



## Victimological Study of Revenue State Losses Caused by Tax Crime

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**Abstract:** The victimology study on recouping state damages from criminal acts in tax crime is discussed in this essay. It is important to understand that the victim in tax criminal is the revenue state losses. The research method used is a juridical-empirical research method. The results of the study show that victims in a criminal incident are not always individuals, communities, legal entities, the private sector and the government. In cases of tax crime, the state must be given legal protection in accordance with the principles of benefit, fairness, balance, and legal clarity in the form of rules, legislation and specific practices both preventive and repressive in character that refer to the implementation of the protection of victims' rights. In order to maximize the recovery of losses on state revenues, tax investigators are given the authority to block and/or seize assets from taxpayers who do not use the ultimate remedy, allowing them to secure the early settlement of criminal fines. This is done by applying the principle of *lex specialis derogate legi generali* to Article 30 paragraph (2) of the Criminal Code.

**Keywords:** Victimology, Recovery of State Losses

### INTRODUCTION

The first and foremost function tax is budgeting. It means that tax function as main source of funds for government to recover state finance expenditure. Based on official data at the Central Bureau of Statistics of Republic of Indonesia shown tax revenue realization in the 2021 State Budget reaches 1,375.83 trillion or about 80 percent of total state revenue throughout in 2021, namely IDR 1,733.04 trillion.<sup>1</sup>

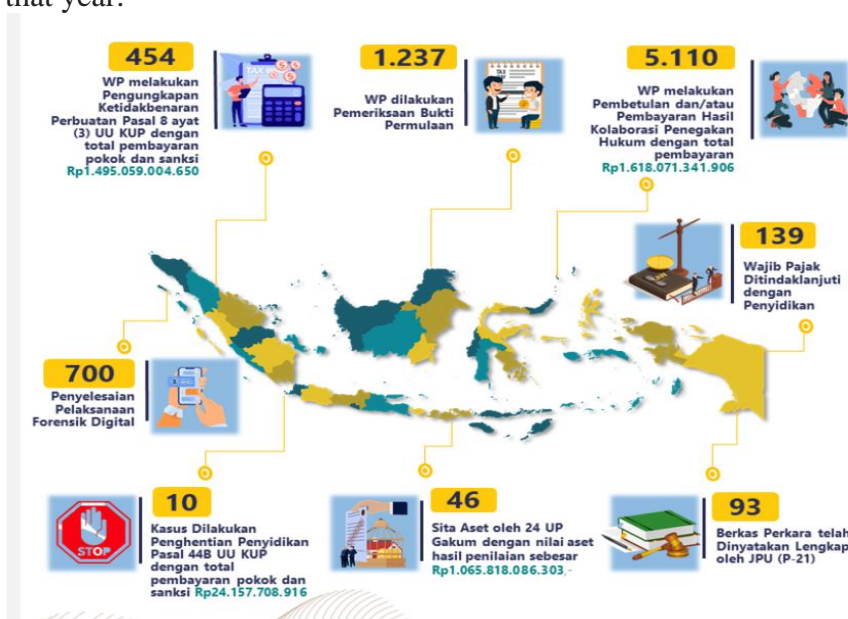
It can be seen that the role of tax revenue is very significant in the APBN. Likewise, the Directorate General of Taxes (DGT) as the main tool for the state in collecting state taxes has a vision of "Becoming the Best State Revenue Collection Institution to Guarantee State Sovereignty and Independence".

<sup>1</sup> Central Bureau of Statistics, [bps.go.id](https://bps.go.id), accessed on 19 July 2022

Based on these facts it can be concluded that the estuary of tax law enforcement is the achievement of state revenue that will be used by the government for the greatest prosperity of the people. Meanwhile, punishment in tax provisions is a last resort and a means of upholding justice because our tax system adheres to *self-assessment*. Because of this, the principle of *ultimum remedium is known*, which means that punishment for tax violations or crimes is carried out as a last resort when other efforts (administration) can no longer be carried out.

