

Research Article

Legal Issues in Value Added Tax (VAT) and Income Tax Policies Regarding Types of Taxes and Their Legal Basis

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Abstract

Legal issues in the implementation of Value Added Tax (VAT) and Income Tax (PPh) policies in Indonesia have become an essential concern in realizing fairness and legal certainty within the national taxation system. VAT and PPh serve as the main instruments of fiscal policy and contribute significantly to state revenue, yet frequent regulatory changes and overlapping provisions have created uncertainty and inconsistency in their application. Through a normative legal approach, this study examines the legal foundations of VAT and PPh as regulated in Law No. 8 of 1983 and Law No. 7 of 1983, as amended by Law No. 7 of 2021 on the Harmonization of Tax Regulations (UU HPP). The analysis reveals that although the reform through UU HPP strengthens the legal framework and enhances administrative transparency, challenges persist in achieving tax justice, compliance, and effective enforcement. Strengthening digital tax administration, ensuring regulatory consistency, and promoting taxpayer awareness are necessary steps to establish a fair, transparent, and sustainable taxation system in accordance with the principles of justice and legal certainty as mandated by the 1945 Constitution of the Republic of Indonesia.

Keywords: Value Added Tax (VAT), Income Tax, Legal Certainty.



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INTRODUCTION

Taxation plays a crucial role in Indonesia's national financial system as it serves not only as the main source of state revenue but also as an instrument of public policy to achieve sustainable national development. Beyond its function as a fiscal tool to finance government expenditures, taxation reflects the responsibility of citizens in supporting governance and promoting public welfare. Tax revenues are allocated to fund a wide range of public needs such as infrastructure development, education, and healthcare, while also functioning as an economic regulatory tool and a mechanism for income redistribution. Consequently, taxation carries economic, legal, and social dimensions that require fairness, legal certainty, and efficiency in its implementation.

Among the various types of taxes enforced in Indonesia, the Value Added Tax (VAT or Pajak Pertambahan Nilai/PPN) and Income Tax (Pajak Penghasilan/PPh) hold particularly strategic importance as they contribute the largest share to national

revenue. VAT is an indirect tax imposed on the consumption of goods and services, while Income Tax is a direct tax levied on income earned by individuals and business entities. These two types of taxes serve as key indicators of the effectiveness and fairness of national fiscal policy. However, their implementation often raises legal issues related to equity and legal certainty, largely due to the complexity of tax regulations and administrative procedures.

Frequent regulatory changes—such as the adjustment of the VAT rate from 10% to 11% and the planned increase to 12% in 2025, as stipulated in Law No. 7 of 2021 on the Harmonization of Tax Regulations (UU HPP)—represent the government's efforts to adapt fiscal policy to national economic developments. Despite their intended policy objectives, such changes often create uncertainty for taxpayers and lead to differing interpretations of tax norms. Similar issues arise in the administration of Income Tax, where discrepancies in interpreting taxable income, tax withholding mechanisms, and unequal treatment between large and small taxpayers continue to pose significant challenges.

In light of these circumstances, this study is guided by the following key questions: (1) What are the legal foundations governing VAT and Income Tax in Indonesia? (2) What legal issues emerge in the implementation of VAT and Income Tax policies, and how can these issues be addressed? The purpose of this study is to conduct a normative legal analysis of the legal basis for VAT and Income Tax and to identify the various legal challenges arising from their implementation—both from the perspective of statutory regulations and practical application in the field.

Through a normative legal approach, this study aims to contribute to the development of Indonesia's tax law by providing conceptual understanding and policy recommendations to support the realization of a fair, transparent, and sustainable tax system. Strengthening legal certainty, harmonizing regulations, and enhancing taxpayer awareness and voluntary compliance are essential steps toward achieving a balance between fiscal effectiveness and social justice, as mandated by the 1945 Constitution of the Republic of Indonesia.

Based on the background described above, this study focuses on two main research problems. The first concerns the legal foundations that regulate Value Added Tax (VAT) and Income Tax (Income Tax/PPh) in Indonesia, including the statutory framework and the underlying principles governing their administration. The second concerns the legal issues that arise in the implementation of VAT and Income Tax policies. These issues encompass regulatory inconsistencies, ambiguous interpretations, administrative challenges, and disparities in tax treatment across different categories of taxpayers. The study also explores potential solutions to these issues in order to strengthen the effectiveness, fairness, and legal certainty of tax policy in Indonesia.

