LEGAL CONSTRUCTION AND IMPLICATIONS OF INTEGRATED HANDLING OF FICTITIOUS TAX INVOICES IN STATE-OWNED ENTERPRISE PROCUREMENT

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Abstract

This study aims to analyze the legal construction and juridical implications of an integrated approach to handling the practice of issuing fictitious tax invoices within fictitious procurement schemes in State-Owned Enterprises (SOEs) and regional government-owned companies. The research employs a normative legal methodology, utilizing statutory and conceptual approaches. The findings indicate that the actions in question simultaneously fulfill the elements of corruption offenses (Articles 2 and 3 of the Anti-Corruption Law) and tax offenses (Article 39A of the General Provisions and Tax Procedures Law). The most effective legal construction is cumulative prosecution based on the principle of concursus realis (real concurrence of offenses). Integrated handling by anti-corruption law enforcement agencies and tax authorities yields significant juridical implications, particularly concerning the recovery of dual state financial losses. These implications encompass the optimization of asset recovery instruments (substitute money and tax collection), the strengthening of evidence through expert exchange, and the creation of a broader deterrent effect. The study concludes that inter-agency synergy and the harmonization of legal interpretation are key to combating complex crimes that simultaneously harm state finances from multiple angles.

Keywords: ***Fictitious Tax Invoice; Fictitious Procurement; Corruption***

Offense; Tax Offense;

Abstrak

Studi ini bertujuan untuk menganalisis konstruksi hukum dan implikasi yuridis dari pendekatan terpadu dalam menangani praktik penerbitan faktur pajak fiktif dalam skema pengadaan fiktif di Badan Usaha Milik Negara (BUMN) dan perusahaan milik pemerintah daerah. Penelitian ini menggunakan metodologi hukum normatif, dengan memanfaatkan pendekatan hukum dan konseptual. Temuan menunjukkan bahwa tindakan yang dimaksud secara bersamaan memenuhi unsur-unsur tindak pidana korupsi (Pasal 2 dan 3 Undang-Undang Anti Korupsi) dan tindak pidana pajak (Pasal 39A Undang-Undang Ketentuan Umum dan Prosedur Pajak). Konstruksi hukum yang paling efektif adalah penuntutan kumulatif berdasarkan prinsip concursus realis (keterkaitan nyata dari berbagai tindak pidana). Penanganan terpadu oleh lembaga penegak hukum anti-korupsi dan otoritas pajak menghasilkan implikasi hukum yang signifikan, khususnya terkait pemulihan kerugian keuangan negara ganda. Implikasi ini mencakup optimalisasi instrumen pemulihan aset (uang pengganti dan pengumpulan pajak), penguatan bukti melalui pertukaran ahli, dan penciptaan efek jera yang lebih luas. Studi ini menyimpulkan bahwa sinergi antar lembaga dan harmonisasi interpretasi hukum merupakan kunci untuk memerangi kejahatan kompleks yang secara bersamaan merugikan keuangan negara dari berbagai sudut.

Kata Kunci: ***Faktur Pajak Fiktif, Pengadaan Fiktif; Tindak Pidana Korupsi; Tindak Pidana Pajak, Pemulihan Kerugian Negara.***

INTRODUCTION

The taxation system and state financial governance constitute a crucial foundation for national development. Both function as instruments for collecting public resources and allocating them to fulfill state obligations. Within complex economic dynamics, opportunities for the abuse and manipulation of these systems continually arise, often through schemes that appear legal on the surface but are intended to harm state finances. One such evolving modus operandi, demonstrating significant destructive potential, is the practice of fictitious procurement of goods and services within State-Owned Enterprises (SOEs) and regional government-owned companies, which is subsequently complemented by the issuance of fictitious tax invoices. This scheme involves not only deviations in the financial management of state-owned enterprises but also intentionally undermines the tax administration system. The interaction between these two legal domains, namely corruption criminal law and tax criminal law, creates a criminal configuration with a dual impact, exponentially increasing state losses.[1]

Fictitious procurement is essentially a simulated transaction. The tender or vendor selection process is conducted, contractual documents are created as if legitimate, yet the goods or services that are the subject of the contract are never actually delivered or performed. Payments from the SOE or regional company treasury are channeled to vendors that are often shell companies or colluding parties. It is at this point that the tax dimension enters this criminal cycle.[2] To disburse funds from the company treasury in a legally formal manner and create the appearance of a valid transaction, supporting documentation in the form of a tax invoice, specifically an Input Tax Invoice, is required. The fictitious vendor then issues a fictitious tax invoice to the SOE. This invoice is used by the SOE to credit Value Added Tax (VAT) that is not

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[1] A. Samudra and A. Purwati, *Pajak, Transparansi, dan Tindak Pidana Ekonomi Lintas Negara: Implikasi Penggelapan Pajak bagi Kedaulatan Fiskal Negara Berkembang*, 4, no. 8 (2025): 1376–85, https://doi.org/10.55681/sentri.v4i8.4451.

[2] A.S. Wibowo et al., "Penyidikan Tindak Pidana Perpajakan Berdasarkan Peraturan Menteri Keuangan Nomor 17 Tahun 2025," *Lex Stricta: Jurnal Ilmu Hukum* 4, no. 1 (2025): 161–70.

actually due, or even to claim an advance refund (restitution).[3] Consequently, losses arise not only from company funds disbursed for fictitious payments but also from lost tax revenue on the part of the Directorate General of Taxes.