Criminal acts in the field of taxation are included in the criteria of serious and extraordinary crimes so that they are categorized as white-collar crimes because the victims of tax crimes are the state, in this case state finances. In addition, the value of tax crimes is also very material, reaching tens or even hundreds of trillions of rupiah, a very material value for financing something countries like Indonesia that really need funds for development.<sup>2</sup>

In general, the law enforcement performance of the Directorate General of Taxes in 2021, which has investigated 139 taxpayers and 93 case files that have been flagged as finished by the public prosecutor (P21), provides insight into how tax offenses would be handled in Indonesia in that year.<sup>3</sup>



Picture 1: Law Enforcement at the Directorate General of Taxes in 2021

Source : www.pajak.go.id

We can see from the data on how tax crimes are handled in Indonesia that they need to be addressed carefully because they are a type of crime that directly affects the loss of state revenue.

Talking about victims of crime cannot be separated from the science of victimology. Victimology which comes from another language "victim" means victim and "logos" which means the science of victims (crimes). In terminology, victimology is a study that studies victims, the causes of victims and the consequences of hoarding victims which is a human problem. a social reality.

The author takes writing material about victimology studies in criminal acts in the field of taxation because in criminal acts in the field of taxation the victim is the state in this case state losses and discusses the efforts that can be made to recover losses against state revenues in criminal acts in the field of taxation.

<sup>2</sup> Sutedi, A. (2016). Tax Law. Third Printing. Jakarta, Sinar graphics

<sup>3</sup> https://pajak.go.id/id/penegakan-hukum

## PROBLEM FORMULATION

1. How victimology research is used to recover state revenue losses caused by tax crime?;
2. How efforts are used to recover state revenue losses tax crime?

## METHODS

The method of inquiry for this study is legal-empirical. This study is a descriptive one by definition, as it aims to report the findings of a thorough investigation of victimology studies in criminal activities related to taxation.

Based on its form, this research is an evaluative and prescriptive research. Evaluative research because this research intends to provide an in-depth analysis of the state as a victim in criminal acts in the field of taxation. While prescriptive research because this research will also provide the right solution for efforts to recover state losses as victims of criminal acts in the field of taxation through victimological theories.

## LITERATURE REVIEW

### 1. Theory Victimology

According to JE Sahetapy room scope victimology covers How somebody can to be a victim determined by something the victimity is not always relate with problem crime including victims of crime and abuse power.

In 1985, Separovic pioneered the thought of victimology special examine the victim because exists crime and abuse power and no examine the victim because disaster or disaster nature because victims of disasters natural outside human will (*out of men's will*).<sup>4</sup>

More broadly, the individual, institutional, environmental, community, nation and state victims are described as follows:<sup>5</sup>

- a. Individual victim is everyone as an individual get suffering Good soul , physical , material and non-material;
- b. Institutional victims is every institution experience suffering loss in operate eliciting function that loss prolonged consequence from policy government, policy private nor disaster nature;
- c. Environmental victim life is every environment nature in it containing life plants , animals, humans and society as well as all body growing life. Development and sustainability is highly dependent on the environment natural that has been experience deforestation, landslides, floods and fires caused by the wrong policy of government, individual nor society that didn't have responsibility to protect the nature ;
- d. Victims of society, the nation, and the state are treated unfairly and discriminatorily, which hinders growth and violates their civil, political, economic, social, and cultural rights. No longer a Good each year.

