
**THE REGIONAL GOVERNMENT'S POLICY IN INCREASING THE
REGIONAL ORIGINAL INCOME THROUGH RETRIBUTION TARIFF
COLLECTION OF PUBLIC TRANSPORTATION AND THE LIKE**

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Abstract

Regional autonomy essentially pushes the regional government to take care of its own region's affairs. In the regional autonomy, the orientation in its development is surely based on the region's potentials in various aspects and legalities to push the region's potential of productivity. One of the reasons is so that the region may be advanced in the aspect of development. It cannot be denied that online transportations – both those which are two-wheeled or four-wheeled – have become a trend in the society as it has the advantage of an eased system. With this ease, there needs to be strategic policies in the form of regional government policies to increase the region's potentials especially in the aspect of regional retribution through the public transportations provided by the transportation companies. This is so that the Regional Original Income may increase. This regulation is hierarchic. Thus, it gives the regional government to form a policy regarding the collection of regional retribution through public transportation services. This may increase the Regional Original Income in the framework of regional autonomy. This research uses a normative approach to analyze the region's potentials to collect regional retribution through public transportation services, and it is regulated in the Constitution No. 28 of 2009 regarding Tax and Regional Retribution.

Keywords: *Regional Policy, Regional Retribution, Public Transportation Services*

A. INTRODUCTION

The basic strategy of regional development is based on the ability to look for the region's potentials through the regional government's policies. So, with that potential, the regional government may undergo sustainable development. Regional development should be understood through the concept of regional autonomy.¹ The Republic of Indonesia's 1945 Constitution Article 18 states that the region has the power to take care of its own affairs based on the division of affairs as written in the provisions of the

¹ Riska Ardilla, *Peranan Retribusi Angkutan Antar Kota Antar Provinsi Dalam Menggali Pendapatan Asli Daerah (Pad) Di Kota Bandar Lampung*, Skripsi, diakses melalui <http://digilib.unila.ac.id/27608/3/SKRIPSI%20TANPA%20BAB%20PEMBAHASAN.pdf>. Pada tanggal 12 Juni 2019.

constitutional regulations. The said division of affairs are specifically regulated in the Constitution No. 23 of 2014 regarding Regional Government and other provisions of the Constitutions which may push the regions to take care of its own affairs.

If the regional government is not able to catch the potentials of its own region to increase the original regional income, it will become a problem. Such potentials may be managed through the regional policies, especially in terms of tax collection and retribution. One thing which must be understood in essential is that the management of tax and regional retribution can be the motor in sustainable regional development. This is parallel with the basic norms in the Constitution No. 28 of 2009 regarding Tax and Regional Retributions, which explains the concept and implementation regulations regarding tax collection which strengthens the income of regional tax.

The collection of tax by the Regional Government is regulated by the region itself in the form of Regional Regulations, Regional Head Decree and other execution regulations. The Regional Government has the discretion and the malleability in developing the system and the procedures of tax collection based on each region's characteristics and condition, though all steps taken must be based on the constitutional regulations which are in a higher hierarchy².

The collection of regional tax and retribution must be based on the synergic form of the regional governments and the society's roles. The vision is to form an outcome in the form of development in various aspects in the society and to decrease a gap in development. One of the potentials which may push an increase is the trend in using four-wheeled transportation services as public transportation with different varieties, starting from the ticketing system or the online business transportation services.³

² Lihat Penjelasan Peraturan Pemerintah Republik Indonesia Nomor 55 Tahun 2016 Tentang Ketentuan Umum Dan Tata Cara Pemungutan Pajak Daerah

