

ABSTRAK
PENGGANTI PIDANA DENDA DALAM TINDAK PIDANA
DI BIDANG PERPAJAKAN

Adanya kekaburan aturan mengenai bentuk-bentuk pengganti pidana denda dalam UU KUP, menimbulkan ketidakpastian hukum bagi aparat penegak hukum khususnya Jaksa dalam melakukan eksekusi putusan pengadilan. Mengingat pemulihan kerugian pada pendapatan negara yang dapat diselesaikan dengan adanya konsistensi putusan pengadilan, maka ketentuan dalam UU KUP harus memenuhi prinsip-prinsip hukum pengganti pidana denda dalam tindak pidana di bidang perpajakan. Sementara pengganti pidana denda dalam UU KUP hanya berupa pidana kurungan. Dalam prakteknya, terdapat beberapa bentuk putusan pengadilan yaitu pengganti pidana denda dengan pidana kurungan, pengganti pidana denda dengan perampasan asset kemudian dilelang untuk membayar pajak kurang bayar, pengganti pidana denda dengan perampasan asset kemudian dilelang untuk membayar pajak kurang bayar apabila terpidana tidak mempunyai harta benda yang mencukupi maka diganti dengan pidana kurungan. Adapun yang menjadi rumusan masalah dalam penelitian ini adalah : (1) filosofi pengganti pidana denda dalam tindak pidana di bidang perpajakan, (2) karakteristik pengganti pidana denda dalam tindak pidana di bidang perpajakan.

Mengingat bentuk pengganti pidana denda dalam UU KUP hanya berupa pidana kurungan, maka direkomendasikan dalam revisi UU KUP untuk mendahulukan perampasan asset terpidana sebagai wujud pengembalian kerugian pada pendapatan negara, namun apabila asset terpidana belum mencukupi maka sisa denda yang belum dibayarkan dapat dikenakan pidana kurungan.

Hasil penelitian ini diharapkan adanya konseptual dan legal reform terkait pengganti pidana denda dalam tindak pidana di bidang perpajakan, sehingga untuk menjamin kepastian hukum, keadilan dan kemanfaatan, maka penjatuhan pengganti pidana denda dalam tindak pidana di bidang perpajakan harus dicantumkan dalam putusan pengadilan dan ditindaklanjuti dengan eksekusi putusan pengadilan oleh Jaksa selaku eksekutor.

Kata Kunci : Pidana Denda, Tindak Pidana Di Bidang Perpajakan.

ABSTRACT
THE REPLACEMENT OF CRIMINAL FINE IN CRIMINAL TAXATION

The absence of provisions regulating the substitution of criminal fines in the KUP Law, raises legal uncertainty for law enforcement officials, especially prosecutors in executing court decisions. Considering the recovery of state financial losses that can be resolved by the consistency of court decisions, so the provisions in the KUP Law must meet the legal principles in criminal fines in criminal taxation acts. By not clearly stipulated the substitution of criminal fines in the KUP Law raises legal uncertainty. While substituting criminal fines in the KUP Law is only in the form of imprisonment. In practice, there are several forms of court rulings, there are substituting criminal fines with imprisonment, substituting criminal fines with confiscation of assets then auctioned to pay underpayment taxes, substituting criminal fines with confiscation of assets then auctioned to pay underpayment taxes if the convicted person does not have property that is adequate then replaced with imprisonment. The formulation of the legal issues in this study are: (1) the philosophy of substituting criminal fines in criminal acts in the taxation field, (2) Characteristics of substitution of criminal fines in criminal acts in the taxation field.

Considering that the form of substitute criminal fines in the KUP Law is only in the form of imprisonment, it is recommended in the revision of the KUP Law to prioritize confiscation of convicted assets as a form of recovering state financial losses, but if the assets of the convicted person are insufficient then the remaining unpaid fines may be subject to imprisonment.

The results of this study are expected to have a conceptual and legal reforms related to substituting criminal fines in criminal acts in the taxation field, so as to ensure legal certainty, justice and benefit, then the replacement of criminal substitute fines in criminal acts in the taxation field must be included in court decisions and followed up with execution of court decision by the Prosecutor as the executor.

Keywords: Criminal Fines, Criminal Acts Taxation Field.