This practice violates fundamental principles in government procurement law and tax law, namely the principles of good faith and economic efficiency.[4] Fictitious transactions clearly contravene good faith as they are built upon falsehoods regarding the existence of goods/services. From a tax perspective, issuing fictitious invoices constitutes an abuse of a fiscal instrument designed to record genuine transactions.[5] This represents a form of fraud against a tax system reliant on self-assessment. The perpetrators often involve an internal circle, ranging from commitment-making officials, treasurers, company management, to external parties such as irresponsible vendors and tax consultants.[6] This structured collusion makes detection difficult, as administratively the documents appear complete and procedurally compliant.[7] This collusive practice demonstrates that conventional tax compliance enforcement has its weaknesses. Therefore, an innovative approach involving the community is needed. In line with this, propose participatory fiscal governance and civil mobilisation to strengthen the tax compliance

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[3] S. Sulistiono and T. Tanudjaja, "Analisa Yuridis Terhadap Penerbitan Faktur Fiktif," *Aladalah: Jurnal Politik, Sosial, Hukum dan Humaniora* 2, no. 3 (2024): 174–90, https://doi.org/10.59246/aladalah.v2i3.878.

[4] Y. Yonani, "Modus Operandi Tindak Pidana Penggelapan Pajak di Indonesia," secs. 162-173, *Disiplin: Majalah Civitas Akademika Sekolah Tinggi Ilmu Hukum Sumpah Pemuda* 29, no. 4 (2023), https://doi.org/10.46839/disiplin.v29i4.113.

[5] E.A. Sinambela and A.R. Putra, "Self-Assessment System, Tax Technology and Tax Evaison," *Journal of Marketing and Business Research* 1, no. 1 (2021): 51–58.

[6] E.A. Sinambela and R. Mardikaningsih, "Teknologi Perpajakan, Sistem Penilaian Diri dan Penggelapan Pajak," *EBIS: Jurnal Ekonomi dan Bisnis* 10, no. 1 (2020): 8–18.

[7] A.W. Maris, "Analisis Yuridis Tindak Pidana Perpajakan sebagai Salah Satu Modus Operandi Tindak Pidana Korupsi di Indonesia," *Deleted Journal* 1, no. 3 (2024): 197–206, https://doi.org/10.62383/demokrasi.v1i3.265.

ecosystem. This approach can create social oversight as an additional layer of defence against practices such as fictitious invoicing.[8]

The impact of this crime is multidimensional and highly detrimental. At the micro level, the SOE or regional company incurs direct financial losses by disbursing funds without receiving commensurate compensation. These losses diminish corporate value, ultimately harming their owner, the state and the public. On the other hand, the state loses tax revenue that should have been obtained from a real transaction. Fictitious tax invoices used to credit VAT reduce the tax payable by the SOE, or in extreme cases, create an overpayment of tax that is subsequently reclaimed. This loss of tax revenue impacts the reduction of the state budget available to finance development, public services, and social programs.[9]

Legal handling of this fictitious invoice-based crime faces complex challenges as it involves two distinct specialized criminal law domains with different characteristics. Corruption criminal law, regulated primarily in Law Number 31 of 1999 as amended by Law Number 20 of 2001, focuses on acts that cause losses to state finances or the state economy. Meanwhile, tax criminal law, regulated in the General Provisions and Tax Procedures (KUP) as stipulated in Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983, focuses on violations of tax obligations that cause losses to state revenue from the tax sector. The overlap between these two legal regimes raises questions concerning legal construction, determination of the criminal modus operandi, and the most effective law enforcement mechanisms. A study of this fictitious invoice-based crime is crucial for understanding the convergence of corruption offenses and tax offenses within a single legal event, as well as its implications for anti-corruption efforts and tax reform in

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[8] U.P. Lestari et al., "Examination of Tax Compliance through Civic Mobilization and Participatory Fiscal Governance in Modern Societies," *Journal of Social Science Studies* 2, no. 1 (2022): 217–22.
[9] S. Jiwar, "Law Enforcement Against Document Forgery in the Field of Taxation.Journal of Posthumanism," *Journal of Posthumanism* 5, no. 6 (2025): 3676–88, https://doi.org/10.63332/joph.v5i6.2509.

Indonesia. Efforts to prevent this convergence of crimes also need to target corporate internal governance. A study by Fajarudin emphasises that effective internal audits are the front line of defence against abuse and the basis for corporate legal accountability.[10]

This paper will normatively examine the practice of issuing fictitious tax invoices within fictitious procurement schemes in SOEs and regional government-owned companies as a modus operandi of criminal offenses. This examination is important to dissect the legal elements of each action, analyze the points of convergence and divergence between corruption offenses and tax offenses in this context, and evaluate the effectiveness of existing regulations in prosecuting perpetrators. By understanding the legal construction and dynamics of this crime, it is hoped that an analytical framework can be produced to strengthen prevention and enforcement efforts by law enforcement agencies, namely the Corruption Eradication Commission (KPK), the Police, the Attorney General's Office, and the Directorate General of Taxes. A comprehensive understanding is also necessary for SOE internal auditors, the Supreme Audit Agency (BPK), and civil society to detect and report indications of similar practices. In this case, the auditor's ability to detect indications of fictitious practices is highly dependent on the quality of the audit produced. The factors that determine the quality of the audit, as analysed by Darmawan include the auditor's competence, independence, and workload. These findings are highly relevant, as they reinforce the argument that prevention efforts through internal and external audits require not only an understanding of the modes of

[10] M. Fajarudin, D.S. Negara, and A.R. Putra, "Internal Audit Obligations and Corporate Legal Liability for Corruption," *Journal of Social Science Studies* 4, no. 1 (2024): 303–12.

crime, but also a reliance on the capacity and working conditions of the auditors themselves.[11]

The fundamental problem arising from this practice is the gap between formal legal interpretation and efforts to prove dual state losses. In cases of fictitious procurement with fictitious tax invoices, state losses occur through two channels. First, direct losses due to the SOE's cash outflow for payments unaccompanied by performance. Second, indirect losses due to the lost potential tax revenue from transactions that should have been real, as well as potential unlawful tax refunds. However, law enforcement often struggles to prove both these losses in an integrated manner within a single legal process. Cases are typically handled separately; corruption offenses are handled by the KPK or police/prosecutors, while tax violations are handled by tax investigators. This sectoral approach potentially reduces the total value of state losses that can be attributed to the perpetrator and hinders a comprehensive investigation process.

