

OVERVIEW OF TOBACCO MANUFACTURING AGGLOMERATION POLICY

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ARTICLE INFO	ABSTRACT
<p>Keywords: Factory agglomeration, NPPBKC, excise</p>	<p>Excise as an indirect tax has a regulatory and budgetary function. Excise revenues always increase from year to year. Excise revenue from tobacco products is very large, however there are still violations in the field of distribution and trade in illegal tobacco products. The government issued Minister of Finance Regulation Number 22 of 2023 concerning Allocation of Tobacco Products Factories. Before this regulation was issued, Minister of Finance Regulation Number 21/PMK.04/2020 concerning Tobacco Products Industrial Areas was implemented. Provisions regarding NPPBKC are regulated in Minister of Finance Regulation number 66/PMK.04/2018 concerning Procedures for Granting, Freezing and Revoking Excisable Goods Entrepreneur Identification Numbers, which was last amended by Minister of Finance Regulation number 68 of 2023. The tobacco products industry can intervene. influence the excise policy taken by the government. Government policies towards controlling the consumption of tobacco products vary from a fiscal and non-fiscal perspective. The factory agglomeration policy should be revoked. Tobacco product entrepreneurs who cannot fulfill the NPPBKC licensing requirements can be assisted by using the Tobacco Product Excise Profit Sharing Fund to do business in non-excisable goods sectors.</p>
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1. INTRODUCTION

Tax, as an indirect tax, serves the functions of regulation and budgeting. The regulatory function is related to influencing the behavior of the public in consuming goods subject to tax, where tax rates increase the prices of specific items, thus controlling their consumption. Meanwhile, the budgeting function is more of a consequence, with tax tariffs, in the form of monetary values added to the prices of taxable goods, becoming state revenue and entering the national treasury. Tax revenue has consistently increased year by year. This phenomenon can be interpreted as the success of tax collection or an improving fiscal performance. However, further investigation is needed to determine whether this is due to excessively low tax rates, allowing a wide affordability range for the public to purchase taxable goods.

In 2022, tax revenue amounted to IDR 226.88 trillion, experiencing an 18.04% year-on-year increase compared to the 2021 realization (LAKIN DJBC 2022). Of this amount, tobacco tax revenue (CHT) for the entire 2022 reached IDR 218.62 trillion, constituting 96.36% of the total tax revenue. This figure is equivalent to 104% of the target outlined in Presidential Regulation No. 98 of 2022, amounting to IDR 209.91 trillion. The 2022 CHT revenue is also higher, growing by 15.8% year-on-year compared to 2021, which was IDR 188.81 trillion.

Table 1. Performance Data of DJBC Revenue Realization 2017–2022 (in trillion rupiah)

Type Reception	2017	2018	2019	2020	2021	2022
Import Duty	35,06	39,09	37,53	32,35	38,89	51,08
Excise	153,29	159,58	172,42	176,31	195,52	226,88
Export Duty	4,15	6,76	3,53	4,28	34,57	39,82
Total	192,49	205,44	213,48	212,94	268,98	317,78
Growth	7,50%	6,70%	3,90%	-0,25%	26,32%	18,04%

Source: DJBC 2022 Performance Report

Despite the significant revenue from tobacco tax, violations in the circulation and trade of illegal tobacco products persist. Data from illegal cigarette operations by the Directorate General of Customs and Excise (DJBC) remain high. In 2022, law enforcement operations in the field of taxation, such as the Gempur Rokok Ilegal operation, resulted in 7,100 actions against tobacco products, yielding 152.5 million sticks.

To enhance competitiveness, guidance, service, and supervision, as well as to facilitate business for small and medium-sized tobacco manufacturing enterprises and micro, small, and medium enterprises, the concentration of tobacco manufacturing facilities is necessary. This consideration led the government to issue Minister of Finance Regulation No. 22 of 2023 concerning Tobacco Manufacturing Agglomeration. Before this regulation, Minister of Finance Regulation No. 21/PMK.04/2020 concerning Tobacco Industry Zones was in effect but later revoked.

