

IMPLEMENTATION OF DEELNEMING IN TAX CRIMINAL ACTIONS

Nur Ariatmoko
Yogyakarta Muhammadiyah University
Nurariatmoko@gmail.com

Yeni Widowaty
Yogyakarta Muhammadiyah University
Yenni_widowatie@yahoo.com

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Abstract: This research explores tax crimes within the framework of the Law on general regulations and tax procedures (UUKUP), focusing on mandatory contributions to the state by individuals and entities. Utilizing normative methodologies, including statutory analysis, conceptual exploration, and case studies, the study scrutinizes participation in tax crimes. Statutory analysis examines existing laws to identify gaps in the legal framework, while conceptual exploration establishes a theoretical foundation for understanding criminal actions and participation in taxation. Case studies analyze real-world instances, extracting insights. The findings reveal a gap in regulating the capacity and role of tax crime perpetrators. This gap is evident in the application of laws, lacking explicit regulations on criminal actions and participation, weakening implementation. Determining involvement is discretionary, hindering effective enforcement. This study emphasizes the need for comprehensive legislation on taxation-related criminal acts, defining participation parameters. Strengthening the legal framework enhances efficacy in combating tax crimes, providing a robust foundation for judicial decisions and equitable enforcement.

Keywords: *criminal action, deelnemeng, tax.*

Abstrak: Penelitian ini mengeksplorasi kejahatan pajak dalam kerangka Undang-Undang Ketentuan Umum dan Tatacara Perpajakan (UUKUP), dengan fokus pada kontribusi wajib kepada negara oleh individu dan entitas. Dengan menggunakan metodologi normatif, termasuk analisis peraturan, eksplorasi konseptual, dan studi kasus, penelitian ini mengkaji partisipasi dalam kejahatan pajak. Analisis peraturan meneliti hukum yang ada untuk mengidentifikasi kesenjangan dalam kerangka hukum, sementara eksplorasi konseptual membentuk dasar teoritis untuk memahami tindakan kriminal dan partisipasi dalam perpajakan. Studi kasus menganalisis contoh dunia nyata, mengekstrak wawasan. Temuan menunjukkan kesenjangan dalam pengaturan kapasitas dan peran pelaku kejahatan pajak. Kesenjangan ini terlihat dalam penerapan hukum, yang kurang memiliki peraturan eksplisit tentang tindakan kriminal dan partisipasi, melemahkan pelaksanaan. Penentuan keterlibatan bersifat discretionary, menghambat penegakan efektif. Penelitian ini menekankan perlunya legislasi komprehensif mengenai tindakan kriminal terkait perpajakan, dengan menentukan parameter partisipasi. Penguatan kerangka hukum meningkatkan efektivitas dalam memerangi kejahatan pajak, menyediakan dasar yang kokoh untuk keputusan pengadilan dan penegakan hukum yang adil.

Kata kunci: *tindak kriminal, deelnemeng, pajak*



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Introduction

Taxes have an essential role in the life and goals of the state,¹ especially in the implementation of development, because taxes are the primary source and determinant of the economic development of every country². Especially Indonesia, this country has had a high dependency on tax revenues for many years³. The Government of Indonesia is starting to reform taxation in Indonesia by changing it from an official assessment system to a self-assessment system⁴ for calculating taxes payable, paying tax deficits, calculating taxes paid, and reporting them to the Directorate General of Taxes.⁵

According to Article Law No. 28 of 2007 on General Provisions and Procedures of Taxation, tax is a mandatory payment by an individual or legal entity with tax rights and obligations to the state following the provisions of the tax laws and regulations⁶. According to the law, it is mandatory and is not compensated directly to the taxpayer but is entirely used for the benefit of the state to prosper the people.

