

Restorative Justice and Legal Reform in Tax Crime Prosecutions: Enhancing Accountability and Efficiency in Indonesia's Tax System

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ARTICLE INFO	ABSTRACT
Keywords: Tax crime prosecution; Corporate responsibility; Restorative justice.	This study examines the enforcement of tax crime cases in Indonesia, with a particular focus on the termination of prosecutions and the perspectives of key stakeholders, including the <i>Asosiasi Pengusaha Indonesia</i> (APINDO), the Directorate General of Taxes (DJP), and the Financial Audit Agency (BPK). Using in-depth interviews, the research identifies major challenges, which often stem from collusion between taxpayers and tax officials, coupled with weak corporate governance. The findings indicate that sanctions for tax crimes should be directed more toward the individuals managing corporations rather than the corporations themselves. The study also highlights the rising number of cases forwarded for prosecution and persistent issues concerning corporate accountability, including within <i>Badan Usaha Milik Negara</i> (BUMN). Furthermore, the research reveals inconsistencies in the legal framework between administrative and criminal law enforcement, demonstrating the need for clearer legal guidelines and improved inter-agency coordination. As a solution, this study underscores the potential of a restorative justice approach, particularly through tax repayment and fines, as an alternative mechanism to enhance taxpayer compliance and increase the efficiency of dispute resolution. In conclusion, the research offers recommendations for legal reforms, stronger inter-agency collaboration, and enhanced human resource capacity within tax authorities to ensure tax crime cases are resolved more effectively and fairly, ultimately supporting Indonesia's broader fiscal objectives.

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INTRODUCTION

Taxes play a crucial role in a country's development through their vital functions. One of these functions is as the primary source of state revenue, which is responsible for financing government expenditures (Gunadi, 2015). Taxes also serve as a regulatory tool for economic and social policies, such as the imposition of the Luxury Goods Tax (PPnBM) to control the consumption of luxury goods. Additionally, taxes help maintain economic stability and facilitate wealth redistribution through the application of progressive rates in income tax. Therefore, every citizen is obligated to understand and be aware of taxes as part of their duties set by the government.

According to several experts, taxes are mandatory contributions from individuals or legal entities to the state to finance public expenditures. Rochmat Soemitro emphasized that

taxes are the transfer of wealth from the people to the state treasury to finance state expenditures, which can then be used for public investment. This indicates that taxes are not only a source of revenue but also an instrument to support infrastructure development and public policies that benefit society.

Taxes also have a close relationship with civil law because taxes are levied based on various events, conditions, or actions regulated in civil law. In this regard, tax law acts as *lex specialis*, which regulates tax obligations with more specific legal foundations compared to civil law (Gunadi, 2015). The function of taxes is not only as a source of state revenue but also to regulate the social and economic life of society through fiscal policies.

In Indonesia, taxes are regulated by several laws, such as the Income Tax Law (PPh), Value Added Tax (PPN), and the Land and Building Tax (PBB), all of which play a role in increasing state revenue and supporting development (Agustina, 2019; Wulan et al., 2023). In the tax system, there are various types of taxes collected based on clear and specific rules, such as income tax and value-added tax, which are paid by both individuals and legal entities. These taxes are the primary source of state income and support various development programs aimed at improving public welfare.

However, tax administration also faces challenges related to compliance and law enforcement. Tax violations often involve legal processes, and those involved in tax crimes can be subject to either criminal or administrative sanctions. This is regulated in tax laws, which grant authorities the power to handle violations and ensure that state revenue is not disrupted (Cheisviyanny, 2020; Joka, 2023). In practice, taxes must be properly regulated to avoid violations that could harm the state's finances.

Additionally, policies for halting investigations or prosecutions in tax cases have been established to allow taxpayers to fulfill their obligations. Paying taxes along with penalties can serve as a basis for halting legal proceedings, providing space for resolution through administrative means, thus avoiding the need for criminal proceedings (Hantoyo et al., 2016). This reflects the principle of *ultimum remedium* in tax law enforcement, where administrative resolution is prioritized before criminal action is taken.

