

## LEGAL CONSEQUENCES FOR TAX CRIMES WITH FICTITIOUS TAX INVOICES

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### *Abstract*

*This research aimed to examine the legal implications of tax fraud involving fictitious tax invoices by businesses and to examine the factors that judges take into account when imposing criminal penalties on those who use fictitious tax invoices in cases such as Decision Number 523/Pid.Sus/2021/PN Cikarang, Decision Number 1227/Pid.Sus/2021/PN Jkt.Utr, and Decision Number 926/Pid.Sus/2019/PN Jkt.Utr. This study pertains to normative legal research, utilizing the statute approach and conceptual approach. Primary legal resources for this research consist of Law No. 7 of 2021 and Law No. 28 of 2007, while Secondary Legal Materials refer to data from media and literature sources. Collection of legal research materials through library research with legal material analysis techniques with descriptive analysis. The study findings demonstrate that companies engaging in tax fraud through fake tax invoices may face criminal charges under Article 39A of Law No. 7 of 2021. The penalties could range from a minimum of 2 years in prison to a maximum of 6 years, as well as fines equal to at least double the tax amount listed on the fraudulent invoices. These penalties apply to cases where there is evidence of tax evasion, tax collection, deductions, or payments being manipulated. Then the Judge's Consideration in Imposing Criminal Sanctions on Perpetrators of the Criminal Act of Using Fictitious Tax Invoices by Corporations in the Decision is in accordance with Article 39A of Law No. 7 of 2021.*

**Keywords:** Corporations, Fictitious Tax Invoices, Tax

### 1. INTRODUCTION

Taxes play a crucial role in funding government operations by providing a reliable source of revenue (Althaf & Ida, 2020). This states that taxes play an important role for the country. Taxes have 2 functions, namely budgeter and regular end and develop into a democratic and redistributive function (I. Wirawan & Burton, 2013). The main responsibility of the budget officer is to allocate funds to the government treasury in compliance with tax regulations (Nurmantu, 2017). Then the regular end function is the function as a means of achieving certain goals (Rosdiana et al., 2020). For the function of tax democracy, it is the function of the gotong-royong system. Meanwhile, the redistribution function is a function related to the equitable distribution of justice (B. I. Wirawan & Richard, 2020). The responsibility of citizens to pay taxes is essential for the progress of the country. Development and financial support go hand in hand and cannot be separated (Kusumo et al., 2022).

The state receives benefits in the form of taxes that must be paid in almost every transaction and other corporate activities. Some of the contributions made by corporations, especially in the development of the economy in Indonesia, are through state income in the form of foreign exchange and taxes paid in transaction activities and increasing employment for the surrounding community. In practice, corporate crimes are still commonly committed by individuals through employment or other relationships,

both independently and in collaboration, representing the corporation both within and outside the organization (Supreme Court Regulation No. 13 of 2016). Corporate Crimes occur due to the company's desire not to pay taxes and get as much profit as possible.

Businesses have a significant impact on the economic landscape of the nation, particularly when it comes to the aspect of taxes. Based on data from the Directorate General of Taxes (DGT) in 2022, there were 37 cases of Tax Crimes with the submission of tax invoices incorrectly or factitively. Regarding the criminal act of using fictitious tax invoices, it has actually been regulated in Article 39A (Law No. 7 of 2021). Individuals who intentionally create fake tax invoices may face 2 to 6 years in prison and be required to pay a fine totaling 2 or 6 times the amount of taxes evaded. However, for corporations, the management is responsible (Rohi et al., 2022). In the violation of the election by the corporation, the responsibility for the violation that occurs is the director or corporate official who has the authority or power to make decisions.

One of the cases of using fictitious tax invoices in Indonesia is in decision Number 523/Pid.Sus/2021/PN Ckr. In this ruling, the defendant HT has been definitively found guilty of engaging in illegal activities and being involved in the unauthorized issuance of tax invoices without any concrete basis on an ongoing basis. The accused received a two-year prison sentence and a fine of Rp10,484,112,800.00. If the fine is not paid, it will be changed to a three-month imprisonment. The duration of the defendant's arrest and detention will be subtracted from the sentence. This is because the defendant is proven to have cooperated in the preparation of Fictitious Tax Invoices and Enjoyed profits from the sale or issuance of the Fictitious Tax Invoices.

