



Legal Politics Implementing Subscription Parking Retributions

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Abstract

The State of Indonesia is a unitary state that divides the regions into provinces, districts, and cities (the concept of decentralization). With the concept of decentralization, it is very natural for the State of Indonesia to implement arrangements related to financial relations between the central government and regional governments aimed at increasing Indonesia's economic growth in the scope of the central government and regional governments. This relationship is intended to increase the Regional Original Revenue (PAD) sector. PAD management can be done by paying attention to the source of income, one of which comes from regional levies. If classified, there are 18 types of fees, and parking fees are types of fees that have great potential in each region. In its journey, the parking levy has experienced a shift like its collection, with the existence of a subscription scheme. The subscription parking fee scheme its implementation has positive and negative impacts that are directly felt by the Regional Government and the community.

Keywords: *Fiscal; Parking; Subscription*

Introduction

Indonesia is a unitary state known as the *eenheidstaat* state, namely an independent and sovereign state with the form of the Unitary State of the Republic. The Unitary State of the Republic of Indonesia divides provinces, districts and municipalities into regional administrations which are regulated by law. The implementation of the concept of division in the unitary state of Indonesia is based on the concept of decentralization. The concept of decentralization is the transfer of authority from the central government (central government) to the regional government (local government), to regulate and manage the area based on the conditions in each region.¹ Constitutionally regarding the arrangement of the division of the area contained in Article 18 paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that: "Provincial, regency and city regional governments regulate and manage their government affairs according to the principle of autonomy and assistance tasks" .

The division of authority in the administration of central and regional government indicates the relationship between central and regional government. the relationship between the central government

¹ Genoveva Pupitasari Larasati, "Implementasi Desentralisasi Dalam Kerangka Negara Kesatuan Republik Indonesia", Jurnal Komunikasi Hukum, Vol 8, No. 1 Februari 2022, hlm. 248.

and the local government is the ideals and desires of the Indonesian people as stipulated in the 1945 Constitution of the Republic of Indonesia. the basis for the administration of government in the regions, namely the enactment of laws governing the authority of regional governments.

In its implementation, the regional government has several authorities, including the Financial Relations between the Central and Regional Governments which is already a consequence of the implementation of the unitary state of the Republic of Indonesia as stated in Article 18 paragraph (5) of the 1945 Constitution of the Republic of Indonesia which states that "Regional Governments carry out an -broad, except for government affairs which are determined by law as government affairs. The existence of this decentralization policy, gives regions to regulate and manage their own household affairs/affairs within the scope of local government (Vrijheid van Refeling).²

This relationship implies that there is a financial relationship between the Central Government and the regions. Thus, financial balance is an inseparable part of the implementation of the Central and Regional Governments in carrying out financial relations as a consequence because there is a division of tasks between the Central Government and Regional Governments. Central and regional financial balance is a system of financial distribution that is fair, proportional, democratic, transparent, and efficient, in the framework of funding the implementation of decentralization by taking into account the potential, conditions, and needs of the regions, as well as the amount of funding for the implementation of deconcentration and co-administration.

The financial relationship between the central government and local governments is aimed at increasing Indonesia's economic growth in the scope of the central government and regional governments. This increase needs to be based on regulation as a solid foundation to balance progress and improve the national economy. Increasing the national economy can be supported by increasing the economy at the regional level. An increase in the regional economy is usually associated with an increase in regional original income (PAD).³

Local Own Revenue (PAD) is revenue obtained from sources within its territory, the higher the role of PAD in the regional financial structure, the higher the financial capacity possessed by the region to carry out its regional development activities. Article 1 number 20 of the Law of the Republic of Indonesia Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Government, explains the scope of PAD, namely "PAD is regional income obtained from regional taxes, regional levies, results of separated regional wealth management, and other legitimate regional original revenues by statutory regulations".

