

6 ADALAH

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Local Tax Collection System and Regional Retribution In the Era of Regional Autonomy in Indonesia

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Abstract:

One of the important sources of regional income (APBD) to finance the implementation of regional government and development is local taxes. Regional Tax is a mandatory contribution owed by individual or corporate taxpayers to the region without direct compensation in balance. The research method used is a qualitative method with a statutory approach. The results of the study stated that the system of collecting regional taxes and regional retributions in the era of regional autonomy in terms of the Law on Regional Taxes and Levies was to adopt a self-assessment system; not adhere to the Government/Official assessment system. In addition, the system of collecting regional taxes and regional retributions in the era of regional autonomy has a smaller impact than the tax burden borne by the community. Therefore, the solution to this, the central government must continue to make major changes in the PDRD system.

Keyword: Local Tax; APBD; PDRD

Abstrak:

Salah satu sumber pendapatan daerah (APBD) yang penting untuk membiayai pelaksanaan pemerintahan daerah dan pembangunan adalah Pajak Daerah. Pajak Daerah merupakan iuran wajib terutang yang dilakukan oleh wajib Pajak Orang Pribadi atau Badan kepada daerah tanpa imbalan langsung yang seimbang. Metode penelitian yang digunakan adalah metode kualitatif dengan pendekatan peraturan perundang-undangan. Hasil penelitian menyatakan bahwa sistem pemungutan pajak daerah dan retribusi daerah di era otonomi daerah ditinjau dari Undang-Undang tentang Pajak Daerah dan Retribusi Daerah adalah menganut sistem self assessment; bukan menganut sistem Government/Official assesment. Selain itu, sistem pemungutan pajak daerah dan retribusi daerah di era otonomi daerah memberikan dampak yang lebih kecil dari pada beban pajak yang diemban oleh masyarakat. Oleh karenanya, solusi terhadap hal tersebut, pemerintah pusat harus terus melakukan perubahan besar dalam sistem PDRD.

Kata Kunci: Pajak Daerah; APBD; PDRD

A. INTRODUCTION

Regional taxes are an important source of regional income (APBD) for funding regional government and development. It is a mandatory contribution to the region owed by an individual or corporate taxpayer in the absence of a balanced direct compensation. Local taxation can be imposed following applicable laws and regulations. Regional Tax is a mandatory contribution to the region owed by an individual or entity that is coercive under the law and is used for regional needs for the greatest prosperity of the people. This is stated in Law No. 28 of 2009 on Regional Taxes and Regional Levies.

B. METHODS

This simple study employs qualitative research methods, including a literature review and a statutory regulation approach. The information obtained is based on empirical findings in the field, as well as a legal analysis of the application of existing laws and regulations.

C. RESULTS AND DISCUSSION

1. Dilemma in Local Tax Collection

According to the findings of the Analysis and Evaluation Team of the Legislation on Regional Taxes and Levies in 2013, there were several issues with the collection of Regional Taxes and Levies (hereinafter abbreviated as PDRD). The following are the issues:

First, the existence of regional levies based on regional head decisions/regulations that contradict Article 95 paragraph (2) and Article 156 paragraph (2) of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies, which state that PDRD levies must be stipulated by a Regional Regulation.

Second, the minimum content/material regulated in regional regulations does not meet the provisions regulated in Article 95 paragraph (3) for material content regulated in regional tax regulations

and Article 156 paragraph (3) for material content regulated in regional levies regulations based on Law Number 28 of 2009 concerning Regional Taxes and Regional Levies.

Third; The contents/materials regulated in regional regulations do not meet the provisions as stipulated in Law Number 28 of 2009 concerning Regional Taxes and Regional Levies, for example, The object of regional taxes and levies is expanded beyond what is stipulated in Law Number 28 of 2009 concerning Regional Taxes and Regional Levies and exemptions from regional taxes and levies are reduced from those stipulated in Law Number 28 of 2009 concerning Regional Taxes and Regional Levies. In addition, regional tax and levy rates are determined by a regional head decision which is contrary to Article 95 paragraph (3) and Article 156 paragraph (3) of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies, which states that PDRD rates must be regulated in Local regulation.

