



Implementation of Administrative Sanctions For Restaurant Taxes As Regional Original Income

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Abstract

Original Regional Revenue is the local government's income for implementing government and services to the community. One source of local revenue is the restaurant tax. However, often these taxes are not optimal because they are considered to result in high economic costs and do not support the business or investment world, including restaurant taxes. The purpose of this study was to determine the provisions of administrative sanctions against restaurant tax offenders. This research uses normative juridical research with data in books, journals, research results, and related laws and regulations. The results showed that restaurant tax as a source of local revenue is regulated by Regional Regulation. Administrative sanctions are regulated in regional regulations by adjusting the conditions in each region. Local regulations on restaurant taxes should contain clear and firm sanctions so that they can be effective.

Keywords: Administrative Sanctions, Restaurant Tax, Local Revenue.

Abstrak

Pendapatan Asli Daerah merupakan pendapatan yang diperoleh pemerintah daerah atas pelaksanaan pemerintahan dan pelayanan kepada masyarakat. Salah satu sumber pendapatan asli daerah adalah pajak restoran. Namun demikian, seringkali pajak tersebut tidak maksimal karena dianggap dapat berakibat biaya ekonomi tinggi dan kurang mendukung dunia usaha atau investasi termasuk pajak restoran. Tujuan dari penelitian ini adalah untuk mengetahui ketentuan sanksi administrasi terhadap pelanggar pajak restoran. Penelitian ini merupakan penelitian yuridis normative dengan data berupa buku-buku, jurnal, hasil penelitian dan peraturan perundang-undangan yang terkait. Hasil penelitian menunjukkan bahwa pajak restoran sebagai sumber pendapatan asli daerah diatur dengan Peraturan Daerah. Ketentuan sanksi administrasi diatur dalam Peraturan daerah dengan menyesuaikan kondisi di daerah masing-masing. Peraturan daerah tentang pajak restoran seyogyanya memuat ketentuan sanksi yang jelas dan tegas sehingga dapat berlaku efektif.

Kata kunci: Sanksi Administrasi, Pajak Restoran, Pendapatan Asli Daerah .

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I. Introduction

Tax is one of the sources of state revenue that is used for development for all Indonesian people. Taxes are essential revenues that the State will use to finance routine and development expenditures. These routine and development expenditures are for implementing and enhancing national development to achieve the community's prosperity and welfare.¹

Tax is a form of state revenue that accounts for the most significant percentage of other income sectors such as oil and gas (oil and gas) and non-oil and gas. A country's success in collecting taxes from its citizens will undoubtedly benefit the country's economic stability.²

Original Regional Revenue is the regional government's revenue for implementing government and services to the community and its resources. This income is often used as an indicator of the success rate of an area. Developed regions are regions that have high Regional Original Revenue. It can be understood because the higher the Original Regional Opinion received in a region, the less dependence of the Regional Government on the Central Government is proposing the Regional Budget. However, local governments in determining

¹ Angger Sigit Pramukti and Fuady Primaharsya, *Pokok-pokok Hukum Perpajakan* (Yogyakarta : Medpress Digital, 2015), 1.

² M.Farouq Sulaiman, *Hukum Pajak di Indonesia* (Jakarta: Kencana, 2018), 1

taxes can result in high economic costs, which are less supportive of the business or investment world.³

II. Research Methods

The research method used in this research is the Normative Juridical approach, namely legal research, which collects secondary data. Secondary data includes primary legal materials, secondary legal materials, and tertiary legal materials. The research was carried out with literature studies to obtain data in documents and writings by tracing laws and regulations, documents, scientific literature, and research by experts. The data that has been obtained is then analyzed using deduction logic.

III. Result And Discussion

1. Restaurant Tax as a Source of Local Revenue

Regional Original Revenue (*Pendapatan Asli Daerah*, PAD) is revenue obtained by a region from sources within its territory collected based on regional regulations under the prevailing laws and regulations.⁴ Regional original revenue is revenue obtained from the regional tax sector, regional levies from regional owned companies, the results of separated regional wealth management, and other local revenue.⁵

Regional revenue is all regional revenue in increased assets or decreased debt from various fiscal year sources. Original regional income is one of the sources of regional revenue which has a vital role in development. Own-source revenue is revenue obtained from regional revenue sources and managed by the regional government itself. Original regional income is the backbone of regional financing. Therefore the ability to carry out the economy is measured by the amount of contribution that local revenue gives to the Regional Revenue and Expenditure Budget (*Anggaran Pendapatan dan Belanja Daerah*, APBD), the more significant the contribution that local revenue can make to the APBD, meaning the less dependence of local governments on central government assistance.