Regulations on financial relations between the Central Government and Regional Governments covering Regional Taxes and Regional Retributions, giving regional governments the authority to obtain their financial resources originating from Regional Taxes and Regional Retribution/fiscal decentralization.⁴

Terms of Regional Tax is a mandatory contribution to the Region that is owed by individuals or entities that are coercive based on the Law, by not getting compensation directly and used for the needs of

² Mohamad Roky Huzaeni dan Nuril Firdausiah, "Inefisiensi Peraturan Daerah di Indonesia", Rechtenstudent Journal vol 3, no 1, 2022, hlm. 45.

³ Erdi Adyatma, "Pengaruh Pendapatan Asli Daerah Dan Dana Alokasi Umum Terhadap Belanja Modal Dengan Pertumbuhan Ekonomi Sebagai Pemoderasi", Vol. 4 No.2, Nopember 2015, hlm. 191.

⁴ Menurut Colfer, C.J.P., Capistrano, D, Secara umum konsep desentralisasi terdiri atas Desentralisasi Politik (Political Decentralization), Desentralisasi Administratif (Administrative Decentralization), Desentralisasi Fiskal (Fiscal Decentralization), Desentralisasi Ekonomi (Economic or Market Decentralization), dikutip Colfer, C.J.P., Capistrano, D, 2006 "Politik desentralisasi: hutan, kekuasaan dan rakyat", Jakarta: Center for International Forestry Research (CIFOR), hlm. 10-11.

the Region for the greatest prosperity of the people.⁵ Meanwhile, regional levies are regional levies as payments for certain services or permits specifically provided and/or granted by the regional government for the benefit of individuals or entities.⁶

In managing regional levies, Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments provides 18 types of levies that can be collected by Regional Governments. These types of fees are classified into 3 groups consisting General Services, Business Services, and Certain Permits. The classification consists of:⁷

1. Public services that include

- a. Health services;
- b. Cleaning Service;
- c. Public Roadside Parking Services; Market Service; dan
- d. Traffic Control

2. Business Services

- a. Provision of places for business activities in the form of wholesale markets, shops, and other places of business activities;
- b. Provision of a place for auctioning fish, livestock, agricultural products, and forest products including other facilities within the environment where the auction is held
- c. Provision of special off-street parking spaces
- d. Provision of lodging/lodging/villas;
- e. Livestock slaughterhouse services;
- f. Port services;
- g. Recreation, tourism and sports services;
- h. Crossing services for people or goods using vehicles on water;
- i. Sales of regional government business products; And
- j. Utilization of Regional assets that do not interfere with the implementation of the duties and functions of Regional apparatus organizations and/or optimizing Regional assets by not changing ownership status by statutory provisions.

3. Certain Permits

- a. Building Approval (PBG);
- b. Use of Foreign Workers (PTKA); And
- c. People's Mining Management.

Of the 18 types of fees, there are parking fees that are considered to have great potential in each region. This is with the consideration that each region has parking facilitated by the government and parking fees are collected.⁸ However, there are policies at the regional level in the collection of parking fees that are considered not by the concept of fees. The concept applied in the regions related to parking fees is the concept of subscription parking fees. There have been many regions that have implemented the subscription parking concept, with consideration of increasing PAD and effectiveness in collecting

⁵ Elvi Syahria Maznawaty, "Analisis Penerimaan Pajak Daerah Dalam Meningkatkan Pendapatan Asli Daerah Provinsi Maluku Utara", Jurnal EMBA Vol.3 No.3, 2015, hlm. 911.

⁶ Puja Rizqy Ramadhan, "Pengaruh Pajak Daerah Dan Retribusiterhadap Pendapatan Asli Daerah Kabupaten/Kota Di Sumatera Utara", Jurnal Program studi Akuntansi, Vol. 5, No. 1, 2019, hlm. 84.

⁷ Pasal 88 Undang-Undang Nomor 1 Tahun 2022 Tentang Hubungan Keuangan Antara Pemerintah Pusat Dan Pemerintahan Daerah. Lembaran Negara Republik Indonesia Tahun 2022 Nomor 4.

