

## **Criminal Liability in Cases of Counterfeiting Excise Stamps under Indonesian Excise Law**

**Dhevi Nayasari Sastradinata<sup>1</sup>, Ja'far Shodiq<sup>2</sup>, Syahrul Hikmah Maulana<sup>3</sup>**  
[dhevinayasarisastradinata@gmail.com](mailto:dhevinayasarisastradinata@gmail.com), [jafarsodiq@unisla.ac.id](mailto:jafarsodiq@unisla.ac.id),  
[hikammaulana.s@gmail.com](mailto:hikammaulana.s@gmail.com)

Law Faculty University Of Islam Lamongan  
Law Faculty University Of Islam Lamongan  
Law Faculty University Of Islam Lamongan

### ***ABSTRACT***

Criminal acts in the field of excise in this case are closely related to counterfeiting excise stamps which will have an impact on two sides, namely affecting state revenue and damaging the social system. In addition, the Criminal Act of counterfeiting excise stamps is a special criminal act regulated in Law Number 39 of 2007 concerning Amendments to Law Number 11 of 1995 concerning Excise. The formulation of the problem in writing this law is how to investigate counterfeiting excise stamps and apply criminal sanctions to counterfeiting excise stamps according to Law Number 39 of 2007 concerning Excise. This study uses a normative juridical research type using a statute approach and a conceptual approach. The legal materials in this study are primary legal materials and secondary legal materials. The results of this study conclude that in the process of investigation of PPNS Customs and Excise regulated in the applicable legislation in Law Number 39 of 2007 concerning Amendments to Law Number 11 of 1995 concerning Excise, and Laws Number 17 of 2006 concerning Amendments to Laws Number 10 of 1995 concerning Customs and Excise, it is regulated regarding the authority of civil servant investigators of the Directorate General of Customs and Excise and is based on Government Regulation Number 55 of 1996 until August 23, 1996. The criminal law policy in efforts to overcome the crime of counterfeiting excise tapes currently contained in the Criminal Code still has weaknesses in the rules regarding investigations into counterfeiting excise tapes and the application of sanctions. Therefore, the criminal law policy in the effort to overcome the crime of counterfeiting excise stamps in the future must be regulated better in the application of sanctions, so that it can help law enforcers in upholding justice and judges in deciding a case.

Keywords: Customs, Law Enforcement, Criminal Acts, Counterfeiting, Excise Stamps

### **Introduction**

Advances in technology, communication and information in the current era make it very easy for someone to do anything, anytime, and anywhere in various fields including in the economic field, in this case the field of goods and services. The

development of lifestyle patterns in society affects the criminal acts that occur.<sup>1</sup> One of the crimes that is rampant in Indonesia is the crime of distributing illegal goods. Tight competition between business actors creates a tendency for them to justify any means to win the competition.

This is done to gain huge profits by violating the applicable procedures to avoid taxes or excise. This crime is very detrimental to the state, especially in the field of taxation. Tax is the most important source of state revenue, especially in this case excise tax. In the HUHP, forgery can be punished and punished with the threat of imprisonment or compensation, as regulated in article 480. This case is related to excise stamps in the sense that they are related to taxes because excise stamps are issued to ensure that every item that enters or leaves has been marked by law enforcement who is responsible for taxes in accordance with applicable legal provisions.<sup>2</sup>

Excise is a tape made of paper with a price attached to cigarette packs, ethyl alcohol (EA), ethanol, drinks containing ethyl alcohol (MMEA), and so on.<sup>3</sup> Matters relating to excise stamps have been regulated in Law Number 10 of 1995 concerning Customs and Law Number 39 of 2007 concerning Amendments to Law Number 11 of 1995 concerning Excise. Although excise is not a major source of state revenue, it is. This is indicated in Article 1 Paragraph (1) of Law Number 11 of 1995 concerning Excise, as amended by Law Number 39 of 2007 concerning Excise (Excise Law), "Excise is a state levy imposed on certain goods that have the nature or characteristics stipulated in this Law."<sup>4</sup>

To prevent various excise violations, the government has issued various policies, including excise crimes, which are regulated in Law Number 39 of 2007 concerning amendments to Law Number 11 of 1995 Article (55) concerning Excise, that anyone who:

- a. Making illegally, imitating, or falsifying excise stamps or other excise payment marks.
- b. Buying, storing, using, selling, offering, handing over, providing for sale, or importing excise stamps or other excise payment marks that are fake or falsified, or
- c. Using, selling, offering, handing over, providing for sale, or importing excise stamps or other excise payment marks that have been used.