Although tobacco tax revenue is a significant contribution to the national treasury, it originates from the sale value or price of goods that have negative impacts on public health. As an institution in the field of supervision with a fiscal aspect, serving as a performance indicator for the Directorate General of Customs and Excise (DJBC) of the Ministry of Finance, the routine task each year is to move towards the targeted tax revenue mandated by the State Budget (APBN). The issuance of the tobacco manufacturing agglomeration policy needs to be reviewed to determine whether it is aimed at tax-regulated supervision or if it provides facilities that do not align with tax regulations, potentially disregarding agreed-upon tax concepts in the Tax Law.

The Ministry of Health conducts periodic Basic Health Research (Riskesmas) to gather data on the percentage of the population that smokes. In the 2018 Riskesmas, it was found that 24.3% of the population smoked daily, with 24% of those aged 10 and above and the highest percentage in the age range of 30–34 years at 32.2%. These figures indicate a significant proportion of the population regularly allocating financial resources to fund their smoking needs.

No prior research on Tobacco Manufacturing Agglomeration (APHT) was found, but there are studies on Tobacco Industry Zones (KIHT). A study by [1] titled "Analysis of the Potential Formation of Tobacco Industry Zones from an Economic Perspective" concludes that the quality of local tobacco is highly regarded in the international market. Therefore, establishing a Tobacco Industry Zone (KIHT) in Ciamis Regency is justified based on the potential availability of local raw materials, employment absorption, increased contributions to regional GDP, increased investment, and increased tobacco tax revenue. Another study by [2] titled "Social-Cultural Study of the Formation of Tobacco Industry Zones" concludes that social-cultural aspects in the formation of tobacco industry zones exist at the micro level, involving government, and at the macro level or societal level. Social-cultural issues in institutional development in the industrial area, networking with various stakeholders, and the need for the development of competent human resources for competitiveness, as well as the creation of a conducive environment, are emphasized.

Literature Review

a. Tax Concept

In Law number 39 of 2007, it is stated in Article 2 paragraph (1) that certain goods with the nature or characteristics of: a. their consumption needs to be controlled; b. their circulation needs to be supervised; c. their use can have negative impacts on society or the environment; or d. their use requires the imposition of state levies for justice and balance, are subject to excise duties based on this law. In paragraph (2), goods as referred to in paragraph (1) are declared as excisable goods. The provisions of Article 2 paragraph (1) can be interpreted that if any one of the characteristics from letters a to d is fulfilled, it is declared as excisable goods. This regulation is strict because excisable goods that have negative impacts but are not subject to prohibition rules need to be regulated with various provisions that do not provide convenience for excisable goods entrepreneurs.

There is a strong reason to use taxes to reduce externalities generated in the production, particularly consumption, of certain goods and services. The most prominent examples are tobacco, alcohol, and gambling taxes. In theory, to achieve optimal taxation for maximizing social welfare, efforts are made to broaden the tax base, regulate resource allocation, implement strict taxes, and secure a more stable income flow [3].

According to [4], taxes were once considered the orphan of tax policy, receiving little attention in tax literature. However, this has changed in recent years due to increased awareness of the health impacts of excessive alcohol consumption and the significantly increased social costs of traffic activities. Environmental issues caused by fossil fuel combustion have led to the development of literature on the use of 'corrective' taxes to restrain harmful emissions. Attention has also been given to the higher use of

above-average taxes on goods and services considered luxury items in succession to enhance the overall progressivity of tax burdens.

b. Industrial Zone Concept

The primary reason for establishing industrial zones is to facilitate industries to be located and develop in specific areas with better improvement [5]. The development goals of industrial zones should be an integral part of the overall national industrial policy. Industrial zones can be an effective instrument of industrial policy because many of them provide opportunities for various supporting policy components such as investment policy, trade policy, financial policy, support for companies including incentives, physical infrastructure, and superstructure, consultation and training, workforce development, and research and development policies as well as innovation. In this regard, industrial zones can be utilized as microcosms of industrial policy, either through geographically concentrated national implementation or through specific parts of the policy. Indeed, building an industrial support system in one area is easier than in a scattered and unstructured manner due to the clustering of companies, leading to acceleration.

