



LOCAL TAX AND RETRIBUTION REGULATIONS AFTER PDRD LAW'S TRANSITION TO HKPD LAW

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ABSTRACT

As a decentralized country, Indonesia grants each area governmental autonomy. For their development, local governments generally use the increase in Local Own-source Revenue (PAD), Fiscal Balance, and Other Lawful Local Revenue (LPDS). As stated in the laws, the rise in PAD comes from local taxes and retribution, local asset management, and other lawful local revenue. In early 2022, the Government issued Law Number 1 Year 2022 regarding Financial Relations between the Central and Regional Government to replace the decade-long Law Number 28 Year 2009 regarding Local Taxes and Retribution. This transition was considered after fiscal issues found in recent years and will affect local tax and retribution regulations' schemes, rate percentages, and types as it was anticipated.

Keywords: *Transition, Local Taxes, Local Retribution*

1. INTRODUCTION

As a unitary country or *einheidstaat*, Indonesia is a free sovereign nation with the Central Government as the supreme power. This aligns with the 1945 State Constitution of the Republic of Indonesia (UUD 1945) Article 4, Section 1, which states, "*The President of the Republic of Indonesia shall hold the governing powers according to the Constitution*". The article allows the Central Government to handle the country's sovereignty fully. However, the centralized government fails to cater to regional communities efficiently. Moreover, it has come to the public's awareness that centralized government cannot accommodate myriad national issues. Moh. Mahfud MD stated, "*Politics of guided democracy during the authoritarian Old Order resulted in a centralized governmental structure that firmly dominated regional communities. The Central Government held supreme governing powers over the regional executives. Since there were no autonomy laws for regions, the regional executives often repudiated Regional People's Representative Councils (DPRD) decisions*" (Adnan, 2019).

To anticipate the inefficiency of centralized authority, the Central Government decided to apply a decentralized administrative structure in Indonesia and divide the government authority into three kinds, namely provinces, regencies, and municipalities. This is stated in Article 18 Section (2) of the Constitution: "*The Unitary State of the Republic of Indonesia is divided into provincial regions and those provincial regions are divided into regencies (kabupaten) and municipalities (kota), whereby every one of those provinces, regencies, and municipalities has its regional government, which shall be regulated by laws*". Based on this Article, the Central Government grants the head of the regional government autonomy as follows (Sunarno, 2019):

1. The Central Government delegates regional autonomy according to the principle of decentralization;
2. Regional governments shall manage their local budgeting according to the principle of autonomy;

3. Regional governments shall support the Central Government according to the principle of duty of assistance.

Based on those definitions, the regional governments are entitled to their broadest autonomy to the limit of central government affairs determined by the laws. This limitation establishes an authoritarian relation between the Central and Regional Governments. Furthermore, the decentralization principle allows the Regional Government to regulate and manage its own government affairs based on its people's initiatives and aspirations as a part of the Republic of Indonesia (Moonti, 2017). Therefore, decentralized government is the implementation of democratic principles of the nation as it endorses people's participation in the affairs. Decentralization manifests an inclusive governmental structure that enables people to collaborate with regional political elites to pursue their development and growth as a region.

Increasing Local Government Budget (APBD) generally improves regional development and welfare. In its implementation, development by decentralization involves Local Own-source Revenue (PAD), Fiscal Balance, and Other Lawful Local Revenue as the components of the Local Government Budget (APBD). In particular, PAD is an essential source of regional revenue. The source of PAD is referenced in Article 1 Number 20 Law Number 1 Year 2022 regarding Financial Relations between the Central and Regional Government (UU HKPD): "*PAD refers to regional income earned from local taxes and retribution, local asset management, and other lawful local revenue as determined by laws*". Local tax is a tax levied by a local government on an individual or an organization according to laws and used for regional affairs at maximum for people's welfare (Elvi et al., 2015). Local retribution is regional charges for particular permits or services provided and/or granted by the regional government (Ramadhan, 2019). Local tax and retribution regulations have been through several changes since Indonesia's Independence Day. In early 2022, the Government issued HKPD Law as the new local tax and retribution regulation to revoke and replace Law Number 28 Year 2009 regarding Local Taxes and Retribution (PDRD Law).

