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| RESEARCH ARTICLE

The Existence of State-Owned Enterprises and Law Enforcement Issues in the Settlement of Tax Debts

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| ABSTRACT
This study focuses on the legal aspects concerning the nature of State-Owned Enterprises (Badan Usaha Milik Negara/SOE) as government legal entities, as well as the enforcement of tax law in relation to the settlement of SOE tax debts, which frequently encounters obstacles due to inconsistencies in the regulatory framework governing SOE legal entities. The study examines the legal processes involved in tax collection measures in accordance with applicable statutory regulations. This research employs a normative juridical method based primarily on primary legal sources. The findings indicate that the statutory regulations governing SOE appear discriminatory and seem to grant certain privileges. In fact, the original purpose of establishing SOE was not only to contribute to public welfare but also to generate profits so that they could provide contributions to the state in the form of dividends. On the other hand, the settlement of tax debts should be managed prudently in accordance with tax law in order to ensure legal equality with private legal entities in fulfilling their tax obligations as stipulated by law.

| KEYWORDS

Tax law, tax debt, law enforcement, State Budget (APBN).

| ARTICLE INFORMATION

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Introduction

As taxation continues to be a subject of public discourse, understanding the meaning of taxation aligns with the principle that taxes have become an inevitable element of social life. As Benjamin Franklin famously stated, "in this world nothing is certain but death and taxes."[1] This statement implies that the needs of society cannot be fulfilled without taxation. In this sense, taxation and society are inseparable.

This reality is consistent with the condition of state revenues derived from taxation within the State Budget (*Anggaran Pendapatan dan Belanja Negara*/APBN), which generally increase from year to year. For example, over a five-year period—from 2019 to 2023—state revenue targets from taxation continued to increase, except in 2020 due to the COVID-19 pandemic. In 2019, the tax revenue target amounted to IDR 1,786.3 trillion (82.5%); in 2020, IDR 1,865.7 trillion (83.5%); in 2021, IDR 1,111.5 trillion (63.7%); in 2022, IDR 1,510.0 trillion (81.7%); and in 2023, IDR 2,021.2 trillion (82.06%).[2]

Soemitro emphasizes that the increasingly dominant role of tax revenues in society demonstrates that wherever public interests exist, tax levies arise, thereby making taxation inherently connected to the public interest.[3] When the public interest—namely public welfare—becomes the central focus of state activities, State-Owned Enterprises (SOE), as entities deliberately established by the state, are likewise intended to serve the public interest.

[1] Alink, Matthijs, and Victor van Kommer. *Handbook on Tax Administration*. Amsterdam: IBFD, 2011, p. 163.
[2] Source: Law No. 12 of 2018 on the State Budget for Fiscal Year 2019; Law No. 20 of 2019 on the State Budget for Fiscal Year 2020; Law No. 9 of 2020 on the State Budget for Fiscal Year 2021; Law No. 6 of 2021 on the State Budget for Fiscal Year 2022; and Law No. 28 of 2022 on the State Budget for Fiscal Year 2023.
[3] Soemitro, Rochmat. *Pengantar Singkat Hukum Pajak*. Bandung: Eresco, 1988, p. 2.

Accordingly, two issues arise. First, how should SOE fulfill their tax obligations? Second, do the statutory provisions governing the tax obligations of SOE differ from those applicable to private business entities? The issue of legal standing in fulfilling tax obligations, including the settlement of tax debts, becomes significant because the state relies on tax revenues to finance national development.