According to Arief Gosita about the problem of victims of crime ( *victim rights* ), referred to with the victim is those who suffer physical and spiritual as consequence the actions of others, who seek fulfillment interest self Alone or someone else, to the contrary with interests and rights basic suffering human. The definition of victims here, can be interpreted as individuals or groups, both private and government.<sup>6</sup>

Victims are also defined by Van Boven which refers to the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power which states that people who individually or in groups have suffered harm, including physical or mental injury, emotional

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<sup>4</sup>Rahmat H Abdullah. 2019. "Review Victimological To follow Criminal Trafficking in Persons (Human Trafficking)". Journal Yustika Vol. 22 No. 1. Pg 3

<sup>5</sup>Bambang Waluyo. 2012. " Victimology Victim & Witness Protection ". Graphics Light. Jakarta. p. 11-12

<sup>6</sup>H. Siswanto Sunarso. 2012. "Victimology in the Criminal Justice System". Graphics Light. Jakarta. p.31

suffering, economic loss or actual deprivation of their basic rights, both because of their actions (*by act*) and because of their negligence (*by omission*).<sup>7</sup>

Referring to the definitions of victims, it can be concluded that victims can be said to be individuals, communities, legal entities, the private sector, or the government who experience losses either physically, mentally, materially or non-materially.

Laws made for arrange order in society basically has two forms protection law that is protection preventive and protective repressive. According to Muchsin, differentiate protection law into two parts namely<sup>8</sup> :

1) Preventive Legal Protection

Protection provided by the government with objective For prevent before happening violation. There is regulation in legislation with meaning for prevent something violation as well as give signs and limitations in do something obligation.

2) Repressive Legal Protection

Protection law repressive is protection end form penalty like fines, imprisonment and extra given punishment if it already happened dispute or has done something violation.

With refers to application protection the rights of crime victims as consequence from it was broken right rights concerned base from crime victim protection can see from a number of theory, among others as following:<sup>9</sup>

a. Theory utility

This theory focuses on benefits that are distributed to the greatest number. The concept of providing protection to victims of crime can be applied as long as it provides great benefits compared to not applying the concept.

b. Theory Responsibility

In essence subject law (person or group ) is responsible to all deed the law he did so that somebody do something follow crime that results in another person being forced to suffer loss, that person must responsible on losses incurred , except there is reasons that set him free .

c. Theory Change Make a loss

As embodiment responsibility Because his fault against other people, perpetrators burdened obligation for give change loss to the victim.

In draft protection law against victims of crime also contained several principle required law attention. This caused in context law criminal. As for the principles in question is as following:<sup>10</sup>

a. Principle Benefit It means victim protection is not only addressed for achievement expediency for victims broad, in particular in effort reduce amount follow criminal as well as create order public

b. Principle Justice, application principle justice in effort protect crime victims No implied absolute Because matter This is also limited by the sense of justice that must also be given to the perpetrators crime.

c. Principle Balance, because objective law beside give assurance and protection to interest human also for restore balance order society, principle balance obtain important place in effort recovery victim's rights.

d. Principle Legal certainty, provide base footing strong law for apparatus enforcer law at the

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<sup>7</sup>Rena Yulia, *Legal Protection for Crime Victims* , Graha Ilmu, Yogyakarta page 50

<sup>8</sup>Muchsin, 2003. "Protection and Legal Certainty for Investors in Indonesia". Surakarta. Master of Law in the Sebelas Maret University Postgraduate Program. p.20

<sup>9</sup>Andi Syamsinar. 2018. "Legal Protection of Child Victims of Sexual Crime". Faculty of Law, University of Hasanudin Makasar. pp. 37-38

<sup>10</sup>Andi Syamsinar. 2018. "Legal Protection of Child Victims of Sexual Crime". Hasanudin University Faculty of Law Makassar . pp . 38-39

time carry out tasks in effort give protection law on victims.

Based on view experts and the theory described above, that law given protection to subject law in form device rule laws and ways certain good characteristic preventive or loading repressive theories and principles that refer to application protection victim rights.

## **2. State Revenue Losses caused by Tax Crime**

State finances are all rights and obligations of the state that can be valued in money, as well as everything either in the form of money or in the form of goods that can be owned by the state in connection with the implementation of these rights and obligations.

