

LEGAL ASPECTS OF TAXATION: PRIORITIZING THE *REGULEREND* FUNCTION OF THE BUDGETER FOR NATIONAL ECONOMIC RESILIENCE

Yulianto Syahyu✉

Faculty of Law, University of Bhayangkara, Indonesia.

Abstract

The Job Creation Act which has been approved and ratified becomes Law Number 11 of 2020, cannot be separated from the taxation cluster. As it is known that taxes have a budgetary function as state revenue and regulating function as a reflection of the country's economic policy. This study aims to examine the priority of the *regulerend* function of taxes in the taxation cluster in Law Number 11 of 2020 concerning Job Creation despite the presence of Perpu No. 2 of 2022 (become law No. 6 of 2023) has replaced Law No. 11 of 2020. The research of this manuscript using normative method with literature studies. The results of the study indicate that the *regulerend* function of taxes accommodated in the Job Creation Act and Law no. 7 of 2021 concerning Tax Harmonization can work in several ways, namely: in the context of funding investment in Indonesia, tax incentives on dividends from within the country are intended to reduce the tax burden that must be borne by taxpayers, differences in interpretation in determining the status of tax subjects affect the country or jurisdiction that has the right to impose, relaxation of provisions for crediting Input Tax, which is deemed unfair for business actors, Arrangements on the amount of administrative sanctions of interest and interest compensation which are applied by taking into account market interest rates, taxation of digital transactions carried out by foreign sellers or marketplaces, and through tax amnesty to sustain the country's economy.

Keywords: National Economic Resilience; *Regulerend* Function; Tax Law

Abstrak

Undang-Undang Cipta Kerja yang telah disetujui dan disahkan menjadi Undang-Undang Nomor 11 Tahun 2020, tidak dapat dilepaskan dari klaster perpajakan. Sebagaimana diketahui bahwa pajak memiliki fungsi budgetair sebagai penerimaan negara dan fungsi mengatur sebagai cerminan kebijakan ekonomi negara. Penelitian ini bertujuan untuk mengkaji prioritas fungsi regulerend pajak pada klaster perpajakan dalam Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja meskipun kehadiran Perpu No. 2 Tahun 2022 (menjadi UU No. 6 Tahun 2023) telah menggantikan UU No. 11 Tahun 2020. Penelitian naskah ini menggunakan metode normatif dengan studi kepustakaan. Hasil penelitian menunjukkan bahwa fungsi regulerend pajak yang diakomodir dalam UU Cipta Kerja dan UU No. 7 Tahun 2021 tentang Harmonisasi Perpajakan dapat berfungsi dalam beberapa hal, yaitu: dalam rangka pendanaan investasi di Indonesia, insentif pajak atas dividen dari dalam negeri dimaksudkan untuk mengurangi beban pajak yang harus ditanggung Wajib Pajak, perbedaan penafsiran dalam menentukan status subjek pajak mempengaruhi negara atau yurisdiksi yang berhak mengenakan, relaksasi ketentuan pengkreditan Pajak Masukan yang dirasa kurang adil bagi pelaku usaha, Pengaturan mengenai besaran sanksi administrasi bunga dan imbalan bunga yang diterapkan dengan memperhatikan suku bunga pasar, pemajakan atas transaksi digital yang dilakukan oleh penjual atau marketplace luar negeri, dan melalui pengampunan pajak (tax amnesty) untuk menopang perekonomian negara.

Kata kunci: Ketahanan Ekonomi Nasional; Fungsi *Regulerend*; Hukum Pajak

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Introduction

In the history of human society, there has never been state without taxes. The most of the money required for the state to carry out its internal and external

functions, including diverse social, economic, and political actions, is also raised through taxes in a market economy. Taxes provide the Republican Party with funding and local budgets, provide the funding for state social programs, oversee the commercial operations of encouraging taxpayers to use natural resources wisely, influence pricing, and set living standards (Yuldasheva & Artikov, 2021).

Indonesia entered a new phase in the Legislative System after the Indonesian residence of Representatives and the Government approved the Bill of Job Creation Act into law in the House of representatives plenary session on October 5, 2020. The bill was then ratified or signed by the President of the Republic of Indonesia and promulgated on October 2, 2020. November 2020 in the State Gazette of 2020 Number 245 under the name of Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation. The Job Creation Act has the format of an omnibus law or an umbrella act because it is a legal umbrella covering 76 laws. The Job Creation Act has the following objectives: creating and increasing employment opportunities, adjusting various regulatory aspects related to the investment ecosystem, being useful in promoting economic recovery, and suppressing the high cost economy. To support the implementation of strategic job creation policies and their arrangements, it is necessary to amend and improve various related laws. Changes to the law cannot be carried out through conventional methods by changing laws one by one as has been done so far. This method is certainly ineffective, inefficient and takes a long time.