Punishable by imprisonment for a minimum of 1 (one) year and a maximum of 8 (eight) years and a fine of at least 10 (ten) times the excise value and at most 20 (twenty) times the excise value that should be paid.<sup>5</sup>

---

<sup>1</sup> Zainuddin Ali, *Sosiologi Hukum* (Palu: Sinar Grafika, 2013).

<sup>2</sup> Yudiana Kurniadi, Eko Suponyono, and Purwoto, "Kebijakan Hukum Pidana Dalam Upaya Perbuatan Pemalsuan Pita Cukai Berdasarkan Undang-Undang Cukai," *Diponegoro Law Review* 5, no. 41 (2016): h. 2.

<sup>3</sup> Muhammad Arief Sahlevi Charles Jhonson Panjaitan, Nelvetia Purba, "Tindak Pidana Menjual Barang Kena Cukai Yang Tidak Dilekati Pita Cukai Dalam Perspektif Undang-Undang Nomor 39 Tahun 2007 Tentang Cukai," *Hukum Kaidah* 21 (2023): h. 280.

<sup>4</sup> Widi Pregiati, Ardiansah, and Bagio Kadaryanto, "Penerapan Sanksi Terhadap Penjual Rokok Impor Tanpa Pita Cukai Di Kota Pekanbaru Berdasarkan UU No. 39 Tahun 2007 Tentang Perubahan Atas UU No. 11 Tahun 1995 Tentang Cukai," *Doktrina: Journal of Law* 6, no. 39 (2023): h. 186.

<sup>5</sup> "Pasal 55, Undang-Undang Nomor 39 Tahun 2007 Tentang Perubahan Atas UndangUndang Nomor 11 Tahun 1995 Tentang Cukai." .

Excise crimes related to counterfeiting excise stamps will have two impacts, namely reducing state revenue and damaging the social system. The capacity of state revenue will be affected by excise taxes.

According to the author, excise itself is a state tax levied on goods that have certain characteristics and properties. Until now, Indonesia has not yet determined the Customary Excise Tax (BKC). All ethyl alcohol drinks (MMEAI) and other products are included in this category. To prevent excessive negative impacts, control over these taxes must be carried out to ensure control and approval of their distribution. These taxes must be subject to excise with the addition of excise duties.

### **Research methods**

The type of research used in this study is normative research. Legal research (which is clearly normative) is conducted to solve legal issues faced based on legal principles. Both in terms of the Hierarchy of Legislation (vertical) and the relationship of harmony of legislation (horizontal). The problem approach used in this study is the statute approach, conceptual approach and comparative approach.

### **Results and Discussion**

#### **Supervision of Excisable Goods**

Excise is a state levy imposed on certain goods that have the properties and characteristics specified in law.<sup>6</sup> Where the Customs and Excise Supervision and Service Office has the authority to supervise and control tobacco products and beverages containing ethyl alcohol because these goods have been restricted so it is necessary to control the circulation of goods that have been designated as Customs and Excise supervision goods so as not to cause unrest in the community and can be used as state levies.

The supervision function is carried out to protect the community, create a healthy business or industrial climate, and secure state revenues. The excise supervision function is carried out to protect the community, where its function is to supervise and control consumption, circulation, and use of excise goods to protect the community and the environment. Securing state revenues where excise revenues are a reliable source of state revenues, such as (Import duties, VAT, Income Tax, Cigarette taxes, profit sharing funds, etc.).<sup>7</sup>

Supervision is carried out by having documents in which the company is

---

<sup>6</sup> Helmizar, *Meningkatkan Pengawasan Bea Cukai Di Indonesia Catatan Atas Kebijakan Harga Gas Bumi Tertentu Bidang Industri*, vol. 02, 2022, h. 4.

