

## **PENERAPAN *NON-CONVICTION BASED (NCB) ASSET FORFEITURE* TERHADAP ASET HASIL TINDAK PIDANA KORUPSI DALAM SISTEM PERAMPASAN ASET DI INDONESIA**

### **INTISARI**

Oleh

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Penelitian mengenai Penerapan *Non-Conviction Based Asset Forfeiture* Terhadap Aset Hasil Tindak Pidana Korupsi Dalam Sistem Perampasan Aset Di Indonesia dilakukan untuk mengetahui relevansi dan prospek penerapan *Non-Conviction Based Asset Forfeiture* dalam ketentuan hukum positif di Indonesia serta untuk mengetahui hubungan penggunaan sistem pembuktian terbalik dalam *Non-Conviction Based Asset Forfeiture* dengan asas praduga tidak bersalah.

Penelitian ini menggunakan metode pendekatan hukum normatif dan bersifat deskriptif untuk menggambarkan suatu kondisi atau keadaan yang sedang terjadi atau berlangsung yang bertujuan agar dapat memberikan data seteliti mungkin mengenai objek penelitian dihubungkan dengan berbagai peraturan yang berlaku. Data penelitian ini menggunakan sumber data sekunder yang berupa bahan hukum primer, sekunder dan bahan hukum tersier.

Hasil penelitian menyimpulkan bahwa rezim perampasan aset tanpa pemidanaan (*Non-Conviction Based Asset Forfeiture*) sangat relevan untuk diterapkan di Indonesia ketika rezim perampasan pidana (*Criminal Forfeiture*) sulit dilakukan karena pelaku tindak pidana korupsi melarikan diri, meninggal dunia, atau kendala lainnya. Dalam penerapannya, *Non-Conviction Based Asset Forfeiture* menggunakan standar pembuktian yang lebih rendah dari standar pembuktian perampasan pidana yang hanya memerlukan keseimbangan probabilitas untuk melakukan perampasan sehingga menimbulkan konsekuensi adanya keseimbangan secara proporsional antara perlindungan kemerdekaan individu yang mewajibkan penyidik atau penuntut umum cukup membuktikan sebuah tindak pidana telah terjadi serta suatu aset telah dihasilkan dan pada sisi lainnya terdapat perampasan hak individu atas aset sehingga pelaku wajib membuktikan bahwa aset miliknya tidak digunakan atau berasal dari tindak pidana.

Kata kunci: *Non-conviction based asset forfeiture*, aset, tindak pidana korupsi, perampasan aset

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## **THE APPLICATION OF NON-CONVICTION BASED ASSET FORFEITURE AGAINST THE ASSETS OF CRIMINAL ACT OF CORRUPTION IN THE SYSTEM OF ASSETS CONFISCATING IN INDONESIA**

### **ABSTRACT**

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The study of the application of Non-Conviction Based Asset Forfeiture against the Assets of Criminal Action of Corruption in the System of Assets Confiscation in Indonesia was done to know the relevancy and the prospect of application of Non-Conviction Based Asset Forfeiture in the positive law stipulation in Indonesia as well as to know the relation of the usage of reversal authentication system in Non-Conviction Based Asset Forfeiture with the presumption of innocence.

This research uses the normative law method and has a nature of descriptive to describe a condition or a progressive condition which is directed to give data as careful as possible regarding the object of study related to various existing regulation. These study data use secondary data source which are in the primary, secondary and tertiary legal material.

The study result, it was concluded that the asset confiscation regime penalizing (Non-Conviction Based Asset Forfeiture) very relevant to be applied in Indonesia when the regime of criminal forfeiture/confiscation is very difficult due to corruption criminals' running away, dying or other obstacles. In its application, Non-Conviction Based Asset Forfeiture uses proof standard lower than the proof standard of criminal forfeiture/confiscation that only needs probability balance for doing forfeiture/confiscating until it creates consequence of proportional balance between individual freedom protection that obliges the investigating officer or the general prosecutor to prove that a crime has been committed or that an asset has been produced and on the other side, it was found out that the confiscation of individual rights over assets so that the criminal is under obligation to prove that his assets are not used or of a criminal act.

**Keywords :** Non-Conviction Based Asset Forfeiture, Assets, Corruption, Assets Confiscation .

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