

Tax Criminal Policy: Harmonizing Article 44c of Law Number 7 of 2021 with Articles 39 and 39a

Sanusi Sanusi¹

Universitas Pamulang, Banten, Indonesia¹

sanusibravo@gmail.com¹



Article History

Received 21 May 2026

1st Revision 24 May 2026

2nd Revision 02 Juni 2026

Accepted on 03 Juni 2026

Abstract

Purpose: This study examines the internal conflict created by Article 44C of Law Number 7 of 2021 on the Harmonization of Tax Regulations in Indonesia's tax-criminal regime, especially its relationship with Articles 39 and 39A of the General Tax Provisions Law.

Research Methodology: This study uses normative legal research with statutory, conceptual, and case approaches. Primary legal materials include Law Number 7 of 2021, Law Number 6 of 1983 as repeatedly amended, Government Regulation Number 50 of 2022, and Minister of Finance Regulation Number 177/PMK.03/2022. Secondary materials consist of reputable international journal articles, OECD materials, official Directorate General of Taxes releases, and selected court-based tax crime materials.

Results: The analysis finds that Article 44C strengthens the fiscal recovery orientation of tax-criminal enforcement by making criminal fines non-substitutable through imprisonment and requiring actual payment by convicted offenders. However, when read together with Articles 39 and 39A, the provision may generate doctrinal tension between deterrence, proportionality, corporate criminal liability, enforceability of high fines and legal certainty.

Conclusions: Harmonization should not be understood only as higher penalties but as an integrated architecture of legality, restorative fiscal recovery, due process, and credible enforcement.

Limitations: This study is doctrinal and does not statistically measure sentencing outcomes.

Contributions: This study contributes to Indonesian tax-criminal law scholarship by proposing a harmonized interpretation of Article 44C based on legality, proportionality, and revenue protection.

Keywords: *Criminal Fine, Legal Harmonization, Tax Crime, Tax Policy, Taxpayer Compliance*

How to Cite: Sanusi, S. (2026). Tax-criminal policy: A juridical policy Article 44C of Law Number 7 of 2021 and its relationship with Articles 39 and 39A of the General Tax Provisions Law. *Jurnal Ilmiah Hukum dan Hak Asasi Manusia*, 6(1), 49-60.

1. Introduction

Tax law occupies a distinctive position in public law because it connects the coercive authority of the state with the constitutional need to finance public expenditures. In Indonesia, this relationship is structured through a self-assessment system in which taxpayers calculate, pay, and report their own tax liabilities, while the Directorate General of Taxes supervises compliance through registration, audit, assessment, preliminary evidence examination, investigation, and prosecution in serious cases. The legitimacy of this system depends on a balanced architecture between facilitation and enforcement of the law. Weak enforcement may transform intentional noncompliance into a calculable business cost. Excessive criminalization may reduce perceptions of fairness, legal certainty, and voluntary compliance (Dularif & Rustiarini, 2022; Kogler, Olsen, Kirchler, Batrancea, & Nichita, 2023). A credible compliance system therefore requires both administrative service and proportionate criminal

enforcement ([Alm, 2022](#)). Law Number 7 of 2021 on Harmonization of Tax Regulations, Law Number 7 of 2021, commonly known as the HPP Law, amends several provisions of Law Number 6 of 1983 concerning General Provisions and Tax Procedures and its subsequent amendments, as follows: In relation to Article 44C, the HPP Law adds a new provision to the KUP Law.

However, the legal position of the HPP Law should also be read in light of its subsequent amendment by the Job Creation Law framework, particularly Law Number 6 of 2023, and the relevant Constitutional Court decision concerning the Job Creation Law, which amended several provisions of the General Tax Provisions Law. One of the most important amendments to tax-criminal enforcement is Article 44C. Article 44C requires that criminal fines imposed for tax crimes under Articles 39 and 39A cannot be substituted with imprisonment and must be paid by convicted offenders. Government Regulation Number 50 of 2022 and Minister of Finance Regulation Number 177/PMK.03/2022 concerning Procedures for Preliminary Evidence Examination of Criminal Acts in the Field of Taxation provide the procedural framework for examining preliminary evidence in tax-criminal enforcement. Preliminary evidence examination and investigation procedures are particularly relevant because Article 44C becomes meaningful only after criminal enforcement has passed a reliable procedural gate. Normatively, Article 44C shifts the emphasis from symbolic punishment to fiscal recovery because economic tax crimes should produce actual financial consequences for offenders.

Article 44C does not operate in isolation. Article 39 criminalizes intentional noncompliance, including failure to register, failure to submit tax returns, submission of false or incomplete returns, refusal of audit, false bookkeeping, and failure to remit taxes already withheld or collected. Article 39A targets document-based offences, especially the issuing or use of tax invoices or tax documents not based on actual transactions. Articles 39 and 39A have different offence structures, evidentiary burdens, and harm profiles ([Putra, Suseno, Santoso, & Muttaqin, 2025](#)). Nevertheless, Article 44C attaches the same non-substitution principle to fines arising from both Articles 39 and 39A ([Nurferyanto & Takahashi, 2024b](#)). This design raises a doctrinal question about how fiscal recovery can be harmonized with legality, culpability, proportionality, and enforceable sentencing ([Kusumo, Marwiyah, Yunus, & Koos, 2022](#)).

A directly relevant Goodwood Publishing article in *Jurnal Ilmiah Hukum dan Hak Asasi Manusia* strengthens this argument by showing that fictitious tax-invoice crimes committed by corporations may trigger criminal consequences under Article 39A of Law Number 7 of 2021, including imprisonment and fines calculated as multiples of the tax amount stated in the invoice or in related tax documents. This finding is important for the present study because Article 44C determines whether the Article 39A fines remain financially enforceable after conviction rather than being converted into substitute imprisonment. The practical relevance of Article 44C is visible in recent enforcement involving fictitious value-added tax invoices and non-remittance of collected for the first reference, the term should be written in full as Value Added Tax (VAT).