The change in economic status caused by the globalization of the world economy is a significant and prominent characteristic of current development. Pressure on structural adaptation in production, investment, and business is a visible feature in global economic development. Industrial zones are one of the most crucial factors supporting positive economic development. The philosophy of industrial zones involves the integration of various relatively different functions (production, services, relaxation, and education) into an industrial zone with a majority of industrial production and services, resulting in high economic turnover and employment [6].

In Indonesia, Industrial Zones are regulated by the government under Government Regulation Number 142 of 2015 concerning Industrial Zones. In Article 1, number 4, it is mentioned that an industrial zone is an area where industrial activities are centralized, equipped with supporting facilities and infrastructure developed and managed by the industrial zone company. In Article 2, paragraph (2), it is stated that the development of industrial zones aims to: a. accelerate the spread and even distribution of industrial development; b. enhance environmentally conscious industrial development efforts; c. improve investment competitiveness and industrial competitiveness; and d. provide location certainty in accordance with spatial planning. For the land area, Article 7, paragraph (1), mentions that an industrial zone is built with a minimum land area of 50 (fifty) hectares in one stretch. In paragraph (2), it is stated that if the industrial zone is intended for small and medium-sized industries, it can be built with a minimum land area of 5 (five) hectares in one stretch. In Article 41, paragraph (1), it is mentioned that industrial zone companies and industrial companies within the industrial zone are given tax incentives.

c. Tobacco Manufacturing Agglomeration Concept

In Article 1, number 5 of Minister of Finance Regulation number 22 of 2023, a factory is defined as a specific place, including buildings, yards, and fields that are part of it, used to produce taxable goods and/or package taxable goods for retail sale. In the same article, number 6, a factory entrepreneur is defined as a person managing the factory. Then, in number 7, a factory agglomeration is defined as the collection or concentration of factories in a specific place, location, or area. In Article 2, paragraph (3), it is stated that a factory agglomeration, as mentioned in paragraph (2), is organized in a place: a. industrial zone; b. specific industrial zone; c. small and medium-sized industry center; or d. other tobacco industry concentration places that are in line with regional spatial planning. Furthermore, in Article 2, paragraph (5), it is mentioned that factory entrepreneurs conducting activities in places referred to in paragraph (3) are given facilitation: a. tax licensing; b. production of taxable goods; and c. tax payment. In Article 3, paragraph (1), the tax licensing facilitation as referred to in Article 2, paragraph (5) letter a, is an exemption from the requirement to have land area, buildings, or business premises regulated in laws regarding NPPBKC. Then, in paragraph (4) of Article 3, the tax payment facilitation as referred to in Article 2, paragraph (5) letter c, is a tax payment deferral granted within a 90-day deferral period from the date of excise tape ordering. Thus, entrepreneurs receive three facilitations with the issuance of the Minister of Finance Regulation on Tobacco Manufacturing Agglomeration (PMK APHT).

d. Conceptual Framework

The function of taxation to control the consumption of taxable goods has been regulated in the Excise Law. More technical requirements are stipulated in the Minister of Finance Regulation that regulates the conditions or criteria for entrepreneurs to become taxable goods entrepreneurs, which in this study are tobacco factory entrepreneurs, namely the Main Business Identification Number for Taxable Goods Entrepreneurs (NPPBKC). However, then the Minister of Finance Regulation on Tobacco Manufacturing Agglomeration was issued, replacing the regulations on Tobacco Industry Zones (KIHT).

The policy on factory agglomeration is considered inconsistent with the concept of taxation and the NPPBKC licensing regulations that already exist, so a more in-depth review is needed.