A further issue concerns the legal construction for qualifying these acts. Is the issuance of fictitious invoices within a fictitious procurement scheme solely an element of a corruption offense (as a tool to appropriate state funds), or can it also constitute a separate, standalone tax offense? This question is critical as it relates to determining the specific criminal charge, the authorized investigative institution, and the severity of the applicable penalties. Some legal scholars posit that the fictitious invoice, in this context, forms an integral part of the corruption modus operandi and is thus adequately qualified solely as a corruption offense. Conversely, other opinions assert that issuing a fictitious invoice constitutes a distinct act violating the General Provisions and Tax Procedures (KUP) Law, thereby enabling the cumulative prosecution of the perpetrator for two separate offenses. This lack of uniform interpretation can lead to inconsistencies in prosecutorial charges and court verdicts, which in turn diminishes the deterrent effect of the law.

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[11] D. Darmawan, E.A. Sinambela, and N.I. Mauliyah, "The Effect of Competence, Independence and Workload on Audit Quality," *JARES (Journal of Academic Research and Sciences* 1, no. 2 (2016): 5–5.

Furthermore, a significant evidentiary problem arises concerning the proof of the perpetrator's intent and knowledge.[12] To establish a corruption offense, it is necessary to prove the elements of acting "unlawfully" and "potentially causing losses to state finances." Meanwhile, to prove the related tax offense involving fictitious invoices, it must be demonstrated that the Taxpayer intentionally failed to submit an accurate Tax Return or deliberately provided incorrect information. Within a collusive scheme involving multiple parties, proving the intent and knowledge of each individual regarding the entire scheme constitutes a complex task. SOE officials might claim they merely followed administrative procedures based on documents provided by the vendor, while the vendor could argue they issued the invoice upon the client's request. This chain of denial necessitates specialized investigative techniques and in-depth forensic accounting analysis to uncover the connections and shared intent among the perpetrators.

The imperative for this examination is driven by the state's ongoing and heightened commitment to improving governance within SOEs and regional companies, alongside reforms in tax administration. The government has established various policies to enhance the performance and transparency of SOEs, including the implementation of Good Corporate Governance (GCG) principles. However, sophisticated criminal modus operandi such as fictitious procurement coupled with the manipulation of tax documents indicate that legal loopholes and oversight gaps remain exploitable. Therefore, an academic study that deconstructs this modus operandi and its legal construction is necessary to provide recommendations for improving internal control systems, audit procedures, and stricter regulatory frameworks. A profound understanding will assist internal supervisors, commissioners, and directors in designing more robust prevention mechanisms. Efforts to design robust prevention mechanisms

[12] U.P. Lestari and D. Darmawan, "Upaya Mewujudkan Kepatuhan Wajib Pajak yang Lebih Baik: Peran Pengetahuan Perpajakan dan Lokus Kendali Internal," *Jurnal Simki Economic* 6, no. 1 (2023): 303–15.

in line with effective law enforcement.[13]Academic deconstruction of this fictitious modus operandi serves as a vital foundation for identifying legal loopholes, so that law enforcement strategies can be formulated in a more targeted and preventive manner.

On the other hand, the Directorate General of Taxes is aggressively pursuing the modernization of its systems and tax law enforcement, including targeting the practice of issuing fictitious tax invoices. Initiatives such as risk-based audits, big data analysis, and cooperation with other law enforcement agencies are being intensified. This study will contribute by mapping how fictitious invoice practices emerge within the context of procurement corruption in SOEs, thereby enabling more targeted early detection efforts by tax authorities. By understanding the patterns and characteristics of fictitious transactions in the SOE sector, tax risk analysis can be refined. Furthermore, the study's findings can serve as material for policymakers to harmonize and strengthen provisions within the Money Laundering Crime Law, facilitating the tracking and seizure of illicit proceeds from such crimes.

This research aims to analyze and describe the legal construction of the practice of issuing fictitious tax invoices within fictitious procurement schemes in SOEs and regional government-owned companies as an act that can be qualified both as a corruption offense and a tax offense. The specific objectives are, first, to identify and map the legal elements of both offenses that are satisfied within this criminal modus operandi, and to analyze their points of intersection and divergence. Second, to evaluate the juridical implications of handling such cases through an integrated approach by law enforcement institutions, particularly concerning the effectiveness of evidence gathering, prosecution, and efforts to recover dual state losses (direct from SOE funds and indirect from tax revenue). Theoretically, this research is expected to contribute to the development of economic criminal law doctrine, specifically regarding the convergence between corruption criminal law and tax criminal law.

[13] R. Saputra, R. Hardyansah, and P. Saktiawan, "Preventing Corrupt Practices in Business and Investment through Effective Law Enforcement," *Journal of Social Science Studies* 1, no. 2 (2021): 25–28.

Practically, the results of this research can serve as a reference for law enforcement officers (KPK, Indonesian National Police, Attorney General's Office, DJP), auditors, and legal practitioners in handling similar cases, and provide input for formulating policies that foster inter-agency coordination and synergy in combating crimes that complexly harm state finances.

RESEARCH METHOD

This study employs a normative legal research method, which focuses on examining legal principles, legal norms, and legal systems through an analysis of primary and secondary legal sources. This method is selected as it aligns with the research objective of analyzing the legal construction and juridical implications of an act based on prevailing laws and regulations. Normative legal research does not aim to test hypotheses empirically but rather to provide explanation, understanding, and logical construction of a legal issue by relying on authoritative sources. According to Peter Mahmud Marzuki, normative or doctrinal legal research is conducted by examining library materials or secondary data exclusively, a process in which the researcher can work independently without the need for field visits.[14] This approach allows the researcher to conduct an in-depth exploration of various regulations, court decisions, and scholarly literature to build a coherent and comprehensive legal argument.

