Andalas Law Journal | Volume 8 Number 2 (December 2023) | Page 67 – 96

ANDALAS LAW JOURNAL
ISSN (Print) : 2527-4759 | ISSN (Online) : 2541-6685
Available at : http://alj.fhuk.unand.ac.id/

Legal Analysis of Transnational Crimes in the Scope of Tax Crimes in View of International Law Words

Muhammad Syammakh Daffa Alghazali[1*], Zainul Daulay[2], Syofirman Syofyan[3]

[1,2,3] Faculty of Law, Universitas Andalas, Limau Manis, Padang, 25163, Indonesia
** Corresponding author's e-mail : daffasyammakh@gmail.com*

ARTICLE INFO		ABSTRACT
Keywords : *Transnational Crime, Money Laundering Crime, Tax Evasion* *Submitted:* 2023-10-20 *Last revised:* 2023-11-07 *Accepted:* 2023-12-09 *DOI :* *10.25077/alj.v8i2.59*		In order to achieve the ideals of the Unitary State of the Republic of Indonesia, which will bring prosperity to its people, resilience in the economic sector plays a significant role. However, the circulation of black money still haunts Indonesia in realizing its goals. One practice that is detrimental to the State of Indonesia is tax evasion. Although Indonesia already has several regulations regarding preventing and eradicating money laundering crimes. However, it is still difficult to prosecute the perpetrators of these crimes. Therefore, this research focuses on the regulation of Indonesian law regarding transnational crimes within the scope of financial transactions resulting from criminal acts in the field of taxation. Second, Indonesian law enforcement acts against transnational crimes within the scope of financial transactions resulting from criminal acts in the field of taxation. The focus of the study uses normative research methods with a juridical-qualitative analysis method. The results of this study conclude that even though Indonesia already has legal instruments related to the prevention and eradication of money laundering, especially the proceeds of crime in the field of taxation, there is a legal loophole in the regulation of Special Purpose Vehicles (SPV) so that it is necessary to reorganize SPV arrangements so that they no longer become loopholes for criminals and strengthen the FIU in terms of law enforcement.

1. Introduction

It is stated in the 4th paragraph of the preamble to the 1945 Constitution of the Republic of Indonesia (UUD 1945) that the aim of the establishment of the Unitary State of the Republic of Indonesia is to protect the entire Indonesian nation and all of Indonesia's blood, promote general welfare, and educate the life of the nation. The ideals and objectives, as intended, can be realized and achieved through funding and management of state finances. The management of state finances is then regulated in Chapter VIII of the 1945 Constitution concerning finance, which consists of Articles 23 to 23D. Achieving state goals is always related to state financial law, which contains legal rules for managing state finances as a form of financing for state government administration carried out by state administrators.[1] In running a country that can promote general welfare by the constitutional mandate, the state, which the government means, is the holder of the highest authority in formulating policies. Government policies that often directly impact and influence the climate of community activities are policies in the economic sector.[2]

Implementing activities to improve the people's and nation's welfare requires significant financing funds and takes place in stages. In this case, the government seeks to collect sources of state revenue, which are collected annually in the state revenue and expenditure budget (APBN). These sources generally consist of company income, goods belonging to or controlled by the government, fines and confiscations for public purposes, inheritance rights to abandoned inheritance, and bequests. Other grants have three types of contributions, namely taxes, levies, and donations.[3]

Among the sources of state revenue mentioned, one of the most significant revenues is taxes. Taxes themselves are the national backbone.[4] Tax is defined as a contribution to the state – which can be enforced – owed by those obliged to pay it according to regulations, with no return that can be directly determined. Its purpose is to finance general expenses related to the duties of the state, which carries out self-government.[5] Revenue from the tax sector can be used as a source of state and regional finance, which will later function as funds to improve the facilities and infrastructure the community and nation need to improve welfare.[6] The tax itself has been regulated in the constitution, namely in article 23A of the 1945 Constitution. Then, the specific regulation

---

[1] Muhammad Djafar Saidi and Eka Merdekawati Djafar, *Hukum Keuangan Negara : Teori Dan Praktik* (PT RajaGrafindo Persada, 2017), hlm.3.
[2] Ayief Fathurrahman, 'Kebijakan Fiskal Indonesia Dalam Perspektif Ekonomi Islam : Studi Kasus Dalam Mengentaskan Kemiskinan', *Jurnal Ekonomi Dan Studi Pembangunan*, 13.1 (2012), 72–82.a
[3] R. Santoso Brotodihardjo, *Pengantar Ilmu Hukum Pajak* (Bandung: PT. Refika Aditama, 2008), hlm.9.
[4] Sri Mulyani, 'Dalam Pidatonya Pada Acara "Deklarasi Pengampunan Pajak"' (Semarang, 2016).
[5] M.J.G.A.M. Weerepas, 'Het Belastingrecht. Zijn Grondslagen En Ontwikkeling – 1948-1950', *Pro Memorie*, 21.2 (2019), 240–43 <https://doi.org/10.5117/pm2019.2.053.weer>, hlm.2.
[6] Yuswar Zainul Basri, *Keuangan Negara Dan Analisis Kebijakan Utang Luar Negeri* (Jakarta: PT. RajaGrafindo Persada, 2005), hlm.43.

is through Law Number 28 of 2007, Third Amendment to Law Number 6 of 1983 concerning General Provisions and Procedures for Taxation (UU KUP), which is harmonized through Law Number 7 of 2021 concerning Harmonization of Tax Regulations (UU HPP).

Tax revenues in Indonesia play a significant role in state finances. This can be proven in the last decade that state revenues are still dominated by tax revenues, with an average contribution of around 75%, based on the 2011-2021 Ministry of Finance Report. In the 2021 APBN, tax revenues are targeted at IDR 1,866 trillion or control of around 83.43% of total state income.[7] This confirms that taxes are still the primary source of revenue in the state budget and play an essential role in state revenue.

In Indonesia, tax collection still needs to be ideal figures. In terms of tax collection, one indicator for assessing tax revenue performance is the tax ratio. Until now, the tax ratio has become a measure that provides a general picture of the tax conditions in a country. The tax ratio simultaneously compares total tax revenue and Gross Domestic Product (GDP). GDP is the total value of goods and services produced by a country's economy minus the value of goods and services used in production.[8] According to data released by the World Bank, "Tax revenues above 15 percent of a country's gross domestic product (GDP) are a key ingredient for economic growth and, ultimately, poverty reduction.".[9] This means that to run a country's economy that is growing and can eradicate poverty, a country must at least achieve a ratio of 15%. Based on the annual report of the Directorate General of Taxes for 2011-2021, tax revenues to GDP in Indonesia are in the range of 8.33%-11.77%. This means that in the last decade, Indonesia's Tax Ratio to GDP has not reached the optimal target based on World Bank standards, even based on data published by the Organization for Economic Co-operation and Development (OECD) in the 2021 Revenue Statistics in Asia and the Pacific report, of 24 countries in Asia Pacific, Indonesia's tax ratio only reached 11.6%, only higher than Laos and Bhutan.[10]

Taxes for companies are a burden that will reduce net profit, so companies always want to pay as little tax as possible.[11] This encourages entrepreneurs to avoid and resist taxes, which has implications for low state revenues through taxes. Resistance to taxes can be

---

[7] *Laporan Kementerian Keuangan*, Januari 2021, hlm.38.

[8] 'Puskajiananggaran DPR', *Proceedings of the National Academy of Sciences*, 3.1 (2015), 1–10 <https://berkas.dpr.go.id/puskajianggaran/kamus/file/kamus-134.pdf>. dikunjungi pada Selasa, 28 Mei 2022, Pukul 16.51 WIB.

[9] Raul Felix Junquera-Varela and Bernard Haven, 'Getting to 15 Percent: Addressing the Largest Tax Gaps' <https://blogs.worldbank.org/governance/getting-15-percent-addressing-largest-tax-gaps> [accessed 31 May 2022].

[10] Africa OECD, LAC, 'Revenue Statistics in Asia and the Pacific 2023 — Indonesia Tax-to-GDP Ratio Tax Structures Personal Income Tax Social Security Contributions Value Added Taxes / Goods and Services Tax Other Taxes on Goods and Services', 29, 2023, 8 - 9, [accessed 31 May 2022] .

[11] Titiek Puji Astuti and Y Anni Aryani, 'Tren Penghindaran Pajak Perusahaan Manufaktur Di Indonesia Yang Terdaftar Di Bei Tahun 2001-2014', *Jurnal Akuntansi*, 20.3 (2017), 375–88 <https://doi.org/10.24912/ja.v20i3.4>, hlm.373.

dichotomized into active and passive resistance. Passive resistance is in the form of obstacles that make it difficult to collect taxes and submit reports closely related to the economic structure. Meanwhile, active resistance is all efforts and actions directly aimed at the government to avoid taxes.[12] According to Mardiasmo, active tax resistance includes all efforts and actions directly aimed at the tax authorities to avoid taxes. There are two forms of active tax resistance: tax avoidance and tax evasion. These two types of tax resistance are different, but both reduce the amount of government tax revenue.[13] There is a difference between tax avoidance and tax evasion. The difference lies in the legality side. Tax avoidance is a tax avoidance strategy and technique that is carried out legally and is safe for taxpayers because it does not conflict with tax regulations.[14] If viewed from a legal perspective, tax avoidance is a legal action that takes advantage of loopholes or weaknesses contained in the provisions of the applicable tax legislation. Unlike tax evasion, tax evasion is a tax reduction by violating tax regulations, such as providing false data or hiding data.[15] Thus, tax evasion can be subject to criminal sanctions because tax evasion efforts lead more to tax evasion, which is categorized as an illegal act from a legal perspective. Efforts to avoid tax evasion are carried out contrary to applicable tax law. In this case, the taxpayer already intends not to pay tax. In this article, the author focuses on researching one method of tax evasion, which is placing money in a tax-free jurisdiction or tax haven country. A tax haven is a jurisdiction that allows transactions to occur under strictly confidential conditions that legalize taxpayers to avoid taxes.[16] Tax haven countries are known as havens for tax evaders. This tax haven practice implies that taxes are transferred to tax haven countries and tax erosion in other countries (source countries).