Fourth, regional levies overlap with central levies because the central government has delegated authority to the regions under Government Regulation Number 38 of 2007 concerning the Division of Government Affairs between the Government, Provincial Governments, and Regency/City Regional Governments, but levies are still carried out by the centre.

Fifth, the existence of regional levies that impede the flow of goods traffic, which is contrary to Law Number 33 of 2004 concerning Financial Balance between the Central Government and Regional Government, which states that in the context of increasing Regional Original Revenue (PAD), regions are prohibited from imposing regional regulations that incur economic costs. high, stifling population mobility, cross-regional trade in goods and services, and export/import activities.

Sixth, the imposition of levies on service and licensing functions that do not fall under the authority of the relevant region, which is contrary to Article 149 of Law Number 28 of 2009, which states that the authority of Public Service Charges and Certain Permits is adjust-

ed to the respective regional authorities regulated in-laws and regulations.

Seventh, general government affairs with the character of guidance and supervision that do not necessitate large expenditures and are related to general government administration should be funded through taxes rather than levies.

Eighth, some of the service and licensing functions performed by the regions lack a solid foundation for consideration, both economically and in the public interest.

Ninth, it is excessively high and necessitates a lengthy bureaucracy to cancel the Regional Regulation on PDRD, which is carried out by the President in the form of a Presidential Regulation.

Tenth, the implementation of each form of supervision is not firm, because when the Raperda has passed the evaluation stage by the competent authority (preventive supervision) and is declared to have passed, it is not appropriate that when it has been determined to become a Regional Regulation definitively, it will be monitored again in the form of repressive supervision.

Eleventh, preventive supervision will have an impact on regional independence (Pemda/DPRD) in defending opinions and actions justified following their discretion/authority in accordance with the spirit and spirit of regional autonomy.

Twelfth, the Governor's limited role as a representative of the central government in the Regions, which has been repositioned and strengthened based on PP Number 19 of 2010 with the enactment of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies.

Thirteenth, because there is no time limit for discussing the Raperda PDRD between the executive (Pemda) and the legislature (DPRD), the process of discussing the Raperda PDRD could take a long time.

Fourteenth, there is no control mechanism for the results of

coordination between the Minister of Home Affairs or the Governor and the Minister of Finance when evaluating the Raperda PDRD, so there is no guarantee that the results of coordination with the Minister of Finance are conveyed and become material for the improvement of the Raperda PDRD for the Regions.

Fifteenth, there is no cooperation or coordination between the Minister of Home Affairs and the Minister of Finance regarding the clarification submitted by the Minister of Home Affairs to the Regions and the results of the evaluation carried out by the Minister of Finance, resulting in different perceptions regarding the evaluation of Regency/City PDRD Regional Regulations (Ismail, 2013: 83-85).

2. Regional Tax Collection System and Regional Levies in the Era of Regional Autonomy

The pattern of people's lives who lived in groups that were simple, primitive, and small in the form of tribes, regional unity, and hereditary unity initiated the development of taxation before the existence of official taxation as seen in this day and age. A common interest emerges as a result of the existence of community groups. Initially, elders or so-called group heads such as tribal chiefs, village heads, and so on were in charge of these common interests.

With an increase in the implementation of common interests, the issue of how to carry out these common interests arises. They work together or give donations in the form of agricultural assets such as rice, wheat, corn, livestock, and so on, or they give a portion of their wealth (Azhari, 2007: 1).

The tax function is divided into several categories, including budgetary, regular end, democratic, and distribution functions. The function of democracy is the one related to the manifestation of cooperation among the four functions. According to Adrian Sutedi, the function of democracy is an incarnation or form of a cooperation system, which includes government and development activities for

the benefit of humanity. This function is frequently associated with a person's right to receive government services if he has met his tax obligation. Taxpayers have the right to complain if the government fails to provide adequate services (Sutedi, 2008: 49-50).

