

**Legal Politics Of Regional Tax And Levy Regulation After Law Number 1 Of 2022
Concerning Financial Relations Between The Central Government And
Regional Governments**

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Abstract

Indonesia is a country that adheres to a unitary state system with the basic principle of sovereign government. However, the concept of a unitary state adopted by Indonesia still applies decentralization. The granting of authority to the regions is intended to be able to control and manage their households. As a way to strengthen all economic opportunities that can be used as Regional Original Revenue (PAD). Sources of PAD consist of local tax revenues, local retribution revenues, revenues from local owned enterprises, and revenues from the management of other local assets, as well as other legitimate revenues. Regulations related to local taxes and levies have undergone several changes until in 2022, the Central Government passed Law Number 1 Year 2022 on Financial Relations Between the Central Government and Local Governments as a regulation intended to revitalize local tax and levy regulations. With the renewal of the regulation of local taxes and levies, there are goals to be achieved by adjusting the HKPD Law regime, as an effort to create effective, efficient, transparent, accountable, and fair financial relations between the central government and local governments.

Keywords: Transition, Regulations, Local taxes and levies

Abstrak

Indonesia sebagai negara yang menganut sistem negara kesatuan dengan prinsip dasar pemerintahan yang berdaulat. Namun, konsep negara kesatuan yang dianut Indonesia tetap menerapkan desentralisasi. Pemberian kewenangan terhadap daerah dimaksudkan agar mampu mengendalikan dan mengelola rumah tangganya. Sebagai cara untuk memperkuat semua peluang ekonomi yang dapat dijadikan sebagai Pendapatan Asli Daerah (PAD). Sumber Pendapatan PAD terdiri dari pendapatan pajak daerah, pendapatan retribusi daerah, pendapatan dari badan usaha milik daerah, dan pendapatan dari pengelolaan kekayaan daerah lainnya, serta pendapatan lain yang sah. Pengaturan terkait dengan pajak dan retribusi daerah telah mengalami beberapa kali perubahan hingga pada tahun 2022, disahkanlah Undang-Undang Nomor 1 Tahun 2022 tentang Hubungan Keuangan Antara Pemerintah Pusat dan Pemerintahan Daerah, sebagai peraturan yang dimaksudkan untuk merevitalisasi regulasi pajak dan retribusi daerah. Dengan adanya pembaruan terhadap regulasi pajak daerah dan retribusi daerah memiliki tujuan yang hendak di capai dengan adanya penyesuaian rezim UU HKPD, sebagai salah satu upaya untuk menciptakan hubungan keuangan yang efektif, efisien, transparan, akuntabel, dan adil antara pemerintah pusat dan pemerintah daerah.

Kata Kunci: Transisi, Peraturan, Pajak daerah dan retribusi daerah

A. Introduction

As a state of law, Indonesia adheres to a unitary state system with the basic principle of sovereign government. This principle of sovereign government refers to the concept in which the central government is located in the capital.¹ The concept of the Unitary State of Indonesia is specifically regulated in Article 1 Paragraph (1) of the Constitution of the Republic of Indonesia of 1945 (Constitution of the Republic of Indonesia 1945), which states that "The State of Indonesia is a Unitary State in the form of a Republic". This concept cannot be changed, because Article 37 Paragraph (5) of the 1945 Constitution of the Republic of Indonesia emphasizes that "specifically

¹ Emi Puasa Handayani, "Lorceng Kematian Pendidikan Hukum di Indonesia: Tinjauan Filosofis."

regarding the form of the Unitary State of the Republic of Indonesia, no changes can be made".²

According to F. Isjwara, the concept of a unitary state owned by Indonesia is "*A unitary state is the strongest form of statehood when compared to a federation or confederacy, because in a unitary state there is unity and unity*".³ However, the concept of a unitary state embraced by Indonesia still applies the decentralization of the "regional autonomy system". The concept of a Unitary State is a conception embraced by the Indonesian state through the implementation of regional autonomy. This principle is explained in Article 18 (1945 Constitution of the Republic of Indonesia), which states that "*The Unitary State of the Republic of Indonesia is divided into provincial areas and the provincial area is divided into districts and cities, each of which has a local government, which is regulated by law*".⁴

Decentralization, if referring to Law Number 23 of 2014 concerning Regional Government as amended several times recently by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government "later abbreviated as the Local Government Law", is a mechanism for handing over the administrative affairs of the Central Government to local governments based on the principle of autonomy.⁵ Giving authority to the regions to be able to control and manage their households independently which involves several things, one of which is regional financial affairs. The authority in conducting regional financial affairs is the handover of rights to the regions, as a way to strengthen all economic opportunities that can be used as Regional Original Revenue (PAD).

PAD Revenue Sources consist of regional tax revenue, regional levy revenue, income from regional-owned business entities, and income from other regional wealth management, as well as other legitimate income.⁶ The purpose of giving authority to regulate and manage their own households is to bring local government services closer to the community, which makes it easier for the community to monitor and control the use of funds from the Regional Revenue and Expenditure Budget (APBD). In addition, there is a goal to promote fair competition among regions and encourage the emergence of innovation.

