

AUTHORITIES OF REGIONAL GOVERNMENTS IN COLLECTING TAXES IN INDONESIA

Daryanto

PhD Candidate Faculty of Law, University Jayabaya Jakarta
yanto_skh@yahoo.com

DOI: 10.31364/SCIRJ/v7.i8.2019.P0819684
<http://dx.doi.org/10.31364/SCIRJ/v7.i8.2019.P0819684>

ABSTRACT -The Preamble of the 1945 Constitution laid the foundation for the Government including the Autonomous Regional Government in achieving its goal to improve the welfare of the people through the implementation of its development policies and programs. Of the many instruments to finance the programs, the regional governments impose taxes. To support the implementation of taxes, the regional government issued Regional Regulations, while the procedure for collecting taxes is formulated in the Regional Head Regulations. This study has two objectives. The first is to address the authorities of regional government (Province, Regency, and City) in regulating the collection of taxes. The second is to examine how the discretion of regulatory authority in the procedure for collecting provincial and district / city taxes. Method used to examine these problems is by reviewing three theories, namely (1) the theory of regional autonomy as Grand Theory. (2) the theory of Authority as Middle Range Theory, and (3) the theory of Legal Norms as Applied Theory. In addition to that method, the doctrinal method in the study of positive law was also used. The study found as follows. First, the authority for governing the procedures for collecting taxes by the governments in the province, regency and city was outlined in the Regional Legal Products in the form of Regional Head Regulations. However, there are two principles that are violated, namely: discretion made through local election is conflicting with applicable laws and regulations. Second, the discretion made through Regional Regional Election is not in accordance with the general principles of Good Governance (AAUPB). With regard to the two points above, based on Regulation of the Minister of Home Affairs Number 120 of 2018 concerning Amendment to Regulation of the Minister of Home Affairs Number 80 of 2015 concerning the Establishment of Regional Legal Products, the Government may cancel them. In addition, taxpayers who feel distress to the regulation can make legal remedies by submitting a request for judicial review to the Supreme Court for the cancellation of the Regional Head Regulation. Also, it can sue the determination of Local Tax to PTUN to be canceled. Due to the problems above, it is necessary to increase the effectiveness of supervision from the Government, in this case the Minister of Home Affairs and the Governor as the representative of the Central Government on Regional legal products in the form of Regional Head Regulations on one hand. On the other hand, the Region in forming the Regional Head Regulation needs to carry out the process of vertical harmonization as optimally as possible.

Keywords: Authority, Discretionary Regulation, Regional Regulation

1. INTRODUCTION

As regional autonomy was implemented in Indonesia, the regional governments play significant roles in determining regional progress and improving the welfare of the people. These obligations are parts of the implementation of the 1945 National Constitution which are stated in the Preamble of the 1945 Constitution which that "The Government, including the Regional Government, should protect the entire nation of Indonesia, promote public welfare, educate the nation's life and treat justice for all the people of Indonesia ". This is stated in Article 27, Article 31, Article 33 and Article 34 of the 1945 Constitution.

Fundamentally, the 1945 Constitution adheres to the principle of the welfare state as the obligations and responsibilities of the Government. Based on Article 4 of the 1945 Constitution, the President of the Republic of Indonesia holds government power based on the Constitution, which in carrying out its obligations is assisted by a Vice President and the Regional Government. To achieve that objectives, it requires a form of law and authority for the Region (see, Articles 18, 18 A, and 18 B of the 1945 Constitution.

Bagir Manan said : "Regional autonomy was established not only to guarantee the efficiency of government administration and/or to accommodate the facts of Indonesia having large areas, islands and big in population number. But it is more than that, regional autonomy is the basis for expanding the implementation of democracy and creating instruments for public welfare ".¹

¹ Bagir Manan, *Menyongsong Fajar Otonomi Daerah*, Pusat Studi Hukum (PSH) Fakultas Hukum UII Yogyakarta, 2005, hlm. 3.

Through regional decentralization, it is expected that the regions have authorities to managed and organize their own government affairs in accordance with the principle of autonomy and the principle of co-administration (*medebewin*), and carrying out autonomy as broad as possible, except for those matters which are determined by law to be the central authority. Decentralization is not just a division of authority (*spreading van bevoegheid*), but it also contains the distribution of power (*scheiding van machten*) to regulate and manage the administration of the state between the central government and its lower government units.² Dwi Andayani Budisetyowati stated that regional autonomy in the era of reform and democracy was inevitable. This is simple because without autonomy, it would be difficult for the society to be empowered and become prosperous region. At least by having the spirit of regional autonomy, regions are expected to provide the best public services to the people.³

In the theory of authority, decentralization is the dispersal of authority of formal power issued by the law or legislation from executive or administrative power. Within authority there are types of authorities (*rechtsbevoegdheden*). Authority is the power to act things based on public laws.⁴

In the Dutch literature, autonomy is defined as self government or *zelfregering*. The autonomy is accepted generally based on: first, the needs of efficiency and effectiveness of regulation (*regelen*) and administration (*bestuuren*) of government. Second, as part of the implementation of the welfare state system where the function of government in the welfare state system is no longer solely as a guardian of security and order. The state or government is responsible for realizing and guaranteeing general welfare, prosperity and social justice for all people. The service function for welfare can be carried out well if the government unit is brought closer to serve the people and regulate as well as determine the type and method of service that is appropriate for the community concerned. Third, as part of the process of democratization of government administration. Fourth, as a way to maintain sustainably the cultural and historical of the present government.⁵

The present of the system marks the level of independence and / or not the autonomy in broader sense. The transfer of authority from the central government to local governments to regulate and manage their own households was based on the 1945 Constitution. Article 18 paragraph (2) which stated that "Provincial, regency, and city regional governments" regulate and manage their own government assignments according to the principle of autonomy and the principle of *Medebewin* (co-administration), as explained in Act No. 23 of 2014 in the general section on the relationship between the Central and Regional Governments. In this act, it is stated as follows:

"Broader autonomy given to the regions is directed to accelerate the realization of people's welfare or people's welfare through improving services, empowerment, and community participation. In addition, through broad autonomy in the strategic environment of globalization, regions are expected to be able to increase their competitiveness by paying attention to the principles of democracy, equity, justice, privileges, and the specificity and potential and diversity of regions in the unity nation of the republic of Indonesia (NKRI) system".

The principles that are adopted by the Law Number 23 of 2014 are : (1) the broadest possible autonomy. (2) the implementation that is authorized to increase the welfare of the community through improved services, empowerment and community participation, and increasing regional competitiveness. This principle is then implemented into two main objectives in regional independence, namely, ⁶ (1) Democratization, which requires the local people to be maximal in making policy through their representatives in the regional legislature; (2) Optimization of public services to realize *bestuurzorg* in each autonomous region. Both of these objectives are to be achieved in the decentralization of authority to autonomous regions.

The authority of the Regional Government to form a Regional Regulation that is capable of absorbing the aspirations of the local community and special conditions of the region is the main characteristic of the existence of an autonomous government unit that has the right to regulate and manage its region independently (*zelfstandigheid*)⁷. Regional regulations are one form of implementing regulations. Basically, regulation originates from the authority that is determined by the legislators.⁸ One of the regional authorities regulated in regional regulations is the Regional Tax. Regional Tax was formed as a legal instrument made by the Regional Government together with the Regional Parliament in the context of regional autonomy to realize regional independence for the welfare of the people in the region. Regional Head Regulations are made by the Regional Head without involving the Regional members of parliament so called DPRD.

² I Gde Pantja Astawa, *Op. cit.*, hlm. 20.

