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THE DEMAND FOR PUBLIC ACCOUNTANTS' SERVICES AND THE LEGAL IMPLICATIONS OF PROFESSIONAL ACCOUNTABILITY

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Abstract: *This study aims to further examine the legal accountability of public accountants in the Indonesian legal system. This study is important to conduct considering that the public accountant profession has a significant role in expressing opinions on fairness in all material matters, financial position, results of operations, changes in equity, and cash flows in accordance with generally accepted accounting principles in Indonesia. In other words, the responsibility of a public accountant is to provide a statement on the financial statements. Public accountants are responsible for planning and conducting audits to obtain reasonable assurance that the financial statements are free from material misstatements, whether caused by errors or fraud. Financial statements are the responsibility of management, and the public accountant profession cannot be punished simply. This study is a normative legal study. The data used are secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. The data collection technique uses literature studies, while the data validation technique uses source criticism. The data were analyzed using the legal interpretation method to obtain answers to the questions studied. The results of the study indicate that a public accountant can have criminal and civil liability in carrying out his duties when publishing a company's financial statements.*

***Keywords**: Criminal Liability, Civil Liability, Public Accountant, Financial Statements.*

INTRODUCTION

The demand for public accounting services has grown significantly, driven by the need for high-quality financial information as a critical component of economic decision-making. This trend is particularly evident in the era of free trade, where reliable financial reporting is essential for maintaining trust among stakeholders. Public accountants play a pivotal role in ensuring transparency, protecting public interests, and upholding the integrity of financial markets. Consequently, continuous professional development and adherence to ethical standards are imperative to meet these expectations.

Public accounting is a profession that facilitates the widespread use, distribution, and production of financial information across various platforms, provided proper attribution is given to original sources. Given its crucial function in trade and economic activities, the reliance on public accounting services continues to expand.

The Role of Public Accountants in Economic Decision-Making

Suci Khaerani (2024) posits that public accountants serve as an independent communication bridge between economic entities and stakeholders, particularly concerning financial accountability. As the profession evolves, its significance in fostering trust and transparency becomes increasingly pronounced.

In her study, *"Public Accountant Responsibility in Financial Statement Audits,"* Khaerani highlights how audit failures can lead to corporate bankruptcy and substantial shareholder losses. While her research focuses on audit responsibilities, the present study diverges by examining regulatory frameworks and the potential criminal liability of public accountants in cases of financial misconduct.

Regulatory Framework Governing Public Accountants in Indonesia

The Indonesian government has established several regulations to oversee public accounting practices, including:

1. **Minister of Finance Regulation No. 186/PMK.01/2021** – Pertaining to the Development and Supervision of Public Accountants.
2. **Law No. 5 of 2011 (Public Accountants Law)** – Governing the professional conduct and legal obligations of public accountants.

These regulations aim to create a sustainable and effective supervisory framework while safeguarding public interests. However, enforcement mechanisms remain weak, with administrative sanctions (such as license revocation) being the most severe penalties imposed. The lack of stringent legal consequences has led to concerns regarding accountability, prompting some public accountants under the Indonesian Institute of Public Accountants (IAPI) to challenge the Public Accountants Law via a judicial review (Constitutional Court Case No. 84/PUU-IX/2011).

Research Problem

This study critically examines the **criminal liability of public accountants** in the publication of corporate financial statements under Indonesian law.

Research Methodology

This research adopts a **normative legal approach**, focusing on statutory laws and regulations. Given its emphasis on legislative analysis, the study is classified as **qualitative research**, utilizing:

- **Primary legal materials** (laws, regulations, court rulings)
- **Secondary legal materials** (academic literature, legal commentaries)
- **Tertiary legal materials** (dictionaries, encyclopedias)

Data was collected through **literature review**, validated via **source criticism**, and analyzed using **legal**

interpretation methods to derive meaningful conclusions.

Results and Discussion

Fairness of Corporate Financial Statements and the Role of Auditing

Accounting principles serve as guiding doctrines that shape financial reporting standards, but they are not absolute truths. Accounting is inherently dynamic, evolving in response to economic, regulatory, and societal changes.[6] Auditing, an essential component of corporate governance, ensures that financial statements present a fair and accurate reflection of a company's financial health. Initially, auditing focused primarily on detecting fraud and errors, but its role has expanded into an evaluative function that informs business decisions.

As companies grow, the importance of auditing increases, necessitating collaboration between government agencies, shareholders, financial analysts, bankers, and investors to assess managerial governance. A well-structured management audit system provides valuable insights through analysis, evaluation, and recommendations. This process enhances transparency and accountability, ensuring that financial reports meet ethical and legal standards.