The data used in this research consists entirely of secondary data, classified into three types based on their nature and authority. First, primary legal materials, which possess binding legal force. These include relevant legislation: Law Number 31 of 1999 as amended by Law Number 20 of 2001

[14] P.M. Marzuki, *Penelitian Hukum (Edisi Revisi* (Jakarta Timur: Prenada Media Group, 2017).

concerning the Eradication of Corruption Crimes[15]; Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 on General Provisions and Tax Procedures (KUP); as well as Law Number 1 of 2004 concerning State Treasury and Law Number 19 of 2003 concerning State-Owned Enterprises.[16] Second, secondary legal materials, which serve to explain and analyze primary legal materials.[17] These include textbooks on economic criminal law, tax law, and corruption law by prominent experts; scholarly articles from accredited national law and accounting journals; and various commentaries and analyses of Supreme Court jurisprudence related to procurement corruption cases and tax offenses. Third, tertiary legal materials, namely legal dictionaries, encyclopedias, and glossaries used to understand technical terminology.[18]

The analytical techniques applied are content analysis of the legal materials and qualitative descriptive analysis. Content analysis is employed to identify, categorize, and interpret the legal norms present within regulations, as well as the patterns of argumentation in court decisions and literature. The procedural steps involve collecting legal materials, data reduction by grouping material based on themes (such as elements of a criminal offense, investigative authority, and loss recovery mechanisms), presenting the data in systematic narrative descriptions, and drawing verificative conclusions. The analysis is conducted critically and interpretively, comparing various doctrinal perspectives and the application of law in concrete cases. The entire analytical

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[15] Undang-Undang Republik Indonesia Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi jo. Undang-Undang Nomor 20 Tahun 2001 tentang Perubahan atas Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi (1999).

[16] Undang-Undang Republik Indonesia Nomor 6 Tahun 1983 tentang Ketentuan Umum dan Tata Cara Perpajakan sebagaimana telah beberapa kali diubah, terakhir dengan Undang-Undang Nomor 7 Tahun 2021 tentang Harmonisasi Peraturan Perpajakan (1983).

[17] Undang-Undang Republik Indonesia Nomor 19 Tahun 2003 tentang Badan Usaha Milik Negara (2003).

[18] Undang-undang (UU) Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana.

process is directed towards answering the established research questions while maintaining objectivity and precision in every interpretation of legal sources.

RESULT AND DISCUSSION

Legal Construction of Corruption and Tax Offenses within the SOE Fictitious Invoice Procurement Scheme

Constructing a legal framework to prosecute the practice of issuing fictitious tax invoices within fictitious goods and services procurement schemes in State-Owned Enterprises (SOEs) and regional government-owned companies necessitates a convergent analysis of two specialized criminal law regimes. The first regime is corruption criminal law, whose primary aim is to protect state finances and the economy from various forms of authority abuse and embezzlement. A case study by Firdaus on fraud in government procurement of goods and services has revealed the dynamics of abuse in the procurement system, which provides factual grounds for the importance of analysing this legal regime of corruption.[19] The second regime is tax criminal law, which aims to safeguard state fiscal sovereignty by ensuring compliance with tax obligations. In the modus operandi under examination, a fictitious procurement transaction is deliberately designed to create an outflow of funds from the SOE treasury without reciprocal performance. To lend an impression of legality and administrative completeness to this fictitious transaction, supporting documentation in the form of a tax invoice is required, which in this context is also fictitious as it does not reflect an actual delivery of Taxable Goods or Taxable Services.[20] Consequently, a single act—namely the creation

[19] M. Firdaus, D. Darmawan, and R. Saputra, "Embezzlement in Corruption Crimes: A Case Study of Government Procurement of Goods and Services," *Bulletin of Science, Technology and Society* 1, no. 2 (2022): 33–37.
[20] A. Asphianto, "The Authority of the Prosperity in Optimizing State Financial Loss Returns Due to Criminal Acts of Corruption Which Associated with Tax Criminal

and execution of a fictitious contract—produces two distinct types of state financial loss and violates two distinct sets of legal norms. Repressive law enforcement efforts against tax system abuse such as this need to be accompanied by systematic preventive measures.[21] In this case, tax education and socialisation play a strategic role. As evaluated in the study by Lestari, Sudjai and Darmawan effective tax education programmes can increase tax awareness and compliance, which in turn builds a culture of compliance that can prevent the emergence of abusive practices from the outset.[22]

The legal construction analysis must commence with Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. Article 2 paragraph (1) of the Anti-Corruption Law stipulates that any person who unlawfully enriches themselves, another person, or a corporation in a manner that may harm state finances or the state economy shall be punished.[23] Within a fictitious procurement scheme, the unlawful act is evident. The procurement process, which should aim to obtain goods/services at the best price and quality, is transformed into a means of channeling state funds to a specific party without compensation. The element of "potentially harming state finances" is satisfied because payment for the fictitious contract directly reduces the assets of the SOE or regional company, which constitute part of the state's separated wealth. More specifically, Article 3 of the Anti-Corruption Law may also be applicable, namely the act of self-enrichment by misusing authority due to one's position or office, resulting in state losses. The SOE official who signs the contract and payment order for the fictitious

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Actions," *International Journal of History and Philosophical Research* 11, no. 2 (2023): 8–16, https://doi.org/10.37745/ijhphr.13/vol11n2816.

[21] S. Sudjai and D. Darmawan, "Taxpayer's Response to The Program for Tax Penalty Relief of Motor Vehicles in East Java," *Journal of Engineering and Social Sciences (JESS* 1, no. 2 (2021): 33–40.

[22] U.P. Lestari et al., "Evaluation of the Effectiveness of Tax Education Programs inImproving Tax Awareness and Compliance in Indonesia," *Journal of Social Science Studies* 1, no. 2 (2021): 29–32.