In embezzling money that can be taxed, companies or individuals often get around this by creating shell companies located in tax-free jurisdictions. A shell company is a company that is officially established and legally registered in a particular region or jurisdiction but does not carry out any activities. Shell companies are also known as special purpose vehicles (SPV). Shell companies are usually associated with unlawful businesses such as tax evasion, money laundering, and even disguising funds from criminal acts. These crimes usually include tax crimes, corruption, narcotics, and other crimes.

Shell companies are usually established in tax havens or tax havens, aiming to avoid high taxes on their assets in the country. To avoid taxes, the method is to transfer the profits of affiliated companies to shell companies. When profits are diverted, the tax value of

[12] Thomas Sumarsan, *Perpajakan Indonesia* (PT. Indeks, Jakarta, 2010).
[13] Mardiasmo, *Perpajakan Edisi Revisi 2011*, ed. by Andi (Yogyakarta, 2011), hlm.8.
[14] Chairil Anwar Pohan, *Manajemen Perpajakan Strategi Perencanaan Dan Bisnis* (Jakarta: PT Gramedia Pustaka Utama, 2013).
[15] Niru Anita Sinaga, 'Reformasi Pajak Dalam Rangka Meningkatkan Pendapatan Negara', *Ilmiah Hukum Dirgantara*, 8.1 (2017), 1–19, hlm 13.
[16] Crumbley and others, *Dictionary of Text Terms, Barron's Educational Series, Indiana.*, 1994, hlm. 297.

the affiliated company will decrease. The same method is also used to cover up profits from criminal acts.[17] SPVs have a terrible image because many SPVs are established in tax haven countries or regions that provide meager tax rates or even tax-free, plus bank secrecy protection. With these characteristics, SPV can be used as a tax avoidance or evasion method.[18]

The practice of cross-border tax evasion is a form of transnational organized crime. Tax law enforcement is often closely related to law enforcement for other crimes, such as Money Laundering (TPPU).[19] The crime of money laundering itself is included in transnational organized crime, according to Article 7 of the United Nations Convention Against Transnational Organized Crime (UNTOC), which states that each party must institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions. , and if necessary, other bodies that are particularly vulnerable to money laundering within their competence to prevent and detect all forms of money laundering, which regimes should emphasize requirements for customer identification, recording, and reporting of suspicious transactions. Indonesia has ratified UNTOC through Law Number 5 of 2009 concerning the United Nations Convention Against Transnational Organized Crime Ratification.

Apart from that, Indonesia also signed the ASEAN Declaration on Transnational Crime in 2017, which also discusses Indonesia's determination to eradicate the crime of money laundering, which is one of the transnational crimes. If we look at its characteristics, transnational crime has its characteristics, including laundering money from illicit trade, whether originating from criminal activities or infiltrating legitimate economic activities, expanding its operational network abroad, and collaborating with other transnational organized crime groups.[20]

If we examine the regulations regarding the criminal act of money laundering in Indonesia, Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering (UU TPPU) in Article 2 paragraph (1) letter v states that assets obtained from criminal acts in the field of taxation including the proceeds of criminal acts. Furthermore, in Article 1, paragraph (1) of the TPPU Law, this action is included as a crime of money laundering. In this case, every act, whether carried out in the territory of the Unitary State of the Republic of Indonesia or outside the territory of the Unitary State of the

[17] Bisnis.Tempo.co, 'Skandal Pajak Pandora Papers, Apa Itu Perusahaan Cangkang?' <https://bisnis.tempo.co/read/1514565/skandal-pajak-pandora-papers-apa-itu-perusahaan-cangkang> [accessed 1 June 2022].

[18] Tempo.co, 'Apa Itu Perusahaan Cangkang Dalam Panama Papers?' <https://m.tempo.co/read/news/2016/04/06/090760201/apa-itu-perusahaan-cangkang-dalam-panama-papers> [accessed 1 June 2022].

[19] N A Arifki and I F Azmi, 'Penghindaran Pajak Dalam Diskursus Tindak Pidana Pencucian Uang', *Pandecta: Jurnal Penelitian Ilmu Hukum …*, 15.2 (2020), 167–77 <https://journal.unnes.ac.id/nju/index.php/pandecta/article/view/18667>, hlm. 168.

[20] Helena Corrapico, *Transnational Organized Crime as a Security Concept Dalam Routledge Handbook of Transnational Organized Crime* (Routledge, New York, 2012).

Republic of Indonesia and the criminal act is also a criminal act according to Indonesian law.[21] This further emphasizes that money laundering will not only be prosecuted if it is carried out in Indonesia but also if the action is carried out outside Indonesia.

In connection with tax collection, as an illustration of the obstacles in tax collection, the Tax Court Secretariat of the Ministry of Finance released data that in the 2015-2021 period, there were 76,373 tax dispute cases in the Tax Court.[22] Seeing a large number of tax disputes, the involvement of Indonesian citizens in the crime of laundering money resulting from crimes in the tax sector is strengthened by the latest data from PPATK, which states that around 539 cases have been received by the tax authorities. As many as five cases have been decided as tax crimes. However, at least six cases of money laundering crimes related to taxes are being investigated.[23] Cumulatively, 16 criminal money laundering cases in the tax sector from 2016 to 2020 were successfully uncovered.[24] Based on this data, the factor behind the low level of TPPU prosecution for criminal acts in the field of taxation is the level of knowledge and competence possessed by law enforcement officials in the criminal justice system in Indonesia, making the appropriate process for law enforcement officials in implementing the TPPU Law far from optimal.[25] On this basis, researchers focus their research on cross-border money laundering criminal acts resulting from criminal acts in taxation.

2. Method

The research method used is normative legal research with a normative juridical approach. Normative research, namely research on secondary data by studying and reviewing the legal principles of laws and regulations and concepts associated with Law of the Republic of Indonesia Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering, Law Number 28 of 2010 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures, as well as Law Number 5 of 2009 concerning Ratification of the United Nations Convention Against Transnational Organized Crime.

A normative juridical approach is used because, through this approach, the law is seen only as regulations or rules. The law clearly explains the authority, position, and duties of the Deposit Insurance Agency. The specifications of this research are descriptive-

[21] *Pasal 2 Ayat (1) Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang* (Indonesia).

[22] Sekretariat Pengadilan Pajak Kementerian Keuangan, ‘Statistik Penyelesaian Sengketa Pajak Tahun 2015 - 2021’ <https://setpp.kemenkeu.go.id/statistik> [accessed 24 December 2022].

[23] Benny Gunawan Ardiansyah, ‘Sri Mulyani Bantu Bongkar 16 Kasus Pencucian Uang Di Bidang Perpajakan’ <https://nasional.kontan.co.id/news/sri-mulyani-bantu-bongkar-16-kasus-pencucian-uang-di-bidang-perpajakan> [accessed 7 July 2022].

[24] Yusuf Imam Santoso, ‘Pajak Dan Tindak Pidana Pencucian Uang’ <https://analisis.kontan.co.id/news/pajak-dan-tindak-pidana-pencucian-uang> [accessed 7 July 2022].

[25] Benny Gunawan Ardiansyah, *Loc.Cit.*

analytical research, which attempts to describe in detail the legal phenomena that are the subject of the problem without carrying out hypotheses and statistical calculations—facts relating to the duties and authority of deposit guarantors.

The approach method used in this research is a qualitative approach. The qualitative approach focuses on deposit insurance that underlies the manifestation of units of phenomena that exist in human life to produce applicable patterns. Legal research must always be preceded by document studies or library materials because of its function: "Written evidence has the straightforward function of providing facts and figures, and the indirect function of helping us to project our understanding into other times and other places."

Researchers use the primary method in the form of a document or literature study. The literature study was obtained through secondary data related to the problems being discussed in this research, the legal material of which comes from primary and secondary legal materials. Primary legal materials are library materials that contain new and up-to-date scientific knowledge or a new understanding of known data regarding an idea. Primary legal materials used in this research include:

a. The 1945 Constitution of the Republic of Indonesia
b. Law of the Republic of Indonesia Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering
c. Law Number 7 of 2021 concerning Harmonization of Tax Regulations
d. Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures
e. Law Number 5 of 2009 concerning the Ratification of the United Nations Convention Against Transnational Organized Crime
f. Law Number 24 of 2000 concerning International Agreements
g. Law Number 40 of 2007 concerning Limited Liability Companies
h. United Nations Convention Against Transnational Organized Crime
i. Financial Action Task Force Forty Recommendations

3. International Legal Regulations Concerning Transnational Crime in the Scope of Financial Transactions Proceeding from Criminal Acts in the Tax Sector

The birth of an international legal regime in combating money laundering crimes began to be noted when the international community felt frustrated with efforts to eradicate illicit drug trafficking crimes. At that time, the anti-money laundering regime was considered a new perspective on eradication that was no longer focused on arresting criminals but aimed at confiscating and confiscating assets resulting from criminal activities. The paradigm of focusing on the crime results is that the perpetrator's motivation will disappear if it is difficult for the perpetrator to enjoy the results of his

crime. Apart from that, the proceeds of crime are the blood that feeds criminals, which must be confiscated by the state so that crime does not develop, and the proceeds of crime are the weakest link in a series of criminal acts.

Philip C. Jessup was the person who first introduced the term "transnational crime." It is stated that, apart from the term international law, the term transnational law or transnational law is also used, which refers to all laws that regulate all actions or events that exceed the territorial boundaries of a country.[26] UNTOC states that the characteristics of transnational crime are:[27]

a. Carried out in more than one country;
b. Carried out in one country but planned in another country;
c. Carried out in one country by a syndicate operating in many countries;
d. It is carried out in one country but significantly impacts other countries.

In this case, the transnational crimes that will be discussed further are crimes within the scope of financial transactions resulting from criminal acts in the field of taxation.

