

Legal Certainty Of Regional Taxes in the Framework of Fiscal Decentralization

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This study examines legal certainty in the implementation of local taxes within the framework of fiscal decentralization in Indonesia. Fiscal decentralization is intended to strengthen regional financial autonomy and improve public service quality; however, its implementation still faces challenges such as fiscal disparities and regulatory disharmony. The research employs a normative juridical method using statutory and conceptual approaches, analyzing both primary and secondary legal materials. The findings indicate that Law No. 1 of 2022 has enhanced local taxing authority and promoted policy harmonization, yet its application remains suboptimal due to limited regional capacity and inconsistent norms. Regulatory harmonization, tax system digitalization, and strengthened coordination between central and local governments are essential to ensure legal certainty.

Keywords: Fiscal Decentralization, Local Taxes, Legal Certainty

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1. Introduction

Indonesia implements the principle of decentralization in its governance system, as stipulated in Articles 18, 18A, and 18B of the 1945 Constitution of the Republic of Indonesia. This decentralization grants regional governments the authority to administer government affairs based on the principles of autonomy and assistance. In practice, decentralization encompasses not only administrative aspects but also fiscal aspects, involving the delegation of financial management authority from the central government to the regions. The primary objective of fiscal decentralization is to strengthen regional self-financing capacity and improve the quality of public services. Therefore, fiscal policy is a key element in supporting the fair and sustainable implementation of regional autonomy.

Within this framework, regional taxes play a strategic role as the primary source of Regional Original Revenue (PAD), reflecting a region's fiscal independence. Regional taxes are not only an economic instrument but also a legal and political instrument to achieve a balance between the authority and responsibility of regional governments. Through regional taxes, regional governments are expected to optimize local economic potential without over-reliance on transfer funds from the central government. However, in practice, increasing regional fiscal authority often raises new challenges related to legal certainty, inter-regional equity, and harmonization of national fiscal policy (Nai, 2024).

To improve the governance of financial relations between the central and regional governments, the government enacted Law Number 1 of 2022 concerning Financial Relations between the Central and Regional Governments (HKPD Law). This regulation replaces Law Number 33 of 2004 and aims to strengthen the principle that fiscal resources must be aligned with functional responsibilities while reducing fiscal disparities across regions. From a normative perspective, the HKPD Law represents a more nuanced approach to fiscal decentralization, emphasizing vertical and horizontal fiscal balance, and enhancing regional fiscal accountability mechanisms. It is hoped that this Law will serve as a legal instrument that

ensures certainty, equality, and coherence within the framework of the national and regional taxation systems (Afifulloh, 2023).

The principle of legal certainty is a fundamental foundation of the tax system, as stipulated in Article 28D paragraph (1) of the 1945 Constitution, which guarantees the right of every individual to recognition, protection, and fair legal certainty. In the context of regional taxes, this principle implies the existence of clear, consistent, and predictable regulations for both taxpayers and tax collection authorities. Legal certainty is an essential prerequisite for creating a conducive investment climate and implementing good fiscal governance. Without legal certainty, the implementation of fiscal decentralization has the potential to lead to policy fragmentation, inter-regional inequality, and uncertainty for economic actors.

However, this ideal condition has not yet been fully achieved. In the practice of regional governance, various regional regulations related to taxes are still found to be out of sync with national policy. Many regions set different types and rates of taxes without considering their impact on the business climate or the principle of uniformity of national law. As a result, disparities in tax impositions arise between regions, creating legal uncertainty for the public and the business world. Several regional regulations have even been annulled by the Supreme Court because they were deemed to conflict with higher-level laws or to impose an excessive burden on the public.

This phenomenon demonstrates a gap between expectations and aspirations and the reality on the ground. The fiscal decentralization system is intended to strengthen regional autonomy within a unified national legal framework that guarantees legal certainty. However, in reality, the implementation of fiscal autonomy often results in overlapping authority and regulatory disharmony between the central and regional governments. The vertical harmonization that the central government should maintain has not been optimal, leading to ambiguity in the determination of tax authority and the distribution of tax revenues. This gap is a source of tension between the need for fiscal autonomy and the principle of national legal certainty.