The definition of state finances is contained in Article 1 number 1 of Law (UU) Number 17 of 2003 concerning State Finance. Discussion of losses on state revenues will not be separated from discussions on state losses even though the Law on State Finances also does not stipulate what is a loss on state revenues or state losses.

The Law on State Finance in its content only states that the settlement of state losses is regulated in the Law, where in its development the law in question is the Law on the State Treasury. Article 1 point 22 of the State Treasury Law states that State/Regional Losses are a real and definite lack of money, securities, and goods as a result of unlawful acts, whether intentional or negligent. These provisions do not explicitly regulate losses to state revenues. In fact, the entire substance of the articles contained in the package of the Law on State Finance does not explicitly mention the phrase used, namely between state financial losses or state losses, which can have different meanings from losses in state revenue. The Corruption Crime Eradication Law itself uses the phrase loss to state finances.

Article 2 paragraph (1) of the Law on State Finance explains that the part of state finance is:

- a. The state's right to collect taxes, issue and circulate money, and make loans;
- b. The state's obligation to carry out state government public service duties and pay third party bills;
- c. Revenue;
- d. Expenditures;
- e. Revenue;
- f. Expenditures;
- g. Wealth/wealth managed area \_ Alone or by other parties in the form of money, letters valuable, accounts receivable, goods, as well other rights that may rate with money, incl separated assets in state companies / company area;
- h. Riches other parties controlled by the government in framework maintenance task government and/or interest general;
- i. Riches obtained by other parties with use facilities provided government.

More Far related with state income, Article 11 paragraph (1) and paragraph (2) of the State Finance Law explains that Budget State Revenue and Expenditures (APBN) consisting of from budget revenue, budget spending and financing is exist from management established state finances each year by law. Article 11 paragraph (3) of the State Finance Law states that state revenue consists on reception taxes, receipts No taxes and grants.

Load two articles the in a manner implied mention that state revenue is element from state and internal finances meaning, tax is part from state income. Thus, it can be interpreted that losses in state revenues are part of state losses or part of state financial losses. Losses on state revenue are state losses or state financial losses on the state income side in the form of tax revenues.

Based on matter above, phrase of losses on state revenue contained in the contents of the Provisions Law General and Tax Procedures (KUP) can understood as shortfall in state revenue

in the form of reception tax that can result in state losses or loss real and certain state finances the amount as consequence deed oppose law Good on purpose nor negligent.

Next, related with limitations and sizes related fulfillment element lack mark or amount as proof element, done calculation tax as arranged in regulation legislation in the field taxation.

Phrase losses to state revenues first appear in regulations \_ taxation in Law Number 9 of 1994 concerning Change on Law Number 6 of 1983 concerning KUP. Phrase the contained in Article 38, Article 39, and Elucidation Article 38 which changes phrase losses to the state in Law Number 6 of 1983. For emphasize that losses incurred by the act crime in the field taxation happened on the side state revenue in the form of reception taxes , then phrase losses to the state in Law Number 6 of 1983 amended become losses on state revenues in Law Number 9 of 1994.

Phrase state losses later appears in the Rules Government Number 80 of 2007 concerning Procedures for the Implementation of Rights and Obligations Taxation Based on Law Number 6 of 1983 concerning KUP as has changed several times final with Law Number 28 of 2007, in Article 34 which regulates termination investigation. Law Number 28 of 2007 itself uses the phrase loss on state revenue in Article 38 and Article 39. However, with the stipulation of Government Regulation Number 74 of 2011 concerning Procedures for the Implementation of Rights and Fulfillment of Tax Obligations, the phrase state loss has again changed to a loss on state revenue. in the article governing the termination of the investigation.

Criminal acts in the field of taxation as referred to in Article 38 and Article 39 paragraph (1) of the KUP Law are material offenses that focus on the consequences of criminal acts in the field of taxation, namely losses to state revenues. Based on this, the object of handling criminal acts in the field of taxation from the development and analysis of information, data, reports and complaints (IDL), preliminary evidence examination, to investigations is to identify losses in state revenues and not to identify the amount of tax payable that is *not* or underpaid. However, because preliminary evidence examinations and/or investigations are carried out on indications of criminal acts in the field of taxation, the calculation of the amount of loss in state revenue uses the parameter of the amount of tax payable that is not paid or underpaid.