The Job Creation Act also includes taxation clusters listed in Chapter VI Part Seven which contains 4 articles, namely Articles 111, 112, 113, and 114. The tax cluster regulates changes to articles in the regulation on standard Provisions and Tax tactics (UU KUP), profits Tax law (UU PPh), and regulation on cost delivered Tax on items and services and sales Tax on luxury goods (VAT and PPn BM), as well as the Law on Regional Taxes and Levies (UU PDRD). What is the purpose of the changes made to KUP Act, Income Tax Act, PPN and PPNBM Law in the omnibus law on job creation.

Suryo Utomo, Director General of Taxes, said the various tax policies adopted in Law Number 2 of 2020 and the Job Creation Act lead to ease of doing business. He made this statement during a media briefing on Monday, October 12, 2020. The tax policy is expected to be able to make the economy grow, especially after the Covid-19 pandemic. The Director General of Taxes stated that it is also a fundamental part of tax reform. The hope is that economic activity can grow even faster. The various policies adopted at least carry 4 aspects of objectives in the context of ease of doing business, that is: Increasing investment funding,

Encouraging Taxpayer Compliance and Voluntary Taxpayers, Increasing legal certainty, and Creating a reasonable trade climate within the nation.

Based on the 4 aspects of the objectives of taxation reform through the Job Creation Act (and Law Number 2 of 2020), it can be concluded that the tax cluster in the job creation *omnibus law* prioritizes the regular and end functions of taxes. It is common knowledge that the primary function of the tax is the function of the budget, namely the function of government revenue. As a source of government revenue, taxes function to fund state expenditures. The second function is the *regulerend*/regulating function, taxes reflect the country's economic policies. The government can regulate economic growth through tax policies. The prioritization of the *regulerend* function is also reflected in the initial proposal for the *omnibus law* on taxation, in December 2019, which was named the "A bill on tax provisions and facilities to boost the economy".

Taxes are an important source of government revenue for government and national development. As a result, the government views the tax obligation as one manifestation of the state's obligations and a way to finance the state in National Development in order to achieve state goals (Agustina, 2020).

The government has come to the conclusion that we can no longer rely on state revenues from oil and gas resources or external debt to finance routine spending and national development today and in the future. Therefore, an increase in tax revenue is a must for meeting the needs of state expenditure funds in order to improve facilities and infrastructure in a country.

Dichotomously, the tax function can be divided into two large groups; they are the *budgetair* function and the *regulerend* function. *Budgetair* function is a function that is located in the public sector and tax is a tool to put as much money as possible into the state treasury, which in turn will be issued to finance state expenditures. While the *regulerend* function is a function in which taxes are used as a tool to achieve certain goals that are outside the field of state finance. In concrete terms, this function is manifested in the form of increasing or decreasing tariffs to provide incentives or disincentives so that the government's goals can be achieved. The function of *regulerend* substantively is actually a certain way to engineer the socio-economic conditions of a more just and equitable society, including in the field of social economic law. For this reason, the author sees that in fact the tax function is not only merely collecting money into the state treasury but also more importantly taxes as a tool to regulate how the state treasury can be regulated and utilized more comprehensively through the *regulerend* function itself both in implementing social policies and other policies in tax fields.

The government's well-designed national tax reform policy is expected to serve as a learning tool for creating policies for the government as a party with the authority to anticipate potential economic crises in the future. It can essentially support national financing through regulatory reform and modern tax administration with policies in tax practice that combine tax functions as an instrument of fiscal policy.

Research Problems

Based on the description provided above, there are several problems that can be formulated in this study and will be presented the formulation of the problem. First, how does the *regulerend* function in Indonesian tax reform? Second, how does the Tax Policy affect ease of doing business and National Economic Resilience?

Research Methods

The type of research is about a legal approach to observing and analyzing issues through existing legal rules. The information source utilized is additional information which is separated into three groups, specifically primary legitimate materials, secondary lawful materials, and tertiary lawful materials. All of which the author used as a foundation for addressing the issues under consideration and are reliable sources. In terms of gathering information, the author did so by taking into account the articles and other legal materials pertinent to the investigation; at that point, all of them were prepared through subjective investigation, specifically defining legal materials gathered in order to respond the issue (Mahendra & Harefa, 2020).

Discussion

***Regulerend* Function in Indonesian Tax Reform**

One of the main functions of taxes is the *regulerend* (regulating) function, namely as a tool to achieve certain goals in the financial sector, and more generally also in other fields such as economics, politics, culture, defense and security. With the *regulerend* function, taxes can be used as a means to an end. The government can regulate economic growth, employment opportunities; encourage investment and so on through fiscal policy (tax policy and state finances). Moreover, fiscal policy according to Jhinghan in Erly Suandy has the following objectives(Suandy, 2017):

- a. Increase the rate of investment
- b. Encourage socially optimal investment
- c. increase job opportunities

- d. Increase economic stability in the midst of international instability
- e. In an effort to control inflation
- f. Increase and distribute national income