Fiscal equity issues arise as a consequence of disparities in fiscal capacity between regions. Regions with strong economic potential are able to collect significant regional tax revenues, while regions with a weaker economic base tend to rely on transfers from the central government. This disparity presents challenges in achieving equitable development and a sense of fiscal equity between regions. This fact is reinforced by the statement by the Deputy Minister of Home Affairs, who revealed that approximately 90% of regions in Indonesia have weak fiscal capacity, making them highly dependent on transfers from the central government. Leakage of Regional Original Income (PAD) and low tax compliance are factors hampering regional fiscal independence. From a constitutional law perspective, this situation indicates that the implementation of fiscal decentralization has not fully taken place within the framework of a rule of law that ensures a balance between regional independence and national interests.

The lack of uniform legal certainty has direct implications for the stability of investment policy. Sudden changes to regional tax or levy rates without adequate legal basis create uncertainty for business actors, thus disrupting the sustainability of economic activity. Legal certainty in the tax sector is a key indicator of investor confidence in the consistency of national regulations. Within this framework, the application of fiscal decentralization principles must align with the principles of proportionality and legal justice to prevent distortions in the national economic system.

Therefore, a comprehensive analysis of the implementation of fiscal decentralization, particularly in the area of regional taxation, is necessary to ensure its implementation remains in line with the principle of legal certainty. This study is relevant considering that the Law on Financial Relations between the Central and Regional Governments (HKPD Law) is still relatively new and its implementation requires cross-sectoral harmonization. This evaluation is expected to provide insight into the extent to which the normative design

formulated in the law can guarantee legal certainty while also providing space for regional governments to manage their fiscal potential fairly and effectively. Therefore, this research has both academic and practical urgency in improving the system of financial relations between the central and regional governments.

This paper will discuss how the principles of fiscal decentralization affect the regulation and implementation of regional taxes in Indonesia and how to achieve legal certainty in the implementation of regional taxes in the era of fiscal decentralization in Indonesia.

2. Method

This research employed a normative legal method with two approaches: the statute approach and the conceptual approach (Soekanto, 2023). The choice of these methods was based on the study's focus, which emphasizes the analysis of legal norms related to the regulation of aesthetic clinics. According to Peter Mahmud Marzuki (2019), normative legal research aims to identify legal rules, legal principles, and legal doctrines to address the legal issues at hand. Therefore, this method is relevant for assessing the certainty and consistency of aesthetic clinic regulations within the national legal system.

The data sources analyzed included primary legal materials, in the form of relevant laws and regulations. Johnny Ibrahim (2018) emphasized that primary legal materials are the primary authoritative source in normative research because they are legally binding and serve as the primary basis for assessing the compliance of legal regulations with human rights principles.

Additionally, secondary legal materials were used in the form of academic literature, scientific journals, research findings, activity reports, and articles relevant to the study topic. As a complement, tertiary legal materials such as legal dictionaries and encyclopedias were also utilized to provide additional explanations. Zainuddin Ali (2021) stated that the use of secondary and tertiary legal materials serves to enrich normative analysis and help researchers understand the theoretical and conceptual context of the legal norms being studied.

Data collection was conducted through literature review using documentation and systematic recording techniques. Data analysis was conducted qualitatively, utilizing methods of legal interpretation, legal systematization, and legal evaluation, to obtain a comprehensive picture of the regulation of aesthetic clinics from a human rights perspective.

3. Results and Discussion

1. The Principle of Fiscal Decentralization in the Regulation and Implementation of Regional Taxes in Indonesia

a. Conceptualization of Fiscal Decentralization in the State Financial System

Terminologically, decentralization is understood as the opposite of centralization, which refers to the concentration of power. Within the framework of public administration theory, decentralization serves as an instrument for realizing the fundamental goals of the state, namely improving the quality of public services and expanding democratic participation in the decision-making process. This concept encompasses three main dimensions: political decentralization, administrative decentralization, and fiscal decentralization. Fiscal decentralization, as one form of state financial policy implementation, represents a mechanism for transferring funds from the State Budget (APBN) to regional governments. Its primary goal is to create sustainable fiscal resilience and stimulate local economic activity. Thus, fiscal decentralization policies are expected to encourage equitable distribution of financial capacity among regions, in line with the significant government authority delegated to autonomous regions (Christia, 2019).

From a legal perspective, fiscal decentralization represents the implementation of the principle of a unitary state that provides autonomy to regions. This is affirmed in Article 18 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that "regional governments have the right to regulate and manage their own government affairs according to the principles of autonomy and assistance." This provision positions regions as subjects with the authority to manage government affairs independently, including in the financial sector.

