

Regulatory Consistency in Tax Crime Enforcement: Judicial Decisions, Financial Sanctions, and Taxpayer Compliance

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Abstract

This study examines judicial consistency in tax crime enforcement as a determinant of regulatory credibility and taxpayer compliance in Indonesia. Despite the central role of criminal sanctions as an ultimum remedium, variations in judicial decisions may weaken enforcement signals and reduce deterrence. Using qualitative content analysis on 22 Supreme Court decisions (2020–2023), this study evaluates sentencing patterns, proportionality of financial penalties, and their alignment with statutory provisions. The findings reveal substantial disparities in fines and imprisonment, particularly under Article 39, where sanctions frequently fall below statutory multipliers. In contrast, Article 39A demonstrates relatively strong consistency. These inconsistencies reduce predictability, weaken deterrence, and potentially undermine voluntary compliance. This study contributes to the literature by integrating legal enforcement analysis with financial regulation theory, highlighting the importance of judicial coherence in strengthening regulatory credibility and sustaining public finance governance.

Keywords: Financial Regulation, Tax Enforcement, Judicial Consistency, Regulatory Credibility, Taxpayer Compliance

JEL Classification : G32; G33

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Introduction

Criminal acts in the field of taxation are part of administrative law commonly referred to as *dependent crimes*, where enforcement is designed not merely to punish but primarily to encourage taxpayers to fulfill their obligations and achieve a high level of compliance (Yumanto & Hutauruk, 2022). Within this framework, flexibility in enforcement is permitted; however, such flexibility must be accompanied by **consistency in judicial decisions** to ensure legal certainty and maintain taxpayer trust.

From the perspective of financial economics, tax enforcement constitutes a core component of government regulatory architecture. Consistent judicial enforcement strengthens regulatory credibility, reduces moral hazard, and enhances compliance behavior. Conversely, inconsistent enforcement signals may lead economic actors to reassess the expected costs of non-compliance, thereby weakening deterrence mechanisms and undermining the effectiveness of tax law enforcement.

Judicial decisions, as defined by Mertokusumo (2009) and Mulyadi (2007), represent formal legal determinations issued through due process and serve as the final resolution of disputes. These decisions are grounded in statutory provisions, legal doctrine, jurisprudence, and judicial reasoning. In tax crime cases, judicial interpretation—particularly in distinguishing between intentional (*dolus*) and negligent (*culpa*) violations—plays a crucial role in determining sanctions and shaping compliance behavior among both individuals and corporate taxpayers.

Tax crimes may be committed by individuals or legal entities, with liability grounded in principles such as culpability, identification theory, vicarious liability, and strict liability. In practice, criminal sanctions consist of financial penalties and imprisonment, where fines are generally positioned as the primary enforcement instrument, while imprisonment serves as a last resort. This reflects the broader objective of tax law, which prioritizes revenue collection and compliance over punitive measures.

Despite the strategic importance of tax crime enforcement, empirical evidence in Indonesia suggests the presence of **inconsistencies in judicial decisions**, particularly in the imposition of criminal fines and imprisonment for comparable violations. Such disparities raise critical concerns regarding the reliability of enforcement signals and the overall credibility of the regulatory system. When similar offenses result in significantly different sanctions, taxpayers may reassess the expected costs of non-compliance, thereby weakening deterrence and potentially reducing voluntary compliance.

Although prior studies have examined sentencing disparity and legal consistency, limited research has integrated these issues within a **financial regulatory framework** that links judicial decisions to taxpayer behavior. This gap highlights the need for a more comprehensive analysis that bridges legal and economic perspectives.

Accordingly, this study seeks to address the following research question: *To what extent do variations in judicial decisions undermine regulatory credibility and influence taxpayer compliance behavior in Indonesia?*

To answer this question, this study aims to:

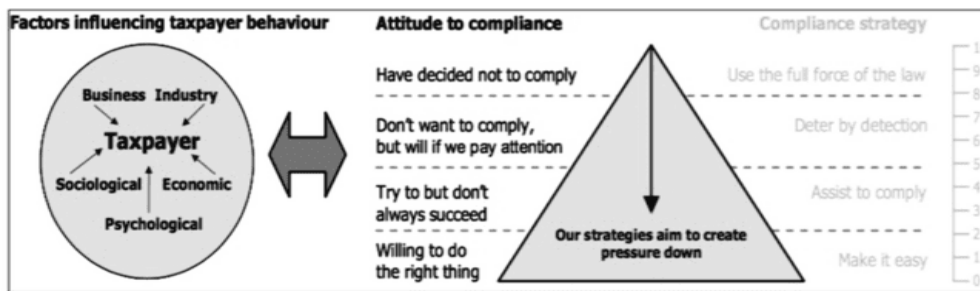
1. Analyze the consistency of Supreme Court decisions in tax crime cases in Indonesia;
2. Evaluate the proportionality between imposed sanctions and state financial losses;
3. Examine the implications of judicial consistency for regulatory credibility and taxpayer compliance

Literature Review

Taxpayer Compliance

Kirchler, E., Hoelzl, E., & Wahl, (2008) Tax compliance is divided into two categories, *voluntary compliance* and *enforced compliance*. Voluntary compliance occurs when the Taxpayer fulfills its obligations based on its own volition, while compliance is based on the actions or identification of the tax authorities (*enforced*) is carried out when the Taxpayer fulfills its obligations due to the consequences that may occur and are compelling. Tax compliance can be understood as a series of actions and behaviors that will reflect an adherence to comply with the Tax Law on tax liabilities starting from tax reporting and remittance (Anggini, V., Lidyah, R., & Azwari, 2021)

James, S., & Alley, (2002) The factors that affect tax compliance in two outlines are economic and non-economic factors. Included in the economic factors studied are *detection and punishment, burden of taxation*. While non-economic factors include *government services, overweighting of low probabilities* and social normal. The results of the study show that social norms have the greatest influence, so that even though law enforcement (*detection and punishment*) is a reliable factor as a starting point for growing Taxpayer compliance. According to Parlaungan (2017) Taxpayers consider the financial calculations that will occur in each action related to their tax obligations.