Thereafter, the abbreviation VAT may be used consistently throughout the article. The official website of the Directorate General of Taxes (*Direktorat Jenderal Pajak* (DJP), hereinafter referred to as the Directorate General of Taxes (DGT)) has reported the alleged issuance of fictitious invoices, false VAT returns, and failure to remit VAT collected from customers. The DGT also reported later cases involving large alleged tax losses and fictitious invoice schemes. Another DGT release described the transfer of suspects in alleged fictitious invoice cases to the prosecutors. These cases show that tax-criminal policy is not merely about punishing legal formality but also about protecting public revenue and VAT documentary integrity. Recent VAT-fraud detection literature further shows that invoice fraud may involve networks, transaction layers, and cross-firm connections ([Alexopoulos et al., 2025](#)).

The research gap is twofold: Tax compliance scholarship increasingly examines trust, deterrence, perceived power, tax morale, and taxpayer typologies. Cross-cultural research has also shown that perceptions of trust and power are associated with tax compliance. Taxpayer typology research demonstrates that taxpayers respond differently to enforcement and service strategies ([Paleka & Vitezić, 2023](#); [Prichard, Custers, Dom, Davenport, & Roscitt, 2019](#); [Saptono & Khozen, 2023](#)).

However, this literature rarely addresses the doctrinal problem created by a specific non-substitutable criminal fine provision, such as Article 44C ([Nurferyanto & Takahashi, 2024a](#)). Indonesian legal studies on tax crime often describe Articles 39 and 39A, but they still need stronger integration with fiscal recovery theory, corporate criminal responsibility, asset recovery, and international compliance literature ([Putra et al., 2025](#)). This article bridges this gap by reading Article 44C as a juridical policy instrument that must be harmonized with criminal law principles and revenue protection ([Kusumo et al., 2022](#)). This article focuses on one central research problem: how Article 44C should be interpreted and harmonized with Articles 39 and 39A within Indonesia's tax criminal enforcement framework. The discussion of the non-substitutable fine model, including its potential internal conflicts, serves as a supporting analysis to assess whether Article 44C can promote revenue recovery, deterrence, proportionality, due process, and legal certainty ([Nurferyanto & Takahashi, 2024a](#)).

2. Literature Review

2.1 Tax criminal policy, deterrence, and voluntary compliance

Tax criminal policy cannot be reduced to punishment alone ([Dularif & Rustiarini, 2022](#)). Contemporary tax compliance scholarship distinguishes enforced compliance from voluntary compliance. Enforced compliance depends on the perceived power of tax authorities, audit probability, sanctions, prosecution, and collection capabilities ([Hofmann, Hartl, Gangl, Hartner-Tiefenthaler, & Kirchler, 2017](#)). Voluntary compliance depends on trust, fairness, tax morale, social norms, service quality and perceived legitimacy. The slippery slope framework explains how trust and power interact to produce compliance behavior. Recent empirical studies confirm that deterrence works best when taxpayers perceive authority as legitimate and procedurally fair ([Kogler et al., 2023](#)).

Indonesian evidence also supports the relevance of both enforced and voluntary compliance in taxpayer behavior ([Tahar & Bandi, 2024](#)). Recent evidence supports this dual approach to treatment [Dularif and Rustiarini \(2022\)](#) show that non-deterrence factors such as tax services, trust in government, personal norms, social norms, and religiosity consistently appear in tax compliance studies. [Adem, Desta, and Girma \(2024\)](#) found that trust significantly affects voluntary compliance, while the power of tax authorities contributes to enforced compliance. [Saptono et al. \(2024\)](#) demonstrated that compliance intentions are shaped by institutional trust and pandemic-related benefit experiences. These findings are important for Article 44C because non-substitutable fines may increase deterrence, but they will not necessarily increase voluntary compliance unless taxpayers perceive enforcement as fair, consistent, and legally bound ([OECD, 2022](#)).

Goodwood Publishing tax compliance studies support the same integrated approach. [Yuesti, Adiyadnya, Agung, Komang, and Antari \(2023\)](#) show that tax audits can improve individual taxpayer compliance, while [Ramdhan and Rachman \(2023\)](#) find that taxpayer awareness and tax socialization positively affect compliance. From a socio-legal perspective, voluntary tax compliance improves when tax policies are perceived as fair and when taxpayers recognize the public benefits of taxation. These studies reinforce the view that Article 44C should be combined with predictable enforcement, taxpayer education, and institutional fairness, rather than being treated as a purely punitive instrument. From a law-and-economics perspective, tax evasion becomes attractive when the expected gains exceed the expected sanctions. Criminal sanctions raise the expected cost of intentional evasion; however, sanctions are credible only if they are enforceable ([Slemrod, 2019](#)). A nominally severe fine that cannot be collected may create expressive condemnation but weak fiscal recovery ([Alm, 2022](#)). Article 44C attempts to address this weakness by preventing offenders from treating substitute imprisonment as a cheaper alternative to paying criminal fines. Therefore, the effectiveness of Article 44C depends on collection capacity, asset tracing, and enforcement coordination ([OECD, 2021](#)).

The tax morale literature suggests that enforcement and trust are complementary rather than mutually exclusive. Earmarking may influence taxpayers' willingness to comply when they perceive a visible relationship between tax payments and public benefits ([Barile, Grossi, Lattarulo, & Paziienza, 2024](#)). Tax knowledge and fairness perception also shape compliance because taxpayers evaluate whether obligations are understandable and justifiable ([Hauptman, Žmuk, & Pavić, 2024](#)). Experimental evidence shows that fairness affects tax morale and compliance ([Engel, Mittone, & Morreale, 2020](#)).