In decision Number 1227/Pid.Sus/2021/PN Jkt.Utr, it is stated that YS, the accused, has been definitively found guilty of intentionally creating and using false tax documents such as invoices, proof of tax payment, proof of tax deduction, or proof of tax deposit that do not accurately reflect real transactions carried out repeatedly. The defendant is subject to imprisonment for 3 (three) years and 10 (ten) months and a fine of 2 X Rp. 22,168,572,291, - = Rp. 44,337,144,582, -, if the Defendant does not pay the fine no later than 1 (one) month after the court decision has permanent legal force, then the defendant's property is confiscated by the prosecutor and auctioned to pay the fine, if the accused does not have enough assets, they will instead serve a six-month prison sentence. The defendant YS was found guilty during the years 2016 to 2018 of selling fake tax invoices, resulting in a loss of at least Rp. 22,168,572,291 to the state revenue.

Furthermore, decision No. 926/Pid.Sus/2019/PN Jkt.Utr also highlighted the issue of tax invoice manipulation without corresponding actual transactions. The accused ALP has been found guilty both legally and convincingly and is persisting in committing tax-related crimes. As a result, the defendant has been sentenced to a four-year prison term, which has been reduced during their temporary detention. Additionally, the defendant has been ordered to remain in custody and pay a fine of Rp30,032,421,402,-, which is double the amount of Rp15,016,210,701,-. and if the accused fails to make payment within one month of the Court Decision becoming legally final, the Prosecutor has the authority to seize his assets and sell them at auction to cover the fine. If the defendant's assets are insufficient, they will be sentenced to six months of imprisonment instead of paying the fine. The reason for this is that the defendant facilitated the buying and selling of tax invoices that were not supported by real transactions with the aim of reducing the amount of tax payment (VAT) that must be paid by taking into account the Tax Invoice that he purchased as Input Tax in reporting the VAT Period Return

Based on the issues mentioned above, it is apparent that taxes play a crucial role in advancing the nation, hence it is vital to ensure that both individuals and companies comply with tax laws by paying their dues on time. Despite efforts to enforce tax regulations, instances of tax evasion and fraudulent activities like using fake tax invoices still persist. From the three decisions that have been explained earlier, it can be seen that the imposition of fine sanctions by judges on perpetrators of tax invoice crimes (TBTS) varies according to the amount of tax in fictitious tax invoices.

The study aims to examine the legal consequences of tax crimes with fictitious tax invoices by corporations and to analyze the Judge's Considerations in Imposing Criminal Sanctions Against Perpetrators of Criminal Acts of Using Fictitious Tax Invoices by Corporations in Decision Number 523/Pid.Sus/2021/PN Cikarang, Decision Number 1227/Pid.Sus/2021/PN Jkt.Utr and Decision Number 926/Pid.Sus/2019/PN Jkt.Utr.

## **2. LITERATURE REVIEW**

### **2.1. Tax Overview**

Taxes are payments made by individuals to the government, as required by law, to fund the operation of public services and the functioning of the state (Waluyo, 2009). The definition of tax when viewed from a legal perspective according to Rochmat Soemitro is an involvement that occurs as a result of a law mandating citizens to contribute a specific portion of their earnings to the government reflects the government's ability to enforce compliance. The money collected through taxation is necessary for the functioning of the government's operations (Sutedi, 2012). Rochmat Soemitro suggests a different explanation for tax, stating it as the citizens' payment to the government fund according to the law, without any specific services in return, and is allocated for overall budget expenditures (Mardiasmo, 2011). Andriani contends that taxes are mandatory contributions to the government made by individuals who are obligated to comply with the law, without expecting any immediate personal benefits, and are intended to fund public expenses required for the government to function (Waluyo, 2009)

### **2.2. Corporate Tax Crimes**

Criminal Law is the entire legal rule related to acts of violating the law (Suyanto, 2018). Pompe argues that Criminal Law is the entire rule of legal provisions regarding punishable acts and their criminal rules. Apeldoorn, argues that Criminal Law is differentiated and given meaning: Material Criminal Law that refers to a criminal act and that the cause of the act can be punished, where the criminal act has two parts, namely: The objective part is an act or attitude that is contrary to positive criminal law, so that it is unlawful to cause a lawsuit with a criminal threat for its violation. The subjective part is a mistake that points to the perpetrator to be held accountable according to the law. Formal Criminal Law that regulates how material criminal law can be enforced (Suyanto, 2018). The act/act committed must be unlawful and there are no grounds or reasons that negate the unlawfulness of the act/action (Takdir, 2013). Judging from the will/intention (which is free) of the perpetrator/actor, there is an error that is the 'heart' (the inside) of the will, while the unlawful nature of the action is the 'statement' (the outside) of the will.