In its implementation, the dynamics of tax collection are not spared from irregularities or law violations. Internal or outside tax institutions can carry out irregularities or breaches of law in taxation. There are not a few practices of anomalies in taxation, especially in the State of Indonesia,

which are carried out by individual taxpayers or their representatives, proxies, and tax consultants. In the case of a tax violation or criminal act, a taxpayer uses the services of a tax consultant. His actions, proven to have jointly committed a tax crime, can be subject to or threatened with criminal sanctions because of their cooperation or participation.⁷

Participating involvement can also be interpreted as participating in the commission of the crime. This has been regulated in article 55 of the Criminal Code, which states that; the person who commits, orders or participates in the act shall be punished as a criminal offender. In addition, it is also mentioned about the person who was given, wrongly using power or influence, threats, violence, deception, deliberately persuading to carry out the act.⁸

Article 43(1) Law No. 28 of 2007 on General Provisions and Procedures of Taxation stipulates that apart from being committed by taxpayers (*plagen* or *dader*), criminal acts in the field of taxation can involve other people (participants or *deeldermering*) such as representatives, attorneys or employees of taxpayers or other parties ordering commits (*doenplegen* or

¹ Yogi Prasetyono, Zaenal Arifin, and Kukuh Sudarmanto, "Implementasi Pemidanaan Pelaku Penyertaan (Deelneming) Tindak Pidana Korupsi," *JURNAL USM LAW REVIEW* 5, no. 2 (November 6, 2022): 647–662.

² Fitore Gëzim Morin, "The Legal Aspect of the Tax Competition in EU: Case of Kosovo," *Sriwijaya Law Review* 3, no. 1 (January 31, 2019): 1; Emmiryan Wasrinil Said, "Tax Policy in Action: 2016 Tax Amnesty Experience of the Republic of Indonesia," *Laws* 6, no. 4 (September 28, 2017): 16.

³ Siti Nuryanah and Gunawan Gunawan, "Tax Amnesty and Taxpayers' Noncompliant Behaviour: Evidence from Indonesia," *Cogent Business & Management* 9, no. 1 (2022): 1.

⁴ Latifah Hanum et al., "Determinant of Tax Compliance Intention in Java-Indonesia," in *Advances in Economics, Business and Management Research* (Atlantis Press, 2020), 177.

⁵ Fahrurrozi Fahrurrozi and Samsul Bahri M. Gare, "SISTEM PEMIDANAAN DALAM PENYERTAAN TINDAK PIDANA MENURUT KUHP," *Media Keadilan: Jurnal Ilmu Hukum* 10, no. 1 (May 1, 2019): 50–63.

⁶ Aqmarina Vaharani Paramaduhita and Elia Mustikasari, "Non-Employee Individual Taxpayer Compliance: Relationship with Income and Perception of Taxpayer," *Asian Journal of Accounting Research* 3, no. 1 (2018): 143–144.

⁷ Abdul Muflihun and Ufran Ufran, "Pertanggungjawaban Pidana Bagi Pelaku Penyertaan (Deelneming) Yang Tidak Memiliki Kualitas Pribadi Dalam Tindak Pidana Korupsi," *JESS (Journal of Education on Social Science)* 4, no. 1 (June 1, 2020): 67–82.

⁸ Santriana Santriana Santriana, "Penerapan Teori Deelneming Dalam Penjatuhan Pidana Mati Terhadap Pelaku Pembunuhan Berencana," *Jurnal Thengkyang* 6, no. 1 (2021): 35–51.

middelijke),⁹ participates in committing (*medepleger* or *mededadader*), recommends (*uitlokker*), or helps commit criminal acts in the field of taxation (*medeplichtige*). Crimes in the area of taxation committed by other parties cannot be separated from the provisions in Article 43 Law No. 28 of 2007 on General Provisions and Procedures of Taxation because it has explicitly designated the type of crime as regulated in Articles 39, 39a, 41a, and 41b Law No. 28 of 2007 on General Provisions and Procedures of Taxation.¹⁰

Based on the court's decision regarding participation in a tax crime that is interesting to study, according to the author, is decision number 456/Pid.Sus/2021/PN.Smn and decision number 304/Pid.sus/2021/PN.Smn that in this case is a series of legal events both contain elements of a tax crime, namely the existence of legal facts in a particular tax criminal case involving 2 (two) defendants, both constituting 1 (one) series of criminal acts.¹¹ The two defendants were charged with committing a crime by linking "Participating" because they jointly committed the intended crime, however participating did not necessarily make the two of them the same in applying the law, while the article being charged was that they jointly violated Article 39 paragraph 1 letter c. Jo. Article 43(1) Law No. 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures (UUKUP) as amended several times and lastly added to Law Number 11 of 2020 concerning copyright (Law on Job Creation), with a minimum threat of 6 (six) months and a maximum of 6 (six) years. However, in the Judge's decision,

namely, the defendant in the case register number 456/Pid.Sus/2021/PN Smn received a legally proven guilty decision and was sentenced to 1 (one) year in prison.¹²