Furthermore, Article 18A paragraph (2) of the 1945 Constitution of the Republic of Indonesia stipulates that financial relations, public services, and the utilization of natural resources between the central and regional governments must be implemented fairly and harmoniously. This constitutional norm forms the foundation for the formation of a decentralized state financial system, in which regional governments are granted fiscal space to manage revenues and expenditures according to local needs, while remaining within the framework of national fiscal integration. Thus, fiscal decentralization functions not only as a mechanism for distributing authority but also as an instrument to increase the efficiency of public financial management, strengthen accountability, and encourage equitable development across regions.

Deputy Minister of Finance Suahasil Nazara stated that there are four major objectives of Indonesia's fiscal decentralization, namely:

- a) Strengthening local taxing power is one of the main orientations of fiscal decentralization. Regional governments are expected to foster closeness and responsiveness to constituents in order to independently finance regional development. Based on projections by the Ministry of Finance, the implementation of the Law on Financial Relations between the Central and Regional Governments (HKPD Law) is estimated to increase regional tax and levy revenues by 50 percent, from IDR 61.2 trillion to IDR 91.3 trillion. The HKPD Law also simplifies regional taxes from 16 to 14 and rationalizes levies from 32 to 18. This policy is designed to reduce administrative and compliance costs, thereby achieving efficient regional fiscal management.
- b) Developing financial relations between the central and regional governments is aimed at reducing fiscal inequality, both vertically and horizontally. Within this framework, regional governments are required to have sufficient capacity to provide equal minimum standards of public services to all citizens.
- c) Providing regional governments with flexibility in managing expenditures accountably is a strategic step to ensure minimum service standards are met. This policy emphasizes the importance of fiscal flexibility, accompanied by oversight mechanisms to ensure transparent budget use and adherence to good governance principles.
- d) Harmonizing central and regional government spending is a strategic step to ensure effective and optimal public service delivery. This synergy is necessary to prevent overlapping budget allocations, thereby achieving fiscal efficiency and policy integration within the national development framework.

Fiscal decentralization is closely linked to the concept of regional autonomy. Regional autonomy encompasses political, administrative, and fiscal dimensions that mutually support regional governance. From a fiscal perspective, the effectiveness of regional autonomy can only be achieved if it is accompanied by financial independence, meaning regions must have adequate revenue sources and the authority to manage and allocate budgets independently. If fiscal decentralization is weak, regional autonomy will be superficial due to the continued high dependence on transfers from the central government, such as the General Allocation Fund (DAU) and the Special Allocation Fund (DAK) (Kartika, 2023).

The framework of Indonesia's state financial system is regulated by Law Number 17 of 2003 concerning State Finance, which emphasizes that financial management is carried out in an integrated but not centralized manner. This principle grants fiscal authority to regional governments, while remaining within the framework of an integrated national fiscal policy. At this point, balance is essential, as the state must ensure regional fiscal independence while maintaining consistency in national fiscal policy. To strengthen this framework, the Regional Government Finance Law (HKPD) was introduced, reforming the regional tax system, levies, and fiscal transfer mechanisms to make them more efficient, transparent, and equitable.

Ideal fiscal decentralization must guarantee legal certainty for regional governments in their independent tax management, including determining the objects, subjects, and rates of regional taxes. However, practice in the field shows that regulatory and institutional imbalances persist, leading to inconsistencies in tax implementation across regions. Legal certainty in regional taxes encompasses not only clear norms (legal certainty) but also uniform implementation to prevent fiscal discrimination. Therefore, strengthening the principles of fiscal decentralization requires harmonization of regional tax regulations within a consistent and coherent national legal framework.

b. Normative Basis for Fiscal Decentralization in Indonesia

Fiscal decentralization in Indonesia is firmly grounded in the 1945 Constitution, which legitimizes the division of financial authority and responsibility between the central and regional governments. Article 18 paragraph (2) affirms the right of regions to regulate and manage government affairs based on the principle of autonomy, including fiscal aspects. Article 18A paragraph (2) regulates financial relations and the utilization of resources in a fair and harmonious manner, forming the basis for a just system of intergovernmental financial relations. Meanwhile, Article 23A stipulates that taxes and compulsory levies are regulated by law, including regional tax regulations. Thus, fiscal decentralization is not merely an administrative policy, but rather the embodiment of the constitutional principle of the distribution of fiscal authority within a unitary state.

