



Policy Implementation Process and its Component on Tax Crime Investigation Boundary to Promote an Optimal Tax Revenue: A Literature Review

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ABSTRACT

Implementation of the policy to terminate a crime investigations in tax offenses through an administrative mechanism is emphasizing the governance: responsibility for decision-making, accountability, supervision, and cooperation among domestic institutions. The research methodology employed in this article is a literature review. This article presents research data in the form of studies of policy implementation and authoritative documents such as laws and regulations, court decisions, and strategic plans of the tax authorities about tax criminal investigations. This article argues that several components must be considered in the policy implementation process associated with the mechanism for terminating tax criminal investigations, namely context, policy focus lens, innovation, levers of influence, facilitator or inhibitor, impact, policy actor, or leader of policy implementation. The results of this article's literature review indicate that the implementation of the policy of ending tax criminal investigations necessitates renewal of tax policy (PMK Number 55/PMK.03/2016) to support optimal tax revenue, including arrangements for working relations between the Ministry of Finance of the Republic of Indonesia and the Attorney General of the Republic of Indonesia, regulations delegating decision-making authority, and standard services at the request of tax authorities.

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1. Introduction

If the function of investigating tax offenses is viewed as a component of the integrated criminal justice system. It can be argued that the criminal justice sub-system is comprised of the police, prosecutors, courts, and correctional institutions.¹ The criminal justice system can be approached by using an administrative system, which views the four law enforcement officials as a management organization with both horizontal and vertical working mechanisms under the organization's organizational structure.²

According to the provisions of Article 44 paragraph (1) of the Law of the Republic of Indonesia Number 7 of 2021 concerning Harmonization of Tax Regulations (hereinafter referred to as Law Number 7 of 2021), tax investigations may only be conducted by civil servants investigators within the Directorate

¹ Oly Viana Agustine, (2019), *Sistem Peradilan Pidana Suatu Pembaharuan*, 1st ed., Depok: Rajawali Pers, p.13.

² Romli Atmasasmita, (2013), *Sistem Peradilan Pidana Kontemporer*, 3rd ed., Jakarta: Kencana, p. 7.

General of Taxes (DGT), which has the authority, among other things, to halt investigations into tax crimes referred to in CHAPTER II provisions of article 44 paragraph (2) letter k of Law Number 7 of 2021. It was created using the method of omnibus law. Regarding this, Gusman stated, "The word omnibus is typically paired with the word law or bill, which refers to a regulation based on a compilation of several rules with different substances and levels."³

Furthermore, provisions of Article 44B paragraph (1) of Law Number 7 of 2021 stipulate: "For the benefit of state revenue, at the request of the Minister of Finance, the Attorney General may suspend investigations of criminal acts in the field of taxation within a maximum period of six (six) months from the date of the request letter,"⁴ which is identical to the provisions of Article 44B paragraph (1) of Law of the Republic of Indonesia Number 6 of 1983 as last amended by Law Number 7 of 2021. In the following, the author presents a comparison matrix for Table 1's two (2) statutory regimes' regulations on halting investigations into tax offenses.

Table 1. Comparison of Legal Requirements for the Closure of Tax Crime Investigations

Number	Provision	Legal Norms
1	Provisions of Article 44B paragraph (1) of Law Number 16 of 2009	"For the benefit of state revenue, at the request of the Minister of Finance, the Attorney General may suspend investigations of criminal acts in the field of taxation within a maximum period of six (six) months from the date of the request letter"
2	Provisions of Article 44B paragraph (1) of Law Number 7 of 2021	"For the benefit of state revenue, at the request of the Minister of Finance, the Attorney General may suspend investigations of criminal acts in the field of taxation within a maximum period of six (six) months from the date of the request letter"

Source: Law Number 16 of 2009 and Law Number 7 of 2021

According to the preceding Table 1, the concept/interest of tax revenue in Article 44B of both policy regimes remains the same. Theoretically, according to Gray and Jones, the phrase "for the benefit of state revenue" in the provisions of Article 44B of Law Number 7 of 2021 is referred to as a policy setting, which includes the juridical and constitutional basis as well as economic conditions as a parameter, and the phrase "... at the request of the Minister of Finance, the Attorney General may cease investigation of criminal offenses in the field of taxation..." is a policy setting. In the provisions of the article *a quo*, the moral of the story must be interpreted as promoting policy solutions and confirming the leadership implementing the policy, namely the Minister of Finance and the Attorney General, who is referred to as policy characters as heroes who promise to implement the promoted solutions and policies. The plot consists of the relationship between actors, the policy setting, and the moral of the story as elements of the overall political structure.⁵

In addition, the procedure for terminating investigations into tax crimes can be found, among other places, in the Regulation of the Minister of Finance of the Republic of Indonesia Number 55/PMK.03/2016 on Procedures for Requesting Termination of Investigation of Criminal Acts in the Field of Taxation in the Interest of State Revenue (hereinafter PMK Number 55/PMK.03 /2016). To provide legal certainty for the implementation of the termination of criminal investigations in the field of tax crimes for the benefit of state revenue and to implement the provisions of Article 63 of Government Regulation of the Republic of Indonesia Number 74 of 2011 Concerning Implementation

³ Delfina Gusman, (2021), "Moralitas Omnibus Law Undang-Undang Cipta Kerja Dalam Rangka Pemenuhan Kebutuhan Hukum Masyarakat," *Nagari Law Review* 4, no. 2: 202, <https://doi.org/10.25077/nalrev.v4.i2.p.200-209.2021>.