A taxation is a form of cooperation. It is not difficult to provide an example of this. If taxes are used to build health facilities in the form of Puskesmas, the people who benefit the most from the existence of the Puskesmas may be the economically disadvantaged/ underprivileged people. Meanwhile, the most affluent community groups, who also happen to be the largest taxpayers, generally do not want to use the Puskesmas to meet their health needs. If all agree to maintain relations and unity within the nation and state, the functions of subsidiarity and solidarity are required. This is where taxes play a role and provide benefits (Pudyatmoko, 2009: 40-41).

Success in tax collection is influenced by the tax system. In the Indonesian tax law, it is known as the teachings of The Four Maxims. Adam Smith in his book entitled *An Inquiry into Nature and the Cause of the Wealth of Nations* published in 1776 stated that The Four Maxims consist of equity (justice), certainty (certainty), economic, and efficiency (convenience of payment). However, in practice, it is difficult to understand and not simple in implementation which in the end leads to the disruption of the sense of justice of the community in general and taxpayers in particular. In collecting taxes, attention should be paid to the accuracy and correctness of the administration and tax authorities (tax collectors) (Tahyu, 2011: 114-132). This is related to the emergence of dissatisfaction among taxpayers who refuse to accept the actions of the tax authorities, resulting in a dispute between taxpayers and tax authorities. Tax disputes are common because taxpayers frequently argue that paying taxes should be as low as possible, even if it means avoiding paying taxes, while tax authorities, as collectors, are burdened with very large state income from taxes (Ismail, 2013: 10).

Initially, the taxation system in Indonesia followed the

Government/Official assessment system, which meant that the government (in this case, the Directorate General of Taxes) issued tax assessments to taxpayers each year. As a result, the new taxpayer is taxed after the tax is calculated. Given the growing number of taxpayers and the limited number of tax officials, this situation has become extremely ineffective. This has resulted in a large number of complaints from taxpayers who are waiting for the determination of the tax payable in the previous tax year, which has yet to be determined (Ismail, 2013: 12).

The tax system in Indonesia changed to self-assessment after the beginning of 1984, based on Law Number 6 of 1983 concerning General Provisions and Tax Procedures, namely that taxpayers were given the full trust to calculate, calculate, and pay taxes owed following the provisions of the taxation legislation. These systems and mechanisms will, in turn, become distinct characteristics and features of the Indonesian taxation system, which are as follows:

a) Tax collection is an expression of taxpayers' obligation and participation indirectly and jointly carrying out tax obligations required for state financing and national development.

b). The responsibility for the obligation to implement taxes, as a reflection of obligations in the field of taxation, rests with the members of the taxpayer community themselves. The government in this case the taxation apparatus following its function is obliged to conduct guidance, research and supervision of the implementation of tax obligations of taxpayers, based on the provisions outlined in the tax laws and regulations; and

c). Members of the taxpayer community are trusted to carry out national cooperation through a self-assessment system so that through this system the implementation of tax administration is expected to be carried out more neatly, controlled, simple and easy to understand by members of the taxpayer community (Ismail, 2013: 13).

Based on the three principles of tax collection, the Taxpayer is required to calculate, calculate, and pay for himself the amount of tax that should be owed following the provisions of the taxation legislation, so that the determination of the amount of tax owed rests solely with the Taxpayer. Furthermore, taxpayers are required to report the amount of tax payable and paid regularly following tax laws and regulations.

It is hoped that by implementing this system, the convoluted and bureaucratic implementation of tax administration will be eliminated. Regional taxes have specificity and are indirect taxes in which the taxpayer's position is sole as a levy. Regional levies, on the other hand, are the legitimacy of the number of service fees, services, or permit arrangements granted by the Regional Government (Ismail, 2013: 13).