If the normative formulation of Law No. 19 of 2003 on State-Owned Enterprises (the SOE Law) is examined, a legal dilemma emerges regarding the form of business entity for SOE intended by the state. The essence of SOE appears to create a dualism of interests envisaged by the law, thereby giving rise to uncertainty in practice when developing business activities undertaken by SOE. This is reflected in the existence of two organizational models: the Limited Liability Company (*Perseroan Terbatas*/PT), whose primary objective is to generate profit, and the Public Corporation (*Perusahaan Umum/Perum*), whose principal purpose is to provide public benefit.[4]

Critical observations can also be seen in the case of Karen Agustiawan, the former President Director of Pertamina, who was sentenced by the District Court even though she had not committed any wrongdoing in conducting business in accordance with applicable law. This illustrates the difficulty of reconciling the vision or intent of the lawmakers regarding the business objectives underlying the establishment of SOE, including the business activities of SOE subsidiaries,[5] as reflected in numerous other cases involving SOE.[6] In this context, the issue of the settlement of tax debts owed by SOE becomes important to examine, particularly how the legal aspects of taxation are applied in resolving such tax debts so that the objective of promoting public welfare through taxation is not undermined.

Research Questions

Based on the foregoing discussion, the issues to be examined in this study are as follows:

a. Why does the statutory framework formulate legal norms that create ambiguity regarding the existence of State-Owned Enterprises (SOE), including the subsidiaries that may be established under them?
b. Is it necessary to grant special legal privileges in the fulfillment of obligations related to the settlement of tax debts arising from business activities conducted by SOE?

Research Objectives

This study has two principal objectives. First, to examine why lawmakers have not sufficiently carried out harmonization in the drafting of legislation, particularly the Law on State-Owned Enterprises. Second, to determine whether it is necessary to grant privileges to SOE in fulfilling their tax obligations to the state.

Research Method

This research employs a normative juridical and philosophical approach using primary legal materials, particularly statutory regulations governing legal entities engaged in business activities, both for SOE and private legal entities. These include Law No. 19 of 2003 on State-Owned Enterprises and its amendment under Law No. 1 of 2025; Law No. 40 of 2007; Law No. 1 of 2004; Law No. 19 of 2000 in conjunction with Law No. 6 of 1983, as amended by Law No. 7 of 2021 on the Harmonization of Tax Regulations (HPP Law).

In addition, secondary legal materials are used to provide explanations and interpretations of the primary legal materials. These consist of scholarly works on corporations, taxation, and legal philosophy; decisions of the Constitutional Court; decisions of the Supreme Court; other judicial decisions; and additional information obtained from articles, academic journals, and mass media. The research approach is conducted through both a statutory approach and a case approach in the fields of business and taxation.

Research Findings and Discussion

Business and Commercial Interests

It is widely understood that the development of business activities tends to progress much more rapidly than the development of the legal framework governing such activities. Business interests often operate with a long-term perspective,

[4] Article 1 points 3 and 5 of Law No. 1 of 2025 concerning the Third Amendment to Law No. 19 of 2003 on State-Owned Enterprises.

[5] Detik.com. "Eks Dirut Pertamina Karen Agustiawan Divonis 8 Tahun Penjara." June 10, 2019. The case of the former President Director of Pertamina is particularly noteworthy because the decision of the Corruption Court at the District Court level contained a dissenting opinion from one of the judges who considered that the corruption charge had not been proven. Nevertheless, Karen Agustiawan was sentenced to eight years' imprisonment and fined IDR 1 billion.

[6] Beritasatu.com. "Sejumlah Dirut BUMN Jadi Tersangka." May 8, 2017. For example, the former President Director of Pelindo II was named a suspect in the alleged corruption related to the procurement of Quay Container Cranes (QCC); the former President Director of Garuda Indonesia in the alleged bribery case concerning aircraft procurement; the President Director of PT PAL in the alleged sale of warships; and the former President Director of PT Jasindo in the alleged improper appointment and payment of agents.

whereas the law tends to be less responsive to these developments.[7] In other words, there remains a tendency to view law and business development in a fragmented and sectoral manner. This dilemma often goes unnoticed and subsequently becomes a legal issue in the future.