⁴ Indonesia, Republic, (2021), "Law Number 7 of 2021 of the Republic of Indonesia regarding the Harmonization of Tax Regulations," Pub. L. No. 7.

⁵ Garry Gray and Michael D. Jones, (2016), "A Qualitative Narrative Policy Framework? Examining the Policy Narratives of US Campaign Finance Regulatory Reform," *Public Policy and Administration* 31, no. 3: 196, <https://doi.org/10.1177/0952076715623356>.

of Rights and Fulfilment of Tax Obligations as letter c, the section weighing letter b PMK *a quo* states as follows.⁶

Articles 2(1) and (2), Article 3(1), Article 6(1), Articles 8(1) and (2), and Article 9(1). PMK Number 55/PMK.03/2016 is coherent and consistent in that the procedure for concluding an investigation of a tax offense is requested by the Minister of Finance to the Attorney General at the taxpayer's request. A formal working relationship is necessary in this regard. The Organization for Economic Cooperation and Development (hereinafter OECD) asserts:

“Having a clear organizational model is important because it will allow for efficient allocation of responsibilities, which can reduce the risk of duplication of efforts and gaps in law enforcement. A clear organizational structure is also important as it allows for greater transparency and accountability for the use of resources and deployment of strategies. The organizational structure should ensure that the agency responsible for the investigation and prosecution of tax crimes is independent of personal or political interests and is also held accountable for exercising its functions with fairness and integrity.”⁷

Among the DGT's administrative and policy-related duties and functions is the investigation of tax offenses. Referring to the DGT strategic plan document for 2020-2024 based on the Director General of Tax Decree Number KEP-389/PJ/2020 concerning the Directorate General of Taxes Strategic Plan for 2020-2024 dated 31 August 2020 (hereinafter referred to as the DGT Renstra), it has a vision, mission, values, and objectives. Optimal state revenue from the tax sector is one of DGT's Renstra objectives.⁸

In addition, the DGT's policy direction and strategy for bolstering tax supervision include comprehensive law enforcement, the redefinition of criminal/administrative violations, and systematized tax criminal law enforcement decision-making.⁹ To support the attainment of the vision and mission, DGT's Strategic Plan also mentions the need for changes to the regulatory framework, such as the enactment of the Bill on General Provisions and Tax Procedures¹⁰, which will become Law Number 7 of 2021. From a legislative standpoint, Law Number 7 of 2021 is a policy update that must be accompanied by an amendment to PMK Number 55/PMK.03/2016 to make it simpler for the DGT to end an administrative/policy tax investigation. Thus, according to Bird, “tax administration is, in a very real sense, tax policy.”¹¹

An example relates to court decision on tax crime is decision No. 1263/PID.SUS/2019/PN/. JKT.PST on behalf of the defendant MAS as the main director of PT. CF was found guilty and committed a crime under the provisions of Article 39 paragraph (1) letter i of Law Number 16 of 2009 and Article 64 of the Criminal Code. In summary, *a quo* court decision concerns the fact that the defendant MAS was accused of committing the crime of non-payment of Value-Added-Tax (VAT) in January 2009, February 2009, and October 2012 for some business transactions with PT. PERTAMINA (State-Owned Enterprises/BUMN).

Please be advised that in 2012 there was a change in the policy of the Minister of Finance of the Republic of Indonesia Number 85/PMK.03/2012 regarding Appointment of State-Owned Enterprises to Collect, Deposit, and Report Value Added Tax or Value Added Tax and Sales Tax on Luxury Goods, as well as

⁶ Indonesia, Republic, (2016), “Regulation of the Minister of Finance of the Republic of Indonesia Number 55/PMK.03/2016 on Procedures for Requesting Termination of Investigation of Criminal Acts in the Field of Taxation in the Interest of State Revenue,” Pub. L. No. 55.

⁷ OECD, (2021), *Fighting Tax Crime – The Ten Global Principles* (Second Edition), Second Edition, Paris: OECD Publisher, h. 45, <https://doi.org/10.1787/006a6512-en>.

⁸ Direktorat Jenderal Pajak Kementerian Keuangan Republik Indonesia, (2020), *Rencana Strategis DJP 2020-2024*, Jakarta: Direktorat Jenderal Pajak, p. 42.

⁹ Id, Direktorat Jenderal Pajak, *Rencana Strategis DJP 2020-2024*, p. 51.

¹⁰ Id, Direktorat Jenderal Pajak, *Rencana Strategis DJP 2020-2024*, p. 53.