The *regularend* function during the validity period of the Dutch colonial tax law, prior to the 1983 tax reform, can be seen from the provision of tax facilities in Article 16 of Law Number 11 of 1970 concerning Amendments and Supplements to Law Number 11 of 1967 concerning Foreign Investment. For new agencies that invest in the production sector that receives priority from the government, the Minister of Finance has the authority to provide corporate tax exemptions for a period of 2 years (tax free period, tax holiday) commencing from the time the company starts production. At that time, among others were: the 1925 Company Tax Ordinance (PPs), the 1944 Income Tax Ordinance (PPd), Law Number 8 of 1967 concerning changes and improvements to the procedures for collecting Income Tax 1944, the Wealth Tax (PKk) 1932, and the Company Tax. 1925; Law Number 10 of 1970 concerning Taxes on Interest, Dividends and Royalties (PBDR). Tax reform is characterized by the passage of:

- a. Law Number 28 of 2007 concerning the Third Amendment to Law Number 6 of 1983 concerning General Provisions and Tax Procedures, last amended by Law Number 16 of 2009.
- b. Law Number 36 of 2008 concerning the Fourth Amendment to Law Number 7 of 1983 concerning Income Tax.
- c. Law Number 42 of 2009 concerning the Third Amendment to Law Number 8 of 1983 concerning Value Added Tax and Sales Tax on Luxury Goods.
- d. Law Number 11 of 2020 concerning Job Creation.
- e. Law Number 7 of 2021 concerning Harmonization of Tax Regulations.

1. Tax Reform through the Tax Omnibus Law

A study of the material for changes to the KUP Law, PPh Law, PPN and PPnBM Law in the Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation (*Omnibus law* of the Job Creation Act) and how the *regularend* function works through changes to these provisions. It is known that the Job Creation Act also includes taxation clusters listed in Chapter VI Part Seven which contains 4 articles, namely Articles 111, 112, 113, and 114. Through this study, to find out what is the purpose of the changes to the KUP Law, Income Tax Law, VAT Law and PPnBM within the omnibus regulation of the job advent law? *The objectives are 1) Tax Reform through the Tax Omnibus Law Bill; 2) Tax Clusters in*

the Omnibus regulation of the process advent regulation; 3) Tax Policy for Ease of Doing Business for the growth and resilience of the national economy.

a. Targets of Tax Reform

On December 5, 2019, the Government and the Indonesian House of Representatives have established two Omnibus Law Bills that are included in the 2020 priority National Legislation Program (Prolegnas). Both are the Omnibus Law on Job Creation and the Omnibus Law on Taxation. The Tax Omnibus Law Bill or the Tax Provisions and Facilities Bill for Economic Strengthening includes 6 pillars, namely: 1) Investment financing, 2) Territorial system, 3) Personal tax issues, 4) Taxpayer compliance, 5) Business climate fairness and 6) Facility.

The background/reasons and objectives of the amendment tax law can be seen based on the conclusions in the instructional Paper of the Draft law on Tax Provisions and facilities for monetary strengthening, among others, namely:

1. Some of the problems faced are related to the implementation of current tax policies so that it is necessary to reorganize some tax policies, including:
 - a. there are funding obstacles within the context of supplying investment budget, both from domestic and foreign country, to improve the economy;
 - b. there are differences in the interpretation of the taxation popularity of certain tax subjects which ends up in uncertainty within the tax responsibilities of certain Indonesian citizens and the shortage of interest of foreign nationals with certain skills to work in Indonesia;
 - c. compared to the threat of an economic downturn brought on by unfair business actor input tax credit arrangements, administrative penalties, and interest rate support that disrupt voluntary taxpayer compliance and don't support the taxpayer's business continuity;
 - d. there is a legal vacuum to obtain Indonesian state tax rights about the provision of goods or services from foreign business actors to domestic buyers or service users and inequality in tax treatment between domestic business actors and foreign business actors in relation to trade in goods and/or services through electronic systems.
2. Providing solutions to problems encountered in the life of the nation, state and society due to the development of the global economy and information technology related to taxation, including:
 - a. increase domestic and foreign investment capital flows to improve the economy;

- b. provide legal certainty about the tax obligations of certain Indonesian citizens and encourage the interest of certain foreigners with special skills to work in Indonesia;
 - c. provide ongoing support for taxpayers' business so that economic growth can be promoted by reorganizing the input tax credit more equitable for business entities, changing administrative penalties and fairer interest rewards, thereby encouraging voluntary compliance by taxpayers;
 - d. stipulates the taxation on the delivery of goods or services by foreign traders to domestic buyers and creates equal tax treatment between domestic and foreign traders for the model of selling goods and services. electronic service; and
3. The targets to be achieved with this tax policy are the realization of economic improvement by providing investment funding, increasing voluntary compliance of taxpayers through the application of more equitable tax administrative sanctions, accelerating the growth of priority economic sectors on a national scale, and providing fair treatment in the field of taxation for perpetrators both domestically and internationally.

b. Tax Policy in Perppu Number 1 of 2020 jo. Law No. 2 of 2020

Most parts of the world are experiencing the Corona Virus Disease-2019 (Covid-19) pandemic, it is said that this disease began to spread and spread as a pandemic before the end of 2019. Indonesia did not escape this pandemic, and one of the sides that was significantly affected was the economic and fiscal sector. On March 31, 2020, the Government issued Government Regulation in Lieu of Law (Perpu) Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the COVID-19 Pandemic and/or in Facing Dangerous Threats National Economy and/or Financial System Stability.