This phenomenon becomes even more apparent when examining the development of digital businesses operating in the field of digital technology, which frequently encounter regulatory limitations that give rise to issues concerning the process of tax imposition.[8] Existing legal regulations are considered insufficient to accommodate the rapid development of digital business activities, particularly in relation to the collection of taxes by the Indonesian tax authorities. This situation appears to reinforce the notion that the law, particularly tax legislation, is often unable to adequately anticipate future developments in business.

State-Owned Enterprises, as part of state institutions engaged in business activities, constitute public entities owned by the state. Nevertheless, their legal status has generated extensive debate, frequently giving rise to dilemmas in the development of their business activities. The central issue concerns whether the business operations conducted by SOE are intended to safeguard the public interest by promoting public welfare, or whether they are purely commercial in nature, similar to private business entities.

These dual interests were noted by Sumantoro in his discussion of the legal position of economic law within Indonesia's development framework.[9] Such conditions have resulted in a number of SOE executives facing legal problems due to the legal dilemmas created by the statutory framework governing SOE, as previously mentioned.

From the perspective of taxation, particularly with respect to competition in business development and the settlement of tax debts owed by SOE, this issue is also important to examine in order to avoid legal discrimination. This is because the essence of business activities conducted by both SOE and private enterprises fundamentally shares the same legal characteristic—namely, the intention to generate profit in future business activities.[10] The SOE Law explicitly states that one of the objectives of SOE is to pursue profit. The profits generated remain within the broader context of the role performed by SOE, which is increasingly regarded as important as a pioneer and/or initiator in business sectors that have not yet attracted private investment.[11] At the same time, SOE are also expected to contribute to the realization of public welfare and social justice for all people of Indonesia.[12]

When legal problems arise in the business practices conducted by SOE, the author observes that drafting legal norms within the SOE Law is not a straightforward process. From the perspective of legal policy, the formulation of the SOE Law may not have been sufficiently harmonized with the Limited Liability Company Law (Company Law). Even where harmonization has been attempted, challenges emerge in law enforcement practices, particularly in the interpretation of statutory provisions, allowing law enforcement authorities to develop their own interpretations. In this regard, the author recalls Jacques Derrida's observation that *"once a text is written, it becomes detached from its author."*[13] This illustrates the inherent difficulty in formulating legal norms within statutory legislation.

A review of the SOE Law and its amendments shows that, beyond the objective of generating profit, the establishment of SOE is also intended to: (i) contribute to the national economy and, in particular, to state revenues; (ii) pioneer business activities that cannot yet be undertaken by the private sector; (iii) strengthen partnerships with Micro, Small, and Medium

[7] Hoesein, Zainal Arifin. "Pembentukan Hukum Dalam Perspektif Pembaruan Hukum." *Jurnal Rechtsvinding*, Vol. 1, No. 3 (December 2012). The article explains that legal reform constitutes a conscious, planned, and continuous effort aimed at developing the legal system, both in terms of its substantive aspects (legal norms and content) and its institutional framework. Law must be approached from various aspects of social life so that it becomes visionary and operates in conjunction with other fields.

[8] *Kompas*. "Dorong Kesetaraan Perlakuan Pajak." July 9, 2019. It was reported that Indonesia had approximately 170 million internet users and had become a major market for digital technology products. According to a Google–Temasek report, Indonesia's internet economy, measured by gross merchandise value (GMV), reached USD 27 billion in 2018, representing a 49 percent increase compared to 2015 and the highest growth rate in ASEAN.

[9] Sumantoro. *Hukum Ekonomi*. Jakarta: Penerbit Universitas Indonesia (UI-Press), 1986, p. 277. Sumantoro explains that the distinction between private law and public law, as well as the determination of their respective boundaries, has long been a subject of debate and controversy. Similar to the situation in the Netherlands, the tension between private law and public law is particularly pronounced. Public law frequently encroaches upon the domain of private law; however, private law cannot simply be set aside.