¹¹ Richard M. Bird, (2014), “Administrative Dimensions of Tax Reform,” *Annals of Economics and Finance* 15, no. 2 (2014): p. 135.

the Collection, Deposit, and Reporting Procedures (hereinafter PMK Number 85/PMK.03/2012), which became effective and binding on July 7, 2012.¹² In the context of the Value-Added Tax (VAT) system, this indicates that PT. PERTAMINA has legal obligations and administrative burdens to deposit, collect, and report VAT, whereas PT. CF does not. Regarding this, Thuronyi stated:

"It follows from the definition of "value-added" on which VAT is based that any VAT incurred by a taxable person as input tax should be repaid to that person in some way. The usual method of repayment is to allow the input tax to be set off as a deduction or credit against output tax collected during the same period. A duty is imposed on the taxable person to pay only the net amount to the tax authorities. In principle, therefore, all relevant input tax incurred by a taxable person should be available for credit in this way."¹³

In addition, during the investigation phase, MAS was not accompanied by a legal counsel, and during the prosecution phase, MAS paid the full amount of tax debt and fines four (4) times and requested the termination of the investigation into tax crime from the Minister of Finance, but received no response, although the provisions of Article 53 paragraphs (1), (2), and (3) of the Law of the Republic of Indonesia Number 30 of 2014¹⁴ should have been followed. Among other factors, the ratio decidendi of a *quo* court decision stated:

"... and then in 2019 the Defendant just paid Value Added Tax (VAT) of Rp. 429,097,664.00 (four hundred twenty-nine million ninety-seven thousand six hundred sixty-four rupiah) and pay a fine of 4 (four) times the amount of Rp. 1,716,390,656.00 (one billion seven hundred sixteen million three hundred ninety-six thousand five hundred fifty-six) in the legal process of the accused."¹⁵

Based on the preceding decision number 1263/PID.SUS/2019/PN/. JKT.PST, the phrases "... in 2019 the Defendant just paid VAT tax" and the phrases "in the legal process of the accused" raise policy bias regarding when and how to terminate the investigation of a crime tax penalty. A *quo* court decision MAS to six (6) months imprisonment and a fine of Rp. 1,287,292,992.00, (one billion two hundred eighty-seven million two hundred ninety-two thousand nine hundred ninety-two rupiah) on February 17, 2020. If the fine is not paid, MAS will also face six (6) months imprisonment.¹⁶

Supposedly, the capacity of the tax administration to stop tax investigations can be optimized at every level of bureaucracy (DGT) for conflict resolution by encouraging taxpayers to comply voluntarily rather than through the criminal law enforcement process in court. This argument can be traced back to Bird's citation of Vito Tanzi's remark that "tax administration has a crucial role in determining the real (or effective) tax system, as opposed to the statutory tax system."¹⁷ Under the European

¹² Indonesia, Republic, (2012), "Regulation of the Minister of Finance of the Republic of Indonesia Number 85/PMK.03/2012 regarding Appointment of State-Owned Enterprises to Collect, Deposit, and Report Value Added Tax or Value Added Tax and Sales Tax on Luxury Goods, as well as the Collection, Deposit, and Reporting Procedures," Pub. L. No. 85.

¹³ International Monetary Fund, Tax Law Design and Drafting, ed. Victor Thuronyi, Tanpa lokasi: International Monetary Fund, 1996, p. 222.

¹⁴ Indonesia, Republic, (2014), "Law Number 30 of 2014 of the Republic of Indonesia regarding to Government Administration," Pub. L. No. 30, Article 53 (1): "Deadlines for the obligation to determine and/or carry out decisions and/or actions in accordance with the provisions of laws and regulations"; Article 53 (2): "If the provisions of the laws and regulations do not specify a time limit for the obligations referred to in paragraph (1), then the Agency and/or Government Officials are required to determine and/or carry out a decision and/or action within a maximum of ten (10) working days after receiving the complete application"; Article 53 (3): "If, within the time limit specified in paragraph (2), the Government Agency and/or Official fails to issue and/or carry out a Decision and/or Action, the application shall be deemed legally granted."

¹⁵ Indonesia, Republic. (2019). Central Jakarta District Court Number 1263/PID.SUS/2019/PN.JKT.PST, February 17, 2020, p. 72.

¹⁶ Id, Indonesia, p. 77-78.

¹⁷ Loc.cit, Bird, "Administrative Dimensions of Tax Reform." p. 135.

Commission's stance on tax administration, "tax administration implements tax law."¹⁸ Nevertheless, Bird also emphasized that "There is a growing conviction among tax policy specialists in developing countries that it is "misguided ... to reform tax structure while largely ignoring tax administration" and that it is critical to ensure that "changes in tax policy are compatible with administrative capacity."¹⁹

Insofar as this study aims to specifically examine the DGT's implementation of its policy to end tax criminal investigations in addition to its general responsibility to maximize tax revenues. According to Bullock et al., the following components can be considered when discussing policy implementation or the policy implementation process in general: context, a focus lens, innovation, levers of influence, an enabler/facilitator or barrier, outcome, policy actor, or leader of policy implementation.²⁰ Similar to Soekanto, some factors may influence law enforcement/implementation, including legal factors, law enforcement factors, facility or facility factors, community factors, and cultural factors.²¹

The systematics of this article includes an introductory section delineating the thesis statement and identifying issues about the implementation of the policy to cease investigations into tax crimes. The discussion section is the heart of this article regarding the implementation of the policy and its components regarding the conclusion of tax-related criminal investigations. The concluding section of the literature review for systematic follow-up research consists of the section's conclusions.