The importance of financial auditing and fair corporate financial statements is globally recognized, but the extent of regulatory enforcement and the legal framework surrounding auditing vary across countries. While some nations implement strict legal mandates to ensure financial integrity, others provide more flexibility, relying on market forces and self-regulation to maintain financial transparency. A comparative look at financial auditing practices in countries such as the United States, the United Kingdom, Japan, and Germany highlights both shared principles and key differences in regulatory approaches.

Principle of Disclosure and International Practices

Transparency in financial reporting is crucial for maintaining trust among investors and stakeholders. Misleading or ambiguous financial statements can distort the true financial position of a company, ultimately harming investors and shareholders. Misrepresentation often occurs due to improper disclosures that fail to provide an accurate picture of a company's financial health.

In the United States, the Securities and Exchange Commission (SEC) enforces stringent disclosure requirements, mandating that publicly traded companies comply with Generally Accepted Accounting Principles (GAAP) and undergo regular independent audits. The Sarbanes-Oxley Act (SOX) of 2002 was introduced in response to major corporate scandals like Enron and WorldCom, reinforcing strict disclosure requirements and criminal penalties for fraudulent financial reporting. SOX also established the Public Company Accounting Oversight Board (PCAOB) to regulate auditors and enhance corporate accountability.

Similarly, in the United Kingdom, the Financial Reporting Council (FRC) oversees corporate reporting, requiring adherence to International Financial Reporting Standards (IFRS). The UK has a strong corporate governance code, emphasizing independent audits and internal control mechanisms to ensure accurate financial disclosures. The collapse of Carillion, a major construction and services company, raised concerns over audit failures, leading to proposed reforms such as separating audit and consulting functions in large firms.

In Japan, financial disclosure is regulated by the Financial Services Agency (FSA), and companies follow Japanese GAAP or IFRS. However, Japan relies more on a relationship-based corporate governance model, where keiretsu (business conglomerates) play a major role in corporate oversight. While this system fosters long-term stability, it has faced criticism for lacking transparency, especially in cases like the Toshiba accounting scandal, where overstated profits went unnoticed for years due to inadequate audit scrutiny.

Germany follows the two-tier board system, which separates management and supervisory functions to enhance corporate governance. The Federal Financial Supervisory Authority (BaFin) enforces financial disclosure laws, and companies must adhere to German GAAP or IFRS. Unlike the US and UK, Germany emphasizes the role of works councils and stakeholder participation, ensuring a broader range of oversight beyond just financial stakeholders. The Wirecard scandal, however, revealed weaknesses in regulatory enforcement, leading to calls for stronger auditor independence and reforms in financial oversight.

By comparing these countries, we see that while principles of transparency and financial disclosure are universally accepted, the degree of regulatory enforcement, auditing independence, and corporate governance structures differ. Countries with strong legal protections for auditors, like the US and UK, tend to have more rigorous enforcement mechanisms, while nations with a more relationship-based corporate governance model, such as Japan and Germany, may encounter challenges in ensuring fully independent audits.

Legal Status of Public Accountant Independence: Indonesia vs. Global Standards

The independence of public accountants is legally reinforced through various regulations, including Article 68 of the Limited Liability Company Law in Indonesia. This provision mandates that corporate financial statements be audited to ensure their validity. Failure to comply with this requirement renders financial and annual reports invalid.

A key aspect of auditing independence is the protection of auditors from undue influence, whether from corporate executives, government bodies, or external stakeholders. Countries implement varying degrees of auditor independence regulations:

United States: The Sarbanes-Oxley Act (SOX) prohibits auditors from providing non-audit services to clients they audit, reducing conflicts of interest.

United Kingdom: Proposed reforms aim to mandate the separation of audit and consulting functions within major accounting firms.

Germany: The Wirecard scandal exposed weaknesses in auditor independence, leading to discussions on restructuring regulatory bodies like BaFin.

Japan: Relies on a voluntary audit rotation system, where firms are encouraged but not mandated to rotate auditors periodically.

Compared to these nations, Indonesia

faces challenges in balancing regulatory oversight and auditor independence. While public accountants in Indonesia are required to uphold independence, their legal protection remains weaker than in countries with stricter anti-corruption laws and enforcement agencies like the SEC or FRC. Enhancing Indonesia's audit regulatory framework through measures such as mandatory auditor rotation, restrictions on non-audit services, and stronger enforcement mechanisms could improve corporate financial transparency.

Constitutional Court Decision No. 84/PUU-IX/2011 and International Perspectives on Audit Accountability

A pivotal legal development in the accounting profession was the Constitutional Court's annulment of Articles 55 and 56 of Law No. 5 of 2011. Public accountants challenged these provisions on the grounds that they contradicted multiple constitutional guarantees, leading to legal uncertainty.