### **2.3. Fictitious Invoices**

Invoices that are invalid because their issuance is not in accordance with the facts (Yamin & Putranti, 2011). The act/action committed must be unlawful and there are no grounds or reasons that negate the unlawfulness of the act/action (Takdir, 2013). Judging from the will/intention (which is free) of the perpetrator/actor, there is an error that is the 'heart' (the inside) of the will, while the unlawful nature of the action is the 'statement' (the outside) of the will. According to the Circular Letter of the Director General of Taxes Number SE-132/PJ/2010 concerning Measures for Handling the Issuance and Use of Invalid Tax Invoices, fictitious tax invoices are invoices that are fabricated or falsely created without actual transactions, or they are issued by business owners who have not been verified as taxable according to the law. Fictitious tax invoices are a form of tax evasion. According to Yamin and Putranti (2009), irresponsible taxpayers easily issue fake tax invoices because they find it profitable, as the benefits of tax evasion outweigh the potential risks of being caught and penalized.

### **2.4. Corporate Taxation Regulations with Fictitious Invoices**

Regarding Corporations that report taxes with fictitious invoices or invoices that are not in accordance with the actual facts, it has been regulated in Article 39A of Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures where: Issuing tax invoices without proper confirmation as a Taxable Entrepreneur can result in a minimum prison term of two years and a maximum of six years. Additionally, offenders may face a fine ranging from double to six times the amount of tax referenced in the invoice, proof of tax collection, proof of tax withholding, and/or proof of tax payment. Article 44B of Law No. 7 of 2021 regulates the use of fictitious tax invoices where the person who deliberately issues them is subject to additional administrative sanctions, namely a fine worth 4 times the tax amount.

### **2.5. Criminal Theory**

Punishment for a crime serves as a response to the wrongdoing, resulting in suffering inflicted intentionally by the government or its institutions onto the offender. Suffering is only the closest goal, not the final goal pursued based on the performance of coaching (treatment) (Sakidjo, 1990). There are various criminal theories that can be used by the state as a basis or motive to impose a criminal offense. These theories of punishment include the following: (1) Theory of Retribution (*Retributive/Vergeldingstheorie*) justifies the existence of punishment because a person has committed a crime, (2) Theory of Purpose (*Utilitarian/Doeltheorie*) justifies punishment according to or depends on the purpose of punishment, namely to protect society or prevent crime and (3) Combined Theory (*Vireningstheorie*) includes the fundamental connection between absolute theory and relative theory is integrated into a single concept. As per this theory, the foundation of legality is found within the crime itself, either through retribution or punishment. Furthermore, the focus is more on the foundation rather than the actual crime.

### 3. RESEARCH METHODS

The research falls under normative legal studies which finds rules, principles and legal doctrines (Triyono et al., 2024). The legal rules of the study are Law No. 28 of 2007 and Law No. 7 of 2021. The approach to the research problem is Statute Approach who studies the laws and regulations studied in this study are Law No. 28 of 2007 concerning the Third Amendment to Law No. 6 of 1983 concerning General Provisions and Tax Procedures and Law No. 7 of 2021 concerning Harmonization of Tax Regulations. The approach to the research problem is the approach Statute Approach and conceptual approach. Legislative approach (Statute Approach) is research that carried out to review all pertinent laws and regulations pertaining to the legal matters being addressed. (Marzuki, 2020). Moreover, conceptual approach is an approach to the problem by reviewing the opinions/doctrines of legal experts related to the problems presented (Marzuki, 2020). Collection of legal materials through literature review. Method of analysis of legal materials through qualitative descriptive analysis

### 4. RESULTS AND DISCUSSION

#### 4.1. Legal consequences for tax crimes with fictitious tax invoices by corporations

Legal consequences are the result of an action performed by a legal entity, whether it aligns with or contradicts the law (Soeroso, 2016). Consequences in the realm of law come about as a result of decisions made in pursuit of outcomes anticipated by those involved in legal proceedings. According to Ali (2018), legal ramifications occur as a result of the law being enforced against an action carried out by a legal individual.