³ Dwi Andayani Budisetyowati, *Hukum Otonomi Daerah di NKRI*, Roda Inti Media, Jakarta, 2009, hlm.1.

⁴ Prajudi Atmosudirdjo, S., *Hukum Administrasi Negara*, Ghalia Indonesia, 1994, hlm. 78.

⁵ I Gde Pantja Astawa, *Op. cit.*, hlm. 53-54.

⁶ Suprin Na'a, *Perda dalam Perspektif Ilmu Peraturan Perundang-undangan*, Tadulako University Press, Palu, 2004, hlm. 54.

⁷ Widodo Ekatjahjana & Totok Sudaryanto, *Sumber Hukum Tata Negara Formal di Indonesia*, Cipta Aditya Bakti, Bandung, 2001, hlm. 88.

⁸ Jimly Asshiddiqe, *Perihal UU*, Konstitusi Press, Jakarta, 2006, hlm. 51

To implement broad, real and responsible autonomy, the regions must be able to prepare their good human resources, adequate financial factors, adequate equipment factors and organizational and management factors.⁹ The financial factor is certainly a critical factor that needs to be discussed in relation to the implementation of regional autonomy. This is due to the fact that this factor can be an indication that shows the region's ability to manage the region. This means that autonomous regions must have the authority and ability to explore their own financial resources and minimise the dependence on central assistance as possible.

In terms of this financial factor, as stated in the Article 285 of Law Number 23 of 2014 that one of the regional income source is Regional Tax and Regional Retribution. This suggests that fiscal autonomy in terms of finance and financing is largely determined by Regional Income (PAD). In other words, the PAD aims to give authority to local governments to fund the implementation of regional autonomy in accordance with the regional potential as a manifestation of decentralization.¹⁰

Tax is basically a burden on society as it reduces society's purchasing power. As the Dutch proverb said: tax is "slicing up one's own flesh"¹¹ While for the American, "*Taxation without representation is robbery*". However, in Indonesia the legal basis for tax collection was outlined in Article 23A of the 1945 Constitution, which states that, "taxes and other levies that are coercive for the purposes of the country needs are regulated by law". Also, it was highlighted in Article 18 of the 1945 Constitution paragraph (1), paragraph 2), paragraph (4), paragraph (5). So, it can be concluded that there are no taxes or levies that are collected before being regulated in advance in the Act. The meaning of this philosophy is that the form of regulations established to regulate taxes must obtain approval from the House of Representatives. So that the members of the House Representatives at the regional level understand the conditions of the people they represent.

Types of provincial Regional Tax based on Law 28 of 2009, are divided into five types, locally named as PKB, BBNKB, PBBKB, Water Tax, and Cigarette Tax. While the types of districts / city taxes consist of eleven types, namely, Hotel Tax, Restaurant Tax, Entertainment Tax, Advertisement Tax, PPJ, Non-Metal Mineral and metal Taxes, Parking Tax, Groundwater Tax, Swallow Bird Nest Tax, PBB P2, and BPHTB. Determination of the type of tax to be collected in each region must be adjusted according to the object and ability of the community in the region concerned based on the taxpayer's carrying capacity. Furthermore, the Regional Tax should not rule out services to the community for their welfare. This is because the essence of regional autonomy is how to empower the people's economy independently to utilize natural resources in accordance with the level of their living needs, and the purpose of autonomy is to improve the welfare of people's lives.¹²

Based on Article 243 paragraph (3) of Law 23 of 2014 concerning Regional Governments regarding the procedure for giving registration numbers as the regional legal products (PHD), the Minister of Domestic Affairs then issued Regulation 1 of 2014 concerning the formation of PHD. However, due to the present dynamics of the development of laws and regulations, this law was replaced by the Ministerial law no 80 of 2015. Under Article 2, PHD takes in the form of regulations and stipulations. However, the legal products of this PHD are in the forms of Regional Regulation (Perda) and Regional Head Regulations (Perkada). Regional regulations consist of Provincial Regulations and Districts / City Regulations, while Regional Head Regulations consist of Governor regulations, Head of districts regulations, and Mayor Regulations. Due to the Constitutional Court Decision 137 / Legislation XIII / 2015 dated 5 April 2015 and the Constitutional Court Decision 56 / Legislation XIV / 2016 dated June 14, 2017, the Minister of Home Affairs Regulation no 80 / 2015 concerning PHD regulations was amended with Regulation of the Minister of Home Affairs 120 of 2018, which was promulgated on February 20, 2019. As a consequence, the Government's authority regarding executive review of regional regulations was revoked., especially Article 251 paragraph (1), paragraph (2), paragraph (7) and paragraph (8) of Law 23 of 2014. This also has implications for Article 158 regarding executive review of Law 28 of 2009 concerning Regional Taxes and Regional Retribution. Meanwhile the power of the executive or supervisory review repression against local regulation is still attached to the Government which in this case carried out by the Home affairs Minister and the Governor as the representative of the Central Government. Likewise, government oversight (*bestuur*) of regional head regulations is still the authority of the Minister of Home Affairs and the Governor as the representative of the Central Government.

With the issuance of the Minister of Domestic Affairs Regulation no. 120 of 2018, the supervision of the incentives for the Draft of regional regulations is more stringent and improved, so that it is expected that PHD in the form of regional regulations and regional head regulations that violate the law can be avoided. Based on the background above, it is important to examine at least two things. The first is how the procedure for collecting provincial and district / city taxes regulated. The second is how the discretion of regulatory authority in the procedure for collecting provincial and district / city taxes made.

Note that, the data and information collected were from literatures, laws and regulation and web search. To examine the questions, methods used by reviewing three theories advanced in the literatures, namely (1) the theory of regional autonomy as

⁹ Josef Riwo Kaho, *Prospek Otonomi Daerah di Negara Republik Indonesia, Identifikasi Faktor Faktor yang Mempengaruhi Penyelenggaraan Otonomi Daerah*, Rajawali Press, Jakarta, 2005, hlm. 66-69.

¹⁰ Marbun B.N., *Otonomi Daerah 1945-2005 Proses dan Realita: Perkembangan Otda, Sejak Zaman Kolonial sampai saat ini*, Pustaka Sinar Harapan, Jakarta, 2005, hlm. 96.

¹¹ Rochmat Soemitro (Ed.), *Asas dan Dasar Perpajakan 1*, PT Eresco, Cet. Keempat, Bandung, 1990, hlm. 32.

¹² Nurmayani, "*Wewenang Pemerintah Daerah Meningkatkan PDA dari Sektor Pajak dan Retribusi Daerah dalam Pelaksanaan Otda*" (*Studi di Kota Bandar Lampung*), *Jurnal Hukum* Volume VII Nomor 2, Juli-Desember 2004.

Grand Theory. (2) the theory of Authority as Middle Range Theory, and (3) the theory of Legal Norms as Applied Theory. In addition to that method, the doctrinal method in the study of positive law with the statutory approach supported by the comparative and the historical approaches were used. The reason to use these methods is because statutory approach complemented by comparative and historical approaches will be more accurate and suitable for enriching legal considerations or in dealing with the legal problems faced (see, Mahmud Marzuki, 2010 for details). However, before discussing the results of the study, the framework of the study will be addressed in the section 2. Section 3 then discussed the results of the study from the perspectives the theory of regional autonomy as Grand Theory, the theory of Authority as Middle Range Theory, and the theory of Legal Norms as Applied Theory. Finally, concluding notes are drawn in section 4.