[23] Y.T. Hidayat and H.D. Sinaga, "Legal Reconstruction on Tax Invoices Not Based on Actual Transactions," *Scientia Business Law Review (SBLR* 1, no. 2 (2022): 15–35, https://doi.org/10.56282/sblr.v1i2.118.

procurement clearly misuses the authority of their office. The strict implementation of the Anti-Corruption Law at the state corporation level is part of a comprehensive effort to eradicate corruption. In line with this, a study by Hardyansah emphasises that strengthening law enforcement is key to preventing state losses, regardless of the institutional level.[24]

On the other hand, the tax law regime is regulated under Law Number 6 of 1983 concerning General Provisions and Tax Procedures (KUP Law) as amended several times, most recently by Law Number 7 of 2021 concerning the Harmonization of Tax Regulations (HPP). Article 39A of the KUP Law explicitly governs tax crimes, including the act of issuing and/or using a Tax Invoice not based on an actual transaction.[25] The issuance of a fictitious tax invoice by the vendor (as a Taxable Entrepreneur) constitutes an act that directly violates this provision. This invoice is subsequently used by the SOE (as another Taxable Entrepreneur) to credit Input Tax. This credit is illegitimate due to the absence of an actual delivery of goods/services, thereby reducing the amount of Value Added Tax (VAT) that should be deposited into the state treasury, or even creating an overpayment of tax that can be reclaimed. This act fulfills the element of "intentionally" as stipulated in the law, as the fictitious invoice is consciously created to support an equally fictitious transaction.

The most crucial point of convergence in legal construction lies in the definition of "state financial loss." In corruption criminal law, state loss originates from the SOE's cash outflow which receives no economic benefit. In tax criminal law, state loss originates from reduced tax revenue or the state's disbursement of funds for incorrect refunds. Although the source and mechanism of the loss differ, both substantially harm the state's fiscal interest.

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[24] R. Hardyansah et al., "Eradicate Village Fund Corruption: Efforts to Strengthen Law Enforcement," *Bulletin of Science, Technology and Society* 1, no. 2 (2022): 22–26.
[25] B.R.br Silalahi et al., "Pengaruh struktur aktiva, perputaran total asset, perputaran aktiva tetap, dan laverage terhadap profitabilitas (roa," *Owner* 6, no. 1 (2022): 247–58.

Therefore, the same act—a conspiracy to create a fictitious transaction serves as the base offense for two distinct criminal offenses. This opens the possibility for applying the principle of *concursus realis* (real concurrence) or continued composite acts. This principle is regulated in Articles 63, 64, and 65 of the Indonesian Criminal Code (KUHP).[26] If a single act (the principal act being the conspiracy for fictitious procurement) violates several legal provisions (the Anti-Corruption Law and the KUP Law), then Article 63 paragraph (1) of the KUHP applies, meaning the provision with the heaviest penalty is enforced.[27]

However, in law enforcement practice, a frequent approach is to view the two acts as separate but interrelated offenses within a single event (*concursus idealis*). This means the issuance of the fictitious invoice is seen as an independent act that complements or facilitates the corruption offense. This perspective leads to cumulative prosecution, where the perpetrator can be charged under Article 2 or 3 of the Anti-Corruption Law and Article 39A paragraph (1) letter i of the KUP Law simultaneously. The legal basis for this cumulative prosecution can refer to developing jurisprudence, where the Supreme Court in several decisions has acknowledged that a single act may violate more than one special law outside the Criminal Code.[28] Thus, the legal construction does not preclude prosecution for two offenses with different regulatory origins, provided the elements of each offense are independently satisfied.

The implications of this cumulative construction are extensive, particularly concerning evidence. To prove the corruption offense, the evidentiary focus is on the fictitious nature of the procurement and the fund flow harming the SOE. Key evidence includes manipulated tender or selection

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[26] Undang-Undang Nomor 20 Tahun 2025 Kitab Undang-Undang Hukum Acara Pidana.

[27] R.W. Siregar, N.A. Sinaga, and S.L. Gaol, *Legal Study on The Criminal Offense of Tax Invoice Forgery That Has Received Tax Amnesty*, 7, no. 2 (2024): 184–97, https://doi.org/10.30996/jhmo.v7i2.11506.

[28] D.L. Kusworo, *Refinement of Taxpayer Legal Subject Provisions in the New Criminal Code against the Offence of Corporate Tax Avoidance in Indonesia*, 4, no. 2 (2023): 81–92, https://doi.org/10.25041/corruptio.v4i2.3128.

documents, fictitious handover reports, proof of cash disbursement, and expert testimony regarding the non-receipt of utility value. To prove the tax offense, the focus shifts to the validity of the tax invoice. Proof requires examination of the physical or electronic invoice, confirmation of the transaction with third parties, an audit trail within the tax system, and testimony from tax experts to demonstrate the absence of an actual delivery of goods/services. Although separate, these two lines of evidence are mutually reinforcing.[29]The fictitious invoice document becomes strong supporting evidence of intent to inflate costs or create fictitious expenditure in the corruption case. Conversely, the fictitious contract document and proof of payment from the SOE become evidence that the issued tax invoice was indeed not based on a real transaction. On the other hand, efforts to close gaps through electronic system integration as proposed in the harmonisation of e-procurement and e-invoicing face fundamental challenges in their implementation.[30] An empirical study by Mardikaningsih and Nurhadi reveals that technological readiness and social norms are the main determinants of the successful adoption of electronic systems in the fiscal sector.[31]

Furthermore, the legal construction also considers the legal subject. Perpetrators can include not only individuals (SOE officials and vendor management) but also corporations. The Anti-Corruption Law through Article 20 in conjunction with Article 1 number 3 explicitly recognizes corporations as subjects of corruption crimes. Similarly, the KUP Law defines Taxpayers to

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[29] M. Span, *Issues of a Criminal Investigation of Cases Involving the Use of Fictitious Invoices, The Concept and Structure of the Forensic Characteristics of Fictitious Invoicing*, 1, no. 55 (2024): 1965–74, https://doi.org/10.54919/physics/55.2024.196nq5.

[30] Wibowo Nurhadi et al., "Analysis of Value Added Tax Application on Electronic Commerce Transaction in Digital Economy System in Indonesia," *Journal of Social Science Studies* 3, no. 2 (2023): 83–88.