3.1. Tax Evasion

Tax evasion is a criminal act because it manipulates the tax subject (perpetrator) and object (transaction) to obtain tax savings unlawfully. Tax evasion is a virus inherent in every existing tax system. Applies in almost every jurisdiction. Tax evasion is defined as a business used by honest taxpayers. It is an act that violates tax law, thus bringing various consequences, covering various areas of people's lives, including finance, economics, and psychology.[28] The indicators of Tax Evasion are as follows:[29]

a. Not submitting SPT Taxpayers are required to submit SPT (Notification Letter) both periodically and annually regarding the results of the calculation and payment of tax owed. Submission of the SPT must be carried out before the payment is due.
b. Submitting SPT, but it is not correct. Every taxpayer must fill out the Tax Return correctly, completely, and clearly in Indonesian using Latin letters, Arabic numerals, and Rupiah currency units.
c. Misusing the NPWP Taxpayer Identification Number (NPWP), which is a number given to taxpayers to administer their taxes. In this case, taxpayers may not misuse the NPWP as a means of cheating in taxation.
d. Not paying the tax owed. Taxpayers deliberately do not pay their tax obligations.

[26] R. Atmasasmita R, *Tindak Pidana Narkotika Transnasional Dalam Sistem Hukum Pidana Indonesia* (Bandung: Citra Aditya Bhakti, 1997).
[27] *Ibid.*
[28] Marihot Pahala Siahaan, *Hukum Pajak Elementer* (Yogyakarta: Graha Ilmu, 2010).
[29] Mardiasmo, *Op.Cit.* hlm. 9.

e. Bribing Taxpayers: Taxpayers bribe tax officials to reduce the tax burden they bear.

Tax evasion has an impact or consequences on the Indonesian economy covering various areas in society, including:[30]

a. Finance Sector
   Taxes have a very supportive role in the country's economy. If taxpayers commit tax evasion, the country will experience losses and cause an imbalance between the budget and consequences related to taxes, inflation, etc.
b. Economics
   Tax evasion can affect healthy competition among entrepreneurs, causing companies to evade taxes illegally.
c. Field of Psychology
   Tax evasion can also have consequences in the psychological field because taxpayers get used to violating the law, so this will be considered normal to do again.

3.2. International Legal Arrangements Related to Money Laundering

Concerning money laundering, there are several international standard setters (international standard setters) that produce international provisions and standards to prevent and eradicate money laundering. The Financial Action Task Force on Money Laundering, The Basel Committee on Banking Supervision, International Association of Insurance Supervisors (IAIS), International Organization of Securities Commissions (IOSCO), and Egmont Group. The following is an explanation and role of each institution with several legal products or provisions that have been issued.

3.3. United Nations Convention against Transnational Organized Crime (Palermo Convention)

On December 12, 2000, in Palermo, Italy, under the United Nations Convention Against Transnational Organized Crime. The convention is open for signature in the city of Palermo, with a deadline of December 15, 2000. If after that date, the signing will be carried out at the UN headquarters in New York, United States, with a deadline of December 12, 2002.[31] The resolution was entered into force on September 29, 2003, by article 38 of the a quo convention.[32]

---

[30] Marihot Pahala Siahaan, *Op.Cit.* hlm. 110.

[31] *Article 36 (1), United Nations Convention against Transnational Organized Crime and the Protocols Thereto.*

[32] *Article 38, United Nations Convention against Transnational Organized Crime and the Protocols Thereto.*

1. *This Convention shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.*

Through Law Number 5 of 2009 concerning the Ratification of the United Nations Convention Against Transnational Organized Crime, Indonesia officially ratified UNTOC. As for summarizing money laundering, the convention requires countries that have ratified it to do so:[33]

1) Criminalize money laundering, which includes all severe crimes committed anywhere inside or abroad.[34] Serious crimes are criminal acts that are punishable by a minimum sentence of four years.
2) Should institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions and, if necessary, other bodies particularly vulnerable to money laundering, within its competence, to prevent and detect all forms of money laundering, which regime should emphasize the requirements for customer identification, recording and reporting suspicious transactions.[35]
3) Ensure that administrative, regulatory, law enforcement, and other authorities dedicated to combating money laundering (including, where appropriate under domestic law, judicial authorities) can cooperate and exchange information at national and international levels in the conditions determined by their domestic laws and, to that end, will consider establishing a financial intelligence unit to serve as a national center for the collection, analysis, and dissemination of information regarding potential money laundering.[36]
4) States Parties should consider implementing appropriate measures to detect and monitor the appropriate movement of cash and negotiable instruments across their borders, subject to safeguards to ensure the appropriate use of information and without impeding the lawful movement of capital in any way. Such measures could include requirements that individuals and businesses report cross-border transfers of large amounts of cash and appropriate negotiable instruments.[37]
5) Encouraging International Cooperation in various forms.[38]

3.4. Global Fight Against Money Laundering

This UN program is called the Global Program against Money Laundering (GPML), which the Office of Drugs and Crime (ODC) accommodates. GPML is a research and technical assistance project to increase the effectiveness of efforts to prevent and eradicate

2. *For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the fortieth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument".*

[33] Yunus Husein, *Op.Cit.* hlm. 348.
[34] *Article 6. The International Convention Against Transnational Organized Crime.*
[35] *Article 7 1(a). The International Convention Against Transnational Organized Crime.*
[36] *Article 7 1(b). The International Convention Against Transnational Organized Crime.*
[37] *Article 7 (2). The International Convention Against Transnational Organized Crime.*
[38] *Article 7 (3) Dan (4). The International Convention Against Transnational Organized Crime.*

money laundering by offering technical assistance, training, and advice to countries in need.

In response to increasing concerns about money laundering, the Financial Action Task Force on Money Laundering (FATF) was formed through the G-7 Summit held in Paris in 1989. Realizing the threat posed to the banking system and financial institutions, the Heads of State or Government of G -7 and the President of the European Commission convened a Task Force from G-7 member countries, the European Commission, and eight other countries. As a task force, FATF prepares international recommendations to combat money laundering. FATF is an intergovernmental body and a policy-making body containing experts in law, finance, and law enforcement who assist state jurisdictions in drafting laws and regulations.

The FATF was established in July 1989 by the Group of Seven (G-7) summit in Paris, initially to examine and develop measures to combat money laundering. In October 2001, the FATF expanded its mandate to include efforts to combat terrorist financing and money laundering. The FATF aims to set standards and promote the effective implementation of legal, regulatory, and operational measures to combat money laundering, terrorist financing, and other related threats to the integrity of the international financial system.

Starting with its own members, the FATF monitors countries' progress in implementing the FATF Recommendations, reviewing money laundering and terrorist financing techniques and countermeasures, and promoting the global adoption and implementation of FATF Recommendations. Currently, FATF membership numbers 39 countries and territories, plus two regional organizations. The three main functions of the FATF are:

a) Monitor the progress achieved by FATF members in implementing steps to eradicate money laundering;
b) Conduct studies on money laundering trends, techniques, and countermeasures; And
c) Promote the adoption and implementation of anti-money laundering standards to the international community.

FATF, in 1990, for the first time, issued 40 Recommendations as a comprehensive framework for combating money laundering crimes. Even though the Forty Recommendations are not a binding legal product, these recommendations are widely known and recognized by the public and relevant international organizations as an international tool for combating the crimes of money laundering and terrorist financing. For example, the IMF, World Bank, and Asian Development Bank (ADB) also recognize and use the 40 Recommendations, which are not optional recommendations for each

country but are a mandate or obligation for each country if they want to be seen as a country that meets international standards by the international community.

3.5. The Basel Committee on Banking Supervision

The Basel Committee was founded in 1974 by a collection of central banks from thirteen countries.[39] The committee, headquartered at the Bank for International Settlements (BIS) in Basel, was created to promote financial stability by improving the quality of banking supervision worldwide. It also serves as a forum for regular cooperation between member countries on banking supervision issues.[40] The Basel Committee does not have supervisory authority or carry out the implementation of provisions. This committee issues standards, guidelines, and recommendations for issues related to bank supervision. As for Indonesia joining this committee represented by Bank Indonesia, in general, there are three products from this commitment related to money laundering, namely:

1. Statement of Principles on Money Laundering
   There are four principles contained in the statement of principles, namely:[41]
   a) There is proper customer identification.
   b) Banks need to have high standards regarding ethics and legal compliance.
   c) Bank cooperation with law enforcement officials.
   d) The need for bank commitment in the form of policies and procedures to implement the statement of principles.
2. Core principles for effective banking supervision
   In 1997, the Basel Committee issued Core Principles, which created a blueprint for effective bank supervision. Of the 25 Core Principles established by BIS, there are 15 principles related to money laundering, which read as follows:[42]
   > "Banking supervisors must determine that banks have adequate policies, practices, and procedures in place, including "know your customer rules.
   > That promotes high ethical and professional standards in the financial sector and prevents the back being used, intentionally or unintentionally, by criminal elements".
3. Customer due diligence
   In October 2001, the Basel Committee published a paper on knowing your customer entitled Customer Due Diligence for Banks. This paper is a standard application of know-your-customer principles that provides more specific information about the statement of principles and Core Principles No. 15. The

[39] Belgium, Canada, France, Germany, Italy, Japan, Luxembourg, the Netherlands, Spain, Sweden, Switzerland, the United Kingdom, and the United States.
[40] Bank for International Settlements, 'History of the Basel Committee' <https://www.bis.org/bcbs/history.htm> [accessed 7 October 2022].
[41] *Ibid.* hlm. 4-5.
[42] *Ibid,* hlm. 6.

application of the know-your-customer principle is intended to protect the security and soundness of the bank and the integrity of the banking system. The Basel Committee fully supports the implementation of the Forty Recommendations relating to banks, and this Customer Due Diligence paper was prepared with FATF recommendations. Based on this, Bank Indonesia, as the banking authority in Indonesia, issued provisions regarding the Know Your Customer Principle on June 18, 2001, when the Basel Committee paper was still a Consultative Document.[43]