Regulations related to regional taxes and levies have undergone several changes since Indonesia's independence until now. For more than a decade, the collection of regional taxes and levies in Indonesia has been regulated by Law Number 28 of 2009 concerning Regional Taxes and Regional Levies "later abbreviated as the PDRD Law". Then in 2022, the Central Government has passed Law Number 1 of 2022 concerning Financial Relations Between the Central Government and Regional Governments "then abbreviated as the HKPD Law" to revitalize regional tax and levy regulations.⁷

The transition process from the PDRD Law to the HKPD Law has a time limit, where each region can make changes to legal regulations at the regional level, no later than 2 (two) years since the Law was enacted. This is regulated in Article 187 letter b of the HKPD Law which states that "*The Regional Regulation on Taxes and Levies prepared based on Law Number 28 of 2009 concerning Regional Taxes and Regional Levies is still valid for a maximum of 2 (two) years from the date of promulgation of this Law*".⁸ These adjustments need to be made by each region by considering changes in the regional tax collection scheme and regional levies which will be united in one Regional Regulation with several changes in the type of regional taxes and regional levies. With the update to regulatory regulations, of course, there is a goal to be achieved with the adjustment of the HKPD Law regime. This makes the author interested in studying the goals to be achieved with the change in the regime of regional tax regulation and regional levies from the PDRD Law to the HKPD Law.

² Arifin, Fernando, dan Handayani, "Implikasi Hukum dari Amandemen Kedua Undang-Undang Informasi dan Transaksi Elektronik: Menyeimbangkan Kebebasan Berpendapat dan Partisipasi Publik dalam Demokrasi Digital."

³ Sirajuddin dkk., 2016, "UU Administrasi Pemerintah Daerah", Malang: Setara Press, p. 1

⁴ Constitution of the Republic of Indonesia 1945

⁵ Arifin, Bayhaqi, dan Pradhan, "Surat edaran urgensi mahkamah agung nomor 2 tahun 2023 dalam proses peradilan pendaftaran perkawinan lintas agaman."

⁶ Rudy, 2012, "Hukum Pemerintahan Daerah dari Perspektif Konstitusionalisme Indonesia", Bandar Lampung: Mendalam Publishing, pp. 77-78

⁷ Arifin, Handayani, dan Virdaus, "Memerangi Korupsi dalam Pengadaan Oleh Press."

⁸ Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments. Statute Book of the Republic of Indonesia Year 2022 Number 4

Problem Formulation

Therefore, based on the introduction, a problem formulation can be obtained in the form of: How is the legal politics of regional tax and levy regulations after Law Number 1 of 2022 concerning Financial Relations Between the Central Government and Regional Governments

B. Research Methods

This type of research is a *Normative Juridical* legal research with the aim of examining theories, concepts, legal principles and laws and regulations related to this research.⁹ Meanwhile, the first approach used in this study is the *Statute Approach*¹⁰ or the legislative approach carried out by examining and analyzing all laws and implementing regulations related to political law, tax regulations, and regional levies after the HKPD Law. Second, is the *Conceptual Approach* or conceptual approach¹¹, which is an approach through principles and concepts that can be found in scholarly views or legal doctrines that are relevant to the political context of tax regulations and regional levies after the HKPD Law. To manage data in the analysis process related to the political and legal regulations of tax and regional levies after the HKPD Law, the author uses interpretation techniques. According to Bruggink, "data management techniques using interpretation can be classified into 4 (four) types of interpretations consisting of language interpretation, historical interpretation of laws, systematic interpretation, and societal interpretation".¹² Based on the opinion of the expert, the author prefers the interpretation of language interpretation, and systematic interpretation that is considered to be in accordance with the research method.

C. Discussion

The legal politics of regional tax and levy regulation in 2022 has an important thing to be done to examine the basis and direction of the objectives related to the existence of legal changes that are regulated more systematically after the existence of the HKPD Law. If referring to the opinion of Mahfud MD who explained "politics as a policy direction (*legal policy*) related to the law that will be enforced or not enforced in achieving state goals", then the legal position is positioned as a tool used to achieve state goals.¹³ So that in forming a new law or revoking an old law, it must have a goal that will be achieved from the steps taken. However, apart from being a tool to achieve goals, legal politics can also be interpreted as a basic policy in carrying out state administration in accordance with Padmo Wahjono's opinion that "*legal politics is a basic policy that determines the direction, form and content of the law that is formed*".¹⁴

So if you refer to the above opinion, it can be interpreted that legal politics is a legal choice to ratify, repeal or not enforce a law and regulations that are all aimed at achieving state goals as contained in the Preamble to the 1945 Constitution of the Republic of Indonesia. According to L. J. Van Apeldorn's opinion, "*legal politics is the politics of laws and regulations, meaning that legal politics is to determine the purpose and content of laws and regulations*".¹⁵ Based on the thoughts of legal experts, it can be concluded that legal politics is the process of making policies regarding legal products to be implemented and replaced by a legal product, the purpose of the formation and content of the laws and regulations must first be determined.¹⁶

Therefore, in analyzing the legal politics of regional tax and levy regulation after the HKPD

⁹ Andik Prasetyo, "Legal Protection for Children of Criminal Offenders" *Mizan: Journal of Legal Science*, Vol. 9, No. 1, 2020, p. 53

