

## OPTIMIZATION OF THE AUTHORITY OF CIVIL SERVANT INVESTIGATORS (PPNS) IN THE DIRECTORATE GENERAL OF TAXES (DGT) BANGKA BELITUNG REGION IN THE SEIZURE AND BLOCKING OF SUSPECT ASSETS FOR THE RECOVERY OF STATE REVENUE LOSSES

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### ABSTRACT

*Tax crimes have become a significant issue in Indonesia, as taxes are vital for the government's development efforts. Failure to comply with tax obligations not only impacts the state's revenue but also hinders the equitable distribution of welfare to society. The purpose to be achieved in this study is to find out related to the authority of PPNS in the seizure and blocking of suspect assets in order to recover losses in state revenue. The method used in this study is empirical juridical where the data obtained through primary data by interviewing the DGT Bangka Belitung region. In addition, secondary data is also used to add information and strengthen the analysis related to the research topic. The results showed that the recovery of State losses can be done by the DGT where the authority can be done by confiscation and blocking of assets. This mechanism is carried out with the aim that the country does not suffer considerable losses. Tax investigation collection is one of the actions that can reduce tax crimes so that the activities carried out must be carried out efficiently in accordance with applicable regulations.*

**KEYWORDS** PPNS, DJB Bangka Belitung, asset seizure and blocking, State loss recovery



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### INTRODUCTION

Tax crimes become one of the concerns highlighted by the people of Indonesia (Bolifaar & Sinaga, 2020). The reason is that taxes are one of the means for the government in the implementation of development. More importantly, taxes as one of the financial budgeting studies so that when taxes are not obtained in an orderly manner will harm the state and society (Atuguba, 2021). Tax is a compulsory

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levy for state needs, both central government and regional government, for the welfare of the community, the rates and mechanisms for its release of which are regulated by statutory regulations (Putri et al., 2023). The state will have limitations in carrying out development and the community will not get its rights in achieving a (Kouam & Asongu, 2022).

Investigations carried out in various tax crimes for suspects become one form that can be done in order to recover state finances that have suffered losses due to criminal offenders (Saleh et al., 2022). In this mechanism the greatest existence does not emphasize on the deterrent effect experienced by the perpetrator. However, more than that, the country's financial recovery is one of the goals so that the country as a victim does not suffer considerable losses (Muttaqi, 2024).

The fact in the field of many people who do not give taxes. Whereas clearly the regulations related to taxes will sanction the perpetrators who do not pay taxes both administrative and criminal sanctions. However, the regulation contained in Article 30 paragraph (2) of the Criminal Code emphasizes that fines that are not paid will be replaced by imprisonment (Ali et al., 2022). This mechanism is the best option for suspects of tax violations so that they do not have to pay compensation but run criminal sanctions. This will certainly harm the country considering that the country suffered losses for non-compliance with tax payments so that asset confiscation cannot be carried out optimally (Lubis et al., 2023).

The mechanism of asset seizure is carried out by the Directorate General of taxes which in exercising its authority refers to the HPP law where Article 7 Paragraph (2) and Article 39 paragraph (1) of the Criminal Code emphasize the implementation of searches to obtain evidence. Some of the evidence is clarified in Article 44 paragraph (2) of the KUP law where there are movable and immovable goods that can be taken from suspects. Referring to the article, it is clear that the authority possessed by the Directorate General of taxes is to investigate and seize assets. The urgency of the asset seizure is to recover state revenue losses where this refers to Article 44B of the KUP law which emphasizes the recovery of assets as collateral for fines so that the recovery of State losses can be carried (Rahadjie et al., 2022).

One of the roles of PPNS in asset seizure can be seen from the Working Mechanism carried out by the DGT of Bangka Belitung region. In carrying out its duties and authority, the DGT PPNS has implemented all working mechanisms in accordance with existing regulations. This is one form of seriousness in minimizing the losses experienced by the state. The latest case carried out by the DGT Bangka Belitung is to conduct an auction with a limit of 24.7 billion sourced from tanag, vehicles and so on where the auction is carried out through the site portal.le-lang.go.id managed by DJKN.