Meanwhile, the accompaniment is not withdrawn as a defendant to be found guilty and subject to criminal sanctions. In a separate case examination with case register number 304/Pid.Sus/2021/PN Smn, the defendant was not found guilty and was sentenced to acquittal. Meanwhile, if the mandate is in Article 55 of the Criminal Code, all those proven to have jointly committed a crime will be subject to criminal sanctions.

Based on the explanations and cases above, the authors are then interested in researching how the Application of participating (*deelneming*) in tax crimes is aimed at studying and analyzing the concept of participating in tax crimes in Indonesia today.

In terms of criminal acts in taxation, the latest research was conducted by Vani Wiryawan with the title "Tindak Pidana Perpajakan dalam Pembuatan dan Pendaftaran Surat Keterangan Waris," which aims to identify and analyze criminal aspects and threats in dealing with the making and registration of Original Inheritance Certificates in manipulating tax income inheritance, and how the law enforcement¹³. The research is different from this research because this research focuses on the crime of *deelderming*.

Other studies prefer to examine criminal investigations in taxation, as research conducted by Andhy Hermawan Bolifaar and Henry Dianto Pardamean Sinaga entitled "Managing Evidence of Tax Crime in Indonesia: An Artificial Intelligence Approach

⁹ Vincentius Setyawan, "Pancasila As A Philosophical Basis Of Law Formation In Indonesia," *NUSANTARA: Journal Of Law Studies* 2, no. 1 (March 15, 2023): 1–8.

¹⁰ Puput Widya Astuti, "Keberadaan Ajaran Penyertaan Sebagai Perluasan Delik Dan Perluasan Pertanggungjawaban Pidana (PASAL 55 DAN 56 KUHP)," *Jurnal JURISTIC* 2, no. 02 (September 11, 2021): 217–229.

¹¹ Meta Riskia, "Implementation Of Mudharabah Financing On Baitul Maal According

Majlis Ulama Indonesia," *Journal of Nusantara Economy* 1, no. 1 (December 9, 2022): 1–13.

¹² Tommy J. Bassang, "Pertanggungjawaban Pelaku Tindak Pidana Deelneming," *LEX CRIMEN* 4, no. 5 (August 10, 2015), accessed March 28, 2023, <https://ejournal.unsrat.ac.id/v3/index.php/lexcrimen/article/view/9015>.

¹³ Vani Wirawan, "Tindak Pidana Perpajakan Dalam Pembuatan Dan Pendaftaran Surat Keterangan Waris," *Jurnal Ilmiah Kebijakan Hukum* 15, no. 3 (November 16, 2021): 489–508.

in Integrated Criminal Justice System"¹⁴. The research is clearly different from this research which aims to examine and analyze the concept of Application in tax crimes in Indonesia.

Based on the explanation above, it is clear that research related to *deelneming* crimes in taxation still has an excellent opportunity to be researched.

Literature Review

Definition of *Deelneming*

Deelneming means including one or more people when other people commit a crime. In practice, it often happens that more than one person is involved in a crime¹⁵.

History records that this participatory teaching was first the brainchild of von Feuerbach, who distinguished it in two forms of participants, namely (a) those who directly tried to cause a criminal incident, these were called actors, and (b) those who only assisted the effort what is done by those who do not immediately try. Urheber was the one taking the initiative¹⁶.

The *deelneming* doctrine is the position of legal subjects who can be held criminally responsible; the perpetrators of criminal acts are those who commit, order to do, who participate in doing it, and those who deliberately assist at

the time of the occurrence of a crime and those who deliberately provide opportunities, convenience or information (Article 55 Paragraph (1) Criminal Code)¹⁷.