¹⁰ Sella Marsellena Mercury, "Analisis Peraturan Daerah Kabupaten Buleleng Nomor 3 Tahun 2018 tentang Perubahan Atas Peraturan Daerah Kabupaten Buleleng Nomor 10 Tahun 2011 tentang Entertainment Tax", *Pacta Sunt Servanda Journal*, Vol. 2, No. 2, 2021, p. 69

¹¹ According to H.L.A Hart, (2009), "The Concept of Law", Bandung: Nusa Media, pp. 306-309, quoted by Yati Nurhayati, Ifrani, M.Yasir Said, "Normative and Empirical Methodology in the Perspective of Legal Science", *Indonesian Law Enforcement Journal (JPHI)*, Vol. 2, Issue 1, 2021, pp. 11-12

¹² Isharyanto, and Aryoko Abdurrachman, 2016, "Legal Interpretation of Constitutional Judges (Study on the Testing of Law No. 7 of 2004 concerning Water Resources)", West Jakarta; Mocka Publishing Page, p. 22

¹³ Arifin, Fernando, dan Handayani, "Implikasi Hukum dari Amandemen Kedua Undang-Undang Informasi dan Transaksi Elektronik: Menyeimbangkan Kebebasan Berpendapat dan Partisipasi Publik dalam Demokrasi Digital."

¹⁴ Moh, Mahfud MD, 2009, "Legal Politics in Indonesia", Jakarta: PT Raja Grafindo Persada, p. 1

¹⁵ Bergas Prana Jaya, 2020, "Introduction to Law", Yogyakarta: Anak Hebat Indonesia, p. 49

¹⁶ Arifin, "Policy Formulation of Violent Crimes against Journalists While Serving in the Press Law in the Future."

Law, it can depart from the basis of changes in regional tax and levy regulations. This step will provide an overview of the reasons and goals to be achieved, with changes in regulations regarding regional taxes and levies in the HKPD Law. Of course, this regulatory change will have an impact on various other systems, in addition to regional taxes and levies regulated in the HKPD Law, because these changes are designed to achieve the same legal goal, which is to improve the fiscal system.¹⁷

Changes in regional tax and levy regulations in 2022 are caused by several factors, including the gap in financial ability between regions (*Theil Index*) that still occurs.¹⁸ If referring to the *theil index* surveyed by BPS, there has been a decrease in the gap that occurred from 2012 to 2014, but in 2015, 2021 and 2022 it had increased again. Meanwhile, if referring to the disparity that occurs in rural areas, from 2018 to 2022 it has decreased although not drastically decreased.¹⁹

Figure 1 Financial Capacity Gap Between Regions (using Theil Index)

Source: Central Statistics Agency (BPS)

Looking at the percentages above gives an idea that financial capabilities between regions are still unstable, which has an impact on the gap between regions. The higher the gap between regions, the difference in the level of development and the regional economy.²⁰ The existence of this gap will have a direct impact on the movement of people (migration) in areas that have a better economic level. This will certainly worsen the gap between regions caused by a decrease in regional income due to a decline in economic turnover in the region.²¹

In addition to the *theil index* that affects the renewal of regulations regarding regional taxes and levies, there are also other reasons, namely, the mismatch of programs between the central government and local governments which has a direct impact on the fiscal relationship between the two which is less than optimal.²² Ketidaksinkronan antara pemerintah pusat dan pemerintah daerah secara langsung akan berdampak pada kebijakan fiskal yang kurang maksimal dalam APBD dan APBN. Hal tersebut kemudian akan berdampak pada kurangnya pembangunan untuk menciptakan kesempatan kerja, ketidakstabilan penurunan angka kemiskinan dan penurunan terhadap kualitas pelayanan publik. Terkait dengan adanya ketidakstabilan penurunan angka kemiskinan dapat dari prosentase kemiskinan dibawah ini:²³

¹⁷ Menurut Sunaryati Hartono, "politik hukum sebagai alat atau sarana dan langkah yang dapat digunakan oleh pemerintah untuk menciptakan sistem hukum nasional yang diinginkan dan dengan sistem hukum nasional cita-cita bangsa Indonesia akan terwujud" dikutip oleh Isharyanto, 2016, "Politik Hukum", Surakarta: CV. Kekata Group, p. 6

¹⁸ Menurut Siti Hayati, "faktor ketimpangan suatu negara disebabkan oleh pembangunan yang tidak adil yang mengakibatkan kesejahteraan rakyat tidak akan terwujud. Hal ini terlihat dari perkembangan wilayah perkotaan yang lebih maju daripada pembangunan di pedesaan", dikutip oleh Siti Hayati, Tesis, "Analisis Pertumbuhan Ekonomi dan Ketimpangan di Daerah Istimewa Yogyakarta Ditinjau dari Perspektif Ibnu Khaldun", Universitas Islam Indonesia, Yogyakarta, 2021 118