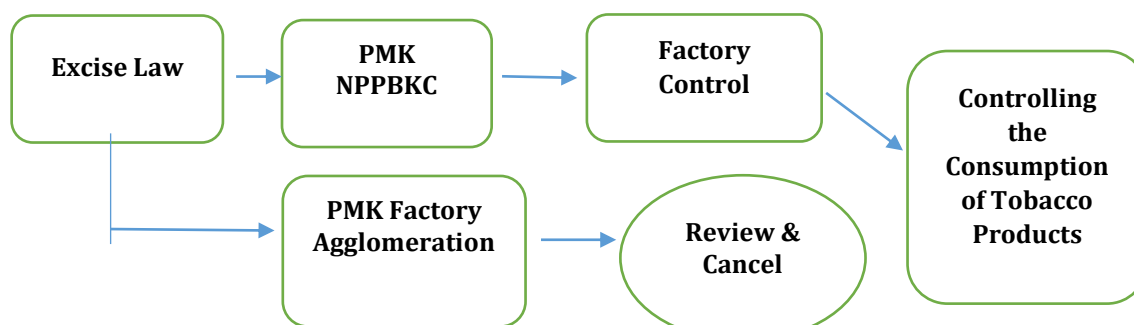


Figure 1. Conceptual Framework of the Study

2. METHOD

The data collection method was conducted using the Library Research method. According to [7], library research is a data collection technique that involves examining books, literature, notes, and reports related to the problem to be addressed. Library research in this study began by reviewing regulations that were the object of study and comparing them with equivalent regulations in the same field that are at the same or higher hierarchy. Additionally, it was compared with the government policies of other countries regarding the tobacco or cigarette industry in those countries.

3. RESULTS AND DISCUSSION

Licensing to Obtain the Taxable Goods Entrepreneur Identification Number (NPPBKC)

In order to carry out operational activities, companies engaged in the production and distribution of tobacco products must obtain a Taxable Goods Entrepreneur Identification Number (NPPBKC). The regulations regarding NPPBKC are stipulated in the Minister of Finance Regulation number 66/PMK.04/2018 concerning Procedures for Issuing, Freezing, and Revoking Taxable Goods Entrepreneur Identification Numbers. This regulation was last amended by Minister of Finance Regulation number 68 of 2023, with several revised and deleted articles.

In Article 1, paragraph 3, it is mentioned that the Taxable Goods Entrepreneur Identification Number, hereinafter referred to as NPPBKC, is a permit to engage in activities as a factory entrepreneur, storage place entrepreneur, taxable goods importer, distributor, or retailer entrepreneur in the field of taxation. In paragraph 4.a, the Identification Number for Business Activity Location, hereinafter referred to as NILKU, is defined as the identification number given for the business activity location of taxable goods entrepreneurs.

In Article 7, paragraph (1), it is stated that the location, building, or premises to be used as a factory must meet the following requirements, subparagraph c: have a certain size of location, building, or premises. Furthermore, in paragraph (3), subparagraph c, a tobacco factory is at least 200 (two hundred) square meters. Still in Article 7, in paragraph (4), it is mentioned that an exception from the requirement of a minimum size of 200 (two hundred) square meters for a tobacco factory, as stipulated in paragraph (3), subparagraph c, applies when the location, building, or premises requested will be used as a factory for other processed tobacco products.

Facilitation in the Tobacco Factory Agglomeration Policy

Facilities and conveniences offered in the regulation on Tobacco Factory Agglomeration are mentioned in several articles. Requirements regarding the organization of the agglomeration place for factories related to location requirements are regulated in Article 6. In terms of location requirements, some aspects remain the same as the rules in Article 7, paragraph 1 of Minister of Finance Regulation number 66/PMK.04/2018 concerning Procedures for Issuing, Freezing, and Revoking Taxable Goods Entrepreneur Identification Numbers, but there is a difference related to the size of the location. Article 6 states that the place for the agglomeration of factories as in Article 2, paragraph (3), which will be determined, must meet at least the following requirements: c. have the size of the location, building, or premises based on business permits or determinations from local governments, in accordance with the provisions of laws and regulations.

The wording of the rule in Article 6, subparagraph c, does not provide limitations or criteria like those in the regulation for NPPBKC permits. This could lead to multiple interpretations and may not align

with the true concept of excise tax, which is intended for the control of the consumption of taxable goods. Moreover, with the words "business permits or determinations from local governments," it appears that excise control is seemingly released and transferred into the realm of industrial regulation by the relevant institutions in industrial development or departments at the local government level. It must be noted that taxable goods are not free goods with no negative impact or minimal impact on humans; rather, they are goods with specific negative impacts, and therefore, they should not be given ease or facilities.