In the process of investigations carried out against companies or corporations, examination of witnesses and documents is carried out based on the evidence or information obtained, the investigator determines the suspect. Can be corporate and individual suspects or just individual suspects. It could be one suspect or more than one suspect. It can only be the suspect as the main actor or the suspect who participates in committing, recommending, or assisting criminal acts in the field of taxation. Losses on state revenue are borne by parties who commit criminal acts and are not related to tax obligations.

What is charged to the suspect is a loss to state revenue in a criminal event and not unpaid or underpaid taxes. If what is charged is unpaid or underpaid tax, then this can only be imposed on the taxpayer who appears in the first Investigation Warrant because the suspect (for example a corporate administrator or participating actor) cannot be burdened with unpaid or underpaid tax that becomes the taxpayer's obligation that appears in the first Investigation Warrant.

If the phrase loss on state revenue is used, this is appropriate because losses on state revenue can be borne by each suspect in relation to the criminal act that has been committed and is not related to tax obligations. However, once again, because this is an investigation into criminal acts in the field of taxation, the calculation of the amount of loss in state revenue uses the parameter of the amount of tax payable that is not paid or underpaid.

Based on the description above, in Article 44B of the KUP Law, the phrase loss on state revenue is more appropriate to use than the phrase the amount of tax payable that is not paid or underpaid to terminate an investigation originating from a criminal offense in Article 38 and Article 39 paragraph (1) of the KUP Law. The amount of loss in state revenue which is the

basis for principal payments and sanctions in Article 44B of the KUP Law can be determined by a Tax Expert.

## DISCUSSION

Tax crime is something crime committed with economic motives with the victim is the country because in follow crime in the field the taxation that is the victim is state finances. A number of prisoner follow crime in the field taxation go out enter prison become recidivist because they think that enough to replace state losses with corporal punishment only temporary treasure riches they no touched so that be one reason for them to do tax crime when they go out from prison.

Treasure riches for perpetrator follow crime in the field taxation can likened as living blood for criminal that most effective way for membrane and prevent follow crime in the field taxation is with deprive results and instruments used in follow the criminal. For dropping no corporal punishment Enough raises effect wary for the perpetrators follow criminal tax.

Construction system law criminal in Indonesia at this time still aim for reveal follow criminal happened, find culprit as well as punish perpetrator follow criminal with penalty crime, especially " corporate punishment " either criminal prison nor criminal confinement. Temporary that's the issue development law in scope international like problem confiscation and confiscation results follow criminal along with followup instruments criminal Not yet become part important in system law crime in Indonesia.

Follow up criminal result or *proceeds of crime* is treasure that wealth, direct nor no direct obtained from something follow criminal (" *Proceeds of crime* " shall mean any property derived from or obtained, directly or indirectly, through the commission of an offense ).<sup>11</sup> Whereas understanding treasure riches is all object move or object No moving , both tangible or not form (" *Property* " shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible , and legal documents or instruments proving title to, or interest in, such assets ).<sup>12</sup>

Uncover follow criminal tax, find culprit and put perpetrator follow criminal tax inside prison it turns out, not yet effective enough to push level crime in the field taxation when no accompanied with effort for seize/confiscate results and instruments follow criminal . Because, when the perpetrators follow criminal tax still control results and instruments follow criminal tax so in a manner no direct give opportunity to perpetrator follow criminal or anyone else who has linkages with perpetrator follow criminal for enjoy results follow criminal and use return instrument follow criminal even develop follow ever criminal done so that forms crime they finally develop with exists forms organized crime or *organized crime* that involves group of people who have inside expertise carry out follow criminal taxes are supported by diverse instrument follow criminal so that they can collect results follow criminal in very large amount. So effective way for disable crime tax is find and punish perpetrator follow criminal along results and follow up instruments criminal confiscated and confiscated by the state.