Corporate criminal liability is important to be asked for because it is very unfair if companies that ignore the regulations set out are free from legal shackles even though the company's actions cause losses to the community. In the corporate criminal liability model, where corporate management acts as both the creator and the responsible party, it is essentially imbued with the principle of "*societas delinquere non potest.*" This accountability system is characterized by efforts so that the nature of criminal acts committed by corporations is limited to individuals. Regarding the corporate management as the maker and the one who is responsible, the management is given obligations that are actually corporate obligations. Administrators who do not fulfill their obligations are threatened with criminal charges. Regarding the use of illegal or fictitious tax invoices carried out by corporations, it can be categorized as falling into the realm of corrupt practices (Apriandi & Handoyo, 2022). Taxation laws determine which parties are responsible for criminal activities related to taxes, with the main focus being on taxpayers, including both individuals and businesses. According to Ningrum (2018), corporations, of course, in the process of running their business and business, will always intersect with the law, every action carried out by a corporation has consequences that must be accounted for.

Tax crimes by corporations are an important issue. Related to the use of illegal tax invoices by foam corporations is categorized as a corrupt practice (Apriandi & Handoyo, 2022). Counterfeiting tax invoices is the act of using inappropriate tax invoices (Damayanti et al., 2022). The crime of tax is an act of violating tax laws that results in state losses (Kusumo, 2018). To overcome tax crimes with fictitious tax invoices by corporations, the government applies Article 39A of Law No. 7 of 2021 as the basis for tax regulations in Indonesia (Reksodiputro, 2016): 68) anyone who intentionally issues

or uses a fake tax invoice could face a prison sentence ranging from 2 to 6 years, as well as a fine that is at least double the amount of tax owed.

#### **4.2. Judge's Considerations in Imposing Criminal Sanctions Against Perpetrators of Criminal Acts of Using Fictitious Tax Invoices by Corporations in Decision Number 523/Pid.Sus/2021/PN Cikarang, Decision Number 1227/Pid.Sus/2021/PN Jkt.Utr and Decision Number 926/Pid.Sus/2019/PN Jkt.Utr**

In order to uphold truth, justice, and legal certainty for an individual, judges must consider carefully when determining criminal sentences (Teguh, 2020). If the court judges believe that the defendant has been sufficiently proven to have committed the crime they are accused of, they may issue a criminal sentence as a form of punishment. A court ruling in the shape of a free verdict (*vrijspraak*) is issued to the defendant if the judges or court believe that the defendant is not legally and convincingly shown to have perpetrated the crime alleged against him. If the panel of judges believes that the defendant has indeed committed the criminal act alleged against him, yet considers it not to be a criminal act, a verdict of release from all lawsuits is issued to the defendant (Andi, 2018). Determining criminal liability is about establishing if an individual is responsible for a committed offense or not (Rossulliaty et al., 2023)

In order to analyze the judge's consideration of the perpetrator of the crime of using fictitious tax invoices by corporations in Decision Number 523/Pid.Sus/2021/PN Cikarang, Decision Number 1227/Pid.Sus/2021/PN Jkt.Utr and Decision Number 926/Pid.Sus/2019/PN Jkt.Utr, an analysis of the judge's considerations can be carried out juridically and non-juridically. The following are the results of the analysis on each research case decision, namely:

##### **4.2.1. Decision Number 523/Pid.Sus/2021/PN Cikarang**

The Decision outlines the situation involving the fraudulent use of fake tax invoices by the individual known as "HT". The HT perpetrator is declared proven to have collaborated in the preparation of Fictitious Tax Invoices and Enjoyed profits from the sale or issuance of the Fictitious Tax Invoices. The perpetrator was given a criminal sanction of 2 Years in Prison and a fine of Rp10,484,112,800.00. The following is an analysis of the Decision based on the judge's consideration, namely:

###### **A. Juridical Judge's Considerations**

Regarding the analysis of the judge's juridical considerations in the case of Decision Number 523/Pid.Sus/2021/PN Cikarang, it can be known that the results of the defendant's statement stated that the TBTS Tax invoice issued or sold by the Defendant HT together with ET, MI and HAR for PT ASI. PT. APM and PT. TLM is a Fictitious Tax Invoice because there are no transactions and payments accompanying it or only buying and selling VAT.