3.6. International Association of Insurance Supervisors (IAIS)

IAIS was founded in 1994 and consists of regulators and observers representing industry associations, professional associations, insurance and reinsurance companies, consultants, and international financial institutions. In January 2002, IAIS issued Guidance Paper No. 5, Anti Money Laundering Guidance Notes For Insurance Supervisors And Insurance Entities, whose contents are similar to the statement of principles from the Basel Committee, namely fully complying with the TPPU Law, implementing the principle of knowing your customer, the need for cooperation between industry and law enforcement and the need for industry to have an internal policy, procedures, and training regarding the anti-money laundering regime.[44] Furthermore, the Minister of Finance issued a Minister of Finance Decree on January 30 concerning the Determination of Know Your Customer Principles for the insurance industry, pension data, and finance companies.[45]

3.7. International Organization of Securities Commissioners (IOSCO)

IOSCO is an international body that brings together the world's securities regulators and is recognized as a global standard-setter for the securities sector. IOSCO develops, implements, and promotes compliance with internationally recognized standards for securities regulation. He works intensively with the G20 and the Financial Stability Board (FSB) on the global regulatory reform agenda.[46] This institution consists of 131 countries. Like the Basel Committee, IOSCO is not an institution that has the authority to regulate but only provides recommendations to be implemented by its member countries. In

---

[43] Ketentuan mengenai Prinsip Mengenal Nasabah pertama kali diatur dalam Peraturan Bank Indonesia (PBI) No. 3/10/PBI/2001, yang mana peraturan tersebut telah mengalami beberapa perubahan. Yang kemudian dalam rangka mencegah TPPU, BI mengeluarkan Peraturan Bank Indonesia Nomor: 12/ 20 /PBI/2010 Tentang Penerapan Program Anti Pencucian Uang Dan Pencegahan Pendanaan Terorisme Bagi Bank Perkreditan Rakyat Dan Bank Pembiayaan Rakyat Syariah

[44] Paul Allan Schoott, *Reference Guide to Anti Money Laundering and Combating the Financing of Terrorism, IBRD* (Washington DC, 2003), hlm.16.

[45] *KMK No. 45/KMK.06/2003 Tanggal 30 Januari 2003.*

[46] International Organization Of Securities Commissions, 'About IOSCO' <https://www.iosco.org/about/?subsection=about_iosco> [accessed 7 February 2022].

1992, IOSCO published the document "Resolution on Money Laundering". Some important things in the IOSCO recommendations are:[47]

1) Financial institutions under its supervision, with the aim of improving the ability of relevant authorities to identify and prosecute money launderers;
2) The extent and adequacy of recordkeeping requirements, from the perspective of providing tools to reconstruct financial transactions in securities and futures markets;
3) Together with their national regulators charged with prosecuting money laundering, appropriate ways to handle the identification and reporting of suspicious transactions;
4) Procedures are in place to prevent criminals from gaining control of securities and futures businesses, with a view to cooperating with foreign partners to share necessary information;
5) Appropriate means to ensure that securities and futures companies maintain monitoring and compliance procedures designed to prevent and detect money laundering;
6) Use of cash and cash equivalents in securities and futures transactions, including the adequacy of documentation and the ability to reconstruct such transactions;
7) The most appropriate way, given their specific national authorities and powers, is to share information to combat money laundering.

Furthermore, these recommendations were implemented through the Capital Market Supervisory Agency, which issued a decree for the Chairman of BAPEPAM No. KEP-02/PM/2003 concerning Know Your Customer Principles for players in the capital market, namely securities companies, Custodian banks, and mutual fund managers.

3.8. The Egmont Group

Egmont Group is an association of the Financial Intelligence Unit (FIU), an institution formed by each country as a focal point to prevent and eradicate money laundering crimes, such as PPATK in Indonesia. Today, the Egmont Group members consist of 166 countries and territories. Egmont Group was founded in 1995 at Egmont-Arenberg Palace in Belgium. The Egmont Group intends to provide a forum for FIUs to increase support for each other to prevent and eradicate money laundering. Egmont Group also publishes a compilation of hundreds of cases related to money laundering.[48] Indonesia itself has become a member of the Egmont Group by Presidential Decree no. 64/1999 concerning Indonesian Membership, and the Contribution of the Government of the Republic of Indonesia to International Organizations must be carried out by Presidential

[47] International Organization Of Securities Commissions, ‘A Resolution on Money Laundering’, 1992 <https://www.iosco.org/library/resolutions/pdf/IOSCORES5.pdf>.
[48] Paul Allan Schoott, *Op.Cit.* hlm.18.

P-ISSN, 2527-4759 | E-ISSN, 2541-6685

Decree. In 2011, through KEPPRES No. 24 of 2011 concerning the Determination of Indonesia's Membership in the Egmont Group, Indonesia officially became a member with PPATK as the FIU representative from Indonesia.

As a collaboration that has involved 166 members, the cooperation mechanism used by the Egmont Group is bilateral, namely between countries and FIUs from other countries. Coordinate with each other in implementing the anti-money laundering regime. The exchange of information can be carried out directly through the country concerned by requesting the information or data required in that country.[49] The important role of the exchange of information is that the FIU must be able to exchange information freely with other FIUs based on reciprocity or reciprocal agreements and consistent with procedures that the applicant and respondent understand, must produce information that is relevant to the analysis or investigation of financial transactions for the people and companies involved. Permission to use this information must be confidential to protect privacy.[50]

4. Indonesian Legal Regulations Concerning Transnational Crime in the Scope of Financial Transactions Proceeding from Criminal Acts in the Tax Sector

Due to the transnational nature of the crimes committed, the legal instruments that apply are international and national law. The Indonesian legal regulations regarding transnational crime in the scope of financial transactions resulting from criminal acts in the field of taxation are contained in several laws and regulations, which the author will elaborate on below.

4.1 Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering

In the development of legal regulations in Indonesia, the regulations regarding the crime of money laundering have undergone at least several changes. In less than a decade, revisions to regulating and enforcing criminal acts have been carried out at least twice. This shows how complex the problem of Money Laundering is.[51] The first law was Law Number 15 of 2002, amended by Law Number 25 of 2003, and the last was amended by Law Number 8 of 2010.[52] The changes that can be said to be quite a lot in a short period regarding regulating criminal acts are because the threat of money laundering is very dangerous, and there are always new methods. This is confirmed in the weighing section of Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of

[49] Handayani Wuri, 'Mekanisme Kerjasama Internasional Dalam Upaya Pencegahan Dan Pemberantasan Pencucian Uang Di Indonesia (Studi Empiris Peran Pusat Pelaporan Dan Analisis Transaksi Keuangan)' (Universitas Andalas, 2018), hlm.63.
[50] *Ibid.*
[51] Apriliani Arsyad, 'Analisis Yuridis Penegakan Hukum Tindak Pidana Pencucian Uang' (Jambi, 2014), hlm.3.
[52] *Ibid.*

Money Laundering. In this section, it is explained: "that the crime of money laundering not only threatens economic stability and the integrity of the financial system but can also endanger the foundations of social, national and state life based on Pancasila and the 1945 Constitution of the Republic of Indonesia."

Money laundering is a serious matter to be considered and enforced in positive law in Indonesia. Money Laundering or Money Laundering is an organized crime. It is difficult to carry out this criminal act without cooperation with other parties. Therefore, this crime may cross countries. The crime of money laundering is not only an Indonesian national problem but also concerns regional and international problems, so international cooperation is needed to overcome and eradicate it.[53]

If we step back a little and look at the broader picture, the most recent changes to the TPPU Law, namely through Law Number 8 of 2010, more or less occurred in the context of adjusting existing legislation in Indonesia after the ratification of UNTOC through Law No. 5 of 2009, in which UNTOC mandated several matters relating to the mitigation and handling of TPPU which is considered a transnational organized crime.[54] This was then tried to be harmonized with the presence of the TPPU Law.

Money laundering itself is an underlying crime of a predicate crime. This predicate crime will determine whether a transaction can be charged under the anti-money laundering law. If an act is categorized as a criminal act, then the money obtained from that activity will be categorized as a money laundering crime.[55]

The existence of the provision that TPPU is an independent crime can not be implemented in practice. Proving TPPU, in this case, still requires the existence of a criminal act that results in all or part of the assets being confiscated. Apart from that, it is possible that the application of reverse evidence by the defendant will be detrimental to the prosecution process, considering that the perpetrator is very likely to show that the source of his unreasonable acquisition of wealth came from business, even though it was the result of engineering with the help of gatekeepers.[56] In TPPU cases, law

---

[53] *Ibid.*

[54] Hal ini sebagaimana terdapat pada beberapa pasal yang terdapat pada U*nited Nations against Transnational Organized Crime*: *Article 6. Criminalization of the laundering of proceeds of crime; Article 7. Measures to combat money-laundering;BArticle 18. Mutual legal assistance.*

[55] 'Tinjauan Umum Tentang Tindak Pidana Asal (Predicate Crime)', 2017 <https://suduthukum.com/2017/06/tinjauan-umum-tentang-tindak-pidana.html. Sudut Hukum Portal Hukum Indonesia> [accessed 4 February 2023].