Sources: (OECD, 2004)

Figure 1: *Compliance Model*

Tax compliance will also be influenced by the strategy built by the tax authority. The strategy to identify the risk level of non-compliance and provide appropriate treatment is expected to change the compliance pattern of Taxpayers to be more compliant with a *willingness to comply*.

Tax compliance is influenced by both economic deterrence factors and behavioral dimensions (Kirchler et al., 2008). The “slippery slope framework” emphasizes the interaction between trust and power. This study extends the framework by positioning judicial consistency as a form of “institutional power signal” influencing compliance behavior.

Tax Crimes

Criminal acts in the field of taxation are part of the administrative law known as *dependent crimes* which aims to encourage the lowest level of compliance of Taxpayers. Tax crimes are considered one of the parts of economic crimes, namely violations of *the liability or reporting requirements of the tax laws*" (Kadish, 1983).

Tax crimes are regulated in Article 38 letters a and b of the KUP Law which stipulates that "every person due to his forgetfulness: does not submit a notification letter; or submit a notification letter, but the content is incorrect or incomplete, or attach information whose content is incorrect so that it can cause losses to state revenue and such acts are acts after the first act as referred to in Article 13A.

The tax crime of Article 39 paragraph (1) determines the criteria for tax crimes committed intentionally are as follows:

1. Not registering to be given a Taxpayer Identification Number or not reporting their business to be confirmed as a Taxable Entrepreneur;
2. Misuse or use without the right of the Taxpayer Identification Number or Inauguration of a Taxable Entrepreneur;
3. Not delivering a notification letter;
4. Submit a notification letter and/or information whose content is incorrect or incomplete;

5. Refusing to conduct an examination as intended in Article 29;
6. Exhibit bookkeeping, or other documents that are false or falsified as if they were true, or do not reflect the actual circumstances;
7. Not conducting bookkeeping or recording in Indonesia, not paying attention to or not lending books, records, or other documents;
8. Not keeping books, records, or documents that are the basis of bookkeeping or recording and other documents, including the results of data processing from books that are managed electronically or organized by online application programs in Indonesia as intended in Article 28 (11); or
9. Not to deposit taxes that have been deducted or collected so that they can cause losses to State revenue.

Article 39 A paragraph (1) regulates the existence of tax crimes related to tax invoices as follows:

1. issue and/or use tax invoices, tax collection receipts, tax withholding receipts, and/or tax payment receipts that are not based on actual transactions; or
2. issue tax invoices but have not been confirmed as a Taxable Entrepreneur

The threat of punishment to the person who violates the provisions of Article 38 will be fined at least 1 (one) time the amount of tax owed that is not or underpaid and a maximum of 2 (two) times the amount of tax owed that is not or underpaid, or sentenced to imprisonment for a minimum of 3 (three) months or a maximum of 1 (one) year.

Meanwhile, violating the criminal offense in accordance with Article 39, the Taxpayer will be sentenced to imprisonment for a minimum of 6 (six) months and a maximum of 6 (six) years and a fine of at least 2 (two) times the amount of tax owed that is not or underpaid and a maximum of 4 (four) times the amount of tax owed that is not or underpaid. The criminal threat is higher for forgery in Article 39 A, namely imprisonment for a minimum of 2 (two) years and a maximum of 6 (six) years and a fine of at least 2 (two) times the amount of tax in the tax invoice, proof of tax collection, proof of withholding of taxes, and/or proof of tax payment and a maximum of 6 (six) times the amount of tax in the tax invoice, Proof of tax collection, proof of tax withholding, and/or proof of tax payment. The imposition of fines and imprisonment will be based on the decision of the judicial institution, in this case the judge's decision.

Previous research related to the consistency of court decisions includes the following

Table 1 Past Researchers

Previous Research	Research Areas
Basuki, (2023)	Consistency in the application of criminal sanctions against blasphemers in Indonesia. Based on the research, the implementation of criminal sanctions for blasphemers in Indonesia has not been consistent.
Utami and Aryo (2022)	Consistency of legal protection for perpetrators of criminal acts due to emergency defense. The findings of the study are as follows: The implementation of Article 49 of the Criminal Code has inconsistencies. This is based on the existence of suspects who are still subject to criminal sanctions despite the accumulation of strong evidence that they are conducting an emergency defense.
Tanziel (2020)	The important role of consistency of the Supreme Court's decision related to the criminal implementation of tax fines in optimizing the return of state revenue from tax crimes The results of the study are as follows: The consistency of the Supreme Court's decision plays a very important role in providing a clear picture and direction regarding the criminal implementation of tax fines. With the consistency of the right decision, the recovery of state revenue through the criminal implementation of tax fines will be able to run optimally.
Gulo and Muharram (2018)	Disparity in criminal sentencing. The results of the study are as follows: The basis of the judge's consideration that causes the disparity in criminal cases, according to the principle <i>of Nulla Poena Sine Lege</i> where the judge can only decide on criminal sanctions based on the type and severity of the sanctions in accordance with the measure determined by the law. In addition, the freedom of judges (judicial discretionary power) is guaranteed based on Article 1 of Law No. 48 of 2009 concerning Judicial Power.