2. FRAMEWORK OF THE STUDY

In relation to regional government, decentralization is a form of authority delegation from the government to regional government. Authority is power in public law. Decentralization can be defined as the transfer of government affairs (authority) by the central government to autonomous regions based on the principle of autonomy. Autonomy itself implies the rights, authority, and obligations of autonomous regions, in this case the Provincial Government and Regency / City Governments to regulate and manage their own government affairs which become their authority in order to improve the welfare of the community. These authorities become the responsibility of the region, in this case provinces, districts and cities. Assignments that have to be done by the regional governments include compulsory basic service assignments/affairs, compulsory non-basic service affairs, and optional affairs.

The main characteristic that shows an autonomous region has an autonomous lies in the financial capacity of the region. This means that autonomous regions must have the authority and ability to explore their own financial resources, while dependence on central assistance must be as minimal as possible. This means that the regional income (PAD) where regional taxes as one instrument of revenue sources must be the largest of financial source of the regions. In addition to that, there are other revenue sources including regional retribution or user charges that are regulated in Article 23A of the 1945 Constitution, the Law 28/2009 regarding Regional Tax and Regional Retribution and the Law 23/2014 concerning Regional Government. In the Article 95 paragraph (1) of Law 28 of 2009, for example, it was stated clearly that regional taxes are determined by Regional Regulations.

Besides that, in the context of realizing the objectives of the state as stated in the fourth paragraph of the Preamble of the 1945 Constitution then further elaborated into Article 27, Article 31, Article 33 and Article 34 of the 1945 Constitution, implemented by the Central Government as a translation of Article 4 of the 1945 Constitution and Regional Government as an elaboration of Article 18, Article 18A, and Article 18B of the 1945 Constitution. In line with the above articles, Article 286 paragraph (1) of Law 23 of 2014 also states that regional taxes and levies are stipulated by laws which are implemented in the regions further regulated by regional regulations.

In addition to the Law 28 of 2009 besides ordering the formation of regional regulations, it also ordered the formation of regional head regulations. Article 98 of Law 28 of 2009 states that "Further provisions regarding the type of tax that can be collected based on the determination of the Regional Head or paid by the Taxpayer and other provisions relating to tax collection are regulated by Government Regulation". Based on Article 98 above, on November 22, 2016 Government Regulation No. 55 of 2016 concerning General Provisions and Procedures for Collecting Local Taxes has been enacted. While Article 36 of the Government Regulation states: The implementation of this Government Regulation must be determined no later than 1 (one) year from the date of the promulgation. The implementation of this regulation was outlined in Regional Head Regulation and Minister of Finance Regulation in which the substance of general provisions and procedures for collecting Local Taxes are regulated in higher statutory regulations, including Minister of Finance Regulations as mandated in Government Regulation 55 of 2016. However, up to one year from the promulgation of the Government Regulation, not all of the Minister of Finance Regulations were issued. Thus, based on Article 18 of the 1945 Constitution and Law 30 of 2014 concerning Government Administration, there is no prohibition for Government Administration officials (the Governor, Regent and Mayor) imposed regional taxes as long as they take into account the laws and the General Principles of Good Governance (AAUPB) as stipulated in Law 30 of 2014. These suggest that theoretically there is a link between the regional autonomy theory as *Grand Theory*, the theory of authority as the *Middle Range Theory*, and theory of the level of legal norms (*stufentheorie*) as *Applied Theory*.

3. RESULTS AND DISCUSSION

Regional Autonomy Theory as Grand Theory

In government literature, autonomy is often interpreted as *selfbeweging, eigen meesterschap, zelfstandigheid* even Logemann in his writings *Het staatsrecht der Zelfregelen gemeenschappen*, states that the freedom of movement granted to the autonomous region means the opportunity to use its own initiative of all kinds of power, to take care of the public interest (for example). population), such a government is called autonomous.¹³ Furthermore, it was also emphasized that the power of acting

¹³ Logemann dalam Ateng Syafrudin, *Pasang Surut Otonomi Daerah*, Bina Cipta, Bandung, 1983, hlm. 23.

independently given their own region was called autonomy which was called by Van Vollenhoven *eigen meesterschap*. The principle of regional autonomy and decentralization in the relationship of power (*gezagverhouding*) between the central and regional governments is one way to implement the principles of democracy. This means that democracy is implemented through the dispersal of power both horizontally and vertically.¹⁴ The spread of power horizontally gives institutions at the central level in equal position (legislative, executive, and judiciary), while vertically it makes the central government and local governments have rights of decentralization.¹⁵

According to Bagir Manan, that in autonomy there must be enough space to exercise freedom to run the government, even though it is not a form of freedom at all (*zelfstandigheid not onafhankelijkheid*), and autonomy is closely related to the pattern of relations between the center and the regions which covers various aspects, namely, authority relations, financial relations, supervisory relationships, and relationships arising from the composition of government organizations in the region.¹⁶ Concerning this, Zudan Arif Fakrulloh stated that regional autonomy can be considered as a reflection of the distribution of central government authority to regional governments that are in accordance with the implementation of regional government based on elements of regional authority, regional institutions, regional staffing, regional finance, representation, public services and supervision.¹⁷

Through the implementation of autonomy and decentralization, each region is encouraged to put out its best ability to provide services to local communities in accordance with the uniqueness of each region. Therefore, in order to ensure social order and avoid social vulnerability, regional autonomy needs to be strengthened with clear rules and regulations that are mutually agreed upon.¹⁸

Authority Theory as Middle Range Theory

In the Black Law Dictionary, what is meant by authority is *a right to command or to act; the right and power of public officers to require obedience to their orders lawfully issued in the scope of their public duties*.¹⁹ Prajudi Atmosudirdjo, differentiating between authority (*gezag*) and competence (*bevoegdheid*), authority is what is called formal power, that is, power that comes from legislative or executive / administrative power. This authority is a power over certain groups of people or power over a certain field of government, while competence is only about a certain instrument.²⁰ It was further stated that the competence is the power to carry out a public legal action, while the right is the power to carry out an act of civil law or private law (civil law).

Based on the above notes, it appears that authority in the concept of public law is a core concept in State Administration Law and Administrative Law. Henc van Maarseveen cited in Philipus M. Hadjon stated that in the State Administration Law, authority (*bevoegdheid*) was described as legal power (*rechtsmacht*). So the authority in the concept of public law means authority related to power.²¹ Furthermore Philipus M. Hadjon²² explained that as a concept of public law, authority consists of at least three components : a. Influence; b. Legal basis; and c. Legal conformity.

The component of influence is that the use of authority is intended to control the behavior of legal subjects. The basic component of law means that authority must always be appointed on legal basis. In other words, authority can not be created alone, but it should be based on existing legislation. The component of legal conformity means that there are authority standards, namely general standards (all types of authority) and special standards (for certain types of authority).

Ten Berge in Philipus M. Hadjon stated that there are only two ways by which an organ of government can obtain authority, namely by attribution and delegation. Attribution relates to the recognition of the right to a new authority, whereas delegation relates to the surrender of an existing authority.²³ In the provisions of *De Algemene Wet Bestuursrecht*²⁴ translated by Soetopo, the meaning of giving delegation is that delegation of authority means to take decisions by an organ of government to other parties who carry out this authority on their own responsibility. This is in line with the thoughts of Soewoto Mulyo Soedarmo stating that: Authority can be obtained through recognition of power (*attributie*), or delegation of power (*overdracht*).²⁵ Delegation of power can be divided into two types, namely the granting of power (*mandaatsverlening*) and delegation (*delegatie*). Whereas Philipus M. Hadjon stated that authority can be obtained through three sources, namely attribution, delegation, and mandate. The authority of attribution is usually outlined through the distribution of state power by the Constitution, the authority of the

¹⁴ Moh.Mahfud MD, *Pergulatan Politik Dan Hukum Di Indonesia*, Gama Media, Yogyakarta, 1999, hlm. 185.

