

IMPLIKASI PENERAPAN *E-FILING* DAN *E-FAKTUR* DALAM HUKUM PEMBUKTIAN TINDAK PIDANA DI BIDANG PERPAJAKAN PADA DIREKTORAT JENDERAL PAJAK

Erwan Budi Prasetyo¹ dan Eddy O.S. Hiariej²

INTISARI

Tesis ini berjudul Implikasi Penerapan *e-Filing* dan *e-Faktur* Dalam Hukum Pembuktian Tindakan Pidana Di Bidang Perpajakan Pada Direktorat Jenderal Pajak. Tujuan penelitian tesis ini adalah untuk mengetahui dan menganalisis kualifikasi bukti *e-Filing* dan *e-Faktur* dalam hukum pembuktian tindak pidana di bidang perpajakan, prospek pengaturan khusus tentang bukti elektronik dalam undang-undang perpajakan, dan cara penyampaian bukti elektronik dalam pembuktian tindak pidana di bidang perpajakan sampai ke pengadilan.

Metode penelitian dalam tesis ini menggunakan metode penelitian hukum normatif yang bersifat deskriptif. Bersifat normatif karena menggunakan data sekunder dengan melakukan penelitian studi kepustakaan, dokumen, dan studi arsip. Bersifat deskriptif karena penelitian ini dimaksudkan untuk memberikan gambaran, keadaan, gejala-gejala dalam penerapan *e-Filing* dan *e-Faktur*.

Kesimpulan dari hasil penelitian tesis ini adalah *pertama*, penerapan *e-Filing* dan *e-Faktur* oleh Direktorat Jenderal Pajak menghasilkan bukti Dokumen Elektronik berupa Surat Pemberitahuan (SPT) dan Faktur Pajak berbentuk dokumen elektronik yang kualifikasi buktinya tidak diatur dalam Undang-Undang Nomor 6 Tahun 1983 sebagaimana telah diubah terakhir dengan Undang-Undang Nomor 16 Tahun 2009 tentang Ketentuan Umum dan Tata Cara Perpajakan maupun didalam Kitab Undang-Undang Hukum Acara Pidana (KUHAP). *Kedua*, demi kepastian hukum, perlu pengaturan khusus terkait dokumen elektronik sebagai alat bukti yang mandiri (*bewijsmiddelen*) dalam undang-undang perpajakan yang dapat bersifat menambah atau memperluas alat bukti sebagaimana dimaksud dalam Pasal 184 ayat (1) KUHAP. *Ketiga*, perlu digunakan metode Forensik Digital dan keterangan Ahli untuk membuktikan tindak pidana di bidang perpajakan yang berkaitan dengan bukti *e-Filing* dan *e-Faktur* di Pengadilan. Untuk menyampaikan bukti *e-Filing* dan *e-Faktur* di Pengadilan, paling tidak dapat dilakukan dengan cara penyitaan terhadap Barang Bukti Elektronik atau penyitaan atas media penyimpanan yang terdapat hasil *Imaging File* terhadap Potensi Bukti Digital yang dilanjutkan dengan permintaan keterangan Ahli dan keterangan Saksi atas Barang Bukti Elektronik dan hasil *Imaging File* tersebut.

Kata kunci: *e-Filing*, *e-Faktur*, Tindak Pidana Di Bidang Perpajakan, Hukum Pembuktian

¹ Mahasiswa Program Studi Magister Hukum Litigasi Fakultas Hukum Universitas Gadjah Mada

² Guru Besar Fakultas Hukum Universitas Gadjah Mada

**THE IMPLICATION OF *E-FILING* AND *E-FAKTUR*
IMPLEMENTATION TOWARDS THE LAW ON EVIDENCE OF
CRIMINAL ACTS IN THE FIELD OF TAXATION AT
THE DIRECTORATE GENERAL OF TAXES**

Erwan Budi Prasetyo³ dan Eddy O.S. Hiariej⁴

ABSTRACT

This thesis is entitled The Implications of *e-Filing* and *e-Faktur* Implementation in the Law on Evidence of Criminal Acts in the Field of Taxation at the Directorate General of Taxes. This research was conducted to examine and analyze the qualifications of *e-Filing* and *e-Faktur* evidence in relation to the law on evidence of tax-related criminal acts, the potentials of the special procedure for the use of electronic evidences in tax law, and how to submit electronic evidences to prove tax-related criminal acts at the court.

The research employed a descriptive empirical normative legal research method. This method was used as this research regarded secondary data which were obtained through study on related literature, documents, and archives. This research is regarded an empirical research as primary data were also regarded in examining the application of rules of law to prove criminal acts in the field of taxation. This research is also regarded as a descriptive research to provide descriptions on the issues that occurred related to the application of *e-Filing* and *e-Faktur*.

The research has resulted in three major findings. **First**, this research revealed that the application of *e-Filing* and *e-Faktur* by the Directorate General of Taxes produces Electronic Documents in the form of electronic documents of the Annual Tax Return and Tax Invoice which qualifications for legal evidence were neither regulated in the Act No. 6 of 1983 which had been amended to Act No. 16 of 2009 concerning General Provisions and Procedures for Taxation or in the Criminal Procedure Code (*KUHAP*). **Second**, in order to provide legal certainty, special regulations concerning the use of electronic documents as independent evidence (*bewijsmiddelen*) were necessary to be included in tax laws as those would add up or expand the evidences as referred to in Article 184 paragraph (1) of Criminal Procedure Code (*KUHAP*). **Third**, it was also considered necessary to use the Digital Forensic method and regard experts' testimony in proving taxation crimes in addition to the use of *e-Filing* and *e-Faktur* as legal evidences at the Court. The submission of *e-Filing* and *e-Faktur* could be done by confiscating Electronic Evidences and confiscating storage media containing Imaging Files as Potential Digital Evidences. These digital evidences could be then followed by request for expert testimony and witness testimony to analyze the Imaging File related to the submitted Digital Evidences or Electronic Evidences.

Key words: *e-Filing*, *e-Faktur*, Criminal Acts in the Field of Taxation, Law on Evidence

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