This transition of local tax and retribution regulation naturally prompted the revitalization of regions with PDRD Law as their local tax and retribution regulations. The regulations in those regions were revitalized by a scheme that combined all types of local taxes and retribution into one regulation. Article 95 of HKPD Law states that "*Types of Tax and Retribution, Tax Subject and Taxpayers, Retribution Subject and Retribution Payers, Tax Basis, Usage of Retribution Service, Tax Due, Tax Region, and Tax and Retribution Rates are all combined into one (1) Regional Regulation as the basis of Regional Tax and Retribution Regulation*". According to HKPD Law, the government is on a deadline to revitalize the regional tax and retribution regulation. The revitalization shall be accomplished in two (2) years after the HKPD Law is enacted, as stated by Article 187 letter b of HKPD Law: "*Regional regulations regarding Local Tax and Retribution composed according to Number 28 Year 2009 Law regarding Local Tax and Retribution is still in force not later than (2) years after the enactment of this law*". Considering the process of thoroughly reviewing the regulation and accomplishing the transition, the time restriction becomes a challenge to the regional governments.

The regional government will struggle to accomplish the transition without an appropriate strategy. Responding to the issues in the revitalization of Regional Regulation regarding Local Tax and Retribution, this study analyzed the transition's fundamentals and the changes resulting from the transition. Therefore, the research questions propounded in this study are as follows:

1. What are the fundamentals of PDRD Law's transition to HKPD Law?
2. What changes are imposed on the post-HKPD local tax and retribution classification?



2. RESEARCH METHODS

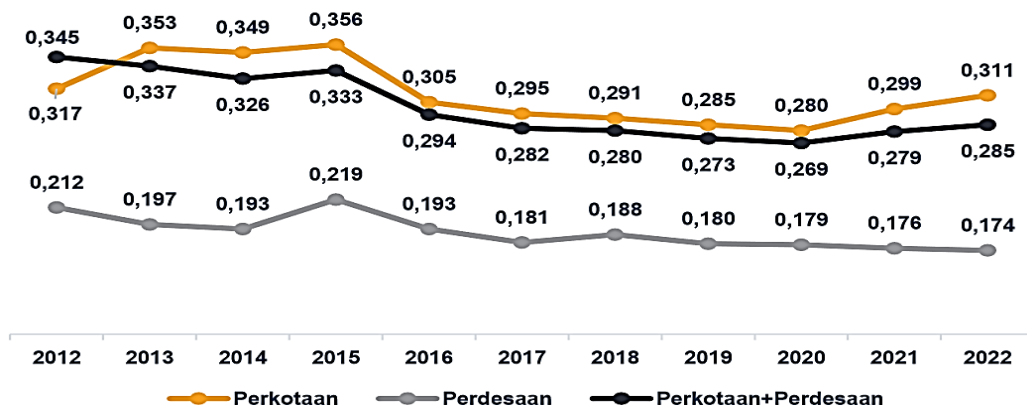
This study used the normative juridical method to examine theories, concepts, law principles, and laws and regulations related to the research topic (Prasetyo, 2020). There were two approaches employed in this study. The first was the Statute Approach, which reviews and analyzes the implementation of laws and regulations relevant to the research topic (Mercury, 2021). The second was the Conceptual Approach, which reviews principles and concepts constructed in scholars' worldviews or legal doctrines relevant to the research topic (Nurhayati & Said, 2021). This study used the interpretation technique to process data in the analysis stage. According to Bruggink, "Data processing by the interpretation technique is classified into four (4) types of interpretation. They are linguistic interpretation, historical law interpretation, systematic interpretation, and social interpretation" (Isharyanto & Abdurrachmam, 2016). From that theory, the researcher chose linguistic and systematic interpretations to be applied in this study.