In addition, based on the findings of evidence that explains this case, namely a Copy of the Printout of the Tahapan account, Bank BCA belonging to the defendant, a Copy of the Legalization of the Output Tax Recapitulation, a Copy of the Legalization of the Deed of Incorporation of a Limited Liability Company and a Copy of the Legalization of the Taxpayer Registration Document. The evidence contained violations in the use of fictitious tax invoices. Therefore, it can be concluded that the judge's consideration in deciding the case of decision Number 523/Pid.Sus/2021/PN Cikarang has fulfilled several

considerations such as the Defendant's Statement, Witness Statement, and Supporting Evidence juridically so that the judge's consideration can be declared appropriate and has permanent legal force.

**B. Non-Juridical Judge's Considerations**

As for the analysis of judges' considerations in a non-juridical manner, namely:

a) The existence of a criminal act committed by the maker

Based on Article 39A of Law No. 7 of 2021, it can be explained that the element of "Everyone" is HT from Singkawang with the age of 65 years who "uses tax invoices that are not based on actual transactions" where HT makes fictitious tax invoices for several companies such as PT. ASI, PT. APM and PT. TLM will be subject to a minimum of 2 years in prison and a maximum of 6 years in prison and a fine of at least 2 times the tax amount and a maximum of 6 times.

b) There is an element of error in the form of intentionality or forgetfulness

According to the results of the analysis of the chronology of the case in decision Number 523/Pid.Sus/2021/PN Cikarang, it can be stated that the HT perpetrator along with other perpetrators is proven to have awareness and are able to take responsibility for their actions to make fictitious tax invoices for several companies in cooperation. Therefore, it was concluded that HT's actions met the elements of error in the form of *Delik Dolus* where HT committed a criminal act that was committed deliberately and consciously violated the law.

c) There are makers who are able to be responsible

Based on the verdict, it can be known that the HT perpetrator is a physically healthy person and can be responsible.

d) No excuse for forgiveness

The reason that eliminates the perpetrator's fault (Qomarudin, 2022). There are several types of excuses, including: Inability to take responsibility, Overmatch, Defense forced to go beyond the limit, and Executing office orders without authority.

Based on the chronology, it shows that the making of fictitious invoices carried out by HT did not meet the four excuses where the judge stated that HT was not declared disabled or affected by illness while committing a criminal act, HT did not make fictitious tax invoices forcibly, HT did not receive threats to make fictitious tax invoices and HT did not receive an order from the authorized officials to make fictitious tax invoices. Therefore, it can be concluded that HT's actions do not have any excuses that can erase the criminal acts committed by him.

From the results of the analysis of the judge's juridical and non-juridical considerations, it can be seen that the judge's consideration in decision Number 523/Pid.Sus/2021/PN Cikarang has met the requirements. The Judge's consideration that stated that the defendant HT was guilty of making fictitious tax invoices as a corporation and was subject to a criminal sanction of 2 Years in Prison and a fine of 2 times Rp. 5,242,056,400, - a total of Rp10,484,112,800.00. If adjusted to Article 39A of Law No. 7 of 2021, it can be stated that it is appropriate where the prison sentence given for 2 years meets the prison regulations for a minimum of 2 years and a maximum of 6 years. Then for the sanction of fines, namely 2 times Rp. 5,242,056,400,- a total of Rp10,484,112,800.00 has been in accordance with the regulations where the minimum fine is 2 times the tax amount and a maximum of 6 times.

#### **4.2.2. Decision Number 1227/Pid.Sus/2021/PN Jkt.Utr**

The Decision explains the case of using fictitious tax invoices by the perpetrator "YS". YS was proven in the period of tax years 2016 to 2018 who sold fictitious tax invoices that caused losses of Rp. 22,168,572,291. The perpetrator was sentenced to imprisonment for 3 years and 10 months and a fine of 2 X Rp. 22,168,572,291, - = Rp. 44,337,144,582,-. The following is an analysis of Decision Number 1227/Pid.Sus/2021/PN Jkt.Utr, namely:

##### **A. Juridical Judge's Considerations**

Regarding the analysis of the judge's juridical considerations in the Decision case, it can be known that the results of the defendant's testimony stated that the defendant admitted to deliberately issuing tax invoices that were not based on successively from January 2016 to December 2018 on behalf of PT. CTGM.