Therefore, taxes play an immense role in the country's economy and the welfare of society. Through taxes, the state receives revenue that is used for development and public services, while taxpayers have the duty to pay according to the applicable legal provisions, with strict sanctions for violations. Public participation in the tax system, both through compliance and oversight, is essential to ensure the achievement of broader national goals.

This research focuses on the systemic challenges and solutions in the construction of tax crime case termination in Indonesia, particularly in terms of how this process can contribute to optimizing state revenue. Given the increasing complexity of tax-related crimes, this research will also explore how a restorative justice approach can serve as an alternative to provide more dignified resolutions for taxpayers, focusing on restoring social and economic well-being (Ardiansyah & Wahyudin, 2023; Rohmah & Rahmayanti, 2022).

One of the main issues is the lack of clarity between administrative violations and tax crimes in Indonesian law. This lack of clarity can cause confusion among law enforcement officials and hinder the effectiveness of law enforcement. Additionally, the lack of tax awareness and education poses barriers to encouraging voluntary compliance and

strengthening the overall effectiveness of tax enforcement (Sinaga, 2018; Ohoiwirin & Ruslie, 2022; Firmansyah et al., 2025).

This study aims to analyze the construction of tax crime case termination mechanisms in Indonesia, focusing on how this process can contribute to optimizing state revenue. Additionally, it seeks to examine the application of restorative justice in resolving tax crimes as an alternative approach that offers more dignified solutions for taxpayers, an approach which places a strong emphasis on restoring social and economic well-being. The research also aims to evaluate the need for clear regulations distinguishing between administrative violations and tax crimes to prevent confusion among law enforcement officials and enhance the overall effectiveness of the legal framework. Finally, the study proposes legal reforms to ensure tax law enforcement is more transparent, fair, and effective, thereby helping to improve public trust in the national tax system.

This research is significant for both theory and practice, supporting ongoing legal and administrative reforms in Indonesia's tax system. By examining the termination mechanisms for tax crime cases and integrating restorative justice principles, it offers practical policy recommendations aimed at clarifying the distinction between administrative and criminal tax violations, thereby reducing ambiguity and improving enforcement. The study also highlights the need for coordinated collaboration among government agencies and law enforcement to optimize state revenue, using data-driven insights to guide more targeted actions. Ultimately, it contributes to building a transparent, fair, and accountable tax system that enhances public trust. Focusing normatively on Indonesia's legal framework—particularly Law No. 7 of 2021—the research analyzes tax crimes like embezzlement and evasion, explores restorative justice for revenue recovery and taxpayer rehabilitation, addresses legal challenges in classifying violations, and proposes reforms to strengthen compliance and optimize state revenue.

METHOD

The research methodology played a crucial role in producing accountable scientific work in legal studies. It provided the foundation of the research, covering aspects such as the approach, research type, data sources, and analysis.

This study primarily employed a normative legal approach to examine the norms, legal principles, and rules related to the issue. It also used a descriptive approach to depict the challenges surrounding tax law enforcement, specifically the reconstruction of prosecution cessation under Law No. 7 of 2021 concerning the Harmonization of Tax Regulations. Additionally, a multidisciplinary approach incorporated insights from political science to better understand government policies on prosecution termination in tax cases.

Data collection involved both primary and secondary sources. Secondary data included legal texts, previous research, and scholarly works, while primary data was collected through interviews with legal and tax experts directly relevant to the topic.

Secondary sources comprised primary legal materials such as laws and court decisions, secondary materials including books and articles, and tertiary sources like legal dictionaries. These supported the examination of the legal aspects of the tax prosecution cessation mechanism under Law No. 7 of 2021.

Data collection methods encompassed library research and fieldwork through interviews with experts such as Hariyadi Sukamdani, former Chairman of APINDO, Yuli Kristiyono, former Director of Law Enforcement at the Directorate General of Taxation, and other tax law professionals.

Data analysis was qualitative and followed a deductive method, moving from general legal theories toward specific conclusions regarding legal certainty in the prosecution cessation mechanism under the 2021 Harmonization Law.

