

Highlights of the Newly Promulgated Ministerial Regulation on Tax Crime Investigations

Prepared by:

Timothy Joseph Inkiriwang (Partner), Dinne Gatari Chairandi (Senior Associate), and Yonathan Aji Pamungkas (Associate)

The Minister of Finance of the Republic of Indonesia has enacted **Ministerial Regulation No. 17 of 2025 on the Investigations of Criminal Offenses in the Field of Taxation** ("Regulation"). This article outlines several key provisions of the Regulation, with particular emphasis on the newly introduced statutory measures.

Key New Provisions Introduced Under the Regulation

1. The Scope of Tax Crime Investigations

The scope of tax crime investigations includes a series of procedural activities, such as:

- a. Summoning;
- b. Conducting an examination;
- c. Arrest;
- d. Detention;
- e. Performing search;
- f. Blocking and/or seizure;
- g. Handling of electronic data;
- h. Prevention (of escape or obstruction);
- i. Determination of suspect;
- j. Preparation of case files;
- k. Submission of case files;
- l. Handover of responsibility for the suspect and evidence; and/or
- m. Termination of the investigation.

The precise scope above provides procedural clarity and expectations for suspect(s) involved in tax crime investigations conducted by an investigator.

2. New Mandatory Information Required in the Investigation Warrant

The Regulation provides that an investigation warrant should contain the following information, with the newly introduced elements highlighted in blue:

- a. Basis for the investigation;
- b. Identity of the reported party or suspect;
- c. Identity of members of the investigation team;

- d. Case under investigation;
- e. Time the alleged crime was committed (*tempus delictie*);
- f. Location where the alleged crime was committed (*locus delictie*); and
- g. Identity of the investigator who is acting as the authorising officer.

This legal provision supplements the required information in an investigation warrant, as provided in Article 13(2) of the Chief of National Police Regulation No. 6 of 2019 on Criminal Investigation Procedures.

3. Affirmation of Suspect's Rights During a Tax Crime Investigation

The Regulation reaffirms that suspects are entitled to the following rights during the course of a tax crime investigation:

- a. To be clearly informed, in a language they understand, of the allegations against them at the commencement of the examination;
- b. To provide statements freely to the investigator;
- c. To receive the assistance of an interpreter;
- d. To receive legal assistance from one or more legal counsel;
- e. To present witness(es) and/or expert witness(es) to provide testimony favourable to their case;
- f. To submit a request for the discontinuation of the investigation as provided for in the prevailing tax laws and regulations;

- g. To request a copy of the official record of the examination from the investigator; and
- h. To exercise any other rights as provided in the Criminal Procedure Code.

These provisions offer enhanced clarity regarding the rights afforded to suspects during every stage of examination in tax crime investigations.

4. Electronic Examination of Witnesses and/or Experts

Investigators may now examine witnesses and/or expert witnesses **electronically**, enhancing flexibility and efficiency in the investigative process.

5. Requirements for a Determination Suspect

The Regulation sets a new standard for determining someone as a suspect. Currently, determining someone as a suspect must meet 2 (two) requirements as follows (the newly introduced requirement is in blue):

- a. it must be based on 2 (two) pieces of valid evidence; and
- b. the investigator must have examined the suspect as a witness.

This standard is considered a recent development under Indonesian Criminal Procedural Law, which generally does not require the investigator to examine a suspect as a witness prior to determining that person as a suspect.

Accordingly, this may serve as a basis to initiate pretrial proceedings challenging the validity of the determination as a suspect¹, if the suspect has never been summoned for examination as a witness by the investigator.

Nevertheless, please note that this newly introduced requirement does not apply if a suspect: (i) fails to appear without providing a valid and reasonable excuse; and (ii) has been summoned twice in a lawful manner.²

6. Partial Payment of Tax Liabilities

The regulation recognizes partial payments made by taxpayers or suspects toward outstanding tax liabilities or state revenue losses. Although such payments do not halt the investigation, they may be credited in several ways:

- a. At the point of transferring the case to the prosecutor;
- b. When submitting the case to court; or
- c. Toward the payment of criminal fines.

This ensures that efforts to settle obligations are acknowledged, even if full payment is not immediately possible.