Therefore, it is concluded that the judge's considerations in decision Number 1227/Pid.Sus/2021/PN Jkt.Utr have fulfilled several considerations such as the Defendant's Statement, Witness Testimony and Supporting Evidence juridically so that the judge's consideration can be declared to be appropriate and Inkrah.

##### **B. Non-Juridical Judge's Considerations**

Meanwhile, the analysis of non-judicial judges' considerations is:

##### **a) The existence of a criminal act committed by the maker**

Based on Article 39A of Law No. 7 of 2021, it can be explained that the element of "Everyone" is YS from Cianjur with the age of 37 years who "uses a tax invoice that is not based on the actual transaction" where the US makes fictitious tax invoices will be subject to a minimum of 2 years in prison and a maximum of 6 years in prison and a fine of at least 2 times the tax amount and a maximum of 6 times.

##### **b) There is an element of error in the form of intentionality or forgetfulness**

According to the results of the analysis of the chronology of the case in the verdict, it can be stated that the Perpetrator YS as the director of PT. CTGM along with other perpetrators are proven to have awareness and are able to take responsibility for their actions. Therefore, it was concluded that YS's actions met the elements of error in the form of Delik Dolus where YS committed a criminal act that was committed deliberately and consciously committed a violation of the law in a corporate manner.

##### **c) There are makers who are able to be responsible**

Based on the decision Number 1227/Pid.Sus/2021/PN Jkt.Utr, it can be seen that the YS perpetrator is a physically and spiritually healthy person and can be responsible.

##### **d) No excuse for forgiveness**

Based on the chronology, it shows that the making of fictitious invoices carried out by YS did not meet the four excuses where the judge stated that YS was not declared disabled or affected by illness while committing a criminal act, YS did not make fictitious tax invoices forcibly, YS did not receive threats to make fictitious tax invoices and YS did not receive orders from authorized officials to make fictitious tax invoices. Therefore, it can be concluded that YS's actions did not have any excuses that could erase the criminal acts he committed.

From the results of the analysis of the judge's considerations juridically and non-juridically, it can be seen that the judge's consideration has met the requirements. The Judge's consideration that the defendant YS is guilty and is subject to a criminal sanction of 3 years and 10 months imprisonment and a fine of 2 X Rp. 22,168,572,291,- = Rp. 44,337,144,582,-, if adjusted to Article 39A of Law No. 7 of 2021 can be declared

appropriate where the prison sentence given for 3 years and 10 months meets the prison regulations for a minimum of 2 years and a maximum of 6 years. Then for the sanction of fines, namely 2 X Rp. 22,168,572,291,- = Rp. 44,337,144,582,- has been in accordance with the regulations where the provision of fines is at least 2 times the tax amount and a maximum of 6 times. Therefore, it is concluded that the judge's consideration in the decision has met the requirements

#### **4.2.3. Decision Number 926/Pid.Sus/2019/PN Jkt.Utr**

The Decision explains the case of the use of fictitious tax invoices by the perpetrator "ALP". ALP was proven to have made fictitious tax invoices together with other perpetrators such as YAT and NC Perpetrators. The perpetrator was sentenced to imprisonment for 2 years and 10 months and a fine of 2 x Rp.15,016,210,701,- = Rp30,032,421,402,-. The following is an analysis of Decision Number 926/Pid.Sus/2019/PN Jkt.Utr based on the judge's considerations, namely:

##### **A. Juridical Judge's Considerations**

Regarding the analysis of the judge's juridical considerations in the case of Decision Number 926/Pid.Sus/2019/PN Jkt.Utr, it can be known that the results of the defendant's testimony stated that the defendant admitted to selling and ordering fictitious Tax Invoices for several companies such as PT. JE and PT. ATNA.

Therefore, the judge's consideration in deciding the case of decision Number 926/Pid.Sus/2019/PN Jkt.Utr has fulfilled several considerations such as the Defendant's Statement, Witness Testimony and Supporting Evidence juridically so that the judge's consideration can be declared to be appropriate and has permanent legal force.