Within the legal framework of state finance, the provisions for fiscal decentralization are comprehensively outlined in Law Number 17 of 2003 concerning State Finance and Law Number 1 of 2004 concerning State Treasury. Both laws affirm that state finances encompass all rights and obligations that can be valued in money, including regional finances. Article 3 of the State Finance Law stipulates that financial management must be conducted in an orderly, efficient, transparent, and accountable manner, while adhering to the principle of fairness. Therefore, even though regions have fiscal autonomy, their management remains subject to the principles of good governance. Fiscal decentralization, in this context, does not involve a separation of authority, but rather the delegation of responsibility within a single, integrated state financial system between the central and regional governments.

Prior to the enactment of Law Number 1 of 2022, the framework for central and regional financial relations was regulated by Law Number 33 of 2004 concerning Fiscal Balance between the Central and Regional Governments. This regulation introduced the concept of fiscal balance through three main instruments: Balancing Funds (DAU, DAK, and Revenue Sharing Funds), Regional Loans, and Regional Original Revenue (PAD). The goal was to balance fiscal capacity between regions to reduce both vertical (between the central and regional governments) and horizontal (between regions) disparities. However, the implementation of this policy has been suboptimal due to high regional dependence on central transfers, weak fiscal capacity, and overlapping authority in managing taxes and levies. This situation reflects a gap between expectations and the reality of implementation.

The enactment of Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments (HKPD Law) marks a significant reform in Indonesia's fiscal decentralization

system. This regulation aims to simplify regional taxes and levies, strengthen fiscal independence, and reduce inter-regional inequality. Key reforms include: (1) simplification of taxes and levies through a single codification to increase efficiency; (2) providing flexibility in setting rates within certain limits to encourage healthy fiscal competition; and (3) strengthening performance-based transfer mechanisms and development indicators. Thus, the HKPD Law represents a modernization of regional fiscal law that seeks to balance regional fiscal independence with national fiscal stability.

Fiscal decentralization not only concerns financial distribution but also embodies legal principles that must be upheld to create a fair and sustainable state financial system. According to Jimly Asshiddiqie, there are four main principles: (1) fiscal justice to ensure equitable distribution of financial capacity between regions; (2) fiscal accountability to ensure transparent and responsible financial management; (3) fiscal efficiency, which requires efficient and targeted use of resources; and (4) national fiscal unity to ensure regional fiscal policies remain aligned with national policies. These principles serve as normative benchmarks for assessing whether fiscal decentralization is operating in accordance with the constitutional mandate or has the potential to lead to fiscal fragmentation (Ningsih, 2023).

In regulating regional taxes, the normative basis of fiscal decentralization has two main implications. First, regional governments are given the authority to set taxes and levies as a source of Regional Original Income (PAD) to finance their needs independently. Second, this authority must be exercised within national law to avoid policy disharmony between regions that could potentially disrupt national economic stability. Therefore, the regional tax legal system must maintain a balance between fiscal autonomy and legal certainty. The HKPD Law aims to ensure this balance by restructuring the mechanisms of central-regional fiscal relations within a clearer and more integrated legal framework.

c. Regional Authority in Regulating Regional Taxes

Regional fiscal authority, or local taxing power, is the right of local governments to collect taxes and levies as a source of Regional Original Revenue (PAD) to support the implementation of government functions and public services. Within the framework of fiscal decentralization, this authority is a manifestation of regional financial autonomy, which provides space for establishing revenue policies in accordance with local economic characteristics and potential. Its primary function is as an instrument for financing development while strengthening fiscal independence. However, its implementation must be based on the principles of fairness, efficiency, and legal certainty to avoid excessive burdens on the community or economic distortions between regions (Halim, 2014).

The legal basis for regional tax collection in Indonesia rests on several key regulations. Article 23A of the 1945 Constitution stipulates that taxes and compulsory levies must be regulated by law, ensuring that all tax collection authorities have constitutional legitimacy. Furthermore, Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments (HKPD Law) replaces Law Number 28 of 2009 concerning Regional Taxes and Regional Levies, with the aim of strengthening the legal framework for regional taxation. Furthermore, Law Number 23 of 2014 concerning Regional Government provides the basis for the development of regional regulations (Perda) for the implementation of government affairs, including tax collection. This combination of provisions creates a legal system that grants regional governments the authority to collect taxes, but this is delegated from the central government, not absolute.