Therefore, a harmonized interpretation of Article 44C should distinguish intentional fraud from administrative errors ([Prichard et al., 2019](#)). This distinction is necessary because a self-assessment system requires cooperative compliance from honest taxpayers and credible punishment for deliberate offenders ([OECD, 2022](#)).

Empirical and experimental studies have shown that taxpayer behavior is shaped by social norms, perceived fairness, moral motivation, and sanction credibility. Social network analysis shows that tax morale and evasion are influenced by interpersonal and social structures ([Di Gioacchino & Fichera, 2020](#)). Tax experiment literature confirms that laboratory and field evidence can explain how taxpayers react to enforcement signals ([Mascagni, 2018](#)). Indonesian SME evidence confirms the relevance of both voluntary and enforced compliance in domestic taxpayer behavior ([Inasius, 2018](#)). Further Indonesian SME evidence shows that enforced and voluntary compliance can coexist in small and medium-sized enterprises ([Inasius, 2019](#)). Developing-country evidence shows that taxpayers' perceptions strongly affect compliance decisions ([Nkundabanyanga, Mvura, Nyamuyonjo, Opiso, & Nakabuye, 2017](#)). At the corporate level, profit-shifting incentives require stronger administrative capacity and credible enforcement. Company tax administration can be linked to tax avoidance behavior; therefore, preventive governance is also needed ([Pratama & Muhammad, 2025](#)). Professional gatekeeping and fraud prevention awareness are relevant to taxation because public accountants can support the prevention and detection of tax-related fraud ([Widiyati, Valdiansyah, Meidijati, & Hendra, 2021](#)).

2.2 Articles 39 and 39A as predicate tax criminal provisions

Articles 39 and 39A are the substantive anchors of Article 44C. Article 39 concerns intentional non-compliance that causes or may cause loss of state revenue. Article 39A concerns the manipulation of tax invoices and documents that are not based on actual transactions. This distinction is important because Article 39 generally protects the integrity of taxpayer registration, reporting, bookkeeping, payment, and remittance obligations ([Putra et al., 2025](#)). Article 39A protects the documentary reliability of the VAT system, especially input VAT crediting and transaction evidence ([Vanhoeyveld, Martens, & Peeters, 2020](#)).

The relevance of Article 39A is also confirmed analyze corporate fictitious tax invoice cases and emphasize that judicial consideration in such cases must connect the offence, the corporate actor, and the statutory sanction. Their analysis supports the need for Article 44C to be read together with the predicate offence structure because a non-substitutable fine will be legitimate only when the underlying Article 39 or Article 39A violation is clearly proven and the fine calculation is transparent. Fictitious VAT invoice offences are particularly damaging because invoices are not ordinary commercial documents ([Vanhoeyveld et al., 2020](#)). VAT invoices function as fiscal instruments that allow taxpayers to credit input VAT against output VAT ([Vanhoeyveld et al., 2020](#)). A false invoice can create artificial input credits, reduce payable VAT, facilitate refund abuse, distort competition, and burden tax administration with transaction reconstruction ([Vanhoeyveld et al., 2020](#)). The emergence of scalable VAT fraud detection research indicates that tax administrations increasingly need data analytics, network analysis, and anomaly detection to identify sophisticated fraud schemes ([Alexopoulos et al., 2025](#)).

The predicate-offence structure creates a doctrinal challenge for Article 44C ([Nurferyanto & Takahashi, 2024a](#)). If the fine is calculated as a multiple of the tax stated in the false documents, the resulting amount may be very high. High fines may be justified for organized invoice networks, but proportionality requires differentiation of roles among masterminds, issuers, users, brokers, nominee directors, consultants, and administrative employees ([Kusumo et al., 2022](#)). Therefore, a harmonized policy should connect Article 44C with individualized culpability, beneficial ownership analysis, and asset-tracing capability ([Nurferyanto & Takahashi, 2024a](#)).

2.3 Harmonization, restorative fiscal recovery, and legal certainty

Harmonization in the HPP Law should not be understood as merely the technical alignment of tax rates or sanctions. In criminal tax law, harmonization means that administrative remedies, preliminary

evidence examination, investigation, prosecution, sentencing, and fine execution operate as coherent systems (Putra et al., 2025). Article 44B provides a pre-trial mechanism for terminating investigations in the interest of state revenue after payment under statutory conditions. Article 44C operates after conviction by making fines payable and non-substitutable. Government Regulation Number 50 of 2022 and PMK 177/PMK.03/2022 provide procedural support for this enforcement architecture (Surugiu et al., 2025). Goodwood Publishing’s research on digital and administrative taxation also supports this broader meaning of harmonization. E-commerce taxation requires clear rules, fair implementation, and structured taxpayer socialization, the effectiveness and efficiency of Indonesia’s e-invoice system can strengthen corporate tax compliance. In the context of Article 44C, these findings suggest that criminal-fine execution should be supported by administrative clarity, digital traceability, and the early identification of risky transactions.

This continuum reflects a restorative fiscal orientation (OECD, 2022). Before conviction, the system may prioritize recovery through settlements under strict statutory conditions. After conviction, the system preserves the financial consequences of tax crimes through Article 44C. The problem is not the existence of Article 44C but the risk of applying it without clear fine calculations, role differentiation, and asset recovery (Nurferyanto & Takahashi, 2024a). Legal certainty requires taxpayers, investigators, prosecutors, and courts to understand when administrative correction is sufficient, when Article 44B is available, and when criminal prosecution and Article 44C execution are necessary (OECD, 2023). Accordingly, this article advances the following analytical proposition: Article 44C will produce legal harmonization only if it is interpreted as a post-conviction fiscal recovery instrument embedded in legality, culpability, proportionality, due process, and an enforceable asset strategy. If Article 44C is applied mechanically as an automatic punitive device, it may create internal conflict within Indonesia’s tax-criminal policy (Nurferyanto & Takahashi, 2024a).