The research ultimately produced prescriptive recommendations aimed at addressing challenges related to prosecutorial cessation in tax cases, contributing to the improvement of the tax enforcement system and supporting the realization of a welfare state.

RESULT AND DISCUSSION

Corporate Responsibility and Sanctions

Hariyadi Sukamdani, former Chairman of APINDO, highlighted that tax crimes within corporations often result from collaborative efforts between taxpayers and tax officials to evade taxes, alongside poor management of businesses. He stressed that tax report manipulations frequently harm the state's revenue and contribute to tax crimes. Sukamdani argued that criminal sanctions against corporations as business entities are inappropriate, as the actual perpetrators are the individuals who manage these corporations. According to Sukamdani, administrative sanctions would be more suitable than criminal penalties, particularly because corporations often avoid harsher penalties. He proposed that criminal sanctions should be applied to the individuals managing the corporation rather than the corporation itself.

Sukamdani also pointed out the inequality in how tax crimes are handled, especially with regard to the discrepancy between private corporations and state-owned enterprises (BUMN). He noted that state-owned enterprises rarely face the same level of scrutiny or accountability in tax crime cases, creating a sense of injustice. He emphasized that law enforcement should focus not only on the corporations but also on the individuals responsible for managing these entities. He suggested that better understanding of corporate responsibility in tax crimes is essential for fair tax law enforcement. Sukamdani's argument advocates for more targeted and individualized accountability, as well as a more equitable approach to tax crime enforcement across all types of entities, public or private (H. Sukamdani, 2024).

Increase in Tax Crime Cases and Deterrence Effect

Yuli Kristiyono, the former Director of Tax Enforcement at the DJP, provided insight into the increasing number of tax crime cases referred for prosecution. Kristiyono noted that not only had the quantity of cases risen, but also the emergence of new methods of committing tax crimes. For example, in 2015, 65 tax crime cases were completed and forwarded to the Prosecutor's Office (P-21), whereas by 2019, the number had increased to 144 cases. This increase indicates a significant rise in tax law enforcement activity. However, Kristiyono also pointed out that while specific deterrence (preventing reoffending by the same perpetrators) has shown some positive effects on compliance, general deterrence (discouraging potential offenders) has not been as effective. He attributed this failure in general deterrence to the insufficient socialization and publication of outcomes related to tax law enforcement.

Kristiyono emphasized that while the number of cases referred for prosecution has increased, the main issue remains that the perpetrators of corporate tax crimes are often individuals rather than the corporation itself. He highlighted a notable case involving a corporation, referred to as the "AAG" case, in which the state lost approximately 2.5 trillion rupiahs. However, corporations like state-owned enterprises (BUMN) are rarely held accountable, which perpetuates a lack of justice in tax crime enforcement. Kristiyono called for clearer guidelines on how to handle corporate tax crimes and advocated for the application of criminal liability to corporations as legal entities. This would ensure that corporations, as legal entities, are held accountable for their tax crimes and not merely the individuals managing them (Y. Kristiyono, 2024).

Legal Framework and Inconsistencies in Enforcement

Hadi Poernomo, former Head of the Financial Audit Agency (BPK) and former Director General of Taxes, shared his perspective on the challenges in tax crime enforcement, especially regarding tax audits and the gathering of initial evidence. Poernomo highlighted that the legal framework governing tax crime cases, particularly in terms of tax audits and evidence gathering, creates loopholes that offenders can exploit. He explained that while tax crime perpetrators may settle by paying fines and halting investigations, the transfer of the case to court should still proceed. However, prosecutors are not authorized to stop investigations, which leads to a legal vacuum that undermines the enforcement process.

Poernomo also pointed out that tax enforcement officers (PPNS) lack the authority to detain offenders, contributing to a sense of impunity. The absence of this authority weakens the effectiveness of the tax law enforcement process, as offenders are not deterred by the threat of detention. He argued that while tax enforcement may resolve minor violations with administrative sanctions, more severe cases should involve criminal law enforcement, including detention, to ensure compliance and punishment for more serious offenses. Poernomo stressed the need for legal certainty in tax enforcement, as the current system of administrative and criminal enforcement is often separate and inconsistent, creating confusion among enforcement authorities and making it difficult to collect taxes efficiently. He criticized the practice of overlooking false tax declarations when taxpayers have paid some of the outstanding taxes, instead of focusing on the underlying manipulation (H. Poernomo, 2024).