Regulatory enforcement theory posits that the effectiveness of legal enforcement depends on the predictability and consistency of sanctions imposed on violators. Predictable sanctions strengthen deterrence by enabling economic actors to accurately assess the expected costs of non-compliance. In contrast, inconsistent sanctions generate uncertainty, reducing the

reliability of enforcement signals and potentially weakening deterrence mechanisms.

In this context, judicial inconsistency plays a critical role by reducing expected penalty certainty, which is a fundamental variable in economic decision-making. When taxpayers are unable to anticipate the likely consequences of non-compliance due to variability in judicial outcomes, the perceived risk of punishment declines. As a result, the deterrent effect of enforcement diminishes, and the incentive for opportunistic behavior increases.

Regulatory Enforcement and Credibility

Regulatory enforcement theory suggests that consistency and predictability of sanctions shape economic actors' behavior by influencing expected cost–benefit calculations. In financial regulation, credible enforcement reduces opportunistic behavior and enhances compliance equilibrium. When sanction variability exceeds reasonable judicial discretion, regulatory uncertainty may increase and weaken enforcement effectiveness.

Sentencing Disparity and Judicial Discretion

Judicial discretion is a fundamental principle within the legal system, allowing judges to tailor sanctions based on the specific circumstances of each case. This flexibility is legally justified to ensure substantive justice and contextual decision-making. However, when such discretion results in excessive sentencing disparity, it may generate unintended consequences for the broader enforcement framework.

Excessive disparities can weaken perceptions of fairness and reduce the credibility of enforcement institutions. When similar offenses lead to significantly different sanctions, stakeholders may perceive the legal system as inconsistent or unpredictable, thereby undermining trust and compliance incentives. In the context of tax crime enforcement, such variability is particularly problematic, as it directly affects the perceived certainty and proportionality of punishment. Accordingly, this study addresses a critical gap in the literature by evaluating whether judicial discretion in tax crime cases remains within acceptable proportional limits, particularly in relation to the magnitude of state financial losses and statutory sanction frameworks.

Theoretical Framework: Regulatory Enforcement and Deterrence

This study is grounded in regulatory enforcement theory and economic deterrence theory. According to Becker (1968), compliance behavior is influenced by the expected cost of violations, which depends on the probability of detection and the severity of sanctions. Inconsistent sanctions reduce predictability, thereby lowering the perceived expected cost of non-compliance.

Additionally, the “slippery slope framework” (Kirchler et al., 2008) suggests that

compliance is shaped by both trust and power. Judicial consistency represents a form of regulatory power that strengthens enforcement credibility. When sanctions are inconsistent, both perceived fairness and enforcement power decline, leading to reduced voluntary compliance. Thus, judicial consistency serves as a key mechanism linking legal enforcement to economic behavior in the tax system.

While previous studies have examined sentencing disparities (Gulo & Muharram, 2018) and judicial consistency (Tanziel, 2020), they largely focus on doctrinal or descriptive analysis. Few studies explicitly examine how sentencing variability affects economic behavior, particularly taxpayer compliance.

Moreover, recent global literature highlights that inconsistent enforcement reduces deterrence effectiveness and weakens regulatory credibility (OECD, 2021; IMF, 2022). However, empirical evidence in emerging economies, especially Indonesia, remains limited. Therefore, this study contributes by bridging legal analysis and financial regulatory perspectives, offering a more integrated understanding of tax crime enforcement.

Research Gap and Contribution

Unlike previous studies, which predominantly examine sentencing disparity or legal consistency in isolation, this research offers a more integrative perspective by bridging legal analysis and financial regulation theory within a single analytical framework. Specifically, this study establishes a direct linkage between judicial decision consistency and taxpayer compliance behavior, an area that remains underexplored in existing literature. Furthermore, by utilizing empirical evidence from Supreme Court decisions, this research provides a robust and context-specific analysis of how variations in judicial outcomes influence regulatory credibility and enforcement effectiveness.

Accordingly, this study contributes to the literature in three key ways: (1) by integrating legal and economic perspectives in the analysis of tax crime enforcement; (2) by empirically examining the relationship between court decisions and compliance behavior; and (3) by offering evidence-based insights to strengthen regulatory credibility and policy design in tax enforcement.

Research Methods

This type of research is qualitative approach research using *content analysis*. The population in the study is the ruling at the Supreme Court Level for 2020-2023 which was downloaded through the Supreme Court Decision register on December 15, 2024. Qualitative data processing will use the application of NVivo15. NVivo is a qualitative analysis software designed to help researchers manage, analyze, and understand qualitative data more efficiently.

To ensure analytical rigor, this study applies a structured coding process using NVivo 15. The coding procedure follows three stages: open coding (identifying key patterns), axial coding (grouping variables), and selective coding (linking findings to theoretical constructs). To enhance reliability, coding consistency was checked through repeated coding iterations. Additionally, triangulation was conducted by comparing court decisions with statutory provisions and prior jurisprudence. This methodological approach ensures transparency, replicability, and robustness of qualitative findings.