[56] KPK, 'Penguatan Alat Bukti Tindak Pidana Pencucian Uang Dalam Perkara Tindak Pidana Korupsi Di Indonesia', 2019 <https://acch.kpk.go.id/id/component/content/article?id=493:penguatan-alat-bukti-tindak-pidanapencucian-uang-dalam-perkara-tindak-pidana-korupsi-di-indonesia> [accessed 4 February 2023].

enforcement officials must prove where the property and/or assets came from in a predicate crime of property and/or assets that produced property and/or assets.[57]

4.2 Law of the Republic of Indonesia Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures and Law Number 7 of 2021 concerning Harmonization of Tax Regulations

Tax is a transfer of wealth from the private sector to the public sector that originates from laws that can be enforced without receiving rewards (tegenprestatie) that can be directly demonstrated, which are used as a means of encouraging, inhibiting or preventing the achievement of goals that exist outside the financial sector country.[58]

Taxation is generally related to the economy, especially in the public sector, which will have implications for aspects of economic life. In general, taxes revolve around financing expenditures by the state, and their fulfillment is linked to fiscal policy by the government. In general, revenue in taxation has two purposes. First, it is a balancing instrument between expenditure and income. The second is to create a budget surplus and use it to pay off previous state debts or budget deficits due to borrowing.[59]

4.3 Tax provisions in Indonesia

On the basis of this, as explained above, the role of tax is very strategic and crucial.[60] Therefore, as is the mandate of the constitution, the Taxation Law was born. In the tax law, public participation in paying taxes is the state's obligation. The rules and regulations relating to taxation that apply in Indonesia include:

a) Article 23A of the 1945 Constitution of the Republic of Indonesia
b) 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 Regulations instead of Law Number 5 of 2008 concerning the Fourth Amendment to Law Number 6 of 2008 1983 concerning General Provisions and Tax Procedures Becoming Law;
c) Law Number 7 of 1983 concerning Income Tax has been amended several times, most recently by Law Number 36 of 2008 concerning the Fourth Amendment to Law Number 7 of 1983 concerning Income Tax;

---

[57] Badan Pemeriksa Keuangan Perwakilan Provinsi Jawa Tengah, 'Pembuktian Pidana Asal Terkait Tindak Pidana Pencucian Uang (TPPU) Dalam Perkara Tindak Pidana Korupsi Di Indonesia', 2019 <https://jateng.bpk.go.id/wp-content/uploads/2020/02/TH-pencucian-uang.pdf> [accessed 4 February 2023].
[58] Rochmat Soemitro, *Pengantar Singkat Hukum Pajak* (Bandung: PT Eresco, 1992), hlm.12.
[59] *Ibid.*
[60] Pajak sendiri juga diamanahkan oleh konstitusi melalui Pasal 23A Undang-Undang Dasar Negara Republik Indonesia 1945 "Pajak dan pungutan lain yang bersifat memaksa untuk keperluan negara diatur dengan undang-undang".

d) Law Number 8 of 1983 concerning Value Added Tax on Goods and Services and Sales Tax on Luxury Goods has been amended several times, most recently by Law Number 42 of 2009 concerning the Third Amendment to Law Number 8 of 1983 concerning Value Added Tax on Goods and Services and Sales Tax on Luxury Goods;
e) Law Number 11 of 1995 concerning Excise as amended by Law Number 39 of 2007 concerning Amendments to Law Number 11 of 1995 concerning Excise;
f) Law Number 11 of 2016 concerning Tax Amnesty;
g) Law Number 2 of 2020 concerning the Stipulation of Government Regulations instead of Law Number I of 2020 concerning State Financial Policy and Financial System Stability for Handling the Coronavirus Disease 2019 (COVID-19) Pandemic and/or in the Context of Facing Threats that Endanger the Economy National and/or Financial System Stability Becomes Law;
h) Law Number 11 of 2020 concerning Job Creation;
i) Law of the Republic of Indonesia Number 7 of 2021 concerning Harmonization of Tax Regulations.

4.4 Tax crimes according to the Law on Tax Provisions and Procedures

One of the characteristics of the tax collection system in Indonesia is the self-assessment system, namely, a tax collection system that gives taxpayers confidence to calculate and report the amount of tax owed themselves. This implies that success and failure in the tax sector depend on the taxpayer. This system views taxpayers as subjects and not objects. Too much trust given to taxpayers will be vulnerable to abuse; therefore, the tax administration must play an active role in controlling tax collection administration, which includes guidance, service, supervision, and application of tax sanctions.[61]

In carrying out tax functions, a healthy government should form an integral and comprehensive tax system between the internal and external tax systems and the tax justice system. The aim is to create legal supremacy based on legal certainty in achieving justice because if it is formed partially, there may be legal implications. In another opinion, the tax system in tax law must support increased tax revenues to the state treasury and boost economic growth so that the government becomes focused and accountable in carrying out its duties.[62]

The formation of tax laws must pay attention to appropriate and correct legal principles and rules, including their implementation. Usually, laws that are formed and grow after independence will quickly become outdated and of poor quality. Several laws were created that have similar characteristics to colonial rules, such as General Provisions and

[61] Marwan Effendy, *Diskresi, Penemuan Hukum, Korporasi, Dan Tax Amnesty Dalam Penegakan Hukum.* (Jakarta, 2012), hlm.120.
[62] Mochtar Kusumaatmadja, *Konsep-Konsep Hukum Dalam Pembangunan* (Bandung, 2002), hlm.19.

Procedures for Taxation and the Income Tax Law, which relate to the system of collecting taxes or their implementation, which is colonial in nature.[63]

When conducting historical investigations, part of the ongoing multidimensional crisis in Indonesia today is the weakness of legal enforcement and protection efforts. One dimension that is also very important is the enforcement and protection of tax law.[64] On the other hand, many taxpayers still do not understand their rights and obligations from a tax perspective, so reluctance and inability to resolve tax problems through the correct legal channels often happen.

Crime in the field of taxation is closely related to applying tax law to direct tax officials, taxpayers, tax officials, or other parties to comply with the provisions of tax laws and regulations. Tax law can only provide usefulness if the parties in their position as stakeholders have a sense of justice in fulfilling or carrying out their respective legal duties and obligations.[65] Juridically, crimes in the field of taxation show that this crime is the substance of tax law because tax law rules are violated. Sociologically, tax crime has shown a real situation in society as a form of activity of tax officials, taxpayers, tax officials, or other parties. Meanwhile, philosophically, the meaning implies that there have been changes in values in society when taxation activities are carried out as a form of activity and participation in the nation and state.[66]

In the case of tax disputes, the basis for the dispute occurs between individuals as legal subjects and private legal entities and legal bureaucrats or the government. Based on the legal legitimacy obtained, the state has the competence to make laws or regulations that are binding on all citizens.[67]

When carrying out historical research, the emergence of crime in the field of taxation is based on tax law rules that attempt to distinguish between dolus (intentional) and culpa (negligence). The difference depends on the perpetrators' intentions when carrying out their duties and obligations. Tax crimes are the beginning of tax offenses related to implementing tax laws and regulations.[68]

As is the principle of nullum dictum nulla poena sine praevia lege poenali, meaning there is no offense, no crime without prior regulations; no one can be punished without regulations that precede the act and that the regulations in question must include a

---

[63] Bagir Manan, 'Peranan Hukum Menuju Dan Dalam Indonesia Baru.' Makalah Disampaikan Pada Musyawarah Nasional KAHMI (Surabaya, 2000), hlm. 6.
[64] Marwan Effendy, *Op.Cit.* hlm. 121.
[65] Muhammad Djafar Saidi, *Kejahatan Di Bidang Perpajakan* (Jakarta: PT RajaGrafindo Persada, 2011), hlm.2.
[66] Marwan Effendy, *Op.Cit.* hlm. 122.
[67] Marwan Effendy dalam bukunya yang berjudul "Diskresi, Penemuan Hukum, Korporasi, dan Tax Amnesty Dalam Penegakan Hukum" menyebutkan bahwa suatu hal yang penting bagi negara untuk senantiasa mencari dan merumuskan hukum yang hidup dan tumbuh di masyarakat (*living law).*
[68] Marwan Effendy, *Op.Cit.* hlm. 123.

threat of punishment. The principle of legality is a fundamental principle in criminal Law. The principle of legality is the embodiment of legal certainty. The principle of legality in tax regulations in Indonesia is embodied in the presence of formulating policies regarding tax crimes regulated in Chapter VIII concerning criminal provisions contained in Articles 38, 39, 39A, 40,41, 41A, 41B, 41C, 43, 43A of the Law General Provisions and Tax Procedures.[69] In relation to criminal acts in the field of taxation, the classification or types of tax crimes are divided into tax crimes in the form of dolus and culpa.[70] Details of tax crimes can be found in CHAPTER VII, Criminal Provisions of the Law on General Provisions and Tax Procedures.

4.5 Expiration of Criminal Tax Prosecution

In the Tax Law currently in force in Indonesia, there appears to be uniformity regarding the expiry period for prosecuting tax crimes, both in the law that regulates criminal provisions for central and regional taxes. Article 40 of Law Number 6 of 1983, Article 26 of Law Number 12 of 1985, and Article 38 of Law Number 18 of 1997 clearly state that criminal acts in the field of taxation cannot be prosecuted after ten (10) periods have passed. The year since the tax became payable, the end of the tax period, the end of the tax year, or the end of the relevant tax year.[71]

4.6 Regulations Regarding Special Purpose Vehicles in Indonesia

Special Purpose Vehicle/Special Purpose Entity (SPV/SPE) are similar terms. Hereafter, in this research, they will be referred to as SPV. The term SPV did not initially appear as a legal term. SPV is a global terminology or term that was born and is widely used in international business and finance.[72] SPV is a term that has become popular since the Enron international financial scandal emerged in the United States in 2001, which had investments in various countries. Other terms are known besides the term SPV, such as tramp/pseudo corporations, conduit/dummy companies, and shell companies.[73]

In this research, the author will highlight the SPV arrangement because, in this case study, the perpetrator committed TPPU in the taxation sector by using the SPV as a means of laundering money. As of this writing, there is no standard definition of SPV.

