

Tax Criminal Case Settlement Through Obligative Justice Approach to Increase the State Revenue

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Abstract : This research has background that the taxpayer (defendant) who has paid off the tax payable and the tax penalty payable after the tax case file has been transferred to the court, while the legality of stopping the prosecution of tax cases on the grounds that in the interest of state revenue is not regulated in the provisions of Law Number 8 of 1981 concerning The Criminal Procedure Code and Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times, most recently by Law Number 16 of 2009 concerning Stipulation of Government Regulation in Lieu of Law Number 5 of 2008 concerning Fourth Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures to become Law, even though at the investigation stage it regulates the mechanism for stopping the investigation for the sake of the interest of acceptance ne this is because before the case file is transferred to the court where at the request of the Minister of Finance of The Republic of Indonesia can stop the investigation in the interest of state revenue so that based on this phenomenon a legal vacuum is found. Therefore, a non-penal policy is needed from the public prosecutor to resolve tax crime cases without going through litigation in court through the penal mediation method using the Plea Bargaining System which adheres to the principles of restorative justice and obligative justice based on the ultimum remedium principle and the principle of opportunity in order to realize the principle of fast, simple and low cost justice (content principle). This research is a normative legal research, using a statutory approach, conceptual approach, and comparative law approach. Regulations that is used in many countries, include America, The Netherlands and Singapore. The results of this study indicate that there is a reformulation of the tax criminal justice system which regulates the mechanism, qualifications and authority to terminate the prosecution of tax cases in the interest of state revenues in order to achieve legal goals which are not only for legal certainty but more that, namely providing benefits and legal justice for people seeking justice.

Keywords : obligative justice, regulation, state reveueus, tax criminal

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