2. Method

This article's research method employs normative legal research which uses a literature review in the process of searching for, perusing, comprehending, and analyzing various literature, research results, or studies related to the intended research.²² This article contains research data in the form of scientific journals, books, and scientific papers in the field of administration/policy (taxation), as well as other knowledge pertinent to the implementation of the policy of ending tax criminal investigations to support optimal tax revenue and authoritative documents such as laws and regulations, court decisions, and strategic plans of the tax authorities.

3. Analysis and Discussion

The tax policy of Law Number 7 of 2021 and its derivative legal regulations, namely Government Regulation of the Republic of Indonesia Number 50 of 2022 concerning Procedures for the Implementation of Rights and Fulfillment of Tax Obligations, have repealed PP Number 74 of 2011 as stipulated in Article 74 letter a and take effect on December 12, 2022, under Article 75. Nonetheless, PMK Number 55/PMK.03/2016 remains valid and enforceable as a basis for terminating an investigation of a tax offense so long as it is not modified or replaced. As indicated previously, the implementation of the policy or the process of implementing the policy and its components concerning the issue of halting the investigation of tax crimes will be described in the following section.

3.1. Context

Formally, Indonesia's legal policy is stratified, with high legal regulations about conduct and binding authority taking precedence over lower legal regulations. In terms of content, legal policies in Indonesia

¹⁸ Commission European, (No Year), "Taxation And Custom Union," accessed April 4, 2023, https://taxation-customs.ec.europa.eu/taxation-1/tax-co-operation-and-control/general-overview/tax-administration_en.

¹⁹ Loc.cit, Bird, "Administrative Dimensions of Tax Reform," p. 135.

²⁰ Heather L Bullock et al., "Understanding the Implementation of Evidence-Informed Policies and Practice from a Policy Perspective: A Critical Interpretive Synthesis," *Implementation Science* 16, no. 18 (2021): 1, <https://doi.org/https://doi.org/10.1186/s13012-021-01082-7>.

²¹ Soerjono Soekanto, (2022), *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum*, 18th ed, Depok: Rajawali Pers, p. 8.

²² Nanang Martono, (2016), *Metode Penelitian Sosial Konsep-Konsep Kunci*, 2nd ed., Depok: Rajawali Pers, p. 298.

are largely regulated according to sectors of life or the primary responsibilities of a sectoral ministry or institution.

For instance, the conditions to be achieved through tax policy include PMK Number 55/PMK.03/2016, which is optimal tax revenue, and the adopted strategy is as outlined in the DGT Strategic Plan, which includes comprehensive law enforcement; redefinition of criminal/administrative violations; and systematized tax criminal law enforcement decision-making.²³ In PMK Number 55/PMK.03/2016, however, there is no official explanation. The Ministry of Finance of the Republic of Indonesia controls this policy via the DGT.

Theoretically, the policy implementation process at each level includes a context dimension involving ideas, interests, institutions, or external factors. The idea refers to values or evidence; interest to the group's or society's interests; institution to applicable regulations or organizational structure; and external factors to natural disasters or economic fluctuations.²⁴ The concept/interest of optimal tax revenue is the policy narrative outlined in Table 1 of Article 44B of Law Number 7 of 2021. Even if a tax crime occurs that directly threatens the interest of tax revenue, the DGT is not required to investigate and prosecute tax crimes against taxpayers.

The policy of halting tax crime investigations requires cross-agency and multi-party (network) governance, including the Ministry of Finance of the Republic of Indonesia and the Attorney General's Office of the Republic of Indonesia, both of which have their administrative boundaries. Consequently, according to Sotarauta, who cited Stoker and Stone, the following is true: "Different programs and decisions may be contradictory because they are split between various networks without perceiving the whole, and, therefore, defining the problem and designing appropriate solutions is a difficult and daunting task. Governance stresses that some agencies ought to be able to exchange resources and align their competencies if they are to deliver public policies effectively."²⁵

Theoretically, when discussing the policy narrative, Allbright and Marsh cite Roe and Roth as saying, "Further scholarship explores how such policy-related beliefs are organized and communicated through narratives, or stories, highlighting the advantages of narrative-based approaches to the analysis of policy beliefs."²⁶ Concerning the concepts, the Macroeconomic Framework document and the Principles of Fiscal Policy 2022 (KEM-PPKF 2022) state:

"Before the pandemic, there was a global tax competition to enhance investment appeal. The trend towards decreasing tax rates. In response to the urgent need for stimuli, however, some nations plan to increase their tax rates. In 2021, some nations, including the United States and the United Kingdom, will begin adopting tax policies that increase corporate income tax rates. The United States intends to propose increasing the maximum income tax rate from 37 percent to 39.6 percent. In addition, the British government intended in March to increase the corporate income tax from 19% to 25% in 2023. This represents the first rise since the 1970s. For Indonesia, the challenge of tax reform must be to modernize the taxation system so that it conforms to international best practices and can anticipate social, economic, and demographic dynamics in the medium to long term. Reforms were implemented to establish a solid and equitable taxation system."²⁷

²³ Loc.cit, (2020), Direktorat Jenderal Pajak Kementerian Keuangan Republik Indonesia, Rencana Strategis DJP 2020-2024, p. 51.