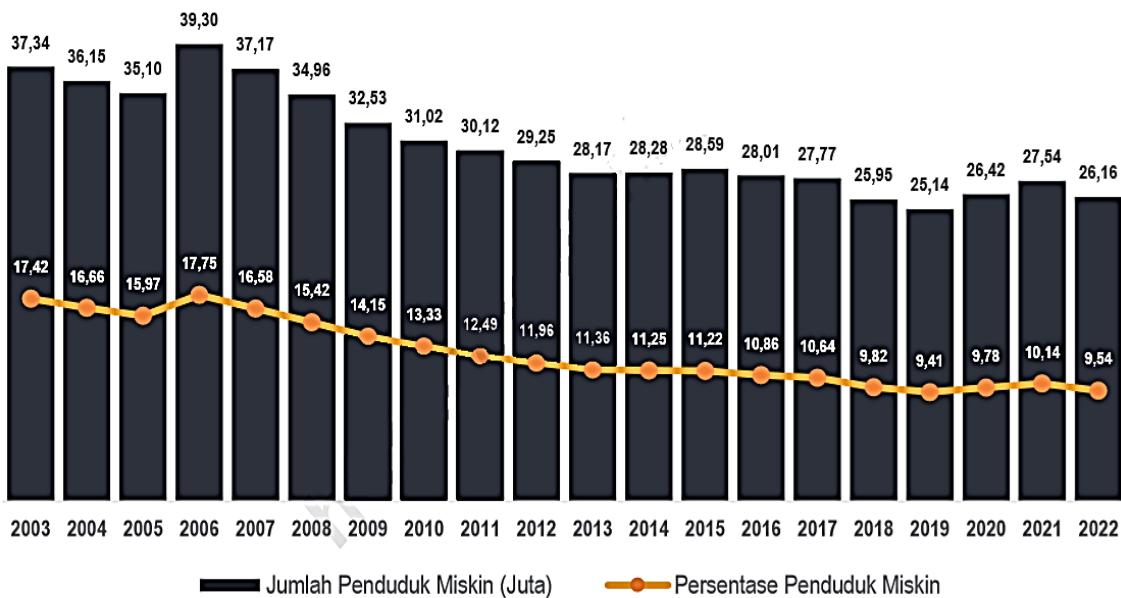
¹⁹ Directorate of Social Security Statistics, 2022, "Calculation and Analysis of Indonesia's Macro Poverty in 2022", Jakarta: Central Statistics Agency, p. 23

²⁰ Rahayu, Arifin, dan Hasyim, "Standar Pelayanan Kenyamanan Transportasi Umum: Analisis Pasal 141 Ayat (1) Huruf C Undang-Undang Nomor 22 Tahun 2009 tentang Lalu Lintas dan Transportasi Jalan."

²¹ Menurut Bogue, bahwa "faktor-faktor yang mempengaruhi seseorang untuk bermigrasi, yaitu kondisi ekonomi, peningkatan perkawinan, pasokan tenaga kerja, bencana alam, biaya pindahan, penurunan informasi di daerah asal", dikutip Muhamad Imam Syairozi, Kusuma Wijaya, "Migrasi Tenaga Kerja Informal: Kajian Kabupaten Sukorejo, Kabupaten Pasuruan", Seminar Nasional Sistem Informasi, Fakultas Teknologi Informasi UNMER Malang, 2020, hlm. 2384

²² Eko Agung Wibowo dan Alfia Oktivalerina, "Analisis Dampak Kebijakan Desentralisasi Fiskal terhadap Pengurangan Kemiskinan di Kabupaten/Kota: Studi Kasus Indonesia pada Tahun 2010 – 2018", Kertas Kerja Bappenas, Vol. 5, No. 1, 2022, hlm. 100

²³ Direktorat Statistik Ketahanan Sosial, *Op.Cit*, hlm. 14

Gambar 2 Prosentase Kemiskinan

Source: Static Central Agency (PBS)

If you refer to the percentage above, it can be seen that there has been a decrease in the number, but it has increased again in 2006, 2014, 2015, 2020, and 2021. Therefore, it can be concluded that there are still unresolved problems that are the reason for the instability of the percentage reduction in poverty rates. The emergence of these problems prompted the government to evaluate regional tax and levy policies, which then resulted in the establishment of Law Number 1 of 2022 concerning Financial Relations Between the Central Government and Regional Governments (HKPD Law).²⁴

The formation of the HKPD Law is one of the efforts to create an effective, efficient, transparent, accountable, and fair financial relationship between the central government and local governments. This is intended to realize equitable welfare for people throughout Indonesia. In terms of the state system, the HKPD Law is a law that has been awaited for a long time by various parties because Law Number 33 of 2004 concerning the Financial Balance between the Central Government and Regional Governments (later abbreviated as the PKPD Law) and the PDRD Law are considered to have been in effect for a long time, so there is a need for adjustments to the current (existing) conditions. According to Clarke and Stewart, there are 3 (three) ideal concepts in the relationship between the central government and local governments, namely:²⁵

1. *The relative autonomy model*, is the granting of freedom or authority to exercise their rights and obligations in accordance with laws and regulations.²⁶ By granting authority to rights and obligations in accordance with Laws and Regulations, it will provide flexibility to the Regional Government to regulate and manage affairs that are the responsibility of the region in accordance with the conditions and problems faced;
1. *The agency model* is a concept that makes the region not have its own authority. So that in running the government system in the regions, the Regional Government is only used as the implementer of the policies that have been taken by the central government;
2. *The interaction model*, is a concept that explains that the existence and role of local governments is highly dependent on the interaction between the central government and local

²⁴ Rahayu, Arifin, dan Hasyim, "Standar Pelayanan Kenyamanan Transportasi Umum: Analisis Pasal 141 Ayat (1) Huruf C Undang-Undang Nomor 22 Tahun 2009 tentang Lalu Lintas Jalan dan Transportasi."

