



PalArch's Journal of Archaeology
of Egypt / Egyptology

POTENTIALS FOR TAX RECEPTION IN LUXURY GIOK STONE IN INDONESIA

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Nunik Sumarni, Herini Siti Aisyah. Potentials For Tax Reception In Luxury Giok Stone In Indonesia-- Palarch's Journal Of Archaeology Of Egypt/Egyptology 17(3), 1886-1892. ISSN 1567-214x

Keywords: Tax, Luxury Goods, Jade

ABSTRACT

Law Number 42 Year 2009 explains that the types of stones such as agate are included in goods that are not taxed. However, in Ministerial Regulation Number 130/PMK.011/2013, agate or jade types include taxed goods with a tax rate of 75% (seventy-five percent). This causes a contradiction between the laws. Whereas, every item that is subject to sales tax on luxury goods will also be subject to added value. Hence, this study aims to analyse the potential tax revenue on jade luxury goods in Indonesia. The study method used is normative legal research through the statute and conceptual approach. The results showed that basically all goods have their own tax provisions. However, the law provides specific restrictions related to value added and additional taxes. On the other hand, despite contradictions in legislation, the existence of jade or precious stones has its own value that makes it a luxury item to be subject to additional taxes. Thus, it can be concluded that every item used by the public has a tax value. However, this value is different, depending on the applicable uses and needs.

INTRODUCTION

Taxes are compulsory contributions for citizens in the form of money or goods which are levied by the authorities based on legal norms. The existence of tax is not far from efforts to provide overall welfare to the people in a country (de Cogan, 2015). According to Simanjuntak and Mukhlis (2012) the existence of taxes and taxpayers has an influence on the welfare of the country in this period also in the future. The term mandatory contributions is expected to be able to meet the characteristic that the tax costs are collected with assistance and cooperation thus it can be avoided by the term "coercion" because everything works for the common good. On the other hand, if the obligation is not implemented, so the law shows other ways of implementing it (Brotodihardjo, 2003).

Sometime ago, there was new news in Indonesia which stated that agate or jade would be taxed because of luxury goods. This has also drawn opposition from various parties, especially agate or jade traders. The sale of agate or jade which is priced at nearly 18 billion rupiah made the government launch its movement by giving taxes on the sale of agate or jade.

In addition, in Attachment IV to the Regulation of the Minister of Finance of the Republic of Indonesia Number 130/PMK.011/2013, it stated that there is a sales tax on luxury goods in the amount of 40% (forty percent) for groups of goods which are partly or wholly made of stone other than cobblestone and curb stone. However, in Attachment VI of the Regulation of the Minister of Finance of the Republic of Indonesia Number 130/PMK.011/2013, it stated that the imposition of sales tax on luxury goods is 75% (seventy-five percent) for groups of goods which are partly or wholly made of stone noble and or pearl or mixed. It was found that jade is a kind of gem or precious stone which consists of many mineral elements. Even this stone is a unit that was obtained and also used by the eastern nations for thousands of years ago, basically, the imposition of taxes on the sale of agate or jade should be clearly regulated in statutory regulations. However, there is still opposition from agate or jade traders to the regulation. On the other hand, the emergence of contradictions related to laws and regulations with the provisions of the Minister of Finance actually gives a 'space' so large questions from the public related to these regulations (Huda and Hernoko, 2017). Based on this, this study aims to analyse the potential tax revenue on jade luxury goods in Indonesia.

RESEARCH METHODS

The research method used was normative juridical legal research with a statute and conceptual approach. The statute approach was chosen because it was able to examine all the relevant laws and regulations with the legal issues being faced. However, choosing the conceptual approach because this approach can discuss the opinions of experts or scholars as a supporting foundation that was sourced from various literatures.

Then, the two sources of legal materials used in this study are primary and secondary legal materials. Primary legal material was obtained from the legislation relating to Sales Tax on Luxury Goods, namely the 1945 Constitution of the Republic of Indonesia, Law Number 16 of 2000 as amended by Law Number 28 of 2007 concerning General Provisions and Procedures Taxation Method, Act Number 42 of 2009 concerning the Third Amendment to Act Number 8 of 1983 concerning Value Added Tax of Goods and Services and Sales Tax on Luxury Goods, Government Regulation of the Republic of Indonesia Number 41 of 2013 concerning Taxable Goods classified as Luxury In the form of motorized vehicles subject to sales tax on luxury goods, and Regulation of the Minister of Finance of the Republic of Indonesia Number 130/PMK.011/2013 concerning Amendments to Regulation of the Minister of Finance Number 121/PMK.011/2013 concerning Types of Taxable Goods That Are Classified as Luxury Apart from Motorized Vehicles that was subject to Sales Tax on Luxury Goods. Meanwhile, the secondary legal material used in study was obtained from library research. In this case, the study conducted by studying books of literature that were relevant in the scope of the subject matter

namely regarding taxes and their relationship to luxury goods such as precious stones or jade.