²⁴ Op.cit, Bullock et al., (2021), "Understanding the Implementation of Evidence-Informed Policies and Practice from a Policy Perspective: A Critical Interpretive Synthesis", p. 10.

²⁵ Markku Sotarauta, (2012), "Policy Learning and the 'Cluster-Flavoured Innovation Policy' in Finland," *Environment and Planning C* 30: 781, <https://doi.org/doi:10.1068/c1191>.

²⁶ Taylor N. Allbright and Julie A. Marsh, (2022), "Policy Narratives of Accountability and Social-Emotional Learning," *Educational Policy* 36, no. 3: 656, <https://doi.org/i.org/10.1177/0895904820904729>.

²⁷ Sekretariat Badan Kebijakan Fiskal, "Kerangka Ekonomi Makro Dan Pokok-Pokok Kebijakan Fiskal 2022: Pemulihan Ekonomi Nasional Dan Reformasi Struktural" (Jakarta, 2021), <https://fiskal.kemenkeu.go.id/infografik/10-kem-ppkf-2022>.

Consequently, the dimensions of the implementation context of the policy to terminate tax criminal investigations reflect global conditions and Indonesia's domestic requirements for a variety of circumstances at the time.

3.2. Focus Lens

The lens dimension of focus in the policy implementation process refers to policymakers' or policy lines' interests as a signal for prioritizing significant actions by other parties (policy transfer).²⁸ The lens of the policy focus on the issue of ending tax criminal investigations is sequentially comprised of the evaluation of initial evidence and the examination of tax criminal investigations.

According to the Regulation of the Minister of Finance of the Republic of Indonesia Number 177/PMK.03/2022 on Procedures for Examining Evidence of Initial Tax Crimes (hereafter PMK Number 177/PMK.03/2022), the terms examination, examination of initial evidence, and investigation of tax crimes each have a legal definition.

According to Gunadi's theory of examination in self-assessment based on voluntary compliance, the initiator of self-assessment (SA) delegates the calculation of tax payable and its payment to the taxpayer's initiative.²⁹ Moreover, Gunadi cites Yudkin and Silvany as stating that it is impossible if the implementation of the tax system is entirely dependent on taxpayers' awareness and willingness. Since a large number of taxpayers pay taxes, the tax administration must at the very least carry out counseling, guidance, supervision, and law enforcement actions to ensure that the tax system operates under the law.³⁰

In auditing tax administration, programs, strategies, and procedures must be transparent, viz "equal and fair treatment of taxpayers; Use of similar working methods (uniform in methods but tailor-made to specific audit cases); All relevant aspects will be dealt with in individual audit cases; and Structured, professional, efficient and effective work."³¹

Examination as a program, decision, or action is inextricably linked to accountability, a tenet of good governance. Purnomo, Prayitno, and Ekawati define good governance in public administration as follows, "... the traditions, institutions, and processes that determine the exercise of power in society, including how decisions are made on issues of public concern and how citizens are given voice in public decisions."³²

In addition, according to Marques, Sousa, and Teixeira's classic examination theory assumptions in the self-assessment system:

"... the payment of taxes is an outcome of an individual decision based on risk and is likely to be influenced by the fine amount and audit frequency. This model originally established that the government can increase compliance by imposing a cost to the offenders so high that they rationally will not commit a crime. The deterrence hypothesis rules in that favor: higher costs, lower perceived benefit of committing a crime and, therefore, fewer crimes."³³ Similarly, Kim

²⁸ Op.cit, Bullock et al, p. 8.

²⁹ Gunadi, (2020), *Pemeriksaan, Investigasi, Dan Penyidikan Pajak*, ed. Aldino Kurniawan, 1st ed., Jakarta, Indonesia: Koperasi Pegawai Kantor Pusat Direktorat Jenderal Pajak, p. 151.

³⁰ Id, Gunadi, p. 153.

³¹ Tressieta M, (2019), "Analisis Kepastian Hukum Dalam Rangka Ease of Administration Atas Implementasi Kebijakan Restitusi Pajak Pertambahan Nilai Pasca Pemberhentian Bukti Permulaan (Studi Kasus PT. ABC)," Depok: Universitas Indonesia, p. 32.

³² Chessa Ario Jani Purnomo, Isnu Harjo Prayitno, and Dian Ekawati, (2022), "Menelaah Narasi Kebijakan Pajak Daerah Dalam UU No. 1 Tahun 2022: Sebuah Tinjauan Literatur," *Nagari Law Review* 5, no. 2: 134, <https://doi.org/10.25077/nalrev.v.5.i.2.p.128141.2022>.

³³ Joao Araujo Marques, Pedro Sousa, and Gloria Teixeira, (2020), "Tax Audits as a Path to Tax Compliance in Portugal," *European Journal on Criminal Policy and Research* 26: 456, <https://doi.org/10.1007/s10610-019-09417-3>.

and Wan stated the prevention hypothesis, according to their research, “from the traditional economic perspective, harsh penalties discourage tax evasion.”³⁴

According to the preceding description, the examination itself, along with the underlying assumptions and hypotheses, constitutes the focus lens as a signal or guideline of tax policy on the issue of ending tax investigations.