²⁵ Ibnu Sam Widodo dkk., 2022, "Academic Studies: Central and Regional Relations", Jakarta Pusat: Badan Peninjau MPR RI, pp. 71-71

²⁶ Handayani, Arifin, and Virdaus, "Liability Without Fault in Environmental Dispute Resolution in Indonesia."

governments. Thus, if the interaction is well realized between the Central Government and the Regional Government, it will provide a representation that *checks and balances* have occurred between the Central Government and the Regional Government, which will then have a direct impact on the greater and wider sense of trust between the two. This also applies the other way around, if there is no good interaction between the Central Government and the Regional Government, it will have an impact on the lack of trust established between the Central Government and the Regional Government.

The existence of the HKPD Law is the initial design of the relationship between the central government and local governments to remove *fiscal resource allocation*, and strengthen the foundation in the field of regional spending to better reflect fiscal efficiency, focus, and be able to synergize with the central government in order to realize equity in public services and community welfare in the regions. According to Irfan Sofi, "There are four main pillars that constitute the construction of the HKPD Law, namely, first, minimizing vertical and horizontal inequality in regional financial management, second, developing the regional tax system by supporting a more efficient allocation of national resources, third, encouraging improvement in the quality of spending in the regions, and fourth, harmonization of central and regional spending".²⁷ Meanwhile, in the opinion of Sri Mulyani Indrawati, as the Minister of Finance, said that there are four main pillars in the HKPD Law that are the purpose of the HKPD Law. The pillars consist of:²⁸

1. "There is a development of the regional tax system that is intended to support the allocation of resources that is more efficient than before;"
2. "There is development in the central and regional government financial relations sector by minimizing vertical and horizontal inequality through performance-based transfer policies to the regions and the expansion of regional financing schemes;"
3. "Improving the quality of regional spending. This needs to be done with the consideration that most of regional spending is financed through transfers, so it is very important to pay attention to in order to produce maximum impact;"
4. "With the harmonization of central and regional spending, it will create optimal public services and maintain fiscal sustainability."

If referring to the 4 (four) pillars above, indirectly with the transition of regional tax and levy arrangements referring to the regime of the HKPD Law will have an impact on several government systems consisting of:

1. Impact on Regional Original Income

The presence of the HKPD Law strengthens the regional tax and levy collection system by using the concept of restructuring and consolidating the types of regional taxes and levies.

1. Impact on Revenue Sharing Funds

The presence of the HKPD Law will change the Profit Sharing Fund Scheme "then abbreviated as DBH" which is more proportional by implementing the provision of realization for a period of 1 (one) year.²⁹ Of course, the reduction in the period is intended to cover foreign exchange due to budgeting and the realization of DBH and accelerate the realization of other programs. In addition, the HKPD Law also changes the scheme for distributing natural resource DBH to non-producing areas that are directly bordered. This is done considering that non-producing areas that are directly

²⁷ Irfan Sofi, 2022, "Bunga Rampai, Financial Relations Between the Central Government and Regional Government", Banten: STAN State Financial Polytechnic, pp. 1-3

²⁸ Ministry of Finance of the Republic of Indonesia, "Empat Pilar Utama Hubungan Keuangan antara Pemerintah Pusat dan Pemerintah Daerah", diakses Maret 23, 3023, <https://kemenkeupedia.kemenkeu.go.id/search/konten/20849-empat-pilar-utama-hubungan-keuangan-antara-pemerintah-pusat-dan-pemerintah-daerah>

²⁹ Menurut Rudy Badrudin menyatakan bahwa "Dana Bagi Hasil dalam kelompok dana saldo adalah dana yang bersumber dari penerimaan APBN yang dialokasikan kepada daerah berdasarkan angka persentase untuk mendanai kebutuhan daerah dalam rangka pelaksanaan desentralisasi" dikutip Verra Rosalia Widya Sofyan, "Pengaruh PAD, DAP, DAK, dan DBH terhadap Indeks Pembangunan Manusia (IPM)", Jurnal Akuntansi dan Riset Bisnis JRAK, Vol. 9, No. 1, hlm. 223

adjacent are also areas affected by the natural exploitation of producing areas.³⁰ So the provision of DBH is intended to minimize the gap that occurs.

1. Impact on General Allocation Funds

The presence of the HKPD Law will transition the calculation scheme of the General Allocation Fund "then abbreviated as DAU" in accordance with article 125 of the HKPD Law. The calculation uses a fiscal gap calculation scheme to obtain DAU that is more in line with regional needs. This needs to be done to reduce the inconsistency in the provision of DAU with the needs needed by the regions.