The controversy surrounding these articles highlights a broader global debate on the criminal liability of auditors. While fraud prevention is a core responsibility of auditors, excessive legal penalties for audit failures can discourage professionals from entering the field. Different countries approach this issue in various ways:

United States: SOX imposes strict penalties on corporate executives for fraudulent reporting, but auditors primarily face regulatory rather than criminal consequences. The PCAOB enforces disciplinary actions but does not typically subject auditors to criminal prosecution unless direct fraud is proven.

United Kingdom: The FRC has been granted greater enforcement powers in recent years, but rather than imposing criminal penalties, it focuses on financial sanctions and auditor bans.

Germany: The Wirecard scandal prompted discussions on stricter liability measures, but legal uncertainty remains over whether auditors should bear full responsibility for missed fraud.

Japan: Auditors face civil liabilities, but criminal charges are rare unless there is clear evidence of willful misconduct.

Indonesia's previous law exposed auditors to unjust prosecution risks, a problem that the Constitutional Court's decision aimed to address. The ruling emphasized that ethical and administrative breaches should be handled through professional oversight rather than criminal penalties. This aligns Indonesia more closely with countries like the UK and Japan, where auditors face regulatory scrutiny rather than direct criminal liability.

However, to further strengthen auditor protection while ensuring financial integrity, Indonesia could adopt hybrid regulatory models, such as those in the US and UK, where independent oversight bodies enforce strict accountability measures without criminalizing professional judgment errors.

The Essence of Criminal Liability in Public Financial Reporting

Legal responsibility in financial reporting involves two key concepts: liability and responsibility. In legal terms, liability refers to the obligation to bear the consequences of one's actions, particularly when they result in financial or legal harm. Responsibility, on the other hand, pertains to professional and ethical accountability, requiring individuals to adhere to best practices and legal standards.

The criminal liability of public accountants is based on the principle of legality, which states that an individual can only be penalized for actions that are clearly defined as crimes under the law. If an action is not explicitly categorized as a criminal offense, imposing sanctions on public accountants would violate their rights.

From a regulatory standpoint, the imposition of criminal penalties should be a last resort. If an alternative method—such as administrative penalties or professional sanctions—can achieve the same objective without causing undue harm, criminal penalties should not be applied. Over-criminalization could discourage professionals from pursuing careers in auditing, reducing the number of qualified accountants in Indonesia and weakening the financial oversight system.

Legislative Considerations and the Future of Public Accountant Regulation

The Constitutional Court's decision underscored the need for greater clarity in defining prohibited actions within the public accounting profession. Several key considerations should guide future legislative reforms:

Public Protection: Laws regulating public accountants must balance the need for transparency with the need to protect professionals from vague or excessive legal provisions.

Legal Certainty: Clear, unambiguous regulations are necessary to prevent multiple interpretations of legal provisions, ensuring that public accountants are not wrongfully accused of financial misconduct.

Financial Transparency: Public accountants play a critical role in maintaining financial transparency. Legal reforms should aim to enhance the credibility of financial statements while ensuring that accountants can operate without undue legal threats.

Professional Oversight: Ethical violations should primarily be addressed through professional bodies such as the Indonesian Institute of Public Accountants (IAPI), rather than through criminal prosecution.

Deterrence Mechanisms: Legal frameworks should encourage ethical behavior while distinguishing between administrative errors and fraudulent activities. Criminal penalties should only be applied in cases of intentional fraud with clear evidence of wrongdoing.

By refining the legal framework surrounding public accountants, Indonesia can foster a financial reporting system that is both transparent and fair, protecting investors while upholding the independence of the auditing profession.

Conclusion

The integrity of financial reporting is fundamental to maintaining public trust in corporate governance. Auditing ensures that financial statements reflect a company's true financial position, supporting informed decision-making among investors, regulators, and other stakeholders. However, the independence of public accountants has been challenged by ambiguous legal provisions, which have created legal uncertainty and professional insecurity.

The Constitutional Court's annulment of Articles 55 and 56 of Law No. 5 of 2011 was a crucial step toward protecting the rights of public accountants while maintaining regulatory oversight. The ruling emphasized the importance of legal clarity, ensuring that financial professionals are not unjustly penalized for standard accounting practices.

Moving forward, Indonesia's regulatory framework should focus on striking a balance between enforcement and professional independence. Ethical violations should be addressed through industry oversight mechanisms, while criminal penalties should be reserved for clear cases of financial fraud. By refining its legal approach, Indonesia can strengthen its corporate governance landscape, fostering greater transparency, accountability, and confidence in financial reporting.

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