Based on the foregoing, regardless of the tax system implemented, the number of tax deposits in the state/regional treasury will serve as a barometer of success. This is not an easy task, given that the level of taxpayer compliance (taxpayer) remains low, while the task of generating state/regional revenue through the tax sector grows each year (Ismail, 2013: 10).

According to Rochmat Soemitro, as quoted by Bohari, the history of tax collection has changed over time in response to the development of society and the state, both in the state and in the social and economic fields. Initially, the tax was not a levy. However, it is only a voluntary gift from the people to the king to protect the country's interests, such as defending the country against outside enemies, building roads for the public, paying for 11 royal employees, and so on. Residents who do not make deposits in the natural form are required to do public-interest work for many days each year. People with high social status, including those who are wealthy, can avoid doing work in the public interest by paying compensation. The amount of this compensation payment is determined by the amount of money required to pay other people to

do the work that should be done by the rich person with high social status and the rich person earlier (Bohari, 2004: 1).

In line with the national tax system, efforts to develop regional taxes are carried out in an integrated manner with national taxes. This guidance is carried out continuously, especially regarding tax objects and tax rates so that central taxes and local taxes can complement each other. In addition to coaching, the stipulation of regional regulations governing the procedures for implementing PDRD collection also requires supervision. Supervision in the context of PDRD is essentially carried out by prioritizing the evaluation aspect of local regulations and levies drafted regulations, both on regional regulations and regional regulations that have not been or have been enacted, following the applicable Standard Operating Procedures (SOP).

This means that the evaluation results of a PDRD legal document become the basis for the regions to stipulate the Raperda to become a PDRD Regional Regulation, as the basis for collecting. This consideration is carried out with the understanding that guidance and supervision (Binwas) are a series of activities that cannot be separated because these two aspects have essentially the same aims and objectives in the context of:

a). Prevent, avoid, and minimize material errors, both administrative and substantive, as specified in the Regional Regulation; and

b). Testing the suitability of the Raperda/Perda PDRD content material, particularly concerning the criteria for the object of levies (whether of a tax or levy nature, and laws and regulations (whether a Raperda/Perda contradicts the public interest, higher regulations, and/or policies) (Ismail, 2013: 17).

Changes in regulations and policies in the PDRD sector, namely from the previous Law (Law Number 34 of 2000) to the new Law (Law Number 28 of 2009 concerning Regional Taxes and Levies),

have implications for several things, namely:

a). The type of PDRD levy which was originally based on Law Number 34 of 2000 which is an open list, meaning that the region can still determine the type of levy other than that stipulated in the Act as long as it complies with the criteria set out in the Act, with the enactment of Law Number 28 of the Year 2009 concerning Regional Taxes and Levies was changed to a close list, meaning that the Regions can only collect levies on the types of levies regulated in Law Number 28 of 2009 concerning Regional Taxes and Levies, or those regulated in Government Regulations related to additional levies.

b) The regional regulation's supervisory mechanism, which was originally based on Law Number 34 of 2000, is repressive, implying that the supervision of the draft regional regulation on PDRD is carried out after the regulation is enacted. The supervision was changed to preventive and corrective with the passage of Law Number 28 of 2009 concerning Regional Taxes and Levies. This means that supervision is carried out before the PDRD Raperda is stipulated to be a Perda, and supervision is carried out by evaluating the material content stipulated in the PDRD Raperda.

c) The supervision carried out under Law No. 28 of 2009 concerning Regional Taxes and Regional Levies related to the Regional Regulation on PDRD is deemed ineffective, as it may result in double supervision, namely the type of levy that has been supervised under Law No. 28 of 2009 concerning Regional Taxes and Regional Retribution. The supervisory mechanism is implemented both before and after the Raperda is enacted into a Perda.

d) Institutions that oversee regional PDRD regulations are carried out formally by the Regional Government, namely the Governor, and the Central Government, namely the Ministers of Home Affairs and Finance, concerning the Raperda/Perda PDRD evaluation. Meanwhile, other institutions, such as KADIN or the community, can carry out non-formal supervision of the collection in the field or the content regulated in the Regional Regulation on PDRD (Ismail, 2013: 89-90).