2. Impact on Special Allocation Funds

The presence of the HKPD Law will change the special allocation fund scheme "Then in short DAK" by implementing *a proposal-based*. The change was made with the consideration that the scheme offered by the PKPD Law related to the *based formula* still had a mismatch, so it was considered less efficient for the distribution of DAK to regional needs. So that there is a change in the DAK scheme that uses *proposals based* on the HKPD Law, to avoid mismatches that occur in the regime of the PKPD Law.³¹

1. Impact on Assistance Tasks

Regarding the task of assistance in the HKPD Law, there is a direct correlation with the Local Government Law which regulates government affairs consisting of absolute government affairs, concurrent government affairs, and general government affairs.³² Regarding concurrent government authority between the central government, provinces, and districts/cities, the HKPD Law gives the regions the flexibility to carry out synergies in funding. Funding synergy between the central and regional governments aims to accelerate the provision of infrastructure and/or priority programs.³³ This is expressly regulated in Article 167 paragraph (1) which states that: "In order to accelerate the provision of infrastructure and/or other priority programs in accordance with the affairs under the authority of the Regions, the Regional Government may carry out Funding Synergy".

2. Impact on Regional Loans

After the HKPD Law, there was a change in the nomenclature of regional loans which turned into regional debt financing. The nomenclature changes regulated in the HKPD Law are related to regional debt financing which includes regional loans, regional bonds, and regional sukuk.³⁴ The scheme implemented by the HKPD Law related to regional loans will prioritize its use over the loan term period. In addition, in the HKPD Law, cash loans and program loans are also possible.³⁵

b) Dampak Terhadap Dana Otonomi Khusus dan Dana Keistimewaan

³⁰ Handayani and Arifin, "The Application of the Supreme Court Regulation of the Republic of Indonesia Number 1 Tahun 2016 tentang Tata Cara Mediasi di Masa Pandemi COVID-19 (Studi di Pengadilan Agama Kabupaten Kediri)."

³¹ Menurut Alfian Mujiwardhani, Lisno Setiawan dan Ahmad Nawawi, berdasarkan proposal, merupakan pengalokasian DAK fisik dilaksanakan berdasarkan usulan daerah, yaitu melalui mekanisme pengusulan kegiatan dan kebutuhan pendanaan dari daerah kepada pemerintah pusat yang kemudian dilakukan proses penilaian dan penyelarasan dengan program prioritas nasional. Melalui mekanisme usulan daerah, diharapkan alokasi DAK fisik lebih sesuai dengan kebutuhan daerah dan prioritas nasional, dikutip oleh Alfian Mujiwardhani, Lisno Setiawan, Ahmad Nawawi, 2022, "Dana Alokasi Khusus Di Indonesia", Direktorat Jenderal Anggaran, Kementerian Keuangan, hlm. 4

³² Arifin and Handayani, "Quo Vadis Policy for the Preparation of the Jokowi Coalition Cabinet Philosophical, Historical, Theoretical and Juridical Review."

³³ Arifin dan Handayani, "Pengaruh pemberitaan media massa terhadap penyelamatan dan perumusan undang-undang lingkungan hidup di Kediri."

³⁴ Menurut Forina Lestari dan Ira Indrayati, bahwa "Pinjaman Daerah adalah semua transaksi yang mengakibatkan daerah menerima sejumlah uang atau menerima manfaat senilai uang dari pihak lain (Pemerintah Pusat, Pemerintah Daerah Lainnya, Lembaga Keuangan Bank, Lembaga Keuangan Non Bank. Karena sifat pinjaman jangka menengah dan jangka panjang, maka diperlukan persetujuan DPRD), sehingga daerah dibebani dengan kewajiban pelunasi, sedangkan obligasi daerah adalah pinjaman jangka panjang dari masyarakat untuk membiayai proyek infrastruktur publik yang menghasilkan pendapatan bagi APBD" dikutip Forina Lestari dan Ira Indrayati, "Institutional Development and Geopark Financing in Indonesia: Challenges and Strategies", Journal of Regional and Rural Development Planning, Vol. 6, No. 2, 2022, p. 117

³⁵ Mengacu pada Peraturan Menteri Keuangan Nomor 117/PMK.08/2022 tentang Tata Cara Pengadaan Pinjaman Tunai Luar Negeri, "Pinjaman tunai adalah pinjaman yang disalurkan untuk membiayai defisit APBD, sedangkan pinjaman program secara tidak langsung adalah pinjaman berbasis aktivitas dan pinjaman program berbasis kebijakan"

After the HKPD Law, the allocation funds given to the regions will be transitioned with a more transparent and accountable scheme. This will run with a new scheme in the management of special autonomy funds and the Yogyakarta Special Fund in the HKPD Law which is based on performance targets. The existence of these performance targets will encourage local governments to make improvements to the administrative system and the performance of the services provided.

1. Impact on Village Funds

Regulating the Village Fund after the HKPD Law, there was a change in nomenclature that entered the transfer to the regions. This will transition the management of village funds based on performance to provide directed, orderly and accountable management.