7. Proportional Allocation of Liability for Crimes Involving Multiple Taxpayers or Suspects

In cases involving multiple taxpayers or suspects, total tax liability will be distributed proportionally based on factors such as:

- a. Level of contribution to state losses;
- b. Benefits received from the offense;
- c. Degree of fault and role in the conduct; and/or
- d. any other relevant considerations that reflect their role in committing the criminal offence.

In addition, this Regulation also provides that the calculation of the proportional allocation must follow the example calculation in [Appendix E of the Regulation, which we have translated into English and attached to this article.](#)

This provision reinforces the importance of fairness in tax crimes involving multiple parties by requiring liabilities to be proportionally allocated based on the clear factors outlined above. Further, the inclusion of standardised guidance on the calculation ensures transparency and consistency in the implementation of this provision.

Key Points

- The Regulation has clearly limited the scope of tax crime investigations, outlining procedural activities for clarity. In addition, Investigation warrants must now include additional mandatory information, including: (i) the identity of the suspected/reported party; and (ii) details of the alleged tax crime (time and location).

¹ See Article 77(a) of the Law No. 8 of 1981 on the Criminal Procedural Code in conjunction with Constitutional Court Judgment No. 21/PUU-XII/2014.

² See Article 61(1) of the Government Regulation No. 50 of 2022 on Procedures for Exercising Rights and Fulfillment of Taxation Obligations.

- Further, the Regulation provides greater clarity on the suspects' rights during tax crime investigations, such as the right to be clearly informed of allegations, obtain legal assistance, and present witness(es). Additionally, the Regulation introduces the use of electronic examinations for witness(es) and expert witness(es).
- Moreover, a new standard for determining suspects is introduced, requiring two valid pieces of evidence and the condition that the investigator has previously examined the suspect as a witness.
- As a matter of fact, even if the tax crime investigation is still continuing, partial payments made by a suspect or a taxpayer will be recognised as an offset against the total of the outstanding tax liabilities.
- Lastly, when multiple parties are involved in tax crimes, the total amount of the tax liabilities will be proportionally allocated based on factors, i.e., contribution to the loss(es), benefit received, degree of fault and conduct, and other relevant factors.

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The article above was prepared by Dentons HPRP's lawyers

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Example of Proportional Calculation from Appendix E of the Regulation

Example case:

It is alleged that a criminal offence has occurred in the field of taxation, namely the use of false tax invoices not based on actual transactions, which is subject to criminal sanctions under Article 39A letter a of the Law on General Tax Provisions and Procedures and which was carried out by PT IRB with the amount of tax listed in the tax invoice totalling IDR 100,000,000.00. The XYZ Regional Office of the Directorate General of Taxes subsequently conducted an investigation and determined 3 individuals as suspects, namely Suspect 1 (Director), Suspect 2 (Tax Manager), and Suspect 3 (Staff).

The three suspects later submitted a request for information regarding the amount of tax and administrative sanctions to be paid in connection with a request for the investigation to be discontinued as regulated under Article 44B of the Law on General Tax Provisions and Procedures.

Based on the request for information above, the investigator, with the assistance of RP as a tax expert, conducted the calculation of the amount for Article 44B repayment proportionally, considering the degree of fault and the conduct committed.

RP, based on their expertise and competency, assessed the degree of fault classified into four qualifications and the degree of conduct into five qualifications. Each qualification was identified by measurable indicators and assigned a coefficient value by RP based on the minimum to the maximum level of criminal fine as regulated in Article 39A of the Law on General Tax Provisions and Procedures. Based on the facts and evidence submitted by the investigator, RP made the following calculation:

Element	Qualification	Indicator	Coefficient	Suspect 1 (Director)	Suspect 2 (Tax Manager)	Suspect 3 (Staff)
Element of Intentional Fault	1 Intentionally acted to achieve the intended result (goal)	<ul style="list-style-type: none">– had intent and planned thoroughly;– repeated actions;– aware of the consequences;– capable of being liable for consequences;– aware of the greatest benefit obtained;– carried out systematic efforts (organising, using resources, etc.);– used expertise;– misused tax instruments (invoice, tax payment slip, export declaration, import declaration, etc.) related to Article 39A.	6	6		