##### **B. Non-Juridical Judge's Considerations**

Meanwhile, the analysis of judges' considerations in a non-juridical manner is:

###### **a. The existence of a criminal act committed by the maker**

Based on Article 39A of Law No. 7 of 2021, the element of "Everyone" states that ALP from Jakarta with the age of 50 years who "uses fictitious tax invoices" where ALP makes tax invoices that are not based on actual transactions are subject to imprisonment for a minimum of 2 years and a maximum of 6 years as well as a fine of at least 2 times the tax amount and a maximum of 6 times. Therefore, the action of ALP who makes fictitious tax invoices is subject to imprisonment according to regulations

###### **b. There is an element of error in the form of intentionality**

According to the results of the analysis of the chronology of the case in decision Number 926/Pid.Sus/2019/PN Jkt.Utr, it can be stated that the ALP perpetrators together with other perpetrators are proven to have awareness and are able to take responsibility for their actions. Therefore, it was concluded that ALP's actions met the element of error in the form of Delik *Dolus* where ALP committed a criminal act that was committed deliberately and consciously violated the law as a corporation.

###### **c. There are makers who are able to be responsible**

Based on the decision Number 926/Pid.Sus/2019/PN Jkt.Utr, it can be known that the ALP perpetrator is a physically and spiritually healthy person and can be responsible.

###### **d. No excuse for forgiveness**

Based on the chronology, it shows that the making of fictitious invoices carried out by ALP did not meet the four excuses where the judge stated that ALP was not declared disabled or affected by illness while committing a criminal act, ALP did not make fictitious tax invoices forcibly, ALP did not receive threats to make fictitious tax invoices

and ALP did not receive an order from the authorized official to make fictitious tax invoices. Therefore, it can be concluded that ALP's actions do not have any excuses that can remove the criminal acts committed by him.

From the results of the analysis of the judge's considerations juridically and non-juridically, it can be seen that the judge's consideration in decision Number 926/Pid.Sus/2019/PN Jkt.Utr has met the requirements. The Judge's consideration that the defendant ALP is guilty and subject to a penalty of 4 years in prison and a fine of 2 x Rp.15,016,210,701,- = Rp30,032,421,402,- if adjusted to Article 39A of Law No. 7 of 2021, it can be declared appropriate where the prison sentence for 4 years meets the criminal regulations for a minimum of 2 years and a maximum of 6 years. Then for the fine sanction given, namely 2 x Rp.15,016,210,701,- = Rp30,032,421,402,- is in accordance with the regulations where the provision of fines is at least 2 times the tax quantity and a maximum of 6 times. Therefore, it was concluded that the judge's considerations in decision No. 926/Pid.Sus/2019/PN Jkt.Utr had met the requirements.

Based on the results of the analysis of each fictitious tax invoice decision case above, it can be concluded that all of the judge's considerations in each decision have met the requirements for juridical and non-juridical consideration. Then when analyzed with Article 39A of Law No. 7 of 2021, it can be found that the prison sanctions and fines given by the judge in each decision meet the requirements of sanctions and fines in Article 39A of Law No. 7/2021 on. Therefore, the judge's considerations in decision Number 523/Pid.Sus/2021/PN Cikarang, Decision Number 1227/Pid.Sus/2021/PN Jkt.Utr and Decision Number 926/Pid.Sus/2019/PN Jkt.Utr can be declared appropriate.

## **5. CONCLUSION**

According to the results of the analysis, conclusions were reached that Legal consequences for tax crimes with fictitious tax invoices by corporations can be subject to criminal penalties in accordance with Article 39A of Law No. 7/2021 as the basis for tax regulations in Indonesia, namely imprisonment for a minimum of 2 years and a maximum of 6 years and a fine of at least 2 times the tax quantity and a maximum of 6 times, Judge's Considerations in Imposing Criminal Sanctions on Perpetrators of Criminal Acts Using Fictitious Tax Invoices by Corporations in Decision Number 523/Pid.Sus/2021/PN Cikarang, Decision Number 1227/Pid.Sus/2021/PN Jkt.Utr and Decision Number 926/Pid.Sus/2019/PN Jkt.Utr have fulfilled the judge's considerations juridically and non-juridically, so the weight of the sanction is in accordance with Article 39A of Law No. 7/2021.

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