INTISARI

PENERAPAN PERADILAN *IN ABSENTIA* TERHADAP TINDAK PIDANA DI BIDANG PERPAJAKAN DALAM UPAYA PENGEMBALIAN KERUGIAN PADA PENDAPATAN NEGARA

Putri Marta Mahaliyana[1], Marcus Priyo Gunarto[2]

Tesis ini berjudul Penerapan Peradilan *In Absentia* Terhadap Tindak Pidana di Bidang Perpajakan Dalam Upaya Pengembalian Kerugian Pada Pendapatan Negara. Penelitian ini bertujuan untuk menganalisis penerapan peradilan *in absentia* pada tindak pidana di bidang perpajakan, mengevaluasi manfaat penerapan peradilan in absentia, menelaah upaya pengembalian kerugian pada pendapatan negara, serta mengkaji *ius constituendum* terkait penerapan peradilan *in absentia* dan pelaksanaan eksekusi putusan *in absentia*, agar dapat memaksimalkan pemulihan kerugian pendapatan negara yang timbul akibat tindak pidana di bidang perpajakan.

Metode penelitian yang digunakan dalam tesis ini adalah metode penelitian hukum normatif empiris yang bersifat deskriptif. Penelitian ini menggunakan data primer dan data sekunder yang dianalisis dengan metode kualitatif dan ditampilkan dengan menggunakan metode deskriptif. Penarikan kesimpulan dalam penelitian ini menggunakan metode induktif.

Penelitian tesis ini menghasilkan tiga kesimpulan. Pertama, penerapan peradilan *in absentia* di bidang perpajakan telah diatur dalam Pasal 44D UU HPP dan Pasal 61 PP Nomor 50 Tahun 2022 tentang Tata Cara Pelaksanaan Hak dan Pemenuhan Kewajiban Perpajakan. Namun dalam penerapannya belum dapat memberikan manfaat bagi pengembalian kerugian pada pendapatan negara akibat tindak pidana, karena belum ada peraturan yang mengatur secara khusus mengenai penelusuran aset, perampasan aset *in rem* dan eksekusi putusan *in absentia,* sehingga aset milik Wajib Pajak dan Penanggung Pajak yang disita berpotensi tidak dapat memenuhi pengembalian kerugian pada pendapatan negara. Kedua, perlu ada *ius contituendum* yang mengatur mengenai penelusuran aset, perampasan aset *in rem,* mekanisme gugatan perdata atas perampasan *in rem* dan jaminan perlindungan hak bagi Wajib Pajak, Penanggung Pajak maupun pihak lain. Ketiga juga perlu *ius constituendum* yang mengatur mengenai eksekusi putusan *in absentia* yang mengatur mengenai kewenangan, prosedur dan penelusuran aset dalam tahap eksekusi yang dapat dilakukan oleh Jaksa untuk membantu mengembalikan kerugian pada pendapatan negara akibat tindak pidana di bidang perpajakan, agar pelaksanaan penegakan hukum di bidang perpajakan dapat terlaksana sesuai dengan tujuan penegakan hukum dan tujuan dari hukum itu sendiri.

Kata Kunci: *In Absentia*, Tindak Pidana di Bidang Perpajakan, Pengembalian Kerugian Pada Pendapatan Negara, Penegakan Hukum di Bidang Perpajakan.

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[1] Mahasiswa Program Studi Magister Hukum Litigasi, Fakultas Hukum, Universitas Gadjah Mada.
[2] Guru Besar di Fakultas Hukum, Universitas Gadjah Mada.

ABSTRACT

THE APPLICATION OF IN ABSENTIA TRIALS IN TAX CRIMES AS AN EFFORT TO RECOVER LOSSES TO STATE REVENUE

Putri Marta Mahaliyana[3], Marcus Priyo Gunarto[4]

This thesis is entitled The Application of In Absentia Trials in Tax Crimes as an Effort to Recover Losses to State Revenue. This research was conducted to analyze the implementation of in absentia trials in tax crimes, evaluate the benefits of applying in absentia procedures, examine efforts to recover state revenue losses, and review the ius constituendum regarding the application of in absentia trials and the execution of in absentia judgements, in order to maximize the recovery of state revenue losses arising from tax-related criminal offenses.

The research method employed in this thesis is a normative-empirical legal research method with a descriptive approach. The study utilizes both primary and secondary data, which are analyzed using qualitative methods and presented descriptively. The conclusion-drawing process uses an inductive method.

This thesis research resulted in three main conclusions. First, the implementation of in absentia trials in the field of taxation is regulated under Article 44D of Undang-Undang Harmonisasi Peraturan Perpajakan and Article 61 of Peraturan Pemerintah Nomor 50 Tahun 2022 tentang Tata Cara Pelaksanaan Hak dan Pemenuhan Kewajiban Perpajakan. However, in practice these regulations have not yet provided effective benefits in recovering losses to state revenue due to the absence of specific regulations governing asset tracing, in rem asset forfeiture, and the execution of in absentia judgments. Consequently, the assets of taxpayers and tax bearers that are seized may potentially be insufficient to fulfill the recovery of state revenue losses. Second, there is a need for an ius constituendum governing asset tracing, in rem asset forfeiture, the civil lawsuit mechanism for in rem forfeiture and guarantees of rights protection for taxpayers, tax bearers, and other related parties. Third, an ius constituendum is also required to regulate the execution of in absentia judgments, including provisions on authority, procedures, and asset tracing mechanisms available at the execution stage that can be undertaken by prosecutors to assist in recovering state revenue losses caused by tax crimes. This is essential to ensure that tax law enforcement can be conducted in accordance with the objectives of tax law enforcement and the broader purposes of the law itself.

Keywords: *In Absentia, Tax Crimes, Recovery of Losses to State Revenue, Tax Law Enforcement.*

[3] Student of the Graduate Program of Litigation Law, Faculty of Law, Universitas Gadjah Mada.
[4] Professor in the Faculty of Law, Universitas Gadjah Mada.