In connection with this *Deelneming*, the research conducted by Yogi Prasetyono, Zaenal Arifin, and Kukuh Sudarmanto entitled "Implementation of the Criminalization of Participating Actors (*deelneming*) Corruption Crimes" aims to examine the implementation, constraints, and solutions to criminalizing participating actors (*deelneming*) corruption crimes against court decisions Semarang State Number 41/Pid.Sus-TPK/2020/PN Smg¹⁸. Of course, this research differs from this because it focuses on tax crimes against District Court decision number 456/Pid.Sus/2021/PN.Smn.

Definition of Criminal Action

Legislators use the term "*strafbaar feit*" to translate the word "crime". In the Indonesian Criminal Code (from now on referred to as the Criminal Code) and in laws outside the Criminal Code, there is no definition of "*strafbaar feit*". The word "*feit*" in Dutch means 'part of reality'. While "*strafbaar*" means "punishable", literally, the term "*strafbaar feit*" is a part of reality that can be punished¹⁹. Article 55 mentions four categories that can be punished or made (Dader), as shown in the table below;

¹⁴ Andhy Hermawan Bolifaar and Henry Dianto Pardamean Sinaga, "Managing Evidence of Tax Crime in Indonesia: An Artificial Intelligence Approach in Integrated Criminal Justice System," *AYER JOURNAL* 27, no. 1 (October 5, 2020): 143–158.

¹⁵ Muhammad Fadhil Andika Ramadhan and Rugun Romaida Hutabarat, "Criminal Responsibility Analysis for the Accusator That Is Already Corrected (Medpledger) in the Criminal Action Case of Corruption in Jakarta State Court Case Center Decision Number: 22/PID.SUS-TPK/2020/PN.JKT.PST.," in *Advances in Social Science, Education and Humanities Research*, vol. 655 (Atlantis Press, 2022), 320; Linda Ulfa, Mohd. Din, and Dahlan Dahlan, "Penerapan Ajaran Turut Serta Kasus Korupsi Dikaitkan Teori Pertanggungjawaban Pidana," *Kanun Jurnal Ilmu Hukum* 19, no. 2 (August 27, 2017): 288.

¹⁶ Basir Rohrohmana, "Penerapan Ajaran Turutserta Dalam Tindak Pidana Korupsi," *Yuridika* 32, no. 2 (May 18, 2017): 213; Abdul

Muflihun and Ufran Ufran, "Pertanggungjawaban Pidana Bagi Pelaku Penyertaan (*Deelneming*) Yang Tidak Memiliki Kualitas Pribadi Dalam Tindak Pidana Korupsi," *JESS (Journal of Education on Social Science)* 4, no. 1 (June 1, 2020): 70.

¹⁷ Billy Gani and R. Rahaditya, "Juridical Analysis of Letter Forgery Crimes Committed by Intermediary Services 'Brokering' (Case Studies of Decision Number 541 / Pid / B / 2018 / PN. Jkt.Tim)," in *Advances in Social Science, Education and Humanities Research* (Atlantis Press, 2020), 963.

¹⁸ Yogi Prasetyono, Zaenal Arifin, and Kukuh Sudarmanto, "Implementasi Pemidanaan Pelaku Penyertaan (*Deelneming*) Tindak Pidana Korupsi," *JurnalUSM Law Review* 5, no. 2 (November 6, 2022): 647–662.

¹⁹ Aris Hardianto, Ach. Lutfi Alqadri, and Muhammad Zidny Fuady, "Juridical Problems of Corporate Criminal Liability Formulation in the Information and Electronic Transactions Law," in *Advances in Social Science, Education and Humanities Research* (Atlantis Press, 2021), 63.

Table 1. The type of criminal

No	Perpetrator	information
1	Pleger	The main perpetrator of the crime
2	Doenpleger	The person who ordered the crime to be committed
3	Medepleger	People who participate in criminal acts
4	Uitlokker	People who advocate criminal acts

Method

This type of research is normative research using three approaches: statutory, conceptual, and case approaches.²⁰ The legal sources used in this study are secondary sources by utilizing primary legal materials²¹ (Law Number 28 of 2007, Criminal Code, New Criminal Code, and Decision Number 304/Pid.Sus/2021/PN.Smn and Decision Number 456/ Pid.Sus/2021/PN.Smn), and secondary²² (books, scientific journals, as well as document materials or opinions from legal experts related to the Application of participating in criminal acts of taxation). Legal sources and materials were then analyzed using descriptive analysis methods.