The Need for Legal Reform and Better Coordination Among Agencies

The perspectives of the informants collectively highlight several pressing issues in Indonesia's tax law enforcement system. These issues include unclear legal guidelines, disparities in the handling of tax crimes between private corporations and state-owned enterprises, and the lack of firm application of criminal sanctions against corporations. The study suggests that there is a need for legal reform and clearer policies to ensure fair enforcement of tax law, both for individuals and corporations.

The need for better coordination among various agencies, such as the Directorate General of Taxes (DJP), the Financial Audit Agency (BPK), and prosecutors, was also emphasized. Effective coordination is critical to achieving comprehensive tax law enforcement, as well as ensuring that both individual and corporate taxpayers are held accountable for their actions. The improvement of human resources in the DJP was also noted

as crucial to ensure that tax crime cases are handled effectively, fairly, and in alignment with the country's fiscal goals. Enhanced training, more stringent auditing practices, and the development of clearer policies are key to addressing the challenges in tax crime enforcement (H. Sukamdani, 2024; Y. Kristiyono, 2024; H. Poernomo, 2024).

In conclusion, the perspectives of the three informants demonstrate that while there have been some positive developments in tax law enforcement in Indonesia, several issues still persist. These issues include unclear legal guidelines, disparities in how tax crimes are treated across different types of entities, and inconsistent application of criminal sanctions. The study underscores the need for legal reform to create more comprehensive and consistent policies for tax law enforcement. Further, the findings stress the importance of strengthening coordination between agencies and improving the regulatory framework to ensure that tax crime cases are handled effectively, fairly, and in support of the country's fiscal goals. The improvement of human resources within the Directorate General of Taxes (DJP) is critical to ensuring that tax crimes are addressed in a manner that aligns with both the legal requirements and national objectives.

The Construction of Legal Regulation for Terminating Tax Crime Cases in Favor of State Revenue

Taxes are the foundation of any nation's financial system, providing the necessary resources for the state's functions, including public services, infrastructure development, and the promotion of social welfare. However, tax crimes such as tax evasion and embezzlement not only result in significant financial losses but also undermine the integrity of the tax system. This chapter aims to explore the findings from the study on the importance of tax crime receipts for state revenue, the role of restorative justice in terminating tax crime prosecution, and the application of various legal principles that govern the enforcement and termination of tax crimes. Through this analysis, the study highlights the complex interplay between legal enforcement, financial recovery, and social justice in the Indonesian tax system.

The findings of the study reveal several critical insights into the role of tax revenue derived from tax crimes and the legal mechanisms for prosecuting such offenses. First, it was found that tax crimes have a significant impact on the state's revenue, with both direct financial losses and indirect consequences such as a decrease in public trust in the tax system. Tax crimes such as embezzlement and tax avoidance not only harm state revenue but also create systemic injustice (Mumek & Wasis, 2022; Dewa & Tanudjaja, 2024). The revenue recovered through fines and restitution payments from tax criminals contributes directly to filling the financial gaps caused by these violations, which plays a crucial role in maintaining state financial stability (Maulida, 2025).

Secondly, the application of restorative justice in the prosecution of tax crimes was identified as a critical element in restoring public trust in the tax system. When taxpayers demonstrate good faith by paying taxes and fines, prosecution can be terminated based on restorative justice principles (Djafar & Chandra, 2022). This approach focuses on repairing the harm caused to the state while providing a more equitable and rehabilitative resolution for offenders (Fadillah et al., 2023; Pohan et al., 2023).