3. Methodology

This study uses normative legal research because the object of analysis is a set of legal norms governing tax-criminal enforcement in Indonesia. The statutory approach examines Law Number 6 of 1983 concerning General Provisions and Tax Procedures, as amended by Law Number 7 of 2021. The statutory approach also examines Government Regulation Number 50 of 2022 and Minister of Finance Regulation Number 177/PMK.03/2022. The conceptual approach examines legality, proportionality, *ultimum remedium*, deterrence, voluntary compliance, fiscal recovery, and corporate criminal responsibility (Nurferyanto & Takahashi, 2024b). The case approach uses publicly available tax-crime releases involving fictitious invoices, false VAT returns, and non-remittance of VAT to illustrate the practical implications.

Legal materials are classified into primary, secondary, and tertiary categories. The primary materials consist of statutes and regulations. Secondary materials included journal articles, OECD reports, DGT official releases, legal commentary, and case reports from responsible sources (OECD, 2023). Tertiary materials are used only to clarify the legal terminology. The analysis is qualitative and prescriptive because it identifies the normative content of Article 44C, compares it with Articles 39 and 39A, evaluates internal consistency using criminal law and tax policy principles, and proposes a harmonized interpretation (Nurferyanto & Takahashi, 2024a). Because this article is doctrinal, it does not use statistical software, survey instruments, or econometric testing. Its validity is maintained through the triangulation of legal texts, official regulatory documents, and reputable scholarly sources (OECD, 2021). Its scope is limited to Indonesian tax-criminal law after the HPP Law and does not examine all criminal provisions in customs, excise, or money laundering law (Taxes, 2024b). The following Table 1 presents the normative relationships among Articles 39, 39A, 44B, and 44C within the taxation legal framework.

Table 1. Normative relationship among Articles 39, 39A, 44B, and 44C

Provision	Core function	Policy orientation	Main tension
Article 39	It criminalizes intentional non-	Protects self-assessment and state	It requires proof of intent and a

	compliance, including false returns, non-filing, refusal of audit, false bookkeeping, or failure to remit tax withheld or collected.	revenue through deterrence.	proportional link between conduct, harm, and sanction.
Article 39A	It criminalizes the issuing or use of tax invoices or tax documents that are not based on actual transactions.	It protects VAT documentary integrity and prevents fictitious credit networks.	High fine multiples may create collection problems and corporate liability complexities.
Article 44B	Allows termination of investigation for state revenue interest after payment under the statutory conditions.	Restorative fiscal recovery before the trial.	Potential tension among settlement, equality and deterrence.
Article 44C	Makes fines under Articles 39 and 39A non-substitutable by imprisonment and payable by the convicted offender.	Fiscal recovery and credible punishment after conviction are also important.	Collection feasibility, proportionality, and asset recovery coordination.

4. Results and Discussions

4.1 Article 44C, Law Number 7 of 2021, through Article 2

Article 44C has two core legal implications. First, it disconnects tax-criminal fines under Articles 39 and 39A from the ordinary mechanism of substitution by Imprisonment. Second, it obliges the convicted offender to pay a criminal fine. This makes the fine a real fiscal obligation attached to the criminal judgment ([Nurferyanto & Takahashi, 2024a](#)). Article 44C can be understood as a legislative response to the risk that high tax-criminal fines may be converted into short-term substitute imprisonment and therefore fail to recover revenue ([Putra et al., 2025](#)). In the context of Article 44C, Law Number 7 of 2021, Article 2 amends the General Provisions and Tax Procedures Law by inserting a new provision into the KUP Law. Therefore, Article 44C is not a stand-alone norm but part of the amended structure of Law Number 6 of 1983 concerning General Provisions and Tax Procedures and its subsequent amendments.

This design is normatively defensible because tax crimes are economically motivated. A person who intentionally manipulates returns, invoices, bookkeeping, or remittance obligations usually seeks monetary benefits. A purely custodial response punishes liberty but may leave illegal gains untouched ([Alm, 2022](#)). By making fines non-substitutable, Article 44C aligns punishment with the economic nature of the offence. Article 44C also states that tax crimes are not victimless offences because unpaid tax reduces public fiscal capacity ([OECD, 2021](#)). Nevertheless, the same design raises questions regarding enforceability ([Nurferyanto & Takahashi, 2024a](#)). However, a fine that cannot be substituted must still be collected. If the offender lacks assets, hides assets, uses nominee ownership, or transfers proceeds through other parties, the judgment may remain unpaid ([OECD, 2021](#)). Article 44C does not create an asset-recovery mechanism ([Nurferyanto & Takahashi, 2024a](#)). Its practical effect depends on seizure, confiscation, execution of judgments, beneficial ownership tracing, and coordination with anti-money laundering tools when tax crime generates proceeds ([OECD, 2021](#)).

4.2 Internal conflict between deterrence and proportionality

The first internal conflict is the tension between deterrence and proportionality ([Alm, 2022](#)). Deterrence requires sanctions that are sufficiently severe to outweigh the expected benefits of evasion. Proportionality requires that punishment corresponds to culpability, harm, role, and benefit ([Kusumo](#)

[et al., 2022](#)). In fictitious invoice networks, the nominal invoice value may be large, whereas the offender's role may vary. A mastermind, issuer, user, broker, nominee director, consultant, and administrative employee should not automatically receive the same financial responsibility unless the evidence supports the same culpability and benefits ([Kusumo et al., 2022](#)). Proportionality also requires attention to the differences between document value, actual loss, potential loss, illegal credit, and unpaid tax ([Nurferyanto & Takahashi, 2024a](#)).