According to the Regional Tax Law (HKPD), regional tax authority is divided into two levels. Provincial taxes include Motor Vehicle Tax, Motor Vehicle Ownership Transfer Fee, Motor Vehicle Fuel Tax, Surface Water Tax, and Cigarette Tax. Meanwhile, Regency/City Taxes include Rural and Urban Land and Building Tax, Land and Building Acquisition Fee, Hotel Tax, Restaurant Tax, Entertainment Tax, Advertising Tax, Parking

Tax, Street Lighting Tax, and Non-Metallic Mineral and Rock Tax. This division is designed to prevent overlapping authority between levels of government and maintain a balance between the principle of fiscal subsidiarity and the integration of national tax policy. Regions can still adjust rates or add taxable objects through Perda, but must do so within the limits stipulated by law to avoid violating the principle of uniformity of national law.

Although regional governments have the authority to set taxes, there are a number of normative, structural, and economic limitations. Normative limitations are reflected in the provisions of the Regional Tax Law, which regulates tax types, objects, subjects, tax bases, and maximum rates. Structural limitations include the obligation to obtain central government evaluation of Regional Tax Regulations to ensure alignment with national fiscal policy. Meanwhile, economic limitations relate to the risk of distortion if tax rates are raised excessively, reducing investment competitiveness or encouraging tax avoidance. Thus, regional fiscal autonomy remains within the framework of national policy integration (Shandy, 2022).

Regional Regulations (Perda) are the primary legal instrument for implementing regional tax authority, enabling local governments to set rates, collection mechanisms, and tax management according to local conditions. However, to be valid and enforceable, each Perda must be evaluated by the Ministry of Home Affairs and the Ministry of Finance to ensure alignment with national fiscal policy and the principle of legal certainty. This harmonization process is crucial to prevent fragmentation of tax norms between regions, which can create uncertainty for taxpayers.

Experience in implementing Law No. 28 of 2009 shows that many Perda on regional taxes have been revoked due to conflicts with the public interest or higher-level regulations. In practice, the implementation of regional tax authority faces several challenges, including regulatory inconsistencies, weak fiscal administration capacity, conflicts of authority between regions, and the absence of national standards for collection systems, which lead to variations in practice and reduce taxpayer compliance.

Regional fiscal authority must be exercised within a framework of legal certainty, encompassing three main aspects. First, clarity of norms, meaning that regional tax regulations must be free from multiple interpretations and aligned with higher-level regulations. Second, consistency of implementation, meaning that regional tax application is uniform, transparent, and predictable for taxpayers. Third, the protection of taxpayer rights, including the right to information, to file objections, and to resolve disputes through fair legal mechanisms. Without legal certainty, regional fiscal authority has the potential to create legal, economic, and political risks and undermine public trust in the tax system. Therefore, a balance between local taxing power and legal certainty is a key prerequisite for the success of fiscal decentralization in Indonesia.

d. Challenges in Implementing the Principle of Fiscal Decentralization

The principle of fiscal decentralization is a crucial component of regional autonomy in Indonesia, but its implementation still faces numerous obstacles. These challenges arise from the gap between the ideal concept stipulated in the constitution and the reality on the ground. The imbalance in regional capacity to manage finances and the fiscal responsibilities assigned to them is a major issue. One major issue is the disparity in fiscal capacity between regions. Regions with high economic potential are able to increase Regional Original Income (PAD), while agrarian or remote regions are highly dependent on transfers from the central government. This dependency creates fiscal disparities that undermine the spirit of regional autonomy.

Furthermore, regional institutional and human resource capacity remains low. Many regions lack adequate tax apparatus and management systems, resulting in ineffective tax collection and weak fiscal

accountability. Furthermore, regulations between the central and regional governments often overlap, creating legal uncertainty for taxpayers and hampering the effectiveness of fiscal policy. Inter-agency coordination is also problematic. The relationship between the central and regional governments is often lacking synergy, particularly in the preparation of regional budgets (APBD) and the management of transfer funds. Changes to central government policies, such as Revenue Sharing Funds (DAU) or General Allocation Funds (DAU), are often implemented without adequate consultation, leading to policy disharmony.