⁸ Menurut sunarno daerah dalam menyelenggarakan otonomi daerah memiliki hak dan kewajiban, yang mana salah satu haknya yaitu pemungutan pajak dan retribusi daerah. Dikutip Siswanto Sunarso, 2005 "Hukum Pemerintahan Daerah Di Indonesia", Jakarta: Sinar Grafika, hlm. 57.

regional fees.⁹ In terms of implementation, subscription parking has several advantages, but behind these benefits, there is also a value and basic concept of fees that have been violated by the local government with the implementation of subscription parking.

Research Methods

This type of research is Normative Juridical legal research to examine theories, concepts, legal principles and laws and regulations related to this research.¹⁰ While the first approach used in this study is the Statute Approach¹¹ or a statutory approach is carried out by reviewing and analyzing all laws and implementing regulations related to Subscription Parking Retribution. Second, is the Conceptual Approach or conceptual approach¹² namely an approach through principles and concepts that can be found in scholarly views or legal doctrines that are relevant to the context of Subscription Parking Retribution.

To carry out data management in the analysis process related to Subscription Parking Retribution, the author uses interpretation techniques. According to Bruggink "data management techniques using interpretation, can be classified into 4 (four) kinds of interpretation consisting of language interpretation, historical interpretation of laws, systematic interpretation, and social interpretation".¹³ Based on the expert's opinion, the writer prefers the interpretation of language interpretation and systematic interpretation which is considered by the research method.

Theory Review

A. The Concept of Regional Finance

According to Abdul Halim, regional finance can be interpreted as: "All rights and obligations that can be valued in money, as well as everything in the form of money or goods that can be used as regional assets as long as they are not owned/controlled by the state or higher regions and parties other by the provisions/regulations of the law in force".¹⁴ At the time of this regional autonomy, it was regional empowerment in making regional decisions that were more flexible in managing the resources owned by the potential and interests of the region itself to increase regional finances.

The mistake of making natural resources the main source of regional income must be changed immediately because one-day natural wealth will run out. Through regional autonomy and fiscal decentralization, regional governments have the authority to extract revenue and carry out an allocation role independently in setting development priorities. As to fiscal implementing regional autonomy and

⁹ Menurut Kusuma & Wirawati bahwa Penerimaan Pajak Daerah dan Retribusi Daerah berpengaruh signifikan terhadap peningkatan PAD, Pajak Daerah yang dominan dalam peningkatan PAD, dikutip oleh I Putu Agus Sudarmana, dan Gede Mertha Sudiarta "Pengaruh Retribusi Daerah Dan Pajak Daerah Terhadap Pendapatan Asli Daerah Di Dinas Pendapatan Daerah", E-Jurnal Manajemen, Vol. 9, No. 4, 2020, hlm. 1343.

¹⁰ Andik Prasetyo, "Perlindungan Hukum Bagi Anak Pelaku Tindak Pidana" Mizan: Jurnal Ilmu Hukum, Vol. 9, No. 1, 2020, hlm. 53.

¹¹ Sella Marsellena Mercury, "Analisis Peraturan Daerah Kabupaten Buleleng Nomor 3 Tahun 2018 Tentang Perubahan Atas Peraturan Daerah Kabupaten Buleleng Nomor 10 Tahun 2011 Tentang Pajak Hiburan", Jurnal Pacta Sunt Servanda, Vol. 2, No. 2, 2021, hlm. 69.

¹² Menurut H.L.A Hart, (2009), "The Concept of Law (Konsep Hukum)", Bandung: Nusa Media, hlm. 306-309, dikutip oleh Yati Nurhayati, Ifrani, M.Yasir Said, "Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum", Jurnal Penegakan Hukum Indonesia (JPHI), Vol. 2, Issue 1, 2021, hlm. 11-12.