¹⁵ *Ibid.*, hlm. 186.

¹⁶ Bagir Manan, *Menyongsong ...*, *Op cit.*, hlm. 26.

¹⁷ Zudan Arif Fakrulloh, *Kebijakan Otonomi di Persimpangan*, CV. Cipruy, Jakarta, 2005, hlm. 81.

¹⁸ Pheni Chalid, *Otonomi Daerah: Masalah Pemberdayaan dan Konflik*, Kemiteraan, Jakarta, 2005, hlm. 5.

¹⁹ Henry Black Campbell, *Black's Law Dictionary*, West Publishing Co, USA, 1990. hlm. 133.

²⁰ Prajudi Atmosudirdjo, *Hukum Administrasi...Op. cit.*, hlm. 29.

²¹ Philipus M Hadjon, *Tentang Wewenang*, Yuridika, Surabaya, Sept -Des 1997. hlm. 1.

²² *Ibid.*

²³ Philipus M. Hadjon, *Tentang... Op cit.*, hlm. 112.

²⁴ Terjemahan Pasal 1A.1.2.1 dari AWB.

²⁵ Soewoto Mulyo Soedarmo, *Otonomi Daerah, Suatu Kajian Historik, Teoritik, dan Yuridik Pelimpahan Kekuasaan*, Yuridika, Sept - Des 1990, hlm. 275.

delegation and the mandate is the authority derived from delegation.²⁶ The authority of the delegation is the delegation of authority to make decisions by an organ of government to other parties who carry out this authority on their own responsibility. While the mandate is an authority given by an organ of government to others to make decisions on their behalf. Policy regulation (*beleidsregels*) means that delegates provide instructions on the use of that authority.

Theory of Norms of Law (*Stufentheorie*) as *Applied Theory*

A norm that exists in a society or country is always a multilevel arrangement. The theory of the Norms of Law or *The Hierarchy of Law* states that the legislation must refer to higher norms. According to Hans Kelsen who is famous for the *Stufenbau de recht theory* suggests the most basic method is called *Grundnorm* which is abstract, general or hypothetical form. The basis of the validity of a norm is determined by the highest level of norms. So, according to Hans Kelsen this legal norm from *Grundnorm* to real (*concretenorm*).²⁷

Further, Maria Farida stated that according to Hans Kelsen, the legal norms were tiered and multi-layered in a hierarchy of the arrangement of a lower norm, while it can be based on other higher norms. Higher norms apply, sourced and based on even higher norms, and so on. This means that higher norms is lower norms until a higher norm that cannot be traced anymore because it is hypothetical and fictitious This is called the basic norm (*grundnorm*), which was agreed upon in advance by the community.²⁸ Basic norms which are the highest norms in the norm system are no longer formed by a higher norm, but the basic norms are determined in advance by the community as the basic norms and as a hanger for the norms below, so that a basic norm is said *pre-supposed*.²⁹

Hans Kelsen's theory was inspired by the opinion of Adolf Merkel who said that a legal norm always has two faces (*Das Doppelte Rechtsantlitz*). A legal norm comes first and foremost above the norm. In addition, legal norms downward become the basis and source for legal norms having a relative validity period (*rechtskrach*) because they depend on the validity period of other higher norms. If the higher legal norms no longer apply, the legal norms below will no longer apply.³⁰ Hans Kelsen's theory was developed by Hans Nawiasky in *Die Theorie vonstufennordnung der Rechtsnorm*., This legal norms is grouped into four groups, as follows: a.Fundamental norms of the country (*Staatfundamentalnorm*); b. Basic Rules/Basic Rules of the Country (*Staatgrundgesetz*);c formal Law (*Formell Gesetz*), and d. Implementing Rules and Autonomus Rules (*Verordnung un Autonome Satzung*).³¹

Based on the above discussion and views, it can be stated the theory of the Norms of Law (*The Hierarchy of Law*) states that lower legislation must not conflict with higher legislation. This implies that regulations of higher rank should be used as guidelines and benchmarks as *Stufenbau de recht theory* from Hans Kelsen because the basis of the validity of a norm is determined by the highest level of norms.³²

The theory of Norms of Legal Norms advanced by Hans Kelsen and Hans Nawiasky greatly influences the legal system in Indonesia, causing the term "Hierarchy of Indonesian Law" to be known. Hamid S. Attamimi is one of the jurists who introduced and stated the importance of a legal hierarchy in shaping the Indonesian legal system, meaning that lower law must not conflict with higher law.

At present the hierarchy of statutory regulations in Indonesia is regulated in Article 7 paragraph (1) of Law 12 of 2011 concerning Formation of Regulation, namely, The 1945 Constitution of the Republic of Indonesia; MPR Decree; Law / Government Regulation in Lieu of Law; Government Regulations; Presidential Regulation; Provincial Regulations; Regency / City Regional Regulations.

Even though the types and hierarchy of laws are mentioned, but in Article 8 paragraphs (1) and (2) it is also explained about the types of legislation other than those mentioned in Article 7 paragraph (1). These hierarchy regulation can still be accepted as long as the laws and regulations ordered are at higher position and based on authority.

The above hierarchy in practice still difficult to be applied since there are still many laws and regulations that have a hierarchy below that contradict higher laws and regulations. This can be seen from the many judicial reviews submitted to the Constitutional Court to cancel laws that contradict the 1945 Constitution or to the Supreme Court to cancel legislation under laws

²⁶ Philipus M. Hadjon, *Fungsi Normatif Hukum Administrasi Dalam Mewujudkan Pemerintahan Yang Bersih*, Pidato peresmian jabatan Guru Besar Unair, 10 Okt 1994, hlm. 15.

²⁷ Hans Kelsen dalam Rosjidi Ranggawidjaja, *Pengantar Ilmu Perundang-undangan Indonesia*. Bandung: Mandar Maju 1998, hlm 26.

²⁸ Maria Farida Indrati Soeprapto, *Ilmu PerUU an Dasar dan Pembentukan*, Yogyakarta: Penerbit Kanisius, 1998, hlm. 25.

²⁹ *Ibid*, hlm. 25.

³⁰ *Ibid*, hlm. 26

³¹ *Ibid*, hlm 27.

³² Rosjidi Ranggawidjaja, *Op. cit.* hlm. 26.

that contradict laws. These problems were also found in relation to local regulations and regional head regulations made by the regions in collecting taxes.

4. CONCLUDING NOTES

This study found that the authority of Regional Governments to implement decentralization was in a form of authority delegation from the government to regional government. The government in this case is based on Article 4 paragraph (1) and paragraph (2) of the 1945 Constitution, while the Regional Government is the elaboration of Article 18, Article 18A, and Article 18 B of the 1945 Constitution.

Of the five discretionary principles held by the regional government, the study found that there are two discretionary principles that are violated by the regional governments in implementing regional legal products: the discretion of Regional Head Regulation concerning the procedure for collecting Provincial and Districts / City taxes. The first is the discretion that was made through Regional Head Regulation which contradicting with laws and regulations. The second is the discretion made through Regional Head of Regulation is deemed not in accordance with General Principles of Good Governance (AAUPB). Thus, much remain to be done by the regional governments to minimize the wrong implementation of discretions in collecting regional taxes as well as in implementing legal products in the regions.