[10] Article 2 paragraph (1) letter b. Furthermore, Article 2 paragraph (1) of Law No. 1 of 2025 amending the Law on State-Owned Enterprises emphasizes that the establishment of state-owned enterprises is primarily intended to generate profit.

[11] General Elucidation, Section II.

[12] General Elucidation of Law No. 1 of 2025 on the Amendment to the Law on State-Owned Enterprises.

[13] A French philosopher born in 1930 and deceased in 2004.

Enterprises (MSMEs) and cooperatives; and (iv) develop strategic industries based on research and technology in synergy with other countries.[14]

Two of these four objectives clearly demonstrate that SOE are not fundamentally different from private enterprises. As noted by Erman Rajagukguk, although SOE receive capital originating from the State Budget (APBN), such funds cease to be state funds once they are invested. The state holds shares in SOE as a result of that capital investment; however, the assets of SOE are not state assets but rather the assets of the SOE itself as a legal entity.[15] This view is consistent with the statutory provision stating that SOE capital constitutes separated state assets. In other words, state assets originating from the APBN are separated and used as state capital in SOE, after which their supervision and management are no longer governed under the APBN system but rather according to sound corporate principles.[16] Such reasoning is logically sound and should not create misunderstandings when SOE incur financial losses.

Consequently, with respect to tax obligations, SOE, limited liability companies, and other private entities should be subject to the same legal treatment for transactions that constitute taxable objects, as well as for legal measures related to the settlement of tax debts in accordance with tax legislation. There should therefore be no distinction in the application of the law between SOE and other taxpayers.[17] Both SOE and private entities serve as key pillars of the government's economic framework and are expected to conduct their business activities in accordance with applicable regulations and business ethics, to generate profits, and to remain compliant taxpayers. Revenues within the State Budget derived from tax payments by all taxpayers, including SOE, are ultimately used to support the operation of government.

When business activities are conducted by SOE, it is naturally expected that profits will be generated and that dividends will arise as taxable objects, which will ultimately constitute part of the state's revenue.[18] This indicates that, from the outset, the philosophical foundation underlying the drafters of the SOE Law recognized that SOE must be managed professionally in order to compete with, and at the same time balance, private enterprises. The term "professional" implies that their management must be carried out through mechanisms of strict supervision and control. Indeed, the existence of the corporate organs of the "Board of Directors," "Board of Commissioners," and the "General Meeting of Shareholders (GMS)" under the SOE Law corresponds to the corporate organs established under Law No. 40 of 2007 on Limited Liability Companies.

From a legal standpoint, this principle should imply that "separated state assets" used as SOE capital are no longer regarded as "state assets" but instead constitute the assets of the SOE itself. This is because a Persero-type SOE is organized as a limited liability company whose capital is divided into shares. However, another legal issue arises when the Constitutional Court, in addressing the relationship between state assets and SOE assets, emphasizes that the separation of state assets should not be interpreted as severing the state's connection with SOE.[19]

In the author's analysis, the question arises as to whether SOE are subject to the Limited Liability Company Law (Company Law). Article 3 of the SOE Law provides that SOE are subject to the provisions of other applicable laws, which, according to its explanatory section, include the Limited Liability Company Law, and that SOE are to be managed in accordance with sound corporate principles. However, when SOE incur losses, members of the Board of Directors are sometimes subject to criminal prosecution for allegedly causing losses to state finances under the Anti-Corruption Law.[20] Such conditions create the impression that the very essence of SOE becomes undermined—much like a bird attempting to fly while its feet are tied with a rope, preventing it from soaring freely.

Although SOE are owned by the state, they remain legal entities. A legal entity, from the moment of its establishment, possesses its own assets and exists as a legal subject with rights and obligations similar to those of a natural person (*natuurlijk persoon*), capable of bringing legal claims and being subject to claims. This doctrine is essential for ensuring legal certainty, particularly in enabling the national economy to develop efficiently. Without such certainty, economic development would be hindered because SOE directors would constantly operate under the shadow of fear.