Perpu Number 1 of 2020 was then promulgated on 18 May 2020 to become Act No. 2 of 2020 regarding the regulation of government regulations in place of Act No. 1 of 2020 related to the state's fiscal policy and the stability of the financial system to manage the Covid-19 and/or in the context of threats to jeopardize the national economy and/or the stability of the financial system become law.

The background of the issuance of Perppu Number 1 of 2020 is to implement the 2020 State Budget. Additionally, it is to address the COVID-19 pandemic and the risks jeopardizing the national economy and/or the stability of the financial system. It is also necessary to establish state financial policies and other policies to stabilize the financial system. The State's financial policies include: The State's

revenue policy, including the tax policy, the State's spending policy, including the regional financial policy, and the funding (Article 1 paragraph (4) of the Perpu).

Taxation policies in Perpu Number 1 of 2020 are mostly focused on the *regularend* function of taxes. Tax policy “adjusted” for work hand in hand with the Indonesian people and government to face difficult economic conditions due to the Covid- 19 pandemic.

The tax provisions regulated in Perpu Number 1 of 2020 jo. Law Number 2 of 2020 is:

- 1) Decreasing income tax rates for domestic corporate taxpayers and Permanent Establishments (BUT)

The rate of corporate income tax for corporate taxpayers was originally 25% to 22% for 2020-2021 and 20% starting in 2022. For corporate tax in the form of limited liability company (PT) with a minimum number of shares traded at least 40%, and meeting the requirements, it can get a lower rate of 3 % with certain conditions, which will be regulated in a Government Regulation.

- 2) Treatment for commercial activities by electronic means or e-commerce systems

What is meant by trading through an electronic system (PMSE) is a trade whose transactions are carried out through a series of electronic devices and procedures, as referred to in Article 4 paragraph (2) of the Perppu. Value Added Tax (PPN) for Taxable Goods/Services from outside the customs area is collected by Overseas traders/service providers, Foreign PMSE organizers, and Domestic PMSE organizers appointed by the Minister of Finance. Income Tax (PPh) or electronic transaction tax on PMSE is collected by foreign tax subjects.

Foreign goods/service providers and ForeignPMSE providers, if they meet the conditions, may be treated as corn and subject to income tax with the terms set forth in government regulations and Regulations of the Minister of Finance.

- 3) Extension of time limit for exercise of tax rights and obligations

Extension of time for the implementation of tax rights and obligations during the Covid-19 handling period, such as filing an objection that is due can be extended for a maximum of 6 months; refund of tax overpayment can be extended for a maximum of 1 month; and the exercise of the taxpayer's rights (overpayment, objection letter, reduction/removal of sanctions) may be extended for a maximum of 6 months.

- 4) Authorizes the Minister of Finance will provide customs facilities in the form of duty-free or duty-free imports to deal with emergencies and to restore and strengthen the national economy.

Customs facilities with exemption/relief of Import Duty are regulated in a Regulation of the Minister of Finance.

Actually, the first of two policies were originally part of the Tax Omnibus Law (RUU on tax provisions and economic enhancement facilities). However, the policy of reducing the corporate income tax rate and the imposition of taxes on trade in goods and/or services through an electronic system has been contained in Perppu Number 1 of 2020 Jo Law Number 2 of 2020. Other tax policies in the Tax Omnibus Law Bill are then accommodated in the Omnibus Law on Job Creation, Law Number 11 of 2020 concerning Job Creation.

2. Tax Clusters in the Omnibus Law of the Job Creation Act

Law Number 11 of 2020 concerning Job Creation includes taxation clusters, which regulates changes and/or additions to articles in the Law on General Tax Regulations and Procedures (UU KUP), Income Tax Law (UU PPh), Law on Value-Added Goods and Services Tax and Luxury Goods Sales Tax (Law on PPN and PPn BM), as well as the Law on Regional Taxes and Levies (UU PDRD). The Job Creation Act Chapter VI "Ease of Doing Business" Part Seven "Taxation", consists of 4 articles, namely Article 111, Article 112, Article 113, and Article 114 (found on page 617 to page 668 of the work creation law).

Article 111 : Several provisions in The Income Tax Law No. 7 of 1983 (The Official Gazette of the Republic of Indonesia No. 50, Supplementing the Official Gazette of the Republic of Indonesia No. 3263) has been amended several times, most recently the Law No. 36 of 2008 or called the Income Tax Law amended. (See Table)

Article 112: Several provisions in Law No. 8 of 1983 Concerning Value Added Tax on Goods and Services and Sales Tax on Luxury Goods (The Official Gazette of the Republic of Indonesia 1983 No. 51, Supplement to the Official Gazette of the Republic of Indonesia number 3264) has been revised several times, lastly with Law Number 42 of 2009 or the Law on PPN and PPnBM amended (See Table).