REFERENCES

Books and Journals

- Achmad Ali, *Menguak Teori Hukum Legal theory Dan Teori Peradilan Judicialprudence*, Kencana, Makasar, 2007
- Ahmad Rifai, *Penemuan Hukum oleh Hakim dalam Perspektif Hukum Progresif*, Sinar Grafika, Jakarta, 2011
- Adrian Sutedi, *Implikasi Hukum atas Sumber Pembiayaan Daerah dalam Kerangka Otonomi Daerah*, Sinar Grafika, Jakarta, 2010
- , *Hukum Pajak dan Retribusi*, Ghalia Indonesia, Bogor, 2008
- , *Hukum Keuangan Negara*, Sinar Grafika, Jakarta, 2010
- , *Hukum Pajak*, Sinar Grafika, Jakarta, 2011
- Agus Budi Susilo, Makna dan Kriteria Diskresi Keputusan dan/atau Tindakan Pejabat Publik Dalam Mewujudkan Tata Pemerintahan Yang Baik, *Jurnal Hukum dan Peradilan* Vol. 4 No. 1, Maret 2015
- Amrah Muslimin, *Aspek-Aspek Hukum Otonomi Daerah*, Alumni, Bandung, 1986
- Armedika Fentika, *Intensifikasi Pajak Hotel melalui Pengembangan Pariwisata di Kota Tanjungpinang*, Universitas Diponegoro, Semarang, 2005
- , *Pasang Surut Otonomi Daerah*, Bina Cipta, Bandung, 1983
- , *Pasang Surut Otonomi Daerah*, Bina Cipta, Bandung, 1985
- , *Mengarungi Dua Samudera: Setengah Abad Pemikiran Seorang Pamongpraja & Ilmuan Hukum Tata Pemerintahan*, Sayagatama, Bandung, 2006
- , *Kapita Selekta; Hakikat Otonomi & Desentralisasi Dalam Pembangunan Daerah*, Citra Media, Yogyakarta, 2006
- , *Sekilas Pemerintahan Daerah di Jepang*, Refika Aditana Bandung, 2006
- Azmi Fendri, *Pengaturan Kewenangan Pemerintah dan Pemerintah Daerah dalam Pemanfaatan Sumber Daya Mineral dan Batu Bara*, RajaGrafindo Persada, Jakarta, 2016
- Bagir Manan, *Hubungan Antara Pusat dan Daerah Menurut UUD 1945*, Pustaka Sinar Harapan, Jakarta, 1994
- , *Wewenang Provinsi, Kabupaten, dan Kota dalam Rangka Otonomi Daerah*, Fakultas Hukum Unpad, Bandung, 2000
- , *Menyongsong Fajar Otonomi Daerah*, Pusat Studi Hukum (PSH) Fakultas Hukum UII, Yogyakarta, 2005
- Dharma Setyawan Salam, *Otonomi Daerah dalam Perspektif Lingkungan, Nilai dan Sumber Daya*, Djambatan, Jakarta, 2004
- Dewi Kania Sugiharti, *Perkembangan Peradilan Pajak Di Indonesia*, Refika Aditarna, Bandung, 2005
- Edie Toet Hendratno, *Negara Kesatuan, Desentralisasi, dan Federalisme*, Graha Ilmu, Yogyakarta, 2009
- Elita Dewi, *Identifikasi Sumber Pendapatan Asli Daerah dalam Rangka Pelaksanaan Otonomi Daerah*, Universitas Sumatera Utara, Medan, 2002
- Fuad Bawazir, Reformasi Pajak di Indonesia, *Jurnal Legeslasi Indonesia*, Vol. 8 No. 1, April 2011

- Hamid. S. Attamimi, *Peran Keputusan Presiden Republik Indonesia dalam Penyelenggaraan Pemerintahan Negara: Suatu Studi Analisis Mengenai Keputusan Presiden yang Berfungsi Pengaturan dalam Kurung Waktu*, Disertasi di Program Studi Ilmu Hukum, Universitas Indonesia, Jakarta, 1990
- Hans Kelsen, *General Theory of Law and State (Teori Umum Tentang Hukum Dan Negara)*, Terjemahan Raisul Muttaqien, cet 1 Nusamedia, 2006
- Haryono, *Penelitian Hukum Pada Kajian Hukum Murni*, Magister Hukum Universitas Airlangga, Surabaya, 2006
- Hendri, *Perbandingan Sistem Administrasi Pemungutan Pajak Indonesia dengan Republik Rakyat Cina*, Tesis Universitas Indonesia Fakultas Ilmu Sosial dan Administrasi, Jakarta, 2012
- I Gde Pantja Astawa, *Problematika Hukum Otonomi Daerah di Indonesia*, Bandung: Alumni, 2009.
- , dan Suprin Na'a, *Dinamika Hukum dan Ilmu Perundang-undangan di Indonesia*, Alumni, Bandung, 2008.
- , *Hubungan Pemerintah Pusat dan Pemerintah Daerah*, Bina Aksara, Jakarta, 1981
- Imam Soebchi, *Implementasi Teori Norma Hukum Berjenjang dalam Uji Materiil Perda Pajak Daerah dan Retribusi Daerah di Mahkamah Agung*, Disertasi di Program Studi Ilmu Hukum Universitas Padjadjaran, Bandung, 2011
- Iswawan Indra, *Memahami Reformasi Perpajakan*, Gramedia, Jakarta, 2001
- Irfan Fachruddin, "Pengawasan Peradilan Administrasi Terhadap Tindakan Pemerintah", Alumni, Bandung, 2004
- Irwansyah Lubis, *Menggali Potensi Pajak Perusahaan dan Bisnis Dengan Pelaksanaan Hukum*, Kompas Gramedia, Jakarta, 2010
- J.J.H. Bruggink, *Refleksi Tentang Hukum*, Citra Aditya Bakti, Bandung, 1996
- Jimly Asshiddiqie, *Pengantar Pemikiran UUD Negara Kesatuan RI*, The Habibie Center, Jakarta, 2001
- , *Konsolidasi Naskah UUD 1945 Setelah Perubahan Keempat*, Pusat Studi Hukum Tata Negara UI, Jakarta, 2002
- , *Konstitusi dan Konstitusionalisme Indonesia*, Konstitusi Press, Jakarta, 2006
- , *Perihal Undang-Undang*, Konstitusi Press, Jakarta, 2006
- , *Perihal Undang-Undang*, Rajawali Press, Jakarta, 2010
- , *Pokok-Pokok Hukum Tata Negara*, Gramedia Pustaka Utama, Jakarta, 2008
- Josef Riwo Koho, *Prospek Otonomi Daerah di Negera Republik Indonesia*, RajaGrafindo Persada, Jakarta, 1988
- , *Prospek Otonomi Daerah di Negara Republik Indonesia, Identifikasi Faktor-Faktor yang Mempengaruhi Penyelenggaraan Otonomi Daerah*, Rajawali Press, Jakarta, 2005
- Johnny Ibrahim, *Teori & Metodologi Penelitian Hukum Normatif*, Bayumedia Publishing, Malang, 2009
- Kelsen, Hans, *General Theory of Law and State*, Russel & Russel, New York, 1973.
- , *Introduction to the Problems of Legal Theory*, Clarendon Press- Oxford, New York, 1966.
- Koesoemahatmadja, RDH, *Pengantar Kearah Sistem Pemerintahan Daerah Di Indonesia*, Bina Cipta, Bandung, 1977
- Krishna D. Darumurti dan Umbu Rauta, *Otonomi Daerah: Perkembangan Pemikiran, Pengaturan dan Pelaksanaan*, Citra Aditya Bakti, Bandung, 2003
- Kusnu Goesniadhie, *Harmonisasi Sistem Hukum: Mewujudkan Tata Pemerintahan yang Baik*, Nasa Media, Malang, 2010
- Marbun B.N., *Otonom: Daerah 1945-2005 Proses & Realita: Perkembangan Otda, Sejak Zaman Kolonial sampai saat ini*, Pustaka Sinar Harapan, Jakarta, 2005
- Maria Farida Indriati S., *Ilmu Perundang-Undangan, buku 1*, Kanisius, Yogyakarta, 2007
- Miriam Budiardjo, *Dasar-Dasar Ilmu Politik*, Gramedia Pustaka Utama, Jakarta, 2008
- Mochtar Kusumaatmadja dan Arief Sidharta B, *Pengantar Ilmu Hukum; Suatu Pengenalan Pertama Ruang Lingkup Berlakunya Ilmu Hukum*, Alumni, Bandung, 2000
- , Moh. Kusnardi dan Harmaily Ibrahim, *Pengantar Hukum Tata Negara Indonesia*, Pusat Studi Hukum Tata Negara Fakultas Hukum Universitas Indonesia dan Sinar Bakti, Jakarta, 1988
- Muchan, *Beberapa Catatan tentang Hukum Administrasi Negara dan Peradilan Administrasi di Indonesia*, Liberty Yogyakarta, 1981
- Muhammad Djafar Saidi, *Pembaruan Hukum Pajak*, RajaGrafindo Persada, Jakarta, 2007