[31] R. Mardikaningsih et al., "An Empirical Analysis of the Impact of E-Filing Utilization on Individual Taxpayers: The Role of Information Technology Readiness and Subjective Norms," *Journal of Social Science Studies* 2, no. 2 (2022): 183–88.

include entities.[32]Therefore, the vendor issuing the fictitious invoice can be prosecuted as a corporation, and under certain conditions, the work unit or SOE itself that systematically executes this scheme may also face questions regarding its corporate criminal liability. This corporate liability adds a layer of complexity but also broadens the scope of law enforcement and asset recovery, as criminal sanctions and fines can be imposed on the legal entity, and efforts to recover state losses can be levied against corporate assets. The consideration of criminal sanctions for corporations has led to discussions about their effectiveness as a deterrent. In this regard, literature review on the effectiveness of criminal sanctions in preventing corruption is relevant for evaluating whether extending the scope of legal subjects to corporations actually increases the deterrent effect or instead poses new challenges. [33]

Other sectoral regulations further reinforce this construction. Law Number 19 of 2003 concerning State-Owned Enterprises provides the foundation that SOE management must be based on the principles of Good Corporate Governance. Fictitious procurement constitutes a tangible manifestation of governance failure and a violation of the principles of prudence and accountability. Violations of this SOE Law can serve as preliminary administrative evidence indicating the presence of unlawful acts. Furthermore, Presidential Regulation Number 12 of 2021 amending Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods/Services establishes standards for transparent, competitive, fair, and efficient procurement procedures. Any deviation from these procedures, particularly to the extent of creating fictitious procurement, constitutes a severe violation that

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[32] Kusworo, *Refinement of Taxpayer Legal Subject Provisions in the New Criminal Code against the Offence of Corporate Tax Avoidance in Indonesia*.

[33] S. Suhartono et al., "The Effectiveness of Criminal Sanctions in Preventing Corruption: A Literature Review of the Indonesian Legal System," *Bulletin of Science, Technology and Society* 3, no. 3 (2024): 43–48.

strengthens the elements of intent and unlawfulness within the context of corruption offenses.[34]

Finally, the role of law enforcement institutions is pivotal to the effectiveness of this legal construction. Investigative authority for corruption offenses lies with the Corruption Eradication Commission (KPK), the Indonesian National Police, and the Attorney General's Office in accordance with the law. Meanwhile, investigative authority for tax offenses lies with Civil Servant Investigators (PPNS) within the Directorate General of Taxes. Without robust coordination and integration, perpetrators may potentially only be charged under one legal framework, thereby rendering deterrence and loss recovery efforts suboptimal. Consequently, the normative legal construction enabling cumulative prosecution must be accompanied by an institutional framework that facilitates operational cooperation between tax investigators and anti-corruption investigators, including information sharing, joint investigations, and the compilation of comprehensive case files. Only through such synergy can legal protection of state finances against sophisticated schemes like fictitious procurement based on fictitious tax invoices be maximally implemented.

Implications of Integrated Law Enforcement and State Loss Recovery

An integrated approach to the crime of fictitious tax invoices within fictitious goods and services procurement schemes in State-Owned Enterprises (SOEs) and regional government-owned companies generates profound and multi-layered juridical implications for efforts to recover state financial losses. The first and most fundamental implication is the creation of a unified legal perspective that views state loss as a holistic totality, rather than as separate,

[34] Jiwar, "Law Enforcement Against Document Forgery in the Field of Taxation.Journal of Posthumanism."

partial losses. State loss in this modus operandi consists of two interrelated components: direct loss from the SOE's cash outflow for payment without performance, and indirect loss from lost tax revenue or the state's cash outflow for incorrect tax refunds. A fragmented handling risks overlooking one of these loss components, or may lead to overlapping calculations.[35] Through an integrated approach, all loss components whether calculated based on Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes or based on the General Provisions and Tax Procedures (KUP) Law can be mapped, verified, and consolidated within a single legal process. This ensures that the compensation or substitute money demanded in the indictment reflects the entirety of the loss suffered by the state.[36]

A subsequent juridical implication is the optimization of asset recovery instruments provided under various laws and regulations. Corruption criminal law possesses a primary instrument in the form of substitute money payments as regulated in Article 18 of the Anti-Corruption Law. Meanwhile, tax law possesses the instrument of tax collection, which includes underpaid taxes, administrative sanctions in the form of interest and penalties, and potential criminal fines. In integrated handling, these two instruments are not implemented independently, which risks creating execution conflicts, but are instead coordinated. For example, substitute money in the corruption case can be formulated to cover the total value of the fictitious payment from the SOE.[37]

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[35] U. Maksum and S. Suparno, "Synergy of Administrative and Criminal Law Enforcement as an Effort to Prevent and Eradicate Corruption in Procurement of Goods and Services in Government Environment," *Journal of Social Science* 4, no. 7 (2025): 225–41, https://doi.org/10.57185/joss.v4i6.473.

[36] A. Wibowo et al., "Legal Policy in Overcoming the Circulation of Cigarettes of No Cigarette Excise Tax Band," *International Journal of Service Science, Management, Engineering, and Technology* 5, no. 2 (2024): 11–15.

[37] Y.D. Yanti and M.A. Sunggara, "Optimization of the Authority of Civil Servant Investigators (PPNS) in the Directorate General of Taxes (DGT) Bangka Belitung Region in the Seizure and Blocking of Suspect Assets for the Recovery of State Revenue Losses," *Eduvest* 4, no. 10 (2024): 9083–91, https://doi.org/10.59188/eduvest.v4i10.39012.

Meanwhile, charges based on the KUP Law are focused on the value of lost tax revenue due to the fictitious invoice. This coordination prevents double counting or excessive claims while ensuring a clear execution pathway. In practice, such coordination often requires agreements between the Attorney General's Office as the executor of criminal court decisions (for substitute money) and the Directorate General of Taxes as the tax collector, which can be facilitated through joint mechanisms.