3.3. Innovation

the process of implementing policies, systems, or organizations are positioned as targets for policy instruments and strategies requiring, among other things, decentralization and accountability (governance), redesigning systems to meet needs, developing data collection systems, and developing and monitoring performance indicators.³⁵ In this regard, PMK Number 55/PMK.03/2016 must be updated as part of the policy authority. Update at a minimum PMK Number 55/PMK.03/2016 as a manifestation of the coherent nature of the level system of laws and regulations, in addition to updating the required content and predicting the impact of the implementation of policy innovations, as stated by Uyarra et al. “... policy action may be justified by a variety of scholarly or professional ideas – rationales –that articulate the need for intervention and outline the ‘logic’ through which an intervention (‘means’) is expected to lead to the intended outcomes or ‘ends’.”³⁶

As stated by Kurniawan, Muslim, and Sakapurnama, measuring or predicting the impact of policy innovations so that the implementation process is successful requires a method called regulatory impact assessment (RIA) that is meaningful and serves a purpose. “... the process of systematically assessing the benefits and costs of a new regulation or an existing regulation, to improve the quality of regulatory policy.”³⁷ Moreover, according to Kurniawan, Muslim, and Sakapurnama, the empirical conditions for employing RIA in Indonesia are as follows: “... only one agency (Ministry of Commerce) is still using the RIA method, while one other agency (BAPPENAS) had been implementing RIA since 2006 but ceased in 2011.”³⁸ Using RIA to enhance the quality of policies has some advantages, “instruments that apply RIA can systematically assess the positive and negative effects of the regulation that is being proposed or is underway about the analysis of costs and benefits over existing options.”³⁹

According to Akbar and Gunadi, “Submission of SPT and payment of tax debt is a measure of compliance and needs support, which includes renewal of the juridical basis.”⁴⁰ In light of the preceding arguments, the process of implementing the policy of ending tax criminal investigations by emphasizing the payment of tax debts and penalties by taxpayers and requiring a legal basis, such as the renewal of PMK Number 55/PMK.03/2016, must be viewed as an innovation.

3.4. Levers of Influence

At a minimum, PMK Number 55/PMK.03/2016 is a lever of influence over the implementation of a tax crime investigation termination policy that can be described. As stated previously, PMK Number 55/PMK.03/2016 is a derivative of PP Number 74 of 2011, where the policy of Law Number 16 of 2009 and even Law Number 7 of 2021 is a government initiative, in this case, the Ministry of Finance

³⁴ Kim YoungRok and Wan Hongyu, (2022), “The Effect of Fairness on Tax Morale in South Korea: A Framed Question Approach,” *International Review of Economics* 69: 1, <https://doi.org/https://doi.org/10.1007/s12232-022-00387-3>.

³⁵ Op.cit, Bullock et al, p. 13.

³⁶ Elvira Uyarra et al., (2017), “Understanding Regional Innovation Policy Dynamics: Actors, Agency and Learning,” *Environment and Planning C: Politics and Space* 35, no. 4: 561, <https://doi.org/10.1177/2399654417705914>.

³⁷ Teguh Kurniawan, Muh Azis Muslim, and Eko Sakapurnama, (2018), “Regulatory Impact Assessment and Its Challenges: An Empirical Analysis from Indonesia,” *Kasetsart Journal of Social Sciences* 39: 105, <https://doi.org/https://doi.org/10.1016/j.kjss.2017.12.004>.

³⁸ Id, Kurniawan, Muslim, and Sakapurnama, p. 106.

³⁹ Id, Kurniawan, Muslim, and Sakapurnama, p. 107.

⁴⁰ Lutfia Rizkyatul Akbar and Gunadi, (2021), “Implementasi Kebijakan Keterbukaan Akses Data Perbankan Dalam Meningkatkan Tax Compliance Di Indonesia,” *Jurnal Akuntansi Dan Governance* 1, no. 2: p. 98-102, <https://doi.org/http://dx.doi.org/10.24853/jago.1.2.121-129>.

including the Directorate General of Taxes, which can be described as bureaucratic relations and legislature in the policy implementation process.

According to Flatt and Nhat-Dang Do, who cite Boushey and McGrath, well-compensated bureaucratic personnel devoted to providing legislators with expert information has been a feature of state and federal policymaking in the United States for decades.⁴¹ Typically, legislators express their policy preferences during the drafting and amendment periods of the legislative procedure.⁴² On the other hand, at the level of making tax policies other than laws, such as the renewal of PMK Number 55/PMK.03/2016, there is a role for bureaucrat analysts whose role is to extend information and connect policymakers with experts who develop policies. According to Flatt and Nhat-Dang Do, who cited Bhatti et al, analytical agency personnel are typically well-trained in law, economics, or public policy and are adept at policy formulation, estimation, and planning.⁴³

The procedure for terminating an investigation into a tax offense is governed by PMK Number 55/PMK.03/2016, which specifies the scope, who may submit an application, the application's requirements, and the decision-maker. However, there is no service standard, no delegation of authority, and the working relationship between the Ministry of Finance of the Republic of Indonesia and the Attorney General of the Republic of Indonesia in the area of tax offenses is not sufficiently spelled out.