3. RESULTS AND DISCUSSION

3.1. Fundamentals to PDRD Law's Transition to HKPD Law

Regional governing necessarily requires the region's economic power to carry out the programs and regulations. One of the vital financial sources is the local tax and retribution revenue. As the stakeholder in the regional government, local tax and retribution acutely need new object and rate regulations that accommodate the existing government necessities. Considering its prolonged implementation, the PDRD Law supposedly should have had several changes to adapt to the Regional Regulation regarding local tax and retribution. Moreover, the transition is important to improve and maximize the regional income by updating the object and rate inflation. In its implementation, the PDRD Law had a handful of fiscal crises due to low PAD in each region. An example was the apparent economic inequality between regions (*Theil Index*) (Hayati, 2021). The *Theil Index* from a survey conducted by BPS showcases a decrease in the economic inequality rate during the 2012-2014 period, but the rate noticeably rose again in 2015, 2021, and 2022. On the other hand, economic inequality in rural areas also decreased though insignificant (Direktorat Statistik Ketahanan Sosial, 2022). The *Theil Index* data are as follows:

Figure 1 Economic Inequality between Regions (with Theil Index)



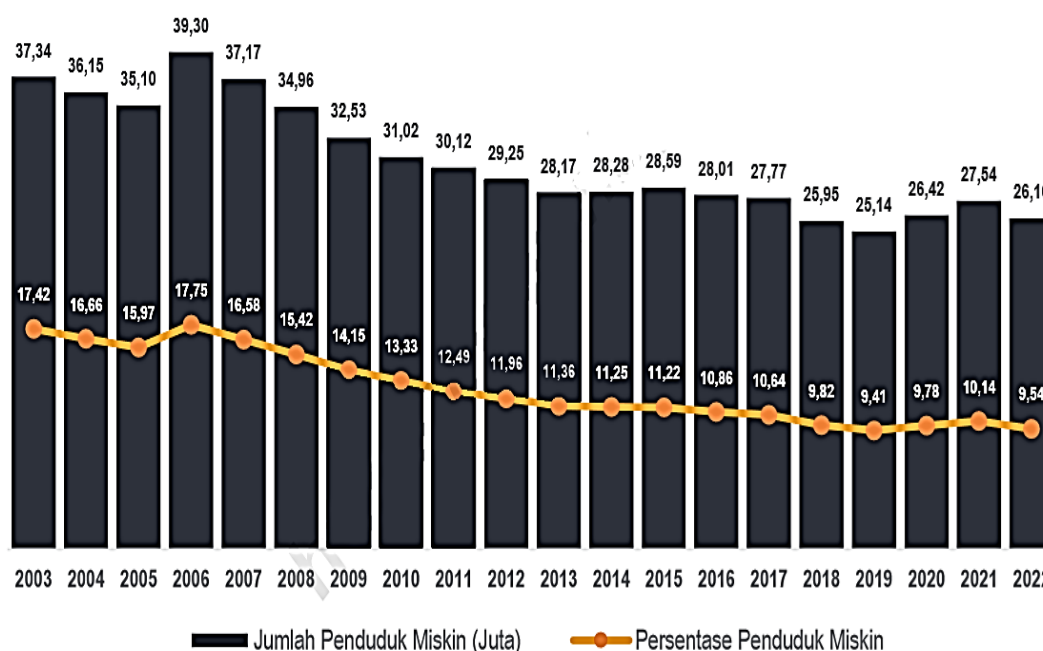
Source: Statistics Indonesia (BPS)

The data above illustrates PAD's deficiency in each region that causes regional economic instability and economic inequality between regions. The higher the inequality number is, the starker the disparities in each region's development and economic growth are. This condition indirectly results in mass migration to other regions with better development and economic growth.