However, in the management mechanism, of course, there are still various obstacles between the DGT PPNS and the District Court, which still do not understand and multi-interpretation of the implementation of sita aser (Burhan & Gunadi, 2022). So in running still experiencing various obstacles. In addition, constraints can also be analyzed from the presence of restrictions on the authority of Investigation and seizure (Lestari et al., 2020). In this mechanism, PPNS only emphasizes investigations for convicts in the field of Taxation who are within the scope of the DGT in finding and collecting evidence.

Several studies related to asset seizure have been conducted by several researchers. The First, the research by yusni which focuses on asset confiscation for

corruption perpetrators (Yusni et al., 2023). The resulting scientific contribution is the seizure of assets committed by the perpetrators of corruption do not need to go through the mechanism of Criminal Procedure given more emphasis on the guarantee of legal protection reserved for the state and society. Second, the research conducted by Setiawan which focuses on foreclosure problems in recovering state losses. The contribution produced in this study emphasizes the seizure of assets carried out based on regulations and court decisions where in carrying out it is intended as a recovery of losses suffered by the state. Third, Rajaguguk's research emphasizes the role of the tax General after the seizure of assets of tax suspects (Rajaguguk & Kuntonegoro, 2022). The resulting scientific contribution is that there is a need for regulations related to tax collection and other regulations that are needed in order to clearly provide flexibility in exercising authority after the seizure of assets owned by the suspect.

Various studies conducted into the foothold of researchers in determining the academic gap in this study where the scientific gap taken by researchers is to focus on the seizure of suspect assets in the recovery of State losses in Bangka Belitung Tax Directorate.

The purpose of this study is to determine the authority of Civil Servant Investigators (PPNS) in confiscating and blocking assets in tax crime cases within the Bangka Belitung Regional Tax Directorate General of Taxes. In addition, it can determine the mechanisms and legal umbrellas that support the confiscation and blocking of suspect assets in order to optimize the return of state revenues.

The benefits of this research include contributing to the development of knowledge about asset seizure in the field of tax law, especially in the context of the Indonesian legal framework. In addition, the results of this study can help improve the implementation of asset seizure and blocking procedures, so that it can increase the effectiveness of DJP efforts in recovering state revenue losses.

## RESEARCH METHOD

The method used in this study is empirical jurisprudence where researchers use primary data obtained in the field and reinforce it with secondary data obtained from books and journals that have conformity with the research problems conducted.

This study refers to the applicable laws and regulations in order to uncover the phenomena that occur in the field where researchers choose a location in the Directorate of taxes Bangka Belitung region in the seizure of assets for suspected tax convicts. Specifications selected in this study is descriptive analysis where is researcher provide a comprehensive overview of the various phenomena that have been obtained systematically researchers in the field. After that, the data analysis method used is qualitative in which several stages are passed by collecting data, reducing data, presenting data and drawing conclusions.

### **Data Collection Techniques**

Data was obtained directly from the field through in-depth interviews with PPNS investigators at the Directorate General of Taxes (DJP) Bangka Belitung. This interview aims to gain a comprehensive understanding of the process of confiscation and blocking of assets related to tax crimes.

Secondary data was obtained through a literature review, which includes laws and regulations, books, scientific journal articles, and other legal documents

relevant to the topic of this research. This secondary data source is used to strengthen the analysis of the authority of PPNS in confiscating assets.

#### **Data Reduction**

The data collected will be reduced first to focus on information that is relevant to the research objectives.

#### **Data Presentation**

After reduction, the data will be presented in a systematic narrative form, making it easier to draw conclusions.

#### **Conclusion Drawing**

Conclusions will be drawn based on findings in the field and the results of secondary data analysis, which will then be linked to the theories and regulations applicable in tax law in Indonesia.

## **RESULT AND DISCUSSION**

### **Asset Recovery In The Field Of Taxation**

Asset recovery can be interpreted as activities carried out so that the state is able to recover losses experienced (Trinchera, 2020). In this mechanism it is clear that the urgency of asset recovery is to punish taxpayers as a second option and prioritize the recovery of losses on state revenues (Brun et al., 2023). The reason is, the convict prefers to undergo a criminal than to give the authority to recover assets. Even though the working procedure for this mechanism has been clearly regulated in the HPP law which emphasizes on law enforcement that prioritizes the seizure of suspect assets that cannot be replaced by carrying out crimes by suspects.