¹³ Isharyanto, dan Aryoko Abdurrachman, 2016, "Penafsiran Hukum Hakim Konstitusi (Studi terhadap Pengujian Undang-Undang No. 7 Tahun 2004 tentang Sumber Daya Air)", Jakarta Barat; Halaman Moeka Publishing, hlm. 22.

¹⁴ Miftakul Akla, "Transparansi Keuangan Daerah Menuju Kemandirian Pembangunan Dan Good Governance", Pasca Sarjana Hukum Undip Semarang, Jurnal Meta-Yuridis Vol. 2 No.1, 2019, hlm. 58.

fiscal decentralization according to Law Number 23 of 2014 concerning Regional Government as amended several times, the latest by Law Number 9 of 2015 concerning the Second Amendment to Law Number 23 of 2014 concerning Regional Government is to increase self-sufficiency and reduce the financial dependence of local governments on the central government.

In regional autonomy, two aspects of financial performance are required to be better than before regional autonomy. The first aspect is that the regions are given the authority to manage regional financing with the main strength being the ability of Local Own Revenue (Fiscal Decentralization). The second aspect is on the regional expenditure management side, that regional financial management must be more accountable and transparent, of course demanding that the regions be more efficient and effective in regional expenditures. These two aspects can be referred to as financing reform or Financing Reform.

So to achieve development in a country, it is necessary to have financing with a fair, proportional, democratic, transparent and efficient financial distribution system. Funding for an area is obtained from the Regional Expenditure Budget (APBD) which is compiled annually by the regional government and its work units to fulfill public services. So local governments need to pay greater attention to the performance of regional financial management.

Regional financial management that is carried out economically, efficiently and effectively or fulfills the principles of value for money and is participatory, transparent, accountable and fair will be able to encourage economic growth and the independence of a region. Thus, an area whose financial performance is stated to be good means that the region has the financial capacity to finance the implementation of regional autonomy.¹⁵ Local governments must start looking for other sources in their area to rely on as the backbone of regional original income (PAD). To be able to carry out optimal regional autonomy, sufficient funds are needed.

B. Regional Retribution Theory

The independence of a region can be seen from regional revenue, the greater the Regional Original Revenue indicates that the region is capable and the reduced dependency on the central government. Regional Original Income certainly has a fairly high influence on regional activities or growth in various sectors, especially in the development sector which is an important benchmark because physical development is a direct thing that can be seen or enjoyed by the community but development in the health, education and other sectors must also be considered because it also encourages economic development in terms of human resources.

Regional income can come from local taxes, regional fees and other legitimate sources of income. One of the things that also support revenue is regional fees as a potential that must be considered to increase regional revenues and regional management. Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments explains that "Regional Levies, hereinafter referred to as Levies, are regional levies as payment for services or granting certain permits specifically provided and/or granted by the Regional Government for the benefit of the people personal or

¹⁵ Cheris Enjelita Kaunang Dkk, "Analisis Kinerja Pengelolaan Keuangan Daerah Dan Tingkat Kemandirian Daerah Di Era Otonomi Daerah: Studi Pada Kota Manado (Tahun 2010-2014)", Universitas Sam Ratulangi, Manado, Jurnal Berkala Ilmiah Efisiensi, Vol. 16 No. 2, 2016, hlm. 4

corporate”.¹⁶ Retribution has inherent characteristics, this was disclosed by Mariho P. Siahaan, among others, namely:¹⁷

- a. Retribution is a levy that is collected based on the relevant regional laws and regulations
- b. The proceeds of levy receipts go into the local government treasury
- c. The party paying the levy gets a counter-performance (remuneration) directly from the local government for the payment he made
- d. Retribution is payable if there are services provided by the local government that is enjoyed by a person or entity
- e. The sanctions imposed on fees are economic, that is, if you do not pay fees, you will not receive services provided by the local government

Discussion

A. The Positive Impact of Subscription Parking Implementation

Subscription parking fees are payments for parking fees that must be paid in advance by each vehicle owner for 1 (one) year and together with payment of vehicle tax consisting of parking fees on the side of public roads, in special parking areas, and incidental.¹⁸ This subscription parking applies to motorized vehicles with regional number plates that carry out subscription parking, in addition to having a separate sign from the government as the subscription parking operator.