³ Kementerian Perhubungan (Kemenhub) tengah merancang regulasi yang akan mengatur tentang ojek online atau ojol yang sudah beroperasi di Indonesia. Aturan ini ditargetkan rampung beberapa bulan kedepan. Presiden Joko Widodo (Jokowi) pun menanggapi dan menyambut positif rencana penerbitan aturan tersebut. Karena, regulasi yang dimaksud akan memberikan kepastian hukum, baik bagi pengemudi atau driver "online" hingga penyedia jasa transportasinya. "Intinya, kita ingin memberikan sebuah payung hukum yang jelas mengenai kegiatan transportasi online ini. Biar semuanya jelas," kata Jokowi kepada awak media di Jakarta International Expo Kemayoran, Jakarta, Sabtu (12/1/2019). Menurut Jokowi, kehadiran aturan itu nantinya bisa menjadi dasar hukum bagi para pengemudi "online" untuk beroperasi melayani konsumen. Selain itu, pemerintah pun melalui Kemenhub bisa mengawasi jasa angkutan berbasis internet ini. "Ini masih digodok yang ojek online-nya. Sehingga semuanya memiliki sebuah payung hukum dalam bekerja (operasi). Kemudian juga memonitornya di lapangan. Paling penting adalah memberikan peluang kerja bagi masyarakat," ujarnya. Dia menuturkan, aturan yang akan dikeluarkan Menteri Perhubungan itu bakal memperhatikan segala aspek, termasuk soal

Surely, what becomes the basic question is, does the regional government have the power⁴ to undergo retribution collection through public transportation and online transportation services which are nowadays increasing as a form of technological advance.

B. DISCUSSION

a. The Regional Government's Legal Policies in Regional Retribution Collection in the Sector of Public Transportation and the Like

Regional Retribution is defined as a payment given by the society to the region for the services received directly for the licenses obtained. This is different from tax, which is given not based on direct services obtained. The retribution may only be given if the regional government gives direct services to the people, or if the regional government gives the license to undergo certain activities.

Apart from the explanation above, the Constitution No. 28 of 2009 regarding Regional Tax and Regional Retributions, as the substitution for the Constitution No. 18 of 1997, as what has been changed into the Constitution No. 34 of 2000, emphasizes the definition of retribution in the lower level of governance as follows, "Regional retribution is a regional collection as a payment for services or particular licenses which are specially provided and/or

keadilan bagi pengemudi. Pasalnya, selama ini banyak driver online mengeluh terkait tarif yang diberlakukan aplikasi sehingga menimbulkan masalah. "Semuanya harus pada posisi yang saling diuntungkan. Semuanya senang, yang penting kan itu ya," jelasnya. Meskipun demikian, Jokowi menyadari bahwa roda dua hingga kini belum diakui sebagai angkutan umum baik di Indonesia maupun di luar negeri. Sehingga, dibutuhkan proses dan waktu agar bisa mengubah statusnya menjadi angkutan publik melalui kebijakan. Seperti keberhasilan Kemenhub merampungkan Peraturan Menteri Perhubungan Nomor 118 tentang Penyelenggaraan Angkutan Sewa Khusus alias taksi online. "Undang-undang kalau roda dua secara hukum internasional itu tidak ada. Sebab itu kita memberikan payung hukum lewat peraturan menteri, ada diskresi disitu. Secepatnya (rampung). Nanti akan keluar peraturan menteri mengenai ojek online," imbuhnya. Terkait kewenangan diskresi Kemenhub itu tertuang dalam Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintah. Diakses melalui <https://ekonomi.kompas.com/read/2019/01/13/080722826/jokowi-regulasi-tentang-ojek-online-akan-menjadi-payung-hukum>. Pada tanggal 4 Juli 2019.

⁴ Menurut P. Nicholai di sebutkan bahwa kewenangan adalah kemampuan untuk melakukan tindakan hukum tertentu, yaitu tindakan-tindakan yang dimaksudkan untuk menimbulkan akibat hukum dan mencakup mengenai timbul dan lenyapnya akibat hukum tertentu. Hak berisi kebebasan untuk atau tidak melakukan tindakan tertentu atau menurut pihak lain untuk melakukan tindakan tertentu, sedangkan kewajiban memuat keharusan untuk melakukan atau tidak melakukan tindakan tertentu. Lihat HR Ridwan, *Hukum Administrasi Negara*, Jakarta, Raja Grafindo Persada, 2002, hlm. 65. Artinya bahwa dengan adanya kewenangan daerah untuk memungut pajak dan retribusi daerah harus didasarkan kepada hukum.

Dalam kepustakaan terdapat pembagian mengenai sifat wewenang pemerintahan, yaitu :

given by the Regional Government for personal or institutional interests.” Then, based on the Constitution No. 28 of 2009, it is stated that the collection of regional retribution must be done based on the criteria given.⁵ Basically, the mentioned criteria is an effort to give legality towards the collection of retribution given by the government based on the constitutional regulations.