3.5. Facilitator or Barrier

Vertical public administration and the thickness of hierarchies, such as the number and complexity of institutions, departments, or agents, as well as the sequentiality of activities and timing, among other factors, influence when and how implementation efforts are initiated.⁴⁴ Thus, structures (institutions/departments) at the macro level and individual actions (agents) at the micro level interact with one another in the context of the implementation process. Theoretically, the policy implementation process based on the strategic action field (SAF) framework, as stated by Smith, Girth, and Hutz, cites Sandfort and Moulton, who assert that “SAF incorporated the meso-level—an important missing piece in implementation research—to capture both agency structure and human agency which affect each other and do not act in isolation.”⁴⁵

SAF includes the policy field, which entails the creation of policy or program objectives as well as the development of resources and an understanding of implementation goals; organizations are at the meso level, where they operationalize predetermined policy objectives and integrate their authority and competence into daily practice; and the front lines as the micro level entails policy targets interacting with lower level workers/bureaucrats.⁴⁶ Moreover, the central tenet of SAF or the logic of governance is “... each of these three levels produces and is the product of its context, rules, resources, and human agency.”⁴⁷

Tax investigators are street-level bureaucrats at the Directorate of Law Enforcement (Ditgakkum) whose function is to conduct investigations of tax crimes with discretionary powers, so long as they

⁴¹ Henry Flatt and Do Nhat-Dang, (2023), “Analytic Bureaucracy and the Policy Process: Evidence from California,” *American Review of Public Administration* 1, no. 15, h. 2, <https://doi.org/10.1177/02750740231164414>.

⁴² Id, Flatt and Nhat-Dang, p. 2.

⁴³ Id, Flatt and Nhat-Dang, p. 2.

⁴⁴ Op.cit, (2021), Bullock et al, p.16-17.

⁴⁵ Rebecca A. Smith, Amanda M. Girth, and Margaret Hutz, (2021), “Assessing Organizational Role and Perceptions of Programmatic Success in Policy Implementation,” *Administration & Society* 53, no. 10: 1519, <https://doi.org/10.1177/00953997211011624>.

⁴⁶ Id, Smith, Girth, and Hutz, p. 1519-1520.

⁴⁷ Id, Smith, Girth, and Hutz, p. 1520.

comply with the provisions of Article 24⁴⁸ junto Article 46 paragraph (1) ⁴⁹ Law Number 30 of 2014 and interpret the mandate for optimal tax revenue according to Law Number 7 of 2014. According to Werts and Brewer, citing Elmore, the use of discretionary authority in the policy implementation process, "when implementation consists essentially of controlling discretion, the effect is to reduce reliance on knowledge and skill at the delivery level and increase reliance on abstract, standardized solutions. Unfortunately, a focus on discretion has more to do with agreement, compliance, and heeding authority than with the nature of what local actors experience and do."⁵⁰

In the meantime, according to the provisions of Article 22 paragraph (2) of Law Number 30 of 2014, the purpose of the use of discretionary power by government officials is to expedite government administration, fill legal voids, provide legal certainty, and overcome government stagnation in certain circumstances for the benefit and public interest.⁵¹ The Director of Tax Investigation, an internal superior to the Director General of Taxes, and the Indonesian National Police (Polri) superintend and control investigative and discretionary powers, respectively, from a structural (formal rules) standpoint. As human agents, tax investigators, both as individuals and as groups, have beliefs, values, and experiences (informal rules). Similar to what Miorner et al. stated, citing Scott and Zukauskaitė, "Informal rules refer to norms and beliefs that are enacted via traditions, values, attitudes, and behavioral modes embodied in individuals and organizations. Formal and informal institutions are experienced in an interrelated manner. ... Thus, both laws and norms depend on each other when it comes to enforcement and institutional change processes."⁵²

The function of tax investigators, the Minister of Finance, and the Attorney General can be either a facilitator or an impediment. The transfer of the policy to terminate tax criminal investigations is structurally complex due to the tendency of multi-level vertical layers (institutions/departments) and multi-actors such as tax investigators, director of investigations, director of law enforcement, and director general of taxes before reaching the Minister of Finance, which is then forwarded to the Attorney General to decide on a request to stop the investigation of a tax crime from the taxpayer.

3.6. Outcome

The dimensions of the impact on the policy implementation process consist of implementation impact, service impact, and recipient impact, and can be evaluated based on policy outcomes, policy impact, and policy system change index.⁵³ Tax policies such as Law Number 7 of 2021, PP Number 50 of 2022, and PMK No. 177/PMK.03/2022 have measurable policy impacts, so the renewal of PMK Number 55/PMK.03/2016 is necessary as a reflection of the coherence of the composition of a higher policy level where the content material can later accommodate the needs of stakeholders for the effectiveness of preventing the investigation of the tax crime itself.