<sup>7</sup> Ibid., h. 6.

registered with the Customs and Excise Office with a Taxable Entrepreneur Identification Number (NPPBKC), from this registration Customs and Excise Officers can monitor supervision through ordering excise stamps, production quantities, etc. Meanwhile, control is carried out using excise tariffs and the attachment of excise stamps to excisable goods (BKC). That regulated in Government Regulation of the Republic of Indonesia Number 5 of 1997 concerning Supervision of Excisable Goods Article 2 Paragraph (1) which reads "For supervision of Excisable Goods and state revenue, Excisable Goods Entrepreneurs who have received permission from the Minister of Industry and Trade are required to have an Excisable Goods Entrepreneur Identification Number issued by the Minister".<sup>8</sup>

Furthermore, those who have the right to supervise excisable goods are investigators who receive an investigation order from the investigator's superior and also as a joint investigator's task to help each other as government agencies, especially law enforcement agencies. With the implementation of work visits, coordination, and implementation of joint supervision tasks, and can provide good services and supervision for the community. In addition, the Directorate General of Customs and Excise can also cooperate or ask for assistance from the armed forces (TNI, Polri) and/or other agencies. In addition to being supervised by investigators, the community must also guard, reduce, and stop using illegal goods that do not have excise stamps. The community can also report the circulation of these illegal goods through the Customs and Excise information service at the Customs Contact Center 1500225 or through the official Customs and Excise social media.<sup>9</sup>

### **Criminal Act of Counterfeiting Excise Stamps**

Forgery comes from the word fake which means "not soft, invalid, imitation, fake. While forgery is defined as the process, method, or act of forging.<sup>10</sup> Fake indicates an item that is not original, while forgery is the process of making a fake item. So that the word forgery has a perpetrator, there are forged items and the purpose of forgery. The act of forgery contained in the Criminal Code adheres to the principle:

- a. In addition to the recognition of the principle of the right to guarantee the truth or authenticity of an item, the act of counterfeiting the item must be done with evil intentions.
- b. Since evil intentions are considered too broad, it must be stipulated that the perpetrator must have the intention or intent to create the perception of something that is counterfeited as being original or true.<sup>11</sup>

---

<sup>8</sup> Kementerian Keuangan Direktorat Jenderal Bea dan Cukai, "Bea Cukai Jalin Sinergi Pengawasan Dengan Tni, Polri Dan Kejaksaan."

<sup>9</sup> Kementerian Keuangan Direktorat Jenderal Bea dan Cukai. "Pengaduan Masyarakat Bea dan Cukai".

<sup>10</sup> Aritonang, "Tindak Pidana Di Bidang Ketenagakerjaan" (2020): h. 21.

<sup>11</sup> T Surya Reza, "Kewenangan Direktorat Jenderal Bea Dan Cukai Dalam Pengelolaan Benda Sitaan," *Jurnal Politik*

Both of these things are implied in the provisions regarding counterfeiting formulated in Article 244 and regarding counterfeiting of names/marks/brands contained in Article 380. These articles contain elements of intention or purpose to state that a counterfeit item is genuine and not counterfeit (Article 244) or to “use it” or “order it to be used” (Article 380).

Meanwhile, in the case of counterfeiting excise stamps, Customs and Excise Officers are authorized to take the necessary actions on Excisable Goods, such as stopping, inspecting, preventing, and sealing, to implement the Law. By Law of the Republic of Indonesia Number 11 of 1995 concerning Amendments to Law Number 39 of 2007 concerning Excise, Article 55, which reads, "Anyone who unlawfully makes, imitates, or counterfeits excise stamps or buys, stores, uses, sells, offers, submits, provides for sale, or imports counterfeit or counterfeit excise stamps or is made unlawfully or uses, sells, offers, submits, provides for sale, or imports excise stamps that have been used, shall be punished with imprisonment for a maximum of eight years and a maximum fine of twenty times the value of the excise that should be paid."<sup>12</sup>

### **Criminal Justice System Against Perpetrators of Criminal Acts of Counterfeiting Excise Stamps**

The existence of the Judicial Institution, as regulated in Chapter X of the Criminal Procedure Code and Chapter XII of the Criminal Procedure Code, is essentially intended as a means of horizontal control or supervision of the use of authority by law enforcement officers..<sup>13</sup>

The pretrial institution as regulated in Articles 77 to 38 of the Criminal Procedure Code must be interpreted as an institution to test the actions that will be followed by the examination efforts by investigators or public prosecutors, as well as the pretrial lawsuit, which is to test the validity of the legal actions carried out by investigators, investigators or public prosecutors in carrying out investigations or prosecutions.

The application that can be submitted in the Praiperai examination, in addition to assessing the level of non-compliance, prosecution, termination of investigation or termination of prosecution, or compensation for losses and/or rehabilitation for someone whose criminal case has been terminated at the level of investigation or prosecution (Article 77 of the Criminal Code), also includes other actions as specifically determined in the provisions of Article 95 of the Criminal Code, which states that:

- a. The defendant or the convicted person has the right to claim compensation for losses because he was accused, charged, prosecuted, and tried or charged with other actions,

---

*dan Hukum Tata Negara* 2, no. 1 (2023): h. 158.