RESULTS AND DISCUSSION

Classification of Luxury Goods Subject to Sales Tax on Luxury Goods

For the sake of the good life of the nation and state, each country has a tax collection on taxpayers. It is also happened in Indonesia, where this country helped determine the tax collection for taxpayers that are regulated in the legislation. It is known that tax has several elements namely, it is levied based on the applicable laws and regulations, does not cause any direct contra-performance from the government, and is levied to finance government expenditure (Deane, 1984). In other words, tax is an obligation for every taxpayer that must be fulfilled in accordance with existing procedures in the legislation in force (Tomasic and Pentony, 1991).

Moreover, taxes borne by taxpayers are not charged or delegated to others. However, in taxation there are separate groupings based on the criteria of nature and usefulness. According to Mardiasmo (2013) taxes can be grouped into three, among others, first, according to his group consisting of direct taxes and indirect taxes. Second, according to its nature namely subjective (individual) and objective (material). Third, according to the collection agency, namely the central and regional taxes which are then subdivided into provincial and district tax.

The tax has been regulated in legislation in Indonesia, in which there are also several types of taxes imposed on taxpayers. Huda et al (2017) said that tax arrangements which are grouped by type in each country, especially developing countries are an important focus in order to achieve economic stability. One type of tax which was then quite well known was the Sales Tax on Luxury Goods (PPnBM). Sukardji (2002) grouped several factors that caused the imposition of sales tax on luxury goods, namely, first, VAT had a regressive impact. Second, the consumption of taxable goods that is classified as luxurious is counterproductive. This substance is generally performed by high-income community groups. Third, small and traditional producers face heavy competition from imported commodities. In this case, the imposition of PPnBM is intended to protect small and traditional producers which has the purpose of protection. Fourth, demands for increased state revenue from year to year. It is known that tax as state revenue is the foundation of hope. The law regulates the imposition of PPnBM with the aim of increasing state revenue thus the determination of an item as a taxable item classified as luxury becomes less selective.

On the other hand, the taxation given to taxpayers is also regulated in statutory regulations. To calculate the amount of value added tax and sales tax on luxury goods, the value used as the basis for taxation is regulated in Article 8A of Law Number 42 Year 2009, consisting of selling price, replacement, import value, export value, and other values set by the Minister of Finance.

Referring to the previous description, a grouping of taxable goods for luxury goods has been arranged. Mardiasmo (2013) stated that taxable goods are goods subject to tax based on statutory regulations. There are also those that are referred to as intangible taxable goods namely, first, the use or right to use copyrights in the field of literature, art, or scientific work, patents, designs or models, plans, formulas or secret processes, trademarks, or forms of rights intellectual/industrial property or other similar rights. Second, the use or right to use industrial/commercial/scientific equipment/equipment. Third, the provision of knowledge or information in the scientific, technical, industrial or commercial fields. Fourth, the provision of additional or supplementary assistance in connection with the use of or the right to use rights such as recorded images, sound recordings which are used in television broadcasting radio. Fifth, the use or right to use motion picture films, films or video tapes for television broadcasts, or sound tapes for radio broadcasts. Sixth, the relinquishment of all or part of the rights relating to the use or granting of intellectual/industrial property rights or other rights as stated earlier.

Through the elaboration, it can be seen that basically all goods are taxable goods, except the law stipulates otherwise (Dubois and Paternault, 1995). Mardiasmo (2013) said that the types of goods that are not subject to value added tax are stipulated in Article 4A Paragraph 2 of Law Number 42 Year 2009 and Elucidation of Article 4A Paragraph 2 Letters a and b of Law Number 42 of 2009 based on groups goods, first, mining or drilling products taken directly from sources such as crude oil, natural gas (excluding natural gas such as LPG that is ready for direct consumption by the public), semi-precious stones, limestone, pumice, gemstones, coal before being processed into coal briquettes, and iron ore, tin ore, gold ore, copper ore, nickel ore, silver ore, and bauxite seeds. Second, staple goods such as rice, grain, corn, sago, soybeans, fruits, and vegetables. Third, food and beverages served in hotels, restaurants, restaurants, food stalls, and the like which include food and beverages whether consumed on site or not. Fourth, money, gold bars, and securities (stocks, bonds, and others).

However, the types of taxable goods that are subject to sales tax on luxury goods have been regulated in Attachment to Ministerial Regulation Number 130/PMK.011/2013. It is stated that the one pegged at a tax rate of 10%. First, the household appliance group includes refrigerators, instant water heaters, washing machines of the type used for households, monitors and colour television sets, colour monitors measuring above 17inch to 43 inches, and colour television sets measuring above 40 inches. Second, the group of sports equipment and equipment in which fishing rods and rollers are included. Third, the group of air conditioning machines. Fourth, groups of recording or image reproduction equipment as well as radio broadcast receivers. Fifth, the group of photographic equipment, cinematographic tools, and equipment.