Element	Qualification	Indicator	Coefficient	Suspect 1 (Director)	Suspect 2 (Tax Manager)	Suspect 3 (Staff)
	2	Intentionally acted and had a clear image of the consequences that would occur	<ul style="list-style-type: none"> – had intent and planned; – aware of the consequences; – capable of being liable for consequences; – obtained substantial benefit; – used expertise. 	4	4	
	3	Intentionally acted and knew the possible consequences of the committed act	<ul style="list-style-type: none"> – had intent and planned; – lacked awareness of consequences; – sufficiently capable to be liable for the consequences; – obtained substantial benefit; – used expertise. 	3		
	4	Intentionally acted but not to achieve a result that constitutes a criminal act	<ul style="list-style-type: none"> – did not plan; – carried out orders; – lacked awareness of the consequences; – incapable of being liable for the consequences; – did not obtain benefits. 	2		2
Element of Conduct (Articles 55, 56, and 57 of the Indonesian Criminal Code)	1	who committed the act (<i>pleger, dader</i>)	<ul style="list-style-type: none"> – person who personally committed the criminal offence; – person who, according to the intent of the lawmaker, must be deemed liable; – person who has the power or ability to end a prohibited event but still allows the prohibited event to continue. 	6	6	
	2	who instructed another to commit the act (<i>doen plegen, middelijke dader</i>)	<ul style="list-style-type: none"> – person who commits the act through another person as an intermediary; – an intermediary who is used merely as a 'tool' (tool as 'material perpetrator'). 	5		
	3	who jointly commits the act (<i>medeplegen, mededader</i>)	<ul style="list-style-type: none"> – person who jointly commits a criminal offence; – there is conscious cooperation; there is mutual understanding among people who commit the crime; – who carries out an act with the same purpose. 	4	4	

Element	Qualification	Indicator	Coefficient	Suspect 1 (Director)	Suspect 2 (Tax Manager)	Suspect 3 (Staff)
	4 who incites the act to be committed (<i>uitlokken, uitlokker</i>)	<ul style="list-style-type: none"> – there is an intent to motivate another person to commit a criminal offence; – motivates them by using the means referred to in Article 55 paragraph (1) point 2 of the Indonesian Criminal Code; – the will of the material perpetrator arises due to causality from the matters in points 1 and 2 above; – there is incitement when the material perpetrator has already committed the crime that is incited or there has been an attempted crime; – the material perpetrator can be liable. 	3			
	5 who assists in committing the act (<i>medeplichtige zijn, medeplichtige</i>)	<ul style="list-style-type: none"> – conscious cooperation is not mandatory; – constitutes an act of implementation; – does not have personal interest/purpose. 	2			2
Proportion	Total Coefficient per Actor			12	8	4
	Total Coefficient			24		
	Proportion Percentage			50.00%	33.33%	16.67%
	Principal Amount of Article 44B (IDR)			100,000,000		
	Proportional Settlement of Article 44B (IDR)			50,000,000	33,333,333	16,666,667

Based on the disclosure of the amount of tax along with administrative sanctions that must be paid up in relation to the request for discontinuation of investigation as regulated under Article 44B of the Law on General Tax Provisions and Procedures, Suspect 1 (Director) paid the principal under Article 44B in the amount of IDR 50,000,000.00 and administrative sanctions in the amount of IDR 200,000,000.00. Meanwhile, Suspect 2 (Tax Manager) paid the principal under Article 44B in the amount of IDR 33,333,333.00 and administrative sanctions in the amount of IDR 133,333,332.00. Suspect 1 and Suspect 2 subsequently submitted a request for discontinuation of the investigation to the Minister of Finance through the Director General of Taxes.

Suspect 3 (Staff), after receiving information regarding the amount of tax and administrative sanctions that must be paid up in relation to the for discontinuation of investigation as regulated under Article 44B of the Law on General request Provisions and Tax Procedures, did not pay the principal under Article 44B along with the administrative sanctions and did not submit a request for discontinuation of investigation. Based on these factors, the investigator is continuing the investigation against Suspect 3, with the amount of criminal fine in the case file amounting to IDR 16,666,667.00.