Furthermore, the study found that the principle of *dominus litis*, which gives prosecutors the authority to decide whether to continue or terminate investigations, plays a significant role in ensuring fairness and efficiency in the prosecution of tax crimes (Djafar & Chandra, 2022). This principle allows prosecutors to consider not only the legal aspects of a case but also the broader public interest, ensuring that resources are allocated efficiently and that cases with sufficient evidence are prioritized (Artadinata & Lasmadi, 2023).

Finally, the study highlights the relevance of the “*Primum Remedium*” and “*Ultimum Remedium*” principles, which suggest that administrative sanctions should be prioritized before criminal prosecution. This framework encourages the resolution of tax violations through administrative means, such as paying fines and restitution, before resorting to criminal penalties (Safitri, 2025; Maulida, 2025). The findings suggest that such a system not only restores state revenue but also supports a fairer and more responsive tax enforcement system.

The findings of this study are consistent with existing literature that underscores the significance of tax crimes in undermining both state revenue and the fairness of the tax system. Argue that tax crimes contribute to both financial deficits and inequality within the tax system, making it necessary to address these issues through effective enforcement and restitution (Mumek & Wasis, 2022; Dewa & Tanudjaja, 2024). The study's finding that fines and restitution payments contribute to state financial recovery aligns with Maulida's assertion that the state can recover losses through the penalties imposed on tax criminals (Maulida, 2025).

The application of restorative justice in the context of tax crimes is also well-supported in the literature. Suggest that restorative justice offers a more rehabilitative approach to tax crime prosecution, focusing on restoring social harmony and encouraging future compliance (Fadillah et al., 2023; Pohan et al., 2023). This approach provides offenders with the opportunity to correct their wrongdoings and contribute back to society, which aligns with Surfani's assertion that restorative justice helps strengthen the tax system and moral standards within society (Surfani, 2024).

The *dominus litis* principle, which grants prosecutors discretion in terminating investigations, has been recognized by scholars (Djafar & Chandra, 2022; Artadinata & Lasmadi, 2023). This principle allows prosecutors to prioritize cases with significant public interest, ensuring that legal resources are effectively allocated to more impactful cases. The study's findings that this principle helps ensure efficiency in tax crime investigations resonate with the broader discussion in the literature about the need for a fair and responsive legal system.

Lastly, the “*Primum Remedium*” and “*Ultimum Remedium*” principles are extensively discussed in tax law literature. The importance of administrative sanctions in promoting tax compliance and ensuring that criminal sanctions are used only when necessary (Safitri, 2025; Maulida, 2025). The study's findings support the argument that a tax system that prioritizes administrative penalties over criminal prosecution leads to more efficient resolution of tax violations and helps restore state revenue while minimizing social disruption.

The findings of this study have several significant scientific and practical implications for both the academic field of tax law and for policymakers involved in tax enforcement. This study contributes to the body of knowledge by reinforcing the importance of restorative justice in the prosecution of tax crimes. It highlights the need for a legal framework that balances punitive measures with opportunities for offenders to make amends through restitution. The

findings also underscore the relevance of legal principles such as *dominus litis*, “Primum Remedium,” and “Ultimum Remedium” in creating an efficient and fair tax enforcement system. The research advances understanding of how legal discretion and prioritization in tax prosecutions can enhance both financial recovery and social justice.

From a practical perspective, the findings of this study provide valuable insights for policymakers and tax enforcement authorities in Indonesia. The research suggests that applying restorative justice principles can reduce the burden on the justice system and provide offenders with an opportunity for rehabilitation, which may lead to improved tax compliance in the future (Pohan et al., 2023). Prosecutors are encouraged to use their discretion in terminating tax crime prosecutions when offenders demonstrate good faith, contributing to more efficient case management and better resource allocation within the justice system (Pratama et al., 2023).

Moreover, the study’s findings regarding the “Primum Remedium” and “Ultimum Remedium” principles offer practical guidelines for prioritizing administrative sanctions in the resolution of tax violations. This approach not only restores state revenue more effectively but also helps maintain public trust in the tax system by ensuring that criminal penalties are used only as a last resort. The research advocates for a more balanced and adaptive tax enforcement system that focuses on compliance and financial recovery, which would be beneficial for long-term fiscal stability (Hendra & Arwanto, 2025).