The List of Types of Taxable Goods That Are Classified as Luxury Apart from Motorized Vehicles subject to Sales Tax on Luxury Goods at a rate of 20% (Twenty Percent). First, the household appliance group includes stoves, stoves, open stoves, cooking utensils (including stoves with additional boilers for central heating), large grills, braziers, gas cups, heating plates, household

appliances without electricity, and refrigerators. Second, luxury residential groups which include houses and town houses or apartments, condos, and the like with an area of 150 m² or more. Third, television broadcast receiver and antenna groups and antenna reflectors. Fourth, a group of air conditioning machines, dishwashers, drying machines, electromagnetic planes and musical instruments. Fifth, the fragrance group includes perfumes and deodorizers that are ready for retail sale with an import value or a selling price of Rp. 20,000,000 (twenty million rupiah) or more per ml.

The list of types of taxable goods classified as luxury other than motorized vehicles subject to sales tax on luxury goods at a rate of 30% (thirty percent). First, groups of ships or other water needs, canoes and canoes, except for state or public transportation. Second, the group of sports equipment and equipment which includes golf equipment, diving equipment, and water ski equipment, surfboards, sailboards, surfboards and other water sports.

Referring the next list namely Types of Taxable Goods classified as Luxury Apart from Motorized Vehicles subject to Sales Tax on Luxury Goods at a rate of 40% (forty percent). First, the group of goods made of leather or artificial leather includes saddlery, crates, suitcases, women's bags, executive bags, office bags, school bags, eyeglasses, binocular bags, travel bags, makeup boxes, backpacks, handbags, handbags, bags shopping, wallets, sports bags, bottles, jewellery boxes, powder boxes, knife holders, and similar packaging. Second, the tapestry made of silk or wool. Third, a group of lead crystal glass articles of a kind used for tables, kitchens, make-up, offices, indoor decorations or similar purposes. Fourth, groups of items which are partly or wholly made of precious metal or of metal coated with precious metal or alloys. Fifth, groups of ships or other water vehicles, canoes, and canoes. Sixth, the blimp group. Seventh, groups of firearm bullets and other firearms, except for state purposes. Eighth, group of footwear types. Ninth, group of household and office furniture items. Tenth, a group of goods made of porcelain, Chinese clay or ceramics. Eleventh, groups of items which are partly or wholly made of stone other than cobblestone or curb stone.

Furthermore, the List of Types of Taxable Goods classified as Luxury Apart from Motorized Vehicles subject to Sales Tax on Luxury Goods at a rate of 50% (Fifty Percent), as follows. First, the tapestry group made of fine animal hair. Second, the aircraft group except for the purposes of the state or air transportation. Third, the group of sports equipment and equipment (other than those listed previously). Fourth, groups of firearms and other firearms, except for state needs.

Then, there is a list of types of taxable goods classified as luxury in addition to motorized vehicles subject to sales tax on luxury goods at a rate of 75% (seventy-five percent). First, groups of items which are partly or wholly made of precious stones and/or pearls or mixtures. Second, luxury cruise ships, except for state or public transportation.

Imposition of Sales Tax on Luxury Goods on Agate or Jade

Agate is the result of volcanic processes millions to billions of years naturally in the layers of the earth. Arnaldo and Muslim (2015) argued that agate or jade

before becoming a ring stone, underwent several processes in its formation. The forming processes are the cutting stage (brilliant cuts, step cuts, mixed cuts, fancy cuts, and polishing), the sharpening stage, and the binding stage.

Referring to the previous statement, it is known that sales tax on luxury goods is a type of tax that is within the rules of the Value Added Tax Law. However, the mechanism for imposing sales tax on luxury goods is slightly different from the value added tax (Mumford, 2015). Pursuant to Article 5 Paragraph 1 of Law Number 42 Year 2009, sales tax on luxury goods is imposed as follows, firstly, the submission of taxable goods classified as luxury carried out by entrepreneurs producing taxable goods classified as luxury in the customs area in business activities or its work. Second, imports of taxable goods that are classified as luxury. The sales tax on luxury goods is only imposed at the time of delivery of luxury taxable goods by the manufacturer (the entrepreneur who produces) and at the time of importation of luxury taxable goods, thus the sales tax on luxury goods is no longer imposed on the sales chain after that.

Moreover, it is known related to the reason agate or jade is registered as part of luxury goods to cause added value in the taxation sector because there are limitations that have been explained in the Elucidation of Article 5 of Law Number 42 Year 2009. It is explained that something becomes part of a luxury item if the item is not a staple item, the item is consumed by certain people, generally consumed by high-income people, the item is consumed to show status, and if consumed can damage the health and morals of the community, and disturb public order, such as alcoholic drinks. Besides that the limits are alternative, thus the Taxable Goods classified as Luxury enough to meet just one criterion. However, this gives a huge opportunity for the government to act inaccurately in classifying an item as a Luxury Taxable Goods in order to increase tax revenue.

CONCLUSION

Based on the result and discussion before, it can be concluded that basically all goods are taxed. However, the law gives restrictions on goods that can be subject to value added tax or additional tax called the sales tax on luxury goods. Thus, the difference in submission of fines related to the ownership of precious stones or agate or jade which were initially not taxed, then became taxed is due to several reasons and restrictions that have been prepared in accordance with Minister of Finance regulations.

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