Indonesia is a country based on law (*rechtstaat*) and not based on on power mere (*machtsstaat*) so effort in the enforcement process law must hold principles *rule of law* namely: there is supremacy law, principle equation ahead law and security rights basic human beings by laws and decisions court. In this matter government own obligation for do enforcement appropriate laws values justice based on objective national for realize well-being general for society. So handling follow crime in the field taxation done with use fair approach for public through return loss on state revenue for interest society.

Return loss to state revenues is a big homework in the enforcement process law in the field taxation for Directorate General Tax as holder trust to return loss to state revenues in the sector tax. One effort return loss in

<sup>11</sup>Article 2 Use of Term, United Nations Convention Against Transnational Organized Crime 2000, p.2

<sup>12</sup>Article 2 Use of Term, United Nations Convention Against Transnational Organized Crime 2000, p.2

state revenue is with make strict rules for give authority confiscation and blocking of assets by investigators tax as end spearhead the enforcement process law crime in the field taxation.

Enforcement law crime in the field taxation is not perfect if not followed with recovery loss in national income real. Is such a waste if enforcement law crime in the field taxation only terminated with corporal punishment (criminal prison or brackets) without exists recovery loss to state revenue. Because the victim in case criminal taxation is country then enforcement law crime in the field taxation must recover loss on state revenue.

Approach justice restorative and *recovery asset (asset recovery)* is needed in enforcement law crime in the field based taxation to recover loss on state revenue.

Implementation from a restorative justice approach is related disclosure untruth deed in accordance Article 8 paragraph (3) or application termination investigation through repayment losses on state revenues and sanctions administrative form fine in accordance Article 44B of the Law Republic of Indonesia Number 6 of 1983 concerning Provision General And Tax Procedures As Amended Several Times Final With Constitution Republic of Indonesia Number 7 of 2021 concerning harmonization Regulation Taxation or often called the KUP Law. Implementation an asset recovery approach is carried out through payment criminal fine by the convict in a manner voluntarily or deprivation or confiscate execution to treasure riches convict If criminal fine No paid (forced). Related matter This so authority investigator Tax need strengthened For secure treasure riches since early with do foreclosure treasure riches in investigation follow crime in the field taxation or investigation follow criminal money laundering with criminal origin follow crime in the field taxation.

Manifestation enforcement law crime in the field taxation based recovery losses in state revenues encountered a number of challenge Because Article 30 paragraph (2) of the Criminal Code (KUHP) regulates that “ if criminal fine No paid , he replaced with criminal confinement ”. Provision This become Judge's consideration in case crime in the field taxation For drop decision criminal fine subsidized with criminal confinement that resulted in the state precisely add expenditure For finance prisoners and not accept reception from recovery loss to state revenue.

With deleted Article 13 paragraph (5) and Article 15 paragraph (4) regulate tree tax will billed by DGT if deed criminal proven guilty and powerful law remain (inkracht) in the HPP Law then payment criminal fine become crucial Because Now Already No There is Again instrument For charge tree tax moment case criminal has inkracht. Because if tax criminal not utilise provision Article 44B then the only one hope recovery loss to the country 's income from payment criminal fine. So that criminal fine must paid by the convict and can not replaced with criminal confinement for restore loss in state revenue from case crime in the field taxation.

With issuance of Circular Letter Supreme Court Number 10 of 2020 (SEMA 10/2020) on 18 December 2020. SEMA 10/2020 appeared hope just mentioned that if convict no pay longest fine within 1 (one) month after decision court obtain strength law fixed , then treasure thing can confiscated by the Attorney and auctioned off For cover fine such , and in matter Convict No have treasure sufficient thing for pay fine , then convicted with criminal imprisonment for a maximum of 8 ( eight ) months is calculated in a manner proportional .