Results and Discussion

The element of a subject or perpetrator of a crime in the Criminal Code Article is defined as "whoever" or "*hij die*", which is defined as a person, and this person is only one person, not many people or more than one person. However, in the research conducted by the author, crimes were committed by more than one person.

In theory and cases, crimes often involve one or two parties and can operate through underground networks with many or multiple parties²³. In Indonesian law, Article 55 to Article 62 of the old Criminal Code regulates

accountability for perpetrators of *deelneming* committed by more than one person. Utrecht stated that the act of participating was made to hold those responsible for enabling the perpetrators to commit a criminal act, even though their act itself did not contain elements of a criminal act.

Case Number 304/Pid.Sus/2021/PN Smn and Case Number 456/Pid.Sus/2021/PN Smn constitute one event or one crime. Based on the evidence in the form of witness statements, the defendant's argument and associated with proof and documentary evidence. Facts - legal facts revealed in the examination at trial.

The actions of the defendant in case No. 304/Pid.Sus/2021/PN Smn and the defendant in case No. 456/Pid.Sus/2021/PN Smn show that the perpetrators took several actions. At the same time, the decisions of the two cases are different and stand-alone. The indictment clearly shows that the two cases are a single criminal event with the same charges.

Based on the chronology of the two cases above, the defendant SD with case number 304/Pid. As a taxpayer, Sus/2021/PN Smn was examined and tried first in July 2021 by including the phrase "Participate" with SM (tax consultant). Committing a criminal offense in the field of taxation, namely intentionally not submitting a tax return (SPT) or submitting an SPT notification letter inaccurately so that it can cause losses to state revenues, in his decision, the defendant SD as the WP or the taxpayer was declared not guilty and was acquitted by Judge. Based on this case, the authors see that there was a criminal act of deviating from taxation and that for these two actions, SM and SD should be equally punished as stated in article 55 of the Criminal Code. Judges as law enforcers, apart from paying attention to Article 55 of the Criminal Code, also pay attention to the chronology so that there is an event involved

²⁰ khairudin Khairudin, "The Practice of Buying and Selling Black Market Goods on The Perspective of Islamic Economic Law," *NUSANTARA: Journal Of Law Studies* 1, no. 1 (2022): 77-85.

²¹ suryaningsih, "Impact of Gadget Addicts on Family Harmony Perspective of Islamic Law," *NUSANTARA: Journal Of Law Studies* 1, no. 1 (December 16, 2022): 50-64.

²² Wahyu Ziaulhaq, "Buying and Selling Used Clothing: An Islamic Economy Law Perspective," *Journal of Nusantara Economy* 1, no. 1 (December 10, 2022): 29-37.

²³ Milena I. Neshkova and Vaiva Kalesnikaite, "Corruption and Citizen Participation in Local Government: Evidence from Latin America," *Governance* 32, no. 4 (October 1, 2019): 679.

because SM and SD both commit criminal acts in one legal event. SM got a job based on orders and orders from SD, but in carrying out his work,²⁴ SM and SD were charged with not reporting a tax notification which caused losses to the state; based on this, SM was tried and examined separately from SD, even though the two defendants both committed acts in a legal event. What makes the author awkward about the tax crime in the case here is that SM carried out his duties according to the SD agreement and directions. Still, SM was the one who received criminal sanctions by being sentenced to imprisonment,²⁵ while the SD defendant was found not guilty and was acquitted.

Separate examination in October 2021 with case register number 456/Pid.Sus/2021/PNSmn, the defendant SM as a tax consultant, was examined and tried as a defendant at the Sleman District Court with the same article, namely Article 39(1) letter c. Jo. Article 43 (1) Law Number 28 of 2007 concerning the third amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures as amended several times and supplemented by Law No. 11 of 2020 concerning Job Creation.

