injunction does not make the Company incompetent because the Company is a legal entity. Forgiveness only affects the capacity of the individual. If the Board of Directors is under supervision, the management function must be adjusted through a legitimate corporate mechanism. If the shareholders are under the control, limited liability remains in effect unless there are circumstances that allow piercing the corporate veil. (Soekanto, 2018; Sutedi, 2022).

The Holder is a representative in the implementation of tax obligations and under the conditions specified in PMK 61/2023 can become a tax bearer for collection purposes. Personal liability of the beneficiary should not be understood as the automatic conversion of all debts into personal debts. Liability must be based on relevant legal authority, actions, omissions, and provisions. (Sutedi, 2022; Directorate General of Taxes, 2023).

CONCLUSION

First, a Limited Liability Company as a legal entity is a corporate taxpayer that has tax obligations on behalf of the Company. The principle of separate legal entity and limited liability causes tax debts to be basically the responsibility of the Company. The Company's losses do not erase tax debts that have arisen and do not eliminate tax administrative obligations.

Second, the Board of Directors is not automatically personally responsible just because the Company suffers losses or is unable to pay tax debts. The personal liability of the Board of Directors must be based on errors or omissions in management. The business judgment rule remains relevant when the Board of Directors makes decisions in good faith, prudently, without conflict of interest, and in the interest of the Company. On the other hand, manipulation of financial statements, misuse of assets, tax evasion through unlawful acts, or deliberate acts that hinder the fulfillment of obligations can be the basis for personal liability.

Third, shareholders continue to receive limited liability protection. The personal liability of new shareholders can arise if the circumstances of Article 3 paragraph (2) of the PT Law are met, especially the Company's use in bad faith, involvement in unlawful acts, or unlawful use of the Company's assets so that the debt cannot be repaid. Therefore, the ownership of shares alone is not enough to impose the Company's tax debt on the personal assets of shareholders.

Fourth, the insuredness does not erase the taxpayer's status, does not erase the tax debt, and does not automatically convert the Company's debt into the personal debt of the insured. Article 32 of the KUP Law provides a representation mechanism for parties under the supervision of parties, while PMK Number 61 of 2023 provides regulations regarding the position of the supervisor in the billing mechanism. The guardian can be held accountable if there is negligence or actions that meet the provisions of the deputy's liability, but not solely because he accepts the status as a guardian.

Fifth, the construction of proper accountability is a four-tier model: The Company as the main taxpayer; The Board of Directors as the management responsible for the management process; shareholders as capital owners who obtain limited liability with certain exceptions; and the guardian as a legal representative in a state of guardianship. The transfer or expansion of responsibilities from the Company to individuals must always have clear legal triggers.

ADVICE

The Company needs to place tax compliance as part of good corporate governance and risk management. The Board of Directors should ensure accurate bookkeeping, complete transaction documentation, timely payment and reporting of taxes, and procedures for dealing with liquidity difficulties through available legal mechanisms. (Ariyanti & Mutiah, 2023; Suari et al., 2026).

The Board of Directors needs to document the decision-making process, especially when the Company suffers losses. The documentation is important to prove the implementation of good faith, prudence, and efforts to prevent or reduce losses if a liability dispute arises in the future.

The Company needs to have a contingency procedure if the Board of Directors is under the supervision. The procedure must ensure the sustainability of management, tax representation, and decision-making in accordance with the PT Law and the articles of association. The Trustee must be expressly distinguished from the Company's organs and is not automatically placed as a Board of Directors.

The government and regulators need to clarify the parameters of personal responsibility of the Board of Directors, shareholders, and sponsors in the context of tax debts. Clarity is needed so that the enforcement of state revenue does not eliminate the principle of separate legal entity and limited liability, and so that parties under supervision continue to receive legal protection.

Further research can develop an empirical study of court decisions or tax collection disputes involving the Board of Directors, shareholders, or sponsors so that the parameters of responsibility that are built normatively in this study can be tested against judicial practice.

RESEARCH POSITION AND NOVELTY

This research is not intended to replace previous research on the tax debts of the bankrupt Company, the curator, or the liability of the Board of Directors in general. The research is used as a foothold to identify spaces that have not been discussed. Eko Yuliastuti (2023) focuses on tax debts in bankruptcy and the position of the state's precedence rights; Ida Zuraida (2024) focuses on curators as representatives of bankrupt companies; while Verina Yuwono Setianto (2022) discusses the personal responsibility of the Board of Directors in a bankrupt Company. This research shifts the point of analysis from bankruptcy to loss-making companies and adds a dimension of empowerment. (Yuliastuti, 2023; Zuraida, 2024; Setianto, 2022).

The second novelty is the merger of the company's legal and tax law perspectives through a four-layer accountability model. The model shows that status as an organ, shareholder, or supporter is not enough to create personal responsibility. There must be a normative basis that links the status to an act, authority, mistake, or omission. This novelty also provides practical parameters that can be used to distinguish the risks of businesses that BJR protects from the abuse of legal entities that could open up personal liability. (Fairuzia & Rahadiyan, 2024; Santiago, 2024).

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