The issue of legal certainty has also been addressed by the Supreme Court through its advisory opinion No. WKMA/Yud/20/VIII/2006 dated August 16, 2006, which states that claims of state-owned banks are not state claims because

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[14] Article 2 paragraph (1) of Law No. 1 of 2025 on State-Owned Enterprises.

[15] Rajagukguk, Erman. *Beberapa Masalah Dalam Hukum Ekonomi Indonesia: Kumpulan Karangan (1)*. Jakarta: Fakultas Hukum Universitas Indonesia, 2019, p. 79.

[16] See the Elucidation of Article 4 paragraph (1) of Law No. 19 of 2003 on State-Owned Enterprises.

[17] Article 1 of Law No. 6 of 1983 on General Provisions and Tax Procedures, as amended by Law No. 7 of 2021, defines a taxpayer as an individual or a legal entity, including tax payers, tax withholders, and tax collectors, who possess tax rights and obligations in accordance with the provisions of tax laws and regulations.

[18] Article 4 paragraph (1) of Law No. 7 of 1983 on Income Tax, as amended by Law No. 7 of 2021 on the Harmonization of Tax Regulations.

[19] Constitutional Court Decision No. 62/PUU-XI/2013 (decided on February 3, 2014), p. 229. The Court further emphasized that the separation of state assets in state-owned enterprises (SOE), regionally owned enterprises (ROE), or other entities of a similar nature is intended primarily to facilitate business management so that such entities can adapt to developments and competition in the business sector and undertake capital accumulation. This arrangement also enables prompt decision-making while ensuring that such decisions remain accountable.

[20] Law No. 31 of 1999 on the Eradication of Corruption, as amended by Law No. 20 of 2001.

such banks are subject to Law No. 40 of 2007 on Limited Liability Companies. Accordingly, the Supreme Court interprets this to mean that state assets are distinct from the assets of SOE.[21]

It is therefore reasonable for the author to conclude that SOE are subject to the Limited Liability Company Law. This principle reflects the understanding that SOE constitute independent legal entities with their own assets and are managed professionally in accordance with their business objectives.[22] Consequently, no external party should interfere in the management of SOE.

Even in the context of pure business practices, once the Board of Directors has made a decision based on the doctrine of the business judgment rule, the directors are protected from criminal allegations. As long as the decision constitutes a business judgment made in good faith and without any conflict of interest, the law provides protection. This principle has been reaffirmed and clarified through the formulation of legal accountability for losses incurred, provided that four cumulative conditions can be demonstrated: (i) the loss did not arise from fault or negligence; (ii) the management of the company was carried out in good faith and with due care for the benefit of the SOE; (iii) there was no direct or indirect conflict of interest that resulted in the loss; and (iv) appropriate measures were taken to prevent the occurrence or continuation of the loss.[23] Judges, therefore, should not assess the correctness or incorrectness of the business decisions or legal actions taken by the Board of Directors. Instead, the court should seek expert opinion to determine whether the legal action taken by the directors constituted a legitimate business decision.

Based on the advisory opinion of the Supreme Court, legal debate may arise from the argument that such an advisory opinion does not constitute binding legal authority because it takes the form of a fatwa. However, in the author's view, the substance of the issue remains essentially the same. Consequently, the legal debate surrounding the Supreme Court's advisory opinion appears to stand in sharp contrast to the legal reasoning reflected in the decisions of the Constitutional Court. The author therefore concludes that the legal debate on this issue has never reached a point of convergence. Such convergence can only be achieved through legislative amendment and the harmonization of relevant statutory provisions.