Article 39A sanctions are linked to the tax amount stated in documents because the offence protects the integrity of invoices. Judicial reasoning should explain whether the fine is based on unpaid tax, tax stated in fictitious invoices, unlawfully credited input VAT, or another statutory calculation ([Putra et al., 2025](#)). Transparent reasoning is essential because Article 44C makes fines unavoidable after conviction. The VAT fraud detection literature confirms that invoice schemes can be complex and therefore require careful factual reconstruction ([Alexopoulos et al., 2025](#)). International compliance literature warns that deterrence alone may not produce sustainable results ([Dularif & Rustiarini, 2022](#)). Taxpayers comply not only because they fear punishment but also because they perceive the law as legitimate ([Hofmann et al., 2017](#)). Legitimacy depends on consistency, transparency, and fairness ([Cahyonowati, Ratmono, & Faisal, 2023](#)). Therefore, Article 44C should be accompanied by public guidance explaining when cases are treated administratively, when Article 44B settlement is possible, and when criminal prosecution is unavoidable ([OECD, 2022](#)).

4.3 Internal conflict between fiscal recovery and legality principle

The second internal conflict concerns fiscal recovery and its legality. Tax administration prioritizes revenue. However, criminal law is governed by the principle of legality: no crime and no punishment without prior law, clear elements, and proof beyond a reasonable doubt. Article 44C should not be used to blur the line between administrative debt and criminal fines. Tax payable, administrative sanctions, restitution-like payments, and criminal fines are different legal categories. The HPP Law may connect them through fiscal policy, but enforcement documents must be conceptually clear. Otherwise, defendants may argue that they are punished twice for the same fiscal amount, while the state may argue that the fine is separate from the tax debt. Legal certainty requires a clear separation and explanation ([Saptono et al., 2024](#)). The relationship between Articles 44B and 44C illustrates this problem. Before prosecution, the payment of tax loss and sanctions may support the termination of the investigation for state revenue interest under Article 44B. After conviction, Article 44C requires the payment of a criminal fine. If an offender has paid during the investigation but the case continues to prosecution, courts should determine how prior payment affects sentencing or collection. A harmonized policy should avoid double recovery of the same fiscal amount while preserving the punitive function of criminal fines ([OECD, 2021](#)).

The relationship between Articles 44B and 44C illustrates this issue. Before prosecution, the payment of tax loss and sanctions may support the termination of the investigation for state revenue interest. After conviction, Article 44C requires the payment of a criminal fine. If the offender has paid during the investigation but the case continues to prosecution, courts must determine how previous payments affect sentencing or collections. A harmonized policy should avoid double recovery of the same amount while preserving the punitive function of the criminal fines. This requires coordination between tax assessment, criminal case files, prosecutors' demands, and judicial decisions. Minister of Finance Regulation Number 177/PMK.03/2022 structures the preliminary evidence examination and investigation. Preliminary evidence examination is important because it separates criminal cases from ordinary tax disputes. If this gatekeeping function is weak, the execution of Article 44C may become uncertain ([Nurferyanto & Takahashi, 2024a](#)). Strong procedural gatekeeping protects both taxpayers and state revenue ([OECD, 2023](#)). Therefore, preliminary evidence examination should function as a gatekeeping mechanism. It should ensure that criminal cases are not built merely on tax disputes but on credible indications of intentional criminal conduct. A strong gatekeeping mechanism protects taxpayers from over-criminalization ([Dularif & Rustiarini, 2022](#)). It also protects the state from weak prosecutions that may fail at trial or execution ([OECD, 2021](#)). When preliminary evidence is robust, Article 44C becomes more defensible because the non-substitutable fine follows a reliable process ([Nurferyanto & Takahashi, 2024a](#)).

4.4 Case-based discussion: fictitious tax invoices and non-remittance of VAT

Fictitious invoice cases show why Article 44C matters (Taxes, 2024a). In VAT systems, invoices are fiscal instruments for input VAT crediting (Vanhoeyveld et al., 2020). A false invoice may create unlawful credits, reduce VAT payable, support false refund claims, and conceal actual transactions (Alexopoulos et al., 2025). Recent data-analytics research shows that VAT fraud often requires network-based detection because invoice schemes can involve multiple firms, sectors and transaction layers (Alexopoulos et al., 2025). Provide a useful doctrinal comparator because their study specifically examines fictitious tax invoices, corporate criminal responsibility, and judicial sanctions under Article 39A. Their discussion strengthens the case-based analysis in this study: fictitious invoices are not merely administrative irregularities but documentary instruments that may create artificial VAT credits, distort fiscal reporting, and justify criminal sanctions when the statutory elements are proven.

Publicly available Indonesian cases reveal recurring patterns in tax criminal enforcement. Offenders may issue invoices that are not based on actual transactions. User companies may claim input VAT based on these invoices. Periodic VAT returns may become false or incomplete when fictitious invoices are used or when the collected VAT is not remitted. The state may suffer actual or potential revenue losses from these schemes. These cases support the policy rationale of Article 44C, because imprisonment alone would not restore fiscal harm or remove illegal economic benefits. The cases also revealed practical challenges. Alleged tax periods often occurred years before the enforcement. Corporate records may be incomplete, companies may no longer operate, and individuals may have dissipated their assets (OECD, 2021). The longer the gap between the offence and the final judgment, the harder the collection (Nurferyanto & Takahashi, 2024a). Therefore, Article 44C should be supported by early asset identification during preliminary evidence examination and investigation, not only after conviction. The following Table 2 Internal conflicts generated by Article 44C and harmonization responses.