Actions Taken by the Public Prosecutor Against Tax Crimes with Corrections and Full Payment of Tax Deficiencies

The findings from this study underscore the critical role of criminal law in the enforcement of tax laws, especially in the context of tax crimes such as tax evasion and avoidance. These crimes significantly undermine the state’s financial health by reducing tax revenues and damaging the integrity of the tax system. The study reveals that the state utilizes criminal law, not only as a punitive measure but as a mechanism to restore the financial losses incurred due to these violations. It was found that the restitution of state losses, including the payment of fines and taxes, can serve as an important tool for recovering lost revenue and promoting greater compliance among taxpayers (Rahmattullah, 2024).

Furthermore, the principle of restorative justice is identified as a key strategy in the termination of tax crime prosecutions. When offenders demonstrate good faith by fulfilling their tax obligations, including paying fines, prosecutors can consider terminating prosecution, thereby facilitating financial recovery for the state and encouraging future tax compliance (Zunaidi & Najih, 2020; Aria & Zakaria, 2023). The research shows that such actions, based on the principle of opportunity, allow the public prosecutor to act in a manner that is both humane and pragmatic, focusing on restoring the state’s losses rather than relying solely on prolonged criminal proceedings.

Another key finding is the application of the secondary function of criminal law, as outlined in Indonesia’s Penal Code (KUHP), which provides for the termination of prosecution or investigation in cases where the offender has made restitution for the state’s losses. This mechanism is particularly relevant in tax law, where the government may halt investigations or prosecutions if the tax deficiencies are settled, reflecting the principle that criminal sanctions

should be used as a last resort (*ultima ratio*) when administrative solutions are not sufficient (Hendra & Arwanto, 2025); (Burhan & Gunadi, 2022).

The study aligns with existing literature on the role of criminal law in protecting public interests and ensuring compliance with the law. As Lamond states, crimes are considered public wrongs not because they directly harm the public, but because it is the public's responsibility to punish them. This notion reinforces the importance of criminal law in maintaining societal order and enforcing state obligations, including tax collection. Similarly, the concept of the "ultima ratio" or "last resort principle," which advocates for criminal law to be applied only when necessary, is widely recognized in both civil law and common law systems. Scholars have long debated the balance between administrative and criminal sanctions, with the general consensus being that criminal law should be a secondary mechanism to resolve conflicts.

This study builds on these principles by exploring how the Indonesian legal system implements these functions in tax law. The findings regarding the use of restorative justice in the prosecution of tax crimes align with broader global trends where restorative justice is seen as a means to repair the harm caused by criminal actions and rebuild relationships between the offender, the victim, and society (Fadillah et al., 2023). This approach has gained traction in many legal systems worldwide, including the Netherlands, where discretionary powers were introduced in the 1960s to allow prosecutors to discontinue prosecutions in certain cases, especially when restitution was made (Pramono, 2016).

Furthermore, the principle of *dominus litis*, granting prosecutors the authority to decide whether to proceed with a case, is also supported by legal scholars (Artadinata & Lasmadi, 2023). This principle is crucial in tax law, where prosecutors can balance public interest with the need for judicial efficiency and the promotion of compliance. The study reinforces the idea that prosecutors should exercise discretion in cases where the state's losses have been compensated and where the continuation of the case does not serve a significant public interest.

The research also resonates with the arguments made by Rahmattullah and Zunaidi, who emphasize the role of the prosecutor in balancing justice and efficiency. By allowing the termination of prosecution in cases of restitution, the state not only recovers financial losses but also encourages taxpayers to correct their mistakes voluntarily, which in turn contributes to the overall health of the tax system (Rahmattullah, 2024; Zunaidi & Najih, 2020).

This study contributes to the growing body of research on the application of criminal law in tax enforcement, particularly in the context of the secondary function of criminal law and restorative justice. The study highlights the importance of maintaining a balanced approach to tax enforcement that prioritizes administrative sanctions before resorting to criminal penalties. This approach is consistent with the "ultima ratio" principle, which calls for the limited use of criminal law and emphasizes the need for alternative mechanisms to resolve tax violations. The study offers a framework for future research on the integration of restorative justice in tax law enforcement, exploring its potential to improve taxpayer compliance and restore public trust in the tax system.