---

[69] Ruben Achmad, 'Aspek Hukum Pidana Dalam Tindak Pidana Perpajakan', *Jurnal Hukum Doctrinal*, Vol. 1, No (2016), hlm.6.
[70] *Ibid*.
[71] Marihot Pahala Siahaan, *Hukum Pajak Formal* (Yogyakarta: Graha Ilmu, 2010).
[72] Janet M. Tavakoli, *Collateralized Debt Obligations and Structured Finance* (Canada: Jhon Wiley & Sons, Inc, 2003), hlm. 47.
[73] Sudargo Gautama, *Hukum Perdata Internasional Indonesia Jilid II Bagian IV Buku Ke-4* (Jakarta: Kinta, 1989). "*Tramp/Pseudo Corporations*, diartikan sebagai badan-badan hukum yang sering dipindah-pindahkan. Istilah ini terkait dengan suatu upaya untuk mengelakkan pajak-pajak dengan jalan mendirikan badan hukum di tempat-tempat tertentu (negara A) sedangkan pusat-pusat perdagangan/kegiatan usahanya adalah di tempat lain (negara B)". *Conduit/Dummy Company*; badan pelaksana atau perusahaan boneka. (Pasal Tambahan RUU Pajak "Perusahaan Boneka Dikejar", Bisnis Indonesia, 17 Februari 2004, Artikel lepas. "*Shell Company*, perusahaan yang didirikan untuk tujuan melindungi kepentingan pihak yang mendirikannya terutama terkait dengan risiko bisnis", sebagaimana dikutip dalam Janet M. Tavakoli, *Op. Cit*.

This is because there is a different definition for each condition related to business activities or the aims and objectives to be achieved in different establishments.[74] SPV can appear in various forms, although generally, the form most often used in practice is a corporate legal entity.[75] A corporation is a legal entity that has six main characteristics:

1) It has a formal status as a legal entity determined based on statutory regulations.
2) It is a legal subject separate from its founders (shareholders).
3) There is a separation between ownership and management.
4) Ownership can be freely transferred.
5) The period of establishment can be unlimited.
6) There is limited liability for the owner (limited liability).[76]

The thing that differentiates SPVs from corporations, in general, is that SPVs are created with very specific or limited functions, especially to limit the financial risk of the SPV owner concerned (and, in certain contexts, the interests of the SPV's creditors).[77] Thus, an SPV has several special characteristics to identify, including:

1) Does not have employees.
2) Does not have a physical location.
3) Does not make substantive business/economic decisions (does not carry out business activities).[78]

By looking at the characteristics above, the contrast between the role of an SPV and a corporation is that, in principle, corporations actively carry out business activities to seek profit.[79]

---

[74] Ina Primiana Sagir, dan Kurniawan Saefullah, *SPV dan kasus Divestasi Indosat*, dikutip dari Sigit Russeno, 'Tinjauan Hukum Perdata Internasional Penggunaan Special Purpose Vehicle/Special Purpose Entity (SPV/SPE) Dalam Bentuk Badan Hukum Sebagai Upaya Penghindaran Pajak (Studi Kasus Penjualan Saham Pemerintah Di PT Indosat Tbk., PT Bank Central Asia Tbk., Bank' (Universitas Indonesia, 2004), hlm. 5.

[75] *Corporation* selanjutnya disebut korporasi

[76] Stephen Bainbridge, 2002, *Corporation Law and Economics, Foundation Press*, New York hlm. 2. Sebagaimana dikutip dalam Pramudya Azhar Oktavinanda, 2013, "*Climate Change, Pertanggungjawaban Korporasi di Sektor Kehutanan*", Indonesia Corruption Watch, Oktober 2013, hlm. 102. Bandingkan konsep Korporasi di atas dengan definisi PT berdasarkan Pasal 1 Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas (UU PT), yang menyatakan bahwa: "badan hukum yang merupakan persekutuan modal, didirikan berdasarkan perjanjian, melakukan kegiatan usaha dengan modal dasar yang seluruhnya terbagi dalam saham dan memenuhi persyaratan yang ditetapkan dalam Undang-Undang ini serta peraturan pelaksanaannya". Lihat pula Pasal 3 Ayat (1) UUPT yang terkait dengan tanggung jawab terbatas yang menyatakan sebagai berikut: "Pemegang saham Perseroan tidak bertanggung jawab secara pribadi atas perikatan yang dibuat atas nama Perseroan dan tidak bertanggung jawab atas kerugian Perseroan melebihi saham yang dimiliki".

[77] John A. Pearce II dan Ilya A. Lipin, 'Special Purpose Vehicles in Bankruptcy Litigation', *Hofstra Law Review*, Vol. 40 (2011). Konsep SPV ialah badan hukum utamanya Korporasi atau PT dalam konsep hukum di Indonesia. SPV tidak terbatas perihal perusahaan-perusahaan yang didirikan di negeri antah berantah. Dengan demikian, mengenai SPV tidak tertutup kemungkinan untuk menggunakan suatu PT sebagai SPV sepanjang kriteria-kriteria di atas terpenuhi.

[78] Tyson Taylor, 'Detrimental Legal Implications of Off-Balance Sheet Special Purpose Vehicles in Light of Implicit Guarantees', *University of Pennsylvania Journal of Business Law*, Vol. 11 (2009), hlm.1014.

[79] Dennis C. Mueller, 'The Corporation: Investment, Mergers, and Growth, Routledge', 2003, hlm.26.

4.7 Tax Havens Countries and Their Relation to SPV Establishment

Each country has a different tax system and a tax policy in which the form of implementation of the tax system is implemented. This difference also includes the provision of various tax facilities. Each country competes to provide tax facilities through tax or non-tax incentives to attract foreign capital. These countries even go so far as to offer a tax-free environment or only nominal taxes,[80] usually accompanied by ease of procedures and administration. Countries that fall into this category are usually termed tax havens.[81]

Some of these tax policy practices then develop into anti-competitive actions and can reduce other countries' tax revenues, which is then considered harmful tax competition. In general, based on the facilities, tax havens can be categorized into several types, namely:

a) Countries that do not impose direct taxes at all, which means there is no taxation of income, profits, capital gains, or taxation of wealth. Such as the Bahamas, Bahrain, Bermuda, Cayman Islands, Monaco, Nauru, and Turkey;
b) Countries that impose direct taxes but at relatively low rates, such as the British Virgin Islands, Channel Islands, Hong Kong, and Switzerland;
c) Countries that apply the territorial concept in imposing taxes. These countries impose taxes on income originating only from within the country (domestic source income) and exempt from tax income originating from abroad. Examples include Panama, Costa Rica, Hong Kong, Liberia, Malaysia, and the Philippines;
d) Countries that have agreements with other countries that impose high tax rates and make their country the main alternative tax haven. Examples are the British Virgin Islands (with the United States), Cyprus (with the United States), and the Netherlands Antilles (with the United States);

These five categories are often referred to as secondary tax havens because they do not purely implement all tax haven-oriented policies. Regarding the establishment of an SPV, a tax haven provides three main functions, including:[82]

a) Providing a place for passive investment (Holding Passive Investments).

---

[80] Pajak Nominal adalah pajak yang dikenakan atas penghasilan dengan tarif tertentu setelah memperhitungkan pengurangan-pengurangan (*reductions*) dan pengecualian-pengecualian (*exclusion*). Hal ini berbeda dengan sistem pengenaan pajak dengan tarif pajak efektif (*effective tax rate*), yang mana pajak dipungut berdasarkan suatu persentase tertentu terhadap penghasilan bruto. Dalam tarif efektif itu telah diperhitungkan persentase pengurangan penghasilan. sebagaimana dikutip Sigit Russeno. *Op. Cit*, hlm 44.

[81] Sigit Russeno, 'Tinjauan Hukum Perdata Internasional Penggunaan Special Purpose Vehicle/Special Purpose Entity (SPV/SPE) Dalam Bentuk Badan Hukum Sebagai Upaya Penghindaran Pajak (Studi Kasus Penjualan Saham Pemerintah Di PT Indosat Tbk., PT Bank Central Asia Tbk., Bank ' (Universitas Indonesia, 2004).

[82] *Ibid*. hlm 45.

This function is usually related to the transfer of income from investments in other countries to legal entities in tax haven countries. The legal entity can be in the form of an affiliated company or a subsidiary (SPV) where, at any time, the funds managed by the entity can be used indirectly to carry out certain interests related to investment in another country, so the legal entity (SPV) only as a legal umbrella for investing in various countries.

b) Provide a place where profits can be recorded.
For example, this function can be seen in the acquisition (takeover) of share ownership in a company in another country; in simple terms, the income from the acquisition can be diverted/transferred to an entity established or located in that tax haven country to avoid taxes. A clearer example is the practice of transfer pricing (setting transfer prices/purchases within a group of companies) so that even though the taxpayer's bookkeeping income is higher in a tax haven, the taxpayer is not subject to tax or is subject to a small tax.

c) Allows taxpayers' problems, especially those related to their bank accounts, to be protected from research or inspection by other countries' tax authorities.

4.8 Special Purpose Vehicle for Tax Evasion

In financial transactions, using SPV in the field is often misused.[83] SPV is often used to commit unlawful acts in the form of tax evasion crimes. In Indonesia, SPVs, both onshore and offshore SPVs, are often used for tax evasion purposes. This has happened in Indonesia in the tax evasion case of the Asian Agri Group, which used SPV in transactions aimed at tax evasion.[84]

Tax evasion is a criminal act because it is an engineering subject (perpetrator) and object (transaction) of tax to obtain tax savings unlawfully. Tax evasion is a virus inherent in every existing tax system that applies in almost every jurisdiction.[85] The implications of tax evasion have the risk of being detected and inviting the consequences of corporate criminal sanctions and fines.