Furthermore, an integrated approach significantly strengthens the state's bargaining position in plea bargaining or out-of-court loss recovery processes. Perpetrators facing dual charges from two legal regimes that both carry severe sanctions—namely lengthy imprisonment under the Anti-Corruption Law and large fines plus imprisonment under the KUP Law will have a greater incentive to negotiate the full and prompt restitution of state losses.[38] In this situation, law enforcement officers can utilize cooperation frameworks provided by both laws. Article 37 of the KUP Law regulates the reduction of administrative sanctions under certain conditions, while in corruption cases, the restitution of state losses often serves as a mitigating factor in sentencing. Through coordination, the restitution of funds can be designed to simultaneously fulfill obligations for substitute money (corruption) and settle tax debts along with their sanctions. This creates efficiency and certainty in asset recovery compared to two separate, parallel processes.

Another critical implication pertains to the domain of evidence and case file construction. Integrated handling enables the sharing of resources and technical expertise between anti-corruption investigators and tax investigators. Tax investigators from the Directorate General of Taxes possess deep expertise in uncovering tax manipulations, examining electronic invoices, and tracing

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[38] V.A. Siregar and F. Puspitasari, "Alternative Return for State Losses in Crime Cases," *International Journal of Multidisciplinary Research and Literature* 2, no. 4 (2023): 481–91, https://doi.org/10.53067/ijomral.v2i4.137.

fund flows within the banking system for tax purposes.[39] Meanwhile, investigators from the KPK or the National Police possess broad expertise and authority to uncover patterns of corruption, abuse of authority, and collusion. Through operational cooperation, expert testimony from tax investigators regarding the fictitious nature of an invoice can be directly incorporated as strong evidence within the corruption case file, reinforcing the elements of intent and unlawfulness. Conversely, findings by anti-corruption investigators concerning conspiracy and fund flows can assist tax investigators in proving the element of intent to issue or use fictitious invoices. This synergy results in a more robust, comprehensive, and difficult-to-refute case file for trial.

The integrated approach also carries implications for corporate liability and the expansion of legal subjects subject to recovery sanctions. Within a single scheme, a vendor corporation may be involved as the issuer of the fictitious invoice, and in certain cases, a specific unit within an SOE may be considered for corporate liability if the scheme is systemic.[40] Both the Anti-Corruption Law and the KUP Law recognize corporations as legal subjects that can be criminally prosecuted. Integrated handling enables the simultaneous prosecution and sentencing of both corporations. The recovery implications become extensive: the assets of the vendor corporation (such as land, buildings, vehicles, and bank accounts) can become objects of seizure and execution to satisfy substitute money and tax debts. If the vendor is a shell company, integrated investigators have greater capacity to trace and seize the assets of the actual beneficial owners, utilizing a combination of authority under the Anti-Corruption Law, the KUP Law, and Law Number 8 of 2010 concerning Money Laundering Crimes.[41]

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[39] R. Margono et al., "The Urgency of Asset Confiscation Sanction in Tax Crimes," *International Journal of Research in Business and Social Science* 9, no. 5 (2020): 285–93, https://doi.org/10.20525/IJRBS.V9I5.802.
[40] D. Nurferyanto and Y. Takahashi, "Combating Tax Crimes in Indonesia: Tackling the Issue Head-On," *Humanities & Social Sciences Communications* 11, no. 1 (2024): 1–14, https://doi.org/10.1057/s41599-024-04075-1.
[41] Undang-Undang Republik Indonesia Nomor 8 Tahun 2010 tentang Tindak Pidana Pencucian Uang (2010).

Moreover, integrated handling possesses strong preventive implications through permanent reporting and information exchange mechanisms. Law Number 9 of 2017 concerning Access to Financial Information for Tax Purposes and the Anti-Corruption Law provide a foundation for tax authorities and anti-corruption law enforcers to share data and indications of fraud.[42] A tax audit finding regarding irregularities in a vendor's transactions with an SOE can be promptly shared with the KPK or the Supreme Audit Agency as an initial indicator of procurement corruption.[43] Conversely, an investigative audit report from the Supreme Audit Agency finding indications of fictitious procurement in an SOE can serve as the basis for the Directorate General of Taxes to conduct an in-depth tax examination of that vendor and SOE. This systematic information exchange mechanism creates a high-risk environment for criminals, as a gap in one system (e.g., the procurement system) will be quickly detected by another system (the tax system), thereby accelerating early detection and preventing greater losses. The effectiveness of this data exchange mechanism ultimately depends on the optimal use of information technology. Research by Lestari and Sinambela confirms that the use of information technology plays a central role in efforts to improve compliance. In integrated management, information technology serves as an administrative tool that forms a critical infrastructure for integrating data from various systems (procurement, taxation, auditing) to create a more intelligent and responsive supervisory environment, thereby strengthening the desired preventive effect.[44]

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[42] Undang-Undang Republik Indonesia Nomor 9 Tahun 2017 tentang Akses Informasi Keuangan untuk Kepentingan Perpajakan (2017).

[43] A.U.A. Burhan and G.G. Gunadi, “Optimalisasi Wewenang PPNS DJP dalam Penyitaan dan Pemblokiran Aset untuk Pemulihan Kerugian Pendapatan Negara,” *Riset dan Jurnal Akuntansi* 6, no. 4 (2022): 4199–209, https://doi.org/10.33395/owner.v6i4.1102.

[44] U.P. Lestari and E.A. Sinambela, “Information Technology Utilization and the Role of Improving Taxpayer Compliance,” *Bulletin of Science, Technology and Society* 1, no. 2 (2022): 11–13.

The juridical implications also touch upon procedural law and investigative authority. Integrated handling frequently requires a formal legal framework in the form of a Joint Decree or Cooperation Agreement between institutions, for instance between the KPK and the Directorate General of Taxes. This instrument regulates coordination procedures, the formation of joint teams, task division, and the use of investigation results. From a criminal procedural law perspective, this ensures that the entire process from investigation and seizure to prosecution is conducted with due regard for the provisions in the Criminal Procedure Code (KUHAP) as well as the specific procedural laws applicable in each institution.[45] The admissibility of evidence collected by tax investigators (PPNS) for use in corruption trial proceedings, or vice versa, must have a clear legal basis within that cooperation agreement, preventing its annulment on grounds of incompetence.