According to Ahlers and Schubert, the definition of effective policy implementation is the efficacy of procedures and outcomes, including "centrally designed policies and institutional control mechanisms

⁴⁸ Indonesia, Republic, (2014), Law No. 30 of 2014 of the Republic of Indonesia pertaining to Government Administration, article 24 states: "Government Officials who use Discretion must meet the following requirements: a. in accordance with the purpose of discretion as stated in Article 2 paragraph (2); b. not contrary to the provisions of laws and regulations; c. in accordance with AUPB; d. based on objective reasons; e. does not give rise to a conflict of interest; and f. is done in good faith."

⁴⁹ Id, Indonesia, article 46, paragraph (1), stipulates: "Before stipulating and/or carrying out Decisions and/or Actions that may impose a burden on Citizens, Government Agencies and/or Officials shall inform the parties involved about the legal basis, requirements, documents, and related facts."

⁵⁰ Amanda Bell Werts and Curtis A. Brewer, (2015), "Reframing the Study of Policy Implementation: Lived Experience as Politics," Educational Policy 29, no. 1: 210, <https://doi.org/10.1177/0895904814559247>.

⁵¹ Op.cit., Indonesia, Republic, (2014), Law No. 30 of 2014 of the Republic of Indonesia pertaining to Government Administration, article 22 paragraph (2).

⁵² Johan Miorner et al., (2018), "Creating Institutional Preconditions for Knowledge Flows in Cross-Border Regions," Environment and Planning C: Politics and Space 36, no. 2: 204, <https://doi.org/10.1177/2399654417704664>.

⁵³ Op.cit, Bullock et al, p. 11.

affecting all administrative tiers.⁵⁴ This pertains to the material content of PMK Number 55/PMK.03/2016, which is currently in effect; it is unclear whether the working relationship between the Ministry of Finance of the Republic of Indonesia and the Attorney General's Office of the Republic of Indonesia means that supervision is not sufficiently clear, there is no delegation of authority, and there are no control and service standards entails a form of legal uncertainty.

3.7. Policy Actor/Leader of Implementation

Policy actors and policy implementation executives have an impact on the policy implementation process. Politicians or other elected officials, such as investigators and judges, who are responsible for enforcing and interpreting the law are bureaucrats/executives or policy actors within a department.⁵⁵ In this regard, the Minister of Finance and the Attorney General stated in PMK Number 55/PMK.03/2016 that they are high-ranking officials in their respective institutions who are neither elected nor formally affiliated with certain political parties and that their roles influence the process of halting tax criminal investigations.

Regrettably, however, tax policies at the level of laws and regulations under laws are insufficiently clear to regulate the working relationship between the Ministry of Finance of the Republic of Indonesia and the Attorney General's Office of the Republic of Indonesia for the implementation of the policy of ending tax criminal investigations. Consider, for instance, the provisions of Article 63, paragraph (6)⁵⁶ and paragraph (7)⁵⁷ of PP Number 50 of 2022, which only stipulate the appointment of officials at each institution to manage the conclusion of investigations into tax crimes from the request of the taxpayer to the Attorney, at the request of the Minister of Finance. PP Number 50 of 2022 should be evaluated in terms of content material where there is delegation of authority but no service standard, i.e., benchmarks as a guide and measure for service quality assessment.

The author suspects that if the update to PMK Number 55/PMK.03/2016 is implemented, the pattern of regulation regarding technical matters about the delegation of authority to halt investigations into tax offenses will not include service standards for this matter. Therefore, it is anticipated that the role of the leader in implementing the policy to stop tax criminal investigations must be creative and innovative regarding incomplete system regulation (policy authority) without waiting for macro-level policy changes (such as the renewal of tax laws).

4. Conclusion

Based on the preceding description, the successful termination of the tax crime investigation policy implementation process requires, among other things, the renewal of PMK Number 55/PMK.03/2016 as a determining factor. In the future, there should be researchers that will be able to systematically conduct empirical research to determine the policy implementation process and its components about halting tax crime investigations by the DGT in a firm, sustainable, efficient, and practical manner, as well as the conditions that support, reject, or cause contradictions between the components. We trust that the process of implementing the policy to end criminal tax investigations will be successful if we take this route. It would then increase state revenue from tax.

⁵⁴ Anna L. Ahlers and Gunter Schubert, (2015), "Effective Policy Implementation in China's Local State," *Modern China* 41, no. 4: 395, <https://doi.org/10.1177/0097700413519563>.

⁵⁵ Op.cit, Bullock et al., "Understanding the Implementation of Evidence-Informed Policies and Practice from a Policy Perspective: A Critical Interpretive Synthesis, p. 18."

⁵⁶ Indonesia, Republic, (2022), "Government Regulation Number 50 of 2022 of the Republic of Indonesia Concerning Procedures for the Implementation of Rights and Fulfillment of Tax Obligations," Pub. L. No. 50, article 63 paragraph (6) reads: "In submitting requests for termination of Investigation pursuant to paragraph (1), the Minister may delegate the authority to request termination of Investigation to a designated official."

⁵⁷ Id, Indonesia, The provisions of article 63 paragraph (7) state: "On the basis of a request to stop the investigation from the Minister or the appointed official, the Attorney General may delegate to the appointed official the authority to stop the investigation referred to in paragraph (1)."

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