As an illustration, PT Asian Agri operates in the oil palm, cocoa, and rubber plantations, with 150 thousand hectares of land. In early 2007, Asian Agri was suspected of carrying out transfer pricing, which was used as an effort to commit tax evasion. It started with a crime committed by Vincentius Amin Sutanto in embezzling company money worth US$ 3.1 million by making a fictitious transfer order to Fortis Bank in Singapore

[83] William Budijaya, *Op. Cit,* hlm. 58.
[84] *Ibid.* Kasus Asian Agri Group merupakan kasus penggelapan pajak yang menggunakan 16 perusahaan yang merupakan SPV berbentuk perusahaan dalam hubungan afiliasi baik dalam negeri maupun di luar negeri, seperti: PT Indosawit Subur, PT Supra Matra Abadi, Twin Bonus Edible Oil & Fats Ltd di Hongkong, Asian Agri Abadi Oil & Facts Ltd di British Virgin Island, Goalead Ltd, Good Season Group Ltd.
[85] *Ibid.*

originating from the Asian Agri Abadi Oil & Facts Ltd account in the British Virgin Islands at the bank.[86]

Because he felt threatened by the company owner because of his actions, Vincentius spread information about tax evasion practices that had been going on for years by the Raja Garuda Mas business group to manipulate tax payments to the state.[87] The amount is not small, and if totaled since 2002, it is said that the amount of unpaid tax reached around Rp. 1.1 Trillion. This figure was obtained from calculating the amount of Asian Agri's corporate income tax (PPh) of 30% of company profits that were deliberately transferred abroad. Tax manipulation was done by moving company profits to Asian agri-affiliated companies abroad, such as Hong Kong, the British Virgin Islands, Macao, and Mauritius.[88]

In the development of the Asian Agri Group case in 2012, the Supreme Court finally gave a decision stating that the Asian Agri Group, through its 14 (fourteen) subsidiaries, was obliged to pay taxes within one year, totaling 2 x IDR 1,259,977,695,652 = IDR 2,519,955,391,304 (two trillion five hundred nineteen billion nine hundred fifty-five million three hundred ninety-one thousand three hundred four rupiah) in cash.[89] Furthermore, since the Supreme Court Decision, the Tax Court Decision was also issued, issuing tax payment obligations for providing incorrect and complete data in Tax Returns (SPT) submitted by 14 (fourteen) companies in the Asian Agri Group from 2002 to 2005, which prepared and made by the Defendant Suwir Laut as Tax Manager.[90]

---

[86] Abu Fatih, 'Siapa Berani Usut Sukanto, Forum Keadilan, No. 29, 25 November 2007, Hlm 12. Dikutip Dari Rolando Ritonga, 2009, "Pengaruh Transfer Pricing Terhadap Penerimaan Negara: Studi Kasus Transfer Pricing Asian Agri Dan Dampaknya Bagi Penerimaan Pajak Di Indonesi' (Universitas Indonesia, 2007).

[87] Rolando Ritonga, Ibid. hlm. 72. Dilakukan dengan cara *under invoicing*, dimana laba yang dilaporkan oleh perusahaan di Indonesia menjadi lebih rendah dari pada yang seharusnya, sehingga pajak terutang yang dilaporkan menjadi lebih kecil dari pada yang seharusnya.

[88] Romanius Muda, 'Laporan Utama Aksi Raja Garuda Mas, Kisah Si Pembobol', *Majalah Tempo*, 2007.

[89] Putusan Mahkamah Agung Nomor: 2239K/PID.SUS/2012, atas kasus Suwir Laut alias Liu Che Sui alias Atak (Asian Agri Grup). Majelis Hakim dalam amar putusannya menyatakan bahwa:"

(1) Menyatakan Terdakwa Suwir Laut alias Liu Che Sui alias Atak telah terbukti secara sah dan meyakinkan bersalah melakukan tindak pidana" Menyampaikan Surat Pemberitahuan dan/atau Keterangan Yang Isinya Tidak Benar atau Tidak Lengkap Secara Berlanjut";
(2) Menjatuhkan pidana kepada Terdakwa tersebut dengan pidana penjara selama 2 (dua) tahun;
(3) Menetapkan bahwa pidana tersebut tidak akan dijalani, kecuali jika di kemudian hari ada perintah lain dalam putusan Hakim karena Terdakwa dipersalahkan melakukan sesuatu kejahatan atau tidak mencukupi suatu syarat yang ditentukan sebelum berakhirnya masa percobaan selama 3 (tiga) tahun, dengan syarat khusus dalam waktu 1 (satu) tahun, 14 (empat belas) perusahaan yang tergabung dalam AAG/Asian Agri Group yang pengisian SPT tahunan diwakili oleh Terdakwa untuk membayar denda 2 (dua) kali pajak terutang yang kurang dibayar masing-masing: yang keseluruhannya berjumlah 2 x Rp. 1.259.977.695.652, - = Rp. 2.519.955.391.304, - (dua triliun lima ratus sembilan belas milyar sembilan ratus lima puluh lima juta tiga ratus sembilan puluh satu ribu tiga ratus empat rupiah) secara tunai".

[90] Putusan Pengadilan Pajak Nomor: PUT.58197/PP/M.XIV.A/13/2014, atas kasus Suwir Laut alias Liu Che Sui alias Atak (Asian Agri Grup). Bahwa dalam sidang Pengadilan Negeri Jakarta Pusat yang memeriksa dan mengadili perkara ini telah terungkap adanya pemberian data yang tidak benar dan tidak lengkap (tidak sesuai dengan hasil auditor independen dari Kantor Akuntan Publik (KAP) yang notabene disewa oleh Asian Agri Grup sendiri yaitu SPT tahun 2002 sampai dengan tahun 2005 atas nama: (i) PT. Dasa Anugrah Sejati, (ii) PT. Raja Garuda Mas Sejati, (iii) PT. Saudara Sejati Luhur, (iv) PT. Indo Sepadan Jaya, (v) PT. Nusa Pusaka Kencana, (vi) PT. Andalas Intiagro Lestari, (vii) PT. Tunggal Yunus Estate, (viii) PT. Rigunas Agri Utama, (ix) PT. Rantau Sinar Karsa, (x) PT. Supra Matra Abadi, (xi) PT. Mitra Unggul Pusaka, (xii) PT.

The use of an SPV for tax avoidance is an act that is not legally permitted and violates applicable legal provisions. This has deviated from the initial aim of establishing the SPV, which was intended for business purposes, which is then misused to carry out tax evasion processes.[91] Using SPV to hide assets resulting from criminal acts is legally prohibited and violates applicable legal provisions. This has deviated from the initial purpose of establishing the SPV, intended for business purposes, and was then misused to carry out the money laundering process of the proceeds of criminal acts.[92]

It is known that there is disharmony in the regulation of SPVs in statutory regulations, and there is also the practice of misuse of SPVs. This, of course, creates ambiguity and conflict in rules, which ultimately creates loopholes that result in legal problems.[93] On this basis, regulatory improvements are needed, which can be achieved by changing the Limited Liability Company Law and/or the Company Law. The changes required are related to strengthening the supervisory and law enforcement functions of institutions such as the Directorate of General Legal Administration under the Ministry of Law and Human Rights, the Directorate General of Taxes under the Ministry of Finance, OJK, PPATK, and the Corruption Eradication Commission which must coordinate with each other on integrated data access.[94]

5. Conclusion

To achieve the ideals of the Unitary State of the Republic of Indonesia to prosper its people, resilience in the economic sector has a significant role. However, the circulation of black money still haunts Indonesia in realizing its dreams. One of the practices that is detrimental to the Indonesian state is tax evasion. Tax evasion is inseparable from the crime of money laundering, which is a sophisticated crime that requires special treatment in dealing with it. It is not uncommon for money laundering crimes to be committed not only in Indonesian jurisdictions but also in other countries jurisdictions; this causes the crime of money laundering to be considered a transnational crime in some cases.

To prevent and eradicate transnational crime within the scope of financial transactions. Indonesia has ratified the United Nations Convention Against Transnational Organized Crime. With the ratification of this convention, Indonesia's cooperation with other countries will be better because they have the same point of view in dealing with transnational crime. Based on research conducted, although Indonesia has several regulations regarding the prevention and eradication of money laundering, several

Hari Sawit Jaya, (xiii) PT. Inti Indosawit Subur dan (xiv) PT. Gunung Melayu yang tergabung dalam Asian Agri Grup yang disampaikan kepada Kantor Pelayanan Pajak (KPP) di Jakarta dan KPP Kisaran.

[91] William Budijaya, *Op. Cit,* hlm. 64.

[92] William Budijaya, *Op. Cit,* hlm. 58.

[93] William Budijaya, *Op. Cit,* hlm. 112.

[94] William Budijaya, *Op. Cit,* hlm. 113.

loopholes are exploited by perpetrators of tax evasion, including The expiry date for tax crimes is ten years, so it is difficult to take action against tax evasion that is more than ten years old. Article 40 of Law Number 6 of 1983, Article 26 of Law Number 12 of 1985, and Article 38 of Law Number 18 of 1997 clearly state that criminal acts in the field of taxation cannot be prosecuted after ten (10) periods have passed. The year since the tax became payable, the end of the tax period, the end of the tax year, or the end of the relevant tax year. With this, if a transaction is found that is indicated as tax evasion, if the transaction is more than the expiry date of the tax crime, then the transaction cannot be prosecuted using criminal law instruments.

There is a legal loophole in money laundering in the tax sector, which uses SPV. As a legal subject, SPV is a legal entity equated with a limited liability company. Laws and regulations in various sectors then regulate regulations regarding SPVs in Indonesia. However, as of this writing, there are no specific regulations regarding SPV. On this basis, it then creates ambiguity and disharmony in the regulations regarding SPVs, which creates legal loopholes and results in legal problems.