Subscription parking has been implemented in several areas in East Java. Subscription parking in general has a positive impact consisting of:

1. It is considered capable of increasing local revenue in a definite and structured manner with clear revenue targets;
2. Reducing revenue leakage due to fraudulent parking officers in the field, by first withdrawing fees every year;
3. Providing benefits to the community in reducing the cost of parking expenses and obtaining the benefits of certainty of place, time and cost in paying for parking, because it has been regulated in regional regulations.

In connection with the positive impact of implementing subscription parking on leakage of parking revenue in the field, of course, this needs to be done with the consideration that if a leak occurs it will certainly greatly affect revenue growth from the parking sector.¹⁹ An increase in parking revenue can occur with an increasing number of motorized vehicles.

The implementation of subscription parking is considered capable of being a parking system that makes it easier for users of parking services and also benefits the Regional Government. Given these advantages to subscription parking withdrawals, it is considered to be by the government system at the regional level. This is due to the withdrawal of subscription parking fees in the regions based on regional regulations or regent/mayor regulations. So that technically the regional government regulations already

¹⁶ Undang-Undang Nomor 1 Tahun 2022 Tentang Hubungan Keuangan Antara Pemerintah Pusat Dan Pemerintahan Daerah. Lembaran Negara Republik Indonesia Tahun 2022 Nomor 4.

¹⁷ Ami Priatna, “Penerimaan Retribusi Pasar Dalam Meningkatkan Pendapatan Asli Daerah Kabupaten Bandung (Studi Kasus: Di Unit Pelaksana Teknis Dinas Pasar Baleendah)”, Universitas Nurtanio Bandung, Jurnal Ilmiah Magister Administrasi, Vol. 13 No. 1, 2019, hlm. 4.

¹⁸ Ahmad Riyadh U. Balahmar, “Implementasi Kebijakan Parkir Berlangganan Dalam Menunjang Pendapatan Asli Daerah (Pad) Kabupaten Sidoarjo”, niversitas Muhammadiyah Sidoarjo, JKMP, Vol. 1, No. 2, September 2013, hlm. 172.

¹⁹ Amirul Mustofa, “Analisis Potensi Parkir Non Berlangganan Di Kabupaten Sidoarjo”, Laporan Penelitian Ilmu Administrasi, Universitas Dr. Soetomo, 2014, hlm. 43-45.

have a basis for withdrawing subscription parking fees which are charged to the community for the services to be provided during the validity period.

In determining subscription parking fee rates, local governments must pay attention to how much the service price is charged to the community. Usually, the burden will be calculated based on the amount of the total cost (cost recovery) for providing these services.²⁰ Calculations can be made by taking into account several things as follows:

1. The public's ability to pay as seen from the community's economic growth about survey data for that year;
2. Pre-arrangement of operating costs on a variable basis, to reduce minus income from services provided;
3. Semi-variable costs such as capital costs for the implementation of services which are then reused for these services;
4. Calculating the replacement cost of capital assets for services. In the form of replacement of infrastructure intended for services;
5. Perform calculations on the cost of adding capital assets to meet additional requests that need to be prepared.

The determination of tariffs charged to the public based on some of the above will provide an increase in the sense of community satisfaction for the services received. The higher the community's sense of satisfaction with the services obtained will have a direct effect on increasing income from these services.