When during this is Judge inside the verdict mention criminal fine Can replaced with criminal confinement in accordance mandate Article 30 paragraph (2) of the Criminal Code (KUHP), then based on SEMA 10/2020 there is effort confiscate execution to treasure riches Convict, before criminal fine Can replaced with criminal confinement.

Even though SEMA 10/2020 mentions effort confiscate execution to treasure riches convict if criminal fine No paid in the end criminal fine the can subsidized with criminal confinement. In the end No happen recovery loss in state revenue from follow crime in the field taxation Because criminal fine still can replaced with criminal confinement. Based on



DGT data, criminal data fine results paid prosecution convict For 2018 to with 2020 is as following:

Tahun	Pidana Denda Total (Non Subsider dan Subsider)		Pidana Denda Non Subsider		Pidana Denda Dibayar	Persentase Pidana Denda Dibayar	
	Jml	Denda (Rp)	Jml	Denda (Rp)		dari Pidana Denda Total (Non Subsider dan Subsider)	dari Pidana Denda Non Subsider
2018	73	1.796.688.066.304	43	1.214.558.880.550	2.365.406.172	0,132%	0,195%
2019	93	5.325.551.509.711	9	123.356.689.754	778.890.699	0,015%	0,631%
2020	91	1.703.907.164.216	10	368.926.754.292	1.287.297.992	0,076%	0,349%
<b>Total</b>	<b>257</b>	<b>8.826.146.740.231</b>	<b>484</b>	<b>1.706.842.324.596</b>	<b>4.431.594.863</b>	<b>0,050%</b>	<b>0,260%</b>

Source : Data of the Directorate of External Legal Remedies Normal Executions and Examinations , Criminal Hours Special from Manuscript Academic Bill KUP

Based on the data above, it is known that fine results paid prosecution \_ convict from criminal fine nonsubsidized still very small ie average only of 0.26% of the total fine nonsubsidized in verdict. This resulted in the recovery of losses on state revenues not being optimal. The low fine results paid prosecution \_ convict among other things caused by <sup>13</sup>:

- a. Payment loss to state revenue and/ or sanctions at the time the judge or case has bestowed to court, no cancel prosecutor's demands. Condition This No push Defendant For still pay losses on state revenues and sanctions on stage trial.
- b. Criminal fine subsidized with criminal confinement because the Judge considered Article 30 paragraph (2) of the Criminal Code that if criminal fine no paid to replaced with criminal confinement. Pursuant to Article 30 paragraph (6) of the Criminal Code, the alternative sentence of imprisonment may not be more than eight months. Based on the judge's decision that has been inkracht from 2017 to 2020, 83 percent of the total criminal fine is subsidized by imprisonment. <sup>14</sup> Thus if fines are subsidized by imprisonment, there will be no recovery of losses in state revenues.
- c. The results of the prosecutor's execution of the fines were not significant. Based on the judge's decisions that have been inkracht from 2017 to 2020, only 0.23 percent of the total criminal fines were not subsidized or only 0.04 percent of the total criminal fines were successfully executed by the prosecutor. <sup>15</sup> Thus, if the result of the prosecutor's execution is insignificant, the recovery of losses on state revenues from the settlement of fines is minimal. The difficulty for the prosecutor to carry out the execution is because in the event that fines are not replaced by imprisonment, there is no tool to confiscate execution in order to collect fines, unless the Judge decides that if the fine is not paid by the convict, the assets of the convict will be confiscated and auctioned off by the Prosecutor.
- d. Taxpayers tend not to take advantage of ultimum remedium at the Investigation stage with the consideration that fines can be subsidized or fines cannot be executed by the Prosecutor. Of the total investigation orders completed in 2019 to 2020, only 5.56 percent were resolved by disclosing the untruthfulness of the act and stopping the investigation under Article 44B of the KUP Law).
- e. There is no deterrent effect for perpetrators and a deterrent effect for potential perpetrators because they will only serve corporal punishment (imprisonment and confinement) without