<sup>12</sup> “Undang-Undang No. 11 Tahun 1995, Undang-Undang No. 39 Tahun 2007 Tentang Cukai” (n.d.).

<sup>13</sup> Dominggus Reformato Olua and Arfin, *Praperadilan Terhadap Penyidikan Tindak Pidana Kepabeanan Dan Cukai*, ed. Tantri Kartika, *NBER Working Papers*, Fazdesain. (Cv Intelektual Writer, 2021), h. 198.

except for those based on the law or because of an error regarding the person or the law applied.

- b. Claim for damages by the accused or his legal expert or the attorney or the attorney for In the legal sense, it violates the rights of others and causes harm to others. Therefore, other acts committed by the respondent become the object of another petition for a petition.

Although the investigator's action to determine someone as a suspect and to conduct a search and seizure is a process in the criminal law enforcement system as intended in the Criminal Code, therefore the process must be followed and carried out in a proper and correct manner so that the legal certainty can be maintained properly and in turn, the evidence that is protected can still be maintained.

### **Punishment**

In general, criminal justice is a process of judicial decision-making by a judge, while in simple terms, criminal justice can be interpreted as punishment. The punishment in question is related to judicial decision-making and justification (justification) which is carried out against someone who, with a court decision that has been legally binding (*incraichtvain gewijsde*), is stated in a certain way and is proven to have committed a criminal act.<sup>14</sup>

The formulation of criminal policy in the Criminal Code is seen from a theoretical perspective, namely the general provisions of criminal law and the formulation of criminal law science. The formulation of criminal law refers to the criminal norms as formulated in Article 10 of the Criminal Code, namely:<sup>15</sup>

- a. Principal Criminal
  1. Death penalty
  2. Imprisonment
  3. Detention
  4. Fine
  5. Cover-up
- b. Additional penalties
  1. Revocation of certain rights
  2. Confiscation of certain goods
  3. Announcement of the judge's decision

The criminal provisions of the security method in the criminal law norms are regulated in Article 11 to Article 43 of the Criminal Code. The provisions of funding

---

<sup>14</sup> Failin Alin, "Sistem Pidana Dan Pemidanaan Di Dalam Pembaharuan Hukum Pidana Indonesia," *Jch(Jurnal Cendekia Hukum)* 3, no. 1 (2017): h. 17.

<sup>15</sup> Tim Kerja Bphn Mudzakkir, "Perencanaan Pembangunan Hukum Nasional Bidang Hukum Pidana Dan Sistem Pemidanaan (Politik Hukum Dan Pemidanaan)," *Badan Pembinaan Hukum Nasional Departemen Hukum dan Hak Asasi Manusia* (2018): h. 9.

are formulated consistently in the criminal law norms. According to the Criminal Code, the provisions of the threat of death penalty, imprisonment, confinement, and fines.

### **Implementation of Criminal Sanctions**

Criminal sanctions are punishments resulting from criminal acts. The person affected will be subject to imprisonment or fines by the authorities. Criminal sanctions are severe punishments and can be applied to someone who has committed a crime or who endangers the legal interests of others.<sup>16</sup> Criminal sanctions serve to ensure that criminals will be rehabilitated, but it is not always easy to ensure that they do not violate human freedom. Criminal sanctions are legal consequences imposed on people who commit crimes. Such acts can cause harm to oneself or others, or to the person who does it.

Excise crimes are crimes committed by legal subjects without being packaged for retail sale or not related to official state excise stamps. All of this can be prosecuted by law, as regulated in Law Number 11 of 1995 concerning Excise. Anyone who sells goods that are not taxed and are not packaged for retail sale or do not have excise stamps or payment receipts will be punished with 1 year in prison and 5 years in prison.<sup>17</sup>

The criteria for criminal acts in the field of excise are regulated in the respective laws, namely the Excise Law Articles 50-58A. This article discusses various crimes related to the imposition of excise tax on goods. These violations include not having a company permit, importer, storage place for excise goods, falsifying books, stamps, and others. In addition, Article 63 of the Excise Law also mentions which regulates the investigation of excise crimes. The acts above are criminal acts according to customary law which are threatened by law. Criminal acts can include any action that is punishable by criminal law, such as violating the law on alcohol. If the goods are found to be illegal, the police will take appropriate action.