- , dan Rohana Huseng, *Hukum Penerimaan Negara Bukan Pajak*, Rajawali Pers, Jakarta, 2008
- , Eka Merdekawati, *Kejahatan di Bidang Perpajakan*, Raja Grafindo Persada, Jakarta, 2011
- Moh. Mahfud MD, *Politik Hukum Di Indonesia*, Edisi Revisi, PT Raja Grafindo Persada, Cet. Ke-5, Jakarta, 2012
- , *Pergulatan Politik Dan Hukum Di Indonesia*, Gama Media, Yogyakarta, 1999
- Ni'matul Huda, *Hukum Tata Negara Indonesia*, Raja Grafindo Persada, Jakarta, 2005
- , *Otonomi Daerah: Filosofi, Sejarah Perkembangan, dan Problematika*, Pustaka Pelajar Offset, Yogyakarta, 2005
- , *Ilmu Negara*, Raja Grafindo Persada, Jakarta, 2010
- , *Dinamika Ketatanegaraan Indonesia dalam putusan. Mahkamah Konstitusi*, UII Press, Yogyakarta, 2011
- , *Daerah Istimewa Yogyakarta; Dalam Perdebatan Konstitusi dan Perundang-undangan di Indonesia*, Nusa Media, Bandung, 2013
- Ni'matul Huda, *Pengawasan Pusat Terhadap Daerah*, FH UII Press, Yogyakarta, 2007
- , dan R. Nazriyah, *Teori & Pengujian Peraturan Perundang-undangan*, Nusa Media, Bandung, 2011
- Nopyandri, *Implikasi Berlakunya Undang-Undang Nomor 28 Tahun 2009 tentang Pajak Daerah dan Retribusi Daerah Bagi Penyelenggaraan Pemerintahan Daerah*, Jurnal Ilmu Hukum, Vo. 5 No. 1, Agustus 2014-Januari 2015
- Nurmayani, *Wewenang Pemerintah Daerah Meningkatkan PDA dari Sektor Pajak dan Retribusi Daerah dalam Pelaksanaan Otda" (Studi di Kota Bandar Lampung)*, Jurnal Hukum Volume VII Nomor 2, Juli-Desember 2004
- Oheo K. Haris, *Good Governance (Tata Kelola Pemerintahan Yang Baik) Dalam Memberikan Izin Oleh Pemerintah Daerah di Bidang Bertambangan*, Jurnal Yuridika, Fakultas Hukum Universitas Airlangga", Vol. 1 No. 1, Januari 2015
- Peter Mahmud Marzuki (ed), *Penelitian Hukum*, Kencana Prenada Media Group, Jakarta, Cet. ke-6, 2010
- Philipus M. Hadjon, *Pengertian-pengertian Dasar Tentang Tindak Pemerintahan (Bestuurshandeling)*, Djumali, Surabaya, 1990
- , *Pengantar Hukum Administrasi Indonesia*, Gajah Mada University Press, Yogyakarta, 2011
- Poernadi Purbacaraka dan Soerjono Soekanto, *Perundang-Undangan dan Yurisprudensi*, Citra Aditya Bakti, Bandung, 1993
- Prajudi Atmosudirdjo S, *Hukum Administrasi Negara*, Ghalia Indonesia, Jakarta, 1994
- Riwu Kaho Yosef, *Prospek Otonomi Daerah di Negara Republik Indonesia*, Rajawali Press, Cet. Ke-2, Jakarta, 1991
- Rochmat Soemitro, *Hukum Pajak dan Pajak Pendapatan*, Eresco, Bandung, 1963.
- , *Asas dan Perpajakan 1*, Eresco, Bandung, 1990
- , dan Dewi Kania Sugiharti, *Asas dan Dasar perpajakan 1 Edisi Revisi*, Refika Aditama, Bandung, 2004
- Ryaas Rasyid, *Otonomi Daerah dan Persatuan Nasional*, Jurnal Paskal, Edisi I, 2001
- Sarah S. Kuanhati, *Pemerintah Sebagai Subjek Hukum Perdata Dalam Kontrak Pengadaan Barang dan Jasa*, Jurnal Sasi, Vol. 17 No. 3, Juli-September 2011
- S.F. Marbun, *Peradilan Administrasi Negara dan Upaya Administratif di Indonesia*, Liberty, Yogyakarta, 1997
- , dkk, *Dimensi-Dimensi Pemikiran Hukum Administrasi Negara*, UII Press, Yogyakarta, 2002
- , dan Mahfud M.D., *Pokok-Pokok Hukum Administrasi Negara*, Liberty, Yogyakarta, 2009
- , *Hukum Administrasi Negara*, UII Press, Yogyakarta, 2012
- , *Asas-Asas Umum Pemerintahan Yang Layak*, FH UII Press, Yogyakarta, 2014
- S.H. Sarandajang, *Arus Balik Kekuasaan Pusat ke Daerah*, Pustaka Sinar Harapan, Jakarta, 1999
- , *Arus Balik Kekuasaan Pusat ke Daerah (Edisi Revisi)*, Sinar Pustaka, Jakarta, 2011
- Satjipto Rahardjo, *Ilmu Hukum*, Alumni, Bandung, 1986
- Safri Nugraha, dkk, *Hukum Administrasi Negera*, Fakultas Hukum Universitas Indonesia, Jakarta, 2007
- Salim H.S. dan Erlies Septiana Nurbani, *Penerapan Teori Hukum pada Penelitian Tesis dan Disertasi*, Raja Grafindo Persada, Jakarta, 2013
- Saut P. Panjaitan, *Makna dan Peran Freis Ermessen dalam Hukum Administrasi Negara*,