Article 113: Several provisions in Law No. 6 of 1983 Concerning General Regulations and Tax Procedures (The Official Gazette of the Republic of Indonesia 1983 No. 49, Supplement to the Official Gazette of the Republic of Indonesia No.

32621 as amended several times), most recently by Law Number 16 Year 2009 or the UU KUP amended (See Table).

Article 105 “General” of the Job Creation Act can be seen as a “preface” to Chapter VI “Ease of Doing Business”. In the article it is stated " *To make it easier for business actors to invest, this Law amends, deletes, or stipulates new arrangements for several provisions stipulated in: among others are the Income Tax Law, the PPN and PPnBM Law, the KUP Law*". The articles of the Law on General Provisions and Tax Procedures (UU KUP), the Income Tax Law (UU PPh), and the Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods (VAT Law and PPnBM) amended/deleted/added in the *Omnibus Law* Law Number 11 of 2020 concerning Job Creation can be summarized in the following table.

Table : Amendments and/or Additions of Articles

In the Income Tax Law, the VAT and PPnBM Law, the KUP Law

Income Tax Law	VAT and PPnBM Law	KUP Law
1. Section 2 <i>Tax Subject, Domestic Tax Subject, Foreign Tax Subject</i>	1. Article 1A <i>Which includes and does not include the meaning of delivery of Taxable Goods</i>	1. Article 8 <i>Correction of Notification Letter, Disclosure of incorrect filling of Notification Letter</i>
2. Article 4 <i>Income Tax Object, Income that can be subject to tax is final, excluded from the tax object</i>	2. Article 4A <i>Types of goods and services that are not subject to Value Added Tax</i>	2. Article 9 <i>Due date of payment and deposit of taxes, along with administrative sanctions of interest</i>
3. Article 26 <i>Withholding income tax for foreign taxpayers other than the form of business stay in Indonesia</i>	3. Article 9 <i>Input Tax Credit</i>	3. Article 11 <i>Excess tax payments, along with interest rewards</i>
	4. Article 13 <i>Tax invoice</i>	4. Article 13

		<i>Tax Underpayment Assessment Letter, along with administrative sanctions for interest and increases</i>
	5.	Article 13A (removed) <i>Underpayment Tax Assessment Letter for the first negligence does not submit a Notification Letter or submit a Notification Letter but the contents are not correct</i>
	6.	Article 14 <i>Tax Invoice, along with administrative sanctions of interest and fines</i>
	7.	Article 15 <i>Additional Tax Underpayment Assessment Letter, along with the increase in administrative sanctions</i>
	8.	Article 17B <i>Excess Tax Assessment, other than Article 17C and Article 17D, along with interest compensation</i>

		9. Article 19 <i>Interest administrative sanctions for underpaid tax assessments or Additional Underpayment Tax Assessment Letter, as well as Decree of Correction, Letter of Objection Decision, Appeal Decision or Judgment Review</i>
		10. Article 27A (removed) <i>Returns interest in terms of submission of objections, appeals, or application for reconsideration granted partly or wholly so as to cause overpayment of taxes</i>
		11. Article 27B (plus) <i>Returns interest in terms of submission of objections, appeals, or application for reconsideration granted partly or wholly so as to cause overpayment of taxes</i>
		12. Article 38 <i>Criminal provisions, negligence</i>
		13. Article 44B

		<i>Termination of the investigation of criminal acts in the field of taxation for the benefit of state revenues</i>
3 Article	4 Article	13 Article

The main points of changes in **the Income Tax Law** are:

- a. Exceptions for domestic dividend income tax received by domestic individual Taxpayers provided that the dividends must be invested in the territory of Indonesia within a certain period of time. Domestic dividends received by domestic corporate taxpayers are deducted from the income tax object. (Article 4 paragraph (3) letter f number 1)
- b. Exceptions to the imposition of dividends and after tax profits from abroad can certain conditions, namely the requirement to bring back capital into the country, to prevent funds from being parked overseas. (Article 4 paragraph (3) letter f number 2, number 3, number 4)
- c. Exempted from the object of PPh on the profit share (Remaining Operating Results) of cooperatives, hajj funds managed by the Hajj Financial Management Agency (BPKH). (Article 4 paragraph (3) letter I and letter o)
- d. Room to adjust Article 26 income tax rate on loan interest income to Foreign Taxpayers. With a Government Regulation, the rate of Income Tax Article 26 on interest, including discount premiums and return on debt repayment guarantees, can be reduced. (Article 26 paragraph 1b)
- e. Confirmation of the regulation of the status of domestic tax subjects and foreign tax subjects, where the previous law did not state citizenship status. (Article 2 paragraph (3) letter a, paragraph (4) letter a, b and c)
- f. The new regulation is for foreign citizens who are domestic tax subjects with expertise (expatriate), and are valid for 4 tax years. (Article 4 paragraph (1a), (1b), (1c))

The main points of changes in the Law on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods are mainly:

- a. Relaxation of the provisions for crediting VAT input tax (Article 9 paragraph (2a), (4), (4a), (6a), (9a), (9b), 9 (c)).