This is in line with Bogue's statement that factors of migration involve financial conditions, marriages, employment, natural disasters, moving expenses, and lack of information in the hometown (Imam Syairozi & Wijaya, 2020). Migration exacerbates the disparities between regions as the local income of the abandoned region will significantly decrease and obstruct the region's development and growth. Rapanna & Sukarno (2017) found that a more developed region's development harmfully affects the poorer region, causing a gap between both regions. This obstruction in regional development can be defined as a back-wash effect.

Aside from the Theil index, another factor supports the regulation renewal. The factor is the mismatched programs between the Central and Regional Governments, which instantly results in adverse fiscal situations (Wibowo & Oktivalerina, 2022). This discrepancy affects the fiscal policies of APBD and APBN and deteriorates regional growth, poverty rate, and public services. Mismatched programming between both governments will be a greater issue for both local and national economies in the future. Below are the poverty statistics to reflect this issue (Direktorat Statistik Ketahanan Sosial, 2022):

Figure 1 Poverty Rate



Source: Statistics Indonesia (BPS)

The chart above illustrates a significant decrease in poverty since 2003. However, a spike in 2006, 2014, 2015, 2020, and 2021 caused the decline to be unstable and static. This implies that there are still issues in decreasing the annual poverty percentage. In response to those fiscal issues, the government started evaluating the local tax and retribution regulation. The evaluation resulted in the HKPD Law. This regulation renewal aims to improve PAD with its newly adjusted objects and rates. This will indirectly optimize the fiscal regulation and solve the issues caused by the PDRD Law's transition to the HKPD Law.

3.2.Changes in the Local Tax and Retribution Classification after the HKPD Law

The PDRD Law's transition to the HKPD Law involves adjustments in the type classification and rate percentage. This aims to reinforce and optimize the region's potential to earn local tax and retribution. The adjustments include restructuring the tax types, adding new taxation, making simpler alternatives to the retribution types, and coordinating the adjustments with other laws.



1. Tax

Local tax restructuring is conducted according to Article 50 of HKPD Law. The article states that taxes on food and/or beverage, electricity, hotels, parking, and entertainment are merged into Certain Goods and Services Tax (PBJT). The merger is to ease the administration and tax payments. Aside from restructuring consumption-based tax types, HKPD Law also expands the tax object classification, incorporating valet parking, amusement objects, and facility rentals for sports (game sports).

Furthermore, there is also an additional scheme regarding *opsen*, or the piggyback tax. According to the HKPD Law, *opsen* is a tax surcharge of certain percentages. This surcharge applies to three types of tax: Motor Vehicle Tax (PKB), Transfer of Motor Vehicle Title Fee (BBNKB), and Non-Metallic and Non-Rock Minerals (MBLB). This addition is expected to elevate both local income and fiscal relations between the Central and Regional Governments. As displayed above, the PDRD Law's transition to HKPD Law comprises tax types and rate percentage changes. Some rates are either reduced or increased, and a new tax object (*opsen*) is added. The Regional Governments are liable for adjusting the Regional Regulations regarding Local Taxes and Retribution. This is vital to avoid any tax miscalculation or overcharge in the future. Moreover, the Regional Government needs to review the tax potential and accommodate it to local economics so the new rates will meet local people's economy and regional needs to improve the PAD.

2. Retribution

Aside from tax types and rate percentage adjustments, the HKPD Law also simplifies retribution. The simplification eliminated 14 local retribution types from a total of 32. The remaining 18 local retribution types are those with effective tax collection costs and relatively low tax compliance costs. By that consideration, the local revenue from retribution will be more optimized in the future

The comparison between the local retribution types in the PDRD Law and those in the HKPD Law is as follows:

Table Restructuring Local Retribution

| NO | PDRD Law | HKPD Law |
|----|---|----------------------------|
| | Public Service Retribution | Public Service Retribution |
| 1 | Healthcare Retribution | Healthcare |
| 2 | Sanitation Retribution | Sanitation |
| 3 | On-street Parking Retribution | On-street Parking |
| 4 | Market Service Retribution | Market Service |
| 5 | Identity Card and Civil Registry Printing Fee Retribution | Road Traffic Control |
| 6 | Funeral and Cremation Service Retribution | |
| 7 | Motor Vehicle Testing Retribution | |
| 8 | Fire Apparatus Check Retribution | |
| 9 | Map Printing Fee Retribution | |
| 10 | Toilet Facilitation and/or Suction Retribution | |
| 11 | Liquid Waste Management Retribution | |
| 12 | Calibration and Recalibration Retribution | |
| 13 | Educational Service Retribution | |

| NO | PDRD Law | HKPD Law |
|----|---|---|
| 14 | Telecommunication Tower Control Management Retribution | |
| | Service Industry Retribution | Service Industry Retribution |
| 1 | Market and/or Shopping Outlet Retribution | Providing trading spaces such as wholesale markets, shopping outlets, and others. |
| 2 | Auction House Retribution | Providing auction houses and their facilities for fisheries, crops, and forest-based commodities |
| 3 | Parking Area Retribution | Providing parking areas |
| 4 | Lodging Service Retribution | Providing lodging services (guest houses, holiday houses, inns, etc.) |
| 5 | Slaughterhouse Retribution | Slaughterhouse services |
| 6 | Ports and Harbors Retribution | Ports and harbors management |
| 7 | Recreation and Sports Facilities Retribution | Providing Recreation, Tourism, and Sports facilities |
| 8 | Water Transportation Retribution | Water transportation service for people or goods |
| 9 | Local Goods Sales Retribution | Regional Government's product sale revenue |
| 10 | Local Expenditure Retribution | Expenses that do not constrain the governance and regional organization and/or regional asset management by not transferring the title as determined by the laws. |
| 11 | Bus Terminal Retribution | |
| | Certain Permits Retribution | Certain Permits Retribution |
| 1 | Building Permit (IMB) Retribution | Building Approval (PBG) |
| 2 | Alcohol Drinks Trade Business License (SIUP-MB) Retribution | Work Permit for Foreign Workers (IMTA) |
| 3 | Nuisance Permit Retribution | Local mining management |
| 4 | Transportation Business License Retribution | |
| 5 | Fishery License Retribution | |

Aside from optimizing the retribution revenue, the simplification can alleviate people paying basic service retribution. Eliminated retribution types will no longer be charged. Adjacent to the elimination of some in the HKPD Law, new retribution types are added in the Regional Regulation Number 35 Year 2023 regarding the General Provision of Local Taxes and Retribution. In this new regulation, two retribution types are excluded from the HKPD Law, namely “*liquid waste management of household, office, and industry; toilet facilitation and/or suction*”. This is in line with Article 29 of the General Provision regarding sanitation. Based on the PDRD Law’s transition to the HKPD Law, it can be predicted that there will be another amendment for a better and more structured regulation regarding local taxes and retribution as one Regional Regulation. As a result of the adjustments in the local tax and retribution types, Regional Government shall attentively consider the maximum rate percentages and some newly eliminated types in the HKPD Law to estimate the prospective local tax and retribution revenue and avoid conflicts concerning the new regulation.



4. CONCLUSION

Adjustments regarding local tax and retribution regulation were schemed with unsolved fiscal issues in consideration. Fiscal issues during the implementation of PDRD Law were namely economic inequality between regions (Theil Index) and mismatched programs between the Center and Regional Government. Therefore, the PDRD Law's transition to HKPD Law is an attempt to solve the fiscal issues during PDRD Law's implementation. The transition also resulted in adjustments in the local tax and retribution types. With the new schemes and rate percentages, these tax and retribution classification changes aim to optimize the local own-source revenue or PAD potential from local taxes and retribution.

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