The criteria used to select samples in the study are as follows:

1. A special tax sentence.
2. Decisions that have permanent legal force in the Supreme Court related to Tax Crimes. Based on Article 233 paragraph (1) jo. Article 234 paragraph (1) and article 67 and Article 245 paragraph (1) jo. Article 246 paragraph 1 of Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP), court decisions with permanent legal force include cassation decisions. Permanent Legal Force is a decision that is no longer legally available ordinary legal remedies according to the provisions of laws and regulations.

Based on these criteria, the cases selected for analysis on the consistency of tax criminal decisions were 22 court decisions in the observation period of the year at the Supreme Court from 2020 to 2023. Table 2 provides a sample of tax criminal judgments. The analysis carried out on court decisions began with identification through NVivo15 *Word Frequency* to provide a demographic picture of the court decision cases. Figure 2 presents the results of NVivo15 with a frequency of occurrences above 15,000 words. Based on the patterns obtained and the theoretical foundation, the development of an *Analytical Codebook* was carried out to categorize the data to be further formulated in appropriate variables.

Table 2 Sample Tax Criminal Verdict

Year of Supreme Court Decision	Total Population of Decisions	Decisions WITHOUT Detailed Rulings	Decisions NOT Criminal Tax Cases	Criminal Decisions Used in Analysis
	1	2	3	4 (1–2–3)
2020	14	9	1	4
2021	10	6	0	4
2022	26	19	0	7
2023	12	3	2	7
Total	62	37	3	22

Source: Processed data of www.putusan3.mahkamahagung.go.id verdict



Source: Data processing in *Word Frequency NVivo15*

Figure 2: Word Patterns in Tax Crime Court Decision Sample

In this study, the variables of the unit of analysis formulated are as follows: Ozmy Ozmy, J., & Jarrell, (2016) The includes the variables Case Summary, Claims, Convicted (combined with the variables of indictment and punishment), and Court Decisions (sentencing information). Detailed variables and units of analysis in *Analytical Codebook* presented in Table 3.

For the next time, this study uses a specified unit of analysis to be coding. The unit of analysis explains the clear and concise definition of the variables in the study as factors related to law enforcement of tax crimes.

In the next stage, the variables that explain the court decision are analyzed and categorized. This variable will analyze the consistency of the judge's decision which means that there is an understanding of the judge in looking at a legal problem or legal question. To provide a

comprehensive picture of the judge's decision, the analysis will also be based on the background of the convict by taking into account the *attributes* of the district court location of the case.

In addition, this research in the next stage to analyze in more detail the factors that affect the judge's decision will also compare selected specific cases that have Permanent Legal Force (BHT). The consistency of the verdict will be able to provide legal certainty and increase public confidence in the criminal justice system in Indonesia.

Table 3 Analytical Codebook

Variabel	Unit of Analysis
Case Summary	An overview of tax crimes (Indictment, Tax Type, Tax Year, evidence, court location);
Criminal Charges from the Public Prosecutor	Demands from the Public Prosecutor which include: Provisions violated (Articles and Laws), imprisonment and fines, substitute penalties
Convicted	Background of the convict (Example: Director, employee or other), status (example: detained).
Court Ruling	Cassation decision rejects and accepts as well as influencing factors (e.g. aggravating or mitigating the defendant's actions, loss of state revenue)

Sources: Ozymy, J., & Jarrell, (2016) with researcher adjustments

Key Findings:

1. Significant disparity exists between prosecutor claims and judicial decisions, particularly in Article 39 cases.
2. Financial sanctions often fall below statutory thresholds, weakening deterrence signals.
3. Directors receive disproportionately lower sanctions despite higher state losses.
4. Article 39A cases show greater consistency, indicating stronger regulatory alignment.

Results and Discussions

Results

Overview of Tax Crimes Cases

Based on the sample court decision carried out by the coding process, the tax crime decision will be divided into 2 (two) major variables of accepting and/or correcting or rejecting and/or correcting the cassation application submitted by the cassation applicant, namely the defendant and the public prosecutor. The demographics of the coding carried out in the case are presented in Table 4.

Based on these demographics, it is known that the decision that rejects the cassation application is the majority of the sample found in this study (reaching 91% or 20 cases). Thus, in general, the Supreme Court at the cassation level tends to adjudicate by rejecting the cassation application from the cassation applicant. The demographics also give an idea that 91% of the sample from the research, the cassation application received and the cassation application rejected, the court decided to impose a prison sentence and a fine on the defendant.

Table 4 Demographics of Cases Coding based on *the Analytical Codebook*

Case	Court Decision Accepted		Court Decision Rejected	
		Unprove n (Free)	Criminal Fines and Imprisonm ent	Unprove n (Free)

102	No	No	No	Yes
1147	No	No	No	Yes
176	No	No	No	Yes
2632	No	No	No	Yes
2694	No	No	No	Yes
3004	No	No	No	Yes
3235	No	No	No	Yes
3845	No	No	No	No
3896	No	No	No	No
39	No	No	No	Yes
3946	No	No	Yes	No
4151	No	No	Yes	No
4217	No	No	No	Yes
425	No	No	No	Yes
445	No	No	No	Yes
46	No	No	No	Yes
461_	No	No	No	Yes
525_PK	No	Yes	No	No
555_PK	No	Yes	No	No
5673	No	No	No	Yes
63	No	No	No	Yes
678_PK	No	No	No	Yes
717_PK	No	No	No	Yes
988	No	No	No	Yes

Number of Cases **None** **2 Cases** **2 Cases** **18 Cases**

Source: *Crosstab Query* on NVivo15 with customization

Court Ruling on Tax Crimes

Table 5 provides a general overview of court decisions on tax crimes for the period 2020 to 2023. In general, based on the cassation decision at the Supreme Court related to tax crimes, the average value of fines to the convicts in the 22 cases is IDR 8,807,986,781 (Article 39) and IDR 52,539,742,137 (Article 39A) with a maximum penalty value of IDR 62,774,473,080 (Article 39) and IDR 196,119,453,664 (Article 39A).