Table 2. Internal conflicts generated by Article 44C and harmonization responses

Internal conflict	Risk if Article 44C is applied mechanically	Harmonization response
Deterrence vs proportionality	Very high non-substitutable fines may be imposed without sufficient differentiation of roles, benefits, and culpability.	Courts should individualize liability and explain the link between conduct, tax amount, role, and fine.
Fiscal recovery vs legality	Tax debt, administrative sanctions, settlement payments, and criminal fines may be conceptually mixed.	Case files and judgments should clearly separate each legal category and record the prior payments.
Fine severity vs collectability	Fines may remain unpaid if assets are hidden, transferred, or held by nominees.	Investigators and prosecutors should initiate asset tracing during preliminary evidence examination and investigation.
Article 44B settlement vs Article 44C conviction	Wealthier offenders may settle, while others face conviction and unavoidable fines.	Settlement and prosecution criteria should be transparent, risk-based, and sensitive to repeated or organized behaviors.
Corporate benefit vs individual conviction	An individual director may be convicted even if the corporation or beneficial owner enjoyed the economic benefit.	Enforcement should examine corporate liability, beneficial ownership, and parties who ordered, assisted, or benefited from the offence.

4.5 Harmonized interpretation of Article 44C

A harmonized interpretation of Article 44C begins with its ratio legis: ensuring that criminal fines for tax crimes remain financially meaningful. Article 44C does not reduce the prosecutor's burden to prove

the elements of Articles 39 or 39A ([Putra et al., 2025](#)). Article 44C does not convert administrative tax disputes into criminal offences ([Nurferyanto & Takahashi, 2024a](#)). Article 44C only determines the consequences of a criminal fine after a valid conviction. This reading preserves legality while recognizing the fiscal nature of tax-criminal punishment ([OECD, 2021](#)). Four interpretive principles were proposed. First, Article 44C should be treated as a post-conviction fiscal recovery rule. Second, Article 44C should be supported by an asset-recovery strategy, including the early identification of assets, beneficial ownership, and proceeds ([OECD, 2021](#)). Third, courts should transparently explain fine calculations ([Putra et al., 2025](#)). Fourth, responsibility should be individualized according to roles, benefits, culpability, and evidence ([Kusumo et al., 2022](#)). These principles align tax-criminal enforcement with revenue protection and criminal law fairness ([Nurferyanto & Takahashi, 2024a](#)). This interpretation clarifies the relationship between Articles 44B and 44C. Article 44B is a pretrial settlement mechanism in the interest of state revenues. Article 44C is a post-conviction payment mechanism. Together, the two provisions create a continuum in which the system encourages early fiscal recovery where legally justified and prevents convicted offenders from avoiding financial consequences after their conviction ([OECD, 2021](#)). The two provisions can be complementary if implemented through transparent criteria and coordinated enforcement ([Nurferyanto & Takahashi, 2024a](#)).

4.6 Policy recommendations

First, the Ministry of Finance and DGT should issue technical guidance on Article 44C implementation, especially fine calculation, previous payments, coordination with tax assessment and asset tracing. Guidance would not replace judicial discretion but would improve consistency among tax investigators, prosecutors, and courts ([OECD, 2021](#)). Second, preliminary evidence examination should assess asset recovery feasibility because a non-substitutable fine is meaningful only if it can be executed. Third, prosecutors should integrate confiscation and anti-money laundering analysis where statutory elements are met, particularly when tax crimes generate proceeds or involve nominee structures ([OECD, 2023](#)). Fourth, courts should develop sentencing reasoning that distinguishes roles and benefits in invoice networks ([Putra et al., 2025](#)). A user, issuer, broker, nominee director, and beneficial owner should not automatically bear identical financial responsibilities unless the evidence supports it ([Kusumo et al., 2022](#)). Fifth, Article 44B settlements should be applied transparently. Cases involving organized networks, repeated conduct, obstruction, or nominee structures may warrant prosecution, even if payment is offered ([Nurferyanto & Takahashi, 2024a](#)). Sixth, the government should publish anonymized enforcement statistics covering preliminary evidence examinations, investigations, Article 44B terminations, prosecutions, convictions, fines imposed, and fines collected ([OECD, 2023](#)). Without collection statistics, the effectiveness of Article 44C cannot be evaluated ([Alm, 2022](#)).

Audit-based compliance improvement, taxpayer awareness and socialization ([Ramdhan & Rachman, 2023](#)), and e-invoice effectiveness indicate that Article 44C will be more credible when criminal enforcement is connected with preventive administration, taxpayer communication, and transaction-based monitoring. Finally, harmonization should include taxpayer education ([OECD, 2022](#)). The legal message should be clear: voluntary correction and cooperative compliance remain available for non-fraudulent taxpayers ([Dularif & Rustiari, 2022](#)). Intentional manipulation of tax invoices, false returns, and non-remittance of collected VAT should create both imprisonment risk and unavoidable financial liability ([Saptono & Khozen, 2023](#)). Communication that combines service, fairness, and credible enforcement can simultaneously strengthen deterrence and trust ([Saptono et al., 2024](#)). Tax compliance intention also depends on attitudes, norms, and perceived behavioral control; therefore, legal communication should be understandable to taxpayers ([Taing & Chang, 2021](#)).

Digital transformation also deserves explicit attention in the implementation of Article 44C. Digital transformation and media attention are relevant to tax avoidance behavior among Indonesian multinationals. This supports a policy model in which Article 44C enforcement is complemented by digital audit trails, public transparency, and risk-based supervision so that criminal enforcement targets deliberate fraud, while cooperative taxpayers remain protected. The following Table 3 licy roadmap for implementing Article 44C.

Table 3. Policy roadmap for implementing Article 44C

Stage	Recommended action	Expected effect
Preliminary evidence examination	Clarifying the intent, transaction reality, tax amount, and asset profile is crucial.	It prevents over-criminalization and prepares for enforceable recovery.
Investigation	Trace assets, beneficial ownership, nominee structures, and proceeds of tax crimes.	It reduces the risk that non-substitutable fines remain unpaid.
Prosecution	Separate tax payable, administrative sanctions, confiscation, settlement payments and criminal fines.	It improves legality, transparency, and sentencing certainty.
Judgment	Explain the fine calculation and role-based liability.	It strengthens proportionality and public trust.
Execution	Coordinating tax authorities, prosecutors, and asset recovery units.	Transforms nominal fines into actual fiscal recovery.
Public accountability	Anonymized statistics on cases, fines imposed, and fines collected.	This enables an evidence-based evaluation of the effectiveness of Article 44C.