B. Negative Impact of Subscription Parking Implementation

Parking fees are a form of service provided by the government to the community that is service (non-profit oriented).²¹ In its implementation, the subscription parking fee that must be paid by the vehicle owner is the rate that has been determined in the Regional Regulation regarding the amount. Advance payments for subscription parking fees are considered not following the concept of fees which are payments for services that have been used. This is in line with Mardiasmo's opinion, which explains that "Retribution is a regional levy as payment for certain services or permits specifically provided and/or given by the Regional Government for the benefit of individuals or entities".²²

The application of subscription parking fees seems to impose a burden on the public to make payment of fees for vehicles with a fee payment mechanism in advance to get service. With the withdrawal of fees in advance for services that have not been obtained by the community, it is very inconsistent with the inherent nature of fees as direct payments by mandatory fees to the government for services that are obtained directly.²³

The incompatibility of subscription parking fees with the basic concept of fees becomes problematic when the withdrawal does not consider justice to society. the implementation of parking is considered to have no justice for people who have vehicles in an area that apply subscription parking fees, but the owners do not live in the area. So that the vehicle owner, only pays subscription parking fees

²⁰ Yulianto, "Keseimbangan Tingkat Pelayanan Pajak Dalam Meningkatkan Pendapatan Asli Daerah Perspektif" AMIK BSI Yogyakarta, Vol. 7, No. 2. September 2009, hlm. 52.

²¹ Yoyo Sudaryo, 2021, "Keuangan di Era Otonomi Daerah", Yogyakarta: Penerbit Andi, hlm. 26.

²² Windi Damaryanti, "Efektivitas Pemungutan Retribusi Tempat Rekreasi dan Olahraga sebagai Upaya Peningkatan Pendapatan Asli Daerah Kabupaten Bogor (Studi Kasus di Badan Pengelolaan Pendapatan Daerah) Tahun 2018", Jurnal Ilmiah Administrasi Publik, Vol 1, No. 1, Januari 2021, hlm. 47.

²³ Hasyim Firdaus, dan Halimah B, "Penarikan Retribusi Pelayanan Pasar Di Pasar Salobulo Kabupaten Wajo", Universitas Islam Negeri Alauddin Makassar, Siyasatuna, Vol. 2, No. 1, 2021, hlm. 84.

without taking into account how many times he uses the vehicle in the area where his vehicle is registered for subscription parking.

This will have an impact on public dissatisfaction with the coercion of paying subscription parking. This dissatisfaction will have an indirect impact on the public's sense of trust in the Regional Government. Apart from not following the concept of subscription parking fees with the basic concept of fees, subscription parking is regulated at the level of laws and government regulations, which do not clearly state what allows regions to withdraw parking fees using the technical implementation of subscriptions. Not mentioning subscription parking in Government Laws and Regulations will have an impact on the lack of a strong legal basis (juridical basis) in forming regulations at the regional level regarding subscription parking fees.

This is evidenced by the existence of a request regarding a subscription parking fee dispute which was granted by the Gresik Supreme Court in 2014. In the claim granted by the Gresik Supreme Court, the applicant believes that subscription parking is not following the basic concept of fees and regulations above. In this case, the implementation of parking fees using a subscription scheme does not have a legal basis that regulates it.²⁴

The existence of this case should be a consideration for the Regional Government not to implement a subscription scheme for parking fees. Broadly speaking, the withdrawal of parking fees using a subscription scheme cannot be applied due to several reasons including:

- a. Violating the basic nature of user fees which are payments for services previously obtained;
- b. Parking fees are a type of fee that is included in the type of general service fees which should be a non-profit oriented service;
- c. The regional government does not have a clear juridical basis for forming laws and regulations related to subscription parking fees at the regional level.

Conclusion

The Implementation of subscription parking fees systematically has advantages in its implementation. This profit is obtained from a parking fee scheme that has set revenue targets. With these advantages, the local government can make a solution to accelerate a more organized economy. However, in the implementation of parking fees with the subscription scheme, there are still problems that are considered not following the nature of fees (payment for services that have been obtained).

In addition to this, parking fees are also service fees that are included in public services. So it is only natural for the government to put aside profits (profit-oriented), and prioritize community satisfaction for the services provided (non-profit oriented).

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²⁴ Putusan Mahkamah Agung Nomor 49 P/Hum/2014.

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