Table 5: Court Ruling on Tax Crimes

	Article 39		Article 39A	
	Prosecutor's Claim	Supreme Court Decision (Cassation)	Prosecutor's Claim	Supreme Court Decision (Cassation)
Mean State Financial Loss (IDR)				
		25,128,359,564		26,260,513,020

	Article 39		Article 39A	
	Prosecutor's Claim	Supreme Court Decision (Cassation)	Prosecutor's Claim	Supreme Court Decision (Cassation)
Not Proven / Acquitted	0	1	0	1
More than IDR 100 Billion	1	0	1	1
IDR 10 Billion – IDR 99.99 Billion	3	5	4	3
IDR 1 Billion – IDR 9.99 Billion	10	9	0	0
Below IDR 1 Billion	2	1	1	1
Total Cases	16	16	6	6
Mean Criminal Fine (IDR)	42,919,525,260	8,807,986,781	60,830,672,988	52,539,742,137
Median Criminal Fine (IDR)	5,118,529,385	3,599,136,893	40,475,239,820	30,220,930,910
Maximum Criminal Fine (IDR)	554,907,359,200	62,774,473,080	196,119,453,664	196,119,453,664
Ratio of Mean Criminal Fine to Mean State Loss	1.71	0.35	2.32	2.00
Number of Taxpayers Imprisoned (Persons)	16	15	6	5
Mean Prison Sentence (Years)	2.55	1.39	3.50	2.31

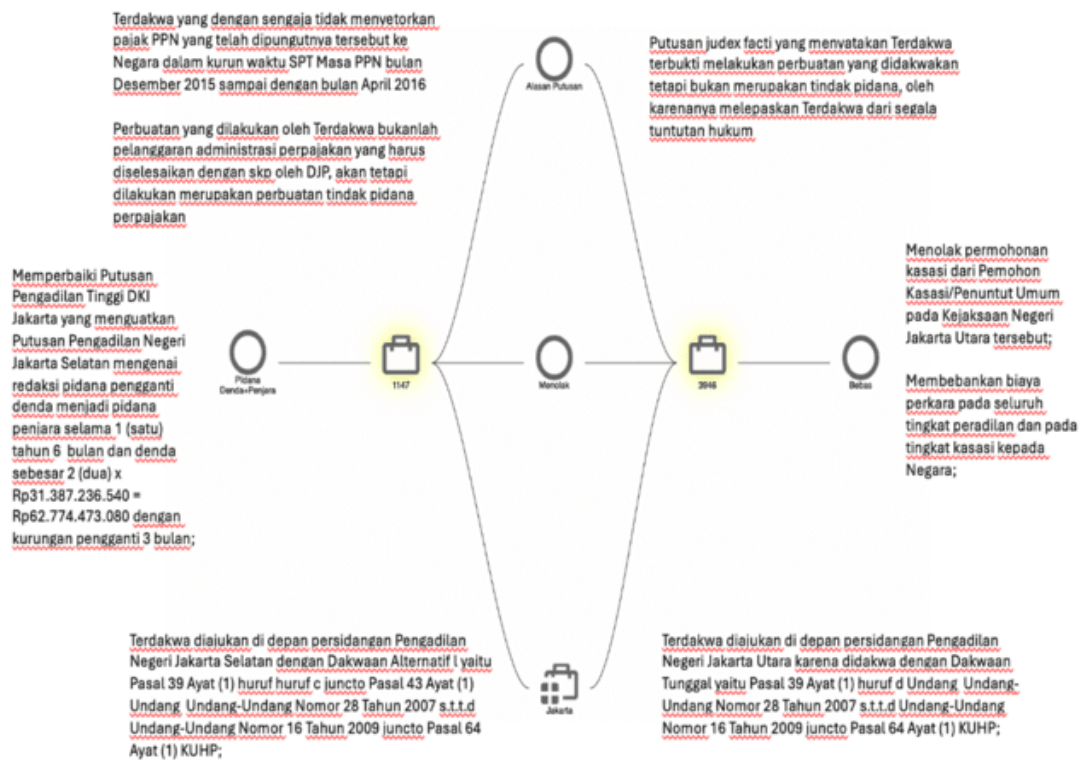
Source: Processed data of the judgment downloaded from www.putusan3.mahkamahagung.go.id