3. Legal Problems and Solutions in the Regional Tax Collection System and Regional Retribution in the Era of Regional Autonomy

As a form of national independence, the role of taxes is expected to be able to support national development targets at their own expense. However, the current and future economic conditions pose a challenge to the tax sector (Aini, 1985: 19). The authority to levy local taxes and levies (PDRD) on residents to finance public services is an important component of a decentralized government system. In Indonesia, both provincial and district/city local governments have the authority to impose PDRD, though the revenue is small in comparison to national tax revenues. The current system of regional taxes and levies has flaws, so the benefits obtained are less than the burden of levies carried by the community. As a result, research is required to ensure that the PDRD policy serves the welfare of the people rather than causing misery (Ismail, 2013: 2).

Sistem pajak daerah yang digunakan selama ini mengandung banyak kelemahan, sehingga manfaat yang diperoleh lebih kecil dari pada besarnya beban pajak yang diemban oleh masyarakat. Oleh karena itu, dalam tahun-tahun terakhir, pemerintah tengah melakukan perubahan besar dalam sistem pajak nasional dan sistem pajak daerah (Ismail, 2013: 7).

The PDRD monitoring system and mechanism that has been in place since the beginning of the implementation of regional autonomy until now does not appear to be working as well as expected, regardless of whether coaching has been provided. The fundamental issue with the lack of regulation and confirmation of sanctions (law enforcement) for Regional Governments before the enactment of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies is the absence of regulation and confirmation of sanctions (law enforcement). In the absence of these sanctions provisions, the Regional Government pays less attention to the criteria for applicable levies when developing Regional Regulations on PDRD, does not fully fulfil its obligations in submitting Regional

Regulations on PDRD on time, and even continues to enforce regional regulations that should have been recommended to be cancelled or have been cancelled.

The new paradigm in tax and levies collection began with the passage of Law Number 28 of 2009 Concerning Regional Taxes and Levies. It is regarded as a new paradigm because the law has undergone significant changes since the previous legislation. Similarly, in the field of supervision, the repressive regional retribution supervision system based on Law Number 34 of 2000 was replaced with a preventive and corrective system regulated by Law Number 28 of 2009 concerning Regional Taxes and Levies Area. The repressive supervision has shifted to a preventive and corrective system carried out on regional legal products in the field of regional retribution, namely regional regulations (Perda) on regional taxes and regional levies divided into formulation stages.

The implementation of the tax collection system in Indonesia, namely the so-called self-assessment system, has been known since it was used in early 1984. However, there are still a large number of taxpayers who have not completed their tax obligations (Bwoga; Agus; Marsyahrul, 2005: vii). As a result, this is one of the impediments to realizing national cooperation to achieve a dignified nation in the tax sector.

D. CONCLUSIONS

From the discussion above, the writer can draw several conclusions including:

First, in the era of regional autonomy, the system for collecting regional taxes and levies following Law Number 28 of 2009 concerning Regional Taxes and Levies is to adopt a self-assessment system; it does not adhere to the Government/Official assessment system. Furthermore, the PDRD levy is a close list rather than an open list. Then, in terms of the supervisory system, the Raperda PDRD's supervisory mechanism is preventive and corrective, rather than repressive.

Second, in the era of regional autonomy, legal issues in the local tax collection system and regional retribution have an impact on the benefits obtained is less than the amount of the tax burden borne by the community. As a result, the central government must continue to make significant changes to the PDRD system. The government carried out one of these efforts through the Omnibus Law on Job Creation, but the central government reported that it had cancelled including articles related to intervention in regional taxes and regional levies (PDRD) in the bill. Another legal issue is that there is no regulation or confirmation of sanctions (law enforcement) for local governments in the formation of regional regulations on PDRD that do not pay attention to the criteria for applicable levies, do not fully fulfil their obligations in submitting regional regulations on PDRD on time, and even continue to enforce local regulations that should have been abolished.

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