Asset recovery can be done by several mechanisms which include the (Brun et al., 2011):

1. Collection of evidence
2. asset search
3. Withholding of assets while carrying out the investigation process
4. International cooperation is intended when assets are in other jurisdictions
5. Court proceedings
6. Execution of the decision

If analyzed in depth, the implementation of asset recovery conducted by the Bangka Belitung DGT can be described as follows : PPNS collects evidence where in this mechanism the collection of evidence becomes one of the initial activities that must be done in order to strengthen the alleged violations committed by the suspect. In connection with this the results of an interview with the DGT Bangka Belitung stated that :

*"of course, we do the collection of evidence in great detail where this will be a reinforcement in running the court process so that the suspects run asset seizures"* (interview on September 20, 2024)

Based on the results of interviews that have been put forward, it can be said that the evidence collection stage is one of the stages used by PPNS in exercising their authority to confiscate assets from suspects. Furthermore, the next stage is still related to assets where PPNS parties conduct asset searches before detaining assets in the investigation process. This mechanism will certainly make it easier for PPNS to prove the actions taken by suspects in court proceedings until the implementation of the decision.

Various processes carried out by PPNS are reinforced with various authorities for paea tax authorities which include :

1. obtaining evidence and assets
2. get information to documents from third parties
3. intercepting communications
4. search and confiscate electronic equipment (software, hardware, mobile phones, and the like)
5. make observations behind closed doors
6. conduct interviews
7. doing disguises
8. arrest or detention of someone.

Based on several authorities that have been stated above, it can be said that the PPNS has various authorities where it is a role in optimizing the implementation of asset seizure so that various actions taken have been guaranteed by the legal umbrella with a maximum (Burhan & Gunadi, 2022). This is one form of legal certainty that is realized by state regulations so that the actions taken do not violate existing legal rules.

However, in fact, the implementation of foreclosure is also experiencing obstacles where one of the obstacles faced is miscommunication in representing the regulation of asset seizure. This can be seen in the field practice where the actual asset seizure is carried out when it has obtained approval from the District Court (Sofian & Hasibuan, 2021). However, this can also be done before a decision when in an urgent situation until the final results are done must still report to the District Court. But in fact, this mechanism is very difficult to understand by both parties either from PPNS DGT or from the District Court (Fitrah et al., 2021).

In addition, constraints can also be analyzed from the presence of restrictions on the authority of Investigation and seizure. In this mechanism, PPNS only emphasizes investigations for convicts in the field of Taxation who are within the scope of the DGT in finding and collecting evidence.

One of the investigator's authority based on the Code of Criminal Procedure and Article 44 paragraph (2) letter j of the KUP law is to confiscate the suspect's property by still having to obtain permission from the chairman of the local district court even though the seizure is carried out in vital and urgent circumstances. However, after the investigator confiscates the suspect's property, there are several obstacles and legal gaps that can cause legal problems, including which of the suspect's assets need to be returned or remain controlled after being seized, who manages and maintains the suspect's seized property, how the provisions regarding the seized property (including property of the suspect that is on the other party and or property that according to the confession of the suspect does not belong to him but is in his residence, place of office, place of business, or other place).

The authority possessed by the tax investigator in relation to the property owned by the suspect according to the principle of legality is limited to confiscation. Therefore, there are legal problems for the Bangka Belitung DGT in optimizing performance where the seizure of goods only emphasizes the mechanism of proof.

There is a need for procedures that must be regulated in tax legislation, considering that the entire process of confiscating suspect assets until the completion of the return of losses on state revenues from the tax sector must still be accounted for legally by the DGT. The authority of the tax bailiff in the case of tax foreclosure

up to the auction has been regulated in the KUP law and the PPSP law. Thus, it is sufficient if in the renewal of the PPSP law there are provisions regarding the authority of the tax bailiff, which is not only in the context of tax debt but also in the context of state revenue losses, considering that tax investigators have carried out a follow-up process after the seizure of the suspect's property in dire need of a tax bailiff who has the expertise, ability, and creativity in handling, maintain, and take care of confiscated goods as collateral for tax debt repayment.