Based on table 5 of court decisions on tax crimes, it can be concluded that

1. The fine was lower than the average criminal value of the fine presented in the public prosecutor's demand of IDR 42,919,525,260, down by 79% (Article 39) and IDR 60,830,672,988, down by 14% (Article 39A).
2. The average ratio value of the fine for Article 39 is still under the threat of the minimum multiplier factor of the fine in accordance with the applicable tax law (2 to 4 times the tax owed) of 1.71 (on the demand of the public prosecutor) and 0.35 (on the Supreme Court's cassation decision).
3. The ratio value of Article 39A is on average still above the minimum multiplier value of the penalty in accordance with the applicable tax law (2 to 6 times the tax owed), which is 2.32 (on the demand of the public prosecutor) and 2 (on the Supreme Court's cassation decision).
4. The public prosecutor's claim that the public prosecutor was guilty of being found unproven and/or acquitted based on the criminal act in Article 39 (1 case with 15 people)
5. Criminal acts based on Article 39A of the criminal layer of fines have a tendency not to shift except for 1 (one) case that is decided not proven and/or acquitted based on the Supreme Court's decision.
6. The average prison sentence, the sentence imposed on the defendant based on the Supreme Court's decision has a pattern that is still within the limit of the threat of punishment based on Article 39 (6 (six) months and a maximum of 6 (six) years) and Article 39A (2 (two) years and a maximum of 6 (six), namely 1.39 years for 15 defendants and 2.31 years for 5 defendants).

The results of table 5 of the court's decision on tax crimes show inconsistencies in the population of tax crime cases based on Article 39 and Article 39A.

Based on these conditions, this research requires a more detailed study to reveal the basis of the decision taken by the judge and the background of tax criminal cases. Therefore, this study conducted a case study by comparing Decision Number 1147K/Pid.Sus/2022 (Put-1147) with Decision Number 3946K/Pid.Sus/2021 (Put-3946) which is depicted in Figure 4 related to comparison in general based on the *compare case* in the NVivo15 application.



Source: *Compare Case* on NVivo15 with customization

Figure 3: Detailed Comparison of Free Judgment Cases with Verdicts Criminal Fines and Imprisonment

Based on Figure 3 and the details of the case where the Judge in Put-1147 decided to reject the cassation application and impose a fine and imprisonment while in Put-3946

- The judge rejected the appeal so that the District Court's decision acquitting the defendant remained valid. The provisions in Article 183 of Law Number 8 of 1981 concerning the Criminal Procedure Code state that the Judge cannot impose a criminal sentence on a person unless there are at least two valid pieces of evidence and the Judge is convinced that a criminal act has actually occurred and that it is the defendant who is guilty of committing it.
- Based on Article 11 of Law number 11 of 2016 concerning Tax Amnesty, among others, it was conveyed that Taxpayers who have obtained a receipt to participate in Tax Amnesty do not conduct an investigation of Criminal Acts in the Field of Taxation, for the tax period, part of the Tax Year, or Tax Year until the end of the Last Tax Year.
- The researcher did not obtain and/or limited data on Decision 1101/Pid.Sus/2020/PN Jkt.Utr in the information system at the Supreme Court and SIPP of the North Jakarta District Court to conduct an analysis of factors that form the Judge's confidence at the

District Court level. Meanwhile, in Put-1147 with a smaller state loss of Rp31,387,236,540.00, the court established the Judge's belief to impose a prison sentence and a fine on the defendant.

Variations of Court Decisions Based on Employment Background

This study analyzes the potential for inconsistencies in tax criminal decisions based on the defendant's background. Consideration of the circumstances of the defendant in the trial will affect the judge's decision in a criminal case (Gulo and Muharram, 2018).

Based on this, in this section, the researcher presents a court decision that has permanent legal force based on the convict's work. This will be to analyze in more detail the disparity in the verdict taken by the judge based on the work of the convict. The classification of Director and GM is a person who is the leader and supervisor of a company in the form of a business entity such as a Limited Liability Company (PT), Commanditaire Vennootschap (CV). Classification A Commissioner is a person appointed by shareholders etc to perform a task, especially being a member of the company's company. Meanwhile, the Third Party classification is another party who is a defendant in a tax criminal case such as Notaries, Tax Consultants and Entrepreneurs.

**Table 6 Permanent Court Decisions
Based on the Work Background of the Convict**

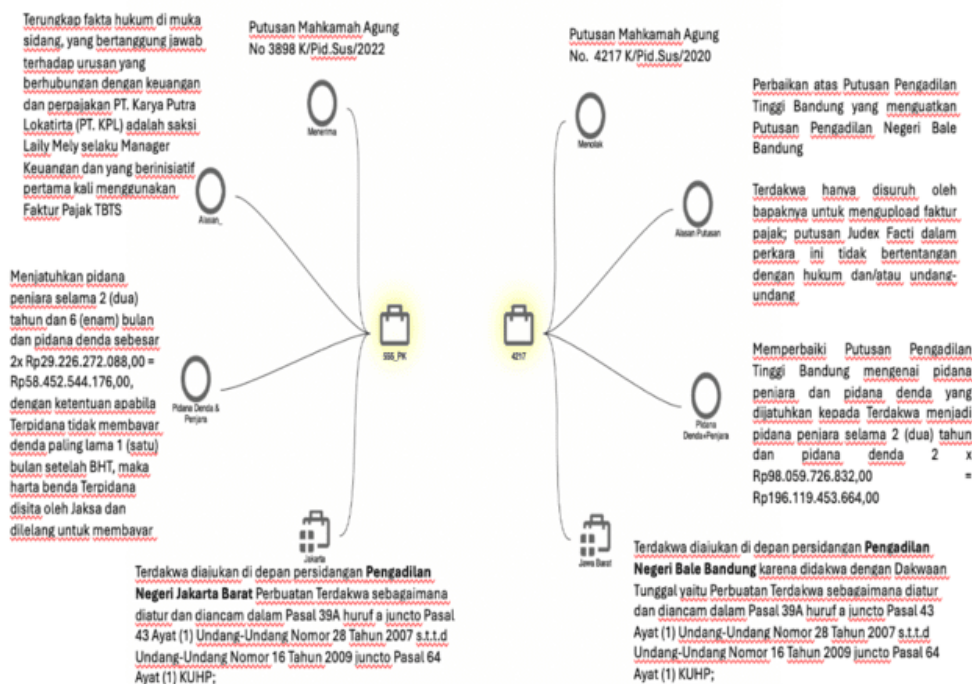
Variable	Board of Directors & GM	Commissioners	Third Parties (e.g., Consultants, Notaries)
Mean State Loss (Rp)	41,922,801,378	409,760,446	32,948,255,776
Mean Criminal Fine (Rp)	14,308,049,400	819,520,892	65,933,943,746
Median Criminal Fine (Rp)	5,118,529,385	819,520,892	1,457,784,414
Maximum Criminal Fine (Rp)	62,774,473,080	819,520,892	196,119,453,664
Mean Prison Sentence (Years)	1.57	2.50	1.78
Maximum Prison Sentence (Years)	4.00	2.50	2.83
Not Guilty / Acquittal Verdicts	2	–	–