Original regional income is only one component of state financial revenue and other revenues in balance funds, regional loans, other legal receipts, and the remainder of the previous year's budget as a funding source for regional governance. The total share of this revenue is reflected annually in the regional revenue and expenditure budget

Original regional income is income that is sourced and collected by local governments themselves. Original Regional Revenue Sources consist of local taxes, regional levies, profits from regionally owned enterprises, and other legitimate local revenue. Local governments are expected to be better able to explore financial sources to their full potential, but of course, within the corridor of applicable laws, especially to meet government financing needs and development in their regions through local revenue. The demand for an increase in local revenue is getting bigger in line with the increasing government authority delegated to their regions.⁶

According to Law no. 33 of 2004, local revenue is obtained by a region from sources within its region which is collected based on regional regulations under the prevailing laws and regulations. Original regional income is a source of original regional revenue extracted in the area used for the regional government's primary capital in financing development and regional efforts to reduce dependence on funds from the central government.

Original Regional Revenue consists of: (1) Regional Taxes, (2) Regional Retributions, (3) Legitimate Regional Processing Results In addition to regional taxes and levies, the share of profits of regionally owned companies (BUMD) is a potential source of development. (4) Other legitimate Regional Original Income, other legal revenues which constitute Original Regional

³ Anggoro Damas Dwi, *Pajak Daerah dan Retribusi Daerah*, (Malang : UB Press, 2017), 18-19.

⁴ M. P. Siahaan, *Pajak Daerah dan Retribusi Daerah* (Jakarta: PT.Rajagrafindo Persada, 2010).

⁵ Mardiasmo, *Akuntansi Sektor Publik* (Yogyakarta: Penerbit Andi, 2002).

⁶ Warsito Utomo, "Peranan Dan Strategi Peningkatan PAD Dalam Pelaksanaan OTDA," *JSP: Jurnal Ilmu Sosial Dan Ilmu Politik*, Vol. 1 No. 1 (1997): 98-115.

Income include, among others, the proceeds from the sale of regional fixed assets and current account services.⁷

A restaurant tax is a tax on services provided by restaurants. A restaurant is a facility for providing food and/or drinks for free, including restaurants, cafeterias, canteens, stalls, bars, and the like, including catering services.⁸ Objects of Restaurant Tax are services provided by Restaurants. The services provided by the restaurant include the sales service of food and/or drinks that the buyer consumes, whether consumed at the service place or in other places. They have not included Restaurant Tax objects provided by restaurants whose sales are deemed not to exceed certain limits stipulated by Regional Regulations.⁹

2. Administrative Sanctions for Restaurant Tax Violators in Regional Regulations.

Two regional regulations impose additional sanctions for restaurant tax violators, for example, the Regional Regulation of the City of Kediri Number 20 of 2009 and the Regional Regulation of Cilacap Regency Number 18 of 2018.

a. Regional Regulation of the City of Kediri Number 20 of 2009 concerning Restaurant Tax

Chapter IX Procedures for Collection of Tax Arrears

Article 24

- (1) Suppose the Regional Tax Certificate (Surat Keterangan Pajak Daerah, SKPD) referred to in Article 15 or Regional Tax Payment Letter (Surat Setoran Pajak Daerah, SSPD) as referred to in Article 20 is not paid or is underpaid after the specified time has passed. In that case, a Warning Letter or Warning Letter or other similar letter is issued as the initial action implementation of tax collection issued 7 (seven) days after the due date of payment.
- (2) Within 7 (seven) days after the date of the Warning Letter or Warning Letter or other similar letters, the Taxpayer must pay the tax payable.

Article 25

- (1) After 7 (seven) days from the first Warning Letter's receipt, it turns out that the Taxpayer has not paid the tax payable, then a second Warning Letter is issued.
- (2) If within 7 (seven) days of receiving the second warning letter, it turns out that the Taxpayer has not yet paid the tax payable, then a third warning letter will be issued.

Article 26

- (1) If the tax payable is not paid within the period specified in the third warning letter, it will be billed with a warrant issued by the appointed official.
- (2) Within a period of 2 x 24 hours from a Warrant's issuance, the payable tax is not paid, the appointed official can seal (temporary closure) and/or revoke the business place permit.
- (3) Implementation of sealing (temporary closure) and/or revocation of permits as referred to in paragraph (2) shall be carried out by a Team determined by a Mayor Decree. Tax Collection by Force Letter is carried out based on the prevailing laws and regulations.¹⁰

b. Cilacap Regency Regional Regulation Number 18 of 2018 concerning the Second Amendment to the Cilacap Regency Regional Regulation Number 18 of 2010 concerning Regional Taxes in Cilacap Regency

Article 89

Delay in payment of Rural and Urban Land and Building Tax after maturity are subject to administrative sanctions in the form of interest of 2% (two percent) per month for a maximum period of 24 months from the time of maturity.