### **Seizure And Recovery Of Assets As Recovery Of State Losses**

Tax crimes committed by someone will certainly have an impact on the loss of state revenue. Threats that emphasize the Criminal only emphasize the people who deliberately delay the fulfillment of tax obligations so that it will easily misuse the data to the Director General of taxes. Therefore, the state is still the main actor who is harmed in this case.

It should be an emphasis that the payment of taxes levied by the state has a function in supporting equitable social justice. Because tax into the state treasury that can be earmarked to build citizen in achieving a welfare. Therefore, when taxes are not paid, it will cause losses both for the state and for the community.

The tax violator shall be responsible where such liability shall be able to minimize losses incurred by the state (Tahar & Rachmawati, 2020). In this mechanism, the return of State losses is one way for the country to be at a safe level and not feel harmed. One of the actions that can be done is to seize and confiscate the assets of the suspects.

However, in fact, the seizure which refers to Article 44 paragraph (2) letter J of the KUP law still provides a legal vacuum in which this mechanism is still a critical concern that must be emphasized so that PPNS DGT is able to exercise maximum authority. Some things to watch out for are :

*First*, this article only regulates related to the authority of investigators in carrying out foreclosures but specifically this article does not present the authority to carry out auctions.

*Second*, this article emphasizes the seizure of suspects ' property intended as an effort to recover State losses. However, the problem lies in the mechanism of seizure of property owned by the suspect. However, in this mechanism is not clearly stated how baiya maintenance when all assets are in the hands of investigators and there is no act of authority over the follow-up of confiscated goods.

*Third*, the absence of the principle of checks and balances where the limitations of human resources owned in the implementation of foreclosure. In addition, budget constraints in the management of confiscated goods is also a problem that needs to be considered.

These various obstacles are one of the reasons the state will be very difficult to get their rights from suspects considering that suspects prefer to get criminal penalties compared to asset confiscation.

If the convict does not pay the fine based on the decision of a judge with permanent legal force, the prosecutor will confiscate the execution of the convict's property to pay the fine. The provision is expected to encourage perpetrators of criminal acts early to repay losses in state revenues and administrative sanctions in the form of fines.

Enforcement of tax laws does not necessarily begin with the imposition of administrative sanctions (Saiful & Suhartati, 2021). However, in the early stages, this enforcement process starts from an attempt to remind citizens who already have tax obligations (taxpayers) by submitting letters of Appeal and letters of reprimand. tax liability starts from the registration of tin, calculation of the amount of tax payable, payment of taxes that are still unpaid, and tax reporting through notification letter (SPT) (Djafar, 2024).

Various efforts that can be done is to provide a warning for citizens to make tax payments where this can be realized by submitting a letter so that people realize the subjective obligations that must be carried (Agun et al., 2022). When this effort cannot be realized, administrative sanctions can be given and lead to the examination stage so that taxpayers realize their responsibilities in making tax payments (Widodo & Sriwidodo, 2023).

## CONCLUSION

The implementation of foreclosure is also experiencing obstacles where one of the obstacles faced is miscommunication in representing the regulation of asset seizure. This can be seen in the field practice where the actual asset seizure is carried out when it has obtained approval from the District Court. However, this can also be done before a decision when in an urgent situation until the final results are done must still report to the District Court. But in fact this mechanism is very difficult to understand by both parties either from PPNS DGT or from the District Court. In addition, constraints can also be analyzed from the presence of restrictions on the authority of Investigation and seizure. In this mechanism, PPNS only emphasizes investigations for convicts in the field of Taxation who are within the scope of the DGT in finding and collecting evidence.

The reason the state will be very difficult to get their rights from suspects considering that suspects prefer to get criminal penalties compared to asset confiscation. If the convict does not pay the fine based on the decision of a judge with permanent legal force, the prosecutor will confiscate the execution of the convict's property to pay the fine. The provision is expected to encourage perpetrators of criminal acts early to pay losses to state revenues and administrative sanctions in the form of fines.

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