5. Conclusions

5.1 Conclusion

This study concludes that Article 44C of Law Number 7 of 2021 is a significant fiscal recovery provision in the Indonesian tax-criminal law. By making criminal fines under Articles 39 and 39A non-substitutable by imprisonment and payable by the convicted offender, Article 44C seeks to ensure that tax-crime punishment does not become merely symbolic. This provision is normatively justified because tax crimes are economically motivated and damage public revenue, documentary integrity, and fair competition. Nevertheless, Article 44C creates internal policy tensions. It strengthens deterrence but raises concerns about proportionality. It supports fiscal recovery but requires strong asset-recovery mechanisms. It reinforces criminal fines but must remain consistent with the principles of legality, culpability, and due process. It operates after conviction but must be harmonized with Article 44B, which allows the pretrial termination of an investigation in the interest of state revenue. The most coherent interpretation is to treat Article 44C as a post-conviction fiscal recovery rule embedded in a wider tax compliance architecture. It should not be applied mechanically; instead, it should be applied with transparent fine calculations, individualized liability, and an enforceable asset strategy.

5.2 Research Limitations

This study was limited by its normative design. It does not conduct a statistical analysis of all tax crime judgments after the HPP Law. It also does not measure the actual collection rate of criminal fines because comprehensive public data on fines imposed and collected are limited. The cases discussed are illustrative and based on publicly available official releases, responsible news reports and accessible court-related materials. Therefore, the findings should be read as doctrinal and policy analyses rather than empirical generalizations.

5.3 Suggestions and Directions for Future Research

Future research should build a dataset of tax crime judgments after the HPP Law and compare sentencing patterns, fine calculations, terms of imprisonment, use of Article 44B, and execution outcomes. Empirical research should also examine whether Article 44C increases fine collections or merely increases nominal fines. Comparative research with other VAT jurisdictions would be useful to evaluate how criminal fines, confiscation, and tax recovery interact with each other. Finally, socio-legal research should examine whether taxpayers perceive Article 44C as fair and predictable, because perceived fairness is essential for long-term voluntary compliance.

Acknowledgement

The author acknowledges the academic support of Universitas Pamulang and appreciates the availability of official legal materials from the Indonesian government, Directorate General of Taxes, and public legal databases.

References

- Adem, M., Desta, T., & Girma, B. (2024). Determinants of tax compliance behavior: A case study in Ethiopia. *SAGE Open*, 14(4). doi: <https://doi.org/10.1177/21582440241292869>
- Alexopoulos, A., Dellaportas, P., Gyoshev, S., Kotsogiannis, C., Olhede, S. C., & Pavkov, T. (2025). A network approach to detect Value Added Tax fraud. *Journal of the Royal Statistical Society: Series A (Statistics in Society)*. doi: <https://doi.org/10.1093/jrssa/qnaf205>
- Alm, J. (2022). Devising administrative policies for improving tax compliance. *Canadian Tax Journal*, 70(Supplement), 43–67. doi: <https://doi.org/10.32721/ctj.2022.70.supp.alm>
- Barile, L., Grossi, G., Lattarulo, P., & Paziienza, M. G. (2024). Earmarking taxation and compliance: Some evidence from car ownership in Italy. *Economies*, 12(9), 246. doi: <https://doi.org/10.3390/economies12090246>
- Cahyonowati, N., Ratmono, D., & Faisal. (2023). The role of social norms and trust in authority in tax compliance dilemmas. *Cogent Business & Management*, 10(1), 2174084. doi: <https://doi.org/10.1080/23311975.2023.2174084>
- Di Gioacchino, D., & Fichera, D. (2020). Tax evasion and tax morale: A social network analysis. *European Journal of Political Economy*, 65, 101922. doi: <https://doi.org/10.1016/j.ejpoleco.2020.101922>
- Dularif, M., & Rustiarini, N. W. (2022). Tax compliance and non-deterrence approach: A systematic review. *International Journal of Sociology and Social Policy*, 42(11–12), 1080–1108. doi: <https://doi.org/10.1108/ijssp-04-2021-0108>
- Engel, C., Mittone, L., & Morreale, A. (2020). Tax morale and fairness in conflict: An experiment. *Journal of Economic Psychology*, 81, 102314. doi: <https://doi.org/10.1016/j.joep.2020.102314>
- Hauptman, L., Žmuk, B., & Pavić, I. (2024). Tax compliance in Slovenia: An empirical assessment of tax knowledge and fairness perception. *Journal of Risk and Financial Management*, 17(3), 89. doi: <https://doi.org/10.3390/jrfm17030089>
- Hofmann, E., Hartl, B., Gangl, K., Hartner-Tiefenthaler, M., & Kirchler, E. (2017). Authorities' coercive and legitimate power: The impact on cognitions underlying cooperation. *Frontiers in Psychology*, 8, 5. doi: <https://doi.org/10.3389/fpsyg.2017.00005>
- Inasius, F. (2018). Factors influencing SME tax compliance: Evidence from Indonesia. *International Journal of Public Administration*, 42(5), 367–379. doi: <https://doi.org/10.1080/01900692.2018.1464578>
- Inasius, F. (2019). Voluntary and enforced tax compliance: Evidence from small and medium-sized enterprises in Indonesia. *Advances in Taxation*, 26, 99–111. doi: <https://doi.org/10.1108/s1058-749720190000026006>
- Kogler, C., Olsen, J., Kirchler, E., Batrancea, L. M., & Nichita, A. (2023). Perceptions of trust and power are associated with tax compliance: A cross-cultural study. *Economic and Political Studies*, 11(3), 365–381. doi: <https://doi.org/10.1080/20954816.2022.2130501>
- Kusumo, B. A., Marwiyah, S., Yunus, N. R., & Koos, S. (2022). Rethinking criminal law policies in taxation to overcome tax violations. *Bestuur*, 10(2), 159–182. doi: <https://doi.org/10.20961/bestuur.v10i2.62064>
- Mascagni, G. (2018). From the lab to the field: A review of tax experiments. *Journal of Economic Surveys*, 32(2), 273–301. doi: <https://doi.org/10.1111/joes.12201>
- Nkundabanyanga, S. K., Mvura, P., Nyamuyonjo, D., Opiso, J., & Nakabuye, Z. (2017). Tax compliance in a developing country: Understanding taxpayers' compliance decision by their perceptions. *Journal of Economic Studies*, 44(6), 931–957. doi: <https://doi.org/10.1108/jes-03-2016-0061>
- Nurferyanto, D., & Takahashi, Y. (2024a). Combating tax crimes in Indonesia: Tackling the issue head-on. *Humanities and Social Sciences Communications*, 11, 1556. doi: <https://doi.org/10.1057/s41599-024-04075-1>
- Nurferyanto, D., & Takahashi, Y. (2024b). Establishing boundaries to combat tax crimes in Indonesia.