Article 98

⁷ Dede Sulaeman, "Kontribusi Pajak Restoran Terhadap Pendapatan Asli Daerah Dispenda Kabupaten Bogor", *Jurnal Moneter*, Vol. IV No. 2 (October 2017): 140-141.

⁸ A. Widyaningsih, *Hukum Pajak dan Perpajakan* (Bandung: Alfabeta, 2013).

⁹ Mintahari Windy Megasilvia and Lambey Linda, "Analisis Kontribusi Pajak Restoran Terhadap Pendapatan Asli Daerah (PAD) Kabupaten Minahasa Selatan Tahun 2012-2014", *Jurnal EMBA*, Vol. 4, No. 2 (Juni 2016): 644-645.

¹⁰ Regional Regulation of the City of Kediri No 20 of 2009.

- (1) In the context of supervision, the Regent or appointed official, if deemed necessary, can assign and place personnel and/ or equipment, either mechanical, electrical, manual, or computerized systems, in each object of Regional Tax.
- (2) All costs incurred due to placing the equipment as referred to in paragraph (1) shall become the Regional Government or other party's obligation, which a Regent Regulation shall further regulate. (2a) If the Taxpayer refuses the placement of equipment or does not use the equipment that has been placed as referred to in paragraph (1), the Regent can revoke the Taxpayer's business license.
- (3) The procedure and implementation of the placement of personnel and or equipment as referred to in paragraph (1) shall be further regulated by a Regent Regulation by taking into account the principles of appropriateness, fairness, accountability, and transparency.¹¹

Based on the provisions mentioned earlier, the application of administrative sanctions for restaurant tax violators is carried out under those stated in the regional regulations of each region. in the regional regulations of Kediri city, if the Taxpayer does not pay restaurant tax, a warning letter is given and given seven days to pay off the tax payable. If the Taxpayer has not paid off the tax debt, then a second warning letter is given. The due date is seven days and still has not paid the tax debt a third warning letter and a maturity date of 7 days if the Taxpayer has not paid off his tax debt, then the government is bleeding Kediri City has the right to temporarily seal the restaurant until the Taxpayer pays the tax debt or can revoke the restaurant's license and close the restaurant.

Whereas in the Cilacap Regency Regional Regulation, the imposition of sanctions for restaurant tax violators in the form of interest of 2% per month for a maximum period of 24 months, and if necessary in the framework of supervision can place personnel and/or equipment both mechanical, electrical, manual systems. With a computerized system in each local tax object.

3. Establishment of Local Regulations on Restaurant Tax

Local governments can form Regional Regulations, a form of regional independence in regulating regional household affairs or regional government affairs. Regional regulations are strategic instruments as a means of achieving decentralization goals. In the context of regional autonomy, the existence of regional regulations in principle plays a role in maximizing decentralization. The authority of the regional government informing regional regulations is a right because the legal instruments of regional government accommodate the community's aspirations, overcoming various problems that arise, both those that already exist or are likely to exist in the future the framework of regional autonomy.

Regional regulations are part of the laws and regulations in Indonesia. That is contained in Law No.10 of 2004, which Law later replaced No. 12 of 2011 concerning the Formation of Legislation, which is the juridical basis for forming laws and regulations at both the central and regional levels. This Law contains complete regulations regarding the system, principles, types, and content of the formation process starting from planning, preparation, technique, preparation, formulation, discussion, ratification, promulgation, and dissemination.¹²

The principle of openness is one of the principles of good governance, and the openness of public information is a necessity. Openness is that every formation of regional regulations requires openness for the community, academics, and practitioners to participate in the planning, preparation, and preparation processes to provide input or balance orally or in writing according to statutory regulations. The openness process provides the public with information about the policy's stipulation and opportunities to provide input and supervision to the government. The important thing in the decision-making process is that this activity opens up opportunities for the community to provide input and considerations to the

¹¹ Cilacap Regency Regulation Number 18 of 2018.

¹² Muhammad Suharjono, "Pembentukan Peraturan Daerah Yang Responsif Dalam Mendukung Otonomi Daerah", *DIH Jurnal Ilmu Hukum*, Vol. 10, No. 9 (Pebruari 2014): 21.

government directly. A transparent process must be able to remove the boundaries between government and non-government.¹³

Along with this paradigm shift, a new movement called the Civil Society Movement emerged. This movement's essence is to make society more capable and independent to fulfill most of its interests. The logical consequence of civil society's development is the streamlining of the bureaucracy because part of the government's work can be carried out by the community alone or carried out through a partnership pattern in privatization. Therefore, it is not wrong for Savas to state that privatization is the key to a better government. Thus, its dependence on government bureaucratic institutions is increasingly limited, in the sense that it creates the relative independence of society towards the government.¹⁴