Analysis of Constitutional Court and Supreme Court Decisions

When the author examined the case in which Karen Agustiawan was convicted while serving as President Director of Pertamina, the legal issues became increasingly ambiguous. The legal problem becomes evident when one attempts to understand the fundamental nature of the establishment of SOE, including their subsidiaries and, potentially, sub-subsidiaries.[24]

The legal understanding of this issue can be observed in Constitutional Court Decision No. 48/PUU-XI/2013 and Supreme Court Decision No. 21P/HUM/2017, which reflect the existence of differing views regarding whether the assets of SOE subsidiaries should be regarded as state assets. In fact, this is not the case. In its decision,[25] the Supreme Court emphasized that separated state assets have **transformed into state shares** that are managed in accordance with sound corporate governance principles. Consequently, their management falls no longer within the domain of public law but rather within private law. The state's legal position is therefore limited to that of a shareholder.

The phrase "transformed into shares" emphasizes that the state's involvement is confined to its shareholding interest. In other words, the assets of SOE are treated in the same manner as those of private companies, with the state acting as one of the shareholders. The Supreme Court's decision provides a clear legal interpretation consistent with the provisions of Article 11 of the SOE Law, which stipulates that Persero-type SOE are subject to the legal provisions and principles established under the Limited Liability Company Law.[26]

State involvement in SOE and their subsidiaries is therefore reasonable insofar as it functions as oversight or supervision over the shares owned by the state. Accordingly, the public must distinguish between the legal meaning of oversight and the legal principles governing the management of SOE and their subsidiaries.

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[21] See also Rajagukguk, Erman. *Beberapa Masalah Dalam Hukum Ekonomi Indonesia: Kumpulan Karangan (4)*. Jakarta: Fakultas Hukum Universitas Indonesia, 2019, pp. 201–203. [in Indonesian]

[22] The Elucidation of Article 91 states that in order for the Board of Directors to perform its duties independently, any external parties, other than the organs of the state-owned enterprise (BUMN), are not permitted to interfere in the management of the BUMN. Interference includes actions or directives that directly influence managerial actions or decision-making by the Board of Directors. This provision is intended to emphasize the independence of BUMN as business entities so that they can be managed professionally and develop properly in accordance with their business objectives.

[23] Article 9F of Law No. 1 of 2025 on State-Owned Enterprises.

[24] Article 1 point 2 of Law No. 1 of 2025 on State-Owned Enterprises stipulates that a SOE subsidiary is defined as a company and its subsequent subsidiaries established by a state-owned enterprise in order to serve the business interests of the SOE.

[25] Supreme Court Decision No. 21P/HUM/2017, p. 40.

[26] Article 11 of Law No. 19 of 2003 on State-Owned Enterprises was repealed by Law No. 1 of 2025.

Furthermore, Constitutional Court Decision No. 48 (page 226) emphasizes that, from the perspective of state financial law and the institutional function of SOE as legal entities, SOE cannot be fully regarded as purely private legal entities. The Constitutional Court cited its earlier Decision No. 103/PUU-X/2012 concerning State Universities with Legal Entity Status (PTNBH) as educational institutions. However, Decision No. 103 relates specifically to SOE in the education sector, which raises two important questions. First, can Constitutional Court Decision No. 103 be applied identically to SOE operating in other sectors? Second, does the decision also encompass subsidiaries of SOE? These two questions become particularly significant when examined through examples such as the SOE companies Telkom and Pertamina.

Telkom is known to have five subsidiaries, and those subsidiaries collectively have eighteen additional subsidiary companies. Pertamina itself has twenty-two subsidiary companies. If subsidiaries establish further subsidiaries (sub-subsidiaries), and those entities in turn establish additional subsidiaries, would it be reasonable to regard the assets of subsidiaries, sub-subsidiaries, and even further affiliated entities as state assets? This analysis is not intended to diminish the legal meaning of separated state assets within SOE, nor to suggest that such assets may be managed arbitrarily or exploited for particular interests.