The change in regulation into the tobacco factory agglomeration, which was previously regulated by the tobacco industrial area, also raises questions. Minister of Finance Regulation Number 21/PMK/04/2020 concerning Tobacco Industry Areas was issued on March 16, 2020, and then declared ineffective when the Minister of Finance Regulation on Tobacco Factory Agglomeration was issued on March 13, 2023. Within just 3 (three) years of the implementation of the regulation on Tobacco Industrial Areas (KIHT), and with few KIHTs formed, it was then revoked. The naming of the regulation with the industrial area label does indeed become confusing when juxtaposed with Government Regulation Number 142 of 2015 concerning Industrial Areas. There are several provisions in the Tobacco Industrial Area regulation that are not in line with the Industrial Area Government Regulation, such as in terms of goals, minimum area requirements, and company strata or classification.

In Article 2, paragraph (2) of the Industrial Area Government Regulation, it is mentioned that the development of industrial areas has 2 out of 4 goals: accelerating the spread and equalization of industrial development and increasing efforts for environmentally friendly industrial development. This is clearly difficult to accommodate in the Tobacco Industrial Area regulation. Essentially, the tobacco industry should not be developed freely because the products produced are hazardous goods and, therefore, their production must be controlled. Additionally, by producing goods with negative externalities, this industry is not environmentally friendly. So, in terms of goals alone, it already does not comply with the provisions of the Industrial Area Government Regulation. In the DJBC LAKIN 2022, it is mentioned that the development plan for KIHT is in Probolinggo Regency and Soppeng Regency, but there is no explanation of the progress of these KIHTs.

Government Intervention in Tobacco Industry Policies

There are several studies indicating that the tobacco industry seeks to influence government policies to ensure that the established policies benefit their companies and harm their competitors. In some cases, large companies that compete in business practices may collaborate to influence government policies, working together to maintain product sales and business continuity.

Findings from A Global Industry Watchdog (2020) state that the tobacco industry aims to shape development policies. The tobacco industry endeavors to weaken the role of the Ministry of Health, shifting leadership roles in tobacco control decision-making to non-health sectors to achieve conducive outcomes for the industry. In some countries, stringent tobacco control measures are defeated or weakened by influential industry players involved in policy-making or tasked with persuading the government through non-health sectors to delay or oppose tobacco control measures.

Issues related to transparency, conflicts of interest, and incentives for the tobacco industry remain significant in many countries. It is crucial for governments to take concrete actions to protect health aspects. Two recurring issues are, first, the government providing ease and special treatment for the tobacco industry, such as accommodating requests for longer implementation periods or delaying tobacco control laws. Second, the government lacks policies that prohibit contributions from the tobacco industry or any entities attempting to protect their interests to political parties, candidates, or campaigns, or it fails to require full disclosure of such contributions [8].

According to [9], the tobacco industry employs various tactics to intervene in tobacco tax policy formulation. The industry mobilizes specific groups, including religious groups, academics, and research institutions, to garner support for opposing tax increases and tariff simplification. Even within the government, there are pro-industry elements influencing decision-making processes up to the highest executive level (the Presidential level). Furthermore, according to [9], the Indonesian government is receptive to recommendations from the tobacco industry, and Indonesia is considered the weakest country in terms of tobacco control measures in Southeast Asia.

Best Practices of Government Policies Towards the Tobacco Industry in Other Countries

Government policies toward the tobacco industry vary in each country based on their respective interests. This depends on how the government perceives the presence of cigarettes in society. If cigarettes are considered highly detrimental to health, regulations tend to be stricter. Conversely, if they are deemed less problematic, regulations may be more lenient. Additionally, there is a dilemma regarding

state revenues from taxes and other tobacco-related levies, which are beneficial to the national budget and contribute to the government's operational activities.