METHOD

This study employs a normative legal research method, focusing on the analysis of statutory provisions, legal principles, and doctrinal interpretations governing Value Added Tax (VAT) and Income Tax (PPh) in Indonesia.

Types of Legal Materials

Primary legal materials include:

1. Law No. 7/1983 on Income Tax and Law No. 8/1983 on VAT, as amended by the Harmonization of Tax Regulations Law (UU HPP 2021);
2. Relevant decisions of the Indonesian Tax Court illustrating interpretive disputes.

Secondary legal materials consist of textbooks and scholarly articles discussing legal certainty, tax justice, and administrative challenges (e.g., Waluyo, Resmi, Suandy, Arjaya).

Tertiary legal materials include dictionaries, encyclopedias, and supporting reference materials.

Criteria for Selecting Laws and Cases

Legal sources and cases were selected based on:

1. direct relevance to VAT and Income Tax regulation;
2. practical significance for identifying legal uncertainty, regulatory overlap, or conflicting interpretations;
3. legal authority, prioritizing statutory texts and court decisions with interpretive value.

Analytical Methods

The analysis combines:

1. Interpretive analysis to evaluate ambiguous provisions such as taxable income definitions, VAT objects, and tariff changes under the UU HPP.
2. Comparative reasoning to contrast pre- and post-HPP rules and differences in treatment between large taxpayers and SMEs.
3. Deductive reasoning to derive conclusions from legal principles, theoretical frameworks, and judicial interpretations.

Theoretical Foundations

The study is grounded in:

1. Hans Kelsen's legal certainty theory, assessing clarity and hierarchy of tax norms;
2. Max Weber's rational action theory, explaining taxpayer compliance and the impact of inconsistent enforcement;
3. Tax fairness theory, focusing on proportionality, progressivity, and the ability-to-pay principle (as discussed by Waluyo and Arjaya).

The manuscript identifies recurring disputes before the Indonesian Tax Court, particularly conflicts over the interpretation of taxable income, where taxpayers argue certain receipts are non-taxable while the tax authority interprets them as taxable. Such cases demonstrate the ambiguity and legal uncertainty within PPh regulations.

RESULTS AND DISCUSSION

Legal Foundations of VAT and Income Tax from the Perspective of Legal Certainty

Indonesia's tax policy is grounded in Article 23A of the 1945 Constitution, which mandates that taxes must be regulated by law to ensure legal certainty. Although VAT and Income Tax have undergone major reforms through the 2021 Harmonization of Tax Regulations Law (UU HPP), numerous studies argue that legal certainty cannot be achieved if regulatory changes occur too frequently or without adequate administrative guidance (Arjaya, 2023; Waluyo, 2021; Resmi, 2022).

Judicial decisions demonstrate how regulatory ambiguity leads to differing interpretations. For example, Tax Court Decision No. PUT-29442/PP/M.I/16/2019 involved a dispute on input tax crediting where the Tax Court acknowledged that delays in VAT reporting were caused by system issues in e-Faktur. The decision

illustrates the gap between statutory norms and administrative infrastructure.

Another case, Decision No. 00137/2023, addressed the deductibility of promotional expenses. The Tax Court sided with the taxpayer and emphasized the substance over form principle, ruling that economic substance should prevail over excessive formal requirements. These cases strengthen the finding that rapid regulatory changes frequently lead to interpretative inconsistencies that disadvantage taxpayers.

Legal Issues in the Implementation of VAT and Income Tax and Their Implications for Legal Certainty

Implementation of VAT and Income Tax in Indonesia reveals several legal issues that undermine tax administration effectiveness:

1. Normative Uncertainty

The increase in the VAT rate from 10% to 11%—and the planned rise to 12% in 2025—has created confusion among small businesses and taxpayers lacking digital administrative readiness. Mardiasmo (2022) notes that administrative burdens increase when rate adjustments are accompanied by mandatory system updates (e.g., e-Faktur versions, reporting deadlines, and correction procedures).

2. Overlapping Regulations

Conflicts between national and local tax regulations, particularly in the taxation of services (e.g., entertainment, hospitality), often lead to jurisdictional disputes. Arjaya & Diantha (2021) highlight that regional autonomy frequently clashes with the central government's authority, undermining systemic coherence.