The stated withdraws retribution for some particular services which are given directly. The justification of this service retribution is that there are private objects and public objects. If the benefits are private (for instance: electricity, phone), thus the retribution may be considered as the service of providing that service. If the benefits are for the public, because of the *spillover* effect (positive externality), or if there is no exception for the receiver of the benefits (for example: defense and disease control), et cetera, thus the funding through tax is usually seen as most fit. Even so, there are some problems in the correct grouping of private and public objects. This is because some services are made of both elements (for example: education and public transportation). If the services are provided by the government, it does not exactly mean that the public object is fully funded from tax.

A region’s independence may be seen from the regional income. The higher the Regional Original Income is, the higher chance there is that the region is able to take care of its own affairs, and that there is less dependence towards the central government. The Regional Original Income surely has a high influence in the region’s events and development in various sectors, especially in the sector of development, which becomes an important benchmark. This is because physical development is an object which may be directly seen or enjoyed by the people. Yet, other sectors such as health, education, et cetera, must also be given attention, as they also push economic development in terms of human resources. The Regional Income may come from regional tax, regional retribution, and other valid income sources.⁶

⁵Kementrian Keuangan, Retribusi Daerah, diakses melalui http://www.djpk.kemenkeu.go.id/wp-content/uploads/2018/08/retribusi_daerah.pdf. Pada tanggal 2 Juli 2019.

⁶ Meivi M. Kaunang, *Analisis Mekanisme Pemungutan Dan Efektivitas Retribusi Pasar Di Kota Bitung*, Jurnal Riset Akuntansi Going Concern 13(4), 2018, hlm. 482.

Another thing which also supports income is regional retribution as a potential which must be given attention, so that the regional income and the regional management may increase. The Constitution No. 28 of 2009 states that Regional Retribution is form then forth stated as Retribution, is a regional collection provided or given by the Regional Government for personal or institutional interests as payment for services or certain licenses. There are some kinds of regional retribution based on the Constitution No. 28 of 2009 which are public services, special services, and certain licenses. The regional retribution has the same aim as the collection of regional tax done by the local government, which is to fill the state's or the region's income to fulfill the region's needs and to directly provide welfare for the people. The regional retribution is a component of the Regional Original Income, which has a huge role in the implementation of regional autonomy to achieve sufficient Regional Original Income. The region has the power to collect all kinds of retribution in its region. The society's supporting role in paying retribution is expected to increase the income of regional retribution. The higher the income of regional retribution,⁷ thus the higher the total of the regional original income. Thus, there is a connection between the regional retribution and the regional original income: if the total income from the regional retribution increases, thus the regional original income will also increase.⁸

It is difficult to see a difference between tax and retribution by observing the characteristics which are present in tax. Yet, there are some differences between the two. Article 108 paragraph (2) of the Constitution No. 28 of 2009 regarding Regional Tax and Regional Retribution states that there are three groups of retribution, which are: The Retribution of Public Service, the Retribution of Business Services, and the Retribution of Certain Licenses. This Article gives the regional government the power to collect retribution for

⁷ Pendapatan Asli Daerah (PAD) adalah penerimaan yang diperoleh Daerah dari sumber-sumber dalam wilayahnya sendiri yang dipungut berdasarkan Peraturan Daerah sesuai dengan perundang-undangan yang berlaku. Lihat Dedy Supriady Bratakusumah, *Otonomi Penyelenggara Pemerintahan*, Jakarta, Gramedia Pustaka Utama, 2001, hlm. 171.

⁸ Regina Usman, *PENGARUH PAJAK DAERAH DAN RETRIBUSI DAERAH TERHADAP PENDAPATAN ASLI DAERAH (PAD) (Studi Kasus pada Pemerintah Daerah Kota Bandung periode 2011-2015)*, diakses melalui <http://journals.telkomuniversity.ac.id/jaf/article/download/902/657/>. Pada tanggal 2 Juli 2019.

business services, public service, and certain licenses. Public transportation is a business service made by the people; thus, the regional government has the right to collect business service retribution in the form of public transportation through the provisions of the regional regulations.