Weak oversight and transparency trigger the risk of moral hazard, such as the misuse of transfer funds or the manipulation of regional revenue (PAD) for political gain. For fiscal decentralization to be effective, synchronization of central and regional policies, strengthening institutional capacity, and ensuring legal certainty and public accountability are essential. Ideal fiscal decentralization involves more than simply transferring authority, but also ensuring efficiency, fairness, and transparency.

2. Efforts to Achieve Legal Certainty in the Implementation of Regional Taxes in the Era of Fiscal Decentralization in Indonesia

a. The Concept of Legal Certainty in the Implementation of Regional Taxes

Legal certainty is a fundamental principle in the modern legal system, ensuring that the actions of the state and public officials are predictable through clear and consistent norms. In the area of taxation, legal certainty is crucial because it directly relates to the rights and obligations of citizens to pay taxes as a form of contribution to the administration of government. In the Indonesian legal system, the principle of legal certainty is expressly stated in Article 1 paragraph (3) of the 1945 Constitution, which states that Indonesia is a state based on the rule of law. Consequently, Article 23A of the 1945 Constitution emphasizes that all tax collections, including regional taxes, must be based on valid laws and regulations. This principle ensures that tax policies are not arbitrary but must be supported by clear legal norms regarding the object, subject, rates, and collection and enforcement mechanisms. Thus, legal certainty in taxation ensures that taxpayers receive fair treatment and can predict the legal consequences of every government fiscal policy.

In the practice of fiscal decentralization, legal certainty takes on a new dimension because regional tax management involves the division of authority between the central and regional governments. Regional governments are given the freedom to set taxes through regional regulations, but this freedom often creates problems when regional regulations are inconsistent with central regulations or create a disproportionate economic burden. Therefore, legal certainty in regional taxes must be seen in terms of clarity of national norms as well as harmonization of policies across levels of government.

Theoretically, legal certainty in taxation encompasses two aspects: normative certainty and implementation certainty. Normative certainty relates to the clarity and consistency of legal regulations, while implementation certainty concerns the uniformity of interpretation and implementation by tax officials at the central and regional levels. If these two aspects are not balanced, uncertainty for taxpayers and fiscal inefficiency will arise.

Legal certainty also plays a role in maintaining public trust in the regional tax system. The public is more likely to comply if tax regulations are clear regarding rights, obligations, and dispute resolution mechanisms. Conversely, regulations that frequently change, overlap, or are interpreted differently across regions will erode public trust and impact tax revenues.

Thus, legal certainty is a key foundation for the success of fiscal decentralization. Without legal certainty, decentralization risks policy fragmentation, inter-regional inequity, and a decline in government credibility. Efforts to achieve legal certainty must begin with an understanding of this principle as a fundamental value linking justice, fiscal effectiveness, and the legitimacy of regional governance.

b. Empirical Portrait of Legal Uncertainty in Regional Tax Implementation

Legal certainty often clashes with the dynamics of fiscal decentralization. Regional autonomy grants regional governments broad authority to set taxes through regional regulations (Perda). On the one hand, this reflects the spirit of fiscal decentralization, but on the other hand, this delegation of authority is often not accompanied by uniform norms and strong coordination with the central government. As a result, variations and overlapping policies arise between regions, creating legal uncertainty for taxpayers and businesses.

This uncertainty is evident in several aspects, including:

- a) Structural unpreparedness, as Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments (HKPD Law) changes the regulations from numerous regional regulations per tax type to one unified regulation for all regional taxes. Many regional governments are not yet ready to draft these regulations, resulting in a temporary legal vacuum.
- b) The consolidation of taxes into PBJT and the elimination of certain objects (e.g., boarding houses) are intended to improve efficiency, but actually reduce the tax base in regions dependent on these sectors. As a result, the target of increasing local revenue (PAD) has not been achieved.
- c) There is a gap between regions with adequate human resources and digital systems, capable of adapting, while the majority of regions are lagging behind. This results in uneven implementation of the HKPD Law and creates inconsistencies between regions.
- d) Some regions continue to provide incentives such as waiving fines or tax interest, even though these are not clearly regulated in the law. This practice can reduce potential revenue and create policy disharmony.