Artikel Unisia 10.XI.IV.1991

- Sindian Isa Djadjadiningrat, *Hukum Pajak dan Keadilan*, Eresco, Bandung, 1996
-----, *Pengantar Tata Hukum Di Indonesia*, PT. Pembangunan Ghalia Indonesia, cet. Ke-10, Jakarta, 1984
Soehino, *Perkembangan Pemerintahan di Daerah*, Liberty, Yogyakarta, 1983
-----, *Ilmu Negara*, Liberty, Yogyakarta, 2005
Soerjono Soekanto, *Sosiologi Suatu Pengantar*, CV Rajawali, Jakarta, 1989
-----, *Pengantar Penelitian Hukum*, UI Press, Cetakan Ketiga, Jakarta, 1996
-----, dan Sri Mamudji, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, Rajawali Grafindo Persada, Jakarta, 1995
Soetandyo Wignosubroto dkk, *Pasang Surut Otonomi Daerah; Sketsa Perjalanan 100 Tahun*, Institute for Local Development Yayasan Tifa, Jakarta, 2005
Sony Devano dan Siti Kurnia Rahayu, *Perpajakan Konsep, Teori, dan Isu*, Kencana, Jakarta, 2006
Sudikno Mertokusumo dan A. Pitlo, *Bab-Bab Tentang Penemuan Hukum*, Citra Aditya Bakti, Jakarta, 1993
-----, *Penemuan Hukum (Sebuah Pengantar)*, Liberty, Yogyakarta, 2006
Sudono Syueb, *Dinamika Hukum Pemerintahan Daerah : Sejak Kemerdekaan Sampai Era Reformasi*, Laksbang Mediatama, Surabaya, 2008
Sirajuddin, Fatkhurohman, Zulkarnain, *Legeslative Drafting (Pelebagaan Metode Partisipatif dalam Pembentukan Peraturan Perundang-Undangan)*, Yappika, Malang, 2006
Suwoto Mulyosudarmo, *Kekuasaan dan Tanggung Jawab Presiden Republik Indonesia, Suatu Penelitian Segi-Segi Teoritik dan Yuridis Pertanggungjawaban Kekuasaan*, Universitas Airlangga, Surabaya, 1990
Syaukani, et. Al, *Otonomi Daerah Dalam Negara Kesatuan*, Pustaka Pelajar, Yogyakarta, 2009
Taufiqurrohman Syahuri, *Hukum Konstitusi: Proses dan Prosedur Perubahan UUD di Indonesia 1945- 2002 serta Perbandingannya dengan Konstitusi Negara Lain Di Dunia*, Ghalia Indonesia, Bogor, 2004
-----, *Konstruksi Hukum Tata Negara Indonesia Pasca Amandemen UUD 1945*, Kencana Prenada Media Group, Jakarta, 2010
Tjip Ismail, *Pengaturan Pajak Daerah di Indonesia*, Yellow Printing, Jakarta, 2008
Waluyo, *Perpajakan*, Salemba Empat, Jakarta, 2011
Wawan Zulmawan, *Panduan Praktis Merger atau Akuisisi Perusahaan*, Permata Aksara, Jakarta, 2013
Widodo Ekatjahjana & Totok Sudaryanto, *Sumber Hukum Tata Negara Formal di Indonesia*, Cipta Aditya Bakti, Bandung, 2001
Widjaja H. A.W., *Percontohan Otonomi Daerah*, Rineka Cipta, Jakarta, 1998
-----, *Titik Berat Otonomi daerah pada Daerah Ringkat II*, Raja Grafindo Persada, Jakarta, 1998
-----, *Otonomi Daerah dan Daerah Otonomi*, Raja Grafindo Persada, Jakarta, 2002
-----, *Pemerintah Desa/Marga Berdasarkan Undang-Undang Nomor 22 Tahun 2009 Tentang Pemerintahan Daerah*, Raja Grafindo Persada, Jakarta, 2003
Wiratni Ahmadi, *Perlindungan Hukum bagi Wajib Pajak dalam Penyelesaian Sengketa Pajak*, Refika Aditama, Bandung, 2006
-----, *Sinkronisasi Kebijakan Pengenaan Pajak Tanah dengan Kebijakan Pertanahan di Indonesia*, Refika Aditama, Bandung, 2006
Zudan Arif Fakrulloh, *Kebijakan Otonomi di Persimpangan*, Cipruy, Jakarta, 2005
-----, *Ilmu Lembaga dan Pranata Hukum (Sebuah Pencarian)*, Raja Grafindo Persada, Jakarta, 2009.

Laws and Regulations

Undang-Undang Dasar 1945

Undang-Undang Nomor 22 tahun 1948 tentang Pemerintahan Daerah (Lembaran Negara Nomor 6 Tahun 1957)

Undang-Undang Nomor 18 Tahun 1965 tentang Pokok-Pokok Pemerintahan Daerah (Lembaran Negara Tahun 1965 Nomor 80)

Undang-Undang Nomor 5 Tahun 1974 tentang Pokok-Pokok Pemerintahan di Daerah (Diundangkan Pada Tanggal 23 Juli 1974)

Undang-Undang Nomor 2 tahun 1986 tentang Peradilan Umum (Lembaran Negara Republik Indonesia Tahun 1986 Nomor 20), Sebagaimana Telah Diubah terakhir diubah dengan Undang-Undang nomor 49 Tahun 2009 (Lembaran Negara Republik Indonesia Tahun 2009 Nomor 158);

Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara (Lembaran Negara Republik Indonesia Tahun 1986 Nomor 77) sebagaimana telah beberapa kali, terakhir diubah dengan Undang-Undang Nomor 51 tahun 2009 (Lembaran Negara Republik Indonesia Tahun 2009 Nomor 160)

Undang-Undang Nomor 3 tahun 1997 tentang Pengadilan Anak (Lembaran Negara Republik Indonesia Tahun 1997 Nomor 3)

Undang-Undang Nomor 31 tahun 1997 tentang Peradilan Militer

Undang-Undang Nomor 22 tahun 1999 tentang Pemerintahan Daerah (Lembaran Negara Republik Indonesia Tahun 1999 Nomor 60)

Undang-Undang-Nomor 30 Tahun 1999 tentang Arbitrase Dan Alternatif Penyelesaian Sengketa

Undang-Undang Nomor 26 tahun 2000 tentang Pengadilan Hak Asasi Manusia (Lembaran Negara Republik Indonesia Tahun 2000 Nomor 208)

Undang-Undang Nomor 31 tahun 2004 tentang Perikanan, sebagaimana telah diubah dengan Undang-Undang Nomor 45 tahun 2009

Undang-Undang Nomor 32 Tahun 2004 tentang Pemerintahan Daerah (Lembaran Negara Republik Indonesia Tahun 2004 Nomor 125, Tambahan Lembaran Negara Republik Indonesia Nomor 4437) sebagaimana telah beberapa kali diubah terakhir dengan Undang-Undang Nomor 12 Tahun 2008 tentang Perubahan Kedua atas Undang-Undang Nomor 32 Tahun 2004); (Lembaran negara Republik Indonesia Tahun 2008 Nomor 59, Tambahan Lembaran negara Republik Indonesia Nomor 4844)

Undang-Undang Nomor 33 Tahun 2004 tentang Perimbangan Keuangan Antara Pemerintah Pusat dan Pemerintahan Daerah (lembaran Negara Republik Indonesia Tahun 2004 Nomor 126, Tambahan lembaran Negara Republik Indonesia Nomor 4438);

Undang-Undang Nomor 37 Tahun 2004 tentang Pengadilan Niaga

Undang-Undang Nomor 28 Tahun 2009 tentang Pajak dan Retribusi Daerah (Lembaran Negara Republik Indonesia Tahun 2009 Nomor 130, Tambahan Lembaran Negara Republik Indonesia Nomor 5049);

Undang-Undang Nomor 48 Tahun 2009 tentang Kekuasaan Kehakiman

Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan (Lembaran Negara Republik Indonesia Tahun 2011 Nomor 82, Tambahan Lembaran Negara Republik Indonesia Nomor 5234)

Undang-Undang Nomor 2 tahun 2012 tentang Pengadaan Tanah Bagi Pembangunan Untuk Kepentingan Umum

Undang-Undang Nomor 5 Tahun 2014 tentang Aparatur Sipil Negara (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 6, Tambahan Lembaran Negara Republik Indonesia Nomor 5494)

Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 244, Tambahan Lembaran Negara Republik Indonesia Nomor 5587) sebagaimana telah beberapa kali diubah, terakhir dengan Undang-Undang Nomor 9 Tahun 2015 tentang Perubahan Kedua atas UU 23 Tahun 2014 tentang Pemerintahan Daerah (Lembaran Negara Republik Indonesia Tahun 2015 Nomor 58, Tambahan Lembaran Negara Republik Indonesia Nomor 5679)

Undang-Undang Nomor 30 Tahun 2014 tentang Administrasi Pemerintahan (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 292)

KUH Perdata (Burgelijk Wetboek) Kitab Undang-Undang Hukum Perdata

Undang-Undang Umum Hukum Pemerintahan (algemeine wet bestuur) terjemahan M. Soetopo, S.H. Bahan Penataran Hukum Administrasi, kerjasama Hukum Indonesia Belanda tahun 1

Peraturan Pemerintah Nomor 2 Tahun 2018 tentang Standar Pelayanan Minimal (Lembaran Negara Republik Indonesia Tahun 2018 Nomor 2)

Peraturan Pemerintah Nomor 27 Tahun 2014 tentang Pengelolaan Barang Milik Negara/Daerah (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 92, Tambahan Lembaran Negara Republik Indonesia Nomor 5533)

Peraturan Pemerintah Nomor 12 Tahun 2019 tentang Pengelolaan Keuangan Daerah (Lembaran Negara Republik Indonesia Tahun 2019 Nomor 42)

Peraturan Presiden Nomor 1 tahun 2007 tentang Pengesahan, Pengundangan Dan Penyebarluasan Peraturan Perundang-Undangan.

Peraturan Pemerintah Nomor 91 Tahun 2010 tentang Jenis Pajak Yang Dipungut Berdasarkan Penetapan Kepala Daerah Atau Dibayar Sendiri Oleh Wajib Pajak (Lembaran Negara Republik Indonesia Tahun 2010 Nomor 153)

Peraturan Pemerintah Nomor 55 Tahun 2016 tentang Ketentuan Umum dan Tata Cara Pemungutan Pajak Daerah (Lembaran Negara Republik Indonesia Tahun 2016 Nomor 244, Tambahan Lembaran Negara Republik Indonesia Nomor 5950)

Peraturan Pemerintah Nomor 97 Tahun 2016 tentang Retribusi Pengendalian Lalu Lintas dan Retribusi Perpanjangan Izin Mempekerjakan Tenaga Kerja Asing

Peraturan Pemerintah Nomor 12 Tahun 2017 tentang Pembinaan Dan Pengawasan Penyelenggaraan Pemerintahan Daerah (Lembaran Negara Republik Indonesia Tahun 2017 Nomor 73, Tambahan Lembaran Negara Republik Indonesia Nomor 6041)

Peraturan Pemerintah Nomor 12 Tahun 2018 tentang Pedoman Penyusunan Tata Tertib DPRD Provinsi, Kabupaten, dan Kota.

Peraturan Presiden Nomor 87 Tahun 2014 tentang Peraturan Pelaksanaan Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-undangan (Lembaran Negara Republik Indonesia Tahun 2014 Nomor 199)

Peraturan Mahkamah Konstitusi Nomor 8 tahun 2006 tentang pedoman Beracara Dalam Sengketa Kewenangan Konstitusional lembaga Negara.

Peraturan Menteri Dalam Negeri Nomor 13 Tahun 2006 tentang Pedoman Pengelolaan Keuangan Daerah, sebagaimana telah diubah beberapa kali terakhir dengan Peraturan Menteri Dalam Negeri Nomor 21 Tahun 2011 tentang Perubahan Kedua Atas Peraturan Menteri Dalam Negeri Nomor 13 Tahun 2006 tentang Pedoman Pengelolaan Keuangan Daerah.

Peraturan Menteri Dalam Negeri Nomor 80 tahun 2015 tentang Pembentukan Produk Hukum Daerah (Berita Negara Indonesia Tahun 2015 Nomor 2036)

Peraturan Menteri Dalam Negeri Nomor 19 Tahun 2016 tentang Pedoman Teknis Pengelolaan Barang Milik Daerah (Berita Negara Indonesia Tahun 2016 Nomor 547).

Peraturan Menteri Dalam Negeri Nomor 86 Tahun 2017 tentang Tata Cara Perencanaan, Pengendalian dan Evaluasi Pembangunan Daerah, Tata Cara Ealuasi Ealuasi Rancangan Peraturan Daerah Tentang Rencana Pembangunan Jangka Panjang Daerah Dan Rencana Pembangunan Jangka Menengah Daerah, Serta Tata Cara Perubahan Rencana Pembangunan Jangka Panjang Daerah Dan Rencana Pembangunan Jangka Menengah Daerah, Dan Rencana Kerja Pemerintah Daerah (Berita Negara Nomor 1312, 2017)

Peraturan Menteri Dalam Negeri Nomor 105 Tahun 2016 tentang Evaluasi Raperda tentang Pajak Daerah dan Raperda tentang Retribusi Daerah. (Berita Negara Indonesia Tahun 2016 Nomor 2080)

Peraturan Menteri Dalam Negeri Nomor 120 Tahun 2018 tentang Perubahan Peraturan Menteri Dalam Negeri Nomor 80 tahun 2015 tentang Pembentukan Produk Hukum Daerah

Peraturan Menteri Keuangan Republik Indonesia Nomor 195 /PMK. 02/2017 tentang Perubahan Atas Peraturan Menteri! Keuangan Nomor 9/PMK. 02/2016 Tentang Tata Cara Pembayaran Pajak Air Permukaan, Pajak Air Tanah, Dan Pajak Penerangan Jalan Untuk Kegiatan Usaha Hulu Minyak Dan Gas Bumi Yang Dibayarkan Oleh Pemerintah Pusat.

Peraturan Menteri Keuangan Republik Indonesia Nomor 207 /PMK. 07 /2018 Tentang Pedoman Penagihan dan Pemeriksaan Pajak Daerah.

Peraturan Menteri Keuangan Republik Indonesia Nomor 208/PMK.07/2018 Tentang Pedoman Penilaian Pajak Bumi Dan Bangunan Perdesaan Dan Perkotaan

Web Search

Australian Tax Office, www.ato.gov.au, diakses tanggal 25 Desember 2018

Beritasatu.com, Tiga Ribuan Perda Bermasalah <https://www.beritasatu.com/nasional/8311-tiga-ribuan-perda-bermasalah.html> , diakses tanggal 13 juli 2010

Dirjen Pajak Kementerian Keuangan, http://www.djpk.kemenkeu.go.id/wp-content/uploads/2018/08/pajak_daerah-1.pdf, diakses tanggal 19 Desember 2018

Kamus Besar Bahasa Indonesia (Online), www.kamusbahasaIndonesia.org, diakses tanggal 20 Januari 2019

Kerangka Acuan Teknis Kunjungan Kerja Komisi XI DPR RI Dalam Rangka RUU Ketentuan Umum dan Tata Cara Perpajakan ke Negara Australia, <http://www.dpr.go.id/dokakd/dokumen/K11-12-e52676965df2a75922fe20d1ef35dc8b.pdf>, diakses tanggal 11 Desember 2012

Lailatul Khilmiatus Sadiyah, Makalah, Kebijakan Perpajakan di Negara Cina”, <http://kebijakanpajakchina.blogspot.com/>, diakses tanggal 22 Oktober 2017

Tirto.id, Mendagri Tak Lagi Berwenang Membatalkan Perda Yang Bermasalah, <https://tirto.id/mendagri-tak-lagi-berwenang-batalkan-perda-bermasalah-cqJ4> ,diakses tanggal 15 Juli 2017