The Constitution No. 23 of 2014 Article 1 point 6 regarding Regional Government, as what has been changed several times, and lastly with the Constitution No. 9 of 2015 regarding The Second Amendment of the Constitution No. 23 of 2014 regarding Regional Government (The Constitution of the Regional Government), states that, "Regional autonomy is the right, the power, and the responsibility of the autonomic region to regulate and to manage the area's governmental affairs and social interests with the system of the Unified State of the Republic of Indonesia". The regional government is given the right to manage and to make use of the resources present in the area, including withdrawing income to increase the economic state of the region, including income in the sector of retribution which is one of the Regional Original incomes as stated in the constitutional regulations.⁹

b. Building A Synergy of Regional Development Through the Increase of Transportation Business Service Regional Retribution to Increase the Regional Original Income

Factually, the regional retribution is one of the potentials of regional income which may be withdrawn for the increase and for the existence of the regional income which are collected by the state to the users of service. Tony Marsyahrul states that, "Retribution is the people's contribution to the stately income based on the constitution (which may be forced upon) by receiving mutual services which are directly directed to the government".¹⁰ Furthermore, Mardiasmo states that retribution is the payment for services or certain licenses given specially provided or given to the regional government for personal or

⁹ Muhammad Fakhziatuddin, et.al. *Efektivitas Retribusi Terminal Dalam Peningkatan Pendapatan Asli Daerah*, Syiah Kuala Law Journal, FAKULTAS HUKUM UNIVERSITAS SYIAH KUALA, Vol. 2(1) April 2018, hlm. 133.

¹⁰ Tony Marsyahrul. 2005. *Pengantar Perpajakan*. Jakarta: Grasindo. Hlm.2, dalam Muhammad Fakhziatuddin, et.al, *Ibid.*, hlm. 134.

institutional interests.”¹¹ Because of that, retribution will push sustainable development for the region through the increase of Regional Original Income.

The issuing of the Constitution No. 34 of 2000 regarding the change for the Constitution No. 18 of 1997 regarding Regional Tax and Regional Retribution is an effort to achieve a broad, real, and responsible regional autonomy. The funding of the government and the regional development which comes the regional income, especially those sourced from regional retribution must be increased so that the region's independence in terms of the government establishment funding may be achieved.

To increase the establishment of development and the services to the people, also to increase the economic development in the region, there needs to be adequate sources of regional original income. The effort to increase the funding provisions from that source may be done by increasing the collection service, perfecting and adding the kinds of retribution, and giving the regions flexibility to dig the income sources especially in the regional retribution sector through the Constitution No. 18 of 1997 regarding Regional Tax and Regional Retribution as what has been changed into the Constitution No. 34 of 2000. With the implementation of the Constitution No. 34 of 2000, thus the Governmental Decree No. 20 of 1997 regarding Regional Retribution as what has been changed into the Governmental Decree No. 45 year 1998 is no longer fit and there needs to be the implementation of a substituting Governmental Decree, as an implementation regulation of the law. Thus, this Governmental Decree revokes the Governmental Decree No. 20 of 1997 regarding Regional Retribution as what has been changed into the Governmental Decree No. 45 of 1998.¹²

In the effort to create regional independence, the Regional Original Income is a crucial factor, where it becomes the source of income which comes from its own area. Even so, the reality shows that the Regional Original Income can only cover 20% of the regional government's expenditures. The regional government's dependency towards the central government is still high. If the

¹¹ Mardiasmo, Perpajakan Edisi Revisi 2009. Yogyakarta: Andi Yogyakarta. Hlm.14, dalam Muhammad Fakhziatuddin, et.al, *Ibid.*, hlm. 134.

¹² Lihat Penjelasan Peraturan Pemerintah Republik Indonesia Nomor 66 Tahun 2001 Tentang Retribusi Daerah

government emphasizes too much on the revenue from the Regional Original Income, thus the society will be even more burdened with the various taxes and retributions for the sake of “reaching the target”.¹³ The Regional Original Income potentials is mostly for development, yet, essentially, with the criteria which has been regulated in the Constitution No. 28 of 2009 regarding Regional Tax and Retribution, it has become the basis in burdening retribution to the people.