References

Book

Arsyad, Apriliani, 'Analisis Yuridis Penegakan Hukum Tindak Pidana Pencucian Uang' (Jambi, 2014)

Basri, Yuswar Zainul, *Keuangan Negara Dan Analisis Kebijakan Utang Luar Negeri* (Jakarta: PT. RajaGrafindo Persada, 2005)

Brotodihardjo, R. Santoso, *Pengantar Ilmu Hukum Pajak* (Bandung: PT. Refika Aditama, 2008)

Corrapico, Helena, *Transnational Organized Crime as a Security Concept Dalam Routledge Handbook of Transnational Organized Crime* (Routledge, New York, 2012)

Crumbley, D. Larry, Jack P. Friedman, and Susan B. Andrers, *Dictionary of Text Terms, Barron's Educational Series, Indiana.*, 1994

Effendy, Marwan, *Diskresi, Penemuan Hukum, Korporasi, Dan Tax Amnesty Dalam Penegakan Hukum.* (Jakarta, 2012)

Gautama, Sudargo, *Hukum Perdata Internasional Indonesia Jilid II Bagian IV Buku Ke-4* (Jakarta: Kinta, 1989)

Kusumaatmadja, Mochtar, *Konsep-Konsep Hukum Dalam Pembangunan* (Bandung, 2002)

Manan, Bagir, 'Peranan Hukum Menuju Dan Dalam Indonesia Baru. Makalah Disampaikan Pada Musyawarah Nasional KAHMI' (Surabaya, 2000)

Mardiasmo, *Perpajakan Edisi Revisi 2011*, ed. by Andi (Yogyakarta, 2011)

Muda, Romanius, 'Laporan Utama Aksi Raja Garuda Mas, Kisah Si Pembobol', *Majalah Tempo*, 2007

Mueller, Dennis C., 'The Corporation: Investment, Mergers, and Growth, Routledge,' 2003, hlm.26

Pohan, Chairil Anwar, *Manajemen Perpajakan Strategi Perencanaan Dan Bisnis* (Jakarta: PT Gramedia Pustaka Utama, 2013)

R, R. Atmasasmita, *Tindak Pidana Narkotika Transnasional Dalam Sistem Hukum Pidana Indonesia* (Bandung: Citra Aditya Bhakti, 1997)

Saidi, Muhammad Djafar, *Kejahatan Di Bidang Perpajakan* (Jakarta: PT RajaGrafindo Persada, 2011)

Saidi, Muhammad Djafar, and Eka Merdekawati Djafar, *Hukum Keuangan Negara : Teori Dan Praktik* (PT RajaGrafindo Persada, 2017)

Siahaan, Marihot Pahala, *Hukum Pajak Elementer* (Yogyakarta: Graha Ilmu, 2010)

Sinaga, Niru Anita, 'Reformasi Pajak Dalam Rangka Meningkatkan Pendapatan Negara', *Ilmiah Hukum Dirgantara*, 8.1 (2017), 1–19

Soemitro, Rochmat, *Pengantar Singkat Hukum Pajak* (Bandung: PT Eresco, 1992)

Sumarsan, Thomas, *Perpajakan Indonesia* (PT. Indeks, Jakarta, 2010)

Tavakoli, Janet M., *Collateralized Debt Obligations and Structured Finance* (Canada: Jhon Wiley & Sons, Inc, 2003)

Journal

Achmad, Ruben, 'Aspek Hukum Pidana Dalam Tindak Pidana Perpajakan', *Jurnal Hukum Doctrinal*, Vol. 1, No (2016)

Arifki, N A, and I F Azmi, 'Penghindaran Pajak Dalam Diskursus Tindak Pidana Pencucian

Uang', *Pandecta: Jurnal Penelitian Ilmu Hukum …*, 15.2 (2020), 167–77 https://journal.unnes.ac.id/nju/index.php/pandecta/article/view/18667

Astuti, Titiek Puji, and Y Anni Aryani, 'Tren Penghindaran Pajak Perusahaan Manufaktur Di Indonesia Yang Terdaftar Di Bei Tahun 2001-2014', *Jurnal Akuntansi*, 20.3 (2017), 375–88 https://doi.org/10.24912/ja.v20i3.4

Commissions, International Organization Of Securities, 'A Resolution on Money Laundering,' 1992 https://www.iosco.org/library/resolutions/pdf/IOSCORES5.pdf ———, 'About IOSCO' <https://www.iosco.org/about/?subsection=about_iosco> [accessed 7 February 2022]

Fathurrahman, Ayief, 'Kebijakan Fiskal Indonesia Dalam Perspektif Ekonomi Islam : Studi Kasus Dalam Mengentaskan Kemiskinan', *Jurnal Ekonomi Dan Studi Pembangunan*, 13.1 (2012), 72–82

John A. Pearce II dan Ilya A. Lipin, 'Special Purpose Vehicles in Bankruptcy Litigation,' *Hofstra Law Review*, Vol. 40 (2011)

Komariah, Rukiah, 'Tindak Pidana Perpajakan Dalam Penghindaran, Penyimpangan, Penipuan Dan Pemalsuan Pajak', *Legislasi Indonesia*, Vol 3 No.4 (2006)

Schoott, Paul Allan, *Reference Guide to Anti Money Laundering and Combating the Financing of Terrorism, IBRD* (Washington DC, 2003)

Tyson Taylor, 'Detrimental Legal Implications of Off-Balance Sheet Special Purpose Vehicles in Light of Implicit Guarantees', *University of Pennsylvania Journal of Business Law*, Vol. 11 (2009).

Weerepas, M.J.G.A.M., 'Het Belastingrecht. Zijn Grondslagen En Ontwikkeling – 1948-1950', *Pro Memorie*, 21.2 (2019), 240–43 https://doi.org/10.5117/pm2019.2.053.weer

Law and Regulations

Article 36 (1), United Nations Convention against Transnational Organized Crime and the Protocols Thereto.

Article 38, United Nations Convention against Transnational Organized Crime and the Protocols Thereto.

Article 6. The International Convention Against Transnational Organized Crime.

P-ISSN, 2527-4759 | E-ISSN, 2541-6685

Article 7 (2). The International Convention Against Transnational Organized Crime.

Article 7 (3) Dan (4). The International Convention Against Transnational Organized Crime.

Article 7 1(a). The International Convention Against Transnational Organized Crime.

Article 7 1(b). The International Convention Against Transnational Organized Crime.

KMK No. 45/KMK.06/2003 Tanggal 30 Januari 2003.

Pasal 2 Ayat (1) Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang (Indonesia)

Website/Article

Ardiansyah, Benny Gunawan, 'Sri Mulyani Bantu Bongkar 16 Kasus Pencucian Uang Di Bidang Perpajakan' <https://nasional.kontan.co.id/news/sri-mulyani-bantu-bongkar-16-kasus-pencucian-uang-di-bidang-perpajakan> [accessed 7 July 2022]

Bisnis.Tempo.co, '"Skandal Pajak Pandora Papers, Apa Itu Perusahaan Cangkang?"' <https://bisnis.tempo.co/read/1514565/skandal-pajak-pandora-papers-apa-itu-perusahaan-cangkang> [accessed 1 June 2022]

Junquera-Varela, Raul Felix, and Bernard Haven, '"Getting to 15 Percent: Addressing the Largest Tax Gaps"' <https://blogs.worldbank.org/governance/getting-15-percent-addressing-largest-tax-gaps> [accessed 31 May 2022]

Keuangan, Sekretariat Pengadilan Pajak Kementerian, 'Statistik Penyelesaian Sengketa Pajak Tahun 2015 - 2021' <https://setpp.kemenkeu.go.id/statistik> [accessed 24 December 2022]

Keuangan, Sekretariat Pengadilan Pajak Kementerian, 'Statistik Penyelesaian Sengketa Pajak Tahun 2015 - 2021' <https://setpp.kemenkeu.go.id/statistik> [accessed 24 December 2022]

KPK, 'Penguatan Alat Bukti Tindak Pidana Pencucian Uang Dalam Perkara Tindak Pidana Korupsi Di Indonesia', 2019 <https://acch.kpk.go.id/id/component/content/article?id=493:penguatan-alat-bukti-tindak-pidanapencucian-uang-dalam-perkara-tindak-pidana-korupsi-di-indonesia> [accessed 4 February 2023]

'Puskajiananggaran DPR', *Proceedings of the National Academy of Sciences*, 3.1 (2015),

1–10 https://berkas.dpr.go.id/puskajianggaran/kamus/file/kamus-134.pdf

Santoso, Yusuf Imam, ‘Pajak Dan Tindak Pidana Pencucian Uang’ <https://analisis.kontan.co.id/news/pajak-dan-tindak-pidana-pencucian-uang> [accessed 7 July 2022]

Settlements, Bank for International, ‘History of the Basel Committee’ <https://www.bis.org/bcbs/history.htm> [accessed 7 October 2022]

Tempo.co, ‘“Apa Itu Perusahaan Cangkang Dalam Panama Papers?”’ <https://m.tempo.co/ read/news/2016/04/06/090760201/apa-itu-perusahaan-cangkang-dalam-panama-papers> [accessed 1 June 2022]

Tengah, Badan Pemeriksa Keuangan Perwakilan Provinsi Jawa, ‘Pembuktian Pidana Asal Terkait Tindak Pidana Pencucian Uang (TPPU) Dalam Perkara Tindak Pidana Korupsi Di Indonesia’, 2019 <https://jateng.bpk.go.id/wp-content/uploads/2020/02/TH-pencucian-uang.pdf> [accessed 4 February 2023]

‘Tinjauan Umum Tentang Tindak Pidana Asal (Predicate Crime)’, 2017 <https://suduthukum.com/2017/06/tinjauan-umum-tentang-tindak-pidana.html. Sudut Hukum Portal Hukum Indonesia> [accessed 4 February 2023]

Thesis

Fatih, Abu, ‘Siapa Berani Usut Sukanto, Forum Keadilan, No. 29, 25 November 2007, Hlm 12. Dikutip Dari Rolando Ritonga, 2009, “Pengaruh Transfer Pricing Terhadap Penerimaan Negara: Studi Kasus Transfer Pricing Asian Agri Dan Dampaknya Bagi Penerimaan Pajak Di Indonesi’ (Universitas Indonesia, 2007)

Russeno, Sigit, ‘Tinjauan Hukum Perdata Internasional Penggunaan Special Purpose Vehicle/Special Purpose Entity (SPV/SPE) Dalam Bentuk Badan Hukum Sebagai Upaya Penghindaran Pajak (Studi Kasus Penjualan Saham Pemerintah Di PT Indosat Tbk., PT Bank Central Asia Tbk., Bank’ (Universitas Indonesia, 2004)

Wuri, Handayani, ‘Mekanisme Kerjasama Internasional Dalam Upaya Pencegahan Dan Pemberantasan Pencucian Uang Di Indonesia (Studi Empiris Peran Pusat Pelaporan Dan Analisis Transaksi Keuangan)’ (Universitas Andalas, 2018)