### **Conclusion**

Criminal law provides sanctions in the form of criminal sanctions imposed by the judge in court for violations of criminal provisions stipulated in Law Number 11 of 1995 concerning crime. This law has been amended by Law Number 39 of 2007. Criminal sanctions can take many forms, including imprisonment and/or fines. The purpose of imposing criminal sanctions is to deter others from violating the law and to punish those who do. The criminal sanctions stipulated in Law Number 11 of 1995 concerning crime are cumulative and cumulative-alternative. This means that if someone is convicted of a crime related to crime, they may face additional penalties, such as imprisonment, a fine, or both.

---

<sup>16</sup> T Surya Reza, "Kewenangan Direktorat Jenderal Bea Dan Cukai Dalam Pengelolaan Benda Sitaan," *Jurnal Politik dan Hukum Tata Negara* 2, no. 1 (2023): h. 158.

<sup>17</sup> "Undang-Undang No. 11 Tahun 1995, Undang-Undang No. 39 Tahun 2007 Tentang Cukai."

## **Bibliography**

- Ali, Zainuddin. *Sosiologi Hukum*. Palu: Sinar Grafika, 2013.
- Alin, Failin. "Sistem Pidana Dan Pemidanaan Di Dalam Pembaharuan Hukum Pidana Indonesia." *Jch(Jurnal Cendekia Hukum)* 3, no. 1 (2017).
- Aritonang. "Tindak Pidana Di Bidang Ketenagakerjaan" (2020).
- Charles Jhonson Panjaitan, Nelvetia Purba, Muhammad Arief Sahlevi. "Tindak Pidana Menjual Barang Kena Cukai Yang Tidak Dilekati Pita Cukai Dalam Perspektif Undang-Undang Nomor 39 Tahun 2007 Tentang Cukai." *Hukum Kaidah* 21 (2023): 279–331.
- Kurniadi, Yudiana, Eko Suponyono, and Purwoto. "Kebijakan Hukum Pidana Dalam Upaya Perbuatan Pemalsuan Pita Cukai Berdasarkan Undang-Undang Cukai." *Diponegoro Law Review* 5, no. 41 (2016).
- Mudzakkir, Tim Kerja Bphn. "Perencanaan Pembangunan Hukum Nasional Bidang Hukum Pidana Dan Sistem Pemidanaan (Politik Hukum Dan Pemidanaan)." *Badan Pembinaan Hukum Nasional Departemen Hukum dan Hak Asasi Manusia* (2018).
- Muljono, B. E., Sastradinata, D. N., Winarno, J., & Rupawanti, N. (2024). *Consumer Protection In Power Purchase Agreement In Standard Agreement Perspective*. *Jurnal Independent*, 12(1), 109-116.
- Olua, Dominggus Reformatore, and Arfin. *Praperadilan Terhadap Penyidikan Tindak Pidana Kepabeanan Dan Cukai*. Edited by Tantri Kartika. NBER Working Papers. Fazdesain. Cv Intelektual Writer, 2021.
- Pregiati, Widi, Ardiansah, and Bagio Kadaryanto. "Penerapan Sanksi Terhadap Penjual Rokok Impor Tanpa Pita Cukai Di Kota Pekanbaru Berdasarkan UU No. 39 Tahun 2007 Tentang Perubahan Atas UU No. 11 Tahun 1995 Tentang Cukai." *Doktrina: Journal of Law* 6, no. 39 (2023).
- Sastradinata, D. N., & Sidiq, K. A. (2024). *Legal Review of Embezzlement of Funds in Corporate Crimes*. *Jurnal Independent*, 12(2), 179-187.
- Sastradinata, D. N., Maulidah, T., & Romadhoni, S. (2021). *Juridical Review Of Power Of Attorney For Implementing Liability Rights (Skmh) As A Media For Binding Guarantee In The Credit Take Over Process In Banking Companies*. *Jurnal Independent*, 9(2), 22-24.
- Sastradinata, D. N., Nahdliyah, H., & Afrida, N. A. (2024). *Dispute Resolution Mechanism in Buying and Sale Transactions Conducted in E-Commerce*. *Jurnal Independent*, 12(2), 222-235.
- Surya Reza, T. "Kewenangan Direktorat Jenderal Bea Dan Cukai Dalam Pengelolaan Benda Sitaan." *Jurnal Politik dan Hukum Tata Negara* 2, no. 1 (2023).