The basic issue of the Regional Original Income and its correlation with development is one thing which cannot be separated. In the dimension of public transportation, which is in the business services category, the burdening of retribution tariffs will surely push the regional original income. Moreover, in the aspect of technological development as of today, it cannot be denied that one of the kinds of retribution which can be burdened to the people apart from that of the public transportations as a business service, it is possible to withdraw retribution from online transportations.

Two aspects which become the retribution potentials in public transportations are in the aspect of business service retribution and in the type of retribution in the terminals based on the regulations of Article 127 letter d and Article 141 letter d regarding route license.

With the presence of what was mentioned and the development of transportation, the regional government may increase the region's potentials through the retribution of those two things for the sake of regional development and growth. The regional government must form regional regulations with the provisions as regulated in Chapter VII on Retribution and Article 156 which regulates Retributions, implemented through Regional Regulations. The Regional Regulations minimally regulates provisions on the name, the object, the subject, the grouping, how to determine the usage level of the service, the principles implemented in the determination of structure and the number of tariffs, the collection area, the determination of payment, the place of payment,

¹³ Muchammad Zaky. *Peranan Pajak Daerah Dan Retribusi Daerah Terhadap Pendapatan Asli Daerah (Pad) Di Kabupaten Ekskaresidenan Banyumas (Tahun Periode 2006 Sampai 2010)*, Fakultas Ekonomi Dan Bisnis Universitas Muhammadiyah Surakarta 2012, diakses melalui http://eprints.ums.ac.id/21653/20/NASKAH_PUBLIKASI_ILMIAH.pdf. Pada tanggal 3 Juli 2019.

credits and postponement of payment, administrative sanctions, collection, the revoking of expired debt, and the start of its implementation.

The regional regulation on retribution may also regulate provisions on: the timeline, the relief, the reduction, the liberation, the elimination of debt, the obligatory ability, the function of retribution objects, and socialization. Meanwhile, the implementation and the socialization procedures and mechanism of the Regional Regulations are regulated by the Head of the Region's Decree.¹⁴ The essence of tariff withdrawal for public transportation services through the terminal and route licenses are efforts to support sustainable growth for the regional government, because in the process of development, there needs to be funds from various sources.

C. CONCLUSION

The issue regarding regional tax and retribution is one of the discourses which are often analyzed, especially that related to the regional tax and retribution contribution for the regional development. Retribution is one of the supporters of the Regional Original Income, where through the regional retribution scheme, it will push sustainable regional development. One of the main elements in regional development for the sake of regional autonomy is the ability of the region to take care of its own affairs. It should also be able to develop in various elements. The regional potentials, through retribution, is generally regulated in the Constitution No. 28 of 2009 regarding Regional Tax and Retribution, in the aspect of public transportation. There are two aspects of the public transportation's retribution potential, they are in the aspect of business service retribution and in the type of retribution in the terminals based on the regulations of Article 127 letter d and Article 141 letter d regarding route license. The transportation development and the said regulations must be further regulated with regional decrees as regulated in Article 156 Chapter VII regarding the Determination and Content Regulated in the Regional Decree on Retribution.

¹⁴ Untuk meningkatkan efektivitas pengawasan pungutan Daerah, mekanisme pengawasan diubah dari represif menjadi preventif. Setiap Peraturan Daerah tentang Pajak dan Retribusi sebelum dilaksanakan harus mendapat persetujuan terlebih dahulu dari Pemerintah. Selain itu, terhadap Daerah yang menetapkan kebijakan di bidang pajak daerah dan retribusi daerah yang melanggar ketentuan peraturan perundang-undangan yang lebih tinggi akan dikenakan sanksi berupa penundaan dan/atau pemotongan dana alokasi umum dan/atau dana bagi hasil atau restitusi. Lihat penjelasan UU No. 28 Tahun 2009 Tentang Pajak dan Retribusi Daerah.

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<https://ekonomi.kompas.com/read/2019/01/13/080722826/jokowi-regulasi-tentang-ojek-online-akan-menjadi-payung-hukum>. Pada tanggal 4 Juli 2019.

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