3. Weak Tax Law Enforcement

As noted by Suandy (2020), inconsistent application of administrative and criminal sanctions results in weak deterrence. Several court decisions have annulled tax sanctions due to procedural errors by auditors. For example, Decision No. 01456/2022 removed a 50% penalty because the tax auditor failed to conduct a proper closing conference as required by PER-01/PJ/2021.

4. Challenges in Tax Digitization

Digitization through e-Faktur, e-Bupot, and the CTAS system brings efficiency but also legal issues:

- a. mismatched databases between taxpayers and the tax authority,
- b. system outages causing late submissions,
- c. automated errors producing incorrect tax assessments.

In VAT Decision No. 00321/2022, the court overturned the tax office's correction after it was proven that errors in the e-Faktur system originated from the tax authority's server. This emphasizes the need for legal accountability in digital tax administration.

Global Digital Tax Controversies: OECD, EU, and International Developments

Rapid digitalization has compelled countries to reform international tax rules. The OECD's Pillar One and Pillar Two Framework (2021) aims to ensure a fair allocation of taxing rights and the implementation of a 15% global minimum tax. As a member of the Inclusive Framework, Indonesia is obliged to harmonize certain aspects of its digital tax rules accordingly.

Meanwhile, the European Union's 2021 VAT E-Commerce Package expands VAT obligations for digital platforms and introduces the One Stop Shop (OSS)

mechanism. These developments serve as important references for Indonesia in designing cross-border digital VAT collection.

Key controversies in the global context include:

1. Double taxation vs. double non-taxation in cross-border digital transactions.
2. Limited access to platform-based transaction data, especially when platforms operate offshore.
3. Domestic legal systems struggling to harmonize national rules with global standards, particularly concerning digital permanent establishment and digital asset taxation.

In Indonesia, Adnyana (2023) stresses that regulatory gaps remain significant in areas such as cryptocurrency taxation, cross-border gig economy services, and peer-to-peer digital transactions.

Normative Implications

The findings above highlight several normative implications:

1. Need for Regulatory Harmonization

To reduce interpretive conflicts and administrative burdens, norms in the UU HPP must be aligned with lower-level regulations and technical guidelines. Harmonization is essential for SMEs, digital taxpayers, and multinational companies.

2. Strengthening the Principle of Lex Certa (Legal Certainty)

Tax norms must be:

- a. clear,
- b. unambiguous,
- c. supported by technical guidance, and
- d. stable over time.

Frequent regulatory changes without guidance will increase disputes and undermine predictability.

3. Adoption of the Substance Over Form Principle in Enforcement

Court rulings indicate a strong shift toward substantive assessment rather than strict procedural compliance. The tax authority must adjust its audit practices to evaluate the economic substance of transactions, especially in complex digital business models.

4. Preparing Indonesia for Global Digital Tax Integration

Indonesia must:

- a. align digital VAT rules with EU VAT directives,
- b. harmonize income tax rules with OECD Pillar One and Two,
- c. clarify the definition and scope of significant economic presence in cross-border digital business.

5. Strengthening Legal Protection for Taxpayers

System errors in government digital platforms (e-Faktur, e-Bupot) should not result in punitive consequences for taxpayers. Judicial decisions have affirmed this principle, highlighting the need for normative safeguards in tax digitalization.

CONCLUSION

This study concludes that the legal foundations of VAT (PPN) and Income Tax (PPh) in Indonesia are clearly established under Article 23A of the 1945 Constitution and elaborated through statutory regulations, most recently harmonized in Law No. 7/2021 (UU HPP). These laws strengthen the structure of Indonesia's tax system, yet

their implementation continues to face legal challenges, including regulatory uncertainty, overlapping norms, inconsistent enforcement, and low taxpayer compliance. These issues directly relate to the research problems and demonstrate that legal reforms must be accompanied by predictable and coherent implementation.

Based on these findings, several normative and policy recommendations are proposed. Normatively, future tax regulations must adhere to the principles of clarity, consistency, and legal certainty to prevent multiple interpretations. Policy-wise, the government should intensify taxpayer education, improve digital tax infrastructure, and strengthen coordination among tax authorities to ensure uniform enforcement and enhance voluntary compliance.

This study has limitations inherent to normative legal research, namely the absence of empirical verification and the inability to measure practical impacts on taxpayer behavior or administrative performance.

Future research is recommended to: (1) empirically assess the effects of UU HPP on compliance and legal certainty; (2) conduct comparative studies with other jurisdictions to identify best practices; and (3) combine doctrinal and empirical methods to evaluate the real-world effectiveness of tax reforms.

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