<sup>13</sup> Manuscript Academic Draft Constitution About Change Fifth Over the Law Number 6 of 1983 B concerning Provision General and Tax Procedures Page 111-113

<sup>14</sup> processed from Data of the Directorate of External Legal Remedies Normal Executions and Examinations, Criminal Hours Special from Manuscript Academic Bill of KUP, page 122

<sup>15</sup>ibid

having to pay fines. In this case the state does not get recovery for losses in state revenue but instead incurs costs to maintain inmates in prison.

- f. Tax Investigators do not have the authority to confiscate assets and arrest and/or detain which can encourage Taxpayers to take advantage of *ultimum remedium*.
- g. Because Tax Investigators do not have the authority to arrest and/or detain in the investigation of criminal acts in the field of taxation, requests for assistance from other law enforcement officials based on Article 44 paragraph (4) of the KUP Law have legal risks.
- h. There is a need for arrest and/or detention powers because to prevent criminals from influencing other suspects or witnesses and when there is a risk of escaping by suspects, or suspecting, or to detain criminals, to prevent them from committing additional crimes.
- i. Using a cost and benefit analysis approach, the costs (*costs*) that can be calculated are greater than the benefits (*benefits*) in the form of recovery of losses on state revenues. Benefits in the form of deterrent effects and deterrence effects cannot be measured in criminal law enforcement.

Strengthening authority for tax investigator to block and/ or asset confiscation based on Article 44 Paragraph (2) Letter J of the Law Number 7 of 2021 Concerning harmonization Regulation Taxation refers to the Circular Letter Supreme Court Number 10 of 2020 Formulation of the Criminal Chamber and Guidelines for the Attorney General Number 2 of 2019 concerning demands Criminal Case follow Criminal in the Field Taxation Chapter II Claims Criminal Roman XIII.

Authority block and/ or confiscate assets by Investigators Tax needed If Must Tax No utilise *ultimate remedy* , so repayment criminal fine can secured since early For maximization recovery loss on state revenue with apply principle *lex specialis derogate legi generaly* to Article 30 paragraph (2) of the Criminal Code, that for the sake of reception tax , criminal fine No subsidized with criminal confinement and mandatory paid by the convict Good in a manner volunteer or through mechanism confiscate execution to treasure riches convict .

Because if criminal fine still subsidized with criminal confinement or to criminal fine no done confiscate execution asset if criminal fine not paid based on principle rationality then perpetrator follow criminal tax which is creature rational economical will weigh between profit earned. If no utilise chance termination investigation with must cost issued to pay losses in state revenues along with administrative sanctions so somebody will do follow criminal tax based on opportunity and choice. When the opportunity has great in order for someone that no do criminal tax which should be done is with enlarge possibility recovery losses on state revenues, incl through payment criminal fine. Only with method that's investigation tax will be optimal, so recovery loss to the state's revenue objective main can materialized.

## CONCLUSION

1. From a victimology study of follow crime in the field taxation concluded that victim inside something incident criminal not always in the form of individuals, communities , legal entities nor private but also the government in matter this is country. One form draft protection law against crime victims crime in the field taxation in matter .This state finances must refers to the base benefit , fairness , balance and certainty law in form device rule laws and ways certain good characteristic preventive or loading repressive theories and principles that refer to application protection victim rights .
2. Recovery efforts loss to in state revenue follow crime in the field taxation is with give authority block and/ or confiscate assets by tax investigator for tax criminal which not utilise *ultimate remedy*, so repayment criminal fine can secured since early For maximization recovery loss on state revenue with apply principle *lex specialis derogate legi generaly* to Article 30 paragraph (2) of the Criminal Code, that for the sake of reception tax , criminal fine No subsidized with criminal confinement and mandatory paid by the convict good in a

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