With the transition of regional tax and levy arrangements based on the HKPD Law in the current era, it is hoped that it will have a positive impact on financial management both at the central government and local government levels. This is due to the incompatibility of regulations regulating financial relations between the central government and local governments, and regulations regulating regional taxes and levies, which are considered not to be in accordance with the existing conditions at this time. These inconsistencies can be seen from the various problems faced in financial management.³⁶

At this time, it is an opportunity for the Regional Government to refresh the financial management relationship between the central government and local governments towards a more proportionate direction. It is unfortunate that this revitalization momentum is not used properly by the local government to maintain the potential for regional income so that there is no loss of potential regional income. In addition to keeping the potential loss of regional revenue from occurring, the momentum of this revitalization is also intended to make adjustments to the potential of regional revenue that is aligned between the HKPD Law and existing conditions, especially in the tax sector and regional levies that need to be melakukan penyesuaian tarifnya.³⁷

This of course needs to be done to balance the cost of service and the income obtained from the services that have been provided. So that there will be a possibility of a shortage of costs to carry out maintenance and additional local government assets that will be redistributed to these services can be anticipated.

D. Conclusion

The presence of the HKPD Law, which was born from many government problems in the fiscal sector, makes the HKPD Law a breakthrough program to improve to provide a better transition than before. Improvements to fiscal management, especially in the field of taxes and regional levies, have a direct impact on several systems that must be improved by the central and local governments. Of course, these impacts will encourage the implementation of Regional Government to the maximum, if the Regional Government is able to take advantage of the transition momentum, by revitalizing regulations at the regional level and changing the fiscal regulatory system to be more effective, efficient, transparent, accountable and fair in accordance with the mandate contained in the HKPD Law.

E. References

Book

Direktorat Statistik Ketahanan Sosial, 2022, "Penghitungan Dan Analisis Kemiskinan Makro Indonesia Tabun 2022", Jakarta: Badan Pusat Statistik

Isharyanto, 2016, "Politik Hukum", Surakarta: CV. Kekata Group

Isharyanto, dan Aryoko Abdurrachman, 2016, "Penafsiran Hukum Hakim Konstitusi (Studi terhadap Pengujian Undang-Undang No. 7 Tahun 2004 tentang Sumber Daya Air)", Jakarta Barat; Halaman Moeka Publishing

Jaya, Bergas Prana, 2020, "Pengantar Ilmu Hukum", Yogyakarta: Anak Hebat Indonesia

³⁶ Arifin dan Masrukhan, "Analisis Kewenangan Polri dalam Menyelidiki Penangkapan Tindak Pidana Korupsi (Studi di Kabupaten Nganjuk)."

³⁷ Handayani, Arifin, dan Virdaus, "Liability Without Fault Dalam Penyelesaian Sengketa Lingkungan Hidup Di Indonesia."

MD, Moh, Mahfud, 2009, “*Politik Hukum di Indonesia*”, Jakarta: PT Raja Grafindo Persada

Mujiwardhani, Alfian, Lisno Setiawan, Ahmad Nawawi, 2022, “*Dana Alokasi Khusus Di Indonesia*”, Direktorat Jenderal Anggaran, Kementerian Keuangan

Rudy, 2012, “*Hukum Pemerintahan Daerah Perspektif Konstitusionalisme Indonesia*”, Bandar Lampung: Indepth Publishing

Sirajuddin dkk, 2016, “*Hukum Administrasi Pemerintahan Daerah*”, Malang: Setara Press

Sofi, Irfan, 2022, “*Bunga Rampai, Hubungan Keuangan Antara Pemerintah Pusat dan Pemerintahan Daerah*”, Banten: Politeknik Keuangan Negara STAN

Widodo, Ibnu Sam dkk, 2022, “*Kajian Akademik: Hubungan Pusat Dan Daerah*”, Jakarta Pusat: Badan Pengkajian MPR RI

Hayati, Siti, Tesis, “*Analisis Pertumbuhan Dan Ketimpangan Ekonomi Di Daerah Istimewa Yogyakarta Ditinjau Dari Perspektif Ibnu Khaldun*”, Universitas Islam Indonesia, Yogyakarta, 2021

Journal:

Lestari, Forina dan Ira Indrayati, “Pengembangan Kelembagaan dan Pembiayaan Geopark di Indonesia: Tantangan dan Strategi”, *Journal of Regional and Rural Development Planning*, Vol. 6, No. 2, 2022

Mercury, Sella Marsellena, “*Analisis Peraturan Daerah Kabupaten Buleleng Nomor 3 Tahun 2018 Tentang Perubahan Atas Peraturan Daerah Kabupaten Buleleng Nomor 10 Tahun 2011 Tentang Pajak Hiburan*”, *Jurnal Pacta Sunt Servanda*, Vol. 2, No. 2, 2021

Nurhayati, Yati, dan Ifrani, M.Yasir Said, “*Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum*”, *Jurnal Penegakan Hukum Indonesia (JPHI)*, Vol. 2, Issue 1, 2021

Prasetyo, Andik, “*Perlindungan Hukum Bagi Anak Pelaku Tindak Pidana*” *Mizan: Jurnal Ilmu Hukum*, Vol. 9, No. 1, 2020

Sofyan, Rosyalia Widia, “Pengaruh PAD, DAU, DAK, Dan DBH Terhadap Indeks Pembangunan Manusia (IPM)”, *JRAK Jurnal Riset Akuntansi dan Bisnis*, Vol. 9, No. 1

Syairozi, Muhamad Imam, dan Kusuma Wijaya, “*Migrasi Tenaga Kerja Informal: Studi Pada Kecamatan Sukorejo Kabupaten Pasuruan*”, Seminar Nasional Sistem Informasi, Fakultas Teknologi Informasi UNMER Malang, 2020

Wibowo, Eko Agung dan Alfia Oktivalerina, “*Analisis Dampak Kebijakan Desentralisasi Fiskal terhadap Penurunan Tingkat Kemiskinan pada Kabupaten/Kota: Studi Kasus Indonesia pada 2010 – 2018*”, *Bappenas Working Papers*, Vol. 5, No. 1, 2022

Arifin, Zainal. “Formuliasi Kebijakan Tindak Pidana Kekerasan Pada wartawan Saat bertugas Dalam Undang-Undang Pers di Masa Mendatang” 334, no. 1951 (2016): 336–52.