Settlement of Tax Debt Cases

Taxation constitutes an important issue for business actors. Although tax legislation adopts a self-assessment system[27] that grants taxpayers full responsibility to fulfill their tax obligations, the practical implementation of tax collection is not as simple as the system may suggest. The effectiveness of the system largely depends on four essential elements expected from taxpayers: (i) tax consciousness, (ii) honesty, (iii) tax mindedness, and (iv) tax discipline—namely, compliance with tax regulations so that taxpayers fulfill their obligations in a timely manner without the need for repeated reminders.[28]

Under tax law, the taxes payable are imposed on income received or earned, including profits derived from business activities. If a business does not generate profit and instead incurs losses, then no tax liability arises.[29] This concept applies equally to all taxpayers, including SOE. However, the discourse becomes more complex when SOE have outstanding tax debts that remain unpaid and are difficult to collect because certain statutory provisions appear to provide protection for SOE.

Such discrimination is reflected in Article 50 of Law No. 1 of 2004 on State Treasury, which stipulates that no party may seize:

a. money or securities belonging to the state or regional governments, whether held by government institutions or third parties;
b. money that must be paid by third parties to the state or regional governments;
c. movable property belonging to the state or regional governments, whether held by government institutions or third parties;
d. immovable property and other proprietary rights belonging to the state or regional governments; and
e. property belonging to third parties that is under the control of the state or regional governments and required for the performance of governmental functions.

From this provision, only point (e) is further explained, namely that property belonging to third parties under the control of the state refers to property that is physically possessed, used, or utilized by the government based on a legal relationship established between the government and the third party.

When a Tax Bailiff seeks to carry out seizure in accordance with tax legislation[30] against the assets of SOE (including Regional-Owned Enterprises/ROE), the seizure process is obstructed by the provisions of the State Treasury Law. In fact, the fundamental nature of SOE clearly reflects that their business activities are intended to generate profit. SOE function as autonomous entities that are legally separate from the state, with the state acting solely as a shareholder. Accordingly, the enforcement of tax law across all business entities should not be treated differently.

Seizure, as a sanction provided under tax legislation, is essentially intended to ensure taxpayer compliance. If compliant and non-compliant taxpayers receive the same treatment, compliant taxpayers may change their stance and become inclined

[27] The self-assessment system has been recognized since the enactment of Law No. 6 of 1983 on General Provisions and Tax Procedures. Under this system, each taxpayer is entrusted with the responsibility to fulfill their tax obligations by calculating, taking into account, paying, and reporting their own taxes. See also Article 12 of Law No. 6 of 1983 on General Provisions and Tax Procedures, which stipulates that every taxpayer is required to pay the tax due in accordance with the provisions of tax laws and regulations, without depending on the issuance of a tax assessment letter.

[28] Soemitro, Rochmat. *Asas dan Dasar Perpajakan 2*. Bandung: Eresco, 1998, p. 14.

[29] The concept of tax collection has been further simplified through the introduction of what is referred to as a "final" tax regime. Article 4 paragraph (2) of Law No. 7 of 1983 on Income Tax, as amended by Law No. 36 of 2008, identifies certain types of income subject to final tax, the detailed provisions of which are further regulated by Government Regulations. This means that the tax must still be paid regardless of whether the taxpayer realizes a profit or incurs a loss. The imposition of a final tax is based on several considerations: (i) to encourage the development of investment, (ii) to simplify tax collection, (iii) to reduce the administrative burden for both taxpayers and tax authorities, (iv) to promote a more equitable distribution of the tax burden, and (v) to respond to developments in the economic and monetary environment.

