

PENERAPAN ASAS *LEX SPECIALIS SYSTEMATIS* PADA TINDAK PIDANA FAKTUR FIKTIF YANG BERBARENGAN DENGAN TINDAK PIDANA PENCUCIAN UANG

INTISARI

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Penelitian ini bertujuan menganalisis penerapan asas *lex specialis systematis* dalam proses peradilan pidana pada tindak pidana faktur pajak fiktif yang berbarengan dengan TPPU, mengidentifikasi kendala penyebab ketidakkonsistenan dan merumuskan parameter penerapan asas tersebut.

Jenis Penelitian yang digunakan adalah penelitian hukum normatif-empiris. Data diperoleh melalui studi kepustakaan dan studi lapangan atau wawancara bersama responden berupa PPNS DJP dan narasumber berupa PPNS DJP, jaksa, hakim dan ahli hukum perpajakan.

Hasil penelitian ini menghasilkan 3 (tiga) kesimpulan. *Pertama*, penerapan asas *lex specialis systematis* dalam proses peradilan pidana pada tindak pidana faktur pajak fiktif yang berbarengan dengan TPPU oleh aparat penegak hukum masih menunjukkan inkonsistensi sistemik pada setiap tahapan peradilan pidana karena menggeser tujuan penegakan hukum pidana pajak yang berkarakteristik korektif menjadi represif, sehingga bertentangan dengan prinsip *ultimum remedium*. Pada tahap pemeriksaan bukti permulaan, asas tersebut diterapkan secara otonom melalui upaya administratif sebagai mekanisme seleksi awal dalam menentukan perluasan rezim di luar perpajakan. Adapun pada tahap penyidikan, penuntutan dan putusan penerapan asas bersifat semi otonom karena membuka ruang perluasan integrasi rezim perpajakan dan rezim pencucian uang. *Kedua*, kendala terhadap penerapan asas *lex specialis systematis* secara normatif, yaitu berakar dari disharmonisasi penerapan norma yang menyebabkan ketidakjelasan kategorisasi jenis *concursum*, perluasan pertanggungjawaban pidana hingga pengenaan delik yang tidak tepat. Kendala praktis, yaitu adanya perbedaan paradigma antar aparat penegak hukum, kompleksitas pembuktian, lemahnya koordinasi dan sinkronisasi oleh aparat penegak hukum serta terjadinya disparitas putusan. *Ketiga*, parameter penerapan asas dirumuskan secara hierarkis, meliputi parameter primer berupa asas preferensi hukum dan sistem hukum. Parameter sekunder berupa pembuktian *mens rea* dan kategorisasi *concursum*. Parameter tersier berupa konstruksi dakwaan dan ancaman pidana pada putusan. Inkonsistensi terhadap parameter berpotensi menimbulkan ketidakpastian hukum, disparitas pemidanaan, pemidanaan berlebihan dan melemahkan tujuan penegakan hukum pidana pajak.

Kata Kunci: Asas *Lex Specialis Systematis*, Tindak Pidana Faktur Pajak Fiktif, Proses Peradilan Pidana, *Concursum*, Tindak Pidana Pencucian Uang.

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***THE APPLICATION OF THE LEX SPECIALIST SYSTEMATIC PRINCIPLE
TO THE CRIMINAL OFFENSES OF FICTITIOUS TAX INVOICE
COMMITTED CONCURRENTLY WITH MONEY LAUNDERING CRIME***

ABSTRACT

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This study aims to analyze the application of the principle of lex specialis systematis in criminal proceedings concerning the issuance of fictitious tax invoices in conjunction with money laundering offenses, to identify the factors contributing to inconsistencies in its application, and to formulate parameters for the proper implementation of this principle.

The research method used is normative-empirical legal research. Data were obtained through literature review and field research, including interviews with respondents consisting of investigators DJP and informants consisting of investigators DJP, prosecutors, judges, and tax law experts.

The study results in 3 (three) main conclusions. First, the application of the lex specialis systematis principle in the criminal justice process concerning tax invoice fraud concurrently linked to money laundering offenses by law enforcement authorities demonstrates systemic inconsistencies at every stage of the process. This is because it shifts the objective of tax criminal law enforcement from a corrective approach to a repressive one, thereby contradicting the ultimum remedium principle. At the stage of preliminary examination of evidence, the principle is applied autonomously through administrative measures as an initial filtering mechanism to determine whether the case warrants expansion beyond the taxation regime. At the investigation, prosecution, and adjudication stages, the principle is applied in a semi-autonomous manner, as it creates a legal basis for the expanded integration of the taxation regime with the anti-money laundering regime. Second, the challenge to the normative application of the lex specialis systematis principle lies in the disharmonization of legal norm application, resulting in uncertainty regarding the categorization of the type of concursus, the scope of criminal liability and the appropriate offense to be applied. Practical challenges include differing interpretations among law enforcement authorities, evidentiary complexities, inadequate inter-agency coordination and inconsistent judicial rulings. Third, the application of the principle should follow a hierarchical framework. Primary parameters concern the preference of legal norms and systemic legal coherence, secondary parameters involve the establishment of mens rea and the classification of concurrence and tertiary parameters relate to the formulation of indictments and the imposition of criminal sanctions. Non-compliance with these parameters risks legal uncertainty, sentencing disparities, disproportionate punishment, and undermining the objectives of tax criminal law enforcement.

Keywords: *Lex Specialis Systematis Principle, Criminal Offense of Fictitious Tax Invoices, Criminal Justice System, Concurrence, Money Laundering Crime.*