Arifin, Zainal, Naufal Ghani Bayhaqi, dan David Pradhan. “Urgency supreme court circular letter number 2 of 2023 in the judicial process of interfaith marriage registration.” *Journal of Law and Legal Reform* 5, no. 1 (2024): 137–78. <https://doi.org/10.15294/jllr.vol5i1.2101>.

Arifin, Zainal, Zico Junius Fernando, dan Emi Puasa Handayani. “Implikasi Hukum Perubahan Kedua Undang-Undang Informasi dan Transaksi Elektronik: Menyeimbangkan Kebebasan Berpendapat dan Partisipasi Publik dalam Demokrasi Digital.” *Litigasi* 26, no. 1 (2025): 165–200. <https://doi.org/10.23969/litigasi.v26i1.21555>.

Arifin, Zainal, dan Emi Puasa Handayani. “Quo Vadis Kebijakan Penyusunan Kabinet Koalisi Jokowi Tinjauan Filosofis, Historis, Teoritis dan Yuridis,” n.d.

———. “The influence of mass media reporting on the rescue and formulation of environmental laws in Kediri.” *Legal Standing: Jurnal Ilmu Hukum* 6, no. 1 (2022): 105–14.

Arifin, Zainal, Emi Puasa Handayani, dan Saivol Virdaus. “Combating Corruption in the Procurement By The Press.” *IOP Conference Series: Earth and Environmental Science* 175, no. 1 (Juli 2018): 12131. <https://doi.org/10.1088/1755-1315/175/1/012131>.

Arifin, Zainal, dan Hary Masrukhan. “Analisis Kewenangan Polri Dalam Melakukan Penyidikan Penangkapan Tindak Pidana Korupsi (Studi Di Kabupaten Nganjuk).” *MIZAN, Jurnal Ilmu Hukum* 7, no. 2 (2019): 43. <https://doi.org/10.32503/mizan.v7i2.462>.

Emi Puasa Handayani, Zainal Arifin. “Lonceng Kematian Pendidikan Hukum di Indonesia Tinjau Filosofis.” *Suloh* 8, no. 1 (2020): 1–11.

Handayani, Emi Puasa, dan Zainal Arifin. “Penerapan Peraturan Mahkamah Agung Republik

Indonesia Nomor 1 Tahun 2016 tentang prosedur mediasi di masa pandemi COVID-19 (Studi di Pengadilan Agama Kabupaten Kediri).” *Jurnal Hukum Acara Perdata* 6, no. 2 (2020).

Handayani, Emi Puasa, Zainal Arifin, dan Saivol Virdaus. “Liability Without Fault Dalam Penyelesaian Sengketa Lingkungan Hidup Di Indonesia.” *ADHAPER: Jurnal Hukum Acara Perdata* 4, no. 2 (2019): 1–19.

Handayani, Emi Puasa, Zainal Arifin, dan Saivol Virdaus. “Liability Without Fault Dalam Penyelesaian Sengketa Lingkungan Hidup Di Indonesia.” *ADHAPER: Jurnal Hukum Acara Perdata* 4, no. 2 (2019): 1. <https://doi.org/10.36913/jhaper.v4i2.74>.

Rahayu, Afifah Endah, Zainal Arifin, dan Wachid Hasyim. “Standar Pelayanan Kenyamanan Angkutan Umum: Analisis Pasal 141 Ayat (1) Huruf C Undang-Undang Nomor 22 Tahun 2009 Tentang Lalu Lintas Dan Angkutan Jalan.” *Legal Standing: Jurnal Ilmu Hukum* 7, no. 1 (2023): 95–112.

Undang-Undang / Peraturan

Undang-Undang Dasar Negara Republik Indonesia 1945

Undang-Undang Nomor 1 Tahun 2022 tentang Hubungan Keuangan Antara Pemerintah Pusat Dan Pemerintahan Daerah. Lembaran Negara Republik Indonesia Tahun 2022 Nomor 4

Peraturan Menteri Keuangan Nomor 117 /PMK.08/2022 Tentang Tata Cara Pengadaan Pinjaman Luar Negeri Tunai

Kementerian Keuangan RI, “*Empat Pilar Utama Hubungan Keuangan antara Pemerintah Pusat dan Pemerintah Daerah*”, diakses 23 maret 3023, <https://kemenkeupedia.kemenkeu.go.id/search/konten/20849-empat-pilar-utama-hubungan-keuangan-antara-pemerintah-pusat-dan-pemerintah-daerah>