- b. Consignment delivery does not include the delivery of Taxable Goods (Article 1A paragraph (a) letter g); participation in shares as assets (*inbreng*) is not subject to VAT (Article 1A paragraph (2) letter d); h coal mining results do not include goods are not subject to VAT (Article 4A paragraph (2) letter a)
- c. The inclusion in the Tax Invoice is the name, address, and tax identification number (NPWP) or population identification number or passport number for individual foreign tax subjects, in the previous law only the buyer's name, address and NPWP. (Article 13 paragraph (5) letter b)

The main points of changes in the Law on General Provisions and Tax Procedures are:

- a. Changes in the amount of administrative sanctions and interest rewards. Adjustment of various sanctions and interest rewards based on the general interest rate reference and determined by the Minister of Finance. (Interest administrative sanctions: Article 8 paragraph (2), (2a), (5), Article 9 paragraph (2a), (2b), Article 13 paragraph (2), (2a), Article 14 paragraph (3), Article 19 paragraphs (1), (2), (3) Interest payments: Article 11 paragraph (3), Article 14 paragraph (1) letter h-new provisions, Article 17B paragraphs (3) and (4), Article 27B)
- b. Regulations regarding tax penalties that have been decided can still be issued with tax assessments. Underpaid Tax Assessment Letters (SKPKB)/Additional SKPKB (SKPKBT) are deleted. Article 13 clause (5), Article 15 clause (4).

Tax Policy for Ease of Doing Business for National Economic Resilience

The Taxation Cluster is regulated in CHAPTER VI of the Job Creation Act with the title of the Chapter “Ease of Doing Business”. Article 105 explicitly states that *"To make it easier for business actors to invest, this Law amends, deletes, or stipulates a new arrangement of several provisions regulated in:* It can be clearly understood that the purpose of the amendment to the three tax laws is one part of the grand plan of drafting the Job Creation Act as an *Omnibus law* which is the legal umbrella for the dozens of laws in it.

How can the tax policy in the taxation cluster of the Job Creation Act play the regular end function of the tax? To respond the question, it is also necessary to review the provisions of tax policy in Perppu Number 1 of 2020 Jo. Law No. 2 of 2020 concerning the State's financial policy and the stability of the financial system

to manage the Covid-19 pandemic and/or in the face of threats to the national economy and/or the stability of the financial system.

Based on what was conveyed by Suryo Utomo, Director General of Taxes, in the *Media Briefing* Monday and also described in the internal socialization material of the Directorate General of Taxes, it was concluded that the various taxation/state finance policies accommodated in job creation Act carried 4 aspects of objectives in ease of doing business context:

1. Strengthening investment financing
2. Encouraging obedient taxpayers and voluntary tax payers
3. Increasing legal certainty
4. Creating an equal business environment in the country.

The four aspects mentioned above are to stimulate national economic growth and at least to maintain national economic stability and resilience. Experience has shown that if a country's economy is destroyed, other variables such as politics and security will also be disrupted. Indonesia did not escape this experience, where the end of the New Order regime in 1998, which had been in power for 32 years, started from an economic recession to the difficulty of obtaining basic necessities, thus making the New Order regime end its rule. For more details, examining the four components of the goal of ease of doing business is necessary for national economic resilience and growth.

Aspects of **increasing investment funding** are accommodated by the following articles of law:

- a. The corporate income tax rate is gradually reduced to 22% for the 2020 and 2021 fiscal years, then to 20% starting for the 2022 fiscal year.
- b. Article of the Income Tax Law: The reduction of the corporate income tax rate that goes public to 3% lower than the general rate starting in the 2021 fiscal year.
- a. The two policies above have been regulated in Perppu Number 1 of 2020 jo. Law No. 2 of 2020.
- b. Compared to elimination of income tax on domestic dividends as long as the dividends are invested in Indonesia; Dividends and after-tax profits from abroad are not subject to income tax as long as they are invested in Indonesia.
- c. Exempted from the object of PPh on the profit share (Remaining Operating Results) of cooperatives, Hajj funds are managed by the Hajj Financial Conduct Authority (BPKH).

- d. Possibility to adjust the income tax rate under Article 26 on interest income.
- e. Shares as assets (inbreng) are not subject to VAT.

Aspects of increasing **encouraging taxpayer compliance and voluntarily paying taxpayers** are accommodated by the following articles of law:

- a. Loosen the right to deduct input tax for taxable contractors.
- b. Reset:
 - 1. Administrative sanctions and
 - 2. interest subsidies,

Whose ratio refers to the market rate/benchmark interest rate determined by the Minister of Finance.

Aspects of **increasing legal certainty** are accommodated by the following articles of law:

- a. Identification of individual taxable objects:
 - 1. Indonesian citizens and foreign citizens staying more than 183 days in Indonesia to become a domestic taxpayer;
 - 2. Indonesian citizens who have been in Indonesia for less than 183 days may be subject to foreign tax under certain conditions.
- b. The imposition of income tax on foreign nationals is subject to national tax certain competence (foreigners) have income only from Indonesia, not on all income.
- c. VAT related settings:
 - 1. Coal delivery, including BKP delivery;
 - 2. Shipping does not include taxable delivery.
- d. Input Tax Return that has been credited.
- e. Decided tax penalties are no longer subject to tax notices (SKPKB/SKPKBT).