As a result of the decision in the case with register number 456/Pid.Sus/2021, PNSmn, the defendant SM was legally proven guilty and sentenced to 1 (one) year in prison by the court. SD does not withdraw as a participant or participate in the case as a taxpayer who orders SM (tax consultant) as a representative or proxy in examining this case.

In these cases, judges often use the participation theory, which is used to determine the classification of the perpetrator's actions and the guilt involved in the crime. Legal reasoning to determine the actions and

mistakes of participating in committing a criminal act of corruption is carried out by judges in the process of proving it in court. The theory of participation is the basis for judges to apply the norm of including Article 55 of the Criminal Code to acts of participating in criminal acts²⁶.

Due to its ambiguity, *deelneming* will be an indicator of the ability of law enforcement officials to understand the basics of criminal law²⁷. In the theory of participation in criminal acts, participation (*deelneming*) occurs when more than one person is involved in a crime. So that accountability must be sought for each person involved in the crime. A person's involvement in a crime can be categorized as a person who commits it; who ordered to do it; who also did it; who moves/recommends to do; that helps do it²⁸.

If you look at the two cases above, the authors see a series of criminal events examined separately with the two case registers at the Sleman District Court, and then there were disproportionate decisions. The series of criminal events is a particular crime of taxation between taxpayers and their partners, namely representatives or tax consultants. The case registers with the number 304/Pid.Sus/2021/PNSmn SD is the primary defendant, and SM is a participant or participant with the indictment of Article 39 (1) letter c. Jo. Article 43 (1) Law Number 28 of 2007 concerning the third amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures with a verdict found not guilty. In the second case, the case register number 456/Pid.Sus/2021/PNSmn SM was made a defendant (who, in the previous case examination, was a participant or participant). SD was a participant, with the results of the SM decision being declared Legal Proven guilty of

²⁴ Muhammad Fitri Adi, "Hadhonah Rights of Children (Not Mumayyis) Based on Compilation of Islamic Law and Child Protection Act," *NUSANTARA: Journal Of Law Studies* 2, no. 1 (March 15, 2023): 9–22.

²⁵ Faiz Zainuddin and Imam Syafi'i, "Environmental Jurisprudence; Environmental Preservation Efforts In Islam," *NUSANTARA: Journal Of Law Studies* 2, no. 1 (March 18, 2023): 23–30.

²⁶ M. Musa, "Implementation of Participation Theory in Legal Transmission Determining the

Fault of Corruption Criminals," in *Advances in Social Science, Education and Humanities Research* (Atlantis Press, 2018), 42.

²⁷ Ifrani and Yati Nurhayati, "The Enforcement of Criminal Law in the Utilization and Management of Forest Area Having Impact Toward Global Warming," *Sriwijaya Law Review* 1, no. 2 (July 31, 2017): 164.

²⁸ Ike Indra and Agus Setyowati, "Pembantuan Dan Penyertaan (Deelmening) Dalam Kasus Perkosaan Anak," *Media Iuris* 1, no. 2 (July 4, 2018): 287.

committing a crime according to Article 39 (1) letter c. Jo. Article 43 (1) Law Number 28 of 2007 concerning the third amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures.

In this case, SM, as a consultant, carries out tasks according to requests from SD and, in every work, decision-making based on mutual agreement. When there was an examination of a tax crime, SD, as a taxpayer, was acquitted, while SM, a representative or consultant, actually received criminal sanctions.²⁹ Of course, this impacts the gap in the sense of justice. Article 55 of the Criminal Code states that a person who commits a crime with the person who ordered it to be committed is equally subject to criminal punishment, but this does not apply in the case of SM.

Based on the statement of Judge H. Cahyono SH, MH as a judge at the Sleman District Court:

"Even though they were both threatened with participating, what is seen is their position or legal facts, but it does not necessarily make one of them free if the defendant or his companion is subject to criminal sanctions."³⁰.

Based on the Judge's statement, the authors assume that "even though the act was carried out jointly and the presence of the judge's consideration was seen from the position of the case and the facts, but between the main perpetrators and their partners is a unit of crime."