Meanwhile, efforts to achieve transparency in government administration are regulated in Article 71 paragraph (2) of Law no. 23 of 2014. That article confirms the accountability system is implemented with an obligation to the regions to provide reports on the implementation of the regional government to the government and to provide accountability reports to the Regional People's Representative Assembly (*Dewan Perwakilan Rakyat Daerah*, DPRD) as well as to inform the local government administration reports to the public. With this kind of accountability system, some advantages can be obtained, namely more measurable accountability, not only from a political perspective. It is the antithesis of the accountability system in Law Number 23 of 2014, namely that the assessment of the accountability report of regional heads by the DPRD is often not based on unclear indicators. Since accountability is based on measurable performance indicators, reports on regional governance implementation have no political impact, which is rejected or accepted. Thus, the stability of regional government administration can be better maintained.¹⁵

Public participation in democratic governance requires public involvement in the decision-making process, which is increasingly important in the era of regional autonomy. Participation is intended to encourage public communication in increasing public understanding of the government decision-making process and better disclosure of government information to provide new ideas in broadening comprehensive understanding of an issue. Participation reduces the possibility of conflict in implementing a decision, supports the application of accountability, and encourages the public to observe what the government is doing. Public participation is reflected in the opportunity to review the draft decision to provide input and response to public input from decision-makers in the government.¹⁶

Community involvement in policy formulation has become an intensive discourse in government management today. This involvement is intended to form a synergy of partnerships between the government and the public in the formulation of public policies while at the same time implementing the principles of democratization in the public policy formulation process. Public involvement is primarily in the policy formulation phase because the public policy process's essential thing is policy formulation.¹⁷ Public participation in regional regulations formation is a form of good governance under sound governance principles, including community involvement, accountability, and transparency. With community participation, the resulting regional regulations can reflect social realities that generally apply in society.¹⁸

¹³ Shinta Tomuka, "Penerapan Prinsip-Prinsip Good Governance Dalam Pelayanan Publik di Kecamatan Girian Kota Bitung (Studi Tentang Pelayanan Akte Jual Beli)", *Jurnal Eksekutif*, Vol.2, No.1 (2013): 11..

¹⁴ Ismet Sulila, *Implementasi Dimensi Pelayanan Publik Dalam Konteks Otonomi Daerah* (Yogyakarta, Deepublish, 2012), 90.

¹⁵ Marten Bunga "Model Pembentukan Peraturan Daerah Yang Ideal Dalam Penyelenggaraan Otonomi Daerah" *Jurnal Hukum & Pembangunan*, Vol. 49 No. 4 (2019): 818-833.

¹⁶ Tomy M Saragih, "Konsep Partisipasi Masyarakat Dalam Pembentukan Peraturan Daerah Rencana Detail Tata Ruang Dan Kawasan", *Jurnal Sasi*, Vol.17, No. 3, (July-September 2011): 11

¹⁷ Armen Yasir & Zulkarnain Ridlwan, "Perumusan Kebijakan dan Peraturan Daerah Dengan Mekanisme Konsultasi Publik", *Fiat Justitia Jurnal Ilmu Hukum*, Vol.6, No.2, (May-August 2012), 1.

¹⁸ Ni Made Ari Yulianti Griadhi and Anak Agung Sri Utari, "Partisipasi Masyarakat Dalam Pembentukan Peraturan Daerah", *Jurnal Kertha Patrika*, Vol. 33, No. 1, (Januari 2008): 1.

The ideal regional regulation formation is a regional regulation under the community's interests and can be implemented based on regional autonomy principles. The content of regional regulations should not conflict with the public interest and higher laws. The ideal regional regulation in the implementation of regional autonomy is the principle of openness and community participation and the harmonization of laws and regulations that regulate them so that these regulations do not overlap.¹⁹ Based on this, it is necessary to communicate between local governments and restaurant business actors to formulate regional regulations that are ideal and can be effectively accepted by both parties.

IV. Conclusions

Taxes are one of the sources of state revenue that are used for development for all Indonesian people. Original regional income is a source of original regional revenue extracted in the area used as the regional government's essential capital in financing development and regional efforts to reduce dependence on the central government's funds. Restaurant tax is a potential source of local revenue. Regulations related to restaurant taxes are regulated in Regional Regulations. Each region adjusts the provisions on how to collect and sanction restaurant taxes. Regional regulations governing restaurant tax administration sanctions should be regulated in detail and clearly. Also, the making of local regulations related to administrative sanctions involves all parties so that restaurant tax collection can run effectively.

V. Suggestion

- a. The making of regional regulations, especially regarding the provisions of sanctions for restaurant tax violators, must consider forming ideal regional regulations to achieve mutual benefits and interests.
- b. Sanctions for restaurant tax violators are not given too long so that the collection of local revenue sources (PAD) runs effectively.

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¹⁹ Marten Bunga, *Loc. Cit.*

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