From a practical perspective, the findings suggest that tax authorities and prosecutors in Indonesia should continue to focus on administrative solutions to resolve tax crimes. The study advocates for the use of restorative justice principles, which could reduce the burden on the judicial system and encourage taxpayers to voluntarily comply with their tax obligations (Rahmattullah, 2024). By prioritizing the payment of fines and restitution, prosecutors can

facilitate the recovery of state revenue without resorting to lengthy criminal trials. This approach aligns with the global trend towards more flexible, responsive tax enforcement systems, as demonstrated in the Netherlands' use of discretionary powers in tax cases (Pramono, 2016).

The practical application of these principles also has significant implications for policymakers. By adopting the opportunity principle and allowing prosecutors to terminate cases when restitution has been made, Indonesia can foster a more positive tax climate and encourage compliance without burdening taxpayers with excessive penalties. Furthermore, such practices could help streamline the judicial process, ensuring that resources are focused on the most serious cases while providing more efficient resolutions for less severe violations (Zunaidi & Najih, 2020; Wicaksana, 2025). The integration of these principles into Indonesian tax law could thus contribute to a more balanced and sustainable system of tax enforcement that aligns with both the needs of the state and the rights of taxpayers.

Regulation on the Termination of Prosecution in Tax Crime Cases for the Benefit of Future State Revenues

The findings from this study reveal significant insights regarding the termination of tax crime prosecution in the context of Indonesia's tax law enforcement, especially through the application of administrative and criminal law mechanisms.

First, the study highlights that the termination of tax crime investigations is primarily based on restoring state revenue. This mechanism allows the prosecutor's office to halt the investigation once the taxpayer has paid the outstanding taxes and fines. The main requirement for terminating an investigation is that the taxpayer settles the state's financial losses through these payments. According to Article 44B (2) of the Tax Law, the investigation may only be stopped after the taxpayer pays both the owed tax and fines, which should amount to four times the amount of the underpaid tax or incorrect refunds (Rahmattullah, 2024).

Moreover, the study found that the power to halt investigations in tax cases rests with tax investigators, the Directorate General of Taxes (DGT), in coordination with the Attorney General's office. The Attorney General typically recommends halting investigations upon request from the Minister of Finance, but the decision ultimately lies with the DGT. Investigations can only be terminated under specific circumstances, such as the case not having reached the trial stage, and only in cases where the taxpayer has paid the owed taxes along with the fines (Burhan & Gunadi, 2022).

The study also found that this approach aligns with the "ultima ratio" principle, indicating that criminal law should be a last resort. By prioritizing administrative measures such as the payment of fines and taxes, the system aims to resolve tax offenses without resorting to formal criminal procedures, reflecting the secondary role of criminal law in tax enforcement (Hendra & Arwanto, 2025). This regulatory approach enables the country to recover lost state revenue efficiently while avoiding prolonged criminal legal proceedings.

The concept of terminating tax crime prosecution based on the restoration of state revenue aligns with global trends in tax law enforcement, where administrative resolutions are favored over criminal sanctions. Lamond, emphasizes that criminal law should be used sparingly, primarily when administrative mechanisms are insufficient. This resonates with the

“ultima ratio” principle, which posits that criminal law should only be invoked when necessary to maintain public order and deterrence.

In the context of Indonesia, the findings of this study show a clear application of this principle, where the state uses administrative measures to settle tax crimes before resorting to criminal prosecution. This is consistent with the legal approach in other jurisdictions, including the Netherlands, where discretionary powers were introduced in the 1960s to stop prosecutions for minor offenses, including tax violations, if restitution was made (Pramono, 2016). The principle of “opportunity,” which gives prosecutors discretion in terminating tax crime cases, is also recognized in international legal systems as a tool to streamline judicial processes and prevent unnecessary court proceedings (Tanudjaja & Rusmaya, 2024; Limbong et al., 2023).