In the United States and the European Union, for example, the strengthening of societal norms regarding health and the environment has led to widespread opposition to smoking in almost all countries. Awareness of the health risks of smoking in developed countries has resulted in relatively strong public resistance compared to developing or underdeveloped countries. The pressure from anti-tobacco groups has caused the governments of the United States and the European Union to withdraw support for tobacco development, both politically and economically (protection, subsidies, etc.), and legally (tobacco use restrictions). The U.S. government has even enacted laws on tobacco control and family protection from cigarettes. With these laws, the government regulates the circulation and trade of cigarettes. This situation will lead to a decrease in the production, consumption, and trade of tobacco products from the U.S. and the EU, affecting the tobacco industry in those countries [10].

According to [11], some countries in the South and Southeast Asian regions differ in their approach to tobacco industry intervention. The Tobacco Industry Interference Index is a review by civil society on how governments respond to industry interference related to policy recommendations. This index covers nine (9) countries in Southeast Asia (including South Asia): Bangladesh, India, Maldives, Myanmar, Nepal, Sri Lanka, Thailand, and Timor-Leste. There are two government attitudes in responding to industry interference. First, the government accepts or supports assistance or cooperation with the tobacco industry in implementing tobacco control policies. Second, the government accepts or supports laws drafted or cooperated with by the tobacco industry. Bangladesh scores the highest, indicating the highest influence from the tobacco industry, with Indonesia in second place. Other countries, such as Thailand, India, and even Timor-Leste, are considered to have better tobacco control performance than Indonesia.

In Europe, according to [12], effective actions driven by international commitment exist, which sharply contrasts with tobacco industry lobbying efforts using various strategies to acquire new customers and oppose policies at all levels. The consistency of this interference and the substantial resources provided by tobacco companies could be reasons why international agreements and tobacco control commitments have not been adequately enforced or their implementation has been delayed. Each month of delay means significant financial gains for the tobacco industry and substantial losses for public health. Knowledge and instruments exist to stop the tobacco-related disease epidemic, but strong and consistent political commitment is needed to initiate and sustain goals to end this tobacco epidemic.

4. CONCLUSION

Regarding the study of tobacco factory agglomeration policies, the following conclusions can be drawn from the discussions: The issuance of NPPBKC permits to tobacco entrepreneurs is regulated in the Minister of Finance Regulation number 66/PMK.04/2018 concerning Procedures for Granting, Freezing, and Revocation of the Excise Entrepreneur Identification Number, which was last amended by Minister of Finance Regulation number 68 of 2023. The government's facilitation to the tobacco industry through PMK APHT contradicts the principles of excise as a means of controlling tobacco consumption and is not in line with PMK NPPBKC. There is interference from the tobacco industry influencing the government's decision-making on tax-related policies. Indonesia is considered the weakest in tobacco control measures in Southeast Asia. Government policies in other countries towards their tobacco industries vary. The United States and the European Union no longer support their tobacco industries. Some countries in Southeast Asia and South Asia, for the most part, do not allow tobacco industry interference in government policies. In this regard, Indonesia is only slightly better than Bangladesh. To maintain the primary function of excise, which is to regulate public behavior through the control of tobacco consumption, there are several recommendations related to the issues at hand: The issuance of NPPBKC permits to tobacco entrepreneurs should adhere to the provisions in the Minister of Finance Regulation number 66/PMK.04/2018 concerning Procedures for Granting, Freezing, and Revocation of the Excise Entrepreneur Identification Number, which was last amended by Minister of Finance Regulation number 68 of 2023. The government should revoke PMK APHT as it is inconsistent with excise principles. To provide assistance or ease of business to small-scale tobacco entrepreneurs struggling to compete, support can be given through the utilization of the Tobacco Excise Revenue Sharing Fund (DBH CHT) to help them establish businesses unrelated to tobacco. Thus, they are directed and assisted to become entrepreneurs in fields not related to excisable goods. The government should maintain its independence and credibility by not allowing tobacco industry interference in excise policies. Nevertheless, the government has the authority to independently establish fiscal and non-fiscal policies related to tobacco.

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