Variable	Board of Directors & GM	Commissioners	Third Parties (e.g., Consultants, Notaries)
Number of Cases	18	1	3
Ratio of Mean Criminal Fine to Mean State Loss	0.34	2.00	2.00

Source: Processed data of the judgment downloaded from www.putusan3.mahkamahagung.go.id

Based on table 6 of the court decisions based on the work background of the convict, it can be concluded that:

1. The average criminal fine from the judge's decision on the sample case has provided legal certainty with greater than the average state loss caused by the criminal act of the convict.
2. The Director has the lowest ratio of state losses to fines (0.34) compared to the background of other defendants (2.00 for Commissioners and Third Parties).
3. On the other hand, defendants with a third-party background have the highest maximum fine of Rp196,119,453,664 even though it is the same ratio as the Commissioner.
4. Meanwhile, the Director with the highest average state loss only has a verdict with a maximum fine of Rp 62,774,473,080



Source: *Compare Case* on NVivo15 with customization

Figure 4: Comparison of Case Details with Convicted Director and Third Party

Based on Figure 4 and the details of the defendant's case in Put-4217 in the Third Party classification and the Judge decided to reject the cassation application and impose a fine and imprisonment, while in Put-555 with Cassation Decision No. 3898 K/Pid.Sus/2022 the defendant had the classification of the Director of Judge, granted the cassation application and imposed a fine and imprisonment.

The interesting thing in Put-4217 is that it has a tendency to be consistent from the public prosecutor's demands to the cassation decision even though there is variability in the imposition of prison sentences. However, different conditions can be seen in Put-555 with Cassation Decision No. 3898 K/Pid.Sus/2022, inconsistencies can be seen in the district court decision which states that the defendant is not legally and convincingly proven guilty and then canceled through a cassation decision at the Supreme Court which states that the defendant is legally proven to have committed a tax crime and imposes a fine and imprisonment.

Tax Compliance and Consistency of Tax Crime Decisions

Based on the analysis carried out, the tendency of consistency in the sentencing by the judge is to the defendant for the criminal violation of Article 39A juncto Article 43 paragraph (1) of Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Procedures of Taxation as last amended by Law Number 16 of 2009 concerning the Stipulation of Government Regulation in Lieu of Law Number 5 of 2008 concerning the Fourth Amendment On Law Number 6 of 1983 with the background of Commissioners and Third Parties. This consistency is formed, among other things, by jurisprudence where a judge is bound to another judge who considers that the previous judge's considerations and decisions are good and correct so that they will continue to be followed as long as the judge feels agreed.

On the other hand, the inconsistency of the sentence by the judge is for the defendant who committed a criminal offense and was threatened with criminal punishment in Article 39 juncto Article 43 Paragraph (1) of Law Number 6 of 1983 concerning General Provisions and Taxation Procedures as last amended by Law Number 16 of 2009 concerning the Stipulation of Government Regulations in Lieu of Law Number 5 of 2008 concerning the Fourth Amendment to Law Number 6 of 1983 with the background Director and GM. These inconsistencies can be influenced by laws and regulations or laws that regulate the maximum and minimum limits of the threat of criminal punishment to the defendant so as to open up

opportunities for variability in criminal punishment through the imposition of punishment by judges (Saleh, 1978).