Further, the findings of this study support the argument made by Ningrum et al. and Tanudjaja that adjustments in tax law policies should be made to create a more flexible framework, where the principle of opportunity can be applied more effectively. By adopting such frameworks, the state can reduce its reliance on punitive criminal sanctions and improve the efficiency of tax enforcement, thus fostering a more tax-compliant culture (Ningrum et al., 2016; Tanudjaja & Rusmaya, 2024).

Additionally, the application of restorative justice in terminating tax crime prosecutions, as found in the study, has parallels with legal approaches in other countries. Restorative justice allows offenders to rectify their actions by fulfilling their obligations without undergoing lengthy criminal procedures. This approach not only aids in the financial recovery of the state but also promotes rehabilitation, reducing the likelihood of future violations (Wibowo & Hufon, 2024).

The findings of this study contribute significantly to the academic discourse on the secondary function of criminal law in tax enforcement. By emphasizing the role of administrative law in resolving tax crimes, the study provides empirical support for the “ultima ratio” principle, which limits the use of criminal law to cases where it is truly necessary. The research deepens our understanding of the interplay between administrative and criminal law in tax enforcement, particularly in terms of using restitution as a way to recover state revenue and encourage compliance.

This study also contributes to the field by highlighting the practical application of restorative justice within tax law. Restorative justice, as a tool for resolving tax offenses, offers valuable insights into how legal systems can prioritize rehabilitation and restitution over punishment, potentially leading to more effective and sustainable tax compliance.

From a practical perspective, the findings suggest that Indonesia's tax authorities and prosecutors should continue to refine their approach to tax law enforcement by integrating restorative justice and expanding the application of the principle of opportunity. By providing prosecutors with the discretion to terminate investigations upon the taxpayer's restitution, this approach would not only streamline the tax enforcement process but also encourage voluntary compliance from taxpayers.

The study's recommendations align with the calls for a more flexible framework in tax law enforcement, as proposed by Ningrum et al. and Tanudjaja. Tax authorities should prioritize administrative solutions, such as the payment of fines and taxes, before resorting to criminal sanctions. This would reduce the burden on the judicial system while ensuring that

state revenue is restored quickly and efficiently (Ningrum et al., 2016; Tanudjaja & Rusmaya, 2024).

Moreover, enhancing taxpayer education and awareness is crucial. As the study suggests, intensive socialization about tax rights and obligations can significantly improve tax compliance. This aligns with the suggestions made by Limbong et al. and Tanudjaja regarding the importance of educating taxpayers, both individuals and corporations, to ensure that they understand their legal obligations and the consequences of non-compliance (Limbong et al., 2023; Tanudjaja & Rusmaya, 2024).

Finally, strengthening law enforcement agencies' capacity to apply legal actions that are not only repressive but also corrective and educational is essential. As Maulida suggests, prosecutors should be empowered to use their discretion in resolving tax violations in a way that encourages compliance and supports state revenue, rather than relying solely on criminal prosecution (Maulida, 2025).

CONCLUSION

This study explores the complex interaction between criminal law and tax enforcement in Indonesia, highlighting that restoring state revenue is the primary goal in addressing tax crimes. It emphasizes favoring administrative measures like tax repayment and fines over prolonged criminal trials, consistent with the *ultima ratio* principle that reserves criminal sanctions as a last option. The research also highlights the prosecutorial principle of opportunity, allowing investigations to end once state losses are recovered, reinforced by restorative justice to improve efficiency and public trust. Additionally, it stresses the importance of increasing public awareness to encourage voluntary compliance and adopting corrective approaches in law enforcement. The study advocates for an adaptive legal framework that blends restorative justice, administrative solutions, and targeted criminal penalties to strengthen tax compliance and create a fairer, more effective tax system. Future research could examine the practical effects of restorative justice implementation in Indonesian tax cases and explore strategies to enhance taxpayer education and engagement.

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Restorative Justice and Legal Reform in Tax Crime Prosecutions: Enhancing Accountability and Efficiency in Indonesia's Tax System

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