Aspects of improving creating justice in the domestic business climate are accommodated by the following articles of law:

- a. Electronic Transaction Taxation :

Designation of a platform to collect VAT and impose taxes from foreign taxable entities for electronic transactions in Indonesia.

Taxation of digital transactions by foreign sellers or *marketplaces*. This policy has been regulated in Perppu Number 1 of 2020 jo. Law No. 2 of 2020.

- b. Inclusion of NIK (Population Identification Number) of buyers who do not have NPWP in the Tax Invoice.

Based on the description of various tax policies that are accommodated in Perppu Number 1 of 2020 Jo. Law Number 2 of 2020 and the Employment Creation

Law, the function of regular and end taxes in the context of facilitating business for national economic growth can work in the following ways.

First, in the context of funding investment in Indonesia, tax incentives on dividends from within the country are intended to reduce the tax burden (Muhammad Djafar, 2018) that must be borne by taxpayers. Lower income tax on interest or other income from abroad will be an attraction for *direct investment* from abroad in Indonesia as well as to stimulate the domestic economy.

Second, differences in the interpretation of the determination of taxable status affects the country or jurisdiction that has the power to impose the tax, so it is necessary to provide legal certainty in the form of rules asserting taxable status, to know for Indonesian citizens who are staying in Indonesia for no more than 183 days in 12 months and foreigners who been in Indonesia for more than 183 days in 12 months. So far, the difference in interpretation has burdened the tax subject with complex tax administration obligations. In addition, there are arrangements that are expected to attract foreigners with special skills (*expatriate*) to work in Indonesia, only subject to tax on income originating in Indonesia (not on all income).

Third, regulation (relaxation) of provisions for crediting Input Tax, which is considered unfair for business actors. Input Tax crediting rights are now granted on expenses related to business activities and the VAT has been paid (with a limit of 80%). In addition, there are regulations on tax administrative penalties.

Fourth, the regulation on the amount of administrative sanctions of interest applied by taking into account market interest rates. The same applies to interest payments that must be paid by the government. Such arrangements aim to provide justice and encourage voluntary compliance by taxpayers. So far, the administrative sanctions are considered burdensome (2% per month) and does not distinguish between imposing sanctions on determination and sanctions that arise because the Taxpayer corrects his mistakes voluntarily. Due to this condition, it often interferes with the taxpayer's ability to conduct business, which in turn encourages behavior that avoids paying taxes and other obligations.

Fifth, the rapid development of electronic transactions in the national economy. Taxation of digital transactions carried out by foreign sellers or *marketplaces* (Trade Through Electronic Systems) is an effort to enforce the taxation rights of the Indonesian state and to ensure equality of tax treatment between domestic business actors and foreign business actors, especially those carried out electronically.

As an effort to minimize the tax burden of Cooperatives and Small and Medium Enterprises (UMKM), the Government continues to make improvements

by establishing various policies contained in the Minister of Finance Regulation (PMK) (Asadi et al., 2022). The existence of tax incentives for UMKM can increase the number of taxpayers who make tax payments. This indicates that tax incentive policies can improve tax compliance (Putra & Supartini, 2019). The positive response of taxpayers to the incentive policy prompted the government to issue a policy of adjusting economic conditions. One of the policies issued is Law Number 7 of 2021 concerning Harmonization of Tax Regulations (HPP Law) (Mohklas et al., 2022) which was passed by the government on October 29, 2021. Quoting from the official website of the DJP, the HPP Law also regulates the principles and objectives. The HPP Law is organized based on the principles of justice, simplicity, efficiency, legal compliance, expediency, and national interest (Tri Ega Nurillah & Isnani Yuli Andini, 2022). Meanwhile, the purpose of the preparation of the HPP Law is to increase sustainable economic growth and support the acceleration of economic recovery during the Covid-19 pandemic. The HPP Law contains six amendment clauses, namely General Provisions and Tax Procedures (KUP), Income Tax (PPH), Value Added Tax (VAT), Carbon Tax, Voluntary Disclosure Program, and Excise Law (Tania Rahmadi & Muhammad Aria, 2022). These six amendment clauses were enacted at different times.

Conclusion

Based on the description of the theoretical review and discussion of the material discussed above, it can be concluded that:

1. The tax policy in the form of lowering the corporate income tax rate and the imposition of taxes on trade in goods and/or services through an electronic system is contained in Perppu Number 1 of 2020 jo Law Number 2 of 2020. The tax policy carries 4 aspects of objectives in the context of ease of doing business for national economic resilience and growth:
 - a) Increasing investment funding
 - b) Encouraging voluntary compliance of taxpayers and payers
 - c) Increasing legal certainty, and
 - d) Creating an equal business environment in the country.
2. **The regular function of the tax** that can organize and strengthen the national economy, works through changes to the provisions of the tax cluster of the Job Creation Act and Perppu Number 1 of 2020 Jo. Law No. 2 of 2020 by:
 - a) Incentives for taxation on dividends from within the country and not imposing income tax on dividends and after-tax profits from abroad, lower

income tax rates on interest, or other income from abroad will be an attraction for *direct investment* from abroad in Indonesia. Additionally, it was done to boost the domestic economy.