This situation demonstrates a gap between the ideal norm (*das sollen*) and the reality of implementation (*das sein*) in regional tax governance. Normatively, the tax system is designed to provide certainty, but in reality, it still falls far short of the principles of justice and consistency. Therefore, a reconstruction of regional fiscal law design is needed to better align with the principles of the rule of law and the objectives of fiscal decentralization. This effort must include regulatory improvements, strengthening institutional capacity, coordination between levels of government, and the application of the principle of legal certainty as the primary guideline for regional fiscal policy.

c. Policy Reformulation to Achieve Legal Certainty in Regional Taxes

Creating legal certainty in the implementation of regional taxes requires comprehensive policy reformulation, encompassing both regulatory and institutional aspects. The goal is to narrow the gap between the spirit and vision of national regulations and the practice of regional fiscal autonomy. This reform should focus on three aspects: structuring legal norms, simplifying collection mechanisms, and strengthening the capacity of regional tax institutions.

First, structuring legal norms is necessary to ensure consistency and a clear hierarchy between regional regulations and national regulations. Although Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments (HKPD Law) provides the current legal basis, implementation in the regions remains hampered by differing interpretations. Binding harmonization guidelines are needed to ensure that regional tax regulations align with national fiscal principles without compromising regional autonomy.

Second, simplifying collection mechanisms is key to legal certainty. Complicated manual systems open up opportunities for inconsistency and moral hazard. Digitization through e-tax and central-regional data

integration are strategic solutions to increase transparency, accountability, and procedural certainty for taxpayers.

Third, strengthening the institutional and human resource capacity of regional tax authorities is crucial. Apparatus must possess adequate technical competence and legal understanding to ensure fiscal policy implementation in accordance with the principle of legal certainty. Continuous training and coordination between regions can reduce disparities in implementation.

Therefore, the reformulation of regional fiscal policy must be based on the principles of legal clarity and uniform application, without sacrificing the spirit of decentralization. This reformulation is not merely a revision of regulations, but the establishment of a fiscal legal system capable of integrating regional autonomy with national legal certainty.

d. Strengthening the Role of Central and Regional Governments in Harmonizing Regional Tax Regulations

Legal certainty in regional tax implementation cannot be achieved solely through reforms at the local level; it requires the active role of the central government as regulator and facilitator. Central-regional fiscal relations must be based on the principle of checks and balances to achieve a balance between fiscal autonomy and uniformity of national policy.

First, the central government plays a role as a policy director by establishing norms, standards, procedures, and criteria for regional tax management. This function ensures uniformity of reference in the preparation of regional tax regulations and prevents disharmony between regions. The government, specifically the Ministry of Finance, needs to strengthen guidance, providing not only administrative evaluation but also substantive assistance for drafting regional regulations.

Second, regional governments must prioritize consultation and coordination before enacting new regulations, including involving technical ministries and academic studies. This collaborative approach reduces normative conflicts and enhances policy legitimacy.

Third, digital-based regulatory harmonization needs to be developed through systems such as the National Tax Regulation Database, which allows for real-time monitoring and early mitigation of potential normative discrepancies.

Overall, the success of harmonizing regional tax regulations depends on proportional synergy between the central and regional governments. The central government must not be overly dominant to the point of undermining decentralization, but it must also not be passive in the face of legal distortions. This synergy will create a regional tax system that is fair, stable, and in line with the principles of the rule of law and national fiscal objectives.

4. Conclusion

Fiscal decentralization grants regional governments the authority to manage taxes as the primary source of Regional Original Revenue (PAD). This principle is stipulated in the 1945 Constitution and reinforced by Law Number 1 of 2022 concerning Financial Relations between the Central and Regional Governments. The goal is to increase regional fiscal independence and reduce inter-regional inequality. However, its implementation still faces obstacles such as differences in fiscal capacity, overlapping regulations, and a lack of policy harmonization. Therefore, fiscal decentralization must be implemented while maintaining a balance between regional autonomy and national legal certainty.

Legal certainty regarding regional taxes is achieved through clear regulatory arrangements, simplified collection mechanisms, and strengthened capacity of regional tax officials. The HKPD Law serves as the

basis for harmonization between central and regional policies. Digitalization of the tax system and coordination between levels of government are also necessary to prevent differences in interpretation and uncertainty. Legal certainty must ensure clear regulations, consistent implementation, and protection of taxpayer rights for fiscal decentralization to be effective and equitable.

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