- Laws*, 13(3), 29. doi: <https://doi.org/10.3390/laws13030029>
- OECD. (2021). *Fighting tax crime: The ten global principles*: OECD Publishing.
- OECD. (2022). *Tax morale II: Building trust between tax administrations and large businesses*: OECD Publishing.
- OECD. (2023). *Tax administration 2023: Comparative information on OECD and other advanced and emerging economies*: OECD Publishing.
- Paleka, H., & Vitezić, V. (2023). Tax compliance challenge through taxpayers' typology. *Economies*, 11(9), 219. doi: <https://doi.org/10.3390/economies11090219>
- Pratama, A., & Muhammad, K. (2025). Optimizing tax compliance: Understanding the link between company tax administration and tax avoidance. *Economies*, 13(7), 194. doi: <https://doi.org/10.3390/economies13070194>
- Prichard, W., Custers, A., Dom, R., Davenport, S., & Roscitt, M. (2019). *Innovations in tax compliance: Conceptual framework*. Retrieved from <https://doi.org/10.1596/1813-9450-9032>
- Putra, F. E., Suseno, S., Santoso, T., & Muttuqin, Z. (2025). Tax law enforcement in Indonesia: Administrative vs criminal sanctions. *Jambe Law Journal*, 8(1), 399–419. doi: <https://doi.org/10.22437/home.v8i1.522>
- Ramdhan, R. M., & Rachman, A. A. (2023). The effect of the awareness of taxpayer and tax socialization on taxpayer compliance for motor vehicles. *International Journal of Financial, Accounting, and Management*, 5(2), 133-148. doi: <https://doi.org/10.35912/ijfam.v5i2.393>
- Saptono, P. B., & Khozen, I. (2023). What determines the tax compliance intention of individual taxpayers receiving COVID-19-related benefits? Insights from Indonesia. *International Journal of Sociology and Social Policy*, 43(11–12), 1190–1217. doi: <https://doi.org/10.1108/ijssp-02-2023-0045>
- Saptono, P. B., Mahmud, G., Salleh, F., Pratiwi, I., Purwanto, D., & Khozen, I. (2024). Tax complexity and firm tax evasion: A cross-country investigation. *Economies*, 12(5), 97. doi: <https://doi.org/10.3390/economies12050097>
- Slemrod, J. (2019). Tax compliance and enforcement. *Journal of Economic Literature*, 57(4), 904–954. doi: <https://doi.org/10.1257/jel.20181437>
- Surugiu, M.-R., Vasile, V., Surugiu, C., Mazilescu, C. R., Panait, M.-C., & Bunduchi, E. (2025). Tax compliance pattern analysis: A survey-based approach. *International Journal of Financial Studies*, 13(1), 14. doi: <https://doi.org/10.3390/ijfs13010014>
- Tahar, A., & Bandi, B. (2024). Determinants of enforced and voluntary tax compliance: Adopting slippery slope framework. *Journal of Accounting and Investment*, 25(2), 621–636. doi: <https://doi.org/10.18196/jai.v25i2.20886>
- Taing, H. B., & Chang, Y. (2021). Determinants of tax compliance intention: Focus on the theory of planned behavior. *International Journal of Public Administration*, 44(1), 62–73. doi: <https://doi.org/10.1080/01900692.2020.1728313>
- Taxes, D. G. o. (2024a). DJP serahkan tersangka faktur pajak fiktif ke Kejaksaan Semarang.
- Taxes, D. G. o. (2024b). Tak setor PPN, tersangka S divonis 2 tahun penjara.
- Vanhoeyveld, J., Martens, D., & Peeters, B. (2020). Value-added tax fraud detection with scalable anomaly detection techniques. *Applied Soft Computing*, 86, 105895. doi: <https://doi.org/10.1016/j.asoc.2019.105895>
- Widiyati, D., Valdiansyah, R. H., Meidijati, M., & Hendra, H. (2021). The role of public accountants in fraud prevention and detection in the taxation sector during COVID-19. *Golden Ratio of Auditing Research*, 1(2), 73–85. doi: <https://doi.org/10.52970/grar.v1i2.77>
- Yuesti, A., Adiyadnya, M. S. P., Agung, A. A. P., Komang, N., & Antari, R. (2023). *Moderation Analysis of Taxpayer's Awareness Level of Taxpayer Compliance*. Paper presented at the IPSC 2023: Proceedings of the 5th International Public Sector Conference, IPSC 2023, October 10th-11th 2023, Bali, Indonesia.