[30] The seizure process is regulated under Law No. 19 of 1997 on Tax Collection with a Distress Warrant, as amended by Law No. 19 of 2000.

toward non-compliance. The issue of an individual's compliance with tax obligations is largely an independent factor and is not necessarily influenced by government policies, as noted by Carlos Silvani: "...the level of tax compliance seems relatively independent of the taxpayers' degree of acceptance of their government and its policies."[31]

This raises a further question: why do SOE appear to be permitted to remain non-compliant in fulfilling their tax obligations, thereby giving rise to tax debts?[32] This is particularly concerning given that tax revenues continue to increase annually and require a higher level of compliance supported by the enforcement of sanctions in accordance with the law.[33] When SOE accumulate tax arrears, tax revenues are adversely affected,[34] which ultimately justifies the imposition of legal sanctions in the form of asset seizure. Moreover, legal measures such as the blocking of bank accounts and detention could, in principle, also be imposed on the directors of SOE.[35]

Therefore, members of the Board of Directors and the Board of Commissioners should bear joint and several liability if SOE fail to comply with their tax obligations, similar to the liability imposed on the directors and commissioners of other limited liability companies. The formulation of Article 50 of Law No. 1 of 2004, which provides exceptions, reflects a legal framework that is insufficiently responsive because SOE remain constrained by an inaccurate understanding of their status as legal entities.[36] This stems from the characterization of SOE as legal entities that remain closely tied to state legal policy, whereas the essential nature of a legal entity is that it possesses its own assets (*vermogen*).

Accordingly, the State Treasury Law must inevitably be revised to ensure equal legal treatment in the seizure of assets belonging to SOE and non-SOE entities. Increasing tax compliance—whether by SOE or other entities—leaves no alternative but to strengthen the enforcement of tax payment obligations through a legal approach while also ensuring legal protection, as noted by Wiwoho.[37]

The legal evaluation of tax debt may also be viewed through the lens of the classical objectives of law frequently articulated by Radbruch: justice, utility, and legal certainty.[38] In the context of taxation, the objective of utility may be considered relatively dominant. When SOE are granted exceptions through statutory provisions that prohibit the seizure of their assets, the objective served appears to be limited to the interests of SOE themselves rather than the broader goal of public welfare. It becomes even more unreasonable if such legal protection for SOE diminishes the legal accountability of their directors for the success or failure of the business activities they manage.

Conclusion

Based on the foregoing discussion, two conclusions may be drawn. First, it is necessary to undertake a harmonization of statutory regulations governing the legal status of SOE. This is consistent with Pound's theory that the principal function of law is social engineering (law as a tool of social engineering), whose primary role is to protect three balanced interests: public interests, social interests, and individual interests.[39]

Second, the advancement of SOE and compliance with tax obligations are closely interconnected. Public welfare cannot be achieved without tax revenues, and tax revenues cannot be generated if SOE and other business entities fail to generate profits. Profit constitutes the basis upon which taxes are imposed, and the ultimate objective of taxation is to promote public welfare and serve the interests of society.

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[31] Silvani, Carlos A. "Improving Tax Compliance." In *Improving Tax Administration in Developing Countries*, edited by Richard M. Bird and Milka Casanegra de Jantscher. Washington, DC: International Monetary Fund, 1992, p. 275.
[32] According to administrative records of the Directorate General of Taxes in 2009, of the 100 largest tax delinquents identified in that year, 16 were state-owned enterprises (BUMN) with total tax arrears amounting to IDR 7.6 trillion.
[33] Purnomo, Hadi. "Reformasi Administrasi Pajak." In *Kebijakan Fiskal*. Jakarta: Kompas, 2004, p. 220.
[34] Burton, Richard. "Memahami Masalah Penagihan Pajak." *Jurnal Perpajakan Indonesia*, Vol. 1, No. 1 (August 2001), p. 20.
[35] Ibid. See also Government Regulation No. 135 of 2000, which affirms the procedure for seizure, including the blocking of bank accounts, as well as Article 29 of Law No. 19 of 2000 concerning travel restrictions and detention.
[36] Rajagukguk, Erman, op. cit., p. 203.
[37] Wiwoho, Jamal. "Reformasi dan Modernisasi Sistem Perpajakan Nasional Dalam Kerangka Meningkatkan Kepatuhan Membayar Pajak." In *Memahami Hukum dari Konstruksi Sampai Implementasi*. Jakarta: Rajawali Pers, 2009, p. 505.
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