The explanation of Article 13 A of the KUP Law states that efforts to criminalize criminal acts in the field of taxation are the last effort (*ultimum remedium*) to increase compliance. The tax system is intended to collect state revenue, not to punish the perpetrators of tax crimes so that its application in tax crimes is justified. The criminalization of taxpayers who commit tax evasion is carried out after all efforts to process supervision and inspection carried out by the tax authorities are ineffective. Criminal sanctions are the last resort when all administrative sanctions have been taken and are unsuccessful (*exhaustion of remedies*) (Hajar et.al., 2014). However, what needs to be noted is that although theoretically the application of criminal sanctions in an administrative law is *the ultimate remedium*, in reality it places criminal sanctions as the first attempt in resolving legal problems (Anindyajati, et al. 2015)

Based on this, consistency in tax crime decisions is a necessity in the framework of building taxpayer compliance which ultimately collects state revenue. Sentencing disparities may weaken regulatory signaling mechanisms. Inconsistent financial penalties reduce the predictability of enforcement outcomes, thereby lowering the perceived expected cost of non-compliance among economic actors. When taxpayers observe that similar levels of tax violations result in substantially different sanctions, the deterrent function of criminal enforcement may diminish. If tax evasion leads to criminal prosecution but the resulting judicial sanctions vary widely across comparable cases, the credibility of enforcement becomes uncertain. Such variability may undermine the deterrent effect that criminal sanctions are intended to generate. Consequently, voluntary tax compliance, where taxpayers fulfill their obligations based on internalized norms and rational cost-benefit considerations, becomes increasingly difficult to achieve. Over time, weakened enforcement credibility may erode compliance incentives and negatively affect overall fiscal sustainability.

Discussion

Sentencing Consistency and Regulatory Signal

The dominance of cassation rejection (91%) suggests procedural consistency at the Supreme Court level. However, substantive inconsistencies appear in the proportionality of fines, particularly under Article 39. From a regulatory enforcement perspective, variability in financial sanctions may weaken deterrence mechanisms. Under Article 39, the reduction of fines below statutory multipliers potentially diminishes enforcement credibility. In contrast, Article 39A cases demonstrate greater alignment with statutory sanction thresholds, indicating

more consistent regulatory application. The case comparison between Decision No. 1147K/Pid.Sus/2022 and Decision No. 3946K/Pid.Sus/2021 further illustrates how evidentiary standards (Article 183 KUHAP) and Tax Amnesty provisions influence judicial reasoning. These legal considerations may explain divergent outcomes, but they also introduce variability in enforcement signals.

Occupational Background and Sentencing Disparity

The disparity between Directors and Third Parties is particularly notable. Despite higher financial losses, Directors received proportionally lower fines. This raises concerns regarding proportional deterrence. Judicial discretion, as guaranteed under Indonesian judicial power law, allows variability within statutory limits. However, when proportional differences are substantial, enforcement consistency may be perceived as uneven.

Implications for Tax Compliance and *Ultimum Remedium*

Article 13A of the Tax Law frames criminal sanctions as *ultimum remedium*, meaning enforcement is intended as a last resort after administrative measures fail. In such a framework, consistency becomes critical. If sanctions vary widely across similar cases, the deterrent effect may weaken, reducing voluntary compliance incentives. Since tax enforcement functions as a regulatory backstop in public finance governance, predictable and proportionate sentencing strengthens institutional credibility.

Inconsistent sentencing may:

- Reduce perceived enforcement certainty,
- Weaken deterrence,
- Undermine voluntary compliance,
- Affect long-term fiscal sustainability.

Therefore, judicial coherence in tax crime cases is not only a legal matter but also an economic governance issue.

These findings indicate that judicial inconsistency is not merely a legal issue but reflects a structural weakness in regulatory enforcement. When sanctions deviate from statutory expectations, the signaling function of law is weakened.

From an economic perspective, inconsistent sentencing reduces the expected cost of non-compliance, thereby encouraging opportunistic behavior. This aligns with deterrence theory, which emphasizes the importance of sanction certainty and proportionality. Furthermore, the disparity across occupational groups suggests potential asymmetry in enforcement, which may undermine perceptions of fairness and legitimacy in the tax system.

Conclusion

Criminal acts in the field of taxation constitute a form of administrative law enforcement categorized as dependent crimes within the broader framework of economic crimes regulated under the Law on General Provisions and Tax Procedures. These crimes encompass tax offenses, tax criminal liability, and enforcement mechanisms, where criminal sanctions, both financial and custodial, are designed to generate deterrence and promote taxpayer compliance. In accordance with Article 13A, such sanctions function as *ultimum remedium*, applied only after administrative measures prove ineffective. Within this framework, judicial consistency becomes a critical prerequisite for ensuring enforcement credibility and maintaining the effectiveness of deterrence.

This study, employing qualitative content analysis of Supreme Court decisions from 2020 to 2023, finds that judicial decisions exhibit procedural consistency but substantive inconsistency, particularly in the proportionality of financial sanctions. While decisions under Article 39A demonstrate relatively stronger consistency, significant disparities are evident in cases under Article 39, especially those involving directors and general managers, where sanctions vary despite comparable levels of state financial loss. These findings indicate that broad judicial discretion, although legally justified, may weaken enforcement signals when not aligned with statutory expectations.

Such inconsistencies have important implications for regulatory effectiveness. Variability in sanctions reduces the predictability of enforcement, weakens deterrence mechanisms, and undermines regulatory credibility. As a result, taxpayers may reassess the expected costs of non-compliance, leading to diminished compliance incentives and potential risks to long-term fiscal sustainability.

This study contributes to the literature by offering an integrated legal-economic perspective, demonstrating that judicial consistency is not merely a legal concern but a core determinant of financial system credibility. Consistent and proportionate enforcement enhances deterrence, strengthens institutional trust, and supports sustainable taxpayer compliance behavior.

From a policy perspective, the findings highlight the need for clearer sentencing guidelines or judicial benchmarks to reduce disparities and improve the signaling function of tax

enforcement. Aligning judicial practices with statutory frameworks is essential to reinforce deterrence effectiveness, ensure legal certainty, and strengthen the integrity of public finance governance.

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