In the realm of sanctions, the integrated approach enables the comprehensive and sequential application of criminal and administrative sanctions. A criminal court decision imposing imprisonment and fines based on the Anti-Corruption Law and the KUP Law represents the conclusion of the criminal process. However, subsequently, administrative tax sanctions such as revocation of registration as a Taxable Entrepreneur, revocation of the Taxpayer Identification Number, or prohibition from participating in government procurement can still be enforced by the competent authorities. These administrative sanctions provide an additional long-term deterrent effect that can cripple the perpetrator's business operations. The execution of these administrative sanctions will proceed more smoothly due to the existence of a final and binding criminal court verdict that establishes the legal fact of the proven violation. The application of administrative sanctions is in line with the perspective of regulation as a means of shaping compliance.[46] As studied by

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[45] Peraturan Presiden Republik Indonesia Nomor 12 Tahun 2021 tentang Perubahan atas Peraturan Presiden Nomor 16 Tahun 2018 tentang Pengadaan Barang/Jasa Pemerintah (2021).

[46] A.S. Wibowo et al., "Tax Analysis In The Distribution Of Inheritance: A Study Of Regulation And Implementation In Indonesia," *Jurnal Dialektika: Jurnal Ilmu Sosial* 22, no. 3 (2024): 370–79.

Rimadhani tax regulations including sanctions have a significant impact on taxpayer compliance. In an integrated context, administrative sanctions serve as a strong signal from the state to prevent abuse of the system, thereby helping to build a broader culture of compliance.[47]

Integrated handling impacts the interpretation and development of jurisprudence. Court decisions resulting from cases handled in an integrated manner tend to be more comprehensive as judges are presented with facts and legal analyses from two distinct perspectives. Such rulings can become landmark decisions that provide guidance for handling similar cases in the future. For example, a decision may affirm that the value of state loss for the purpose of substitute money includes the amount of tax that was not deposited, or that issuing a fictitious invoice in procurement corruption constitutes a qualifying factor that increases the severity of the sentence. This evolution in jurisprudence subsequently strengthens the normative framework itself, providing greater legal certainty for law enforcement and the public.

Finally, a crucial implication lies in enhanced public accountability and the restoration of trust. The process of recovering state losses from complex crimes such as this, when handled transparently and in an integrated manner, sends a powerful message to the public about the state's commitment to protecting public finances and assets. Every rupiah successfully returned to the state treasury, whether through substitute money from the criminal process or from tax collection, directly enhances the legitimacy of the government and law enforcement institutions. In the long term, the successful recovery of losses through this integrated approach can function as political and social capital to drive more fundamental reforms in government procurement of goods/services

[47] P.N. Rimadhani et al., "The Impact of Tax Regulation on Taxpayer Compliance in the Micro, Small, and Medium Enterprises Sector: A Legal Literature Review," *International Journal of Service Science, Management, Engineering, and Technology* 6, no. 3 (2024): 17–26.

and tax administration, thereby breaking the chain of similar crimes at their source.

CONCLUSION

Based on the conducted normative juridical analysis, it can be concluded that the practice of issuing fictitious tax invoices within fictitious goods and services procurement schemes in State-Owned Enterprises (SOEs) and regional government-owned companies constitutes a criminal construct that simultaneously fulfills the elements of corruption offenses under the Anti-Corruption Law and tax offenses under the General Provisions and Tax Procedures (KUP) Law. This modus operandi causes dual state financial losses: first, as a direct loss due to the expenditure of state-owned company funds without performance; and second, as an indirect loss due to reduced tax revenue or the state's disbursement of funds for incorrect tax refunds. The legal construction for prosecuting this act is cumulative and complementary, where the principle of *concursus realis* in the Criminal Code enables prosecution using both legal regimes simultaneously. The primary point of convergence lies in the shared object of legal protection, namely state finances, even though the methods of causing loss differ. The clarity of elements in both laws, particularly concerning unlawful acts and intent, provides a strong foundation for law enforcement officers to build a comprehensive indictment.

The implications of an integrated approach to this crime are strategic and multidimensional. Legally, this approach creates a more complete and effective mechanism for recovering state losses by integrating the instrument of substitute money from corruption criminal law with the instruments of tax collection and administrative sanctions from tax law. This prevents partial loss calculations and maximizes the recovery of state assets. Institutionally, the integrated approach fosters systematic coordination and synergy between anti-corruption law enforcement institutions (KPK, Indonesian National Police, Attorney General's Office) and tax authorities (Directorate General of Taxes), which in turn strengthens investigative capacity through the exchange of expertise and data. In terms of policy, the successful handling of this model provides a compelling argument for strengthening internal control systems in

SOEs, aligning electronic procurement systems (e-procurement) with tax systems (e-invoicing), and driving regulatory reforms that close the gaps between procurement law and tax law. The final implication is the creation of a more significant deterrent effect, as perpetrators face the risk of dual sanctions from two legal regimes, each carrying severe criminal penalties.

Based on the research findings, several strategic recommendations are proposed. First, for policymakers and legislators, it is advisable to consider formulating a technical regulation or joint implementing guideline that explicitly governs the procedures for coordination, division of authority, and information exchange mechanisms between anti-corruption investigators and tax investigators in handling cases involving fictitious invoices and fictitious procurement. This regulation would provide legal and operational certainty for the involved parties. Second, the management of SOEs, regional companies, and government institutions are advised to proactively integrate internal procurement oversight systems with the monitoring of tax transactions. Implementing data analytics technology to match e-procurement data with e-invoice data can serve as a powerful tool for early detection. Third, for law enforcement institutions and tax authorities, ongoing cross-disciplinary training is necessary so that anti-corruption investigators understand the intricacies of tax administration and, conversely, tax investigators understand the patterns and modus operandi of procurement corruption. Finally, academics and civil society are encouraged to intensify research and public oversight of transactions between SOEs and specific high-risk vendors, thereby creating checks and balances outside the formal system.

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