- b) Legal certainty in the form of rules for affirming the status of tax subjects, namely for Indonesian citizens staying in Indonesia up to 183 days in 12 months and foreigners who are in Indonesia for more than 183 days in 12 months, so as not to cause differences in interpretation. In addition, there are arrangements that are expected to attract foreigners with special skills (*expatriate*) to work in Indonesia, only subject to tax on income originating in Indonesia (not on all income).
- c) Arrangement (relaxation) of input tax crediting provisions. Input Tax crediting rights are now granted for expenses related to business activities and the VAT has been paid. Sanctions from the tax administration are also mentioned in the provisions.
- d) Arrangements on the amount of administrative sanctions of interest and interest rewards are applied by taking into account market interest rates, aiming to provide fairness and encourage voluntary compliance.
- e) Taxation of digital transactions carried out by foreign sellers or *marketplaces* is an effort to enforce the taxation rights of the Indonesian state and to ensure equal tax treatment between domestic business actors and foreign business actors, especially those conducted electronically.

Suggestion

It is undeniable that currently the Taxation sector is the largest source of income and state expenditure financing. It applies to both routine expenditures and development costs as shown in the State Budget (APBN) in recent years. As a result, having a tax agency with tax institutions (Director General of Taxes and staff) is very strategic. Furthermore, it is necessary for the government to organize the taxation institutions, where the institutions that function as instruments for seeking and sources of state finances, such as the Director General of Taxes and the Director General of Customs and Excise and other similar institutions, become one entity, where the agency is independent, not under the Ministry of Finance. It is hoped that with the arrangement of taxation institutions and other similar institutions, state revenues from the taxation sector can be utilized as much as possible for national economic resilience and growth.

References

Agustina, E. (2020). HUKUM PAJAK DAN PENERAPANNYA UNTUK

- KESEJAHTERAAN SOSIAL. *Solusi*. <https://doi.org/10.36546/solusi.v18i3.311>
- Asadi, A., Sularsih, H., Himawan Wibisono, S., & Mukoffi, A. (2022). Kebijakan Insentif Pajak UMKM Di Masa Pandemi Covid -19. *E-Journal Perdagangan Industri Dan Moneter*. <https://doi.org/10.22437/pim.v10i2.19636>
- Mahendra, A., & Harefa, B. (2020). PERLINDUNGAN HUKUM TERHADAP IDENTITAS ANAK SEBAGAI PELAKU TINDAK PIDANA DALAM PROSES PERADILAN PIDANA. *Kertha Semaya: Journal Ilmu Hukum*. <https://doi.org/10.24843/ks.2020.vo8.i10.p13>
- Mohklas, M., Pancawardani, N. L., Yulianti, E., & Ratnasari, D. (2022). SOSIALISASI DAN IMPLEMENTASI UNDANG-UNDANG HARMONISASI PERATURAN PERPAJAKAN (UU HPP). *Jurnal Abdimas Indonesia*, 2(3), 316–323. <https://doi.org/10.53769/jai.v2i3.288>
- Muhammad Djafar, S. (2018). *Pembaharuan Hukum Pajak*. PT RajaGrafindo Persada.
- Putra, R. J., & Supartini, S. (2019). PENGARUH IMPLEMENTASI PENURUNAN TARIF PAJAK UMKM TERHADAP KEPATUHAN WAJIB PAJAK UMKM DENGAN PATRIOTISME SEBAGAI VARIABEL MODERASI. *Jurnal Akuntansi Manajerial (Managerial Accounting Journal)*, 4(2), 1–9. <https://doi.org/10.52447/jam.v4i2.2324>
- Suandy, E. (2017). *Hukum Pajak* (7th Editio). Salemba Empat Publisher.
- Tania Rahmadi, Z., & Muhammad Aria, W. (2022). IMPLIKASI KEHADIRAN UNDANG-UNDANG HPP DAN INSENTIF PERPAJAKAN SEHUBUNGAN COVID 19 TERHADAP KEWAJIBAN PERPAJAKAN KLASSTER PPN. *Jurnal Rekaman*, 6(1), 33–41.
- Tri Ega Nurillah, & Isnani Yuli Andini. (2022). Dampak UU HPP (Harmonisasi Peraturan Perpajakan) Pasca PP 23 Pada UMKM di masa Pandemi Covid – 19. *Jurnal Multidisiplin Madani*, 2(7), 3195–3216. <https://doi.org/10.55927/mudima.v2i7.767>
- Yuldasheva, I. R., & Artikov, N. A. (2021). Types and Functions of Taxes in a Market Economy. *International Journal of Multicultural and Multireligious Understanding*. <https://doi.org/10.18415/ijmmu.v8i7.2925>