From this statement, it can be seen that what is seen is the case's position, starting from the emergence of a criminal taxation event because there was a start with an order from the taxpayer to take care of interests regarding taxation to the tax consultant. Both of them

carry out a legal engagement and agree with each other in terms of tax administration. Based on an order, SM carried out his duties as a consultant based on an agreement, namely, not to submit SPT or submit SPT to DGT, but it was not the truth. Until the case ended, SM has declared a defendant and was found guilty and sentenced to 1 year in prison, for his companion, SD, as a taxpayer, was not found guilty. Of course, this incident was very detrimental to SM as someone ruled.

Participation in committing a crime has been regulated in the Criminal Code CHAPTER V articles 55 and 56. Participation or *deelneming* in committing a crime, as referred to in articles 55 and article 56, confirms that participation or participation is said to be if there are more than one person or group of people commits a crime either because they are ordered/ordered to do it, participate, persuade or help commit it.

Participating in or committing is a criminal act based on the intention to commit the act even though other reasons are used,³¹ for example, limited to help. Then, to be categorized as an advocate, a person must meet 2 (two) conditions: firstly, there is an intention, and secondly, there is a will to move other people to carry out specific actions the advocate intends³².

The crime of participating or participating is an act of cooperation made in a conscious state and knowing that the action violates the law, so it does not matter whether there is an agreement behind it. Still, most importantly, there is conscious cooperation in the offense of participation or participation.

After committing this crime, the perpetrators usually consciously commit non-criminal crimes together.³³ This means that

²⁹ Muhamad Imam Muddin, "Inheritance System Mayorat on the Komerling Tribe in Urf Perspective," *NUSANTARA: Journal Of Law Studies* 1, no. 1 (December 16, 2022): 21–32.

³⁰ The results of an interview with a Sleman Court judge named H. Cahyono, SH., MH on December 14, 2022 at 08:00 WIB "meskipun sama-sama diancam melakukan turut serta jadi yang dilihat adalah posisi atau fakta Hukumnya namun tidak lantas membuat salah satunya bebas jika terdakwa atau penyertanya dijatuhi sanksi pidana".

³¹ Kusdiyana, Samsudin, and Muhammad Wildan Nur Akmal, "Accuracy of Qibla Direction Mosque at Rest Area Toll Road on the Qibla Jurisprudence Perspective," *NUSANTARA: Journal Of Law Studies* 2, no. 1 (March 19, 2023): 31–39.

³² Irene Ulfa, "Pembuktian Penganjur Dalam Tindak Pidana Pembunuhan Anak," *Media Iuris* 1, no. 2 (July 4, 2018): 305.

³³ Desy Maryani et al., "A Model of Implementing Restorative Justice Perspective of Trong Yowari Traditional Jurisdiction, Jayapura Regency," *NUSANTARA: Journal Of Law Studies* 2, no. 1 (March 27, 2023): 40–51.

cooperation that is carried out intentionally is that each actor participates in knowing the other and is aware that an action is an act that violates the law. So there is no requirement to have been an agreement long before the criminal act was committed. Sometimes there is an agreement before even when the crime is committed, but the crime committed is included as conscious cooperation.

Accountability will be imposed by going through agreements, giving, or abusing power in realizing a crime as for the responsibility for the perpetrator participating in committing a crime following Articles 163 bis, 263 s, 51, 56, 57(4), 58, 60, 86, 186 and 236 following the form of participation in committing a crime so that in criminal law in Indonesia recognize two systems of accountability for perpetrators participating in committing criminal acts.

First, all perpetrators are jointly accountable for their actions without distinction for the criminal acts committed. Then the second is accounted for differently according to the severity of the form and extent of the criminal act committed. Furthermore, any criminal act, intended intentionally or not, will always lead to accountability for each perpetrator.

Conclusion

The concept of participating in a criminal act of taxation differs from the Application of participating in an ordinary criminal act, namely the Criminal Code. In tax crimes, the capacity and role of the perpetrators are less regulated in laws and regulations; this can be seen in their Application in tax crime cases. Thus, implementing participation in tax crime in Indonesia is weak because the determination of participation is left to the Judge's consideration. This is because no rules clearly state criminal acts of taxation and participation in these acts.

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